EXHIBIT B

THE CITY OF PLEASANTON.

CITY COUNCIL SPECIAL MEETING AGENDA REPORT

November 27, 2012
Department of Community Development
Planning Division

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

SUMMARY

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

ENVIRONMENTAL REVIEW

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

RECOMMENDATION

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

BACKGROUND

Purpose

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

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

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

Measure PP

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

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

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

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

Terms from Measure PP
Excerpts from the Measure PP Text:

1. "Ridgelines and hillsides shall be protected."

2. "Housing units and structures shall not be placed on slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline."

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

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

1. "Protect our scenic hills from development that destroys the character of our town."

2. "To direct development and development speculation away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to service by existing jurisdictions."

3. "Exempt from this policy are housing developments of 10 or fewer housing units on a single property that was, as of January 1, 2007, 'legal parcel' pursuant to the California Subdivision Map law."

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

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

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

DISCUSSION

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

[1] Note: Page 2-9 of the Pleasanton General Plan 2005 – 2035.

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

1. Slope.

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

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

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

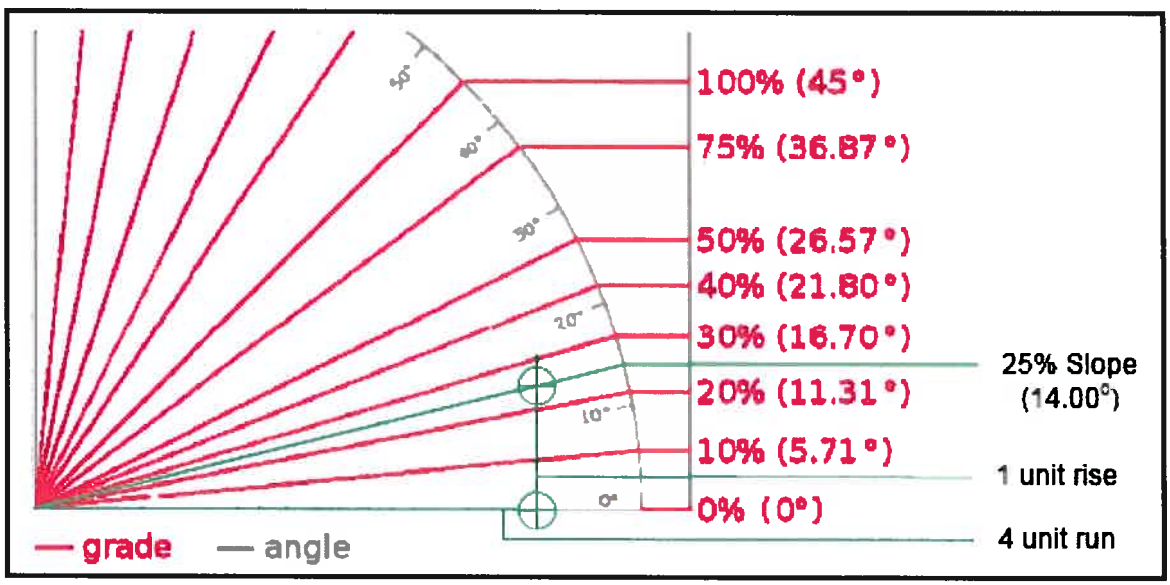

Figure 1: 25-percent slope.

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

[2] Note: Measure PP does exempt from these limitations: "...housing developments of 10 or fewer housing units on a single property ...".

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

[4] The grade of a slope is always measured perpendicular to the contour lines.

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

- Option One:
  Calculate 25-percent slope as a specific value based on the distance between contour lines on a topographic map.

