



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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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 facilities¹, 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:

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

¹ 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 \$11.9 million when the housing cap is reached. The following table summarizes the fiscal impacts:

Summary of Fiscal Impacts related to Housing Unit Definition			
		Range of Reduction	
		Minimum	Maximum
Annual			
Reduction in Net Revenues Per Year	\$	101,000	\$ 194,000
One-Time Development Fees			
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>
Total	\$	20,024,928	\$ 38,527,236

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.²

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 reasons³:

- 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.

² 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.

³ 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 property⁴ (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.⁵ 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.⁶

⁴ 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.

⁵ See Government Code §65863.

⁶ 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)⁷	Estimated Development Under Initiative (DU's)⁸	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 ⁹	
Foley	18	1 (10 by default)	
Oak Grove ¹⁰	51	0 (10 by default)	
Total	275/222¹¹	51/103¹²	

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.¹³ (See also Section 5.20, below.)

⁷ Number of potential dwelling units per General Plan Midpoint Density

⁸ Number of units estimated under Initiative

⁹ 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).

¹⁰ Assuming project overturned by referendum; Dwelling Units (DU) based on approved project

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

¹² Total with Spotorno Upper Valley / Total with Spotorno Flat

¹³ 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.¹⁴

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.¹⁵ 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 396.¹⁶

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.

¹⁴ See Government Code §65852.2 (a) (2).

¹⁵ 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.

¹⁶ 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 12.3.¹⁷ 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 fee¹⁸ 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.¹⁹

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.²⁰

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

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

¹⁸ On page VI-9 of the 1996 General Plan.

¹⁹ On page VI-4 of the 1996 General Plan.

²⁰ 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.²¹

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

²¹ 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 policies²² 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.

²² 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 District²³ 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.²⁴

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.

²³ 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.

²⁴ 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.”²⁵ 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”²⁶ 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.²⁷

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.

²⁵ See 1986 General Plan, page II-9.

²⁶ See 1996 General Plan, page V-4.

²⁷ 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."²⁸

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.)

²⁸ 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."²⁹ 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.

²⁹ 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 Act³⁰ (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.³¹ 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.³²

³⁰ See Government Code §§ 66410-66499.58.

³¹ See Government Code §§ 66472.2 and 66498.1.

³² 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, "... sub-dividing ... 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.³³

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.

³³ 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.³⁴

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.

³⁴ 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.³⁵ 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.³⁶

³⁵ See Government Code §65852.2(a)(2).

³⁶ 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.}

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

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.

Assumptions/Site	Consensus Preferred Plan Option	Dispersed Growth Option (for EIR alternative purposes only)	Concentrated Residential/TOD mixed use Option (for EIR alternative purposes only)
Remaining Residential Potential	2,007	2,007	2,007
Reserve for Busch Road School Site	113	113	113
Reserve units	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)
Residential Units Planned for	1,373	1,373	1,373
1. West Pleasanton BART Station	350	120	102
2. Hacienda Specific Plan	333	437	1,271
3. Staples Ranch*	240	240	0
4. East Pleasanton Specific Plan	250 residential units	376 residential units	0 residential
6. Kottinger Place/Pleasanton Gardens (additional density)	100	100	0
7. Downtown Infill	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 Facility³⁷ 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.

³⁷ 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:

Housing Unit Assumptions:	Multifamily Unit⁽¹⁾	Single Family Detached Unit⁽²⁾	Hillside Single Family Unit⁽³⁾
Floor Area:	900 square feet	3,500 square feet	8,500 square feet
Cost Per Square Foot:	\$250	\$350	\$400
Estimated Market Value:	\$225,000	\$1,225,000	\$3,400,000
Person Per Household: ⁽⁴⁾	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 Fees³⁸) 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).

³⁸ 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	
Fiscal Assumptions:	
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
Revenues			
Property Tax	\$ 128,016.00	\$ 696,976.00	\$ 1,934,464.00
Sales Tax	<u>\$ 130,990.72</u>	<u>\$ 196,486.08</u>	<u>\$ 209,585.15</u>
Total Annual Revenues	\$ 259,006.72	\$ 893,462.08	\$ 2,144,049.15
Expenditures			
Total Annual Expenditures	\$ 201,600.00	\$ 784,000.00	\$ 1,904,000.00
Net Additional Revenues	\$ 57,406.72	\$ 109,462.08	\$ 240,049.15
Maximum Reduction			\$ 240,049.15
			\$ 57,406.72
			\$ 182,642.43
Minimum Reduction			\$ 240,049.15
			\$ 109,462.08
			\$ 130,587.07

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:

Table 4			
(Based on 119 Homes being relocated to other areas of the City)			
	Multifamily	Single Family	Hillside Homes
Revenues			
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
Expenditures			
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
Maximum Reduction			\$ 127,526.11
			<u>\$ 30,497.32</u>
			\$ 97,028.79
Minimum Reduction			\$ 127,526.11
			<u>\$ 58,151.73</u>
			\$ 69,374.38

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:

