

MEMORANDUM

Date: March 13, 2013

To: Pleasanton Planning Commission

From: Marion Pavan, Associate Planner

Subject: **Revised Staff Memorandum to the Planning Commission on Item 6.a., P12-1796, Draft Chapter 18.70, Ridgeline and Hillside Protection and Preservation.**

Background

This memorandum modifies the discussion in the previous Planning Commission Memorandum dated February 13, 2013 on "Roads Included in Specific Plans" and PUD Development Plans approved before November 2008, the date Pleasanton voters adopted Measure PP. Staff also modified the "Environmental Review" discussion in the previous memorandum.

Planning Commission Public Hearing, January 23, 2013

On January 23, 2013, the Planning Commission opened the public hearing on Chapter 18.70, Ridgeline and Hillside Protection and Preservation, and made the following comments:

1. Consider defining the ridgeline setback as a horizontal plane instead of a ground line.
2. Eliminate the proposed exemption process for manufactured slopes, streets and roads on slopes greater than a 25-percent grade, and for streets or roads to landlocked properties.
3. The design and environmental review processes referenced on the proposed code chapter for roads and streets is normally done and does not need to be repeated in the draft code chapter.
4. Staff should explore providing an inventory of City ridgelines on vacant properties affected by the proposed code chapter.
5. Delete the exemption to streets and roads that are part of a Specific Plan approved prior to November 2008.

The Planning Commission continued the proposed code chapter and directed staff to reply to its questions and comments made at the public hearing. Minutes of the public hearing are provided in the Planning Commission's packet.

Discussion

The following discussion responds to the Planning Commissions comments.

1. Ridgeline Setback as a Horizontal Plane

Planning Commission Comment

Consider defining the ridgeline setback as a horizontal plane instead of a ground line.

Staff Response

Defining the ridgeline setback as a horizontal plane instead of a ground line makes the ordinance more restrictive than the previously proposed language of Measure PP.

This wording would not prohibit the City Council and the Planning Commission from exercising its design review authority through the development review and public review processes with visual analyses to locate proposed structures, limit their maximum building height, lower their building pads, etc., to mitigate a potential impact to the view of a hillside or ridgeline.

Staff recommends no change to the Section 18.70.070 B. of the proposed code chapter. If the Planning Commission disagrees, staff suggests that the following language be included:

No structure (except cupolas, chimneys, or similar appurtenances) on the subject property shall extend above the horizontal plane of the closest ridgeline setback.

2. Exemption Process

Planning Commission Comment

The Commission is not comfortable with the proposed exemption process for manufactured slopes, streets and roads on slopes greater than a 25-percent grade, and for streets or roads to landlocked properties.

Staff Response

Staff supports the Planning Commission's direction and has revised the proposed code chapter to remove the exemption process and has also changed the proposed code chapter sections on manufactured slopes and landlocked properties as described below:

2.a. Manufactured Slopes

Staff Response

Staff revised Section 18.70.070 E. of the proposed code chapter to reflect the Planning Commission's comments as follows:

Modified Slopes.

If a slope has been modified from its natural or original condition by an act of man, the City shall determine the slope of the land based on the natural or original condition of the land, not the current slope of the land. The City shall rely on historical topographic maps, aerial and other photos, or other information available to determine the natural or original slope of the land during the public review process for a proposed development.

2.b. Landlocked Properties

Staff Response

Staff reviewed the reference to landlocked properties and removed it from the revised code chapter as it is unnecessary. Access to the Foley property, the property that this section was intended to address, would very likely be exempt from this ordinance as the Foley property could not reasonably accommodate more than ten lots.

3. Roads Included in Specific Plans

Planning Commission Comment

Delete the exemption to streets and roads that are included in a Specific Plan approved prior to November 2008.

Staff Response

Staff previously recommended that the proposed code chapter exempt roads anticipated by PUD Development Plans and Specific Plans approved before November 2008. In consultation with the City Attorney's Office, Planning Division staff has determined that this "grandfathering" of roads previously anticipated may not be a defensible implementation of Measure PP.

This determination has implications that staff believes the Planning Commission should be aware of as they consider this proposed ordinance. The proposed By-Pass Road called for in the Happy Valley Specific Plan would need to traverse extensive areas of land with a 25-percent slope or greater. Similarly, the possible roadway connections to the Lund Ranch II property from either Sunset Creek Lane or Sycamore Creek Way as called for in the North Sycamore Specific Plan would also need to traverse smaller areas of land with a 25-percent slope or greater. Excluding the "grandfathering" of the roads in these plans, in combination with the previous City Council's opinion that a road should be considered a structure, would preclude the construction of the By-Pass Road and a connection from Lund Ranch II to either Sunset Creek Lane or Sycamore Creek Way.

An alternative approach would be for the Planning Commission to recommend that the City Council reconsider the issue of whether a road is considered a structure for the purpose of Measure PP implementation. The Pleasanton Municipal Code includes a definition of a structure as follows:

“18.08.535, Structure.”

