

**EXHIBIT A**  
**Draft Municipal Code Amendment**

**P12-1796, Ridgeline and Hillside Protection and Preservation**  
**January 23, 2013**

**Chapter 18.70**

**RIDGELINE AND HILLSIDE PROTECTION AND PRESERVATION**

**Sections:**

- 18.70.010 Purpose and Objectives.**
- 18.70.020 Applicability.**
- 18.70.030 Implementation.**
- 18.70.040 Definitions.**
- 18.70.050 Required Information.**
- 18.70.060 Review Procedures and Exemptions.**

**18.70.010 Purpose and Objectives.**

The purpose of this chapter is to implement the goals, policies, and programs of the Pleasanton General Plan 2005 – 2025 related to maintaining the character of the hillside areas of the city. These regulations working together with the development types and densities allowed in the General Plan are designed to form a complementary pattern of development and conservation to promote and protect the appearance of the city by:

- A. Preserving the predominant views of hillside and ridgeline areas to retain the sense of identity that these areas impart to the city;
- B. Protecting scenic hillside and ridgeline areas from development that destroys city character;
- C. Directing development and development speculation away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to service by the City; and,
- D. Maintaining the city's ability to meet community goals for services including, but not limited to, public and regional parks and open space areas, community and regional trails and staging areas, and utilities.

### **18.70.020 Applicability.**

The regulations of this chapter apply to the hillside and ridgeline areas of the city, designated for development by the Land Use Element of the Pleasanton General Plan, including:

- A. Residential developments greater than ten units including apartments, co-operatives (co-ops), air-space condominiums, townhomes, and single-family detached homes with a second-unit (California Government Code §65852), and commercial buildings and developments.
- B. Public and private streets intended to accommodate residential and commercial development.
- C. City facilities such as water tanks, parks and recreation areas, public and private pedestrian, bicycle, and equestrian trails and staging areas, except as allowed by Section 18.70.060 of this chapter.
- D. Exempt from the requirements of this chapter are housing developments of ten or fewer units on a single property that was, as of January 1, 2007, a legal parcel pursuant to the California Subdivision Map Act (California Government Code §§ 66410 – 66413). Splitting, dividing, or sub-dividing a legal parcel created prior to January 1, 2007 to approve more than ten housing units is not allowed.
  - 1. For any application for new residential developments of ten or fewer units, the city shall make its best effort during its review of the application to meet the spirit of the regulations of this Chapter.
  - 2. For an approved, but not constructed, commercial development or residential development plan of ten or fewer units, the city may allow the development to proceed in accordance with the approval and shall make its best effort to comply with the intent of this chapter's regulations in proceeding with the development prescribed by the previous approval.

### **18.70.030 Regulations and Implementation.**

Grading to construct residential or commercial structures on hillside slopes 25-percent or greater, or within 100 vertical feet of a ridgeline, is prohibited, as specified in this Chapter. This prohibition shall be implemented through the city's Design Review and Planned Unit Development Rezoning/Development Plan entitlements processes, and modifications of these entitlements, as follows:

- A. The regulations of this chapter are applied in conjunction with State and Federal regulations and city regulations, policies, and programs on, but not limited to, ridgeline and hillside protection, protection of jurisdictional waters, species, and habitat areas, trees, wildland fire mitigation, urban storm water runoff treatment and necessary environmental mitigation, etc.

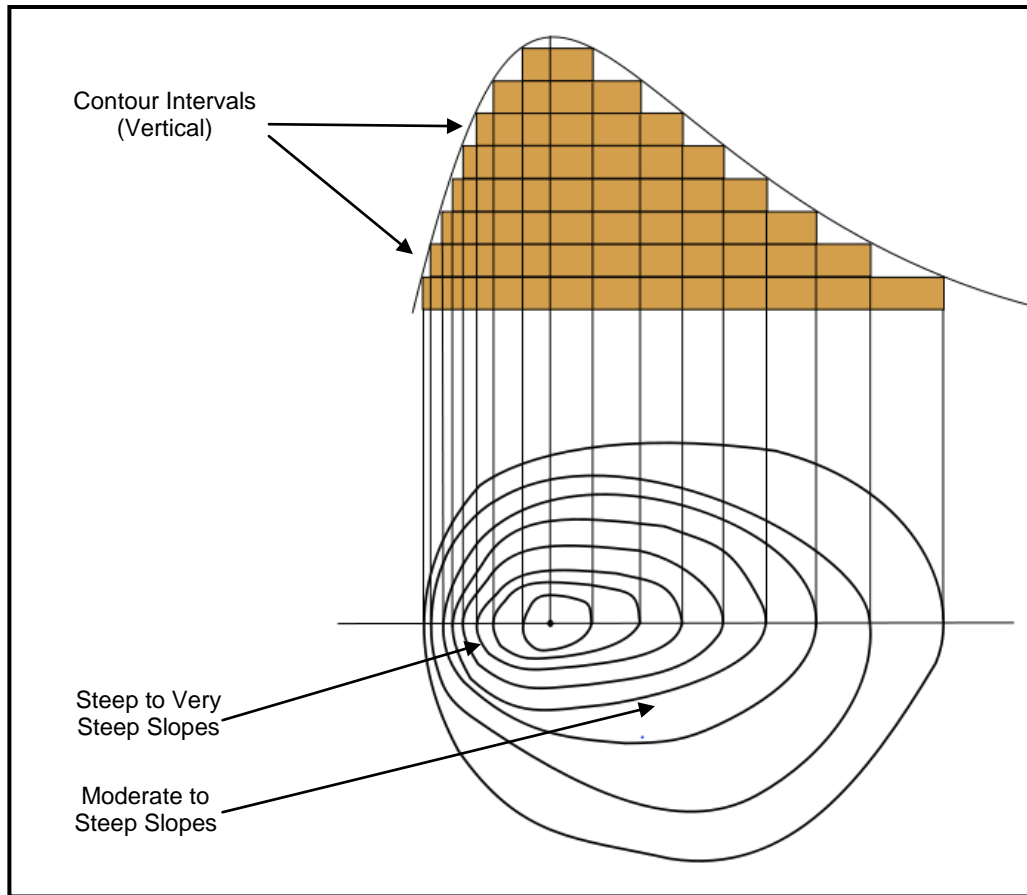
- B. Where the regulations of this chapter may conflict with other provisions of this title including, but not limited to, Chapter 18.76 H-P-D Hillside Planned Development District, Chapter 18.68 PUD Planned Unit Development District, and Chapter 18.78 West Foothill Road Corridor Overlay District, the regulations of this chapter shall control.
- C. In the event that the entitlement of an underlying property is changed to a development type or an increase in the number of units to be covered by §18.70.020.A., the regulations of this chapter shall be applied to the property during the city's review and action on the new entitlement.

**18.70.040 Definitions.**

The terms used in this chapter shall have the following meaning:

- A. Contour Interval.  
Contour interval means the difference in elevation between adjacent contour lines on a contour map or topographical map.
- B. Contour Line.  
Contour lines are the horizontal lines, curved or straight, that join points of the same elevation (height) above a given level, such as mean sea level. Contour lines can graphically show land features such as valleys, hills, creeks, and ridgelines. The spacing between contour lines – wide or narrow – can graphically show the relative steepness (grade) of the slope.

Figure 1 shows contour intervals reflected as contour lines, and how the spacing between contour lines can indicate the relative grade of the slope.



**Figure 1: Contour Intervals, Contour Lines, and Slope Grades.**

**C. Entitlement.**

The right to develop a particular property for a stated purpose and/or use under the current rules and regulations of this title, the general plan and/or specific plan, and any other regulatory restrictions; unless a vested right otherwise exists.

**D. Excavation.**

The removal of rock or earth material on property by artificial means also referred to as a "cut."

**E. Fill.**

Deposition of rock or earth material on property by artificial means.

**F. Grading.**

Grading shall refer to any excavation (Section 18.70.040D.) or fill (Section 18.70.040E.) or combination thereof on property by artificial means to alter natural features including slopes and contours. For the purpose of this chapter, grading shall not include exploratory excavations, such as geotechnical or archaeological work, conducted under the direction of registered professional, repair or replacement of underground utilities.

G. Ridge/Ridgeline.

Ridge/ridgeline is a continuous ground line connecting a series of hills located at their highest elevations ending at the last peak on each end of the landform at which the elevation of the ridgeline no longer rises in elevation, and only decreases in elevation.

Figure 2, below, illustrates the ridge/ridgeline definition.

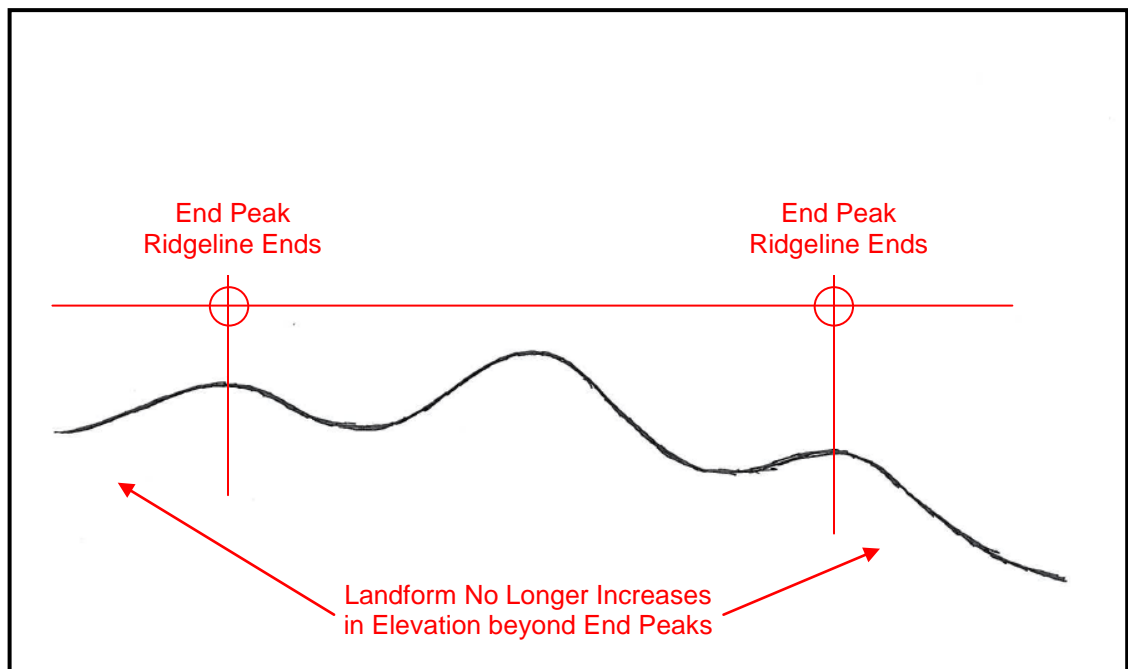


Figure 2: Ridge/RidgelinesSetback

H. Slope (Grade).

Slope, also referred to as grade, is the ratio of height (rise) over distance (run) for a segment of land, where a vertical line would have an infinite slope. For example, a vertical rise of one foot over a horizontal run of one foot has a slope of 100-percent. The 25-percent slope standard used in this chapter is, therefore, the ratio of a one-foot rise over a four-foot run, i.e., 25 percent. Slopes are typically measured between adjacent contour lines and perpendicular to the contour lines.

Figure 3, on the following page, shows the 25-percent slope as a one unit rise over a four unit run.

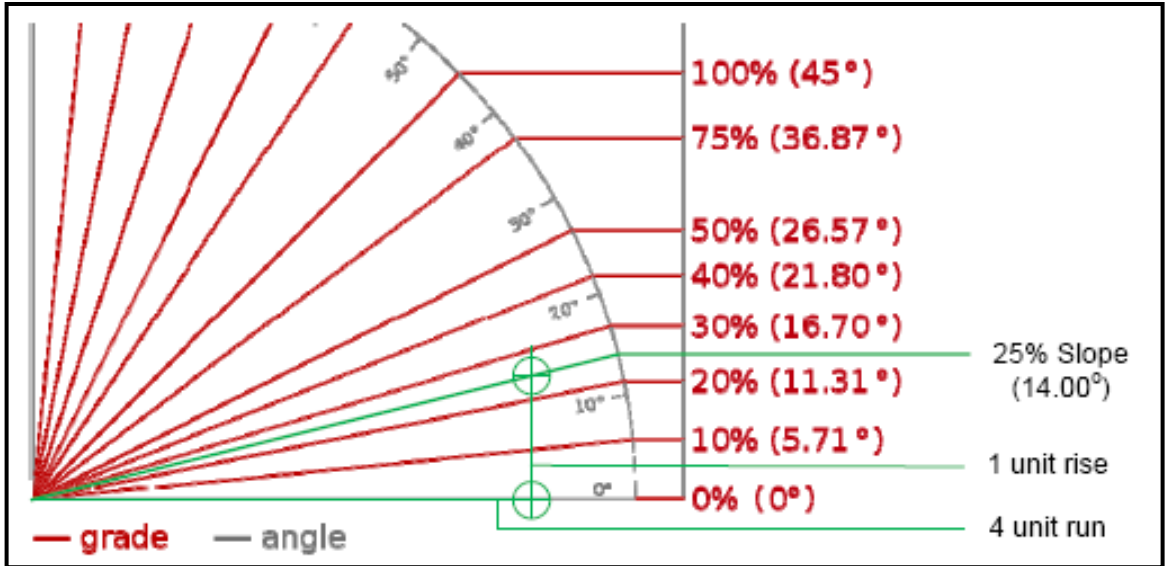


Figure 3: 25-percent slope.

**18.70.050 Required Information.**

Any commercial development or residential development of 11 units or greater for properties which have land areas containing 25-percent or steeper slopes shall be accompanied by data prepared by a registered Civil Engineer, or by a registered Land Surveyor at the discretion of the Community Development Director, or his or her designated representative.

The following data shall be in addition to the information required by this title for applications for Design Review, Planned Unit Development, and Major Modifications of Planned Unit Developments:

- A. Contour map/topographic map drawn to the following scale based on property size with the following information clearly shown on the map:

Property Size:	Scale:
Less than 2.0 acres	1-inch = 20 feet.
2.01 acres to 20 acres	1-inch = 50 feet.
Over 20 acres	1-inch = 100 feet.

1. Existing contour lines prior to grading at an interval of not more than two feet;
2. Slope classifications in contrasting colors of all land that has a slope less than 10 percent, land that has a slope between 10 percent and 20 percent, land that has a slope between 20 percent and 25 percent, and land that a slope greater than 25 percent;

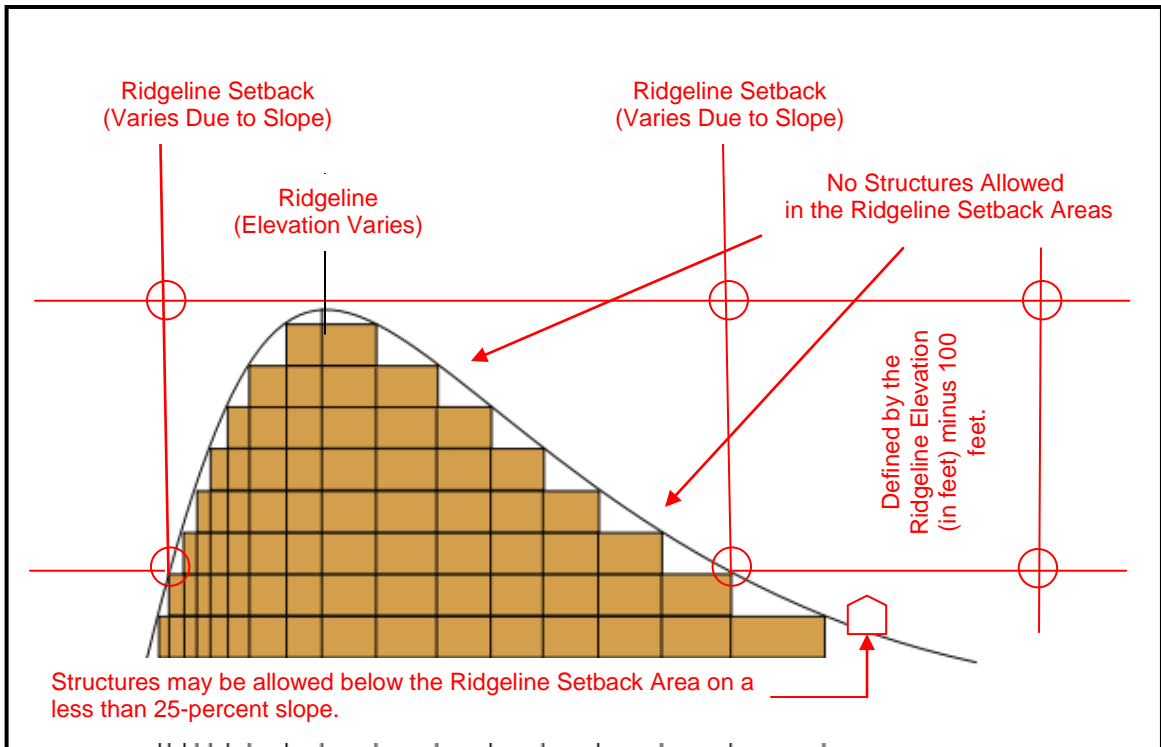
3. Location of all ridgelines as defined under Section 18.70.040G. on the property and the 100-foot ridgeline setback as described in Section 18.70.060A.;
4. Existing on-site streets, bicycle paths, riding trails, pathways, and hiking trails and their off-site connections;
5. Existing buildings and other structures including drainage structures, fences, sheds, etc.;
6. Existing arroyos, streams, and drainage courses including jurisdictional waters;
7. Existing tree and groundcovers;
8. Off-site development and topography at a distance no less than 100 feet from the property lines.

**18.70.060 Review Procedures and Exemptions.**

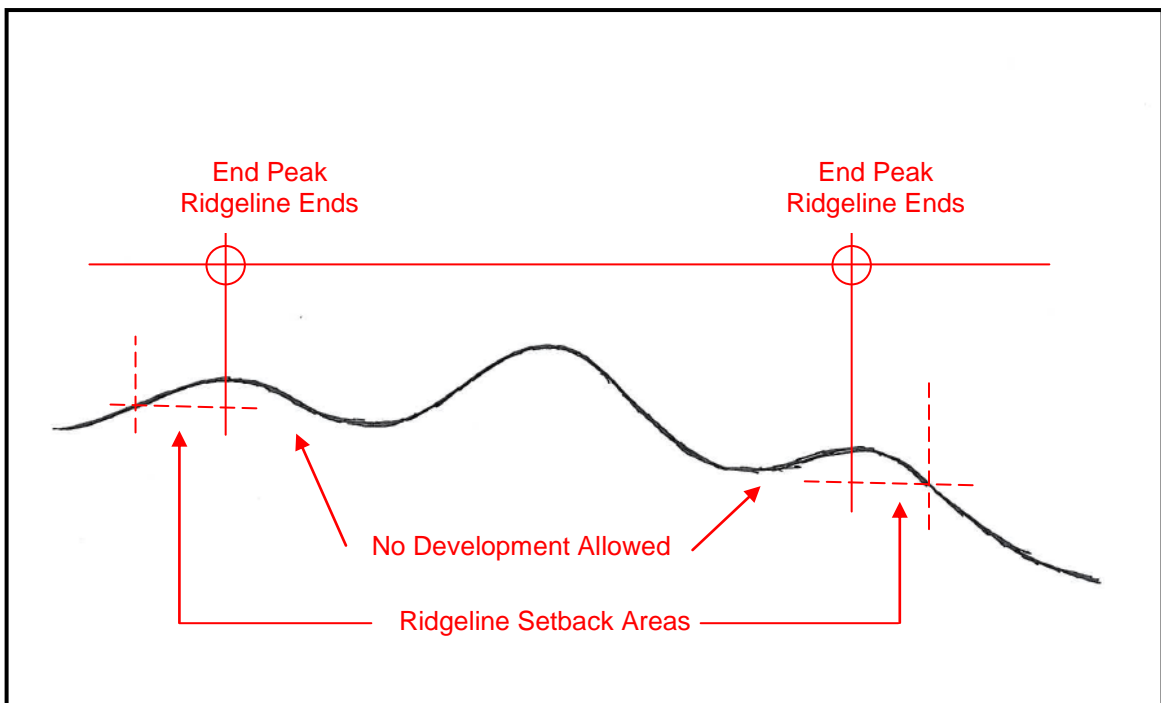
A. Determining the Ridge/Ridgeline Setback Line.

The ridgeline setback is the continuous horizontal ground line measured 100 vertical feet below the ridgeline, and then plotted on the contour line of the topographic map/contour map of the property. The vertical elevation of the ridgeline setback will vary based on the elevation of the ridgeline. The horizontal distance of the ridgeline setback from the ridgeline will vary based on the slope of the hillside.

Figure 4, on the following page, shows how the 100-foot ridgeline setback line is determined and Figure 5, on the following page, shows how the ridgeline definition and ridgeline setbacks would be applied to a hillside.



**Figure 4: Slope Cross Section with the Ridgeline Setback.**



**Figure 5: Slope Cross Section Designating Ridgelines and Ridgeline Setbacks**

**B. Determining the 25-Percent Slope Line.**

The 25-percent slope line is the continuous ground line located at the elevation at which the slope grade equals or exceeds a 25-percent grade. Where



supported by the Community Development Director, isolated property features such as mounds, sink-holes, ditches, ravines, furrows, etc., that are surrounded by significant property area having a slope less than a 25-percent grade may be excluded in cases where such exclusion shall not conflict with the purpose of these regulations.

C. Determining the Hillside Development Limit Line.

The Hillside Development Limit Line is the most restrictive of the 25-percent Slope Line standard and the Ridge/Ridgeline Setback Line standard – the development standard that locates the limit of development on the lowest portion of the hillside.

D. Existing Manufactured Slopes having a 25-Percent Grade or Greater.

1. Manufactured slopes of having a 25-percent grade or greater are excluded from the developable area of the property.
2. With a public hearing, the city may grant an exemption to allow development on manufactured slopes having a 25-percent grade or greater if the grade of the original slope was less than 25 percent based on a review of contour/topographic maps, and the development to be allowed by the exemption is consistent with the purpose of these regulations.

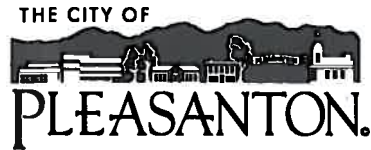
E. Public and Private Streets and Roads.

1. Public and private streets and/or roads serving residential or commercial structures (collectively “streets”) and their attendant infrastructure are structures and are subject to the regulations of this Chapter unless covered by a Specific Plan or PUD Development Plan approved prior to November 2008.
2. With a public hearing, the city may grant an exemption to allow new streets intended to provide access to city facilities such as water tanks, parks and recreation areas, public and private pedestrian, bicycle, and equestrian trails and staging areas, and to landlocked areas within the Urban Growth Boundary Line that were designated for development by the Pleasanton General Plan.
3. Such streets shall be subject to the city’s environmental and discretionary review processes to direct the road’s location and design to preserve or mitigate impacts to environmentally and visually sensitive features through best design, engineering, and landscaping, and to make the streets or roads as unobtrusive as practical and to blend with natural terrain.

E. Public Facilities.

1. Following a public hearing, the city may grant an exemption for such public facilities as water tanks, parks and recreation areas, utilities, pedestrian, bicycle, and equestrian trails and staging areas, and similar public facilities improvements, as well as streets serving such public facilities. The city shall use best design, engineering, and landscaping practices to make said facilities and streets serving such public facilities as unobtrusive as practical and to blend the improvements with the natural terrain.

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**CITY COUNCIL SPECIAL MEETING  
AGENDA REPORT**

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November 27, 2012  
Department of Community Development  
Planning Division

**TITLE: CONSIDER THE REPORT ANALYZING IMPLEMENTATION OPTIONS  
FOR MEASURE PP PROVISIONS FOR THE DEVELOPMENT OF  
HILLSIDE AREAS WITHIN THE CITY OF PLEASANTON**

**SUMMARY**

The following report has been prepared to assist in the discussion of the implementation of Measure PP. It addresses questions on how to measure slopes, the definitions of the terms ridge and ridgeline, and whether the limitations of slopes 25 percent or greater apply to manmade slopes or roadways.

**ENVIRONMENTAL REVIEW**

Environmental review is not required for a discussion on policies. Any future project subject to Measure PP will undergo an environmental analysis as required by CEQA.

**RECOMMENDATION**

Discuss the information provided in the following staff report, review the options and staff recommendations, and provide direction on implementation.

## **BACKGROUND**

### **Purpose**

The purpose of this special meeting is to request the City Council's input on the implementation of Measure PP, specifically the following items: 1) how to measure slopes, 2) the definition of ridge and ridgeline, and 3) whether the construction limitations on slopes 25 percent or greater apply to manmade slopes or roadways. This report describes implementation options on each issue and a staff recommended option for consideration by the City Council.

Staff proposes that the options selected by the City Council be incorporated into a new Chapter of the Zoning Ordinance (Title 18) that provides comprehensive direction on the implementation of Measure PP. This code amendment would be brought forward in January 2013.

Measure PP limitations to the development of hillside properties shall apply in conjunction with the ongoing requirements of City, State, and Federal regulations addressing ridgeline protection, protection of jurisdictional waters and habitat areas, trees, wildland fire mitigation, urban stormwater runoff treatment and necessary mitigation identified in individual project review.

### **Measure PP**

In November 2008, Pleasanton voters passed Measure PP, the "Save Pleasanton's Hills & Housing Cap Initiative." Measure PP states, in part:

"No grading to construct residential or commercial structures shall occur on hillside slopes 25% or greater, or within 100 vertical feet of a ridgeline."

Measure PP amended the City's General Plan adding a land use policy that addresses the location of commercial and residential structures on the City's hillside areas with respect to slopes and ridges. However, it did not define the terms slope, ridge and ridgeline, or structures, nor did it address the streets or roads covered by previous City approved Specific Plans and/or PUD developments located on hillside areas with a 25-percent or greater slope, and the treatment of manufactured slopes of 25-percent or greater.

Attached is the "Analysis of the Impacts and Effects of the Save Pleasanton's Hills & Housing Cap Initiative" with a copy of Measure PP, dated June 11, 2008 (Attachment 1), and copies of the minutes of the May 20, 2008, June 26, 2008, and July 15, 2008 City Council public hearings (Attachment 2) on Measure PP.

## **Terms from Measure PP**

Excerpts from the Measure PP Text:

1. "Ridgelines and hillsides shall be protected."
2. "Housing units and structures shall not be placed on slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline."
3. "No grading to construct residential or commercial structures shall occur on hillside slopes 25% or greater, or within 100 vertical feet of a ridgeline."

And excerpts from the "Notice to Circulate Petition" for Measure PP:

1. "Protect our scenic hills from development that destroys the character of our town."
2. "To direct development and development speculation away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to service by existing jurisdictions."
3. "Exempt from this policy are housing developments of 10 or fewer housing units on a single property that was, as of January 1, 2007, 'legal parcel' pursuant to the California Subdivision Map law."

## **Measure PP and Measure QQ**

In November 2008, Pleasanton voters passed Measure QQ along with Measure PP. As stated in the text of the Land Use Element<sup>1</sup> of the Pleasanton General Plan 2005 – 2025,

"Measure QQ's substantive hillside policies involve the re-adoption and re-affirmation of existing policies and a program for the 1996 General Plan to generally: 1) preserve hillside and ridge views of the Pleasanton, Main, and Southeast Hills; 2) study the feasibility of preserving large open-space areas in the Southeast Hills; and, 3) protect all large, contiguous areas of open space."

The City Council's directions on Measure PP implementation will resolve any outstanding issues on the implementation of Measure QQ.

## **DISCUSSION**

### **Methodologies and Definitions**

For housing developments of 11 units or more, Measure PP relies upon two development standards to determine the limit of development (development limit line) on hillside properties: no grading to construct structures is allowed in an area with a 25-percent

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<sup>1</sup> Note: Page 2-9 of the Pleasanton General Plan 2005 – 2035.

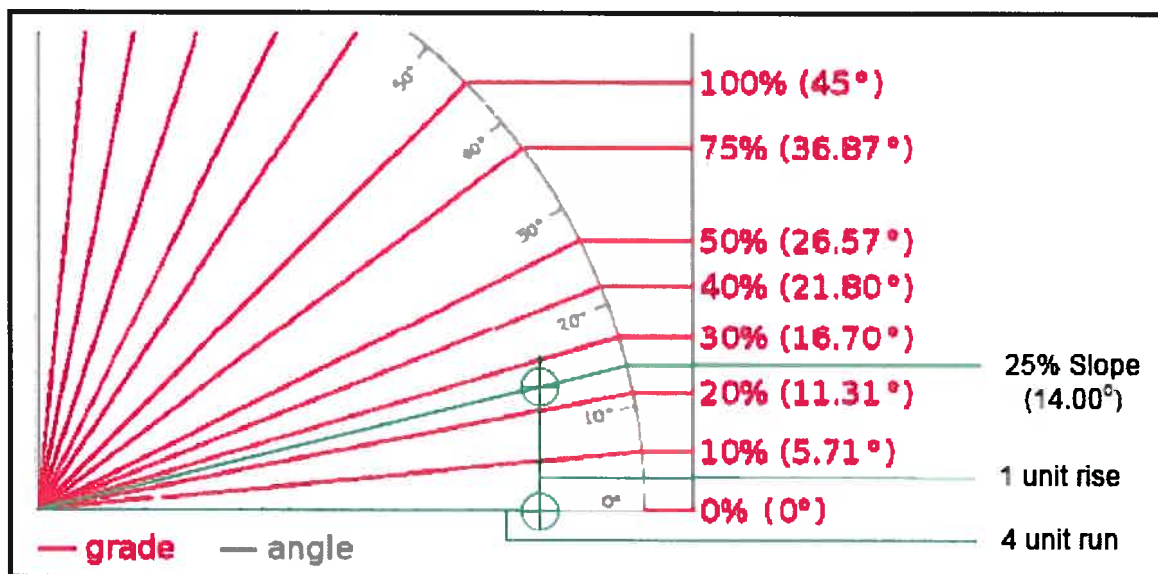
slope or greater, and no development shall occur within 100 vertical feet of a ridgeline.<sup>2</sup> The slope and ridgeline development standards are each represented as a continuous horizontal line plotted on a contour map of the property. The limit of development is then determined by the more restrictive of the two standards<sup>3</sup>, i.e., the development standard that locates the limit of development on the lowest portion of the hillside.

**1. Slope.**

**1.a. Methodologies for Determining 25-Percent Slope.**

Slope is the ratio of height (rise) over distance (run) for a segment of land. Page II-21 of the 1996 Pleasanton General Plan (Attachment 4) defined "slope" as, "The ratio of the rise over the run of a segment of land, where a vertical line would have an infinite slope. For example, a vertical rise of one foot over a horizontal run of one foot (equal to 45-degree angle), has a slope of 100 percent." The 25-percent slope<sup>4</sup> standard referenced in Measure PP and in the Pleasanton General Plan is, therefore, the ratio of a 25-foot rise over a 100-foot run, i.e., 25 percent. (Note: A 25-percent slope is equal to a 14-degree angle.)

Figure 1, below, illustrates a 25-percent slope by showing a one unit rise over a four unit run.



**Figure 1: 25-percent slope.**

For the purpose of evaluating hillside development, slopes can be defined as an average value, also called a Weighted Incremental Slope (WIS), or as a specific value. These two options would affect the extent of the slope-based developable

<sup>2</sup> Note: Measure PP does exempt from these limitations: "...housing developments of 10 or fewer housing units on a single property ...".

<sup>3</sup> Note: Defining the development standard as the greater of two development standards is used by the Pleasanton Municipal Code (PMC) to calculate parking for medical/dental offices and for restaurants (PMC Section 18.88.030C.6.&7.).

<sup>4</sup> The grade of a slope is always measured perpendicular to the contour lines.

area on hillside properties with respect to Measure PP standards. Staff believes the two options for measuring slope include:

- Option One:  
Calculate 25-percent slope as a specific value based on the distance between contour lines on a topographic map.
- Option Two:  
Calculate 25-percent slope as an average value, such as the WIS formula of the City's Hillside Planned Development District (Attachment 3) even though this method, which is an average of slopes less than 25 percent and potentially greater than 25 percent, may include slopes over a 25-percent grade.

Staff Recommendation: Option One.

Option One is consistent with the Measure PP provision that, "No grading to construct residential or commercial structures shall occur on hillside slopes 25-percent or greater..." This is the more conservative of the two options as it will only allow development on slopes less than 25-percent.

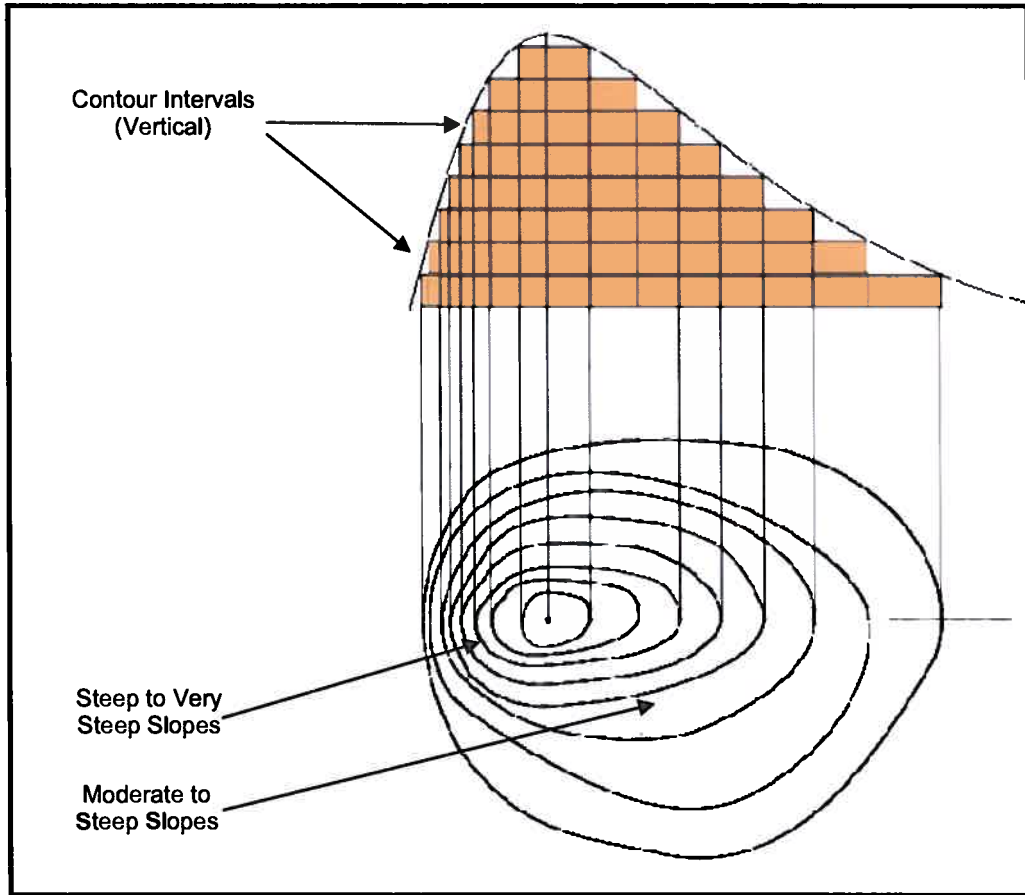
1.b. Methodology for Defining Contour Intervals

The contour interval is the difference in elevation between adjacent contour lines. Contour lines are the horizontal lines, curved or straight, that join points of the same elevation (height) above a given level, such as mean sea level<sup>5</sup>. Contour lines and intervals can graphically show land features such as valleys, hills, creeks, ridgelines, etc., and can show the relative steepness of slopes by the spacing between the adjacent contour lines.

Figure 2, on the following page, shows how the contour intervals are reflected as contour lines, and how the spacing between the contour lines – wide or narrow – can graphically indicate the relative steepness (grade) of the slope.

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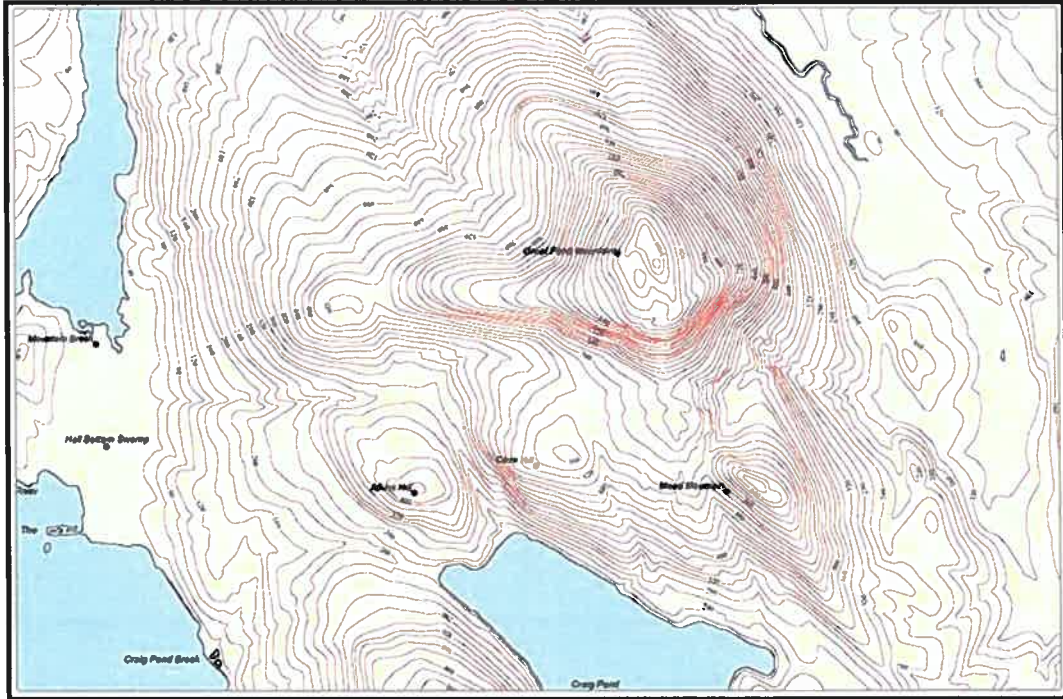
<sup>5</sup> Note: Typically expressed as NGVD (National Vertical Datum of 1929), the system that has been used by surveyors and engineers for most of the 20<sup>th</sup> Century as the basis for relating ground and flood elevations.