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

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

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

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

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

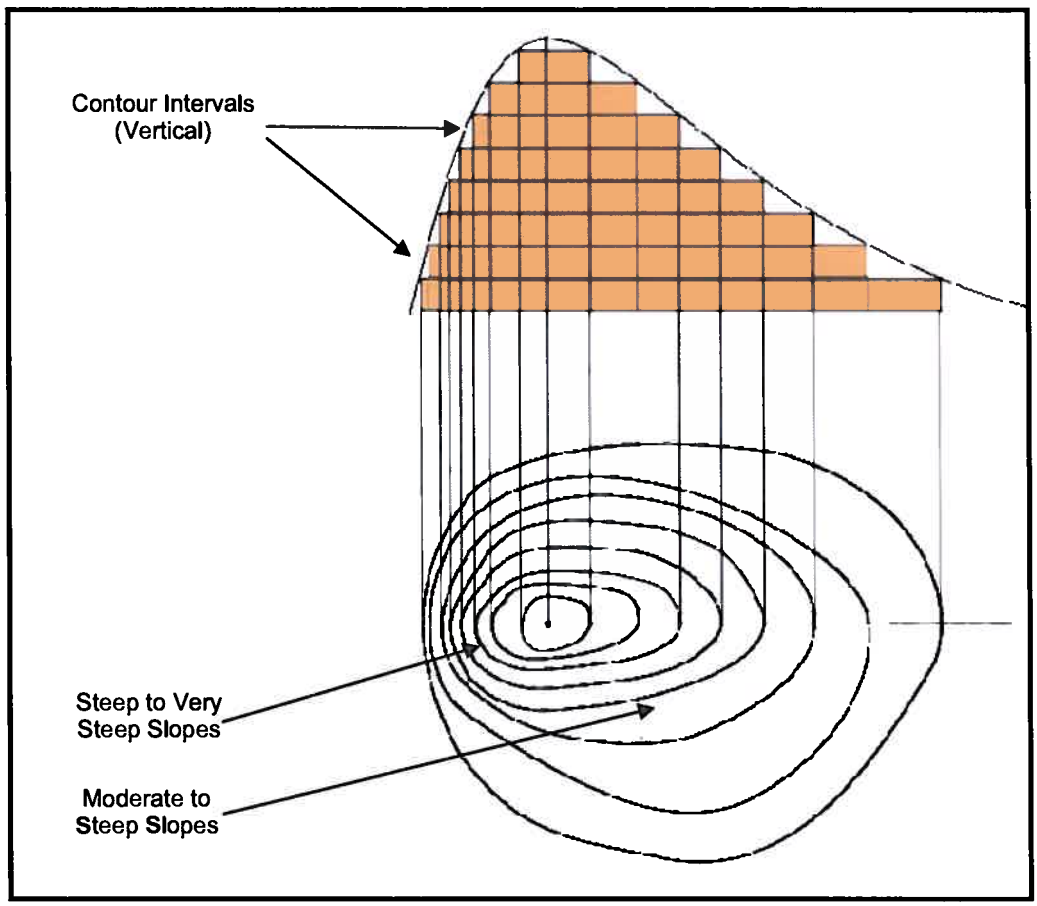

Figure 2: Contour Intervals, Contour Lines, and Slope Grades.