“Structure’ means 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.”

Staff does not believe that this definition resolves the issue as the exemption from the definition granted to “access drives” is not clear. It is also not clear that the proponents of Measure PP or the voters had this particular definition of structures in mind. Further, staff believes that if the proponents of Measure PP intended the measure to address roads, they would have simply made the reference to roads as something prohibited by the measure.

Staff recommends that the Planning Commission recommend to the City Council that the references to exemptions for planned roads be removed from the proposed ordinance, and that roads not be considered structures for the purpose of implementing Measure PP.

It is important to note that an ordinance, which does not define roads as structures, would not preclude the City’s discretionary review authority whereby any proposed road could be modified or prohibited if such a roadway was found to be inconsistent with Policy 21 of the Land Use Element of the Pleasanton General Plan:

“Policy 21:”

“Preserve scenic hillside and ridge views of the Pleasanton, Main, and Southeast Hills ridges (Measure QQ, November 2008).”

Moreover, a project with a proposed road with ridge or slope impacts would be subject to CEQA review.

4. Environmental Review

Planning Commission Comment

The design and environmental review processes referenced in the proposed code chapter for roads and streets is normally done, and does not need to be repeated in the ordinance implementing Measure PP.

Staff Response

As stated above, Staff removed Section 18.70.070 F. from the proposed code chapter.

5. Predetermined Ridgelines.

Planning Commission Comment

Staff should explore providing an inventory of City ridgelines on vacant properties affected by the proposed code chapter.

Staff Response

Staff prefers to identify and evaluate ridgelines on a case-by-case basis with individual development applications. Staff has proposed some minor word changes to the definitions of ridge and ridgeline as follows:

Ridge and Ridgeline.

A ridge is a landform created by a series of hills. A ridgeline is a continuous ground line connecting the highest elevations of a ridge. The end of the ridgeline shall be the last peak on each end of the landform at which the elevation of the ridgeline no longer rises in elevation, and only decreases in elevation.

Revisions to the Proposed Code Chapter

Revisions to the proposed code are attached in both final and edited formats. In the edited version, added text is indicated with blue underline and deleted text is indicated in red strike-through

Public Comment

Attached is an email with attachment from Allen Roberts (16 Grey Eagle Court). Staff has not received any other written or verbal communications since the January 23rd Planning Commission hearing.

Staff Recommendation

Staff recommends that the Planning Commission approve Case P12-1796 by taking the following actions:

1. Find that the proposed amendment to Title 18 is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15308, Actions by Regulatory Agencies for Protection of the Environment; and
2. Adopt a resolution recommending approval of the Draft Chapter 18.70 Ridgeline and Hillside Protection and Preservation, Exhibit A, dated February 13, 2013.

- Exhibits:**
- A. Print copy of Chapter 18.70, Ridgeline and Hillside Protection and Preservation, dated March 13, 2013.
 - A. Edited copy of Chapter 18.70, Ridgeline and Hillside Protection and Preservation, dated March 13, 2013.
 - B. Minutes of the Planning Commission public hearing held on February 13, 2013.
 - C. Comments from Alan Roberts.

Staff Planner: Marion Pavan, Associate Planner, (925) 931-5610, mpavan@cityofpleasantonca.gov

P12-1796
Exhibit A (Print Format), Draft Municipal Code Amendment

March 13, 2013

Chapter 18.70

RIDGELINE AND HILLSIDE PROTECTION AND PRESERVATION

Sections:

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

18.70.010 Purpose and Objectives.

The purpose of this chapter is to implement the provisions of Measure PP adopted by the Pleasanton voters in November, 2008, and the goals, policies, and programs of the Pleasanton General Plan 2005 – 2025 related to maintaining the character of the hillside areas of the City. These regulations working together with the development types and densities allowed in the General Plan are designed to form a complementary pattern of development and conservation to promote and protect the appearance of the City by:

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

18.70.020 Applicability.

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

- A. Housing units and structures in residential developments that are 11 units or greater shall not be placed on slopes of 25 percent or greater or within 100 vertical feet of a ridgeline. Housing units include, but are not limited to, apartments, co-operatives (co-ops), air-space condominiums, townhomes, multi-family homes, and single-family detached homes.
- B. Commercial structures are prohibited on hillside slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline.
- C. Grading to construct the above-referenced residential or commercial structures is prohibited on hillside slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline.

18.70.030 Non Applicability.

This chapter does not apply to the following:

- A. Housing developments of ten or fewer units on a single property that was, as of January 1, 2007, a legal parcel pursuant to the California Subdivision Map Act (California Government Code §§ 66410 – 66413). Splitting, dividing, or subdividing a legal parcel created prior to January 1, 2007 to obtain more than ten housing units is not allowed.
- B. City facilities. Examples of City facilities include water tanks and parks and recreation areas for pedestrian, bicycle, or equestrian trails or staging areas.