**Figure 2: Contour Intervals, Contour Lines, and Slope Grades.**

Figure 3, on the following page, is a contour map for a relatively large land area with contour lines, contour intervals stated as elevations, natural features including peaks and water features, and points of interest.





**Figure 3: Contour Map with Contour Lines and Intervals and Natural Features.**

The vertical distance between contour intervals affects the land form details that are shown on the map: a narrow separation provides great accuracy and will show minor land form details, such as small ravines, mounds, outcroppings, and swales; larger separations may exclude minor slope variations and minor land form details.

The three options to define contour interval(s) for the slope analysis maps used to calculate 25-percent slope include:

- **Option One: Two-foot contour intervals.**  
Two-foot contour intervals provide a high level of detail showing minor land forms, such as small ravines, mounds, outcroppings, and swales, that would be used to verify compliance with Measure PP. Staff notes that Section 18.76.140.E.2 of the City's H-P-D District (Attachment 3) requires two-foot contour intervals to calculate Weighted Increment Slope. Two-foot contour intervals are also typically used on slope inventory maps and preliminary grading plans provided with development applications, and require the least interpolation between contour intervals. Staff believes that contour intervals of less than two feet suggest an artificial level of accuracy that cannot be achieved.
- **Option Two: Five-foot contour intervals.**  
Five-foot contour intervals would provide slightly less detail on slope inventory maps and may potentially allow grading over minor topographic features such as small ravines, mounds, outcroppings, and swales. Excluding isolated or

minor land forms, such as a 25-percent slope "bump" surrounded by less-than-25-percent slopes, will make slope analyses simpler.

- **Option Three: Ten-foot contour intervals.**  
Ten-foot contour intervals would provide the least detail of the three options as to slope variation and land form detail and could allow grading over these topographic features. The ten-foot contour interval will be lacking in the detail of the two-foot or five-foot contour intervals thereby increasing the complexity of slope analyses.

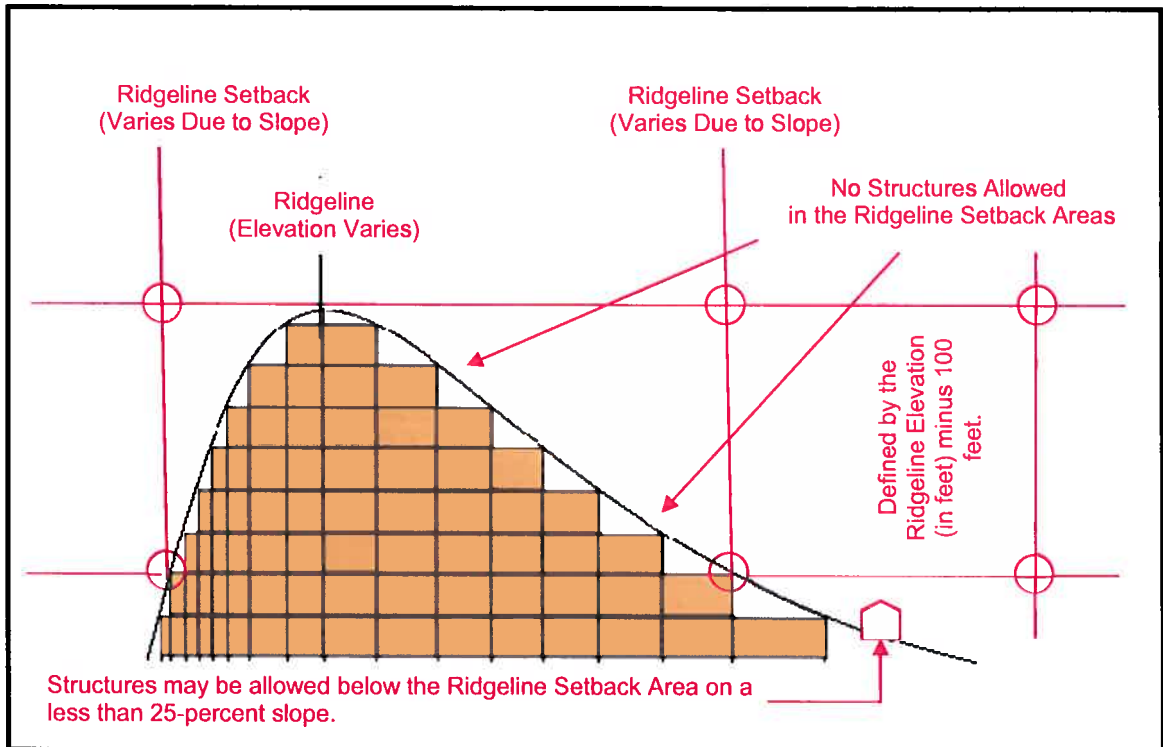
**Staff Recommendation: Option One.**

All of these options will require discretionary review of slope maps coupled with field visits to evaluate the significance of land features – isolated and/or insignificant land features are not considered as triggering the 25-percent slope – and the application of Measure PP to them. Based on City experience in the review of slope maps from the entitlement stage to the construction stage and due to the sensitivity to this issue among some in this community, staff recommends that the more conservative and detailed two-foot contour intervals be used.

## **2. Definition of Ridge and Ridgeline and the 100-Foot Setback.**

Measure PP prohibits development within 100 vertical feet of a ridgeline. The ridgeline setback could be defined as the horizontal ground line, measured 100-feet below the ridgeline and then plotted on the contour map or topographic map of the site. The horizontal distance of the ridgeline setback from the ridgeline will vary based on the slope of the hillside. Similar to the 25-percent slope line, the ridgeline setback is a continuous ground line.

Figure 4, on the following page, is an example of the 100-foot ridgeline setback for a general cross section of a hillside; it is not intended to represent an actual hillside in Pleasanton.



**Figure 4: Slope Cross Section<sup>6</sup> with the Measure PP Ridgeline Setback.**

There is no formal definition of ridge or ridgeline in Measure PP or in the Pleasanton General Plan. Chapter 18.76 of the Municipal Code for the Hillside Planned Development District (Attachment 3), for which only one property in the City is currently zoned, defines ridge as "a connected series of major and minor hills", and a ridgeline as "a ground line located at the highest elevation of the ridge running parallel to the long axis of the ridge." This definition distinguishes a ridge from a knoll, individual hill, or slope bank.

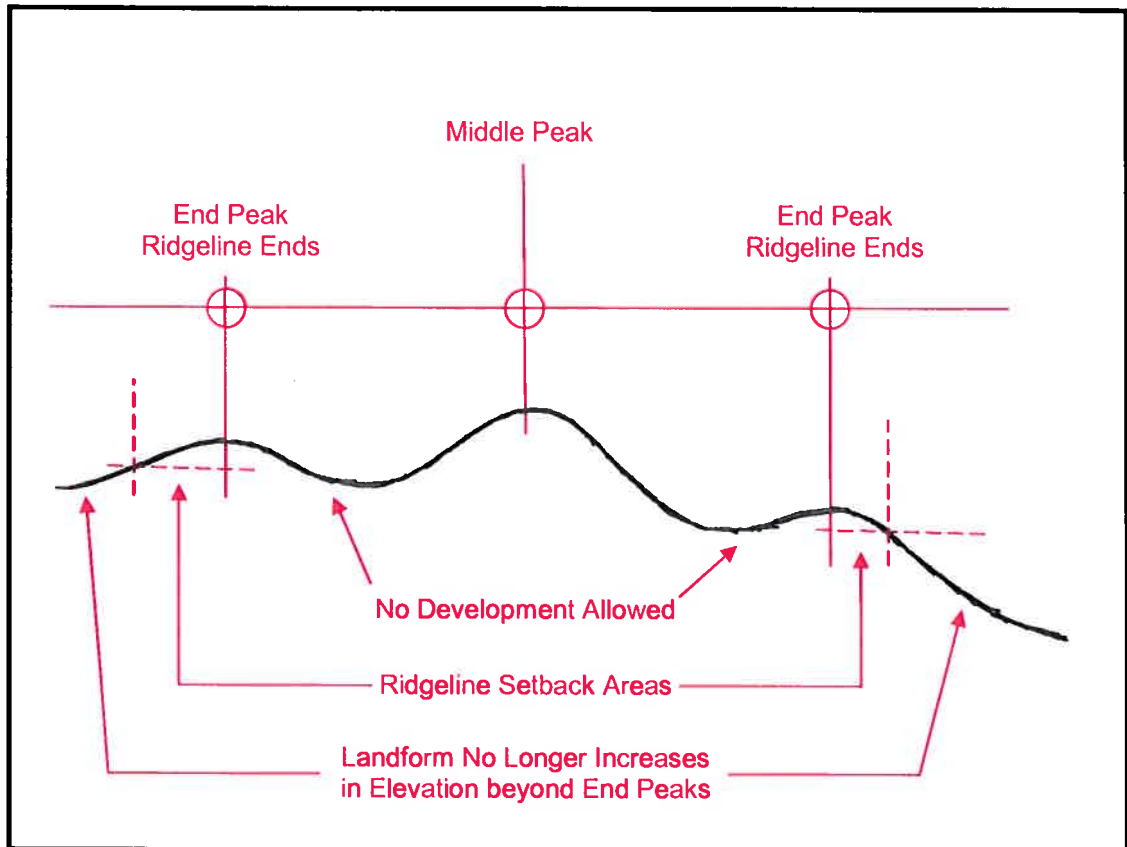
Working from the language of Measure PP and the City's Hillside Planned Development District, staff developed the following options for the City Council and Planning Commission to consider in defining ridge and ridgeline.

- **Option One:**  
Define ridge as a connected series of major and minor hills and the ridgeline as a ground line located at the highest elevation of a ridge running parallel to the long axis of the ridge.

This is the verbatim definition from Chapter 18.76 of the Municipal Code for the Hillside Planned Development District. This definition is lacking for purposes of implementing Measure PP in that it does not give any guidance regarding where on the "ground line" the "ridge" or "ridgeline" begins or ends.

<sup>6</sup> Note: Cross Section is not drawn to scale.

- **Option Two:**  
Define ridgeline as a continuous ground line connecting a series of hills located at their highest elevations ending at the last peak on each end of the landform. The "last peak" would be defined as the point at which the elevation of the ridgeline no longer rises in elevation, and only decreases in elevation. Figure 5, below, is a conceptual representation of Option Two.



**Figure 5: Slope Cross Section<sup>7</sup> Designating Ridgelines**

Staff Recommendation:

Option Two because this option provided direction on where a ridgeline ends.

### 3. **Definition of Streets and Roads as Structures.**

The Pleasanton Municipal Code §18.08.535 defines "structure" as "anything constructed or erected which requires a location on the ground, including a building or a swimming pool, but not including a fence or a wall used as a fence if the height does not exceed six feet, or access drives or walks." The Pleasanton Municipal Code also adopts the California Building Code by reference, which defines structure as "that which is built or constructed" which could be interpreted to mean public or private streets or roads.

<sup>7</sup> Note: Cross Section is not drawn to scale.

Measure PP is not clear whether it considers a street a structure and, therefore, if the grading and construction for a street or road is subject to the slope and ridgeline standards of Measure PP. City policy is to generally design streets or roads with a maximum grade of 10- to 15-percent, which can be constructed on land exceeding a 25-percent slope through grading and the use of retaining walls. However, streets or roads on hillside property involve visible cut and fill slopes that may not match surrounding terrain; the alteration of drainage features; the installation of surface and sub-surface structures such as "V"-ditches; and the construction of retaining walls; etc., any of which could be determined to be a "structure".

Figure 7, below, is an example of a road section on hillsides.

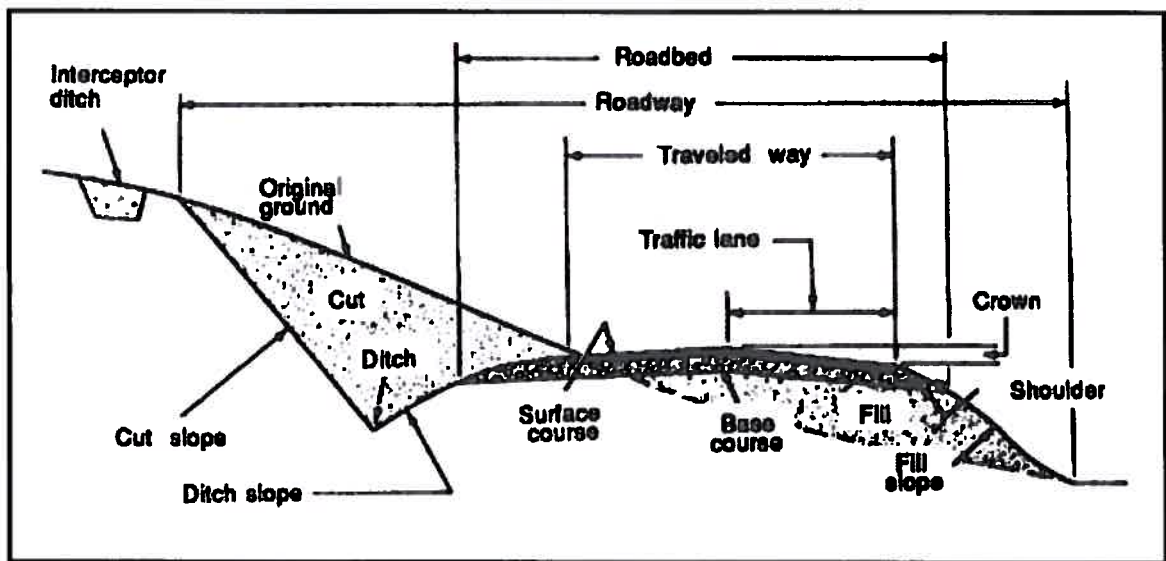


Figure 7: Example of a Road Section on Hillsides

The absence of a specific definition leaves the question of whether streets or roads are structures and, therefore, covered by Measure PP. (The following options and narrative considers roads to include the paved curb-to-curb section and their attendant infrastructure such as retaining walls, drainage features, etc.)

- Option One:  
Determine that streets and roads and their attendant infrastructure are not structures and, therefore, are exempt from Measure PP.

Such an interpretation would not preclude the City's discretionary review authority whereby the proposed street or road can be prohibited due to design concerns and any related impacts, but would allow roads to be constructed on 25-percent slopes.

- Option Two:  
Determine that streets and/or roads and their attendant infrastructure are structures in that they are physical improvements on the property intended to

accommodate development of residential or commercial structures and, therefore, are covered by Measure PP.

Interpreting Measure PP to prohibit grading to build streets and roads on property with slopes of 25-percent or greater is consistent with the intent of Measure PP to protect hillsides and ridgelines from development, i.e., preserve these areas in their natural state and, as paraphrased from Measure PP, to direct development away from lands with environmentally sensitive features and primary open space values.

However, interpreting Measure PP to apply to grading and attendant infrastructure for roads on a 25-percent slope or greater – therefore, prohibiting the construction of roads could preclude access to City facilities such as water tanks or parks, off-site developable areas where a second access point is required for access and/or for emergency vehicles, or to provide off-site access covered by an approved Specific Plan and/or PUD Development Plan, such as the proposed By-Pass Road called for in the Happy Valley Specific Plan.

- **Option Three:**

Determine that streets and/or roads and their attendant infrastructure are a structure in that they are a physical improvement on the property intended to accommodate development of residential and commercial structures and, therefore, are covered by Measure PP unless the street or road is intended to provide access to a public park, trail, or similar facility and/or is covered by a Specific Plan, PUD Development Plan, or Development Agreement.

This option meets the intent of Measure PP to protect hillsides and ridgelines from development, thereby preserving these areas in their natural state, and to provide discretionary review to the City to permit on- and off-site road connections on slopes 25 percent or greater needed to provide access to landlocked areas that are within the Urban Growth Boundary Line and designated for development by the Land Use Element of the Pleasanton General Plan, City facilities, and to street connections covered by previous Specific Plans and/or PUD Development Plans. However, the extension of such streets or roads will still be subject to the City's environmental and discretionary review to direct the road's location and design to mitigate or preserve environmentally sensitive features.

**Staff Recommendation: Option Three.**

This option balances Measure PP's purpose and intent to protect hillsides and ridgelines by prohibiting new development from these areas and by maintaining the planned street connections of previous City plans and approvals to prevent landlocked property, to provide access to future City facilities, or to provide the street connections of previous plans and/or other approvals. However, the extension of such streets or roads will still be subject to the City's environmental and discretionary review.

#### **4. Manufactured Slopes Over a 25-Percent Grade.**

In some cases, potential development sites will contain slopes 25 percent and steeper that have been created by prior grading and/or construction rather than appearing naturally in the landscape.

For example, with the development application of the Hana Japan restaurant site (southwest corner of Dublin Canyon Road and Foothill Road), the City determined that the slope bank along the Dublin Canyon Road and Foothill Road sides of the project site were manufactured slopes previously created with the road widening and, therefore, the Hana Japan site was not subject to the requirements of Measure PP. However, this determination was specific to the Hana Japan project and does not necessarily apply Citywide. The following options would address the application of Measure PP to manufactured slopes Citywide.

- **Option One:**  
Determine that manufactured slopes with a 25-percent or greater slope are not covered by Measure PP if the original natural slope was less than 25-percent based on a topographic and/or visual analysis of the property's grades.

This option reviews the manufactured slope in the context of the grades of the original slopes. Therefore, if the grade of the original slope is less than 25 percent based on a review of topographic maps, the manufactured slope would be exempt from Measure PP consideration. If, however, the previous natural grade can be determined to have been 25 percent or greater, then the manufactured slope would be prohibited from re-grading.

- **Option Two:**  
Determine that manufactured slopes of 25-percent or greater are covered by Measure PP and are excluded from the developable area of the property.

This option ignores the grades of the original slopes and would exclude any manufactured grade 25 percent or greater from being graded for development. This application would have precluded the Hana Japan approval.

**Staff Recommendation:** Option One.

If the original slope was less than 25 percent, then the manufactured slope even if 25-percent or greater slope can be graded for development. Applying the 25-percent criteria to a manmade slope is inconsistent with the purposes of Measure PP.

#### **ENVIRONMENTAL REVIEW**

The topics discussed in this special meeting are exempt as feasibility and planning studies per title 14 California Code of Regulations §15262. The environmental review for any future development of hillside properties covered by Measure PP standards will be subject to review under the California Environmental Quality Act (CEQA).

## **CONCLUSION**

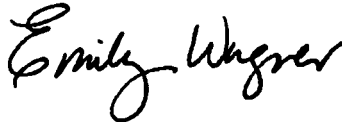
Measure PP generally addressed the location of developments on the City's hillside areas with respect to steep slopes and/or near ridgelines, but it did not define key terms, or provide methodologies for determining the location of, ridges, ridgelines, or slope which are terms that are integral to the review of hillside development. Measure PP also did not address the treatment of manufactured slopes or the location of roads on land at or greater than 25-percent grade. City Council direction on and/or definition of these items will assist City staff in its review of hillside developments to meet the requirements of Measure PP.

Submitted by:



Brian Dolan  
Director of  
Community Development

Fiscal Review:



Emily Wagner  
Director of Finance

Approved by:



Nelson Fialho  
City Manager

## **Attachments:**

1. Report on "Analysis of the Impacts and Effects of the 'Save Pleasanton's Hills & Housing Cap Initiative,'" prepared by staff dated June 11, 2008.
2. City Council Minutes: May 20, 2008, June 26, 2008, and July 15, 2008.
3. Chapter 18.76, HPD District, of the Pleasanton Municipal Code.
4. Page II-21 of the 1996 Pleasanton General Plan.



**MINUTES  
CITY OF PLEASANTON  
SPECIAL CITY COUNCIL MEETING  
November 27, 2012**

- 1. CALL TO ORDER**  
Mayor Hosterman called the special meeting to order at the hour of 6:00 p.m.
- 2. ROLL CALL**  
Present: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
Absent: None
- 3. PUBLIC COMMENT:** None
- 4. Consider the implementation options of Measure PP provisions related to the development of hillside areas within the City of Pleasanton**

Community Development Director Dolan presented the staff report. He advised the Council that the direction provided this evening would return to the Council in the form of an addition to the Zoning Ordinance, which would ultimately be passed by the subsequent Council. Measure PP, which was passed by the Pleasanton voters in November 2008, contains provisions that prohibit grading for the purposes of constructing residential or commercial structures on hillsides with slopes of 25% or more or within 100 vertical feet of a ridgeline. The primary challenges in implementing the directive relate to how slope is measured, identification of the point from which a ridgeline is measured and whether these limitations apply to streets, roadways or manmade slopes.

Mr. Dolan noted that certain developments whose proposals were for ten or fewer housing units and predate the approval of Measure PP, are exempt from these provisions. He also noted that in addition to the provisions of PP, the General Plan and City's own environmental review as well as certain state and federal regulations provide protection of environmental resources and in some cases might actually go beyond the limitations of PP.

Mr. Dolan presented the Council with several options for determining slope, the current definition of which is general and widely accepted but does not delve into the mechanics of measurement. Slope is the ratio of rise (height) over run (distance) for a particular segment of land. A 25% slope consists of a 25-foot rise over a 100-foot run and is equivalent to a 14-degree angle. In determining slope, one can measure the real slope as a specific value based on the distance between contour lines on a topographical map. An alternative method that has been the practice of many jurisdictions including Pleasanton, is to calculate an average slope value over the entire site. Using the latter would likely result in a slight increase in developable land, some of which might actually exceed 25%. Staff's position is that for the purposes of PP, using real slope to determine the developable footprint would be most appropriate.

A sub issue of slope determination relates to contour intervals, which reflect the actual change in elevation represented by the space between adjacent topographic rings and differ based on the size map that is used. Staff has proposed that the Council consider using 2, 5 or 10-foot contour intervals. Staff conducted several tests on real sites in Pleasanton to determine the effect of each alternative, found the differences to be negligible and therefore is supportive of implementing the most conservative 2-foot option.

The next issue for the Council to consider is how to define and measure a ridgeline. While the current code does define a ridgeline, which is listed as Option 1, staff feels it is insufficient in providing direction on where to start and stop measuring the setback from the ridge. Staff studied several alternatives and found it made the most sense to define the end of the ridgeline as the point at which it starts to only decrease in elevation and to measure the setback from this point.

The Council is also being asked to make a determination on whether streets and roads are considered "structures" in this context. While not the most common use of the term, even sensitive construction of streets or roadways on a hillside require improvements that scar the landscape in a way that is not dissimilar to residential development. Staff has identified several options for the Council's consideration, the first two of which is extreme and identifies streets and roadways as either exempt from or subject to the same limitations that any other development would be under PP. Staff was not particularly satisfied with either option, as they could recall several preexisting Specific Plans that anticipated a particular road that would be prohibited under these conditions or could envision specific areas of town where it would be unavoidable to access public resources without crossing a 25% slope. Staff therefore supports Option 3, which determines streets and/or roads are a structure and therefore, covered by PP unless the street or road is intended to provide access to a public park, trail, or similar facility and/or is covered by a previous Specific Plan, PUD Development Plan, or Development Agreement.

The final issue for the Council's consideration is that of manufactured slopes. While not common, some potential development sites contain slopes 25% or greater that has been created by prior grading and/or construction rather than appearing naturally in the landscape and staff does not believe their preservation to be consistent with the purposes of PP. Therefore, staff recommends that manufactured slopes of 25% or greater not be covered by PP if the original and natural slope was less than 25% based on topographic and/or visual analysis of the property's grades.

Councilmember Sullivan asked if there were any way that development would be allowable, under this ordinance, on a lot that was predominately sloped at 25% or more but contained a very small portion with a 24% slope.

Mr. Dolan said that specific issue has not been addressed but, without any further guidance, the developer could be allowed to build if the portion sloped at 24% were sizable enough for a residential building pad and met the setback requirements. This would not however be allowed if the lesser-sloped portion were situated such that driveway access to the home would have to cross the 25% slope as driveways are considered part of the residential development rather than a street or road.

Councilmember Sullivan attempted to clarify his question, asking if it would be possible to apply both Options 1 and 2 for determining slope to avoid any sort of loophole in this circumstance. He said he posed the question to the City Manager several times already and has not yet heard a good answer.

Mr. Dolan explained that anything meeting the requirements of the more conservative Option 1, which staff is recommending, would inherently meet the requirements under Option 2.

Councilmember Sullivan said he supported the staff recommendation regarding manufactured slopes. He asked if the same exemption would apply to preexisting building pads constructed on slopes exceeding 25%, even if never approved by the City.

Mr. Dolan said yes, provided the site could achieve driveway access that did not cross a 25% slope.

Councilmember Sullivan asked and staff confirmed that the Council is being asked to provide staff with direction which staff will then bring to the next Council in the form of a draft ordinance. Mr. Dolan added

that as part of the Zoning Ordinance, the ordinance would go before the Planning Commission for a recommendation prior to returning to the Council.

Councilmember McGovern asked and Mr. Dolan confirmed that the definition for slope used here reaffirms, rather than changes, the definition contained within the 1996 General Plan and Measure QQ.

Councilmember McGovern said the issue of manmade slopes really seems to relate to the Lund Ranch II property, which is a sizable piece of land and calls for the development of nine homes. She said she considered something of this scope to be very different from a manufactured molehill both in terms of overall size and because it has become a part of the contour of the property, and did not feel it was appropriate to call out as exempt.

Councilmember Cook-Kallio requested clarification on the staff recommendation on pages 5 and 7, noting that Weighted Increment Slope (WIS) is included in both options depending on which page one refers to.

Mr. Dolan clarified that the reference was largely for discussion purposes and staff does not recommend the use of WIS or slope averaging.

Councilmember McGovern said she posed the same question to staff and shared their written response with Councilmember Cook-Kallio.

Mayor Hosterman opened the public hearing.

Kay Ayala said they, whom she did not define, were supportive of staff's recommendation with some additional language. She asked that Option 3 regarding streets and/or roads read that streets and/or roads are a structure and therefore, covered by PP unless the street or road is intended to **only** provide access to a public park, trail, or similar facility and/or is covered by a previous Specific Plan, PUD Development Plan, or Development Agreement **approved prior to November 2008 when Measure PP was passed**. She noted that she had inquired about and accepted staff's definition of "similar facility" as something like a water tower. She asked the Council to clarify with staff whether the intent was to exempt only those PUD plans that were approved and built as opposed to those that had not yet constructed.

City Manager Fialho said staff is proposing to grandfather those plans and development agreements. He noted that there is a bit of a legal question around whether a previously approved PUD on one site can bind the PUD on another site that is yet to be developed, as would be the case with Lund Ranch II. The answer to that is unclear from a legal perspective, but the City can rely on the larger Specific Plan, in this case the North Sycamore Specific Plan, which says that certain connections will be made.

Karla Brown, Councilmember Elect and one of the Measure PP signatories, read the language of PP and quoted from the voters' pamphlet. She said the authors support staff's recommendation for Option 1 with regards to slope, with the addition of language explicitly prohibiting the use of the more generalized WIS method. She also indicated support for staff's recommendation regarding ridgeline measurement and for Option 1 with regards to contour intervals, but asked that any references to WIS usage be deleted. She disagreed with staff's interpretation that PP is unclear regarding streets and roadways. She noted the Pleasanton Municipal Code defines a structure as anything constructed or erected, which requires location on a ground, and that the California Building Code also recognizes a structure as anything built or constructed. She reiterated Ms. Ayala's request that Specific Plans and PUDs be grandfathered. She said the authors felt there was insufficient information regarding manufactured slopes and grades to support an intelligent determination on whether or how these differ from natural slopes and requested a field trip to Lund Ranch II before making such a decision.

Amy Lofland stated her support for the staff recommendation on streets and roadways, assuming that PUDs, Specific Plans and CC&Rs approved prior to November 2008 are exempted. Her specific concern related to PUD 90-18 for Bonde Ranch, PUD 97-03 for Greenbriar for Bridle Creek, PUD 97-12 for Sycamore Heights, the North Sycamore Specific Plan, Happy Valley Specific Plan and the CC&Rs for Bridle Creek and Sycamore Heights.

Allen Roberts recommended an alternative to staff's Option 1 regarding slope, which would include even very small changes in elevation in the calculation of slope or allow staff to determine that the change was insignificant. He recommended that they instead use the 2-foot contour interval over 10 vertical feet. He suggested that several real and clarifying examples of how ridgelines are to be measured would be very helpful to the public. He also stated that PP did not make distinction between manmade and natural slopes and neither should the ordinance.

Greg O'Connor said he had several issues with staff's recommendations regarding measurement of slope and the definition of the ridgeline. While he always assumed slope would be measured as a continuous line, he said he could support using a 2-foot rise for the purposes of practicality. He felt staff's recommendation regarding ridges would not capture the entire ridgeline, but that it was certainly a good starting point. He said PP is clear and does not provide for exceptions with regard to streets and roadways, except for those PUDs and Development Agreements approved prior to 2008, or manufactured slopes. He did not feel streets or roadways discussed in Specific Plans, which are modified as the needs of the community evolve, should be exempt from the provisions of PP. He cited the 1996 General Plan, which made several references to prohibiting grading where existing slopes are 25% or greater.

Mayor Hosterman closed the public hearing.

Councilmember Sullivan asked and Ms. Ayala confirmed that the PP authors support staff's recommendation for Option 3 regarding streets and roadways. Ms. Ayala reiterated her request for the additional language and said she did not think it critical to include Development Agreements in the exemption. She also suggested that the City conclude its outstanding lawsuits prior to putting any new laws on the books.

Councilmember McGovern said she would be more comfortable with Option 2 for streets and roadways as this would enable a public hearing process rather opposed to a blanket allowance. She asked and Mr. Fialho confirmed that the details such as road connections of an approved PUD are vested rights whereas those in a Specific Plans are not. Her concern with exempting road connections discussed in a Specific Plan is that it suggests they are in fact vested rights. She asked if staff reviews the PUDs of adjacent properties when a project comes forward.

Mr. Fialho said staff would draw guidance from the adjacent PUDs as well as any related Specific Plans in evaluating a project. Lund Ranch II for instance is bordered by sites with approved PUDs that assume a roadway connection on that site. Lund Ranch II has no PUD but there is a Specific Plan that provides very detailed discussion on how the roadway would be constructed. In order to encourage that those connections be made, staff would rely on the fact that PUDs are required to comply with Specific Plans.

Councilmember Sullivan asked and the PP authors confirmed that they wish to exempt any previously approved roadways or connections that may now violate PP.

Mayor Hosterman said staff has done an amazing job in crafting a set of definitions and language that the community can really get behind. She agreed with Councilmember McGovern that to make any kind

of major modification to or condition any of these issues warrants a full public hearing and said she also agreed with many of Mr. O'Connor's points. She moved the staff recommendation on all items.

Councilmember Cook-Kallio referred to meeting minutes of June 6, 2008, in which Councilmember Sullivan confirmed with Ms. Brown that the intent of the initiative was to control construction of residential and commercial structures, not roads, on slopes of 25% or more. She is also noted to have commented several times that she felt it was important to use exact language at that time so that they did not create this very sort of situation where they pick and choose which items to make exceptions for.

Councilmember McGovern reiterated her earlier point that Specific Plans do not indicate vested rights. She referred to the Happy Valley Bypass Road as an example of a roadway that is identified in a Specific Plan but could ultimately turn out different than originally envisioned based on the kind of growth that eventually occurs. She referred to the Planning Commission's minutes of March 14 regarding Lund Ranch II, in which staff agreed that a road is a structure. She said she would much rather conduct a public hearing process to make exception for an individual roadway than to grant blanket approval for something that someone might need someday. She reiterated her position that Option 2 is a better option.

Councilmember Sullivan asked and Mr. Fialho confirmed that Option 3 would still involve a public process at both the Planning Commission and City Council level. He also noted the language acknowledges that such streets and roads would still be subject to the City's environmental and discretionary review and direction on the road's location and design to mitigate or preserve any environmentally sensitive features.

Councilmember McGovern said it would seem appropriate then to pursue Option 2 and allow the public process to happen. She referred again to the Planning Commission minutes of March 14, in which a Commissioner is cited several times as interpreting that a slope was manufactured 25 or 30 years before, has found its natural resting point and, if 25% or greater, should be left intact. This is a clear indication that PP should not be interpreted as excluding manmade slopes.

Councilmember Thorne requested clarification on the motion with respect to manufactured slopes.

Mayor Hosterman said she moved the staff recommendation, as presented.

Councilmember Cook-Kallio said she felt PP was silent with regard to existing manmade slopes, that it could easily be argued either way, and that this is her issue with this type of ordinance. She asked what impact this would have on a pile of dirt with a 25% slope on the Bernal property.

Mr. Fialho explained that this is hillside preservation, not valley floor preservation, ordinance and therefore, the Bernal site is not subject to the provisions of PP.

Councilmember Cook-Kallio asked and Mr. Fialho confirmed that PP is silent with regard to manmade slopes.

**MOTION:** It was m/s by Hosterman/Cook-Kallio to approve the staff recommendation.

Councilmember Sullivan asked whether, assuming no distinction was made between natural and manmade slopes, there would be a process to apply for an exception or waiver to develop on a manmade 25% slope that does not otherwise conflict with the intent or language of PP. He referred to the Hana Japan site as an example.

Mr. Dolan said they could always apply for a variance; however, the findings are rigorous and difficult to make. He suggested that building in an exception process based on more of a common sense threshold might be a more suitable alternative.

Councilmember McGovern made the following substitute motion: slope – Option 1, prohibiting the use of WIS; contour intervals – Option 1, deleting any mention of WIS; ridges and ridgelines – Option 2; streets and roadways – Option 2; manmade slopes – Option 2.

Councilmember Sullivan said he largely agreed with staff's conservative approach, which generally meets his understanding of the intent of PP. He said he could support the substitute motion with several changes. While he initially supported Option 2 for streets and roads, he could see the benefit of allowing some roads under certain conditions. He felt the Council should defer to the initiative authors with Option 3 and the additional language they requested. He said he could support Option 2 for manmade slopes, with the provision of an exception process.

**MOTION:** It was m/s by McGovern/Sullivan to approve the following recommendation: slope – Option 1, prohibiting the use of WIS; contour intervals – Option 1, deleting any mention of WIS; ridges and ridgelines – Option 2; streets and roadways – Option 2; manmade slopes – Option 2.

Mayor Hosterman questioned and Councilmember Sullivan clarified that his intent was to grandfather streets and roadways addressed in PUDs and Specific Plans implemented prior to 2008.

Councilmember Cook-Kallio asked whether staff would prefer to build in an exception or allow for the public process with regard to manmade slopes.

Mr. Fialho said the better option from staff's perspective would be to retain the ability to evaluate each proposal as it comes forward through a public process.

Councilmember Cook-Kallio said she heard Ms. Brown say this evening that a road is a structure but referred again to the minutes of June 6, 2008, which reflect the opposite. While more restrictive than what was reflected in the minutes, she said she preferred staff's recommended Option 3 over Option 2.

Councilmember McGovern disagreed. She said Option 3 sets the tone for automatic approval and essentially makes the public process a useless exercise.

Mr. Fialho clarified that Option 3 is simply an acknowledgement that certain PUDs and Specific Plans exist. It still provides the Council with the flexibility to determine whether the road is even of value to the community and to adjust its placement, but does rely on these existing documents for guidance.

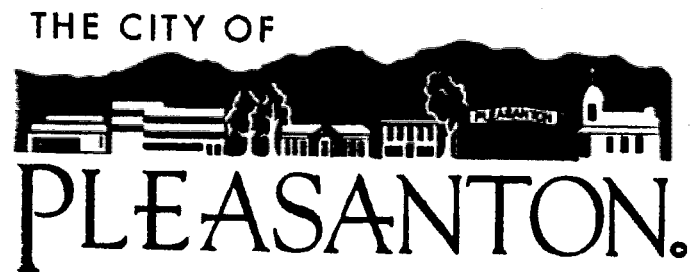
Councilmember McGovern stressed her concern over vesting rights within a Specific Plan. She and staff discussed several amendments and she ultimately suggested the following: "Determine that streets and/or roads and their attendant infrastructure are a structure in that they are a physical improvement on the property intended to accommodate development of residential and commercial structures and, therefore, are covered by Measure PP unless the street or road is intended to provide access to a public park, trail, or similar facility and/or is covered by a Specific Plan or PUD Development Plan approved prior to November 2008."

Mayor Hosterman withdrew her motion in favor of the substitute motion.

**MOTION:** It was m/s by McGovern/Sullivan to approve the following recommendation: Calculation of 25% slope – Option 1, with language acknowledging that the WIS formula will not be used in the calculation of slope; Methodology for defining contour intervals – Option 1, provided any reference to

WIS in the methodology is eliminated from the definition; Definition of ridges and ridgelines – Option 2; Manufactured slopes exceeding 25% grade – Option 2, with an additional provision allowing the evaluation of each situation on a case by case basis through the public review process; Streets and roadways – Option 2, as amended by Councilmember McGovern. Motion carried by the following vote:

Ayes: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
Noes: None  
Absent: None



Analysis of the Impacts and Effects  
of the  
Save Pleasanton's Hills & Housing Cap  
Initiative

~ Elections Code § 9212 ~

June 11, 2008

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- 5.25 Did the City count the following senior housing projects towards the cap?
- 5.26 Would the housing cap portions of the Initiative be applied retroactively?

## 6 Implementation of the Initiative

## 7 Financial Impact of Initiative

7.1. Fiscal Impact of Hillside Developable Parcels Relocated to Other Areas of City

7.2. Fiscal Impact of Including Assisted Living Units in Housing Cap Count

## 8 Conclusion

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**Exhibits:**

**Exhibit A - Save Pleasanton's Hills & Housing Cap (text of the Initiative)**

**Exhibit B - Title and Summary of Initiative**

**Exhibit C - Selected Potential Development Sites with Slopes over 25%**

**Exhibit D - U. S. Census Bureau Definitions**

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## **1. Executive Summary**

The Save Pleasanton's Hills & Housing Cap Initiative, if adopted by the City Council or approved by the voters, would amend the City's General Plan by adding new policies to the Land Use Element under Open Space and Growth Management. In its simplest terms, the Initiative would: (a) prohibit (subject to certain exemptions) the placement of housing units and structures, as well as grading to construct residential and commercial structures, on properties with slopes greater than 25% or within 100 vertical feet of a ridgeline; and (b) define a housing unit to include any residence that has a kitchen and a bathroom.