	Multifamily	Single Family	Hillside Homes
<u>City's Fees</u>			
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
Total City Fees	\$ 16,513.00	\$ 29,004.00	\$ 29,004.00
<u>Other Agencies</u>			
Zone 7 (Water)	\$ 21,621.00	\$ 20,270.00	\$ 20,270.00
DSRSD (including LAVWMA)	\$ 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 ⁽¹⁾	\$ 725.00	\$ 2,815.00	\$ 6,835.00
Total Other Agencies	\$ 34,055.00	\$ 68,287.00	\$ 102,477.00
Total Capital Fees	\$ 50,568.00	\$ 97,291.00	\$ 131,481.00

(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:

Table 6			
(Based on 224 Homes being relocated to other areas of the City)			
	Multifamily	Single Family	Hillside Homes
City's Fees			
Public Facilities Fees	\$ 540,512.00	\$ 886,368.00	\$ 886,368.00
Water Connection Fees	\$ 143,360.00	\$ 268,800.00	\$ 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	\$ 538,720.00	\$ 2,173,248.00	\$ 2,173,248.00
Total City Fees	\$ 3,698,912.00	\$ 6,496,896.00	\$ 6,496,896.00
Other Agencies			
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 ⁽¹⁾	\$ 162,400.00	\$ 630,560.00	\$ 1,531,040.00
Total Other Agencies	\$ 7,628,320.00	\$ 15,296,288.00	\$ 22,954,848.00
Total Capital Fees	\$ 11,327,232.00	\$ 21,793,184.00	\$ 29,451,744.00
(1) Assumed impervious surface is equal to the floor area plus 10%.			
Maximum Reduction			\$ 29,451,744.00
			\$ 11,327,232.00
			\$ 18,124,512.00
Minimum Reduction			\$ 29,451,744.00
			\$ 21,793,184.00
			\$ 7,658,560.00

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:

Table 7			
(Based on 119 Homes being relocated to other areas of the City)			
	Multifamily	Single Family	Hillside Homes
City's Fees			
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	\$ 327,964.00	\$ 468,622.00	\$ 468,622.00
Low Income Housing Fee	<u>\$ 286,195.00</u>	<u>\$ 1,154,538.00</u>	<u>\$ 1,154,538.00</u>
Total City Fees	<u>\$ 1,965,047.00</u>	<u>\$ 3,451,476.00</u>	<u>\$ 3,451,476.00</u>
Other Agencies			
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 ⁽¹⁾	<u>\$ 86,275.00</u>	<u>\$ 334,985.00</u>	<u>\$ 813,365.00</u>
Total Other Agencies	<u>\$ 4,052,545.00</u>	<u>\$ 8,126,153.00</u>	<u>\$ 12,194,763.00</u>
Total Capital Fees	\$ 6,017,592.00	\$ 11,577,629.00	\$ 15,646,239.00
(1) Assumed impervious surface is equal to the floor area plus 10%.			
Maximum Reduction			\$ 15,646,239.00
			<u>\$ 6,017,592.00</u>
			\$ 9,628,647.00
Minimum Reduction			\$ 15,646,239.00
			<u>\$ 11,577,629.00</u>
			\$ 4,068,610.00

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:

Table 8			
Summary of Fiscal Impacts			
	Range of Reduction in Net Revenues		
		Maximum	Minimum
Annual			
Reduction in Net Revenues Per Year	\$	183,000	\$ - 69,000
One-Time Development Fees			
City	\$	2,797,984	\$ -
Pleasanton Unified School District	\$	12,903,296	\$ 3,590,230
Other Agencies	\$	2,423,232	\$ 478,380
Total One-Time Development Fees	\$	18,124,512	\$ 4,068,610

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

Impact on a Prospective Basis³⁹

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:

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

(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) 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.

³⁹ 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:

	Multifamily	Single Family
Revenues		
Property Tax	\$ 226,314.00	\$ 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
Expenditures		
Total Annual Expenditures	<u>\$ 356,400.00</u>	<u>\$ 1,386,000.00</u>
Net Additional Revenues	<u>\$ 101,486.88</u>	<u>\$ 193,513.32</u>
Maximum Reduction		\$ 193,513.32
Minimum Reduction	\$ 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:

Table 11		
(Based on 396 additional units included in the City's Housing Cap for the CLC Project)		
	Multifamily	Single Family
<u>City's Fees</u>		
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	\$ 952,380.00	\$ 3,841,992.00
Total City Fees	\$ 6,539,148.00	\$ 11,485,584.00
<u>Other Agencies</u>		
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 ⁽¹⁾	\$ 287,100.00	\$ 1,114,740.00
Total Other Agencies	\$ 13,485,780.00	\$ 27,041,652.00
Total Capital Fees	\$ 20,024,928.00	\$ 38,527,236.00
(1) Assumed impervious surface is equal to the floor area plus 10%.		
Maximum Reduction		\$ 38,527,236.00
Minimum Reduction	\$ 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:

Table 12			
Summary of Fiscal Impacts			
		<u>Range of Reduction</u>	
		<u>Minimum</u>	<u>Maximum</u>
Annual			
Reduction in Net Revenues Per Year	\$	101,000	\$ 194,000
One-Time Development Fees			
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>
Total	\$	20,024,928	\$ 38,527,236

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.

Intentionally

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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 Heaest Dr
Pleasanton, Ca. 94566

EXHIBIT A

Intentionally

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**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.

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

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