18.70.040 Implementation.

The regulations of this chapter shall be implemented through the City's Design Review and Planned Unit Development Rezoning/Development Plan entitlements, processes, and modifications of these entitlements, as follows:

- A. The regulations of this chapter are applied in conjunction with State and Federal regulations and City regulations, policies, and programs on, but not limited to, ridgeline and hillside protection, protection of jurisdictional waters, species, and habitat areas, trees, wildland fire mitigation, urban storm water runoff treatment and necessary environmental mitigation, etc.
- B. Where the regulations of this chapter may conflict with other provisions of this title including, but not limited to, Chapter 18.76 H-P-D Hillside Planned Development District, Chapter 18.68 PUD Planned Unit Development District, and Chapter

18.78 West Foothill Road Corridor Overlay District, the regulations of this chapter shall control.

18.70.050 Definitions.

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

A. Contour Interval.

Contour interval means the difference in elevation between adjacent contour lines on a contour map or topographical map.

B. Contour Line.

Contour lines are the horizontal lines, curved or straight, that join points of the same elevation (height) above a given level, such as mean sea level. Contour lines can graphically show land features such as valleys, hills, creeks, and ridgelines. The spacing between contour lines – wide or narrow – can graphically show the relative steepness (grade) of the slope.

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

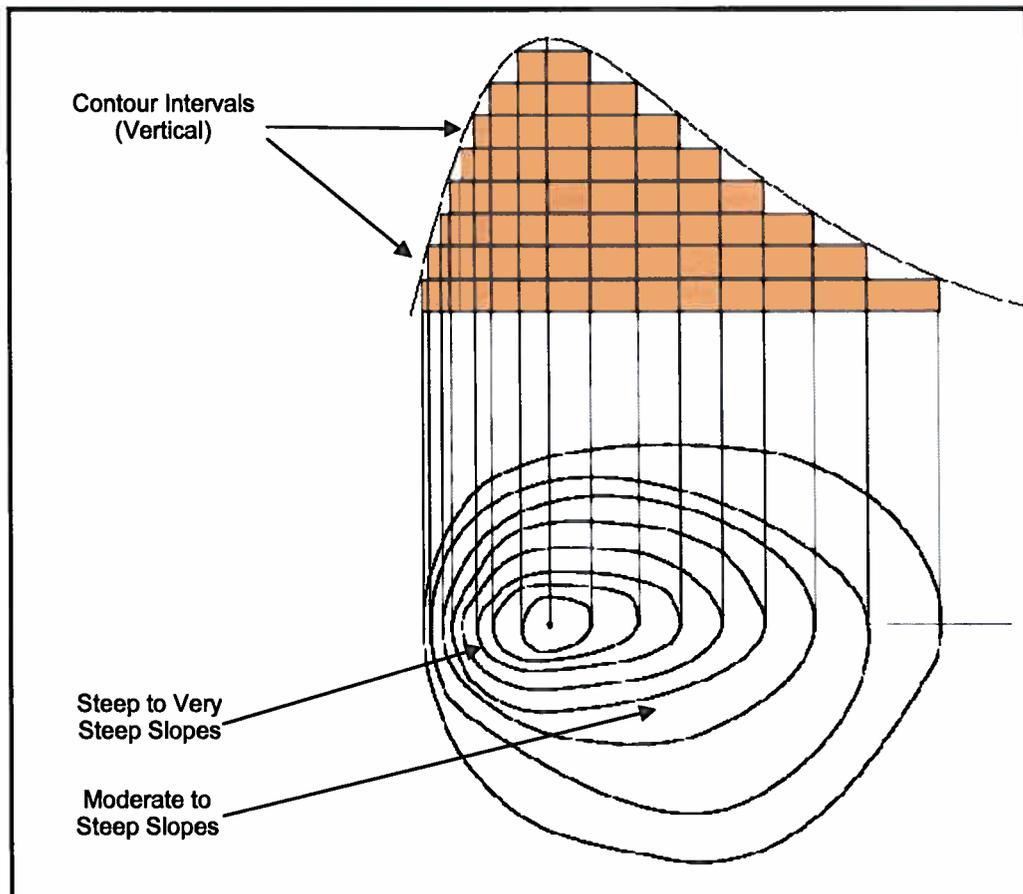


Figure 1: Contour Intervals, Contour Lines, and Slope Grades.

- C. Entitlement.
The right to develop a particular property for a stated purpose and/or use under the current rules and regulations of this title.
- D. Excavation.
The removal of rock or earth material on property by artificial means also referred to as a "cut."
- E. Fill.
Deposition of rock or earth material on property by artificial means.
- F. Grading.
Grading shall refer to any excavation (Section 18.70.040D.) or fill (Section 18.70.040E.) or combination thereof on property by artificial means to alter natural features including slopes and contours. For the purpose of this chapter, grading shall not include exploratory excavations, such as geotechnical or archaeological work, conducted under the direction of a qualified professional, repair or replacement of underground utilities.
- G. Ridge and Ridgeline.
A ridge is a landform created by a series of hills. A ridgeline is a continuous ground line connecting the highest elevations of a ridge. The end of the ridgeline shall be the last peak on each end of the landform at which the elevation of the ridgeline no longer rises in elevation, and only decreases in elevation.