Some terms of the Initiative, however, are not defined and therefore, in the absence of an implementing ordinance that would define certain terms with more specificity, will be subject to City Council interpretation when the terms of the Initiative are applied to specific development projects.

### **Hillside Development:**

Similar to some of the existing policies in the General Plan limiting development in areas of 25% or greater slope, the Initiative will create a general prohibition on placing housing units and structures on slopes of 25% or greater, or within 100 vertical feet of a ridgeline, as well as a general prohibition on grading to construct residential or commercial structures in those areas. However, the critical terms of "slope", "structure", and "ridgeline" are not defined in the Initiative itself.

Although the Initiative creates an exemption for developments of 10 or fewer units on a "legal parcel", the Initiative also prohibits the subdivision of a "legal parcel". This language is open to several interpretations, with significantly different results.

As applied, the Initiative's hillside development restrictions may result in the reduction of 119-224 housing units from hillside areas, generally west of Foothill Road and in the Happy Valley and North Sycamore areas. It is, however, expected that those units will shift to other places in the City, but likely be replaced by smaller homes or apartments through infill projects or redevelopment of already developed property.

### **Housing Units:**

The second policy proposed by the Initiative defines housing units. This definition also presents questions of interpretation. The Initiative indicates (in its "statement of reasons" for the Initiative) that the Pleasanton definition of housing unit should be consistent with the U.S. Census Bureau and the State of California definitions of a housing unit when determining the housing cap. Although State law provides that second units (which otherwise meet the Initiative's definition of a housing unit) are not to be counted towards the housing cap, unresolved and hence subject to interpretation is

whether assisted living facilities<sup>1</sup>, which likewise may meet the Initiative's definition of housing unit, should count toward the housing cap. Counting rooms in assisted living facilities against the housing cap will reduce the number of units available in the City, potentially impacting the availability of workforce housing.

**Fiscal Impact:**

If the Initiative is adopted, shifting units from hillsides to other areas of the City, will likely result in a fiscal impact to the City in the form of decreased net annual operating revenues ranging from \$69,000 to \$183,000, as well as the loss of up to \$2.8 million in one-time development impact fees for infrastructure projects. Additionally, the Pleasanton Unified School District is projected to receive \$3.6 million to \$12.9 million less in one-time development school impact fees than would have otherwise been anticipated when the housing cap is reached. The following table summarizes the fiscal impacts related to the hillside policy:

<b>Fiscal Impacts related to Hillside Policy</b>			
		<b>Range of Reduction in Net Revenues</b>	
		<b>Maximum</b>	<b>Minimum</b>
<b>Annual</b>	<b>Revenue Per Year</b>	\$ 183,000	\$ 69,000
<b>One-Time Development</b>			
<b>City</b>		\$ 2,797,984	\$ -
<b>Pleasanton Unified School District</b>		\$ 12,903,296	\$ 3,590,230
<b>Other Agencies</b>		\$ 2,423,232	\$ 478,380
<b>Total One-Time Development Fees</b>		<b>\$ 18,124,512</b>	<b>\$ 4,068,610</b>

<sup>1</sup> For example, the City's Parkview Assisted Living Facility includes 86 units which have a bathroom and kitchenette (e.g. kitchen sink, mini refrigerator and microwave oven) but all residents have a meal plan. Taking the definition in the Initiative literally, these types of units would count against the housing cap. Historically, however, the City has exempted units within assisted living facilities from the City's housing cap. Conversely, all independent living units for seniors (e.g., the units within Ridgeview Commons, Kottinger Place, Pleasanton Gardens, etc.) have been counted towards the housing cap, as well as all conventional housing units, including single-family, multi-family, and mobile homes that house seniors (see Sections 5.20 and 5.25, below).

For the second element of the Initiative defining a "housing unit", if units within assisted living facilities are counted against the housing cap, this will also have revenue impacts to the City, estimated as a loss of \$101,000 to \$194,000 in net annual operating revenues and a loss of \$6.5 to \$11.5 million in one-time development impact fees for infrastructure. Counting assisted living units against the housing cap also reduces the one-time development school impact fees projected to be received by the School District by \$1.1 to \$1.9 million when the housing cap is reached. The following table summarizes the fiscal impacts:

<b>Summary of Fiscal Impacts related to Housing Unit Definition</b>			
		<b>Range of Reduction</b>	
		<b>Minimum</b>	<b>Maximum</b>
<b>Annual</b>			
Reduction in Net Revenues Per Year	\$	101,000	\$ 194,000
<b>One-Time Development Fees</b>			
City	\$	6,539,148	\$ 11,485,584
Pleasanton Unified School District	\$	1,083,456	\$ 11,947,320
Other Agencies	\$	12,402,324	\$ 15,094,332
<b>Total</b>	<b>\$</b>	<b>20,024,928</b>	<b>\$ 38,527,236</b>

In summary, the effects of the Initiative on hillside development and counting units towards the housing cap, as well as the impacts to City revenues and operating expenses, will vary depending upon the interpretation and implementation of the Initiative.

## 2. Introduction

At its May 20, 2008 meeting, the City Council received the certification results for the Save Pleasanton's Hills & Housing Cap initiative. Council then directed staff to provide a report analyzing the impacts and effects of the Initiative, as provided by California Elections Code §9212, as well to provide information responding to the questions raised by Council members and the public at the May 20, 2008 meeting regarding both hillside protection regulations and options regarding the Initiative.

As required by State law, this report is being presented to the City Council within the thirty day time limit. After its consideration of the report, the City Council must decide whether to: (a) adopt the Initiative as written; or (b) place the Initiative on the ballot for the next general municipal election - November 4, 2008.

### 3. Initiative's Proposed General Plan Amendments

The Initiative proposes two new policies for the General Plan, one regarding hillside development regulations and the second defining a housing unit, as follows:

**Policy 12.3:** Ridgelines and hillsides shall be protected. Housing units and structures shall not be placed on slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline. No grading to construct residential or commercial structures shall occur on hillside slopes 25% or greater, or within 100 vertical feet of a ridgeline. Exempt from this policy are housing developments of 10 or fewer housing units on a single property that was, as of January 1, 2007, "legal parcel" pursuant to the California Subdivision Map law. Splitting, dividing or sub-dividing a "legal parcel" of January 1, 2007 to approve more than 10 housing units is not allowed.

**Policy 15.3:** A housing unit is defined to include any residence that includes a kitchen (sink, cooking device, and refrigerator) and a bathroom (toilet, tub or shower). The City Council shall uphold the housing cap and shall not grant waivers that exclude housing units consistent with this definition. (See Exhibit A.)

In addition, the Initiative includes a purpose statement, as well as a list of five reasons for the circulation of the Initiative.<sup>2</sup>

#### 4. Elections Code §9212 Elements:

##### 4.1. Effect on Land Use, Location of Housing, and Ability to Meet Regional Needs

###### Hillside Areas:

If adopted, the Initiative would reduce the number of housing units which could be built on hillside properties. This reduction would result by the Initiative's policy prohibiting building new houses on land with slopes of 25% or greater and/or within 100 vertical feet of a ridgeline. However, the overall citywide impact concerning this policy is likely limited for the following reasons<sup>3</sup>:

- A. Several hillside properties have development potential for fewer than ten units under the existing General Plan mid-point density, so they could continue to be developed with the same number of units as exempt under the Initiative.

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<sup>2</sup> The purpose statement and reasons for the circulation of the Initiative are not part of the Initiative itself, but provide guidance for purposes of interpreting the text of the Initiative.

<sup>3</sup> The analysis in this section presumes that properties which develop ten or fewer housing units are exempt from Policy 12.3 of the Initiative, as expressly set forth in the Initiative. An expanded discussion of the applicability of this exemption can be found in Sections 5.1 and 5.11, below.

- B. Of the properties subject to the Initiative that can support greater than ten units under the General Plan, the Yee project and the Maroon Creek project (see Exhibit C), both west of Foothill Road, are proposing fewer than ten units, which would exempt these projects from the Initiative.
- C. The properties that appear to be impacted are the Lester property (off of Dublin Canyon Road) and properties in the Southeast Hills - Lund Ranch II property, the Foley property, potentially the Lin (Oak Grove) property (if that project is overturned by referendum), and potentially the Spotorno property<sup>4</sup> (within the Happy Valley Specific Plan area). (See Exhibit C.)

Although the number of units on hillside properties would likely be reduced between 119 and 224 units due to the Initiative (see Table 1), those units will likely be built elsewhere in Pleasanton. Due to the housing cap, there are only a limited number of units remaining that can be developed in the City, and developers have expressed interest in building all of the units that are available under the cap. Furthermore, State law requires that units on property identified in the Housing Element as developable which do not receive development entitlements must be transferred elsewhere in the City.<sup>5</sup> Therefore, units that cannot be developed in hillside areas under the Initiative will be built in other areas of the City, such as in the Hacienda Business Park, the Downtown, and/or other flat in-fill sites throughout the City. Although certain property owners would be impacted by this consequence of the Initiative, the City overall, from a land use perspective, will not be affected significantly.<sup>6</sup>

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<sup>4</sup> Regarding the Spotorno property, as currently designated in the Happy Valley Specific Plan, the Spotorno Upper Valley would be impacted by the Initiative. If, however, Greenbriar Homes' proposed General Plan amendment and Specific Plan modification (as to the Spotorno property) are approved, development would be transferred to the Spotorno Flat, which is land generally having less than 25% slopes; the question of the application of the Initiative to the Bypass Road is discussed in Sections 4.2 and 5.7, below.

<sup>5</sup> See Government Code §65863.

<sup>6</sup> See Section 4.5 for a discussion about traffic impacts, and Section 7 for fiscal impacts.



The major hill area developments remaining in the City that would be potentially impacted by the Initiative are as follows:

Table 1

Project	Maximum Development Potential (DU's) <sup>7</sup>	Estimated Development Under Initiative (DU's) <sup>8</sup>	Net Unit Transfer from Hill Areas (DU's)
Lund II	86	5 (10 by default)	
Lester	39	0 (10 by default)	
Spotorno Upper Valley – Current GP	81	11	
Spotorno Flat – Proposed GP/SP Amendment	79	63 <sup>9</sup>	
Foley	18	1 (10 by default)	
Oak Grove <sup>10</sup>	51	0 (10 by default)	
<b>Total</b>	<b>275/222<sup>11</sup></b>	<b>51/103<sup>12</sup></b>	

Transferring residential development from hillside properties to infill properties would not impact the City's ability to meet its current regional housing needs since the self-imposed limit to our Regional Housing Needs Allocation (RHNA) is 29,000 units – the housing cap. However, to the extent that 119 to 224 hillside units are developed in infill areas of the City rather than the hillsides, it is likely that such units would be higher density, multiple family dwellings or smaller single family homes; some would likely be able to qualify as very low, low, and/or moderate income units. This would help Pleasanton in attaining our lower income share of the RHNA numbers.

**Housing Unit Definition:**

Regarding the portion of the Initiative that defines "housing unit", the question has been raised as to whether assisted living units and second units must be included as "housing units" and therefore counted towards the housing cap.<sup>13</sup> (See also Section 5.20, below.)

<sup>7</sup> Number of potential dwelling units per General Plan Midpoint Density

<sup>8</sup> Number of units estimated under Initiative

<sup>9</sup> Initiative does not appear to affect Spotorno Flat; estimate based on developer's estimate of minimum number of units needed to fund Bypass Road. Verification of developer assumptions have not been confirmed by staff at this time. It is also questionable whether the Initiative precludes the Bypass Road (see Section 5.7).

<sup>10</sup> Assuming project overturned by referendum; Dwelling Units (DU) based on approved project

<sup>11</sup> Total with Spotorno Upper Valley and Oak Grove / Total with Spotorno Flat without Oak Grove

<sup>12</sup> Total with Spotorno Upper Valley / Total with Spotorno Flat

<sup>13</sup> The application of the Initiative's definition of "housing unit" would be prospective only for new projects, as the Initiative did not include language specifically providing for retroactivity.

If such units were to be counted as housing units and applied towards the cap, fewer conventional housing units would be available to be built under the cap than are now anticipated.

Regarding second units, they would not be counted due to the provision of State law that mandates that second units shall not be counted as housing units for the purposes of any policy to limit residential growth.<sup>14</sup>

Regarding assisted living facilities, the City's historical practice has been to consider such facilities as commercial uses and therefore not counted as "housing units" towards the housing cap.<sup>15</sup> This has been the practice because these facilities have been generally approved in commercially zoned areas, have characteristics of commercial facilities (e.g., employees, provision of services for the elderly, central dining, payment of commercial impact fees), and generally do not create the same type of impacts on the community as do residential developments. Examples of this include Eden Villa (the assisted living facility on Mohr Avenue) and the City's Parkview Assisted Living Facility (on Valley Ave.).

Notwithstanding these factors, the City Council has previously indicated that if the Continuing Life Care (CLC) proposal on Staples Ranch were to be approved, the City may count 240 (of the proposed 636) assisted living units toward the housing cap, based on a formula that considers a number of impacts of such a facility on the community. If the Council, in taking action on the CLC project, were to count the entire number of assisted living units (636) as "housing units" towards the housing cap, then it would further reduce the number of conventional housing units that could be developed elsewhere in the City under the housing cap by 396.<sup>16</sup>

#### **4.2. Effect of Initiative on Consistency of General Plan and any Specific Plans**

A General Plan has been called the 'constitution' for development within a city. As with any new policies added to a General Plan, these new policies are required by State law to be consistent with the existing policies, programs and elements within the General Plan. To the extent that Initiative's new General Plan policies conflict with policies in Specific Plans, the Specific Plan policies could not be implemented and would need to be revised to be consistent with the new General Plan policies.

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<sup>14</sup> See Government Code §65852.2 (a) (2).

<sup>15</sup> Even if it were determined that assisted living units are housing units for purposes of the housing cap, previously approved assisted living units would not be counted towards the housing cap, since initiatives (or any other policy or ordinance) are not usually applied retroactively, unless specifically stated.

<sup>16</sup> As of January 2007, there was a potential for 2,755 units left under the housing cap. Reducing this by 240 units for CLC would leave 2,515; reducing it instead by the full 636 units for CLC would leave 2,119 units. Moreover, any of these numbers would be reduced by the number of building permits that have been issued between January 2007 and now.

### General Plan:

Land Use. The Land Use Element may need to be clarified regarding the definition of ridgeline in order to coordinate with policies (adopted by the voters in 1993) applicable to the Pleasanton Ridgelines.

Housing Element. Housing inventory tables will need to be modified to reflect changed densities due to development restrictions imposed by the Initiative's Policy 12.3.<sup>17</sup> Additionally, the Growth Management discussion must change to reflect the new definition of housing unit, and its application.

Public Facilities. The discussion about the school impact fee<sup>18</sup> would need to be revised to address potential lost revenue. (See Section 7, below.) The description of the water distribution system may need to be revised if the transfer of units from the hillside to infill areas results in system modifications, including less demand for new water pipes and connections.<sup>19</sup>

Conservation and Open Space. Program 13.1 of this element, which currently limits properties comprised of land with no slope of less than 25% to only one unit, would need to be harmonized with the proposed Policy 12.3 to determine if the Initiative's exemption from its prohibition on construction on slopes of 25% or greater for ten or fewer units would increase development potential on properties restricted by Program 13.1.

### Happy Valley Specific Plan:

Land Use. As noted in Section 4.1, above, the application of the Initiative's Policy 12.3 could shift housing units away from the Spotorno Upper Valley, to potentially the Spotorno Flat, or possibly out of the Happy Valley area altogether. This would create an inconsistency with the Land Use Element of the Happy Valley Specific Plan.<sup>20</sup>

Bypass Road. The Initiative's proposed Policy 12.3 provides that "[h]ousing units and structures shall not be placed on slopes of 25 percent or greater..." and also prohibits "grading to construct residential or commercial structures ... on hillside slopes 25% or greater, or within 100 vertical feet of a ridgeline." It would appear that a road, such as the Bypass Road, that is intended to serve existing development (such as, in the case of the Bypass Road, the golf course and surrounding residential lots) could be

<sup>17</sup> State law requires properties to be specifically identified when density is transferred. See Government Code §65863.

<sup>18</sup> On page VI-9 of the 1996 General Plan.

<sup>19</sup> On page VI-4 of the 1996 General Plan.

<sup>20</sup> The Spotorno Flat itself would appear not to be subject to the 25% slope limitations of the Initiative, but its development could be impacted if the Initiative's application prohibited the construction of the Bypass Road as proposed by Greenbriar Homes. See discussion following.

built on slopes greater than 25%, in that the grading for the road would not be for the purpose of constructing new residential or commercial structures. However, under the Initiative, it is not certain if a road built to serve a new residential project (such as, in the case of the Bypass Road, development in the Spotorno Flat) is prohibited because it would require grading on slopes which are 25% or greater. Similarly, because the Initiative prohibits structures being placed on slopes of 25% or greater, the road's construction could be prohibited if retaining walls are considered structures under the Initiative and retaining walls six feet or higher are needed for the road's construction over slopes of 25% or greater.

Depending, therefore, on how the policy is interpreted, the Bypass Road's construction could be prohibited. Such a prohibition against constructing the Bypass Road would create a conflict with the Circulation Element of the Happy Valley Specific Plan, as it relates to both vehicular traffic and to the public trail which was proposed along the Bypass Road.

#### **4.3. Impact on Ability to Attract and Retain Businesses and Employees**

It is not possible to specifically quantify how the proposed Initiative would impact the City's business and employment base. There would be no direct effects since from a practical perspective, the Initiative would apply almost entirely to residential development, not commercial (there is only one commercial site, at the intersection of Foothill Road and Dublin Canyon Boulevard, that would be affected). Furthermore, as indicated in 4.1, above, the implementation of the hillside development regulations would not reduce the total number of residences ultimately built in the City; it would only be the location and type of housing units that would be affected. The City's jobs/housing ratio would generally remain the same.

However, to the extent that the remaining housing to be developed under the cap would include more multiple family development and smaller single family infill housing and less large-lot hillside single family housing, the Initiative may well result in the construction of more work force housing than would occur under the current General Plan. The presence of more work force housing may be considered attractive to potential businesses that are considering locating to Pleasanton.

However, if the Initiative's definition of a "housing unit" were to result in future assisted living units being counted as housing units towards the cap (which is not the City's current practice), then fewer conventional housing units would be available to be added to the City's housing stock than is currently expected. As a result, the production of new housing, including new work force housing, could be limited.

#### **4.4. Impact on the Uses of Vacant Parcels of Land**

The impact of the Initiative on vacant land would be mainly limited to those hillside residential parcels listed in Section 4.1, above, and to potential "receiver parcels" which may benefit from the allocation of additional units. Without the Initiative, those hillside parcels would seek planned unit development (PUD) approval for a number of housing units based on their existing General Plan land use designations, as modified through the California Environmental Quality Act (CEQA) and public review process. If the Initiative is adopted, the development potential of these properties would be significantly reduced, in some cases to no more than ten units.<sup>21</sup>

Table 1, above, shows the maximum development potential and the estimated numbers of housing units that would be possible under the Initiative, thus demonstrating the estimated impact of the Initiative. If those "lost" 119 to 224 hillside units then became available in other locations, such as the Downtown or within the Hacienda Business Park, those vacant "receiver" parcels would benefit by obtaining that additional density and increased development potential under the housing cap. However, to the extent that assisted living units are determined by the Initiative to count as housing units under the housing cap, this increased development potential on "receiver" parcels would be eliminated, and there would be fewer conventional housing units to be built under the housing cap.

The impact on the use of vacant parcels of land would also be felt by adjacent property owners. Reduced development potential on hill area properties would likewise reduce development impacts on neighbors who would not experience the same extent of development as they now might expect. Similarly, adding more development to other "receiver" properties elsewhere in the City may create additional development impacts not currently planned for. Any such impacts would have to be mitigated as part of the development process for "receiver" properties.

#### **4.5. Impact on Agricultural Lands, Open Space, Traffic Congestion, and Existing Business Districts**

If the Initiative is adopted, there will be less development than anticipated in the General Plan on those hill area properties listed in Table 1. This will result in more open space on those properties than has been expected, although some development will still occur. To the extent that development on those properties is located on the relatively flat, lower portions of the sites, the remaining open space may continue to be used for grazing purposes, thus increasing the amount of agricultural land in the hill areas.

The impact of the hillside development provisions of the Initiative on traffic will not be significant from a citywide perspective. As stated above, the total number of residential units in the community as a whole will remain the same with or without the Initiative; only the distribution and type of units will change. Given that the City's residential land

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<sup>21</sup> See also Sections 5.1 and 5.16.

is close to build-out, community-wide traffic patterns and intersection levels-of-service are mainly determined. Shifting approximately 119 to 224 units from hill areas to flatter in-fill areas, which equates to 119 – 224 trips during the peak hours and 1,190 - 2,240 trips per day, will have little effect on the community overall. The Initiative would result in reduced traffic on some local streets immediately adjacent to the above-listed hill area properties compared to the traffic on those streets resulting from development as currently allowed under the General Plan.

The Initiative could reduce the future growth of new traffic if the definition of housing unit is given an expansive application to uses not previously counted against the housing cap, such as assisted living facilities, thereby reducing the number of new housing units which can be built. The amount of the reduction would likely be de minimis when considered in perspective with all residential and commercial traffic within the City, and undetected by the typical driver.

The continuation of local traffic conditions would continue in the Happy Valley loop area if the Bypass Road is not constructed. This would occur if the Initiative were interpreted not to allow grading for roads on land with slopes of 25% or more to serve new development, or an interpretation that defines the road as a structure due to the retaining walls that might be needed for its construction. (See Sections 4.2, above, and 5.7, below.) In addition, if Greenbriar Homes' application to move the density on the Spotorno property from the Upper Valley to the Flat is denied, then the limited development potential under the Initiative in the Spotorno Upper Valley area would raise the question as to how the Bypass Road would be funded and built. This, in turn, would raise the question of how existing golf course and surrounding residential traffic would be mitigated in the long-term.

Regarding traffic impacts resulting from the potential increased number of housing units in the "receiver" areas, these areas would be subject to traffic studies for their development proposals. If some of the approximately 119 -224 units were to be transferred to properties within the Hacienda Business Park, for example, these transferred units would be added to those already being proposed, for which traffic analysis would have to consider. Whatever impacts the proposed units would create would need to be identified and mitigated as a condition of development. However, to the extent that multiple family residential development in close proximity to the BART station replaces large-lot hillside single family homes, the traffic generated by these units would likely be less and the impacts reduced.

The Initiative would seem to have little impact on the City's existing business districts. Overall, there would be little change in the City's shopping patterns and expenditures. If the housing units currently contemplated for the hill areas are moved to other areas of the City as a result of the Initiative and if these are multiple family or smaller lot single family units, then the property taxes and sales taxes generated may likely be less. (See Section 7, below.)

## 5. Additional Questions from Council and the Public

### 5.1. Which properties would be subject to the Initiative; if new hillside regulations were adopted, to which properties would they apply?

The Initiative does not limit the areas of the City to which it would apply and therefore the Initiative's Policy 12.3 would generally apply to those properties within 100 vertical feet of the ridgeline, as well as those properties with hillside slopes of 25% or greater. (See Table 1 and Exhibit C.) In certain areas of the City, however (for example properties west of Foothill Road and on certain properties within the Vineyard Avenue Corridor Specific Plan), there already exist hillside regulations and standards. This Policy 12.3 therefore would be in addition to those regulations and standards and, as a general principle, the more restrictive provisions would apply.

Notwithstanding that the Initiative has city wide application, the Initiative does include language exempting housing developments of 10 or fewer units on property that as of January 1, 2007 was a "legal parcel".

As to that portion of Policy 12.3 that addresses subdividing legal parcels, applying usual methods of statutory construction and interpretation, it would apply only to those hillside properties with greater than 25% slope or within 100 vertical feet of a ridgeline. A more expansive (but more strained) reading of the restriction against splitting a legal parcel to approve more than 10 housing units, however, could result in the application of the restriction City-wide. (See Section 5.16.)

The Initiative's Policy 15.3, defining housing unit, does clearly have City-wide application.

If the Initiative were adopted and, subsequently, new hillside regulations promulgated consistent with the Initiative, it would need to be determined which properties would be subject to such new regulations. That is, since the proposed Initiative does not specify or limit the hillside areas where it applies, consideration is needed whether certain areas that are already covered by hillside regulations or policies<sup>22</sup> should be exempt from additional new hillside regulations.

It would need to be determined whether any new hillside regulations should apply equally to the entire City. This could be perceived as the fairest, least complicated manner in which to create and implement hill area development regulations. New regulations based on the Initiative could be developed to supplement existing policies and ordinances, as well as to clarify portions of the Initiative. Opportunities for clarification could be addressed through development and implementation of appropriate regulations if the Initiative is adopted.

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<sup>22</sup> For example, the hill area west of Foothill Road is covered by the West Foothill Road Corridor Overlay District and by the General Plan policies implementing Measure F; and properties within the Vineyard Avenue Corridor Specific Plan area designated Hillside Residential District have special hillside development standards and guidelines.

## 5.2 Subjecting All, or Exempting Some, Hillside Projects to New Regulations

As noted above, the Initiative exempts projects of 10 or fewer units from the proposed new hillside development restrictions. From one perspective, all development projects should be subject to the same policies since the same impacts would apply, just on a smaller scale for projects with 10 units or less. On the other hand, the development potential of some properties would be eliminated or significantly reduced as a result of the Initiative, so ensuring that some development potential would remain on these properties could be seen as a fair approach.

A 10-unit exemption could be considered as allowing some flexibility in the implementation of the Initiative policies so that properties which otherwise may not be able to develop at all as a result of the Initiative would be guaranteed at least some development. Therefore, a 10-unit exemption could be fairer, would retain City control of such development proposals through the PUD process, and could result in a more sound position for the City by not eliminating all development potential on those properties impacted by the Initiative.

## 5.3 Any definition of "slope" in the General Plan?

"Slope" is defined in the General Plan as the ratio of the rise over the run of a segment of land. However, in calculating areas of 25% slope on a parcel, a segment of land could have an average slope of less than 25% but there may be limited areas within that segment that would have steeper slopes.

## 5.4 How to measure slope?

The Initiative does not provide any details about how slope is to be measured at a particular property.

The Hillside Planned Development District<sup>23</sup> in the Municipal Code does have a formula for determining a "weighted incremental slope", and defines the contour intervals and required data across which the slope of a property is to be calculated.<sup>24</sup>

A methodology needs to be established to define and measure a slope. A standardized method should be selected, and the City's geographic information system (GIS) could be used to calculate slopes and to designate areas on property where the grade equals or exceeds 25%. The GIS could identify such areas for all hill area development sites so that there is consistency in measuring slope for all hillside projects.

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<sup>23</sup> There are no properties available for development which are zoned Hillside Planned Development District, an arguably archaic provision of the municipal code, which has been applied to just one parcel.

<sup>24</sup> See Municipal Code §18.76.140.



Policies should also be considered regarding from where to commence measurements (e.g. toe of hill / toe of slope); whether applicants can submit information to supplement the GIS data (by field survey or historic aerial photos); how irregular slopes in land features will be handled (e.g. creek banks); over what distance to measure the slope; and whether consideration will be given to grading which altered the natural slope.

**5.5 Did the 1986 General Plan include a reference about 25% slope, and, if so, under what circumstances was it removed in the 1996 General Plan?**

The 1986 General Plan did include a reference to a 25% slope. In the Land Use Element, in the Areas of Special Concern section, the Public Health & Safety open space designation was “planned for 3300 acres of the Ridge greater than 670 feet in elevation or greater than 25% slope.”<sup>25</sup> It appears that this language was not retained in 1996 because of the adoption of Measure F (the provisions of which were incorporated into the General Plan) in the interim period.

The 1996 General Plan still includes references to 25% slopes: in the Public Safety Element, which provides that “Development is restricted in areas prone to landslides, slope instability, or with slopes of 25% or greater”<sup>26</sup> and Policy 13.1 of the Conservation and Open Space Element, limiting development to one unit on properties with no areas of less than 25% slope (see 4.2, above).

**5.6 Does the 25% slope have any supporting data or engineering analysis?**

In arriving at the 25% slope, staff did consider the existing slopes on Pleasanton ridge, the slopes of then existing hillside developments and their access roads, and slope limitations from other communities.<sup>27</sup>

**5.7 Should restrictions apply only to structures on 25% slope, or to all grading on land with 25% slopes?**

The Initiative states that “No grading to construct residential or commercial structures shall occur on hillside slopes 25% or greater.” As discussed earlier in this report, it is not clear from this language whether this would prohibit: (i) grading for any roads on hillside slopes of 25% or greater; (ii) grading for any roads on hillside slopes of 25% or greater where structures (i.e., six feet or higher retaining walls) are required; or (iii) prohibit grading for roads to reach areas with hillside slopes 25% or greater. City policy has been that roads generally not exceed 15% slope, but roads with a 15% finished grade can be constructed on land with a greater natural slope through grading and use of retaining walls.

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<sup>25</sup> See 1986 General Plan, page II-9.

<sup>26</sup> See 1996 General Plan, page V-4.

<sup>27</sup> Based on conversation with Brian Swift, former Director of Planning and Community Development.

Interpreting the Initiative to apply to grading for roads on slopes 25% or greater, or for roads on slopes of 25% or greater where retaining walls of six feet or higher are required, would likely preclude construction of the Bypass Road and other roads for hill area projects.

#### **5.8 To what portions of a residential lot would the slope restriction apply?**

The Initiative states that housing units and structures shall not be placed on slopes 25% or greater, and that no grading to construct residences shall occur on such slopes.

This language can be interpreted to mean that a lot which includes slopes of 25% or greater can be developed, as long as a structure is not located in such areas and that no grading occurs on such slopes. The Kottinger Ranch project and the Preserve are projects that have been built where a certain percentage of lots have included slopes of 25% or more, but no structures were placed and no grading occurred on such slopes (i.e., such 25% slopes were left unchanged in backyards). The Oak Grove project has similar features.

#### **5.9 Define Ridgeline**

While the Initiative uses the term "ridgeline", it is not specifically defined.

The 1996 General Plan includes a discussion of the Pleasanton Ridgelines area, as created by Measure F in 1993, but has no formal definition of "ridgeline".

In Chapter 18.76 of the Municipal Code, for the Hillside Planned Development District (for which only one property currently has this zoning designation), a "ridge" is defined as "a connected series of major and minor hills", and a "ridgeline" means "a ground line located at the highest elevation of the ridge running parallel to the long axis of the ridge."<sup>28</sup>

A "ridge" typically refers to a connected series of hills or an elongated crest or series of crests of a hill. This definition distinguishes a ridge from a knoll, individual hill, or slope bank. Ridges can be identified on a topographical map by the configuration of the contour lines.

Additional clarification will be needed to define ridgeline, and whether other regulations need to be adopted to limit development of visually prominent foreridges, below the main ridgeline. For example, it appears that the intent of the Initiative is to limit the visibility of development from off site by preventing development that does not have a backdrop of another ridge or landform behind it. In some cases, however, development within 100 feet of a ridgeline would not be visible if located on an interior canyon or valley side of a ridge. (This is sometimes the situation in the Southeast Hills.)

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<sup>28</sup> See Municipal Code §18.76.100.

If the Initiative is adopted, it would be advisable to designate the ridges to which the 100 vertical foot restriction would apply, and it may be necessary, from time to time, to review a proposed development in light of the Initiative's intent rather than a literal application of its terms.

Another option would be to identify an elevation line above which development would not be permitted to occur. This is the approach taken in the Pleasanton Ridge area along Foothill Road where the 670 ft. elevation line is the limit to development. However, there is less rationale for using this approach in the Southeast Hills due to its complex topography; structures above a certain elevation may not be visible in some cases and structures below that elevation line may be visible in other areas. Therefore, a case-by-case approach would better accomplish the Initiative's intent of creating development that is not visible from off site and/or that has a backdrop.

#### **5.10 Define Structure**

The City's current General Plan does not include a definition of the word "structure".

The Zoning Ordinance defines "structure" as "anything constructed or erected which requires a location on the ground, including a building or a swimming pool, but not including a fence or a wall used as a fence if the height does not exceed six feet, or access drives or walks."<sup>29</sup> And, the Municipal Code adopts the California Building Code (CBC) by reference, which defines a structure as "that which is built or constructed."

#### **5.11 If a project were to be reduced to less than 10 units, can houses be built on ridge tops?**

Although projects of 10 or fewer units are exempt from Policy 12.3 of the Initiative, the practical answer to this question is no, in light that all developments would be subject to the City's development review process that would likely not approve a house on a ridge top.

#### **5.12 How should residential density be calculated?**

The question of how residential density should be calculated was previously discussed at a General Plan Land Use Workshop in March 2006, when the undeveloped properties on the west side of Pleasanton were considered. At that time, the City Council directed that land having slopes over 25% already designated on the General Plan Map as Residential continue to be included in a property's "gross developable acres" and land with slopes over 25% not be excluded from the calculation of residential density. "Gross developable acres" is the amount of land on which the maximum allowable number of dwelling units for a parcel is based. However, regardless of the maximum residential density calculated under the General Plan for any given parcel, the City Council, through the PUD development process, determines the appropriate (usually lower) number of units for that property.

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<sup>29</sup> See Municipal Code §18.08.535.

This question was raised again at the May 20 meeting, and staff was asked to review the 1986 and 1996 General Plans as they related to this issue. The Land Use Elements of both the 1986 General Plan and the 1996 General Plan contain similar definitions of "gross developable acres", except that the 1996 General Plan excludes arroyos from gross developable acreage. Furthermore, the 1996 definition of gross developable acres provides, "The terrain of the land shall be considered when land use designations are given, so that land which is not feasible for development does not get redesignated to Low, Medium, or High Density Residential."

Another change between the two General Plans relates to the Pleasanton Ridgeland. The wording of this entire section of the Land Use Element was re-written in 1996 due to the approval of Measure F (a General Plan amendment) in the intervening years (1993); the new language in the Pleasanton Ridgeland section of the 1996 General Plan reflects the language of Measure F.

One of the changes was that the 1986 General Plan listed the four land use designations applicable to the Pleasanton Ridge area: Low Density Residential, Rural Density Residential, Public Health & Safety, and Parks and Recreation. The description of "Rural Density Residential" included language that Pleasanton Ridgeland property designated Rural Density Residential is less than 25% slope, and the description of "Public Health & Safety" included language that Pleasanton Ridgeland property designated Public Health & Safety is greater than 25% slope. All of these land use designations as they related to the Pleasanton Ridgeland were removed from this section of the 1996 General Plan; they still appear in another section of the Land Use Element but they do not reference slopes.

Staff believes these changes were made because as stated, Measure F expressed the City's new Pleasanton Ridgeland policy and it was included in the 1996 General Plan and language concerning development on slopes of 25% and greater was addressed in greater detail in the Public Safety and Conservation & Open Space Elements.

#### **5.13 Floor Area Ratio (FAR) calculation**

The issue was raised at the May 20 hearing concerning using different techniques to address house size in hill area developments. Since lot sizes tend to be larger in hillside developments and since visibility is an important issue with hillside homes, staff suggested a few different ways to use FAR to limit house sizes, such as using a lower FAR, eliminating highly sloped areas from the parcel size, and basing the FAR on the building envelope, not the entire parcel. A specific method could be selected if clarifying hillside regulations are developed, and the issue of limiting house size in sloped areas is addressed.

#### **5.14 Grading style, building height, and visibility issues**

Grading style, building height, and visibility are interrelated issues with hillside development, and there are sometimes trade-offs among them.

Types of grading range from flat pad, to split pad, to stepped foundation or contour grading. Flat pad style grading on hillside property involves more earth moving, often requires retaining walls, and results in greater changes to the natural land form, but is more adapted to production home development and has market appeal by creating level lots with usable yard areas. Flat pad grading also lends itself to less visible homes, especially when the pad can be cut into the hill, thus lowering the grade and the house profile. Split pad construction reduces grading and the need for tall retaining walls but still may involve alterations to the natural topography. Stepped foundation homes conform best to the natural land forms and require less grading but create less useable outdoor space and may involve several levels, resulting in a taller building that in certain areas will be more visible from off-site.

If clarifying hillside regulations are considered, these issues can be addressed to minimize visibility.

#### **5.15 Define a "legal parcel"**

The Initiative refers to the California Subdivision Map Act<sup>30</sup> (the "Map Act") to define a "legal parcel" for purposes of the proposed Policy 12.3. Generally, a parcel which was created by the recording of a final subdivision map, parcel map, lot line adjustment or merger, approved by the local city or county with authority, is recognized as a legal parcel of record for purposes of the Map Act. As the current Map Act was enacted in 1972, there are special provisions regarding the recognition of pre-1972 parcels.

The Initiative discusses a "legal parcel" as of January 1, 2007, which could generally be understood as a parcel created by one of the instruments referenced above, recorded before January 1, 2007. As the Map Act does not set specific deadlines for the construction of roads or infrastructure, or the sale of subdivided parcels, parcels properly created before January 1, 2007, but still vacant or undeveloped, are legal parcels of record.

In addition to a parcel created by a recorded instrument, the Map Act also allows property owners to legally vest rights to subdivide and develop property pursuant to laws and regulations in place on a fixed date. This fixed date is often when an application is deemed complete for a vesting tentative subdivision map.<sup>31</sup> The actual approval of the vesting tentative map, final map, and recordation of the final map to create the parcels occurs much later than when the vesting tentative map application is deemed complete. But, the property owner still retains the vested right to develop based on the rules in place when the application was deemed complete for a time period set forth in State law.<sup>32</sup>

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<sup>30</sup> See Government Code §§ 66410-66499.58.

<sup>31</sup> See Government Code §§ 66472.2 and 66498.1.

<sup>32</sup> See Government Code §§ 66498.1, *et. seq.*

Under these provisions of the Map Act, a parcel could be created by recording a final vesting subdivision map after January 1, 2007, but still have the vested right to develop not subject to the Initiative. This is because the State law granting vested rights pre-empts a local policy, like the Initiative. There are, however, no large projects (e.g., Lund Ranch II, Lester, Sportono) affected by the Initiative that are likely to have completed vesting tentative map applications by November 2008.