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

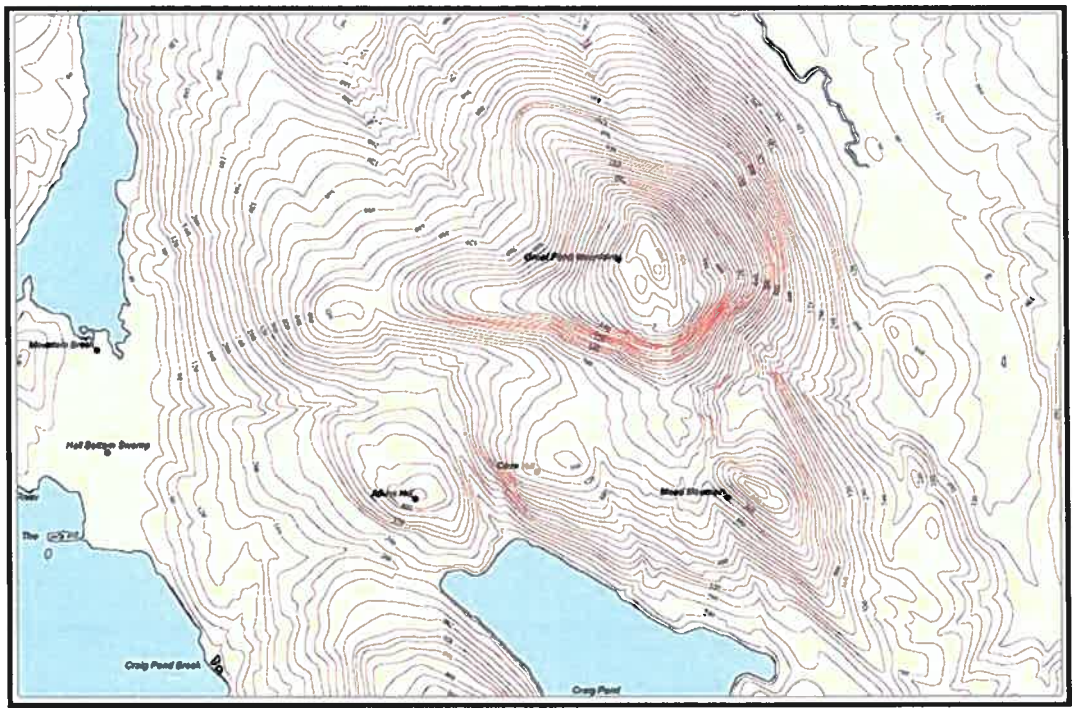

Figure 3: Contour Map with Contour Lines and Intervals and Natural Features.

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

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

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

- Option Two: Five-foot contour intervals.
  Five-foot contour intervals would provide slightly less detail on slope inventory maps and may potentially allow grading over minor topographic features such as small ravines, mounds, outcroppings, and swales. Excluding isolated or