Figure 2, below, illustrates the ridgeline definition.

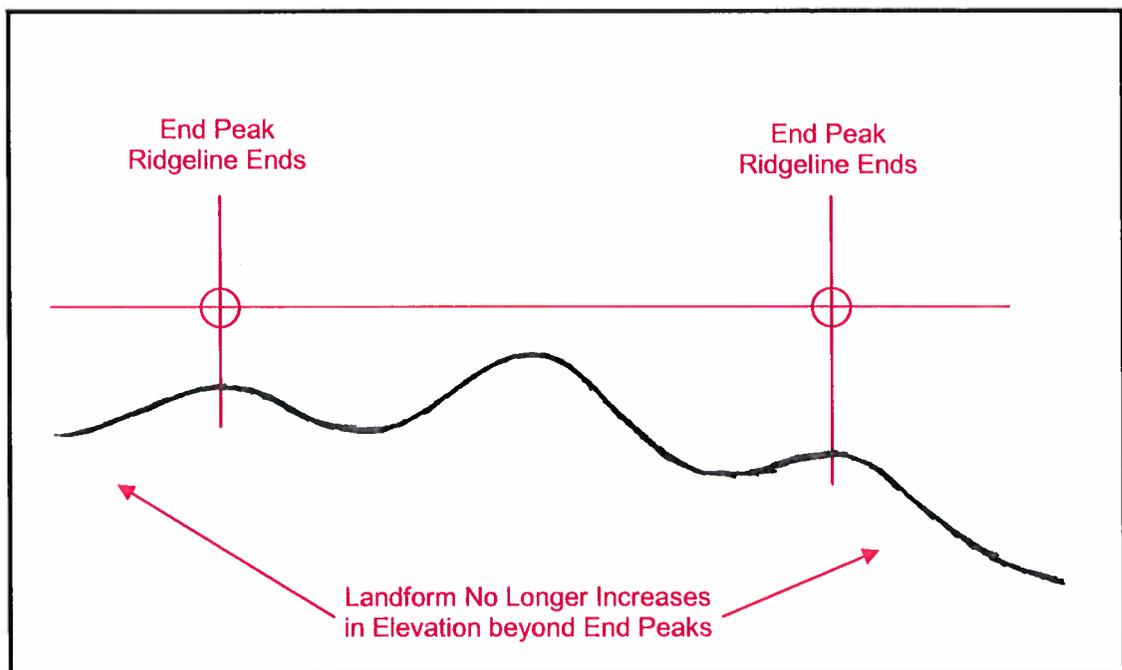


Figure 2: Ridgeline

H. Slope (Grade).

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

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

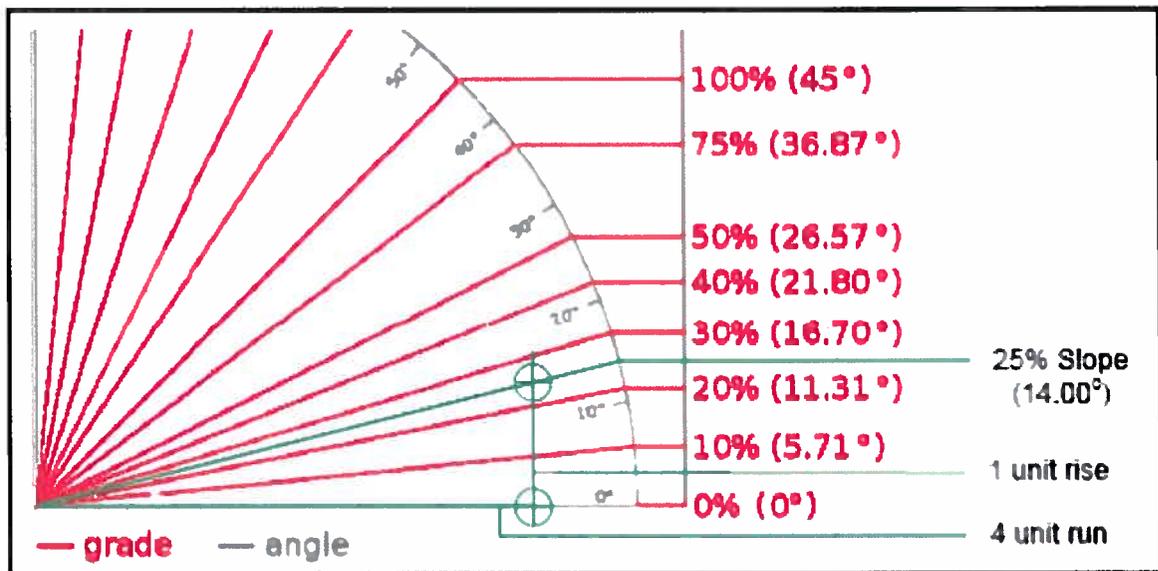


Figure 3: 25-percent slope.