#### 5.16 What is the allowable subdivision of a "legal parcel"?

The language of the Initiative can result in different interpretations when considering the issue of subdivision and development. On the one hand, the Initiative proposes to exempt certain property from its new Policy 12.3, as follows:

... Exempt from this policy are housing developments of 10 or fewer housing units on a single property that was, as of January 1, 2007, [sic] "legal parcel" pursuant to the California Subdivision Map law. ...  
(*Referred to below as Sentence 1*)

However, in the very next sentence of the Initiative, language is added to limit subdivision, as follows:

... Splitting, dividing or sub-dividing a "legal parcel" of January 1, 2007 to approve more than 10 housing units is not allowed.  
(*Referred to below as Sentence 2*)

Additionally, in the statement of reasons for the Initiative, one of the reasons is described as follows:

3) Exempt 10 or less housing units and supporting infrastructure on "legal parcels" of January 1, 2007 from hillside development restrictions. (*Referred to below as Sentence 3*)

The language of these sentences can give rise to different interpretations, including:

*Interpretation #1:* The language in Sentence 1 and Sentence 3, when read together, might be interpreted to allow a property owner, with a legal parcel as of January 1, 2007, to subdivide that parcel to create 10 (or fewer) parcels, each with a housing unit, and not be subject to Policy 12.3, based on the use of the word "exempt" in both sentences, and "legal parcels" (plural) in Sentence 3.

Then, the language in Sentence 2 could be read complementary to prohibit serial re-subdivisions which cumulatively create more than 10 units (which might be done to try to avoid application of Policy 12.3 for each development of less than 10 housing units). This interpretation of Sentence 2 could also explain why the language "single parcel" was used in Sentence 1.

Under this Interpretation #1, if a property owner wanted to develop more than 10 housing units by subdividing the legal parcel to create more than 10 parcels, such subdivision would be subject to Policy 12.3. Sentence 2 would be interpreted as preventing the serial subdivision of 10 or fewer parcels consecutive times.

*Interpretation #2:* A literal reading of the sentences could result in a severe, and perhaps unintended, restriction on subdivisions in hillside areas of the City. The language in Sentence 1, which discusses "10 or fewer housing units on a **single** property" and uses the term "legal parcel" (singular rather than plural "parcels"), could be read to mean that no subdivision can occur in order to be exempt from the Initiative's Policy 12.3. Effectively, this approach would mean that no more than 10 housing units could be built on just one parcel, most commonly seen in situations like a ten-unit apartment complex.

Under this reading of Sentence 1, if a property owner wanted to subdivide property to create 10 parcels for 10 housing units, or even 2 parcels for 2 housing units, then the development of the units would no longer be on a "single property" and therefore subject to Policy 12.3. That reading would result in severe subdivision restrictions on hillside properties, and appears to be contradicted by Sentence 3, which reflects the proponents' intent to exempt 10 or fewer housing units on "legal parcels" (plural).

*Interpretation #3:* Another interpretation of the language in Sentence 2, "... subdividing ... to approve more than 10 housing units is not allowed", could be read to apply to all property within the City, not just those in the hill areas. A person supporting this interpretation might claim that the Purpose statement language about "uncontrolled growth" and "overall quality of life" reinforces such an interpretation.

Such reading, however, is strongly discredited by the normal rules of statutory construction where all provisions of the statute should be read together. Here, Sentence 1 also uses the term "legal parcel" and states that housing developments of ten or fewer units on a legal parcel are exempt from Policy 12.3. In that Policy 12.3 is expressly directed at properties with slopes of greater than 25% or within 100 vertical feet of ridgeline, the restriction on subdividing is not applicable city wide. Additional support for that position lies with the title of Policy 12.3, "Ridgelines and hillsides shall be protected."; as well as the statement of reasons to "Protect our scenic hills..."

Overall, the plain language of the text of the Initiative could lead to difficult practical application (*Interpretation #2*), or an application that runs contrary to the normal rules of statutory interpretation and the statement of reasons (*Interpretation #3*). A broader reading, which gives equal weight to the initiative and statement of reasons, provides an approach which harmonizes all three sentences (*Interpretation #1*). This is the interpretation used in the preceding analyses.

**5.17 Effect on entitlements already granted (particularly project which was issued sewer permits)?**

If the Initiative becomes law, only those projects with vested rights would be allowed to develop not subject to the Initiative. This would include projects which have a completed vesting tentative subdivision map application (see also Section 5.15, above), a development agreement which specifically vested laws in place when the agreement was executed, and persons with common law vested rights - generally defined as persons who have obtained building permits and have spent significant sums in reliance on those permits.

Therefore, if a property owner has simply purchased sewer permits, but has not received any of the approvals discussed above, then such sewer permits, alone, would not grant a vested right to develop exempt from the Initiative.

**5.18 Clarification for vesting tentative subdivision maps for projects with more than 10 units which are not yet final**

As discussed in Section 5.15, above, a completed vesting tentative subdivision application vests in the property owner the right to develop based on the laws in effect when the application was deemed complete (assuming, of course, that the property owner is able to obtain all necessary approvals to develop). So, a hillside project with more than 10 housing units to which the Initiative would otherwise apply would be exempt from the Initiative if the project had vested rights under the Vesting Tentative Subdivision Map statutes.

If the application was not complete prior to the adoption of the Initiative, or the property owner's rights had not otherwise vested, then the terms of the Initiative may be used when making a decision regarding the project.<sup>33</sup>

**5.19 Define Housing Unit for purposes of the Housing Cap**

The Initiative proposes to add a new General Plan policy to define a "housing unit" for purposes of determining when the City reaches its voter-adopted housing cap of 29,000 housing units, as follows:

**Policy 15.3: A housing unit is defined to include any residence that includes a kitchen (sink, cooking device, and refrigerator) and a bathroom (toilet, tub or shower). The City Council shall uphold the housing cap and shall not grant waivers that exclude housing units consistent with this definition.**

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<sup>33</sup> See Government Code § 66474.2(b).



Furthermore, in the statement of reasons in support of the Initiative, it provides resources to clarify the definition of a housing unit, as follows:

- 4) Pleasanton should be consistent with the U.S. Census Bureau and State of California definitions of a housing unit when calculating the housing cap.

In the Census Bureau's terms and definitions applicable to the Current Population Survey, a housing unit is defined, in relevant part, as follows:

**Housing Units** - A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied... as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall. (See Exhibit D.)

Additionally, the Census Bureau's definition of housing unit also includes the following definition for group quarters:

**Group Quarters** - A group quarters is a place where people live or stay other than the usual house, apartment, or mobile home. Two general types of group quarters are recognized: institutional (for example, nursing homes, mental hospitals or wards, hospitals or wards for chronically ill patients, hospices, and prison wards) and noninstitutional (for example, college or university dormitories, military barracks, group homes, shelters, missions, and flophouses). Group quarters may have housing units on the premises for staff or guests. (See Exhibit D.)

California statutes and regulations do not provide a specific definition for the term "housing unit". The term is used most commonly when discussing ownership and rental affordable housing.<sup>34</sup>

However, the California Building Code, which is adopted by the City and incorporated by reference into Chapter 20.08 of the Municipal Code, does have a definition for dwelling unit, as follows:

A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

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<sup>34</sup> See generally California Health & Safety Code §§33410 *et. seq.*, 50692, 51650 *et. seq.*, and 52012.5,

## 5.20 How to Count Units Towards the Housing Cap?

The Pleasanton General Plan and Municipal Code do not have a specific definition of the term housing unit for purposes of determining which units are counted towards the housing cap. In practice, each new single family home (including each duet, townhome, condominium, and mobile home), as well as each unit in an apartment complex, have been counted as housing units for purposes of calculating the housing cap. However, second units are not counted, nor are rooms at nursing homes, in assisted living facilities, or at extended stay hotels.

The application of the Initiative's definition of a housing unit to a single family home, duet, townhome, condominium and each unit in an apartment complex are consistent with the City's current practice. Similarly, a nursing home, where patients' rooms typically do not have their own "kitchen" and "bathroom", would not be defined as a housing unit by the Initiative, nor has the City's practice been to count such residences towards the housing cap. This is also consistent with the Census Bureau categorizing a nursing home as institutional "group quarters" in terms of type of housing unit.

While a second unit is a residence with a "kitchen" and "bathroom", and therefore a housing unit as defined by the Initiative, State law specifically provides that second units shall not be counted towards any local growth control limitation.<sup>35</sup> Therefore, the City's current practice is consistent with State law, and second units cannot be counted towards the City's housing cap, even if the Initiative is adopted.

Less certain is the application of the Initiative's definition of a housing unit to units/rooms in an assisted living facility or an extended stay hotel. In both of those situations, each unit could be said to be a "residence" with its own "kitchen" and "bathroom". However, the Census Bureau's definition of housing unit emphasizes separate living by providing that: "... separate living quarters ... in which the occupants live separately from any other persons in the building ...". Similarly, the California Building Code also uses the language "independent living facilities".

In the case of an assisted living facility, which typically provides residents with a shared meal plan, personal services, emergency alert response system, housekeeping, memory care, transportation services, etc., it would be a question whether such persons "live separately" and are "independent". This might depend upon the services offered at the facility, and therefore be decided on a case-by-case basis whether each unit in such a facility counts as a separate housing unit for purposes of the housing cap, or if the facility more accurately provides group quarters, as defined by the Census Bureau.<sup>36</sup>

<sup>35</sup> See Government Code §65852.2(a)(2).

<sup>36</sup> In a telephone call between City staff and the Census Bureau regarding the 2010 census, when the Parkview Assisted Living Facility was discussed, City staff were advised such an assisted living facility would likely be classified as Group Quarters, and not as individual housing units.

The Initiative's definition of housing unit includes no minimum residency period, so one could question whether each room at an extended stay hotel, with a "kitchen" and "bathroom", would count as a housing unit towards the housing cap. An extended stay hotel typically provides housekeeping and business support services to residents. However, persons staying at an extended stay hotel could be said to "live separately" and are "independent" of other guests. Significantly and practically, extended stay hotels, at least as they function in Pleasanton, serve travelers who have a permanent residence elsewhere and who typically use these hotels while on assignment on a temporary, short-term basis. Of interest is that the Census Bureau classifies a hotel as an "accommodation establishment", which appears to be different than a housing unit or group quarters.

**5.21 What is the total "Existing plus Approved" units?**

As of January 1, 2007, there were 26,245 existing plus approved units.

**5.22 How many remaining potential units are there from the 1996 General Plan at mid-point of density?**

As of January 1, 2007, there were 748 potential units (unapproved and based on the 1996 General Plan mid-point densities).

{The following information was provided in the City Council Agenda Report (Item 16) of August 21, 2007.}

	<b>As of Jan. 1, 2007</b>
<b>Existing Dwelling Units</b>	<b>25,765</b>
<b>Units Under Construction</b>	<b>223</b>
<b>Approved Units</b>	<b>257</b>
<b>Potential Future Units (no approvals)</b>	<b>748</b>
<b>Total Dwelling Units at Build-out of the General Plan</b>	<b>26,993</b>
<b>Residential Units allowed under the Voter-Approved Cap</b>	<b>29,000</b>
<b>Remaining Units to be planned for</b>	<b>2,007</b>

**5.23 How many total un-built units were "allocated" by region in the Draft General Plan update?**

The following table illustrates the "working draft" allocation which was originally discussed by the City Council on April 25, 2006. The City Council selected the "Consensus Preferred Plan" option for the purposes of preparing a Draft General Plan.

<b>Assumptions/Site</b>	<b>Consensus Preferred Plan Option</b>	<b>Dispersed Growth Option (for EIR alternative purposes only)</b>	<b>Concentrated Residential/TOD mixed use Option (for EIR alternative purposes only)</b>
<b>Remaining Residential Potential</b>	2,007	2,007	2,007
<b>Reserve for Busch Road School Site</b>	113	113	113
<b>Reserve units</b>	522 (200 original reserve, plus 322 additional units from projects approved below mid-point and data consolidation)	522 (200 original reserve, plus 322 additional units from projects approved below mid-point and data consolidation)	522 (200 original reserve, plus 322 additional units from projects approved below mid-point and data consolidation)
<b>Residential Units Planned for</b>	1,373	1,373	1,373
<b>1. West Pleasanton BART Station</b>	350	120	102
<b>2. Hacienda Specific Plan</b>	333	437	1,271
<b>3. Staples Ranch*</b>	240	240	0
<b>4. East Pleasanton Specific Plan</b>	250 residential units	376 residential units	0 residential
<b>6. Kottinger Place/Pleasanton Gardens (additional density)</b>	100	100	0
<b>7. Downtown Infill</b>	100	100	0

\*Entire Staples Ranch Project (rather than number of "residential" units counted under the cap) will be included in the General Plan Environmental Impact Report.

**5.24 With the current practice of "counting" units for the Housing Cap, does the City include the following categories: (i) second units; (ii) assisted living units; and (iii) affordable units?**

(i) Second Units – No, per Government Code § 65852.2 (a) (2). As of January 1, 2007, the City had approved 169 second units.

(ii) Assisted Living Units – No, these are considered commercial uses. As of today, there are two assisted living projects in the City (70 beds in Eden Villa on Mohr Avenue, and 105 beds in Parkview Assisted Living Facility<sup>37</sup> on Valley Avenue). In working with the Census Bureau to update information for the 2010 Census, staff was advised that the Parkview Assisted Living Facility should be counted as Group Quarters rather than separate residential units because of the congregate care services. (See also Section 5.20, above.)

(iii) Affordable units – Yes, these are counted unless they were either second units or assisted living units. For example, mobile home units have been considered affordable units, and are counted towards the housing cap.

**5.25 Did the City count the following senior housing projects towards the cap?**

- Pleasanton Gardens (built 1969): Yes, counted towards the cap.
- Kottinger Place (built 1973): Yes, counted towards the cap.
- Ridge View Commons (built 1989): Yes, counted towards the cap.
- Deer Ridge Apartments (built 1994): Yes, counted towards the cap.
- Stanley Junction Apartments (built 1997): Yes, counted towards the cap.
- Gardens at Ironwood (built 2005-2006): Yes, counted towards the cap.
- Parkview Assisted Living Facility (built 2007): No; as this is an assisted living facility with group meals, a wide range of services and congregate care as well as housing.

**5.26 Would the housing cap portions of the Initiative be applied retroactively?**

These provisions would not be applied retroactively.

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<sup>37</sup> For the Parkview facility, of the 105 beds, 86 are units with their own bathroom and kitchenette (sink, refrigerator and microwave), while the remaining 19 beds are in the memory care section with no kitchenette.

## **6. Implementation of the Initiative**

If the Initiative becomes law, the City Council would have options for its implementation. This might involve applying what is deemed to be the most reasonable interpretation of the language of the Initiative on a project-by-project basis. Another option could include adopting definitions and policies in harmony with the Initiative, but which clarify areas of uncertainty. This would likely occur through development and implementation of an ordinance.

Such a process to adopt clarifying definitions and policies might occur through a task force or committee procedure, potentially involving stakeholders. Or, these types of regulations can be considered by the Planning Commission and City Council in the normal public hearing process.

As discussed above, areas where clarification is needed include, but are not limited to:

- **Defining Ridgeline**
- **Designating Applicable Ridges**
- **Defining and Measuring Slope**
  - **Selecting a methodology and data base**
- **Determining which Areas of the City would be Subject to New Hillside Regulations**
- **Whether to Subject All, or Exempting Some, Hillside Projects to New Regulations**
- **Policy to Calculate Floor Area Ratio (FAR)**
- **Regulation regarding Grading Style**
- **Regulations about Building Height**
- **Policy addressing Visibility Issues**

## 7. Financial Impact of Initiative

### 7.1. Fiscal Impact of Hillside Developable Parcels Relocated to Other Areas of City

#### Background

It is estimated that approximately 119 to 224 developable parcels would be moved from the hillside to other areas of the city if the Initiative were implemented. To determine the impact from this movement, the following general information about the typical types of housing units that could be built in other areas of the City and for a hillside housing unit was calculated:

<b>Housing Unit Assumptions:</b>	<b>Multifamily Unit<sup>(1)</sup></b>	<b>Single Family Detached Unit<sup>(2)</sup></b>	<b>Hillside Single Family Unit<sup>(3)</sup></b>
<b>Floor Area:</b>	900 square feet	3,500 square feet	8,500 square feet
<b>Cost Per Square Foot:</b>	\$250	\$350	\$400
<b>Estimated Market Value:</b>	\$225,000	\$1,225,000	\$3,400,000
<b>Person Per Household: <sup>(4)</sup></b>	2.0	3.0	3.2

(1) Based on Windstar Apartment Project: 350 units ranging from 576 square feet to 1,368 square feet; of the 350 units 213 units are one bedroom/one bath, 130 are two bedrooms/two baths and 7 are three bedrooms/three baths.

(2) Based on the Ironwood Project: 191 units ranging from 1,450 square feet to 5,091 square feet.

(3) Based on PUD-33: 51 units ranging from 6,058 square feet to 12,500 square feet; capped at 15% floor area for lots greater than one acre.

(4) Per State of California Department of Finance as of January 1, 2008: 2.753 persons per household in Pleasanton. Per U.S. Census: owner occupied 2.87 persons per household and renter occupied 2.3 persons per household; per 1996 General Plan: 3.09 persons per single family household and 2.05 persons per multifamily household. Recent notation of larger households being multi-generational, hence the increase in person per household for the hillside homes.

The fiscal impacts to the City as a result of developing multifamily or single family detached homes, rather than 119 to 224 hillside homes, include: (i) the annual operating revenues and expenditures of the City; and (ii) the initial capital fees (Development Fees<sup>38</sup>) received by the City at the time a building permit is issued. Operating revenues and expenditures are based on the type of development, size (floor area), value of the improvements and the number of persons per household. This information is provided in Table 1, above, based on housing type. In contrast, Development Fees are more generally based on type of development (e.g. single family or multi-family).

<sup>38</sup> Development Fees collected to fund City projects include: Park Dedication In-Lieu Fee, Public Facilities Fee, Lower Income Housing Fee, Traffic Development Fee, and other fees collected in specific areas for improvements serving those areas.

Annual Operating Revenues

Table 2 provides general formulas for determining a development's fiscal impact on the City's annual revenues and expenditures:

Table 2	
<b>Fiscal Assumptions:</b>	
Property Tax:	1% of market value at completion; increased by 2% per year Pleasanton's share of total tax 25.4%
Sales and Use Tax	1% of gross sales is local sales tax and in Alameda County cities receive 95% of the 1% sales tax rate. For 2007/08FY the sales tax per capita in Pleasanton is \$292.39.
Government Services/Expenditures	Estimated at \$1 per square foot of developed property.

Table 3 presents the annual operating revenues and expenditures based on the three types of housing units, assuming approximately 224 homes are relocated from the hillside to other areas of the City:

Table 3 (Based on 224 Homes being relocated to other areas of the City)			
	Multifamily	Single Family	Hillside Homes
<b>Revenues</b>			
Property Tax	\$ 128,016.00	\$ 696,976.00	\$ 1,934,464.00
Sales Tax	\$ 130,990.72	\$ 196,486.08	\$ 209,585.15
<b>Total Annual Revenues</b>	<b>\$ 259,006.72</b>	<b>\$ 893,462.08</b>	<b>\$ 2,144,049.15</b>
<b>Expenditures</b>			
Total Annual Expenditures	\$ 201,600.00	\$ 784,000.00	\$ 1,904,000.00
<b>Net Additional Revenues</b>	<b>\$ 57,406.72</b>	<b>\$ 109,462.08</b>	<b>\$ 240,049.15</b>
<b>Maximum Reduction</b>			\$ 240,049.15
			\$ 57,406.72
			<b>\$ 182,642.43</b>
<b>Minimum Reduction</b>			\$ 240,049.15
			\$ 109,462.08
			<b>\$ 130,587.07</b>

Based on the analysis in Table 3, the reduction in annual net revenues from relocating 224 homes from the hillside to other areas of the City ranges from \$183,000 per year (based on 100% of the homes being multifamily) to \$131,000 (based on 100% of the homes being single family).



Table 4 presents the annual operating revenues and expenditures based on the three types of housing units, assuming approximately 119 homes are relocated to other areas of the City:

<b>Table 4</b>			
<b>(Based on 119 Homes being relocated to other areas of the City)</b>			
	<b>Multifamily</b>	<b>Single Family</b>	<b>Hillside Homes</b>
<b>Revenues</b>			
Property Tax	\$ 68,008.50	\$ 370,268.50	\$ 1,027,684.00
Sales Tax	<u>\$ 69,588.82</u>	<u>\$ 104,383.23</u>	<u>\$ 111,342.11</u>
Total Annual Revenues	\$ 137,597.32	\$ 474,651.73	\$ 1,139,026.11
<b>Expenditures</b>			
Total Annual Expenditures	<u>\$ 107,100.00</u>	<u>\$ 416,500.00</u>	<u>\$ 1,011,500.00</u>
Net Additional Revenues	\$ 30,497.32	\$ 58,151.73	\$ 127,526.11
<b>Maximum Reduction</b>			\$ 127,526.11
			\$ 30,497.32
			<u>\$ 97,028.79</u>
<b>Minimum Reduction</b>			\$ 127,526.11
			\$ 58,151.73
			<u>\$ 69,374.38</u>

Based on the analysis in Table 4, the reduction in annual net revenues from relocating 119 homes from the hillside to other areas of the City ranges from \$97,000 per year (based on 100% of the homes being multifamily) to \$69,000 (based on 100% of the homes being single family).

In conclusion, the range in the reduction of net operating revenues to the City based on the relocation of 119 to 224 homes from the hillside to other areas of the City is \$69,000 to \$183,000 per year.

Initial Infrastructure Capital Fees

The City and other public entities (e.g., Pleasanton Unified School District, Zone 7, DSRSD, etc.) receive capital facility fees (Development Fees) at the time a City building permit is issued for all housing units developed in the City. The City's Development Fees, the Tri-Valley Traffic Fee and DSRSD's Connection Fees are generally charged based on the type of unit (e.g. multi-family or single family), regardless of the square footage of the unit. Zone 7's water connection fee is based on the diameter of the water meter, which is uniform for most housing units; however their Drainage Fee is based on the amount of impervious surface, which varies with house and lot size. The Pleasanton Unified School District's fee is based on the square footage of a home, up to a 7,000 s.f. maximum. Table 5 presents the assumptions regarding these fees based on each housing type:

	<b>Multifamily</b>	<b>Single Family</b>	<b>Hillside Homes</b>
<b><u>City's Fees</u></b>			
Public Facilities Fees	\$ 2,413.00	\$ 3,957.00	\$ 3,957.00
Water Connection Fees	\$ 640.00	\$ 1,200.00	\$ 1,200.00
Sewer Connection Fees	\$ 330.00	\$ 500.00	\$ 500.00
Park Dedication Fees	\$ 7,969.00	\$ 9,707.00	\$ 9,707.00
Traffic Impact Fees	\$ 2,756.00	\$ 3,938.00	\$ 3,938.00
Lower Income Housing Fee	\$ 2,405.00	\$ 9,702.00	\$ 9,702.00
<b>Total City Fees</b>	<b>\$ 18,513.00</b>	<b>\$ 29,004.00</b>	<b>\$ 29,004.00</b>
<b><u>Other Agencies</u></b>			
Zone 7 (Water)	\$ 21,621.00	\$ 20,270.00	\$ 20,270.00
DSRSD (including LAVVMA)	\$ 7,681.00	\$ 13,000.00	\$ 13,000.00
TriValley Traffic Fees	\$ 1,292.00	\$ 2,032.00	\$ 2,032.00
Pleasanton Unified School District	\$ 2,736.00	\$ 30,170.00	\$ 60,340.00
Zone 7 Drainage <sup>(1)</sup>	\$ 725.00	\$ 2,815.00	\$ 6,835.00
<b>Total Other Agencies</b>	<b>\$ 34,055.00</b>	<b>\$ 68,287.00</b>	<b>\$ 102,477.00</b>
<b>Total Capital Fees</b>	<b>\$ 50,568.00</b>	<b>\$ 97,291.00</b>	<b>\$ 131,481.00</b>

(1) Assumed Impervious surface is equal to the floor area plus 10%.

Table 6 presents the Development Fees based on the three types of housing units assuming approximately 224 homes are relocated to other areas of the City:

<b>Table 6</b>			
<b>(Based on 224 Homes being relocated to other areas of the City)</b>			
	<b>Multifamily</b>	<b>Single Family</b>	<b>Hillside Homes</b>
<b>City's Fees</b>			
Public Facilities Fees	\$ 540,512.00	\$ 886,368.00	\$ 886,368.00
Water Connection Fees	\$ 143,360.00	\$ 288,800.00	\$ 268,800.00
Sewer Connection Fees	\$ 73,920.00	\$ 112,000.00	\$ 112,000.00
Park Dedication Fees	\$ 1,785,056.00	\$ 2,174,368.00	\$ 2,174,368.00
Traffic Impact Fees	\$ 617,344.00	\$ 882,112.00	\$ 882,112.00
Low Income Housing Fee	<u>\$ 538,720.00</u>	<u>\$ 2,173,248.00</u>	<u>\$ 2,173,248.00</u>
<b>Total City Fees</b>	<u>\$ 3,698,912.00</u>	<u>\$ 6,496,896.00</u>	<u>\$ 6,496,896.00</u>
<b>Other Agencies</b>			
Zone 7 (Water)	\$ 4,843,104.00	\$ 4,540,480.00	\$ 4,540,480.00
DSRSD (including LAVWMA)	\$ 1,720,544.00	\$ 2,912,000.00	\$ 2,912,000.00
TriValley Traffic Fees	\$ 289,408.00	\$ 455,168.00	\$ 455,168.00
Pleasanton Unified School District	\$ 612,864.00	\$ 6,758,080.00	\$ 13,516,160.00
Zone 7 Drainage <sup>(1)</sup>	<u>\$ 162,400.00</u>	<u>\$ 630,560.00</u>	<u>\$ 1,531,040.00</u>
<b>Total Other Agencies</b>	<u>\$ 7,628,320.00</u>	<u>\$ 15,296,288.00</u>	<u>\$ 22,954,848.00</u>
<b>Total Capital Fees</b>	\$ 11,327,232.00	\$ 21,793,184.00	\$ 29,451,744.00
(1) Assumed impervious surface is equal to the floor area plus 10%.			
<b>Maximum Reduction</b>			\$ 29,451,744.00
			<u>\$ 11,327,232.00</u>
			<u>\$ 18,124,512.00</u>
<b>Minimum Reduction</b>			\$ 29,451,744.00
			<u>\$ 21,793,184.00</u>
			<u>\$ 7,658,560.00</u>

Based on the analysis in Table 6, the reduction in Development Fees from relocating 224 homes from the hillside to other areas of the City ranges from \$18,124,512 (based on 100% of the homes being multifamily) to \$7,658,560 (based on 100% of the homes being single family). The actual reduction in Development Fees to the City and the other agencies is dependent upon whether the relocated units are developed as multifamily or single family detached homes. It should also be noted that while the reduction in the City's Development Fees ranges from zero to \$2,797,984, the agency that is most impacted is the Pleasanton Unified School District (PUSD). As noted above, school impact fees are based on the size of the home and therefore, the property owner developing a larger home pays a proportionally larger fee. The range in reduced Development Fees to be collected by PUSD is \$6,758,080 to \$12,903,296. It should also

be noted that PUSD's budget is based on a cash-flow model which assumes 120 housing units will be developed in the City each year, and each housing unit averages 3,000 square feet. In contrast, this fiscal impact analysis is a forecast of the estimated impacts to development fees to be collected through build-out, i.e. 29,000 units. Therefore, there may not be immediate impacts to PUSD's cash-flow estimates as housing units continue to be developed in the City, irrespective of location.

Table 7 presents the Development Fees based on the three types of housing units assuming approximately 119 homes are relocated to other areas of the City:

<b>Table 7</b>			
<b>(Based on 119 Homes being relocated to other areas of the City)</b>			
	<b>Multifamily</b>	<b>Single Family</b>	<b>Hillside Homes</b>
<b>City's Fees</b>			
Public Facilities Fees	\$ 287,147.00	\$ 470,883.00	\$ 470,883.00
Water Connection Fees	\$ 76,160.00	\$ 142,800.00	\$ 142,800.00
Sewer Connection Fees	\$ 39,270.00	\$ 59,500.00	\$ 59,500.00
Park Dedication Fees	\$ 948,311.00	\$ 1,155,133.00	\$ 1,155,133.00
Traffic Impact Fees	\$ 327,984.00	\$ 468,622.00	\$ 468,622.00
Low Income Housing Fee	\$ 286,195.00	\$ 1,154,538.00	\$ 1,154,538.00
<b>Total City Fees</b>	<b>\$ 1,965,047.00</b>	<b>\$ 3,451,476.00</b>	<b>\$ 3,451,476.00</b>
<b>Other Agencies</b>			
Zone 7 (Water)	\$ 2,572,899.00	\$ 2,412,130.00	\$ 2,412,130.00
DSRSD (including LAVWMA)	\$ 914,039.00	\$ 1,547,000.00	\$ 1,547,000.00
TriValley Traffic Fees	\$ 153,748.00	\$ 241,808.00	\$ 241,808.00
Pleasanton Unified School District	\$ 325,584.00	\$ 3,590,230.00	\$ 7,180,460.00
Zone 7 Drainage <sup>(1)</sup>	\$ 86,275.00	\$ 334,985.00	\$ 813,365.00
<b>Total Other Agencies</b>	<b>\$ 4,052,545.00</b>	<b>\$ 8,126,153.00</b>	<b>\$ 12,194,763.00</b>
<b>Total Capital Fees</b>	<b>\$ 6,017,592.00</b>	<b>\$ 11,577,629.00</b>	<b>\$ 15,646,239.00</b>
<b>(1) Assumed impervious surface is equal to the floor area plus 10%.</b>			
<b>Maximum Reduction</b>			\$ 15,646,239.00
			\$ 6,017,592.00
			<b>\$ 9,628,647.00</b>
<b>Minimum Reduction</b>			\$ 15,646,239.00
			\$ 11,577,629.00
			<b>\$ 4,068,610.00</b>

Based on the analysis in Table 7, the reduction in Development Fees from relocating 119 homes from the hillside to other areas of the City ranges from \$9,628,647 (based on 100% of the homes being multifamily) to \$4,068,610 (based on 100% of the homes being single family). The actual reduction in Development Fees to the City and the other agencies depends on whether the actual relocated units are developed as multifamily or single family detached homes. It should also be noted that while the reduction in the City's Development Fees range from zero to \$1,486,429; the agency that is most impacted is PUSD. As noted previously, school impact fees are based on the size of the home and therefore, a property owner developing a larger home pays a proportionally larger fee. The range in the reduction of Development Fees to PUSD is \$3,590,230 to \$6,854,876.

In conclusion, the range of the reduction in Development Fees to the City and other agencies based on a relocation of 119 to 224 homes from the hillside to other areas of the City is \$4,068,610 to \$18,124,512. The actual reduction will be dependent upon the actual number of homes relocated as a result of implementing the Initiative and the mix of replacement housing units ultimately developed.

Summary of the Fiscal Impact of Hillside Developable Parcels Being Relocated to Other Areas of the City

Table 8 presents the findings of the fiscal impact to the City's General Fund on an annual basis and the reduction in Development Fees to the City and other agencies as a result of relocating approximately 119 to 224 hillside homes to other areas of the City:

<b>Table 8</b>			
<b>Summary of Fiscal Impacts</b>			
		<b>Range of Reduction In Net Revenues</b>	
		<b>Maximum</b>	<b>Minimum</b>
<b>Annual</b>			
Reduction in Net Revenues Per Year	\$	183,000	\$ 69,000
<b>One-Time Development Fees</b>			
City	\$	2,797,984	\$ -
Pleasanton Unified School District	\$	12,903,298	\$ 3,590,230
Other Agencies	\$	2,423,232	\$ 478,380
<b>Total One-Time Development Fees</b>	\$	<b>18,124,512</b>	\$ <b>4,068,610</b>

## 7.2. Fiscal Impact of Including Assisted Living Units in the Housing Cap Count

### Impact on a Prospective Basis<sup>39</sup>

The Initiative defines a housing unit to include any residences that have a kitchen (sink, cooking device, and refrigerator) and a bathroom (toilet, tub or shower). The statement of reasons section of the Initiative states that the Pleasanton definition of housing unit should be consistent with the U.S. Census Bureau and State of California definitions when calculating the housing cap.

Staff looked at development planned in the near future that, depending upon this application of this definition, may trigger this section of the Initiative; the one project identified is the Continuing Life Care (CLC) project planned for the Staples Ranch property. CLC proposes to build 636 units that would include independent living units, villas and apartments. To date, the City Council has indicated that 240 of the 636 units would count towards the City's housing cap; however a final decision will not be made on that issue until Council considers the PUD development plan for the CLC facility. In the meantime, for other purposes, staff has been counting 240 units from CLC towards the housing cap consistent with the Council's preliminary direction.

If, however, the Initiative were adopted and all 636 units were determined to fall within the Initiative's definition of a "housing unit" and count toward the City's housing cap, this would cause a reduction of an additional 396 units (that is, in addition to the 240 staff has been counting) in the number of future housing units that could be developed in the City under the housing cap. This would create a loss in annual net revenues to the City, as well as upfront capital fees (development impact fees), as follows:

<b>Housing Unit Assumptions:</b>	<b>Multifamily Unit<sup>(1)</sup></b>	<b>Single Family Detached Unit<sup>(2)</sup></b>
<b>Floor Area:</b>	900 square feet	3,500 square feet
<b>Cost per square foot:</b>	\$250	\$350
<b>Estimated Market Value:</b>	\$225,000	\$1,225,000
<b>Person Per Household: <sup>(3)</sup></b>	2.0	3.0

(1) Based on Windstar Apartment Project: 350 units ranging from 578 square feet to 1,368 square feet; of the 350 units 213 units are one bedroom/one bath, 130 are two bedrooms/two baths and 7 are three bedrooms/three baths.

(2) Based on the Ironwood Project: 191 units ranging from 1,450 square feet to 5,091 square feet.

(3) Per State of California Department of Finance as of January 1, 2008: 2.753 persons per household in Pleasanton. Per U.S. Census: owner occupied 2.87 persons per household and renter occupied 2.3 persons per household.  
Per 1996 General Plan: 3.09 persons per single family household and 2.05 persons per multifamily household.

<sup>39</sup> The analysis only considers the application of the definition of housing unit on a prospective basis because the Initiative did not include specific language about retroactivity.

*Note:* The fiscal analysis for this section of the Initiative is unrelated to the development of hillside homes; therefore, the fiscal analysis only looks at the impacts of multifamily units and single family detached units (which was shown in Table 1) and reproduced here in Table 9 (deleting the information related to hillside homes).

Table 10 presents the operating impact if the number of remaining housing units was reduced by 396 (by counting 396 additional CLC units) towards the City's housing cap:

<b>Table 10</b>		
<b>(Based on 396 additional units included in the City's Housing Cap for the CLC Project)</b>		
	<b>Multifamily</b>	<b>Single Family</b>
<b>Revenues</b>		
Property Tax	\$ 228,314.00	\$ 1,232,154.00
Sales Tax	<u>\$ 231,572.88</u>	<u>\$ 347,359.32</u>
Total Annual Revenues	\$ 457,886.88	\$ 1,579,513.32
<b>Expenditures</b>		
Total Annual Expenditures	<u>\$ 356,400.00</u>	<u>\$ 1,386,000.00</u>
<b>Net Additional Revenues</b>	<u>\$ 101,486.88</u>	<u>\$ 193,513.32</u>
<b>Maximum Reduction</b>		\$ 193,513.32
<b>Minimum Reduction</b>	\$ 101,486.88	

Based on the analysis in Table 10, the reduction in annual net revenues to the City by counting an additional 396 CLC units towards the City's housing cap (by assuming that these units fall within the Initiative's definition of housing unit) ranges from \$101,000 annually (based on 100% of the homes that would otherwise be built being multifamily) to \$194,000 (based on 100% of the homes that would otherwise be built being single family). The actual reduction in annual net revenues to the City is dependent on the actual mix of homes ultimately developed.

Table 11 presents the impact to the receipt of one-time development impact fees to the City and other agencies by reducing by 396 the number of remaining housing units due to counting 396 additional CLC units towards the City's housing cap:

<b>Table 11</b>		
<b>(Based on 396 additional units included in the City's Housing Cap for the CLC Project)</b>		
<b>City's Fees</b>	<b>Multifamily</b>	<b>Single Family</b>
Public Facilities Fees	\$ 955,548.00	\$ 1,566,972.00
Water Connection Fees	\$ 253,440.00	\$ 475,200.00
Sewer Connection Fees	\$ 130,680.00	\$ 198,000.00
Park Dedication Fees	\$ 3,155,724.00	\$ 3,843,972.00
Traffic Impact Fees	\$ 1,091,376.00	\$ 1,559,448.00
Low Income Housing Fee	<u>\$ 952,380.00</u>	<u>\$ 3,841,992.00</u>
<b>Total City Fees</b>	<u>\$ 6,539,148.00</u>	<u>\$ 11,485,584.00</u>
<b>Other Agencies</b>		
Zone 7 (Water)	\$ 8,561,916.00	\$ 8,026,920.00
DSRSD (including LAVWMA)	\$ 3,041,676.00	\$ 5,148,000.00
TriValley Traffic Fees	\$ 511,632.00	\$ 804,672.00
Pleasanton Unified School District	\$ 1,083,456.00	\$ 11,947,320.00
Zone 7 Drainage <sup>(1)</sup>	<u>\$ 287,100.00</u>	<u>\$ 1,114,740.00</u>
<b>Total Other Agencies</b>	<u>\$ 13,485,780.00</u>	<u>\$ 27,041,652.00</u>
<b>Total Capital Fees</b>	\$ 20,024,928.00	\$ 38,527,236.00
<b>(1) Assumed impervious surface is equal to the floor area plus 10%.</b>		
<b>Maximum Reduction</b>		\$ 38,527,236.00
<b>Minimum Reduction</b>	\$ 20,024,928.00	

Based on the analysis in Table 11, the reduction in one-time development impact fees by reducing the remaining housing units by 396 additional CLC units in the City's housing cap ranges from \$20,024,928 (based on 100% of the homes that would actually be built being multifamily) to \$38,527,236 (based on 100% of the homes that would actually be built being single family). The actual reduction in development impact fees to the City and the other agencies is dependent upon the actual mix of housing units that is actually developed (i.e., multifamily units versus single family detached units). Significantly, while the reduction in the City's development impact fees range from \$6,539,148 to \$11,485,584, other agencies such as the Pleasanton Unified School District are equally, if not more, impacted.