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

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

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

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

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

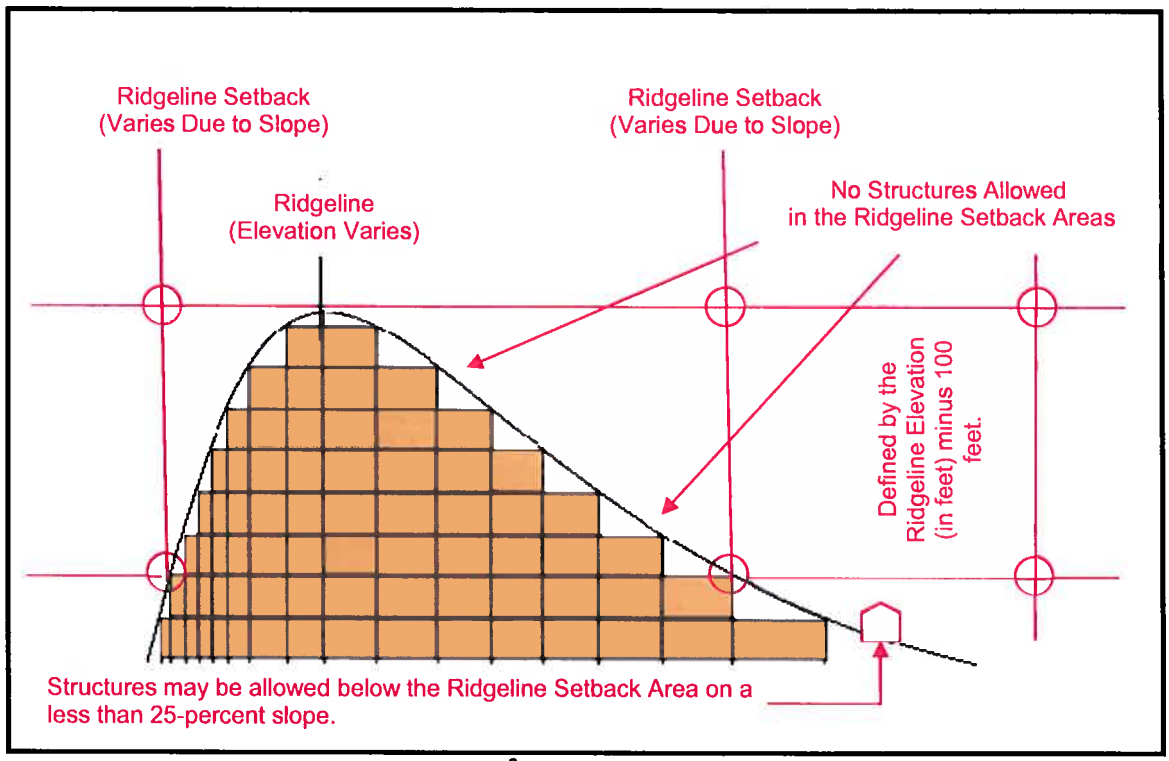

Figure 4: Slope Cross Section[6] with the Measure PP Ridgeline Setback.

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

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

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

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

[6] Note: Cross Section is not drawn to scale.