18.70.060 Required Information.

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

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

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

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

1. Existing contour lines prior to grading at an interval of not more than two feet;
2. Slope classifications in contrasting colors of all land that has a slope less than 10 percent, land that has a slope between 10 percent and 20 percent, land that has a slope between 20 percent and 25 percent, and land that a slope greater than 25 percent;
3. Location of all ridgelines as defined under Section 18.70.040G. on the property and the 100-foot ridgeline setback as described in Section 18.70.060A.;
4. Existing on-site streets, bicycle paths, riding trails, pathways, and hiking trails and their off-site connections;
5. Existing buildings and other structures including drainage structures, fences, sheds, etc.;
6. Existing arroyos, streams, and drainage courses including jurisdictional waters;
7. Existing tree and groundcovers;
8. Off-site development and topography at a distance no less than 100 feet from the property lines.

18.70.070 Regulations and Review Procedures.

- A. Determining the Ridgeline Setback Line.

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

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

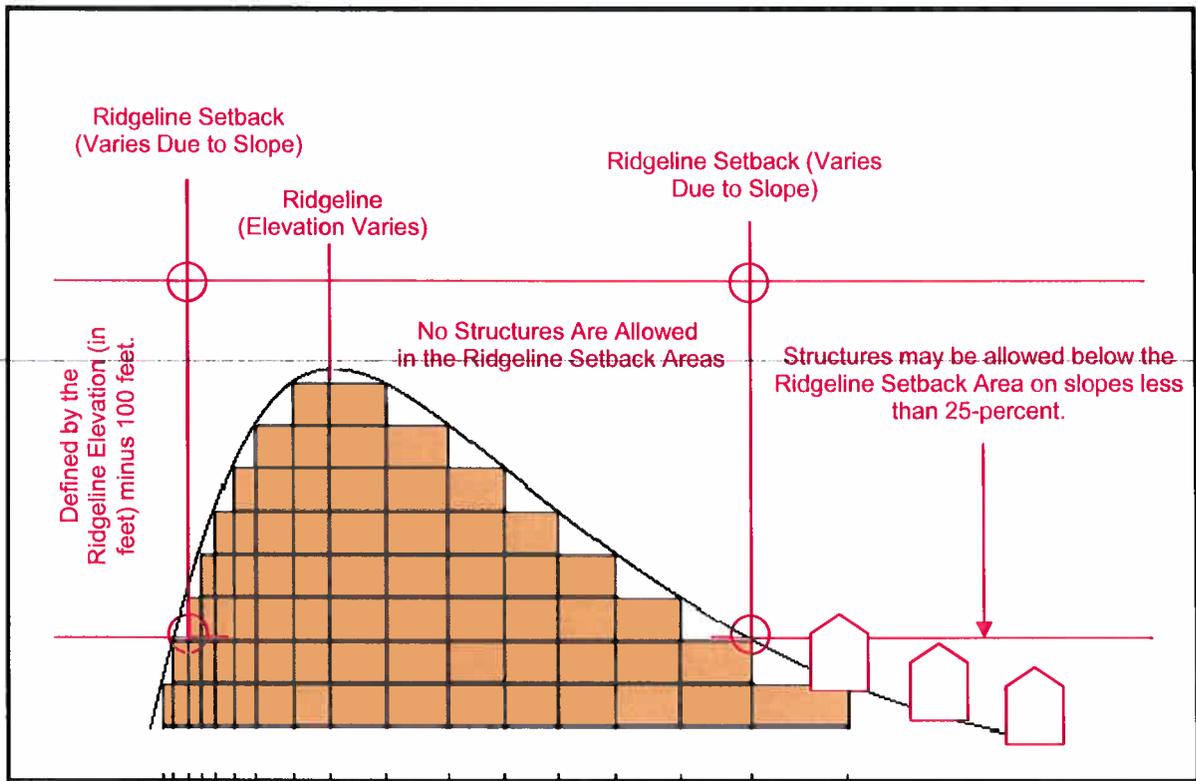


Figure 4: Slope Cross Section with the Ridgeline Setback.