Summary of the Fiscal Impact of Counting Assisted Living Units Towards the City's Housing Cap

Table 12 presents the findings of the fiscal impact to the City's General Fund on an annual basis and the reduction in the City's (and other agencies') development impact fees if 396 additional CLC units were counted toward the City's housing cap:

<b>Table 12</b>			
<b>Summary of Fiscal Impacts</b>			
		<u>Range of Reduction</u>	
		<u>Minimum</u>	<u>Maximum</u>
<b>Annual</b>			
Reduction in Net Revenues Per Year	\$	101,000	\$ 194,000
<b>One-Time Development Fees</b>			
City	\$	6,539,148	\$ 11,485,584
Pleasanton Unified School District	\$	1,083,456	\$ 11,947,320
Other Agencies	\$	<u>12,402,324</u>	<u>\$ 15,094,332</u>
<b>Total</b>	<b>\$</b>	<b>20,024,928</b>	<b>\$ 38,527,236</b>

**8. Conclusion**

The twin purposes of the Save Pleasanton's Hills & Housing Cap initiative broadly reflect similar hillside protection and growth limit interests that have previously been adopted by Pleasanton voters (e.g., Measure F, the Housing Cap, and Urban Growth Boundaries).

However, reading the Initiative exposes areas where additional clarification is needed to implement its provisions, such as how to determine if a slope is 25% or greater. While the General Plan, Specific Plans, and Municipal Code include regulations and policies which address hillside development regulation and growth control provisions, there remain gaps between the Initiative and existing practice which the City Council will need to consider carefully in the future. This includes defining key terms of the Initiative, such as "ridgeline", "slope" and "structure"; as well as developing regulations for calculating floor area ratio / home size, managing grading, measuring slope, establishing developable areas on parcels, and clarifying exemptions.

Additionally, interpretation will also be needed regarding the application of the Initiative's definition of housing unit to assisted living facilities and extended stay hotels. Clarification could occur through subsequent development of an implementing ordinance.

The subsequent development of an ordinance would be important for such clarification and interpretation of the Initiative's language in terms of whether and where housing units can be built, as well as whether and where the roads and infrastructure that provides access and services to such homes can be built. For example, the fate of the Happy Valley Bypass Road would have to be addressed in the context of the Initiative and subsequent implementing ordinances.

Beyond the text of the Initiative, it will also have financial impacts on the City in the form of lost annual and one-time revenues. More significantly, the Pleasanton Unified School District will receive fewer school impact fees for construction of new facilities and related capital improvements than otherwise forecasted through build out.

Because of the complexity of hillside development, it is anticipated that an extensive public process will be needed to develop such regulations to clarify the terms and application of the Initiative, and harmonize it with existing City regulations. As that process takes place, property owners impacted by the Initiative may still proceed with their development applications, and the City will be called upon to consider specific projects while simultaneously considering regulations with broader application.

The Save Pleasanton's Hills & Housing Cap initiative has highlighted longstanding community dedication to regulating hillside development, and firmly adhering to the housing cap and growth management. Irrespective of whether the Initiative is approved by the City Council or submitted to the voters (who would either approve or disapprove it) in November, the Initiative has been a catalyst for the expected update of hillside development regulations and grading ordinance to reaffirm City goals for open space and view protection, as well as sensitive, planned housing development.

Save Pleasanton's Hills & Housing Cap

OCT 16 2007

Full Text of Initiative

CITY CLERK OFFICE

Purpose

The purpose of this initiative is to protect our city from uncontrolled growth and the impact it has on ridgelines and hillsides, traffic, schools, water supply, and our overall quality of life.

I. Pleasanton General Plan Amendments

Policy 12. Program 12.3 on page II-17 of the City of Pleasanton August 6, 1996 General Plan is added as shown.

Policy 12.3: Ridgelines and hillsides shall be protected. Housing units and structures shall not be placed on slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline. No grading to construct residential or commercial structures shall occur on hillside slopes 25% or greater, or within 100 vertical feet of a ridgeline. Exempt from this policy are housing developments of 10 or fewer housing units on a single property that was, as of January 1, 2007, "legal parcel" pursuant to the California Subdivision Map law. Splitting, dividing, or sub-dividing a "legal parcel" of January 1, 2007 to approve more than 10 housing units is not allowed.

Policy 15 on page II-19 of the City of Pleasanton August 6, 1996 General Plan is added as shown.

Policy 15.3: A housing unit is defined to include any residence that includes a kitchen (sink, cooking device, and refrigerator) and a bathroom (toilet, tub or shower). The City Council shall uphold the housing cap and shall not grant waivers that exclude housing units consistent with this definition.

II. If any portions of this initiative are declared invalid by a court, the remaining portions are to be considered valid.

III. The provisions of this initiative may be amended or repealed only by the voters of the City of Pleasanton at a City general election and overrides any existing General Plan.

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Pleasanton for the purpose of amending the August 6, 1996 General Plan. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

- 1) Protect our scenic hills from development that destroys the character of our town.
- 2) To direct development and development speculation away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to service by existing jurisdictions.
- 3) Exempt 10 or less housing units and supporting infrastructure on "legal parcels" of January 1, 2007 from hillside development restrictions.
- 4) Pleasanton should be consistent with the U.S. Census Bureau and State of California definitions of a housing unit when calculating the housing cap.
- 5) Remove the loophole that is allowing the city to exclude housing units from our voter imposed housing cap.

Kay Ayala  
Kay Ayala

4515 Gatefree Cr.  
Pleasanton, CA 94566

SUBMITTED October 16, 2007

Karla Brown-Belcher  
Karla Brown-Belcher

1328 Benedict Court  
Pleasanton, CA 94566

William Rasnick  
William Rasnick  
1246 Hearst Dr  
Pleasanton, Ca. 94566

EXHIBIT A

**INITIATIVE MEASURE TO BE  
SUBMITTED DIRECTLY TO THE VOTERS**

The Pleasanton City Attorney has prepared the following title and summary of the chief purpose and points of the proposed Initiative Measure.

**TITLE**

**AN INITIATIVE MEASURE AMENDING THE  
PLEASANTON GENERAL PLAN TO ADD  
NEW POLICIES TO  
PROHIBIT PLACING HOUSING UNITS  
AND PROHIBIT GRADING  
ON PROPERTIES WITH SLOPES GREATER THAN 25%  
OR ON PROPERTIES WITHIN 100 VERTICAL FEET OF A RIDGELINE  
EXCEPT FOR HOUSING DEVELOPMENTS OF 10 OR FEWER HOUSING UNITS  
AND  
TO DEFINE "HOUSING UNIT" FOR PURPOSES  
OF DETERMINING THE GENERAL PLAN "HOUSING CAP"**

**SUMMARY**

Every city in California is required to have a "General Plan." A General Plan is the city's basic, but most important, planning document. It provides a roadmap for all aspects of a community's development such as land use, traffic, housing and open space which are embodied in the various elements of the General Plan. All land use approvals must be consistent with the city's adopted General Plan.

Each element in a General Plan sets forth broad goals and policy statements intended to provide guidance to citizens, decision makers and planners concerning long term plans for the physical development of land in the city and in its planning area.

In the Land Use element of the City of Pleasanton's General Plan is a Goal "to achieve and maintain a complete and well rounded community of desirable neighborhoods, a strong employment base, and a variety of community facilities." Under that Goal are a number of policies intended to implement that Goal. Some of those policies concern Open Space.

One of the Open Space policies concerns scenic hillside and ridge views. The policy provides "Preserve scenic hillside and ridge views of the Pleasanton, Main and Southeast Hills ridge."

This Initiative, if adopted by the voters, would amend the City's General Plan by adding a new policy concerning Open Space. As to properties with slopes greater than 25% or within 100 vertical feet of a ridgeline, this new policy would prohibit the placement of housing units and prohibit grading to construct residential or commercial structures. Exempt from this policy are housing developments of 10 or fewer units if the development occurs on property that as of January 1, 2007, was a "legal parcel." This new policy also provides a "legal parcel" as of January 1, 2007 shall not be subdivided to approve more than 10 housing units.

**EXHIBIT B**

Another Goal in the General Plan, under Growth Management, is "to develop in an efficient, logical, and orderly fashion." One of the Growth Management policies addresses what is often referred to as the City's "Housing Cap" of 29,000 housing units. The policy provides, "Maintain a maximum housing buildout of 29,000 housing units within the Planning Area."

This Initiative, if adopted by the voters, would also amend the City's General Plan by adding a new policy concerning Growth Management. It would define a housing unit to include any residence that has a kitchen and a bathroom. The Initiative also directs that the City Council shall not grant waivers for, or exclude, any housing units that fall within that definition.

The intent of the Initiative is to protect scenic hills from development, to direct development away from lands with environmentally sensitive features or with primary open space values, and to make the Pleasanton General Plan definition of housing unit consistent with federal and state definitions.

This Initiative, if adopted by the voters, could only be amended or repealed by the Pleasanton voters at a City general election.

October 23, 2007

Michael H. Roush  
City Attorney  
City of Pleasanton

# Current Population Survey (CPS) - Definitions and Explanations

## Introduction

The definitions and explanations found in reports in the *Current Population Reports* series issued by the Census Bureau are largely drawn from various technical and procedural materials used in the collection of data in the Current Population Survey. The concepts defined below generally refer to current definitions. For reports based on earlier surveys, especially those published before 1990, the user should consult the printed reports for those years. As reports and surveys continue to evolve, definitions may also alter to accommodate these changes. We will alert users to significant changes in the concepts presented in the reports released on the Internet to enable them to accurately interpret the data for historical comparisons.

...

## Household.

A household consists of all the people who occupy a housing unit. A house, an apartment or other group of rooms, or a single room, is regarded as a housing unit when it is occupied or intended for occupancy as separate living quarters; that is, when the occupants do not live and eat with any other persons in the structure and there is direct access from the outside or through a common hall.

A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household. The count of households excludes group quarters. There are two major categories of households, "family" and "nonfamily". (See definitions of Family household and Nonfamily household).

## Units in structure.

In the determination of the number of units in a structure, all housing units, both occupied and vacant, were counted. The statistics are presented in terms of the number of occupied housing units in structures of specified size, not in terms of the number of residential structures.

## terms & definitions

- [national terms & definitions](#)
- [state & county terms & definitions](#)

### HOUSING UNIT ESTIMATES

**Housing Units** - A housing unit is a house, an apartment, a mobile home or trailer, a group of rooms, or a single room that is occupied, or, if vacant, is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

For vacant units, the criteria of separateness and direct access are applied to the intended occupants wherever possible.

Both occupied and vacant housing units are included in the housing unit inventory, except that recreational vehicles, boats, vans, tents, railroad cars, and the like are included only if they are occupied as someone's usual place of residence. Vacant mobile homes are included provided they are intended for occupancy on the site where they stand. Vacant mobile homes on dealer's sales lots, at the factory, or in storage yards are excluded from the housing unit inventory.

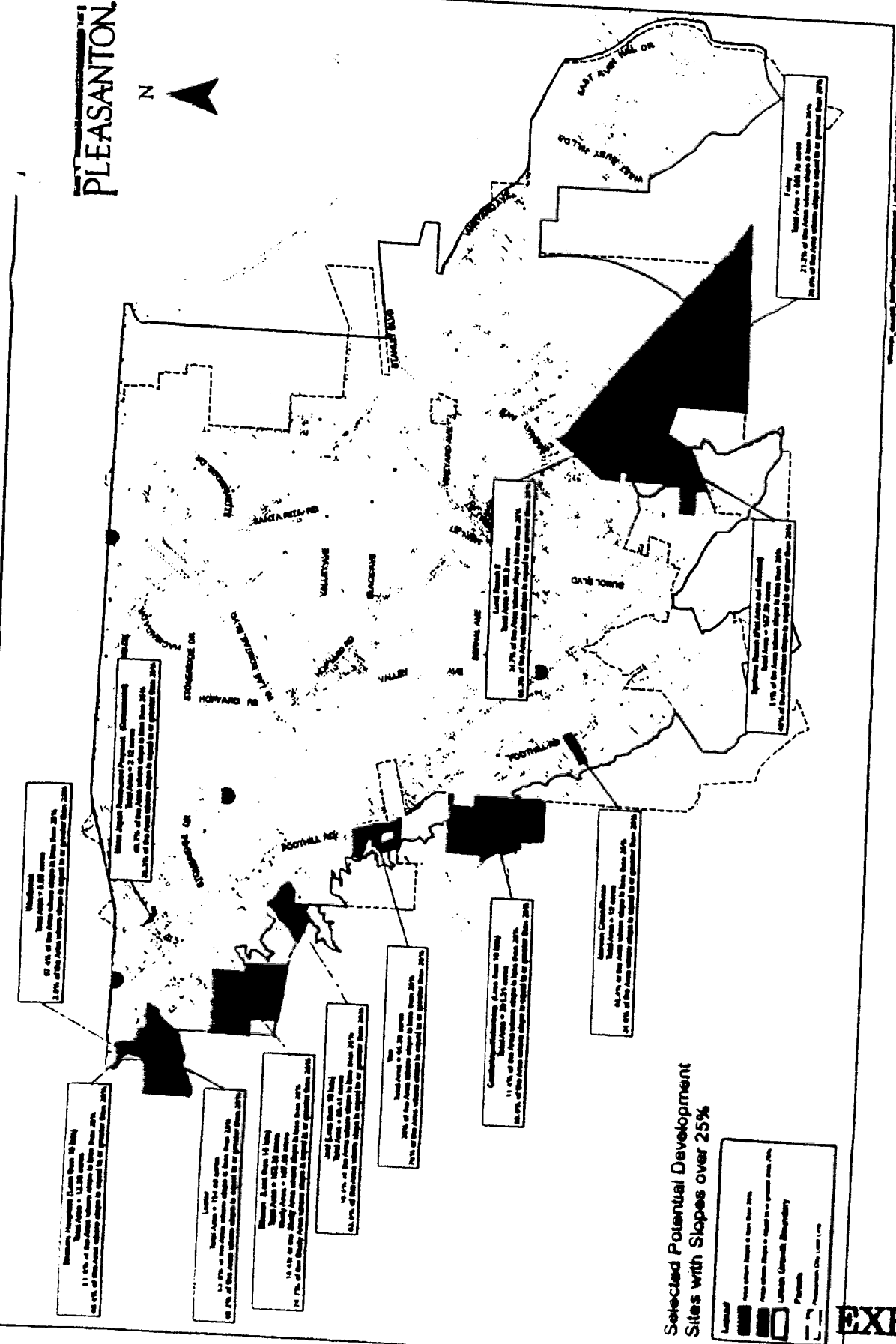
**Group Quarters** - A group quarters is a place where people live or stay other than the usual house, apartment, or mobile home. Two general types of group quarters are recognized: institutional (for example, nursing homes, mental hospitals or wards, hospitals or wards for chronically ill patients, hospices, and prison wards) and noninstitutional (for example, college or university dormitories, military barracks, group homes, shelters, missions, and flophouses). Group quarters may have housing units on the premises for staff or guests.

Page Last Modified: August 24, 2004

<http://www.2010census.biz/population/www/cps/cpsdef.html>

X:\LS\Save Pleasanton's Hills & Housing Cap Initiative\Census household definition.doc

PLEASANTON



**Woodlands**  
 Total Area = 2,200 acres  
 17.4% of the Area within slope is greater than 25%  
 3.8% of the Area within slope is equal to or greater than 25%

**East Pleasanton**  
 Total Area = 1,700 acres  
 14.7% of the Area within slope is greater than 25%  
 3.1% of the Area within slope is equal to or greater than 25%

**Leisure**  
 Total Area = 1,300 acres  
 13.4% of the Area within slope is greater than 25%  
 2.7% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 1,100 acres  
 14.4% of the Area within slope is greater than 25%  
 2.7% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 850 acres  
 14.4% of the Area within slope is greater than 25%  
 3.1% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 650 acres  
 20% of the Area within slope is greater than 25%  
 7% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 500 acres  
 11.4% of the Area within slope is greater than 25%  
 2.4% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 400 acres  
 14.4% of the Area within slope is greater than 25%  
 3.1% of the Area within slope is equal to or greater than 25%

Selected Potential Development Sites with Slopes over 25%

**Legend**

- Shaded Area: Potential Development Sites with Slopes over 25%
- Outline: City Boundary
- Line: Major Road
- Line: Minor Road
- Line: Waterway
- Line: Utility
- Line: Other

**Woodlands**  
 Total Area = 200 acres  
 21.7% of the Area within slope is greater than 25%  
 4% of the Area within slope is equal to or greater than 25%

**Woodlands**  
 Total Area = 1,000 acres  
 11.4% of the Area within slope is greater than 25%  
 2.4% of the Area within slope is equal to or greater than 25%





20. Review, discuss and provided direction to staff regarding Hillside Protection Regulations

Special Projects Manager, Jerry Iserson gave the staff report, stating the purpose of the item is to review, discuss and provide direction to staff regarding potential hillside protection regulations. He said the submittal of the Initiative creates the opportunity to discuss policies and regulations and considers if new regulations are warranted. He said staff would review existing policies and regulations, discuss the potential policies as proposed in the proposed hillside Initiative, identify issues for consideration, and also identify options and receive Council direction regarding a public review process.

He discussed areas where hillside protection currently exist such as the Measure F area, Southeast Pleasanton Hill area, Foothill Road designations, areas where potential landslides may occur, and the Land Use Element through health and public safety zoning. Policies where hillside protection exists include the Public Safety Element, Conservation and Open Space Element, the Community Character Element, a future Ridgeline Protection Ordinance and Scenic Hillside Design Guidelines, the West Foothill Road Corridor Overlay District, and the PUD process.

The existing policy focuses on ensuring the stability of slopes and safety of hillside development and is keyed into the 25% slope, which is present in the hillside Initiative. There are also policies to preserve topographical features, natural land forms of hilly areas, open space and trees, reducing visual impacts, promoting views, protecting habitat areas in wildlife corridors and allowing development that is consistent with those policies and honoring the development of property rights consistent with the General Plan.

Mr. Iserson said the Council has the option of adopting the Initiative or submitting it to the voters; it seeks to amend the General Plan by adopting policies which would not allow grading, to construct structures on hillside slopes of 25% or greater, no development would be allowed within 100 feet of a ridgeline and it would exempt developments of 10 units or fewer. He provided an example of what a 25% slope looks like and examples of properties with such slopes.

Questions could include what areas are subject to the new regulations and whether all hillside areas should be under the protection of a hillside regulation; should it apply to the Vineyard Corridor; if the objective is to preserve views and wildlife, would it make sense to consider all projects rather than setting units at 10 or fewer, as there are many that include land with 25% slopes or more in them; would it apply to structures only on 25% or greater or would it apply to

any grading on slopes of 25% or greater; would restrictions apply to the building pad or would it apply to the entire lot; and, how a ridgeline should be defined.

Mr. Iserson presented a map of properties and described those that might be affected by a hillside restriction, stating that all properties within the City were not included, but more of those major properties yet to be developed in the hillside areas. He illustrated existing developments and how they would relate to the slope on the site and overlays of proposed development, noting there is also the question of style of grading, which is dependent upon the design of the home, lot configurations, slopes, changes in topography, the desire for flat rear yards, split pad lots, building on natural slopes. Another issue is FAR methodology, which can be based on the entire parcel. Examples include reducing limits for highly sloped areas and discounting areas over a certain slope percentage; or, creating a building envelope within the parcel allowing that area to be graded and base the FAR on the building envelope and not the size of the entire lot. There can be disagreements on measuring FAR, slope banks and the base of hills, and moving to a hillside regulation would establish a formula or method for determining FAR and slope.

He said the hillside regulation process is dependent upon how the Council proceeds with the Hillside Initiative; it may want to request staff to do further analysis; pursue hillside regulations to implement, expand or clarify the potential Initiative; the Council might want to establish a process through a task force involving citizens, commissions, or other alternatives used in the past; it may want to consider what the final product the Council is looking for; and whatever is adopted can always be placed on the ballot for voter approval.

Mr. Iserson said the recommendation is for the Council to consider issues relating to hillside regulations and provide feedback and direction to staff, provide direction on the public process and the context of the Initiative process, and also to take advantage of requesting more information from staff on potential impacts of hillside regulations.

Mayor Hosterman said she realized after hearing the presentation that the City already has a number of protections in place that previous Councils have acted on relating to development in the hillsides. Regarding Mr. Iserson's presentation where potential development is proposed but where this Initiative would likely not cover, she asked what properties would be covered. Mr. Iserson said it may be very few, many properties are exempt due to having 10 units or less, and it depends on remaining properties as to where they decide to propose the homes.

City Manager Fialho said the reason the item was placed on the agenda was in response to a request by the Council to explore ways to initiate a City-sponsored Hillside Protection Ordinance or regulation. This provides good foundation for the next discussion which is either to call for the election, adoption, or additional study.

Councilmember McGovern confirmed the Council has a priority to develop a hillside ordinance. She believes there is a place in the General Plan that calls for a hillside ordinance to be developed, and Councilmember Sullivan noted it was in the Open Space Element, 5.1. She said many citizens set out that plan in 1996 and said it also included a grading ordinance. She questioned if Mr. Iserson had an illustration of what Oak Grove would look like. Mr. Iserson said he remembered having a sloped map, and Councilmember McGovern asked to obtain a copy of the slope map prior to the discussion, as well as a copy of the PowerPoint presentation.

Councilmember McGovern said she remembers a discussion where in 1986 there was something in the General Plan about 25% slopes which was removed, and there was discussion that it had been there but removed by accident. She asked to see some of the staff reports from those Planning Commission meetings to assist in her decision-making, and believed the policy

for Pleasanton should be ongoing and not just looking at specific properties as a way to protect whatever would come in the future.

Vice Mayor Thome referred to engineering data that creates a nexus to a view line, and questioned where the 25% came from. Mr. Iserson said in an area where there are unstable slopes, potential geotechnical or geological issues, there is more of a risk of failure if building on it. Additional study is needed to ensure it is safe and this is where 25% was identified. He said there is no one number that would be applicable in every situation, but it was formulated as an average number that made sense and flagged areas that required further review.

Councilmember Sullivan said he would have assumed there had been significant discussion during the 1996 General Plan regarding the 25%, and Mr. Iserson said the references were actually contained in the General Plan prior to 1996, in the 1989 Plan.

Councilmember Sullivan referred to Policy 5.1 in the Open Space Element which states, "develop a hillside protection ordinance", and he questioned why it was in the PowerPoint presentation and not in the agenda report. City Manager Fialho said the premise of Agenda Item 20 is how to go about protecting the hills--by regulation, ordinance or policy. In the background section of the report, staff covered the tools it had on hand today to protect hillside development, such as Measure F, Urban Growth Boundaries, 25% slopes in the Open Space Element and Public Safety Element. And, this policy is clearly there, but it is not an instrument staff currently utilizes. It is not a separate ordinance that we call upon to consider development on affected properties.

Councilmember Sullivan questioned when the Council would talk about options for the housing cap. City Manager Fialho said the Council's direction was to bring back options on hillside development regulations, Item 21 relates to the Initiative which deals with 25% slopes, hillside development and the housing cap. If more information is needed on the housing cap and how a unit is defined, then the Council should ask for follow-up information on that issue under Item 21.

Councilmember McGovern said she found the grading ordinance under Public Health and Safety, Program 7.5; "Develop a grading ordinance which establishes criteria for evaluating and controlling grading due to development."

Councilmember Cook-Kallio said she wondered how the bypass road the Council approved would fall under this, and Mr. Iserson said this was one of the questions to address because it may apply only to roads or to 25% sloped lands where housing would be built upon. She questioned what happens to permits and entitlements already granted prior to this. Mr. Iserson said generally, if the Council has approved a development and found it consistent at that time, it is legal. She believed there was a project issued many sewer permits, and City Attorney Roush said the representation is there have been sewer connection fees paid for a certain development on the Lund property and there would be a question as to whether the payment of this vests that property owner to allow a certain amount of development to go ahead, which is an open question and not something that can be resolved tonight.

Councilmember McGovern referred to the various pictures of developments on page 6 of 9, and said one of the concerns is that the ridge tops seem to be flat or less slope than the sides of getting to them. Even though they are flat, most people do not want houses on top of the ridge tops but she believed this is what was occurring with some projects. She said many homes do stand out and the problem is that slopes were graded to get to the flat top which was on top of a ridge. So, the Council should probably look at restricting building to something like 100 feet.

Councilmember McGovern referred to the west Foothill overlay and confirmed with Mr. Iserson that this was an ordinance approved by the Council, and that a majority of the Council could change this to remove it.

Mayor Hosterman invited public comment.

Mary Roberts said protections have been in place and what the Council is doing right now is an after-the-fact action, given what has occurred with Oak Grove. One of the reasons the Council did not move on at the time was because property owners and neighbors were still in discussions regarding the Linn property and it was the Council's preference to see the conclusion of negotiations rather than introduce a new land use policy at that time. Then the Initiative came along.

Patrick Castanos, Greenbriar Homes, said the City regulates hillside development, encourages preserving trees and habitats, many existing regulations were the result of well-thought out processes and if it is determined additional regulations are needed, a similar process should be used to create such regulations. He encouraged the Council to create a process to create city-initiated hillside protection regulations to augment existing policies and place this on the ballot in November. He believes the PUD process has been successful, believes the vague initiative presented tonight threatens such carefully planned communities and discussed location of units and issues affecting their development.

Anne Childs supported an Initiative on the ballot in November, expressed her personal admiration and thanks to Councilmembers McGovern and Sullivan who have been supportive of putting the issues out for public scrutiny.

Bill Hirst said he along with 8 other families have owned the Castle Ridge properties for many years, urged the Council not to adopt a regulation that would deprive them of the opportunity to construct up to 9 homes on the property which consists of 230 acres and he urged the Council to reject the option reflected in the bullet on page 5.

Kevin Close voiced concerns which included streets and roads getting to developments in the 25% slope restrictions, the Happy Valley Specific Plan, the bypass road for the golf course, and the proposed development in the flat areas, as even the alternate route will be graded at greater than 25% slope. He said the bypass road is mitigation for the development's homes and the golf course and the developer only has rights to 102 units if it dedicates 50 acres of dedicated open space.

Karla Brown said the Initiative qualified and it will be on the ballot in November, said voters need the ridgeline ordinance a part of the General Plan, discussed protections needing to be in place and Oak Grove development slopes.

Carolyn Newton urged the Council to approve the proposed hillside Initiative and if there is a delay, developers will rush to move forward and get their plans approved, expressed her appreciation to Councilmembers McGovern and Sullivan for their work in saving the City's hills.

Julie Testa thanked staff for the visual presentation of what a 25% slope looks like, supported a hillside ordinance, and said the citizen activism process corrects the oversight of the restrictions currently in place.

Brad Hirst said he represents Dr. William Yee and they have an application in for 6 lots down from 17 lots and a vesting tentative map for 14 lots. They filed an application in May 2007 but have not had a public hearing yet. He believes looking at development on a case-by-case basis is best, discussed three flat properties where he believes no building should occur and said critical is geotechnical consideration, as this is why regulations are contained in the Health and Safety Element. He said in 1968, 670 feet was the highest elevation of a house in Castlewood Country Club served with water and many numbers are arbitrarily based. He encouraged the Council to follow staff's recommendation and get expert information prior to putting any Initiative on the ballot.

Kay Ayala said the Initiative has qualified for the ballot and this Council has three options—1) adopt it, 2) put it on the ballot, and 3) put it out for a 30-day study. She fully intends for the Initiative to be on the ballot and if the City wanted to do its own hillside ordinance, the City would need to do an EIR and not make it to the November ballot. She read from the Initiative exactly what it does, said Oak Grove jumped ahead of two other developments and fast tracked and discussed her opinions on the project.

Scott Raty, Chamber of Commerce, said not only was Oak Grove four years in the process, there are more conditions of approval for the project than were conditioned on the Hacienda Business Park, felt there were great current neighborhoods that could serve as not one-size-fits-all examples, asked the Council to put the Initiative on the ballot, believed it is challenging and complicated and it makes sense to look at the history of what has been done in the past. He read page 3 of the staff report regarding developer dedications for open space, bond measures, corporate personal donations, federal and state funding programs, and felt if we are to achieve permanent open space, it must be through examples like Oak Grove. He believes staff should pursue Option C for 30 days and decide whether there should be two measures or one measure on the ballot.

Mayor Hosterman closed public comment.

**Break:** Council took a 4-minute break and thereafter, Mayor Hosterman reconvened the meeting.

Councilmember McGovern questioned if there were definitions of "slope" in the General Plan and could there be definitions of a "ridgeline." Mr. Iserson said the definition of slope is in the Land Use Element and ridgeline could be added.

Councilmember Cook-Kallio questioned if the definition of a slope describes where it starts and ends, and Mr. Iserson said it was more like a mathematical definition. Councilmember McGovern said the definition is for 100% slope and this does not mean definitions could also be included to identify things in Item 20.

Councilmember Sullivan said there has been comments about 10 units being exempt, and he questioned did that mean if there was a project more than 10 units, they could reduce it to 10 and build on top of a hilltop. Mr. Iserson said if any project has less than 10 units, they could, but there are other regulations in the General Plan, a PUD process would define conditions and necessarily could condition where the homes are built.

Councilmember Sullivan said he objects to the process, does not believe it mirrors public processes followed in the past. Mayor Hosterman said her intent was to allow Councilmembers who felt they had difficulty in separating the issues to make comments on both issues simultaneously.

Councilmember Sullivan said it was disconcerting that many people have left. Regarding the West Foothill Overlay guidelines and when he was working on the General Plan, he saw many projects approved that the Planning Commission either denied or put conditions on that the Council then turned around and approved, sometimes with and without imposed conditions. They went through an extensive exercise in reviewing those guidelines and trying to strengthen them because they believed they were not complied with at the time, and their recommendations died somewhere in the process. He felt the matter is a divisive issue in town, doing initiatives and referendums is not easy or fun, and if people are going to this level of effort and obtain signatures enough to qualify, it should tell the Council something. Policy 5.1 says we should develop a hillside ordinance, so even with these other protections, people decided this is something that should be done.

Councilmember Sullivan said he supported the approach on Oak Grove which had the same goal in protecting the ridge lands, but 5,000 people did not like that process. He suggested engaging the Initiative writers to work through issues, have a broad-based community task force, and by placing a City Council sponsored measure on the ballot and creating some competing measure would widen this divide and disenfranchise people more. He supported holding the 30-day study, form a community task force, bring back answers to questions, and if it is satisfactory to the Council and to the community task force, to move forward.

Vice Mayor Thorne agreed, believed there were good questions in the staff report and he would need answers to them, but he was not sure about having the process to formulate something to go on the ballot would be divisive. He felt it would provide people with an alternative of the public process used and put that on the ballot, but he would like to see what that looks like before agreeing to it.

Councilmember McGovern felt there is definite concern in the community that there are things already contained in the General Plan and Specific Plan and the word "flexibility" keeps coming up, which means a change can be made, and sometimes large changes. What some people are looking for is that some of that flexibility goes away and they want assurances that ordinances passed have a lasting effect on development. She said Measure F was a positive initiative that impacted the western ridgelines, felt the public is happy with it, and she is looking forward to having the Council do something with both the hillside ordinance and grading ordinance. She believes the Council needs to look at policies that affect the ridgelines within the sphere of influence and any lands that could increase the size of the community and is worried that consensus will not be reached through formation of a task force unless there is open-mindedness.

Councilmember Cook-Kallio said she agrees there should be open-mindedness and thought that questions put forth in the staff report regarding considerations illustrate how complex the issue is. She supported including everyone who has a stake in the matter, thinks the Pleasanton ridgeline is geographically different than the Southeast hills and should be treated differently, her interest is to ensure everyone is heard, believed this issue was intertwined with Item 21 and suggested waiting for that item to be discussed.

Mayor Hosterman believed the Council is fervently supportive of hillside preservation, but how it addresses it in the southeast hills is very different than how the Council has addressed the Pleasanton Ridge. She would like to see an economic analysis as to what the Initiative would do, get a clarification on General Plan policies, more analysis as to options the Council can take, and a city-initiated document, as the initiative is extremely clumsy and confusing. She wants the opportunity to engage the entire community in a discussion about hillside preservation and not be reactionary to a few people who came up with the Initiative's language. She wants

language that is legislative in nature and language which can be implemented by the City. She also wants more clarification as to property rights and suggested moving forward and discuss Item 21.

21. Received certification for the Initiative petition to "Save Pleasanton's Hills and Housing Cap" and directed staff to prepare a report on the effects of the Initiative measure

City Attorney Roush said last year an Initiative Petition was submitted to the City and filed with the City Clerk. In April, the petition was turned in, and forwarded to the County Registrar of Voters, who confirmed the requisite number had been received, the City Clerk certified it, and now it is before Council for certification. Following this, there are three choices—1) to adopt the Initiative as submitted; 2) place the Initiative Petition on the November 2008 ballot; or 3) request a report on a number of matters which is to be returned to the Council in 30 days for consideration and decision to either adopt it as written or to submit the matter to the voters.

The report can include any matters, but more specifically, it could talk about the Initiative's fiscal impacts, its effect on the internal consistency of the City's General Plan and its elements, its effect on land use, the impact of availability and location of housing, the ability to meet regional housing needs, impact for funding of infrastructure, impact on the community's ability to attract or retain business, the impact on uses of vacant parcels of land, its impact on agricultural land, open space, traffic, congestion, and any other matters the legislative body requests be in the report.

Therefore, if the Council is not prepared to adopt or refer the matter to Election, staff would request direction in terms of what the report should provide, which can be brought back at the June 17 meeting.

Councilmember Sullivan confirmed with the City Attorney that staff could take all questions and issues that had been raised from the public, staff, and the Council and provide analysis. He said he submitted questions regarding a housing cap and asked for them to be included in the study. The questions deal with the number of units that exist now and how the City has counted units in the past, such as second units and assisted living units.

Vice Mayor Thorne asked how the Initiative defines a "housing unit" and what is its nexus to its impact on infrastructure and the school district. City Manager Fialho said this was on the list and there is ambiguity as to how the State defines it, said staff has worked on the U.S. Census who considers the City's assisted living facility as a "group living quarter" and not a "unit" and not the way the Initiative has defined a unit. He said the housing cap in the General Plan is vague and states units will be counted up to 29,000 residential.

Vice Mayor Thorne said when the City looked at assisted living units for Staples Ranch, a formula was reviewed that drew a nexus between the number of units we were going to count under the cap and the recommended number we were going to count in the cap and its actual impact on the infrastructure and schools and other things. This is what he is looking for, and City Manager Fialho said staff will try to pull something together to address this.

Councilmember Cook-Kallio said according to the Initiative, an extended stay hotel would count toward the housing count. City Manager Fialho said the issue is, how the Initiative changes the way staff goes about counting units. Today, the only exemption the City offers is second units, assisted living, and skilled nursing. Everything else is counted.



Councilmember Cook-Kallio questioned if this was consistent with State law and City Attorney Roush said there is not necessarily a state definition; that what the City has tried to do is to look at whether the unit really impacts the City's infrastructure and the Council has concluded that assisted living facilities does not have a significant impact on infrastructure the same way a single family home or multi-unit development would have.

Councilmember Cook-Kallio said if there was a senior facility for people 55 years or older, with no automobiles or children, the impact would be almost nothing and the increase in the business community might be significant, and City Attorney Roush said there might be an argument for that. Mr. Iserson said other impacts include operational characteristics, such as employees, taxes or fees paid, and zoning goes into the equation.

Councilmember McGovern said one of the reasons the Initiative puts the housing cap in there is because people believe that people 55 and older, if they live in a residence with a kitchen and bath, it is a housing unit, and they should be counted without exceptions. There has also been discussion that affordable housing should not be counted toward the cap as well as others. She thinks there should be a definition for this. Regarding a second unit having a separate address, water meter and billing for sewer, she confirmed with Mr. Iserson that those are not counted toward the cap because State law precludes this. She therefore asked to have a distinction made for second units in order to further understand this better. She also suggested that additional definitions be added to the General Plan to clarify certain areas.

Mayor Hosterman invited public comment on the item.

Lance Smith, Corporate Counsel of Greenbriar Homes, requested the Council not adopt the Initiative as presented tonight; follow recommendation C of the staff report to study the fiscal and legal effect of the Initiative as permitted by Election Code 9212, to present the Initiative to the voters after such study has been done. He also urged the City to establish a process to create City-initiated ridgeline protection regulations to augment the existing policies discussed tonight through a separate ballot measure. He presented a letter of the factual, practical and legal concerns they have with the current initiative and asked for it to be entered into the record. He said the Initiative lacks key terms, there are broad interpretations which could result in severe development restrictions where no exist in today's developments, believe their proposed development could be negatively impacted by the Initiative, and intent language that falls below the line is not the controlling language but the language above, which amends the General Plan. He believes a careful review period will corroborate a number of their concerns, asked the Council not to adopt the Initiative, but to present it to voters after the 30-day review, and asked for a City-initiated Initiative or ordinance be developed which addresses questions raised tonight.

Brad Brownlow, Cox, Castle and Nicholson, Counsel of Greenbriar Homes, is pleased that discussion started on Proposition 98 which crystallizes their primary concern—that often voter initiatives have a scope that are far broader than the rhetoric of the proponents might have the voters believe and it is necessary and appropriate for the Council to order a study on the report so they can get a full understanding of operative terms, ambiguities which might characterize those terms so voters are fully informed. He felt the full scope of the Initiative is much broader than restricting development of single family home sites. He requested that the public and Council testimony given on Item 20 be incorporated into the record for Item 21. He said exemptions only applies to legal parcels as of January 1, 2007, such legal parcels may be subdivided into 10 or fewer parcels for a housing development, but when reading the precise language, it does not exempt that. It exempts housing developments for 10 or fewer housing units on a single property that was a legal parcel as of January 7<sup>th</sup>, and it does not permit one to

subdivide legal parcels as of January provided that subdivision is for 10 or fewer units. He presented a letter to the Council, asked for the Council not to place the Initiative on the ballot and asked study be done.