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

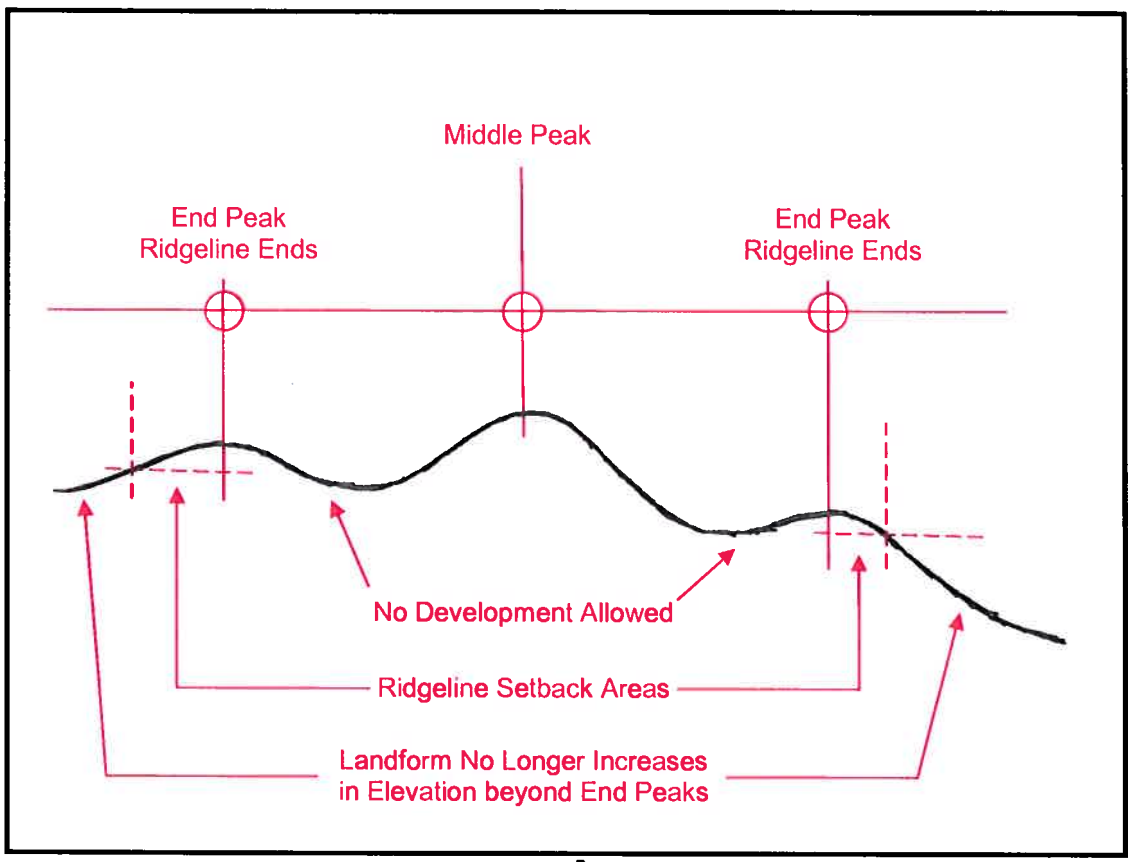

Figure 5: Slope Cross Section[7] Designating Ridgelines

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

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

[7] Note: Cross Section is not drawn to scale.

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

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

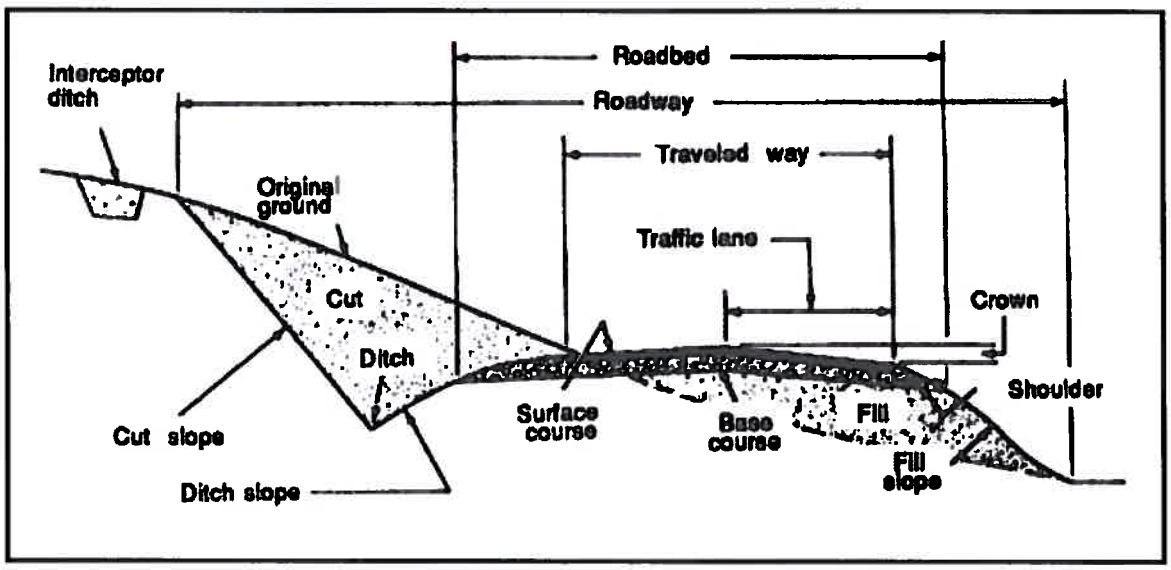

Figure 7: Example of a Road Section on Hillsides

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

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

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

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

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

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

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

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

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

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

4. **Manufactured Slopes Over a 25-Percent Grade.**
In some cases, potential development sites will contain slopes 25 percent and steeper that have been created by prior grading and/or construction rather than appearing naturally in the landscape.

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

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

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

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

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

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

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

CONCLUSION

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

Submitted by:	Fiscal Review:	Approved by:
Brian Dolan Director of Community Development	Emily Wagner Director of Finance	Nelson Fialho City Manager

Attachments:

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

EXHIBIT C

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

1. **CALL TO ORDER**
   Mayor Hosterman called the special meeting to order at the hour of 6:00 p.m.

2. **ROLL CALL**
   Present: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman
   Absent: None

3. **PUBLIC COMMENT:** None

4. Consider the implementation options of Measure PP provisions related to the development of hillside areas within the City of Pleasanton

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Hosterman opened the public hearing.

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

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

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

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

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

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

Mayor Hosterman closed the public hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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