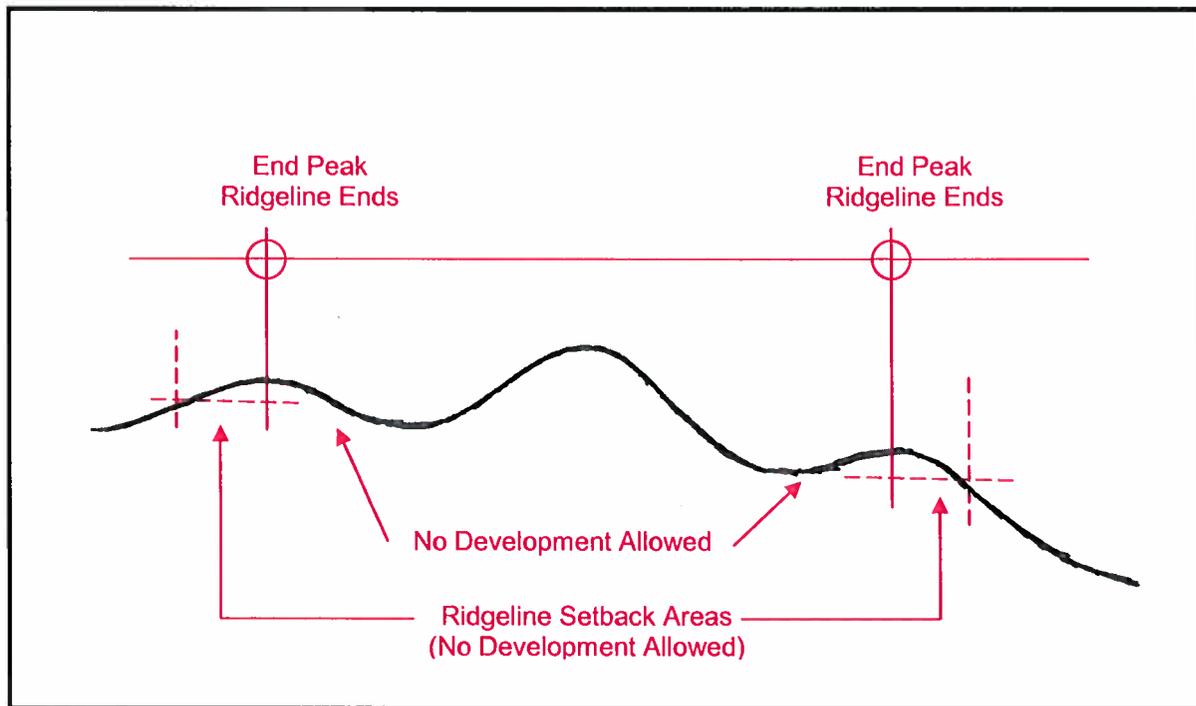


Figure 5: Slope Cross Section Designating Ridgelines and Ridgeline Setbacks

B. Determining the 25-Percent Slope Line.

The 25-percent slope line is the continuous ground line located at the elevation at which the slope grade equals or exceeds a 25-percent grade. Subject to City approval, isolated property features such as mounds, sink-holes, ditches, ravines, furrows, etc., that are surrounded by significant property area having a slope less than a 25-percent grade may be excluded in cases where such exclusion shall not conflict with the purpose of these regulations.

C. Determining the Hillside Development Limit Line.

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

D. Modified Slopes.

If a slope has been modified from its natural or original condition by an act of man, the City shall determine the slope of the land based on the natural or original condition of the land, not the current slope of the land. The City shall rely on historical topographic maps, aerial and other photos, or other information available to determine the natural or original slope of the land during the public review process for a proposed development.

< End >

P12-1796
Exhibit A (Edited Format), Draft Municipal Code Amendment

March ~~February~~ 13, 2013

Chapter 18.70

RIDGELINE AND HILLSIDE PROTECTION AND PRESERVATION

Sections:

- 18.70.010 Purpose and Objectives.**
- 18.70.020 Applicability.**
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- A. Preserving the predominant views of hillside and ridgeline areas to retain the sense of identity that these areas impart to the City;
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- C. Directing development and development speculation away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to service by the City; and,
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- B. Commercial structures are prohibited on hillside slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline.
- C. Grading to construct the above-referenced residential or commercial structures is prohibited ~~and grading to construct public and private streets for these developments is also prohibited~~ on hillside slopes of 25 percent or greater, or within 100 vertical feet of a ridgeline.
- ~~C.~~

18.70.030 Non Applicability.

This chapter does not apply to the following:

- A. Housing developments of ten or fewer units on a single property that was, as of January 1, 2007, a legal parcel pursuant to the California Subdivision Map Act (California Government Code §§ 66410 – 66413). ~~However, s~~Splitting, dividing, or sub-dividing a legal parcel created prior to January 1, 2007 to ~~approve~~ obtain more than ten housing units is not allowed.

~~For an approved, but not constructed, commercial development or residential development plan of ten or fewer units, the City may allow the development to proceed in accordance with the approval.~~

- ~~B.~~ ~~City facilities or the roads accessing those facilities.~~ Examples of City facilities include water tanks and parks and recreation areas for pedestrian, bicycle, or equestrian trails or staging areas. ~~City facilities and roads accessing these facilities that cross a slope having a 25-percent grade or greater or that are within 100 vertical feet of a ridgeline are subject to the City's environmental, design, and public review processes.~~
- B.
- ~~C.~~ ~~Any public or private street referenced in a Specific Plan or PUD Development Plan approved prior to November 2008.~~

18.70.040 Implementation.

The regulations of this chapter shall be implemented through the City's Design Review and Planned Unit Development Rezoning/Development Plan entitlements, processes, and modifications of these entitlements, as follows:

- A. The regulations of this chapter are applied in conjunction with State and Federal regulations and City regulations, policies, and programs on, but not limited to, ridgeline and hillside protection, protection of jurisdictional waters, species, and habitat areas, trees, wildland fire mitigation, urban storm water runoff treatment and necessary environmental mitigation, etc.
- B. Where the regulations of this chapter may conflict with other provisions of this title including, but not limited to, Chapter 18.76 H-P-D Hillside Planned Development District, Chapter 18.68 PUD Planned Unit Development District, and Chapter 18.78 West Foothill Road Corridor Overlay District, the regulations of this chapter shall control.