Lee Fulton said one thing said over and over is that Oak Grove is the result of exhaustive negotiations with communities. Vintage Hills and Gray Eagle were never included in any negotiations, but with three owners of Kottinger Ranch Homeowner Association and the developer. He personally requested to be included in negotiations early on, without success. He urged the Council not to make the illogical conclusion that since 5,000 voters signed the Initiative, the rest of the voters must not be for it.

John Chapman, Greenbelt Alliance, said they had some debate on the issue, do not feel supportive of the Initiative, they are supportive of the fact more protection is needed for hillsides and believes the process should be public and involve City staff and experts. He believes the Initiative is vague and simplistic and clumsy, said the answer is to do it as a City process to come up with a good Initiative that is tight or better than the one proposed. Also, they are very uncomfortable with housing caps, does not believe in planning by housing caps particularly when it involves a transit-oriented development which is important for climate change and reducing congestion and believes that if the City comes up with a good Initiative, their organization would support it.

Marty Inderbitzen supported the Council studying the matter for 30 days and asking staff to prepare a report according to the Elections Code, believes it is not the intended consequences of the proposed initiative that anyone is concerned about, but the unintended consequences. He said staff did an excellent job outlining many policies and goals in the General Plan that speak to hillside protection, and while no specific ordinance has come forward, the Council has a process of PUD ordinances that is specific to each property. In each case, the Council has reviewed individual plans and those properties are well-protected and asked for the process not to be abandoned.

Mayor Hosterman closed public comment.

Councilmember McGovern supported the 30-day study and for directing staff to prepare a report on the effects of the Initiative. She said when the Initiative is put on the ballot, she confirmed the City Attorney could provide an impartial analysis of the Initiative which could include information regarding fiscal impacts within the 500 word limitation. She questioned and confirmed that if he could provide this when information is brought back under Item C so the Council could review it. She confirmed with the majority of the Council that there was not support for placing the Initiative on the ballot without additional information, and there was support for Item C; to direct staff to make a report on the effects of the Initiative measure, and she confirmed with the City Manager that there was adequate direction as to what the report should entail.

Councilmember Cook-Kallio believed there was also a third choice, a competing Initiative or ordinance on the ballot that is more deliberative. She is frustrated by this being characterized as divisive, did not believe anyone was being malicious, she respects the activism but was bothered by the lack of deliberation when doing an Initiative and it looked as if it was cut and pasted from the Pleasanton Ridgeline Initiative, and she felt this was a bad way of making laws. She would like analysis on how this may affect Staples Ranch or Hacienda or affordable housing. She also would like to see all properties affected by the Initiative, the fiscal impact of this, she would like to see an ordinance crafted by the first part of August, but in the absence of this, she would like an Initiative on the ballot that includes all stakeholders.

Councilmember McGovern questioned how long development would be held up if the City developed a hillside or grading ordinance through a City-initiated process, and City Manager Fialho said it would not be consistent with the way the City addresses its ordinance and he believed it could take 6-12 months. Mayor Hosterman believed we could have language that re-affirms language in the General Plan in order to give people the opportunity to say yes to a deliberative process versus future Councils having to grapple with bad language. City Manager Fialho said he heard Councilmember Cook-Kallio say, a measure to an alternative that would describe a process that eventually would be ratified by the voters, but Mayor Hosterman say, can you put up by way of a measure, existing General Plan policies in place as an alternative to the Initiative, which are two different things. He said this can be done and can be part of the 30-day process, if directed to do so.

Councilmember McGovern felt if the Council uses what the public has put forth and better define items, it would augment the Initiative. Councilmember Sullivan believes there is a split community on these issues, there is a right and wrong way to do this, we need information from the report to make a decision, and his original thought about a task force was to bring people together to arrive at an implementing ordinance and Initiative authors would like to participate in this. But, if we put something competing on the ballot, we would drive a wedge between those authors and a Council-driven process.

Councilmember Cook-Kallio said Council could put something on the ballot that clarified the Council's intent which could include stakeholder comments. Councilmember Sullivan confirmed that this process could be done prior to putting something else on the ballot in order to have a cooperative measure. Councilmember McGovern supported coming back in a way that is not competing but rather an adjunct to what Initiative the people put forward.

Mayor Hosterman said understanding the language in the Initiative cannot be changed, it will either be adopted by the Council or it will be placed on the ballot. For the Council to have an opportunity to have a deliberative process that is all inclusive, she believes we should ask staff to come up with language opportunities that would allow the Council to do this and would make clear to the community the Council's intent is to put together a hillside ordinance that we can implement and that future Councils can support. She confirmed with Councilmembers that they were amenable to looking at the language opportunities to use on the November ballot as well as directing staff to prepare a report.

Vice Mayor Thorne confirmed there were time limitations to place an item on the ballot and supported putting something on the ballot that defines a process and identifies the Council's intent.

Councilmember Sullivan said the entire ordinance would not need to be developed by the time it needed to go on the ballot, but rather work through issues of consistency and work with the stakeholder group, because he was not supportive of a competing measure.

Mayor Hosterman said she does not want a competing measure but wants to engage the entire community in the process. She does not think this can be done in the next 30 days, but the City can put additional language on the ballot which gives people the opportunity for people to go in a different direction and she believed this is important. City Manager Fialho voiced caution in how the City approaches it, as it is bound by CEQA laws. He confirmed that the Council wants, in addition to the Section 9212 analysis, to come up with conceptual ideas for how there might be a complimentary and alternative measure that further refines the Initiative which the Council can debate and discuss when the matter returns in June. He suggested holding off on the City Attorney presenting an impartial analysis, as this is difficult without a Section 9212 report.

Councilmember McGovern said she would prefer having the impartial analysis and City Attorney Roush said he could put forth a draft impartial analysis.

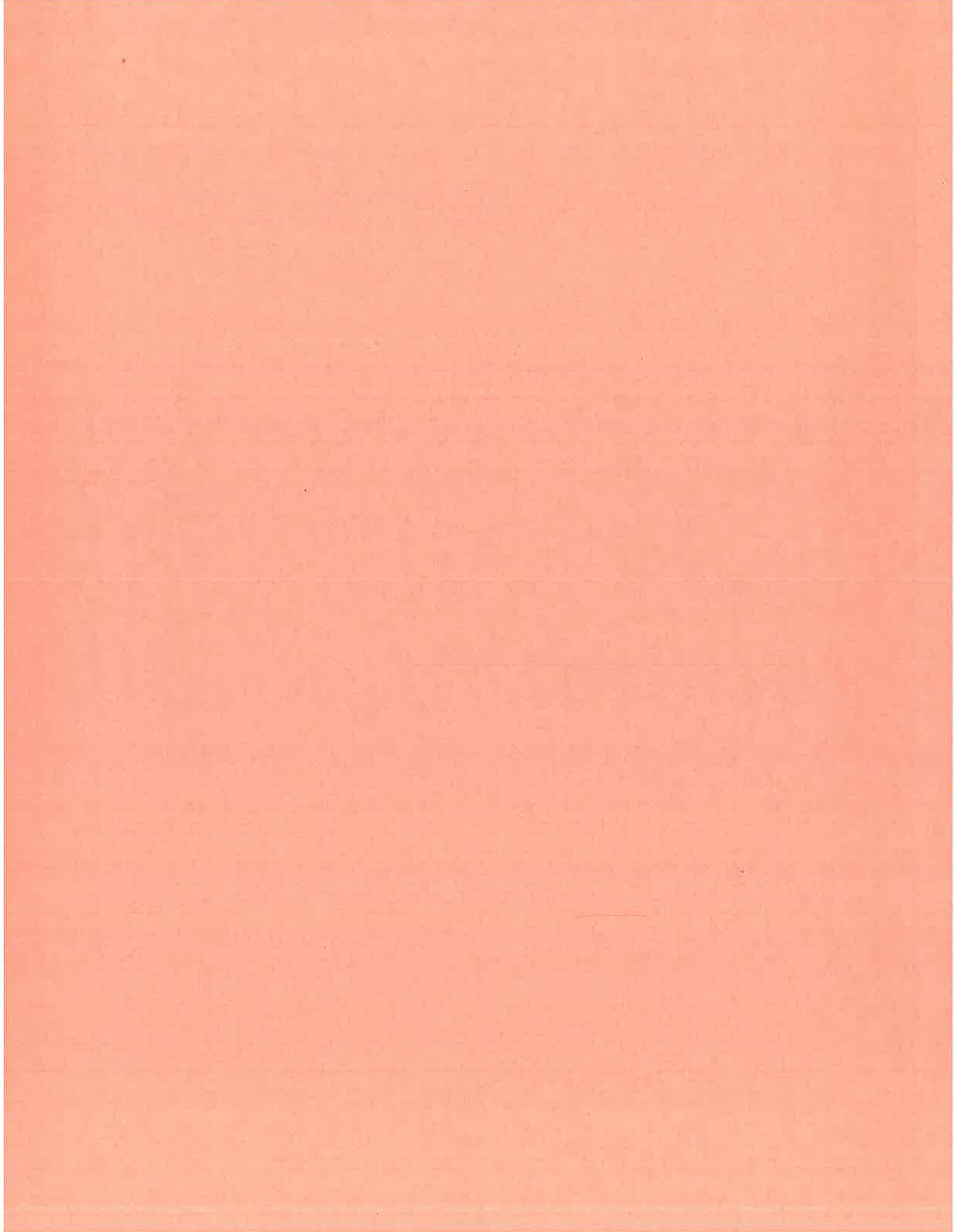
Councilmember Sullivan said he was still concerned with a competing measure because he does not believe it is good public policy and he would hope answers received in the 30-day report would reveal a clearer path.

**Motion:** It was m/s by Cook-Kallio/Thorne to direct staff to prepare a Elections Code Section 9212 analysis of the Initiative, to return with alternative language that would help clarify a hillside ordinance to be considered in conjunction with whether or not the Council adopts the Initiative or puts it on the ballot in November. Motion passed by the following vote:

**Ayes:** Councilmember Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
**Noes:** None  
**Absent:** None

City Manager Fialho clarified with Council that a draft impartial analysis will come forward as part of the normal Election process.





The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial statements. This includes not only sales and purchases but also expenses and income. The document also highlights the need for regular reconciliation of bank statements and the company's records to identify any discrepancies early on.

In addition, the document provides a detailed breakdown of the accounting cycle, from identifying the accounting entity to preparing financial statements. It explains how each step contributes to the overall accuracy and reliability of the financial data. The document also includes a section on the classification of assets and liabilities, providing examples and explanations for each category.

The second part of the document focuses on the practical application of accounting principles. It includes a series of exercises designed to help students understand how to record and journalize transactions. These exercises cover a wide range of scenarios, from simple sales and purchases to more complex transactions involving multiple accounts and adjustments. The document also provides a step-by-step guide to preparing a trial balance, which is a crucial tool for checking the accuracy of the accounting records.

Finally, the document concludes with a summary of the key concepts and principles covered in the course. It emphasizes the importance of attention to detail and the need for thoroughness in all accounting work. The document also provides a list of resources for further study and a glossary of key terms.

**MINUTES  
CITY OF PLEASANTON  
SPECIAL CITY COUNCIL MEETING  
June 26, 2008**

**CALL TO ORDER**

Vice Mayor Thorne called the special meeting to order at 6:30 pm on behalf of Mayor Hosterman who arrived late. Vice Mayor Thorne led the Pledge of Allegiance.

**Roll Call**

**Present:** Mayor Hosterman (arrived at 7:00 p.m.), Vice Mayor Thorne, and Councilmembers Cook-Kallio, McGovern and Sullivan

**Absent:** None

Vice Mayor Thorne discussed the special meeting stating the only item to be presented would be the analysis of the impacts and effects of the Save Pleasanton Hills and Housing Cap Initiative and other hillside regulation issues.

**Receive Report Analyzing the Impacts and Effects of the Initiative and Consider Implementation Option**

City Manager Fialho said the requisite number of signatures had been gathered to qualify the Save Pleasanton's Hills and Housing Cap Initiative for the ballot. The Council was presented on May 20<sup>th</sup> with three statutory options to consider; 1) adopt the Initiative as submitted; 2) place the Initiative on the ballot for November 2008; or 3) request an analysis of the impacts and the effects of the initiative otherwise known as a 9212 Report within 30 days.

At the May 20<sup>th</sup> meeting, the City Council took action on option number 3. In addition to what is allowed by law to be analyzed, the Council also requested that staff respond to questions posed by the Council and the community at the May 20 meeting. In addition, council discussed whether to have a Council-sponsored initiative on the November election.

As a result of further Council discussion on June 17, Council will need to decide whether to place its own initiative on the ballot or to simply do nothing and allow the citizen's Initiative to move forward on its own merits. If the Council directs staff to prepare a Council sponsored measure, the proposed ballot question would be brought forward to the Council on July 15, which is the same date the proposed ballot question and schedule for submittal of arguments pro and con for the citizens Initiative will be made.

Assistant City Attorney Larissa Seto discussed the 9212 Report. She stated that at the May 20 meeting, the City Council asked staff to return with a 9212 Elections Code Report to analyze the impacts and effects of the Save Pleasanton Hills and Housing Cap Initiative. The report analyzes several elements, including how the Initiative could impact land use in the community, as well as the impact on and the consistency with the City's General Plan and any related specific plans. Staff also looked at what the potential impact would be to businesses and employment in the community, and analyzed impacts to vacant land, transportation, open space, and agricultural issues. All questions were answered which had been raised at the May 20<sup>th</sup> meeting regarding other hillside regulations and the report ends with a fiscal analysis of the citizen's Initiative.



She said the Initiative proposes two different policies to be added to the General Plan; 1) a policy regarding hillside development; and 2) a policy regarding housing units. For the policy regarding hillside developments, the Initiative prohibits housing and structures on slopes of 25% or greater, or within 100 feet of a ridge line. The Initiative also prohibits grading and construction of residential or commercial structures on 25% or greater slopes or within 100 feet of a ridge line. But, the Initiative does have an exemption for projects of 10 or fewer units.

The second element of the Initiative relates to housing units, the definition of which is any unit which includes a bathroom and a kitchen. The Initiative specifically says a kitchen is where there is a sink, a cooking device, and a refrigerator. And a bathroom is where there is a toilet, tub, or shower.

Regarding the report's analysis of the hillside policy, the hillside policy will have effects on development in the community specifically that housing developments will be reduced in the hillside area. And, because the Initiative was not specific about what was a hill area based on its discussion about steep slopes and ridge lines, it will apply to the areas west of Foothill Road, Happy Valley and North Sycamore. It is estimated that approximately 119 to 224 units would be not developed in the hill areas based on the Initiative, and this was based on staff's analysis of the slopes in those areas, as well as what staff understands the term ridge lines and other development limitations.

The Initiative, while it would reduce housing units in the hill area due to its restrictions, would have a limited impact because the Initiative itself includes the provision that housing developments of 10 or fewer units are exempt from the Initiative.

As discussed in the report, these units do not simply disappear from the community, but rather they would move to other areas of the community, more likely flatter, infill areas such as Hacienda Business Park, or other areas where there is already potential redevelopment such as the downtown. These are not what staff would call classic density transfers. The property owners in the hillside area do not receive a benefit from the reduction in density, rather the density simply moves by the nature of the Initiative without any credits being provided to those property owners in the hill area.

The report indicates that because the number of units being changed isn't a large number compared to the total number of units citywide, there is not a citywide traffic impact.

In studying the hillside Initiative policies, there was a discussion about the definitions in the policy and how those would be implemented in the community with a need to define slope, ridge lines, and structures, as well as determine what would be the effect of the Initiative on different types of development, particularly with regard to hillside roads and how the language of the hillside policy would be interpreted and applied. The report recommends that Council would need to consider adopting or implementing an ordinance to clarify these regulations and policies, including adopting specific definitions for issues such as slope, ridge line, and structure, and describe a method to actually measure slope as well as address all the issues that were discussed on May 20 regarding hillside development. Issues were also raised regarding grading styles and split pad or flat pad, how to determine building heights, water issues, visibility, and floor area ratio.

Ms. Seto said in addition to hillside policies, there are issues regarding housing units which is second part of the report. And then the issues about how the language of the Initiative would apply to second units, assisted living units, or extended stay hotel rooms. The Initiative tells the

reader to reference the U.S. Census Bureau and State law definitions of a housing unit to help provide guidance on that area. And when those areas were looked at for their definitions, there was an emphasis that in those types of housing units, as defined by the Census Bureau and State law, occupants live separately and have independent living. When taking a look at that definition and applying it to the City's existing practice, staff realized that it currently counts single family homes, townhomes, condos, mobile homes, below market rate units, and senior housing towards the City's housing cap. However, staff does not count second units, because they are specifically exempted by State law. Therefore, even though the Initiative says that if it includes a bathroom or a kitchen, State law would still prevail and would pre-empt the Initiative as to its application to second units.

The City's current practice with regard to assistant living units is that it considers those commercial types of uses because there are employees and services provided there, such as medical assistance or meal plans. Similarly, with extended stay hotels, staff has not counted rooms at those hotels toward the housing cap because those are considered temporary residences for individuals who are not trying to establish permanent residency. Rather, persons are there on a temporary assignment, usually business-related.

Overall, if the Initiative's definition of housing cap were interpreted to apply to either assisted living units or extended stay hotel rooms, this would have an impact on the City's housing cap by decreasing the total number of units available under the housing cap. As the report indicates, as of January 2007 there were 26,245 units existing or approved under the City's 29,000 unit housing cap. If in the future additional units are counted, based on the application of the Initiative, such as assisted living units, or extended stay hotel rooms, this would decrease the number of units available under the housing cap, and that would have fiscal impacts on the City.

Economic Development Fiscal Officer Emily Wagner stated that the Initiative had two elements to it and, therefore, staff analyzed each one of those separately—the hillside development restrictions and the definition of a housing unit. Staff analyzed the fiscal impact on the City's General Fund, the annual net operating revenues, as well as one-time infrastructure fees paid at the building permit stage which fund the City's capital improvement program. Staff also analyzed the impact on other public agencies. Staff did not look at the impact on those agencies' operating budgets but instead only on the one-time infrastructure fees which are paid at the building permit stage. She noted that the estimates were based on the best available information.

If hillside development is limited, it shifts somewhere between 119-224 homes from the hillside area to the valley floor, or the infill areas that Ms. Seto referenced. Such a shift causes the annual net income to the general fund to be impacted somewhere between a minimum of \$69,000 a year to \$183,000 a year. A hillside home (a single unit) which is approximately 8,500 square feet with a market value at \$3.4 million generates total revenues of about \$10,000 per year and expenditures of around \$9,000 per year. This results in net revenues to the City's General Fund of about \$1,000 annually. These revenues are property taxes and sales taxes, and the expenditures are for fire, police, park, and street maintenance. When comparing those homes to single family homes where the average is 3,500 square feet with a market value at \$1.2 million, the total revenues are about \$5,000 per year and expenditures are around \$4,500 per year, which results in net revenues to the City General Fund of about \$500 a year.

For a multi-family home (or apartment), which is about 900 square feet, with a market value at \$225,000, total revenues are about \$1,000 per year, and expenditures are around \$750 per year, resulting in net revenues to the City General Fund of about \$250 per unit. So if 119-224

homes get shifted from hill side single family homes to smaller single family homes or multi-family units, the impact is somewhere between a minimum of \$69,000 to \$183,000 per year, depending on the assumptions.

Ms. Wagner said staff also looked at one-time development fees. The fiscal impact is a wash for a single family home regardless of the square footage because the development fees are the same regardless of the size. If all the units were multi-family units, the City would receive less in fees, an impact of \$2.8 million. Therefore, the range on the impact from development fees is somewhere from 0 (assuming 100% of the homes were single family detached) to as much as \$2.8 million.

The larger numbers of course are the other agencies and the majority of this is the school district. For cash flow purposes, the school district assumes in its budget 120 homes / year at 3500 square feet. The District is not depending, in its cash flow model, to receive more funds based on a larger single family home. They would still have a loss of revenues as a result of the shift, but it would be less than shown here.

In summary, when discussing the two policies of the proposed Initiative with regard to the hillside aspect, it would reduce the number of housing units developed in the hill area by approximately 119-224 units. Those units would be transferred to other areas of the City. There are questions about how it would apply to various types of development particularly in regard to the issue of hillside roads and how the language of the Initiative would apply there.

Regarding the housing unit definition, how that would apply and be interpreted to assisted living units and extended stay hotels would have financial impacts on the City and other agencies.

Ms. Seto then continued. Regarding the Council wanting staff to return with discussion about complementary and competing ballot options, there are several options that are discussed in the staff report, including one where the Council could proceed with what staff would call a complementary ballot Initiative—a City-sponsored measure for November. The Council could put a measure on the November ballot to ask the community to ratify the idea of a task force, potentially composed of stakeholders of interested parties, to draft an ordinance that would implement the citizens Initiative if that Initiative were to pass. This would address some of the questions that are posed in the report in terms of how to apply it when specific projects come forward.

The Council could also consider a competing ballot matter for the November ballot. One option could be to ask the voters in November to re-affirm the City's existing General Plan policies and regulations and how the City currently handles hillside development based on its ordinances and policies for ridgelines, growth control, and those matters. As a competing measure, if this measure were to receive more votes in November than the citizens Initiative and even if that Initiative were to receive more than 50% of the vote, then the competing measure would control and the other Initiative would not go into effect.

Another option for a competing ballot measure could include posing to the voters whether they would want to establish a task force to develop new policies and regulations for hillside development, grading, and growth control to address some of these issues that have been a concern for the community. As a competing measure, if it were to receive more votes than the citizens Initiative, that would control. Or, the fourth option could be to receive the report and take no further action in terms of considering any matter for the November ballot.

Mayor Hosterman arrived at 7:00 p.m. and questioned whether there was Council support for a clarifying measure to identify major ridge lines and elevations, that would specifically exclude facilities such as roads, trails, and water tanks, and affirming the General Plan language that currently protects the hillsides, similar to Measure F which applies to the Pleasanton Ridge, with the goal to aggressively move forward with developing an ordinance in the next 6-12 months.

Ms. Seto said there would be challenges with identifying major ridge lines, elevations, and how the Initiative would apply, because if the proposal tried to go too far with too much definition, it might call into question the need to comply with CEQA. But if the measure only clarifies, staff might be able to bring that kind of language forward on July 15th.

Councilmember Sullivan spoke regarding the fiscal analysis, stating he wanted to put impacts regarding hillside policy into perspective and compare them to something else to see the real impact. He referred to page 2 of the Report, said the reduction in net revenue per year is \$68,000-\$183,000, and confirmed with Ms. Wagner that if you compare the impact to net revenue, the impact range is from 2%-6% of the annual budget. When compared to the gross annual budget, it's about a 0.1% at maximum. Therefore, the reduction in revenue is fairly insignificant in comparison to the budget.

Councilmember Sullivan questioned the one-time development fees, and confirmed with the staff that the City fees of \$3 million in losses were over a 20-year span, which amounts to \$150,000 per year or a 0.1% of annual gross revenue.

Councilmember Sullivan referred to school fees and confirmed that the school district's cash flow model, which is how they estimate what facilities they need to build, estimated that the City would build only 1,123 more units. They based their fees on a 3,500 square foot house. In looking at the impact of the hillside policy, if 224 units come off the hills and are built in the flats at 3,500 square feet, there is zero impact to the school district's cash flow model. He said what is at stake on the housing cap side are the 396 assisted living units out at CLC. If you take away these 396 assisted living units, there is still no impact on the school districts model because they have only counted on 1123 units being built and the City has 2,000 left under the cap. Neither policy has an impact on the school district's ability to build the facilities they say they need at build out.

Ms. Wagner said the only exception was going back to the hillside homes. If those shifted units were all multi-family, it would have an impact because they are 900 square feet and the school district is estimating 3,500 square feet. There is a \$6 million swing in their impact fees. Shifting to all multi-family homes would have an impact, as they are 900 square feet whereas the school district has been estimating 3,500 square feet. Regarding whether it impacts the model, if the units built are multi-family, they would be getting approximately 1/3 of the fees even if they estimated only 1123 units being built. Therefore, shifting to multi-family would have an impact on them.

Councilmember Sullivan questioned this and thought it would be helpful to clarify those issues beyond what is in the report.

City Manager Fialho agreed that the fees collected will be based on what ultimately gets built; staff had to make some assumptions.

Councilmember McGovern said as a former school board member she thought that school impact fees were to deal with the impact of growth, meaning that if there was no growth there

would be no impact. She had difficulty looking at a loss of funds to the school district when they would not need the funds because they would not need to build schools if development did not occur. She said the same thing happens in the City with mitigation fees. Development is therefore actually causing a reduction in quality of life due to an increase in traffic, water consumption, or energy consumption.

Councilmember Sullivan referred to page 8 of the report under Conservation and Open Space. He said there has been a lot of talk about a potential unintended consequence of the initiative; that if there is an existing exemption for 10 units, anything can go as long as it is less than a 10-unit project. One issue is a conflicting existing General Plan policy that says if there is a slope over 25%, only 1 unit can be built. He questioned how the City is supposed to deal with General Plan policies of the past.

Ms. Seto said that there would need to be some type of harmonizing ordinance to take place if the Initiative passes in November to clarify these types of issues. She said it would be the City's position that while this would not effectively liberalize the amount of development it could always have a property owner make that reasonable argument based on the language of the Initiative. This is why staff recommends some type of ordinance to harmonize these types of conflicts. On page 12, section 5.1 of the report, there are existing standards for hillside regulations in addition to the regulations put forward by the Initiative. Essentially, the City still would apply both sets of regulations and the more restrictive ones would control.

City Attorney Roush said because of the potential conflict between General Plan policies, some attempt to harmonize those or to explain why the more restrictive policy is the better one to follow would be the City staff's recommendation, but even without that language, typically the more restrictive provision would be applied.

Councilmember Sullivan questioned if it passes would all other policies be voided.

Mr. Roush said the policies would not be void, but every time you look at a development plan, you have to make a finding that the development plan is consistent with the General Plan. There are potentially conflicting policies in the General Plan between Program 13-1 and this particular Initiative and a property owner could make an argument that there should be more units allowed by reason of the Initiative. But the City would still apply a typical PUD planning process, CEQA would apply, aesthetics and all planning staff actions would be in effect.

Councilmember Cook-Kallio said that if the Initiative were to pass, it would become law and she clarified with the City Attorney that it would be a law as the General Plan is the legal framework against which the City measures planning applications and that the City must adhere to those policies.

Councilmember Cook-Kallio said she believed an Initiative which is passed becomes an ordinance.

Mr. Roush explained an ordinance is adopted by the Council and codified and planning ordinances need to be consistent with the General Plan. Development plans must be consistent with the General Plan. If the Initiative is adopted, staff will attempt to harmonize those policies so as not to have a conflict that could not be reconciled.

Councilmember Cook-Kallio said the General Plan can be amended, but if citizens put forth an Initiative and in two years, a loophole is found, the only way to rectify that is through a ballot, which is not the same as a Council amendment to the General Plan.

Mr. Roush agreed that this was correct in terms of amending a General Plan. He said it may not be possible to harmonize the two and staff would come back and ask Council to amend that portion of the General Plan which it could amend or have the Council put an Initiative in front of the voters that would amend what the voters had approved.

Councilmember Sullivan referred to page 5 of the agenda report, the competing measure, and said if it passes, then the citizens Initiative would not go into effect.

Mr. Roush said alternatively, if there is a competing Initiative, it would have a provision in it that if both measures pass and the Council-sponsored Initiative got more votes, the other Initiative would not be in force and he provided the example of Propositions 98 and 99.

Sullivan questioned if that provision had been tested in the courts and how legal was it.

Mr. Roush said it has been tested legally.

Vice Mayor Thorne asked staff that if direction were given from the Council to bring back language which would define and identify specific ridge lines to be protected, based on engineering data, view lines, geotechnical data, and define an elevation in south Pleasanton, and provide language for a process for counting houses under the housing cap based on actual impact to the infrastructure, could this be done by July 15<sup>th</sup>.

Mr. Roush said his concern would be more on the issue of whether there would have to be an environmental analysis that would get in the way of having that kind of substantive Initiative in November.

City Manager Fialho said staff would need to have the Council discuss this in more depth. He said staff spent a lot of time identifying the options in the report and were careful to put them forward the way they are reflected because it knows that in these three instances, staff can accomplish this by July 15<sup>th</sup>. Staff could bring ballot language to the Council that does not cause CEQA to be triggered.

Vice Mayor Thorne asked if the 119 to 224 units to be developed which would be moved to the valley floor included Oak Grove.

Mr. Iserson said it includes a scenario where Oak Grove would not be built as proposed and the default provisions are included in that range of units.

Councilmember McGovern referred to 25% or greater slope which has been in the General Plan since 1986 and discussed in many forms in the past. She is having a difficult time understanding why there is no definition for 25% slope because the City has been developing on hillsides since 1986 when 25% slopes were first discussed. She believes the City should continue what it has been doing since 1986.

City Manager Fialho said staff can identify from a geotechnical perspective what a 25% slope is, but by prohibiting construction on 25% slopes, staff has to be absolutely clear on the

methodology used. Currently there is a certain degree of flexibility in what is allowed on 25% slopes.

Councilmember McGovern restated that the City has been doing this for 22 years without a lawsuit, it is a historical practice, and referred to Section 5.4, stating that GIS technology could be used to calculate slopes and to designate areas that equal or exceed 25%.

Councilmember Sullivan questioned how the analysis was determined for up to 224 houses to come off of the hillside based on the 25% slope criteria.

Mr. Iserson said staff has an understanding of what a 25% slope is and these methods have been in place for many years. The stakes get a bit higher when you are talking about the number of units and how they are exactly defined. Staff did not intend to say this is an insurmountable issue, but it would be a matter of using GIS and identifying the methodology used across the board. In the past, other methods have been used by looking at different projects proposed or under consideration. In arriving at the number, staff used the GIS methodology as well as other criteria of the Initiative, such as 100 vertical feet to the ridgeline. There were some assumptions they had to make and they used existing development plans and best estimates of the likely impact based on slope and elevation.

Councilmember Sullivan believed that this was therefore a fine-tuning issue of how to nail it down and not an unknown of what it means.

Mr. Iserson agreed and that if there is fine-tuning, staff would recommend it be done through an ordinance and for all parties to get together so no disagreement occurs in the future.

Councilmember McGovern said GIS has been used for projects. She received a copy of what Oak Grove looks like and to her; the City knows what a 25% slope is and she has difficulty in understanding why it must be defined.

Mr. Iserson said the GIS technology assumes a certain methodology in its definition of slope. Staff would need to agree that is the way to do it, but he did believe this should not be a problem.

Councilmember McGovern said she went back to the 1993 Ridgeline Measure passed by the community to protect the Pleasanton ridge lines, and she was concerned about the report talking about foreedges, as it would make more definitions than what is necessary. She preferred the definition in the staff report which makes more sense.

Mr. Iserson said there is a definition in the General Plan of what a ridgeline is, but it has never had to come into play because staff has never had to measure against the actual ridgeline. When looking at a topography map and a piece of property, there are instances where there could be an arguable question as to whether the feature is a ridge, a knoll, or a slope. Staff is suggesting that if the Initiative passes, that there be some mechanism to determine what a predominant ridgeline is, sub-ridgelines, etc., as it does make a difference. He confirmed there was already a definition of a ridgeline in the General Plan.

Councilmember McGovern referred to the assisted living facility to be built on commercial property and asked why this would be changed with the Initiative.

City Manager Fialho said it is specific as to how to count a unit. The Initiative defines the characteristics of housing units. Staff's concern is that if an assisted living facility comes forward that has those characteristics; staff would have to count it. He confirmed the Initiative was not retroactive, so the City would not count what has already been built towards the cap, and the only concern that has been raised in the report is the proposed assisted living facilities on Staples Ranch at this time.

Councilmember Sullivan said the current direction given is to count 240 units toward the cap. Assuming the project gets approved, he confirmed with City Manager Fialho that the last proposal submitted to the City would cause staff to count an additional 396 units towards the cap.

Councilmember McGovern said the City has also used a definition of a housing unit in the past and in looking at the November 29, 2005 Joint City Council/Planning Commission minutes on land use, it talks about the Department of Housing and Community Development and defining a unit. She questioned whether or not assisted living affordable housing units are counted at the below market rate as part of our regional housing needs.

Mr. Iserson said they can be counted and City Attorney Roush noted the City is likely to count as many units as it can toward its regional housing needs.

Councilmember McGovern said even though they are not counted towards the housing cap, they are still of great value toward meeting the City's regional housing needs, especially if they are moderate or low income units.

Mayor Hosterman opened public comment.

Allen Roberts said the Council is interested in placing an Initiative on the ballot to compete with the one signed by 5,000 voters. The Initiative would not have any substantive effect but would be a plan to create a plan but would trump the voter-sponsored Initiative. He questioned if 18 months was realistic and that time frame would give a large enough window for developers to get their projects approved, which would allow something to be enacted to save the hillsides after they have already been ruined. He felt citizens should have the chance to get a vote on the citizen's Initiative without the interference of a Council-sponsored plan. He urged the Council to either do a companion Initiative or Option 4, which is to do nothing.

Lance Smith, Greenbriar Homes, applauded the Council for their decision to not adopt the Initiative but to place it before the voters. He asked the Council to follow staff recommendation 2 of the report to place a measure on the ballot that reaffirms the ridgeline protections in the General Plan and additionally, to establish a simple and clear hillside plan. He discussed benefits Greenbriar Homes provided the City through various developments, discussed projects that do not threaten hillsides or ridge tops and are threatened by the Initiative, discussed issues of the Initiative and questioned what it would protect, noting its vague and confusing language which he believed would result in litigation.

Julie Rasnick said if people want to protect the hillsides they will vote for the Initiative signed by over 5,000 voters and anything else put on the ballot will risk the hillsides and ridgelines.

Carolyn Newton said in the 1996 General Plan, there are clear references for the need to protect hillsides, said the citizen's Initiative has environmental protections through leaving land in its natural state and inevitably developers will threaten to sue the City and try to convince the



Council to make interpretations that will allow development. She asked the Council not to delay the process in writing another Initiative which will take time and during the delay, approvals will be sought to bulldoze trees and hills and she asked not to let this happen. She asked for a moratorium on hillside development until people can vote.

Karla Brown spoke on behalf of all three authors of the Initiative. She said the initiative is not Kay Ayala's alone but that Ms. Ayala one of many who want to protect Pleasanton's quality of life. She clarified that the intent of the Initiative is to protect hills from development, direct development away from lands with environmentally sensitive features or with primary open space values, and to make the General Plan's definition of a housing unit consistent with the federal and state definitions. She quoted portions of the staff report the proponents agree with, believed there was no need for the Council to place a competing Initiative on the ballot and asked for their Initiative to stand on its own for residents to decide. She provided a letter to the City Clerk identifying those portions of the of the staff report that the proponents agree with.

Councilmember Sullivan confirmed with Ms. Brown that the intent of the Initiative is to control construction of residential and commercial structures and not roads that may be on 25% slope and leads to the conclusion that the intent of the initiative is not to preclude construction of the Happy Valley Bypass Road..

Mayor Hosterman questioned how something like an extended stay hotel would be counted.

Ms. Seto said many of those types of commercial facilities have microwaves, stoves, and bathrooms which would arguably fall under the Initiative's definition of a housing unit, but staff's practice has not been to count them.

Steve Brozosky spoke regarding direct access to policymaking processes through the initiative and the referendum process, and quoted the Chair for the Speaker's Commission on the California Initiative process. He said the Council-sponsored Initiative was voted on in 1996 and asked voters to accept a housing unit cap, but there was no definition of what a housing unit was. He said as a school board member, the information about the school district fees was categorically incorrect as well as multi-family houses and impacts and he asked to let the citizen's Initiative stand on its own.

Brian Arkin questioned whether the poison pill aspect could only affect the hillside and not the housing cap aspect. He also believed that the records show that developers have spent hundreds of thousands of dollars on three Council campaigns collectively, and he asked the Council to say no to the competing Initiative.

Dolores Bengston said 80% of the City's open space is in farmland and parks, spoke of her work in saving trees and environmental work, is against the Initiative, and it troubles her that the stakeholders do not have input and the authors added a section that provides a more strict definition of a housing unit. She said the Initiative is not good law, believes everyone is sincere in their desire to make Pleasanton a better place to live, and suggested including residents and other stakeholders the opportunity to participate in a task force to consider new regulations for hillside development which would result in responsible, fair and environmentally sound guidelines.

John Butera said one thing not addressed is the current economy, property values, revenues, and taxes, spoke regarding airport safety and encroaching development, and cited recent fire

dangers. He asked the Council not to disregard what a few people did to judge the Initiative and he asked not to dilute it with the Council's own Initiative.

Laura Danielson asked the Council not to place a competing Initiative on the ballot.

Julie Testa said the time for a task force has passed, and asked the Council to simply allow the citizen's Initiative to go to the voters without a competing one.

John Carroll said it is clear that the Initiative process is necessary for further clarification, as the General Plan was not defined appropriately enough to explain how development is going to occur in the hillsides. He did not believe a competing measure would help clarify things, and said units are needed by BART and other transit providers to address smart growth development and not mansions in the hills.

Mayor Hosterman closed the public comments.

**BREAK:** The Council took a brief break and the meeting was reconvened thereafter.

Vice Mayor Thorne thanked staff for responding to the Council's request for a 9212 report, said he believes the ultimate objective of the Council is and has been the development of a meaningful hillside protection ordinance and believes that the majority of those who signed the Initiative shares this with the Council. Over the last several months, he spoke to many people about this Initiative and the referendum for Oak Grove and has used the process to calibrate himself. Unfortunately opinions do tend to get polarized for one side or the other. He said most people were not aware that the Council had included the development of a hillside ordinance in a two-year work plan, the vast majority wants the Council to take some action right away, and most would prefer a collaborative public process to develop a hillside ordinance. He also heard and understands that the argument of having a public process on the ballot can be divisive but it does not necessarily have to be, he believes people will appreciate having the choice for either Initiative, thinks one way to make it divisive is to propel someone on the Council, prefers a collaborative public process over this particular Initiative because it is too flawed to be corrected by the definition of a few terms or a restatement of intent. It would become law the way it is written and any ordinance passed subsequently would have to use the Initiative as a guiding document.

**Motion:** Vice Mayor Thorne moved to approve the third option, with direction to staff to return to the Council with a measure that asks a task force to evaluate the following: to define specific ridges based on engineering data, view lines, and geotechnical information rather than the 25% slope criteria; to evaluate the possibility of defining a specific elevation in South Pleasanton above which no construction could ever take place; to base accounting of housing units under the housing cap on a formula that actually has something to do with the impact those units have on the City's infrastructure; and include a timeframe by which this discussion must take place.

Vice Mayor Thorne referred to the Save Our Community Park Initiative, which he co-authored, and saw a distinct difference between that Initiative and this one. He said the previous Initiative was designed to protect a public collaborative process that had already occurred. The task forces met in open session, were collaborative, there were joint meetings with the City Council and Parks and Recreation Commission, and the Initiative was intended to protect the public process. He sees this Initiative as circumventing a public process that has not yet occurred.

Councilmember Sullivan questioned and confirmed with Vice Mayor Thorne that his motion assumed the council initiative would be a competing measure; he preferred it be a companion Initiative that asks for a collaborative public process.

Councilmember Cook-Kallio said she believes the agenda report identifies some of the problems with the Initiative, as does the number of questions that have been asked. She said the proponents have said they want to protect the southeast hills and so has the Council. It seems that if the common good of Pleasanton were the focus, we would be working together to make sure the protection is clear. If the Initiative passes as is, even with all of the good intentions of Karla Brown explaining what they meant, the bottom line is that it will be the literal language that will prevail. She said if anything, the Council wants to make sure its documents are crystal clear, believes the only remedy will be litigating it or another citizen or Council-sponsored Initiative to fix it. She was baffled by the assertion made that Council has raised collectively \$100,000 worth of developer monies. The perception that this Council is pro-growth is false; the last Councils have approved many more PUD's than this one and she received statistics from the Planning Department. From 1995-2004, between 2200 and 2500 units were built in the City. From 2005-2008, there were only 200, which is significant. She said she is against bad law and bad government, said the Initiative was not a transparent process, and she asked to clarify those issues in order to have a true southeast hills protection regulation that works. She said the 1996 General Plan was meant to be flexible in order to address unintended consequences.

She spoke about the many unclear items in the Initiative, said the definition of a housing unit could redefine what was previously exempted in the housing cap, it has the potential of changing the way the City has counted units, and the purpose of limiting housing units was to limit the impact on infrastructure including traffic. Senior living units have limited impacts yet the positive value of making space for the grandparents of the community outweighs that impact. She said the vagueness of the language begs the question about extended stay hotels and may not be the intent, but the literal language will stand if the Initiative passes, which impacts the availability of workforce housing. The agenda report alludes to the loss of fees from developers to both the City and schools if the Initiative is passed. The bypass road and alignment already approved is the first example that comes to her mind and if the Council learns nothing from the lawsuit against the school district, it should be how important it is to be clear in its documents. She hoped the Council and proponents will do what is best for Pleasanton and help the Council clarify its shared goal of protecting the southeast hills. This could be clarified by using Measure F as a model, believes the Council should honor the commitments already made, voiced concern there are two different issues in this Initiative, major ridgelines need to be identified, make sure there is an environmental review, and it is clear that the time to act is now. She suggested acting in a deliberate, transparent way and be able to think through this in a timely manner. She likes the idea expressed in Section 5.1 of the Conservation and Open Space Element of the 1996 General Plan.

Councilmember Cook-Kallio suggested Option 2 with some clarifying language; to re-affirm the 1996 General Plan and include the commitment that the Council would bring forth an ordinance that would be subject to environmental review (CEQA), and would identify elevation levels and major ridgelines. The measure would trump the other initiative if it received more votes and by putting this on the ballot, it would provide time to do a transparent job with input by other stakeholders.

Vice Mayor Thorne questioned how his motion and Ms. Cook-Kallio's suggested changes correlate.

City Manager Fialho said both could be joined as an outcome by re-affirming the General Plan policies and existing hillside regulations and creating a task force.

Councilmember Cook-Kallio said she did not want a task force and would rather look at a more open process and would rather say, create an ordinance that identifies elevation levels and ridgelines in the same way Measure F did, subject to CEQA.

Vice Mayor Thome requested to include a public, collaborative process.

Councilmember Cook-Kallio agreed.

The Vice Mayor Thome also wanted to define ridgelines, identify what those are, and that the process evaluates whether or not we can define ridgelines other than a 25% slope.

Councilmember Cook-Kallio said she would prefer not to include this but she would ask staff to create ballot language. She suggested keeping the ballot language simple and asked staff to start going about the process of identifying ridgelines and elevation levels.

Vice Mayor Thome said as long as the Council gets to that point, he was supportive of this.

Councilmember Sullivan said initially it was stated the Council has in its work plan to create some sort of hillside ordinance, but Councilmember Cook-Kallio's proposal is for item 2 which is re-affirming the existing General Plan policies.

Councilmember Cook-Kallio said she wants to add additional language to this to say that the Council will re-affirm the 1996 General Plan and include the commitment that the Council would bring forth an ordinance that would be subject to environmental review (CEQA), identifying elevation levels and major ridgelines and to include a provision to trump the other initiative..” She also would ask that we start before the November election so people could see what that process looks like and begin to have input. She said the bottom line is not us against them, but providing a hillside ordinance that does not leave the City open to litigation and actually protects the hillsides.

Vice-Mayor Thome accepted the amendment.

City Attorney Roush stated that if Option 2 goes to the ballot along with the commitment language and it got more votes than the other Initiative, and if the out come of the task force or collaborative public process came up with items that were different than the 1996 General Plan policies, then this would have to go back to the voters.

Councilmember Cook-Kallio referred to Section 5.1 of the General Plan; “Develop a ridgeline preservation ordinance and scenic hillside design guidelines to improve safety and reduce the potential negative visual impacts of development in hilly areas.”

City Attorney Roush said this can be done, but that policy is more of a procedural matter than a substantive matter, and he wants to be sure staff brings back what the Council is looking for.

She said the intent is to have everyone participate in the process and said those decisions can be made before the November election if everyone chooses to do so.

Councilmember Sullivan said he was confused with the direction, said Karla Brown discussed the intent of the Initiative authors and to him, and the significance of this is that the agenda report identified many ways of how things could be interpreted. It seems that by the sponsors saying the intent of what was meant helps not only the voters understand but it also helps the City to understand those issues and provides a direction to develop that implementing ordinance later, which he thinks is necessary after the vote in November. He felt it gives Council guidance as to the Happy Valley Bypass Road, how it affects assisted living units, and plus it is in the public record.

City Attorney Roush said he would generally agree with that; when called upon to interpret Initiatives, because there is no legislative history that might accompany a Council adopted statute or ordinance, courts do look to ballot arguments in terms of what information was presented to voters, and when it came time for staff to apply a particular project to the Initiative, they would look to what was expressed as the intent.

Councilmember Sullivan said it provides some guidance. He said he believes the Initiative, what the proponents and what the 5,000 people who signed it did, is consistent with current General Plan policy, the policy of this City Council, and the priority to do a southeast hills ordinance. The goal of the City Council priority is a Southeast Hills Protection Plan, to reduce development in the southeast hills and get as much open space as possible. To him, this Initiative is exactly a means to achieving that goal. As far as a Council-sponsored Initiative, it could have done this before starting the Oak Grove process. Instead of going first to developing some hillside protection ordinance, we decided to use another process and he was an advocate for that process which was engaging neighbors and the developer to see if a compromise could be reached; not create an ordinance first. Getting enough signatures for the ballot tells him that a sufficient number of people in town did not like that approach and that we should have done the hillside protection ordinance first. Had this Initiative not qualified for the ballot, this Council would not be advocating to quickly put some sort of hillside protections in place, so he therefore disagrees with much of what he has heard. He said the report outlined many possible scenarios with a lot of questions the Council asked, he thinks it is very important that the proponents articulated their intent because it clarifies the more ambiguous items we are pointing to. He thinks the language is simple, straight-forward and reflective of what the community wants, thinks it has been helpful that they want option 1 on page 19 of what the 10-unit exemption means, they have clarified their intent on the housing cap as applied to assisted living facilities, and he thinks the intent on the Initiative as applied to roads answers the question about the Happy Valley Bypass Road.

He said other concerns raised include the fiscal issues which have been demonstrated to be negligible. Regarding the school district, he thinks it is very likely that the Initiative itself would have no impact on the school district as far as their plans to build out facilities. The impact will be when discussion is held on how we want to build out the town. None of the other General Plan policies go away; just because we have a 10-unit exemption doesn't mean we will turn the hills into West Virginia and flatten them out, which he believes is a false argument. Regarding the 25% slope, his conclusion is that it is just fine-tuning what that is.

Some of the positive things the report points out is that this would likely result in more workforce housing. The more houses built in the hills, the less opportunity the City will have to do something else. Regarding options outlined by staff and the current motion, he thinks the Council should do nothing and let the Initiative stand on its own. He thinks we should allow a debate on the pros and cons and let this work itself out in the community and the vote in November. Through this exercise, the citizens of Pleasanton will make an informed decision. It

is no different than the other initiatives, the citizens understand what is important to them and will be able to figure it out, and we are heading toward a competing measure.

Councilmember Sullivan said he thinks the only reason to put a competing initiative on the ballot is that if we believe the Initiative, were it successful, would have some major damaging impact to the City, and there is no evidence of this. The only reason he thinks to put a re-affirming measure on the ballot is that we want to know if the public is satisfied with the current policy. He thinks the people can just vote on the current Initiative. If they are satisfied with the current policy, they will vote no. But a reason to do any of the above should not be because the Council disagrees with the initiative or because they differ politically with the proponents. If the Council disagrees with the Initiative, you should get engaged in the election campaign, debate the pros and cons of the issue and let the public vote, not try to undermine the Initiative or the process by putting a competing Initiative on the ballot. He thinks the Council should use its power of 3 votes very carefully but if we disagree with the Initiative, to try and defeat it by putting something else on the ballot is wrong.

Councilmember McGovern thinks that on July 15 when the report returns, there should be an amended report, on the fiscal impacts—defining what an impact fee is, why it is used, and the fact that if growth is not there, the impact fee is not needed for whatever the mitigation was assigned for originally. Also, there are growth induced negatives not always measurable from a fiscal aspect when it comes to quality of life issues whether it is traffic congestion or need for additional services of any particular kind. She thinks Council needs to be clear to the voters that impacts are not true losses to the City if growth does not develop.

She said she asked the City Manager what his recommendation would be to her and to Council as to what direction should be given and his advice was to receive the report and to take no further action. She said twice staff has recommended something to the Council which had not been followed; one was to appeal the decision in the referendum challenge and now tonight is to take no further action. She thinks the Council should therefore consider what staff has recommended. She feels sad about some of the things that are going on because there are some actual positives about the Initiative in the staff report, which do not come to the top such as, "Transferring residential development from hillside property to infill properties would not impact the city's ability to meet its current regional housing needs since the self-imposed limit to our regional need housing allocation is 29,000 units; the housing cap. However, to the extent that that 224 hillside units are developed in infill areas of the city rather than the hillsides, it is likely that such units would be higher density, multi-family dwellings or smaller single family homes. Some would likely be able to qualify for very low, low or moderate income units." She said this would help Pleasanton in attaining our lower income share of the RHNA numbers, which is a positive. She said another one is section 4.5, page 10, "If the Initiative is adopted, there will be less development than anticipated in the General Plan in those hill properties. This will result in more open space on those properties than has been expected, although some development will still occur. To the extent that the development on those properties is located on the relatively flat portions of the site, the remaining open space may continue to be used for grazing purposes, thus increasing the amount of agricultural land in the hill areas." She said those are positive things that should not be negated in the discussion. Therefore, we should be looking for both negative and positive things said.

Councilmember McGovern said that the reason the Initiative is more protection for the public is that it is voted on by the citizen and cannot be changed without further voter approval. In the General Plan, there are more protections for the environment, open space, agricultural land, and who knows what the new one will look like. Yet, the Council has the discretion through a

majority vote of saying the flexibility is there to change that. When there is a vote, it is much clearer that that vote has to be followed and the flexibility is not as great. Therefore, she would say to the majority of the Council that if you are going to put something on for July 15 to review, it should include something to be voted on by the people, and secondly, that there should be a moratorium on development in the hillsides until any vote of the people is taken on any other Initiative. She said this has come down to two developments; Oak Grove—51 large homes on the top of hillsides, and the Sarich home, with removal of a top of a hill, a 14,000 square foot home and 438 trees so it can be covered. Therefore, she felt this is an important issue to the people of Pleasanton. The Initiative offers positive things for the community and ensures there will be no development on 100 feet from a ridgeline and ensures there is no grading of slopes 25% or more for a residential or commercial unit and ensures a housing unit is finally defined.

Councilmember Cook-Kallio agreed that the reason to put a measure on the ballot is because you have significant questions and concerns, agreed another reason is because one would think it has major, damaging impacts, which she thinks this will have. She said she is absolutely sure that all of this conversation will make no difference when a judge looks at the literal language, and this is why she would ask again that the Council look at this as an opportunity to get everyone involved in the process. She also voiced concern that the Initiative was not inclusive. There were 5,000 signatures, but there was no deliberative process except among the small group of those who collected signatures. She feels what this does is pit large groups of people against property owners. If we are going to be inclusive and deliberative, she said it is incumbent upon us to include all stakeholders which had not been done with the citizen's Initiative, and this is why she would call the measure a clarifying measure.

Councilmember Sullivan said Councilmember Cook-Kallio is stating she objects because the property owners have not been involved, but to him, this is an argument as to whether or not to vote for the Initiative and is not an argument to undermine the Initiative. He said if she does not like that the stakeholders were not involved, then vote no and advocate for that, but he asked not to do something to squash a public process where people have earned the right to have their Initiative voted on. He felt the result is that people will vote no on everything because they are so turned off with the City Council. He thinks the meeting has clarified many items in the Initiative, and even though there are some which still need to be resolved; this can and should happen in a stakeholder process that includes the land owners, Greenbriar Homes, and others. He thinks this should and can happen after the Initiative passes. It may not pass, and the Council still has the opportunity to do something different. He acknowledged his disagreement on the impact issue and his criteria for a competing Initiative does not exist.

Mayor Hosterman discussed Council priorities, said this Council has many, residents demand a lot from the Council, and the Council demands a lot from staff. She discussed some of the many completed Council priorities and the update of the General Plan. She disagrees with some fellow Council members in stating that somehow we are shutting down the public process and she thinks the opposite is being done. Having a clarifying measure on the ballot will give residents the opportunity to say yes, to be able to move forward, be part of the discussion and input, and she feels current Initiative is filled with language that is troublesome as far as being able to be implemented. She also said when projects are approved, the Council does so with input, each residential application comes through the process individually, and open space acreage is able to be preserved for Pleasanton. Property owners have rights which should be balanced with what is also good for the community. She said having a clarifying measure on the ballot is in the best interest of the public process and in the best interest of residents of Pleasanton.

Councilmember Sullivan said Councilmember McGovern brought up a good point; if it is a citizen's Initiative, three members of the Council cannot change the policy. If the motion is voted on and some sort of policy or regulation is developed, it could be put into the General Plan. All it takes is a majority of the Council to change the General Plan, but he does not believe this is what the community wants. He questioned if Councilmember McGovern's suggestion could be considered that whatever ordinance or protections comes from this, i.e., would the Council submit it to a vote of the people. This way, if they agreed with the Council, we would know this is what the public would want, it would be voted on, and then three people cannot change it at a later time.

Mayor Hosterman said she would be willing to consider this, but wanted to consider it thoroughly and suggested acting on the motion as is.

Councilmember McGovern said she also pointed out that you can wait as development can be approved in the southeast hills before any ordinance is done, and she questioned if a moratorium on growth could be included until this is done.

Mayor Hosterman said not at this point, but we could have that discussion on July 15.

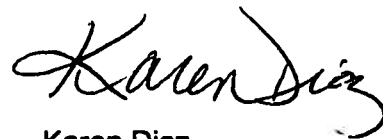
City Attorney Roush indicated that on July 15<sup>th</sup>, substantive elements of the 1996 General Plan would be included for what is to be placed on the ballot for consideration.

Motion: It was m/s by Cook-Kallio/Thorne to direct staff to prepare a council sponsored initiative for the November 2008 election that would re-affirm the 1996 General Plan policies concerning hillside regulations, define a collaborative and public process to identify ridgelines and hillsides where development should not occur, set a time frame to conclude that process, and otherwise have provisions that would serve as an alternative to the Save Pleasanton's Hills & Housing Cap Initiative. . Motion passed by the following vote:

Ayes: Councilmembers Cook-Kallio, Thorne, Mayor Hosterman  
Noes: Councilmembers McGovern and Sullivan  
Absent: None

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 9:33 p.m.

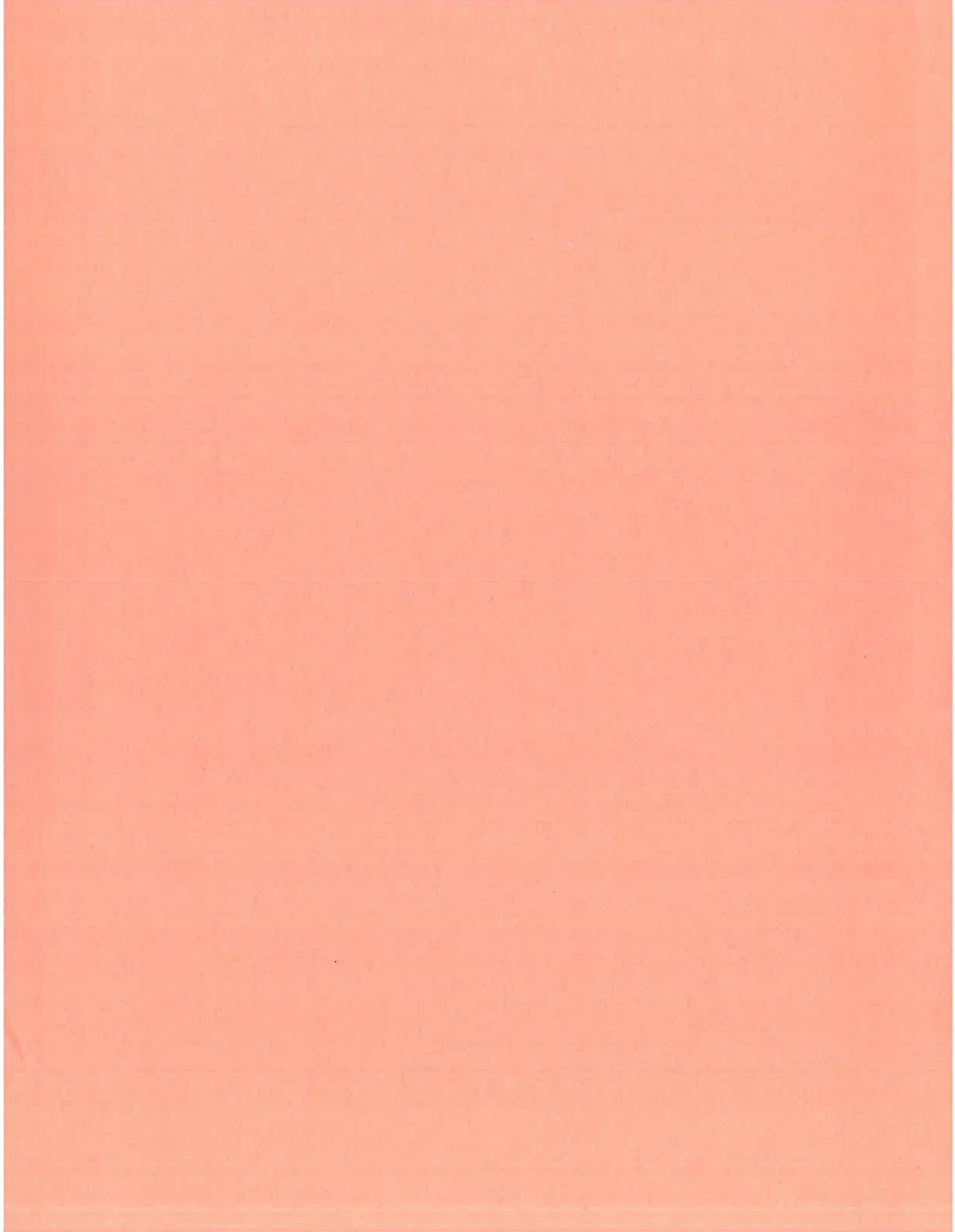
Respectfully submitted,

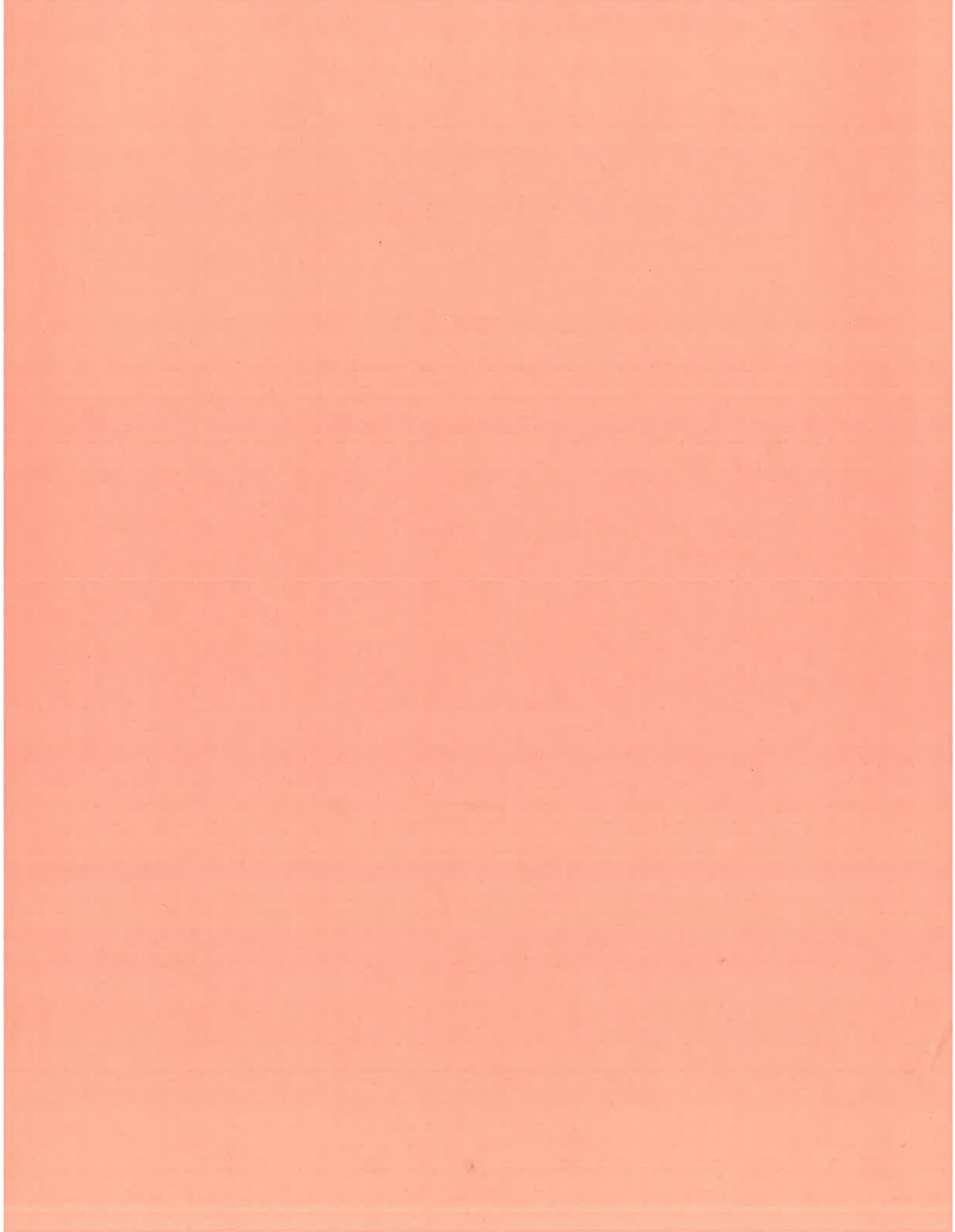


Karen Diaz  
City Clerk









**17. Save Pleasanton's Hills & Housing Cap Initiative Petition:**

- a. Continued - Receive report analyzing the impacts and effects of the Initiative and consider implementation option**
- b. Consider options and provide direction concerning the Initiative Petition**

City Attorney Roush said last month the City Council accepted the City Clerk's certification for the Save Pleasanton Hills and Housing Cap Initiative and directed staff to prepare a report under Election Code Section 9212 concerning the effects of the Initiative Measure. This report has been prepared and presented as Item 17a which has been continued. After the Council receives and discusses the report, the Council would move ahead to take action to either adopt the measure without change or order the election and direct staff to return with required documents to place the Initiative Measure on the 2008 Ballot. This would include the time for submitting arguments pro and con as well as the Ballot language itself. Alternatively, if the Council is not comfortable in taking action tonight without having discussed the report, it could also continue the item.

Mayor Hosterman questioned whether the Council could move forward with Item 17b without hearing Item 17a. City Attorney Roush said the Council could move forward; the purpose of hearing the report is to help inform the Council in terms of whether it wishes to simply adopt the Initiative Measure or to have the matter on the Ballot for the election. The other matters contained as part of Item 17a was an adjunct that came out of the Council's discussion on May 20<sup>th</sup> where the Council asked that the matter be presented.

Councilmember Sullivan said he thought the Council had to take action on the item within 30 days, and City Attorney Roush said the Elections Code indicates that upon receiving discussion of the report, the Council needs to either adopt the measure without change within 10 days or order an election. The ordering of the election does not have a timeframe attached to it and he did not believe there would be any particular harm that would result if the item were continued, other than the fact that the closer the City gets to the August 7<sup>th</sup> deadline, the less time it has to bring materials back to the Council for discussion and decision.

City Manager Fialho said if the Council calls for the election tonight, it will provide staff with specific direction on July 15 to present the ballot question and also the schedule for arguments pro and con. Purely from an administrative perspective, staff prefers to receive direction tonight on Item 17b. Conversely, another meeting will need to be scheduled to hear the ballot information unless both are heard concurrently at a future date before July 15, 2008.

Councilmember Sullivan said the only advantage he sees of waiting is that when the Council does discuss the report, it may come to the conclusion that it wants to adopt the ordinance outright; however, he believed the changes of this were slim.

Mayor Hosterman opened public comment and noted there were no speakers.

Mayor Hosterman noted the Initiative was written without help from legal and planning staff, said it says nothing about safeguarding the environment in the southeast hills, with no input from the community and in her opinion poorly written, She said preserving the southeast hills has been one of this Council's many priorities for a number of years, and requested staff move forward to work on enacting correct language which can be legally implemented to safeguard the southeast hills.

Councilmember Sullivan said whether individuals think the initiative is poorly written or not, the fact is that signatures were obtained, it qualified for the ballot and it deserves to either be adopted or placed on the ballot. He feels it is not about not liking the initiative but an attack on citizens' rights to referend or create an initiative, which is one of the people's most important rights. He said the Pleasanton Ridge was a citizen's initiative developed without City staff or experts, said Measure D also protects the County from being developed outside of City limits, believed sometimes measures do work and supported putting it on the ballot in a way it does not compromise the integrity of the process.

Vice Mayor Thorne thanked staff for responding as quickly as it did with a very difficult and thorough report, thinks the ultimate objective of the Council has been and is to develop a comprehensive hillside protection ordinance. He believes those who signed the initiative have that same goal and the debate here is the way to get there.

Councilmember McGovern voiced concerns about how the item was being discussed and said the initiative does not remove any of the environmental protection from the General Plan, overlays or anything in place. For the Council to say the Initiative is poorly written and that it had no input from experts is an opinion and assumption. The reason the hillside preservation ordinance is important is because there have been two developments approved with 50 units on ridgelines, with one home where 40 feet was cut off the top of a hill to put in a 14,000 square foot home. This has been in the City's General Plan for over 11 years, and felt the Council should have approved it sooner and believes the issue is that people are concerned that other developments are coming forward will be treated identically. She asked that it be placed on the ballot and have straight-forward honest conversations about the Initiative.

Councilmember Cook-Kallio voiced her concerns with the Initiative's language, thinks all stakeholders were not talked to, does not think the unintended consequences were explored, agreed people do legislation all the time where unintended consequences happen but it is the Council's job to be as careful as possible that it does not happen. She believes the Initiative is vague and is bad law, it should go to the ballot, thinks more discussion is needed, and it may tie the City up in litigation. She confirmed with the City Attorney that voters will be asked to vote on the text of the Initiative; there will be a ballot question and within the voting materials will be the text of the Initiative.

Motion: It was m/s by Hosterman/Cook-Kallio to order the election and direct staff to prepare for the Council's July 15 meeting the required documents to place the initiative measure on the November 2008 ballot. The motion passed by the following vote:

**Ayes:** Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
**Noes:** None  
**Absent:** None

Regarding a date for a meeting to discuss Item 17a, City Manager Fialho said that from June 19 into August, one Councilmember on any given regular meeting would be out of town and gave the following possible dates as July 8, July 22 and July 29.

Mayor Hosterman questioned timing issues for the ballot if the matter were continued. City Attorney Roush said if the item were continued to July 15 and Council gave direction to staff to bring back a proposed Council-sponsored Initiative, the Council would need to determine a date to hear the matter as well as build into enough time for a date if the item were continued for action to be taken prior to August 8.

Councilmember Sullivan suggested continuing the item to the next regular meeting, as one or two special meetings could be scheduled prior to August 8.

Councilmember Cook-Kallio said she wanted to hold discussion tonight on the matter but preferred holding the meeting earlier rather than later. She believed there is a lot of work involved to ensure the Initiative is clear and felt July 15<sup>th</sup> was too late to do this in a deliberate way.

Mayor Hosterman and Vice Mayor Thorne both preferred hearing the item sooner than the next regular meeting, if possible. Councilmember McGovern also said it will take her awhile to review her concerns relating to Item 17a and all Councilmembers agreed Item 17a would be the sole item on the agenda.

Councilmembers discussed holding the meeting on other dates, and Councilmember Sullivan believed holding the meeting on 4<sup>th</sup> of July week would leave many residents out-of-town and an unbalanced audience.

It was m/s by Cook-Kallio/Thorne to set the special meeting date for July 1, 2008. The motion passed by the following vote:

**Ayes:** Councilmembers Cook-Kallio, Thorne, Mayor Hosterman  
**Noes:** Councilmembers McGovern and Sullivan  
**Absent:** None



**Pleasanton Municipal Code**

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Title 18 ZONING

**Chapter 18.76 H-P-D HILLSIDE PLANNED DEVELOPMENT DISTRICT****Article I. General Provisions****18.76.010 Purpose.**

The city is located in the Livermore-Amador Valley. Within the city's incorporated boundaries and within its sphere of influence are a series of major and minor hills. These hills constitute a significant topographical feature of the community because they are visible to all persons traveling on I-580 and I-680, as well as to citizens residing in and around the community. Although most of the development within the city, caused by the migration of substantial numbers of people, has occurred in the flatlands, some development has occurred in the hills and more development in the hills will occur in the future. In order to insure that a harmonious visual and functional relationship will exist between the existing natural hillside environment and the growing manmade environment, development standards specifically designed for hillside development are required. It is therefore the declared intent of the city that appropriate undeveloped land in hillside areas be placed in a hillside planned development district to be identified by the initials H-P-D, in order to accomplish the following:

- A. To preserve significant features of a hill area in essentially their natural state as part of a comprehensive open space system;
- B. To encourage in hill areas an alternative approach to conventional flatland practices of development;
- C. To minimize grading and cut and fill operations consistent with the retention of the natural character of the hill areas;
- D. To minimize the water runoff and soil erosion problems incurred in adjustment of the terrain to meet on-site and off-site development needs;
- E. To achieve land use densities that are in keeping with the general plan; however, in order to retain the significant natural features of the hill areas, densities will diminish as the slope of the terrain increases;
- F. To insure that the open space as shown on any development plan is consistent with the open space element shown on the general plan; and
- G. To preserve the predominant views both from and of the hill areas and to retain the sense of identity and imageability that these hill areas now impart to the city and its environs. (Prior code § 2-2.3201)

**18.76.020 Permitted uses.**

The following uses may be permitted in the H-P-D district:

- A. Single-family dwellings and planned unit developments;
- B. Recreation facilities, either for general public use or for the exclusive use of the residents of the subdivision or series of subdivisions of which the recreation facilities are a part;
- C. Recreational vehicle storage, stables, day nurseries, child care centers and managerial offices where any such use is owned by and used exclusively for the residents of the subdivision or series of subdivisions which contain such use;
- D. Schools, public or private, attendance at which satisfied the compulsory laws of the state;
- E. Churches and similar religious institutions; and
- F. Public facilities, such as administrative offices and similar uses, but not including storage yards, corporation yards, or similar uses;



- G. Other uses accessory to any permitted use. (Prior code § 2-2.3202)

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**18.76.030 Conditional uses.**

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Agricultural uses may be permitted in the H-P-D district subject to the granting of a use permit pursuant to the procedure and criteria specified in Chapter 18.124 of this title. (Prior code § 2-2.3203)

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**18.76.040 Permit required.**

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- A. Property zoned pursuant to the provisions of this chapter shall neither be developed nor shall any grading permit be issued pursuant to any provisions of this code until a hillside planned development (H-P-D) permit has been obtained pursuant to the provisions of Article II of this chapter.
- B. As used in this section, “developed” means the submittal of any plans required by this code prior to the commencement of construction of any improvements, excepting therefrom those permitted by Section 18.76.070. (Prior code § 2-2.3204)

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**18.76.050 Property development standards.**

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The following property development standards shall apply to the H-P-D district:

- A. Dimensions. There shall be no minimum yards, lot area, lot width, lot frontage or distance between buildings or maximum lot coverage except as may be required by an approved H-P-D permit.
- B. Building Height. No building shall exceed two stories in height, exclusive of covered parking in the same structure.
- C. Parking.
1. Quantity. For residential use there shall be not less than two covered parking spaces designated for the exclusive use of the occupant of every dwelling unit. In addition to covered parking spaces there shall be a quantity of open parking spaces not in driveways, equal to or greater than the number of dwelling units.
  2. Location. The open parking spaces required by subsection (C)(1) shall be located within two hundred feet of every dwelling unit provided the terrain is appropriate for such placement. Wherever possible, open space parking shall be placed in groups, if six or more spaces are required; groupings may include parking within street rights-of-way, parking bays, and small parking lots, or any combination of the above.
  3. Nonresidential Use. Parking for nonresidential uses shall also be required in a quantity commensurate with the specific use.
  4. Covered Parking. No covered parking shall exceed one story in height.
- D. Landscaping. All development in H-P-D districts shall include a combination of landscaping consisting of intensely planted and maintained areas and open space preserved in its natural condition. Unless otherwise stated in the approval of an H-P-D permit, natural open space may be used for livestock grazing.
- E. Subdivisions. The final subdivision, land division or parcel map shall show not more than one dwelling unit on any one lot and commonly owned land and facilities on one or more additional lots.
- F. Common Area. No final subdivision map or parcel map shall be recorded until documents pertaining to the maintenance of the privately owned open space and other facilities owned by or used in common by the subsequent owners of the various real properties within the subject development shall have been approved by the city attorney. (Prior code § 2-2.3205)

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**18.76.060 Signs.**

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Where applicable, the sign regulations for the R districts as set forth in this chapter shall apply to the H-P-D districts.

(Prior code § 2-2.3206)

### **18.76.070 Interim uses.**

A. If any land has been zoned H-P-D but no H-P-D permit has been approved thereon, no new use shall be established on such land. Any single-family residential or agricultural buildings lawfully existing at the time of the establishment of H-P-D zoning on that property may be enlarged, structurally altered, or accessory buildings may be constructed. Any remodeling or construction allowed by this section shall conform to the conditions to use applicable to the R-40 district.