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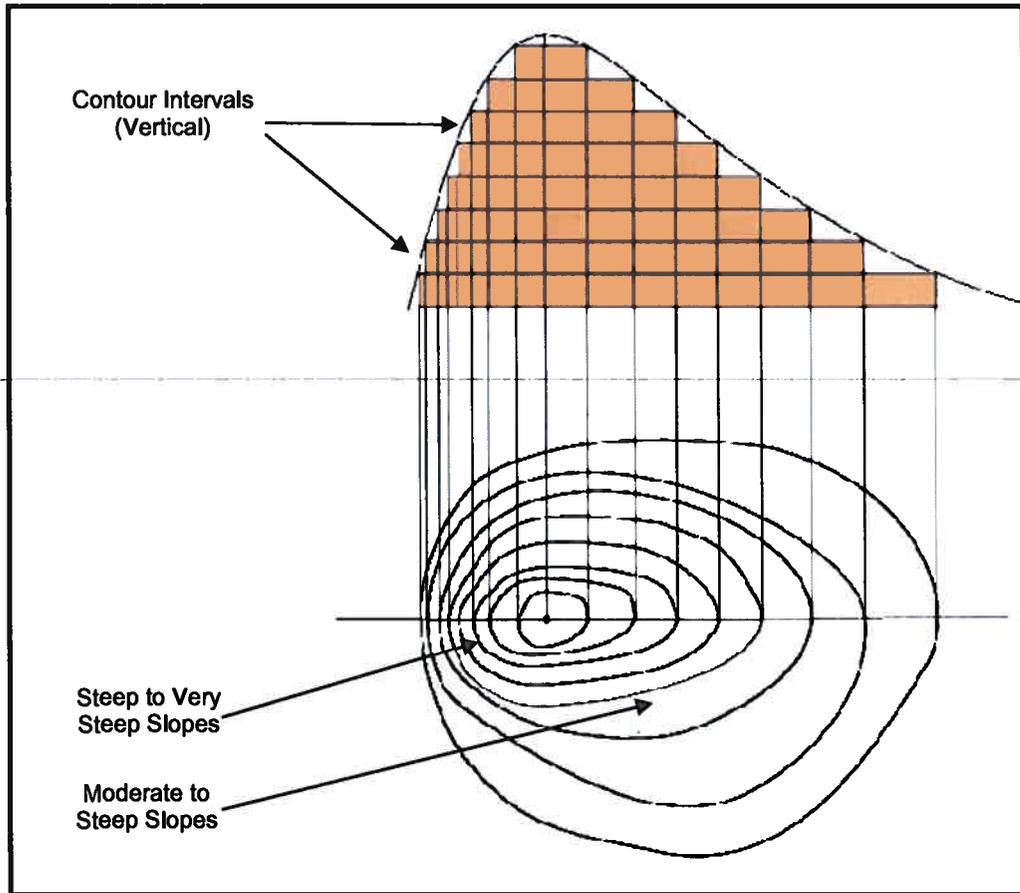


Figure 1: Contour Intervals, Contour Lines, and Slope Grades.

- C. Entitlement.
The right to develop a particular property for a stated purpose and/or use under the current rules and regulations of this title.
- D. Excavation.
The removal of rock or earth material on property by artificial means also referred to as a "cut."
- E. Fill.
Deposition of rock or earth material on property by artificial means.
- F. Grading.
Grading shall refer to any excavation (Section 18.70.040D.) or fill (Section 18.70.040E.) or combination thereof on property by artificial means to alter natural features including slopes and contours. For the purpose of this chapter, grading shall not include exploratory excavations, such as geotechnical or archaeological work, conducted under the direction of a qualified professional, repair or replacement of underground utilities.

G. Ridge and Ridgeline.

A ridge is a landform created by a series of hills. A ridgeline is a continuous ground line connecting the highest elevations of a ridge. The end of the ridgeline shall be the last peak on each end of the landform at which the elevation of the ridgeline no longer rises in elevation, and only decreases in elevation.

Figure 2, below, illustrates the ridgeline definition.