B. "Agricultural building," as used in this chapter, shall mean any structure, except fences, for the purposes of housing farm animals or farm equipment and shall specifically exclude any building used for processing farm products on a commercial basis. The remodeling or construction of any building as permitted by this chapter shall conform to the various conditions to uses required in the R-40 district. (Prior code § 2-2.3207)

### **18.76.080 Grading.**

The grading of land and maximum height of graded slopes shall be governed by provisions of the Uniform Building Code, the provisions of Title 19 of this code relating to subdivisions, and/or the provision of a comprehensive grading ordinance adopted by the city council. (Prior code § 2-2.3208)

## **Article II. Hillside Planned Development Permit**

### **18.76.090 Purpose.**

The purpose of the H-P-D permit is to assure that the intent and purpose of the hillside planned development district are effectuated. (Prior code § 2-2.3209(a))

### **18.76.100 Definitions.**

The terms and symbols used in this section shall have the following meanings:

- A. "Base density" means the number of dwelling units per gross acre as determined by Section 18.76.150(A).
- B. "Contour interval" means the difference in elevation between adjacent contour lines on a topographical or planimetric map.
- C. "I" means the contour interval measured in feet.
- D. "L" means the summation of the length of all contour lines measured in feet.
- E. "Open space" means landscaped areas together with areas retained in their original state without enhancement by landscaping, both of which are owned in common by the owners of the residential lots within a development.
- F. "Ridge" means a connected series of major and minor hills.
- G. "Ridgeline" means a ground line located at the highest elevation of the ridge running parallel to the long axis of the ridge.
- H. "Weighted incremental slope (WIS)" means a number assigned to a specific parcel of land for the purpose of determining its relative slope conditions and is determined according to the following formula:

$$\text{WIS} = \frac{0.0023\text{IL}}{\text{Area in Acres}}$$

The calculation of the WIS shall be performed pursuant to the criteria and procedure set forth in Section 18.76.140(E). (Prior code § 2-2.3209(b))

### **18.76.110 Procedures.**

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Following are the procedures for processing an application for an H-P-D permit:

- A. Review by Planning Commission. Upon receipt of the data required by Section 18.76.140, the planning commission shall hold a public hearing to consider the request for an H-P-D permit. The public hearing required by this section shall be given pursuant to the provisions of Government Code Section 65854. Following the public hearing, the planning commission may approve, conditionally approve, or disapprove the requested H-P-D permit. The decision of the planning commission shall be placed in resolution form and the reasons for the decision shall be specified therein. A copy of the resolution shall be transmitted to the city council and to the applicant as soon as possible after review by the planning commission. A synopsis of the planning commission's action and rationale shall be transmitted to the city council and the applicant where the planning commission's review will not occur until after the expiration of the appeal period specified in subsection E of this section; said synopsis shall be the unofficial report of the planning commissions pending receipt of the required resolution.
- B. Review by City Council. Upon receipt of a resolution from the planning commission recommending approval of an H-P-D permit, the city clerk shall schedule a public hearing before the council with notice of the time, date and place of public hearing being given, pursuant to Government Code Section 65854. Following the public hearing the council may approve, conditionally approve, or disapprove the H-P-D permit. In approving a permit, the council may modify the recommendations of the planning commission. In making its decision, the council shall be subject to the same requirements as are placed on the commission by this section.
- C. Referral. Council may also refer the matter back to the planning commission for further report and recommendation. The planning commission shall not be required to hold a public hearing on a matter referred back to it, but shall submit its report and recommendation within 40 days after the reference; otherwise the proposed modifications shall be deemed approved.
- D. Denial by Planning Commission. If the planning commission recommends denial of an H-P-D permit application, no further action by the city council is necessary, unless the planning commission's decision is appealed to the city council by the applicant pursuant to the provisions of Section 18.144.020 of this title. (Prior code § 2-2.3209(c))

### **18.76.120 Findings.**

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In recommending approval of, or in approving an H-P-D permit, the following findings must be made:

- A. The approval of the plan is in the best interests of the public health, safety and general welfare;
- B. Off-site and on-site views of the ridges will not be substantially impaired. In determining which ridges are subject to this finding, the following criteria shall be used: the intents and purposes set forth in Section 18.76.010 of this chapter shall be followed;
- C. Any grading to be performed within the project boundaries takes into account the environmental characteristics of that property, including, but not limited to, prominent geological features, existing streambeds and significant tree cover, and is designed in keeping with the best engineering practices to avoid erosion, slides or flooding, to have as minimal an effect on said environment as possible;
- D. Streets, buildings and other manmade structures have been designed and located in such a manner as to complement the natural terrain and natural landscape;
- E. Adequate fire safety measures have been incorporated into the design of the plan;
- F. The plan conforms to the purpose and intent of the hillside planned development district; and
- G. The plan is consistent with the city's general plan. (Prior code § 2-2.3209(d))

**18.76.130 Conditions.**

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In the recommendation of approval and in the approval of an H-P-D permit, conditions may be imposed which are deemed necessary to protect the public health, safety and general welfare in line with the standards set forth in this article. (Prior code § 2-2.3209(e))

**18.76.140 Required data.**

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Any application for an H-P-D permit shall be accompanied by the following data prepared by a design team consisting of an architect, landscape architect and registered civil engineer:

- A. A site plan showing general locations of all streets, on-street and off-street parking, bicycle paths, riding trails, hiking trails, buildings and other manmade structures; typical elevations or perspective drawings sufficient to show building height, building materials, colors, and general design; perspective drawings showing the relationship after development of the proposed buildings and the topographic features of the site; and a table listing land coverages by percentage and acreage for the following: open space (intensely landscaped and natural) coverage by housing unit roof, parking (covered, open, off-street), streets, sidewalks, paths, recreational facilities;
- B. A topographical map showing existing contours and proposed lot lines, which may be integrated with the site plan described in subsection A of this section; the lot lines may be omitted if building locations on the site plan make proposed lot lines obvious;
- C. A topographical map at a scale not smaller than one inch equals 100 feet showing contour lines existing prior to grading at an interval of not more than 10 feet; a grading plan showing increments of the depths of all cuts and fills in various colors or any similar display which shows the cuts, fills, depths thereof in colors; and a slope classification map showing, in contrasting colors, all land which has less than a 10 percent slope, that land which has a slope between 10 percent and twenty percent, that land which has a slope between twenty percent and 25 percent, and all land which has a slope greater than 25 percent. The director of housing and community development, or his or her designated representative, may allow a reduction in the scale of the map or an increase in the contour interval when the size of a parcel or its terrain require such changes to make the map more meaningful;
- D. Profiles showing the relationship of the proposed project to any dominant geological or topographical features which may be on or in the vicinity of the proposed project;
- E. The calculation of the WIS factor shall be prepared by a registered civil engineer or a licensed land surveyor, and the following criteria and procedure shall be used:
  1. The contour map shall have 10-foot contour intervals;
  2. The interval used in WIS calculation shall be two feet and interpolation of the contour intervals shall be made if required;
  3. Topographic map scale:

Parcel Size	Scale
Less than 2.0 acres	1"—20'
2.0 acres to 20 acres	1"—50'
Over 20 acres	1"—100'

- F. Any tree(s) including size and species as defined in Chapter 17.16 of this code, whether or not such tree(s) is to be removed, or destroyed, on the site plan or on a separate plat;
- G. Sufficient dimensions to show right-of-way widths, pavement widths, radii of curvature of center lines, street grades, whether streets are to be public or private, and all proposed frontage improvements on new and existing streets;
- H. A current preliminary soils and geological report prepared by a registered civil engineer and a registered geologist;
- I. A detailed landscaping plan showing the natural open space which will remain upon completion of development, all existing trees (and indicating which trees are scheduled for removal), and the precise boundaries of additional landscaping; the landscape plan shall include container size of all trees and shrubs, species of all plant material, irrigation system plan, street lighting, low level path lighting, street furniture and fencing materials, dimensions and locations;
- J. A statement in writing stipulating to the total number of bedrooms to be constructed; and
- K. The initial plan shall indicate the density allowed by subsection A of Section 18.76.150 and the location of the proposed units. Any request for density adjustments allowed by subsection B of Section 18.76.150 shall be shown on an alternate plan detailing the location of the additional units and amenities.

Notwithstanding the requirements of this subsection, an applicant for an H-P-D permit for the development of five or more acres, which development will occur in stages, may submit general information relating to subsections A and I of this section for review by the planning commission. Precise and detailed plans setting forth the information required by these items shall be submitted to the planning commission for its review and approval prior to the approval of a tentative subdivision map, building permit or other construction authorized by the H-P-D permit. (Prior code § 2-2.3209(f))

**18.76.150 Density.**

- A. Base Density. A base density for a piece of property shall be determined by the following:

Percent slope	10%	15%	20%	25%	Greater than 25%
*WIS	9.9	14.9	19.6	24.2	Greater than 24.2
Base Density	3.5	2.8	1.8	1	0.2

\*Corrected number values.

Any WIS not shown in the table shall be determined by interpolation, using the graph set forth in Exhibit A of the ordinance codified in this chapter, and incorporated in this chapter by reference.

- B. Density Adjustments. The effectiveness of hillside development can be affected by a number of factors such as the physical characteristics of a specific parcel, the amount of landscaped and natural open space existing within a development, the existence of amenities within a development and the number of people who will reside in the hill area. Therefore, in order to encourage hillside developments which take into consideration the factors provided in this subsection, adjustments may be made in the base density in the recommendation for approval and approval of an H-P-D permit, pursuant to any of the following:

1. The existence of open space beyond that required by Section 18.76.160;

2. The existence of amenities or on-site or off-site improvements which are not normally found or required in residential developments;
3. The existence of a mixture of housing types which provides a variation in the appearance of the development and allows a range of housing prices;
4. The existence of landscaping of a type, size and quantity which exceeds that of a standard residential development;
5. The existence of a topographical feature, including, but not limited to, a cliff or deep ravine, or extensive land area over 25 percent slope, of a magnitude which causes the WIS to be significantly greater than would be the case if the topographic feature was not considered; and
6. The offer to and acceptance by the city of land in excess of the parkland dedication requirements of Chapter 19.44 of this code. (Prior code § 2-2.3209(g))

**18.76.160 Percentage open.**

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The percentage of the parcel to be developed which must remain in open space and/or public parkland shall be a minimum of 25 percent plus one and one-half times the WIS factor. Public parkland shall include only those areas which are offered for dedication as public parks and which are accepted by the city. (Prior code § 2-2.3209(h))

**18.76.170 Grading control.**

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- A. **Size and Treatment.** In order to keep all graded areas and cuts and fills to a minimum, to eliminate unsightly grading and to preserve the natural appearance and beauty of the property as far as possible as well as to serve the other specified purposes of this chapter, specific requirements may be placed on the size of areas to be graded or to be used for building, and on the size, height and angles of cut slopes and fill slopes and the shape thereof. In appropriate cases retaining walls may be required.
- B. **Restrictions.** All areas indicated as natural open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise except that riding trails, hiking trails, picnic areas, stables and similar amenities may be placed in natural open space pursuant to the approval of an H-P-D permit.
- C. **Landscaping.** The H-P-D permit shall include the planting of newly created banks or slopes for erosion control or to minimize their visual effect. (Prior code § 2-2.3209(i))

## Pleasanton Municipal Code

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**18.68.010 Created.**

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A zoning classification distinction is created to be known as the planned unit development (PUD) district. (Prior code § 2-8.25)

**18.68.020 Purpose.**

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The planned unit development district is intended to accomplish the following purposes:

- A. To encourage imagination and housing variety in the development of property of varying sizes and topography in order to avoid the monotony and often destructive characteristics of standard residential, commercial and industrial developments;
- B. To provide a development procedure which will insure that the desires of the developer and the community are understood and approved prior to commencement of construction;
- C. To insure that the goals and objectives of the city's general plan are promoted without the discouragement of innovation by application of restrictive developmental standards;
- D. To encourage efficient usage of small, odd-sized or topographically affected parcels difficult for development by themselves;
- E. To accommodate changing market conditions and community desires;
- F. To provide a mechanism whereby the city can designate parcels and areas requiring special consideration regarding the manner in which development occurs;
- G. To encourage the establishment of open areas in residential, commercial and industrial developments and provide a mechanism for insuring that said areas will be beautified and/or maintained;
- H. To complement the objectives of the hillside planned development district (HPD) in areas not subject to the provisions of that zoning district. (Prior code § 2-8.26)

**18.68.030 Permitted uses.**

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The planning commission and city council may permit any use in the PUD district which is compatible with the purposes of this title, the neighborhood and general vicinity of the proposed project, and in keeping with protection of the public health, safety and general welfare. (Prior code § 2-8.27)

**18.68.040 Conditional uses.**

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Unless specific conditional uses are specified in the PUD plan, only the expansion, enlargement or alteration by area or usage of an interim use permitted by Section 18.64.080 of this chapter shall require a conditional use permit granted pursuant to Chapter 18.124 of this title. (Prior code § 2-8.28)

**18.68.050 Development.**

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Except as provided in Section 18.68.090, no property subject to this chapter shall be developed in any way nor shall any grading permit be issued pursuant to the provisions of this code until all provisions of this chapter have been completed. As used in this section, "developed" means the submittal of any plans required by this code prior to the commencement

of construction of any improvements. (Prior code § 2-8.29)

#### **18.68.060 Property development standard.**

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- A. In order to allow the greatest amount of flexibility in designing a project compatible with the physical features of the property, the uses intended to be developed thereon, and the objectives of this chapter, no minimum property development standards shall apply to the PUD district. The planning commission and city council shall determine appropriate amounts of landscaping, natural open space, parking, signing, distances between buildings, front yards and other development standards as are appropriate for the specific uses requested at the time of consideration of the PUD development plan required by Section 18.68.110. Said standards shall be included as conditions to any approved PUD development plan.
- B. Landscaping shall include, but not be limited to, intensely planted and maintained areas. "Natural open space" means land lacking any physical, aboveground improvements, except for utility wires and poles, agricultural type fences or similar improvements, and unenhanced by plants, trees and shrubs, except those which are naturally existing and for agricultural purposes. (Prior code § 2-8.30)

#### **18.68.070 Maintenance.**

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- A. No final subdivision map or parcel map shall be recorded until documents pertaining to the maintenance of common natural open space areas, common landscaped areas, and common recreational facilities located within the plan have been approved by the city attorney. For nonresidential developments, said maintenance shall pertain to all landscaped areas and recreational facilities not enclosed within a building. For residential developments, said maintenance shall apply to the privately owned natural open space, landscaped areas, and recreational facilities owned by or used in common by the residents.
- B. The city shall be identified as a third party beneficiary to conditions, covenants and restrictions placed upon a development, unless otherwise directed by the city council or the city attorney. (Prior code § 2-8.31)

#### **18.68.080 Interpretation.**

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- A. Due to the flexibility and imagination desired in PUD developments, not every issue regarding future development and use of the property may be established as part of the initial approval of a development. Thus, the community development director shall be charged with responsibility to determine if a change to the approved plan and/or conditions thereto is substantial. If, after review of the plan and conditions, the director determines that the request is a substantial revision or change, the request shall be presented to the planning commission and city council in accordance with the applicable provisions of Chapter 18.04 of this title. If the change is not substantial, the director, after consulting with the city attorney and city engineer, may approve the change, subject to reasonable conditions, and advise the planning commission and city council of said approval, in writing, within 10 days of the approval.
- B. If the planning commission, city council, applicant or any interested citizen disagrees with the community development director's determination or conditions of approval, a written appeal shall be filed with the secretary to the planning commission within 20 calendar days of said action and a public hearing shall be held. The requisite notices of the public hearing shall be given pursuant to the provisions of Chapter 18.04 of this title.
- C. If the revision or change involves the construction of an improvement or betterment for which no specific development standard is established pursuant to this chapter, the community development director, planning commission and/or city council shall apply the provisions of this code which most closely represent the type of development which has been approved. (Ord. 2000 § 1, 2009; prior code § 2-8.32)

#### **18.68.090 Interim uses.**

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Any existing use of property zoned PUD (including property with an approved development plan) shall be subject to the provisions of Chapter 18.120 of this title pertaining to nonconforming uses. No expansion of a nonconforming land use, expansion of a nonconforming building, or addition of any new structures associated in any manner with an existing land use or building, with the exception of emergency standby electricity generators, fuel cells, or battery facilities, shall be allowed until a conditional use permit has been granted in accordance with Chapter 18.124 of this title. Emergency standby electricity generators, fuel cell, or battery facilities shall comply with the regulations of the most applicable R-1 zoning district, as determined by the community development director. (Ord. 2000 § 1, 2009; Ord. 1880, 2003; prior code § 2-8.33)

#### **18.68.100 Grading.**

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Any land located within a PUD district which does not have an approved development plan shall not be graded or have fill placed upon it without first obtaining a conditional use permit pursuant to Chapter 18.124 of this title. (Prior code § 2-8.34)

#### **18.68.110 Development plan.**

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- A. Purpose. The development plan is intended to provide to the city a comprehensive plan of the proposed development to ensure that the intent and purposes of the planned unit development district are effectuated. The development plan may proceed as a single program or in phases, but in either situation, it is part of the entire PUD zoning process.
- B. Considerations. In recommending approval of, or in approving a PUD development plan, the planning commission and city council should consider the following:
1. Whether the plan is in the best interests of the public health, safety and general welfare;
  2. Whether the plan is consistent with the city's general plan and any applicable specific plan;
  3. Whether the plan is compatible with previously developed properties in the vicinity and the natural, topographic features of the site;
  4. Whether any grading to be performed within the project boundaries takes into account the environmental characteristics of the property and is designed in keeping with the best engineering practices to avoid erosion, slides or flooding to have as minimal an effect upon the environment as possible;
  5. Whether streets, buildings, and other manmade structures have been designed and located in such a manner to complement the natural terrain and landscape;
  6. Whether adequate public safety measures have been incorporated into the design of the plan;
  7. Whether the plan conforms to the purpose of the planned unit development district.
- C. Conditions. In the recommendation of approval and in the approval of a PUD development plan, conditions may be imposed which are deemed necessary to protect the public health, safety and general welfare.
- D. Required Data. Any development plan shall be accompanied by the following data prepared by a design team consisting of a registered civil engineer and either a licensed architect, professional planner, or licensed building designer:
1. A site plan showing general locations of all streets, on street and off-street parking, buildings and other manmade structures and where applicable any bicycle paths, riding trails, hiking trails; typical elevations of sufficient detail to show building heights, building materials, colors, textures, and general design; and a table listing land coverages by percentage and acreage for the following: landscaped areas and natural open space; coverage by buildings, parking (covered, open, off-street), streets, sidewalk; and where applicable, paths and recreational facilities;
  2. A topographical map showing existing contours and proposed lot lines, which may be integrated with the site plan described in subsection (D)(1) of this section; the lot lines may be omitted if building locations on

the site plan make proposed lot lines obvious. The topographical map shall be at a scale no smaller than one inch equals 100 feet showing contour lines existing prior to grading at an interval of not more than 10 feet. The community development director, or his or her designated representative, may allow a reduction in the scale of the map or allow an increase in the contour interval when in his or her opinion the size of the parcel or its terrain requires such changes to make the map more meaningful. The director may omit the requirement for a topographical map entirely for a parcel located on land having an average slope of less than 10 percent;

3. A grading plan showing increments of the depths of all cuts and fills in various colors or any similar display which shows the cuts, fills and depths thereof and readily distinguishes between differing fills and depths; and a slope classification map showing, in contrasting colors, all land which has less than 10 percent slope, that land which has a slope between 10 percent and 20 percent and all land which has a slope greater than 20 percent. The community development director, or his or her designated representative, may waive the slope classification map for properties which do not have significant land areas in excess of 10 percent slope;
4. The community development director, or his or her designated representative, shall require, where appropriate, development profiles which show the relationship of the proposed project to any dominant geological or topographical features which may be on or in the vicinity of the proposed project;
5. On the site plan or on a separate plat show any tree(s), including size and species as provided in Chapter 17.16 of this code and whether or not such tree(s) is to be removed or destroyed;
6. Sufficient dimensions to show right-of-way widths, pavement widths, street grades, whether streets are to be public or private, and all proposed frontage improvements on new and existing streets;
7. The community development director, after consulting with the city engineer, may require a current preliminary soils and geological report prepared by a registered civil engineer and/or a registered geologist when development is proposed in areas in excess of 10 percent average slope, there is known or suspected ground instability, high water table, or significant erosion. A geologic report shall always be prepared as required by Chapter 17.12 of this code;
8. A detailed landscaping plan showing the natural open space, if any, which will remain upon completion of development, all existing trees and the precise boundaries of additional landscaping; the landscape plan shall include container size of all trees and shrubs, species of all plant material, evidence of an irrigation system (indicating whether manual or automatic), street furniture, and fencing materials, and where applicable, dimensions and locations;
9. Residential developments also shall include the following data:
  - a. A calculation of the population density of the development,
  - b. The location of proposed dwelling units and types,
  - c. A calculation of the number of bedrooms to be constructed;
10. A specification of the permitted uses desired in the development plan. The community development director, the planning commission, or city council may require greater identification of specific uses;
11. Notwithstanding the requirements of this subsection, an applicant for a PUD development plan for the development of two or more acres, which development will occur in stages, may submit general information relating to subsections (D)(1) through (D)(9) of this section for review for the entire project. Unless otherwise authorized by the city council, each stage or phase of the project must be adjacent to any previously approved portion of the development plan and shall be reviewed by and approved by the planning commission and city council, in accordance with the procedure set forth herein, together with the exact, complete and detailed information required by subsections (D)(1) through (D)(9) of this section. No tentative subdivision map, building permit or other entitlement shall be approved or issued until such review and approval has been obtained.

**E. Grading Control.**

1. **Size and Treatment.** In order to keep all graded areas and cuts and fills to a minimum, to eliminate

unsightly grading and to preserve the natural appearance and beauty of the property as far as possible as well as to serve the other specified purposes of this chapter, specific requirements may be placed on the size of areas to be graded or to be used for building, and on the size height and angles of cut slopes and fill slopes and the shape thereof. In appropriate cases, retaining walls may be required.

2. **Restrictions.** All areas indicated as natural open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise except as permitted by this subsection. Where applicable, drainage improvements, utility lines, riding trails, hiking trails, picnic areas, stables and similar public improvements and amenities may be placed in natural open space areas at the time of approval of a PUD development plan. Where natural open space is disturbed for public improvements, best engineering efforts shall be undertaken to make said improvements as unobtrusive as practicable and trenched areas (and similar ground disturbances) shall be treated so as to encourage rapid regeneration of the natural coverage.

3. **Landscaping.** The PUD development plan shall include the planting of newly created banks or slopes for erosion control or to minimize their visual effect. (Ord. 2000 § 1, 2009; prior code § 2-8.35)

### **18.68.120 HPD process.**

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If a development is proposed pursuant to this chapter, which also could develop under the provisions of the hillside planned development district (Chapter 18.76 of this title), the developer shall submit with his or her application for PUD zoning and PUD development plan an explanation why the project is not requested for development pursuant to the hillside planned development district. (Prior code § 2-8.36)

### **18.68.130 Procedure.**

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- A. The placement of property into the PUD zoning district may be initiated by the city council, planning commission, property owner, an authorized representative or an option holder pursuant to the provisions of this chapter.
- B. The city council, planning commission, applicant or general citizen may appeal any decision approving or disapproving a request for PUD zoning, development plan approval, or modification to a development plan pursuant to the provisions of this chapter.
- C. A PUD district zoning request and development plan may be processed concurrently or separately. If they proceed concurrently, only a single ordinance shall be required for approval. If they proceed separately, or if the PUD development plan proceeds in phases as provided by this chapter, separate ordinances shall be required for each process and phase of the project. The ordinance(s) required by this subsection shall be processed in the same manner as any zoning ordinance.
- D. No subdivision map shall be processed concurrently with a PUD zoning request or PUD development plan.
- E. An applicant shall file a separate application for each noncontiguous parcel upon which consideration of PUD zoning and/or a development plan is desired. For the purposes of this subsection, parcels shall be deemed to be noncontiguous if they are separated by roads, streets, utility easements or railroad rights-of-way, which, in the opinion of the community development director, are of such a width as to:
  - 1. Destroy the unity of the proposed project or the ability of the parcel to be developed as a cohesive unit; or
  - 2. Otherwise create the impression that two separate parcels or projects are being developed. (Ord. 2000 § 1, 2009; prior code § 2-8.37)

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**18.78.010 Purpose.**

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The purpose of this chapter is to create a zoning overlay district with regulations which will implement the goals and policies of the general plan as they relate to maintaining the highly aesthetic, rural character of the Foothill Road corridor. This corridor is designated an "area of special concern" in the land use element, and the combination of residential densities allowed in the general plan is designed to form a complementary pattern of development and conservation which will provide Pleasanton with opportunities for custom homes, recreation, open space and preservation of the city's most visible resource. This zoning overlay district will assure that development along this corridor is consistent with the goals and policies of the general plan and thereby promotes and protects the health, safety, comfort, appearance and general welfare of the community. (Ord. 1468 § 1 (part), 1990)

**18.78.020 Creation of district.**

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There is created a zoning overlay district known as the West Foothill Road corridor overlay district (hereinafter referred to as "district"), the boundaries of which are as follows:

All that land bounded as follows: Foothill Road on the east, the northern boundary of lands of East Bay Regional Park district approximately 1,500 feet south of Verona Road on the south, the 670-foot elevation contour line on the west except in the northwest corner where it shall be the property line between lands of Presley Homes and lands of Panganiban, and Dublin Canyon Road on the north excluding lands planned for commercial uses; all as more precisely shown on Exhibit A, attached to the ordinance codified in this chapter, and incorporated herein by reference, appearing on the maps following this chapter. (Ord. 1468 § 1 (part), 1990)

**18.78.030 Regulations applicable.**

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- A. The regulations applicable to the district contained in this chapter are in addition to the regulations otherwise applicable to the area within the district; provided, however, that where regulations conflict, the provisions of this chapter shall control.
- B. In the event the underlying zoning of properties within the district is changed, this district shall remain in effect unless the rezoning action specifically removes the properties from this district. (Ord. 1468 § 1 (part), 1990)

**18.78.040 Properties not subject to the district's regulations.**

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- A. All properties within the district which have approved PUD development plans, prior to the adoption of this district, shall be allowed to develop in accordance with the provisions of their development plans. To the extent those development plans require subsequent discretionary city approval, the city reviewing boards and commissions shall attempt to meet the spirit of this district's regulations in the context of allowing development in accordance with the approved PUD development plans.
- B. Existing lots of record as of the date of adoption of the ordinance codified in this chapter may be developed with structures in accordance with the regulations of the underlying zoning rather than within the regulations included in this district; however, the city reviewing boards and commissions shall attempt to meet the spirit of this district's regulations in the context of allowing structures to be built in accordance with the existing underlying zoning regulations. (Ord. 1468 § 1 (part), 1990)

**18.78.050 Procedure.**

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The requirements of this district shall be implemented by city reviewing boards, commissions and officials, in conjunction with their review of projects otherwise required by this code. Review of projects shall include, but not be limited by, PUD development plans, design review, tentative subdivisions and building permits. The reviewing boards, commissions and officials may approve projects which do not comply with strict technical standards of this chapter upon making a finding that the design of the project as a whole is consistent with the highly aesthetic, rural character of the Foothill Road corridor. (Ord. 1468 § 1 (part), 1990)

**18.78.060 Adoption of guidelines.**

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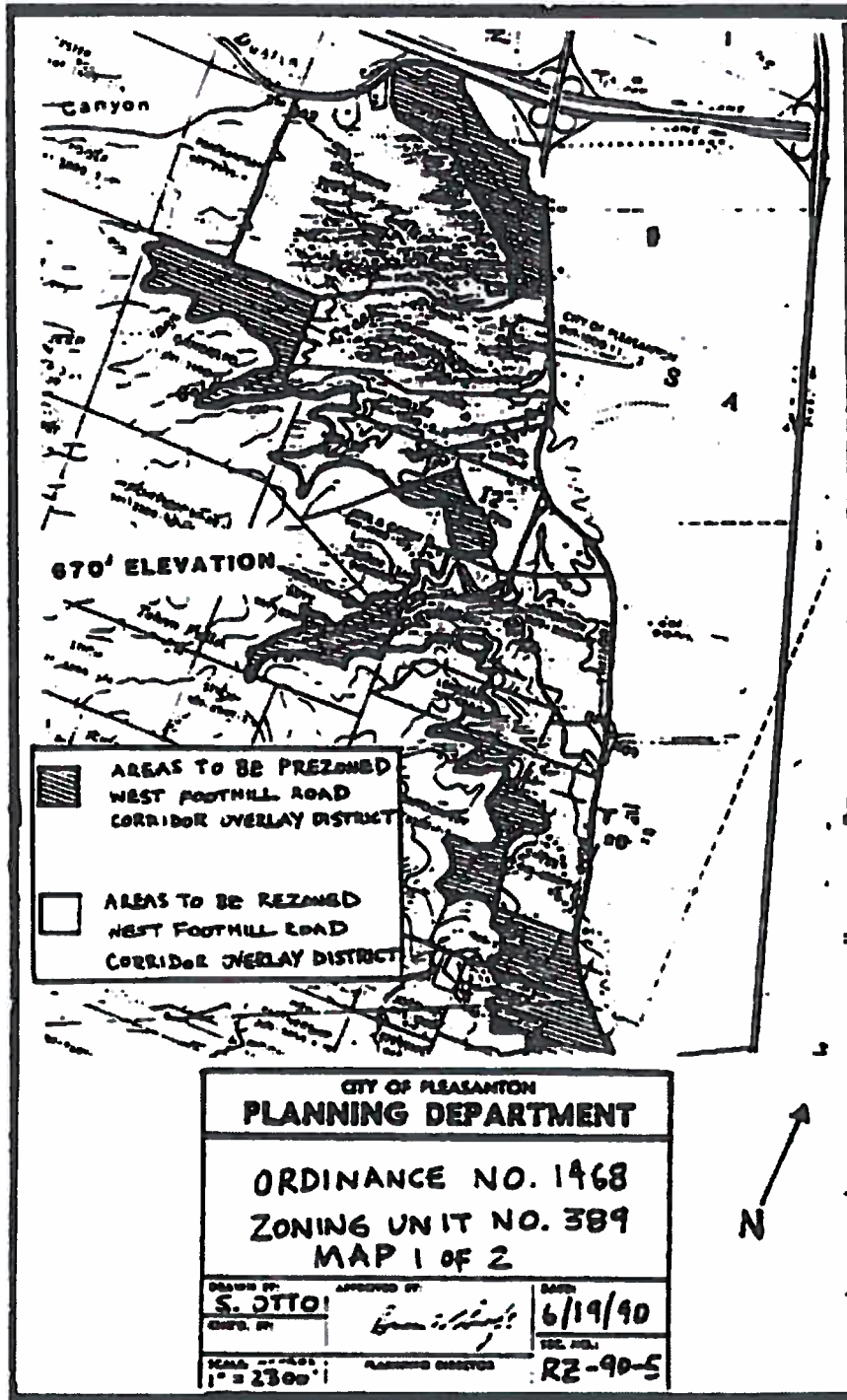
The city council, following recommendations by the planning commission, may adopt by resolution design guidelines for the district. Such guidelines may be amended from time to time following the same procedure. city staff, boards and commissions shall adhere to the adopted guidelines in reviewing all applications for permits. (Ord. 1468 § 1 (part), 1990)

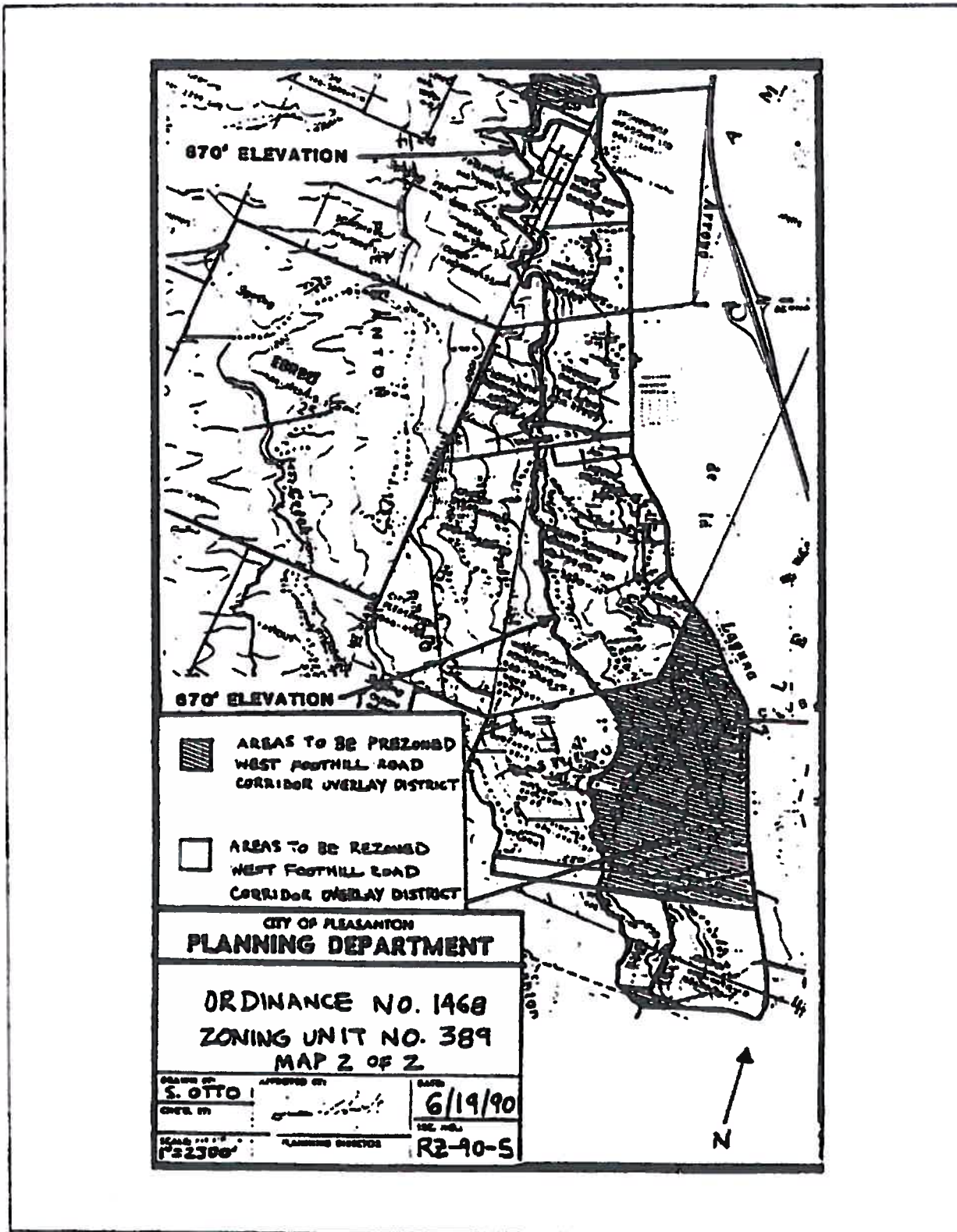
**18.78.070 Regulations for lots adjoining Foothill Road.**

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The following regulations shall apply to lots adjoining Foothill Road or any frontage road adjacent to Foothill Road, when feasible, in order to achieve the purposes of the district. These requirements shall apply to the first tier of lots along Foothill Road and shall not apply to lots located westerly of the first tier of lots:

- A. Lot Size Regulations. The minimum lot size shall be 30,000 square feet in area. Variation in lot sizes shall be encouraged. Lot width and depth shall be sufficient to allow the main building to be sited in a manner consistent with front and side yard setback and main structure separation requirements.
- B. Setback From Foothill Road. No structure shall be located closer than 150 feet to the westerly edge of the Foothill Road edge of pavement, back of curb, or back of curb as established by an approved alignment plan.





C. Side Yard Setbacks. Side yard setbacks shall be a minimum of 25 feet. Main structures with a building elevation facing Foothill Road of between 80 to 100 feet in width shall have side yard setbacks of a minimum 45 feet. Main structures wider than one hundred feet shall have minimum side yard setbacks of 75 feet.

D. Main Structure Height. The maximum height for any structure shall be 30 feet, measured vertically from the lowest point of the structure to the highest point of the structure, excluding towers, spires, cupolas, chimneys and

other such uninhabitable projections. (Ord. 1468 § 1 (part), 1990)

#### **18.78.080 Subdivision design.**

The following standards should be followed, when feasible, in any development within the district in order to achieve the purposes of this district:

- A. **Open Space Between Lot Clusters.** Lots created along Foothill Road, or any frontage road parallel to Foothill Road, shall be clustered such that natural open space a minimum of 200 feet in width shall separate clusters of lots. No more than three lots may exist in a cluster of lots.
- B. **Prohibition on Foreridge Development.** Building sites within lots shall not be allowed if they are located on or near ridges which do not have a background of Pleasanton or Main Ridges when viewed from Foothill Road. Landscaping in the form of mature trees may be an allowable background for such ridgeline sites if the decision-making body finds that the landscaping will preclude the structure from dominating the skyline as viewed from Foothill Road.
- C. **Access/Frontage Improvements.** Use of individual driveways intersecting directly onto Foothill Road should be prohibited; combined, common-access driveways serving more than one lot shall be encouraged. Use of frontage roads should be encouraged where topography, grading and similar considerations make such roadways feasible.
- D. **Landscaping.** Mature, native trees within the district shall be retained to the maximum extent feasible. Where feasible, mature oak and other native species should be relocated to grassland areas planned for development in order to soften the effect of new development with the corridor. New development landscaping shall be predominantly native plant species in areas visible from Foothill Road, with lawn or turf areas in landscape schemes adjacent to Foothill Road either eliminated or hidden by native landscaping.
- E. **Retaining Walls.** Retaining walls visible from Foothill Road should be faced with materials compatible with the natural setting, such as natural stone or wood. Where feasible, retaining walls should be stepped. Landscaping shall be incorporated to minimize adverse visual impacts, with planting in front of walls, within stepped recesses and/or overhanging the wall.
- F. **Fencing.** Open fencing shall be required, except that solid, privacy fencing may be allowed in areas of a lot not within required yard areas if it is screened with landscaping. (Ord. 1468 § 1 (part), 1990)



**APPENDIX J  
GRADING**

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

**SECTION J101  
GENERAL**

**J101.1 Scope.** The provisions of this chapter apply to grading, excavation and earthwork construction, including fills and embankments. Where conflicts occur between the technical requirements of this chapter and the geotechnical report, the geotechnical report shall govern.

**J101.2 Flood hazard areas.** The provisions of this chapter shall not apply to grading, excavation and earthwork construction, including fills and embankments, in *floodways* within *flood hazard areas* established in Section 1612.3 or in *flood hazard areas* where design *flood* elevations are specified but floodways have not been designated, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed work will not result in any increase in the level of the base flood.

**SECTION J102  
DEFINITIONS**

**J102.1 Definitions.** For the purposes of this appendix chapter, the terms, phrases and words listed in this section and their derivatives shall have the indicated meanings.

**BENCH.** A relatively level step excavated into earth material on which fill is to be placed.

**COMPACTION.** The densification of a fill by mechanical means.

**CUT.** See Excavation.

**DOWN DRAIN.** A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility

**EROSION.** The wearing away of the ground surface as a result of the movement of wind, water or ice.

**EXCAVATION.** The removal of earth material by artificial means, also referred to as a cut.

**FILL.** Deposition of earth materials by artificial means.

**GRADE.** The vertical location of the ground surface.

**GRADE, EXISTING.** The grade prior to grading.

**GRADE, FINISHED.** The grade of the site at the conclusion of all grading efforts.

**GRADING.** An excavation or fill or combination thereof.

**KEY.** A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

**SLOPE.** An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

**TERRACE.** A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

**SECTION J103  
PERMITS REQUIRED**

**J103.1 Permits required.** Except as exempted in Section J103.2, no grading shall be performed without first having obtained a *permit* therefor from the *building official*. A grading *permit* does not include the construction of retaining walls or other structures.

**J103.2 Exemptions.** A grading *permit* shall not be required for the following:

1. Grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties.
2. Excavation for construction of a structure permitted under this code.
3. Cemetery graves.
4. Refuse disposal sites controlled by other regulations.
5. Excavations for wells, or trenches for utilities.
6. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.
7. Exploratory excavations performed under the direction of a registered design professional.

Exemption from the permit requirements of this appendix shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

**SECTION J104  
PERMIT APPLICATION AND SUBMITTALS**

**J104.1 Submittal requirements.** In addition to the provisions of Section 105.3, the applicant shall state the estimated quantities of excavation and fill.

**J104.2 Site plan requirements.** In addition to the provisions of Section 107, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.