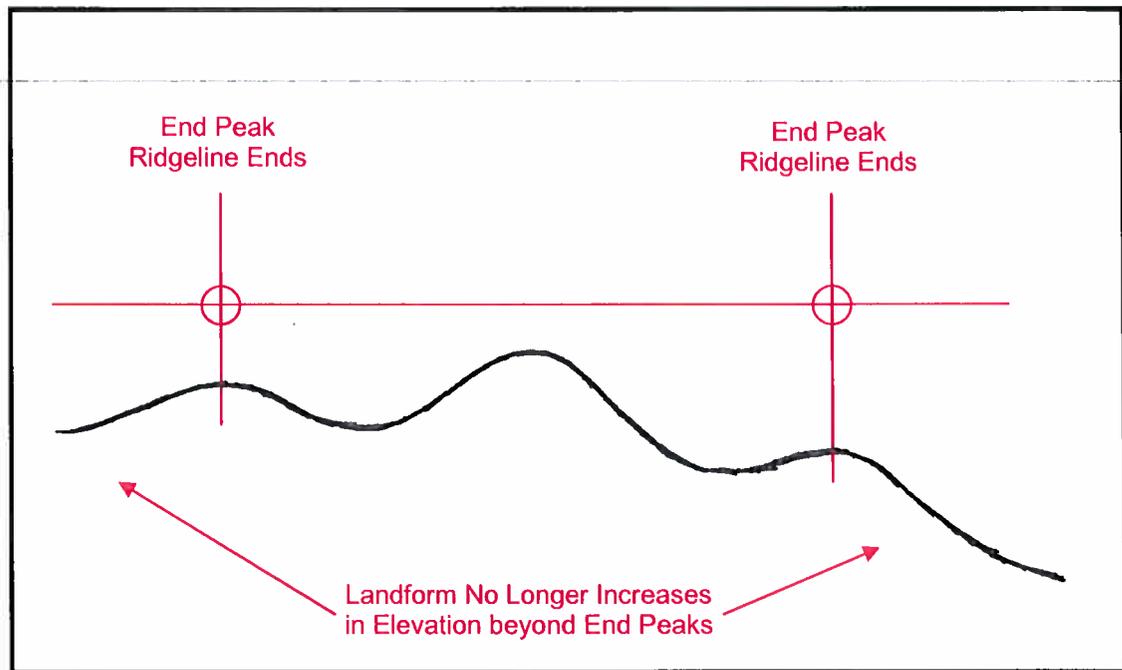


Figure 2: Ridgeline

H. Slope (Grade).

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

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

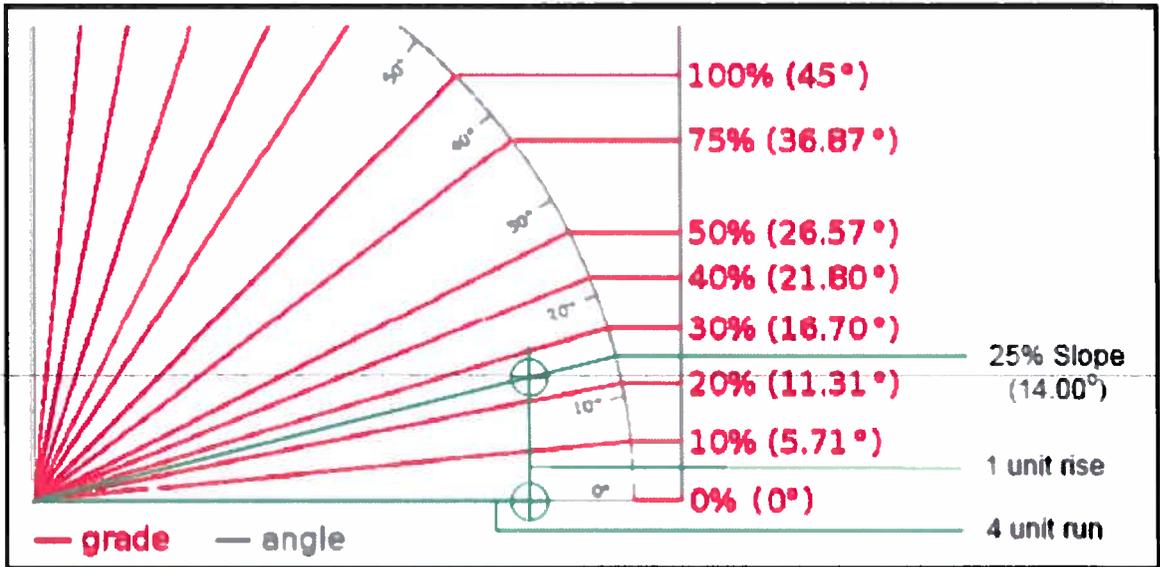


Figure 3: 25-percent slope.

18.70.060 Required Information.

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

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Over 20 acres	1-inch = 100 feet.

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

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

18.70.070 Regulations and Review Procedures.

~~A. Development Prohibited.~~

~~Commercial structures or developments and residential developments of 11 units or greater and the grading to accommodate these developments are prohibited on hillside slopes 25 percent or greater, or within 100 vertical feet of a ridgeline.~~

B.A. Determining the Ridgeline Setback Line.

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

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

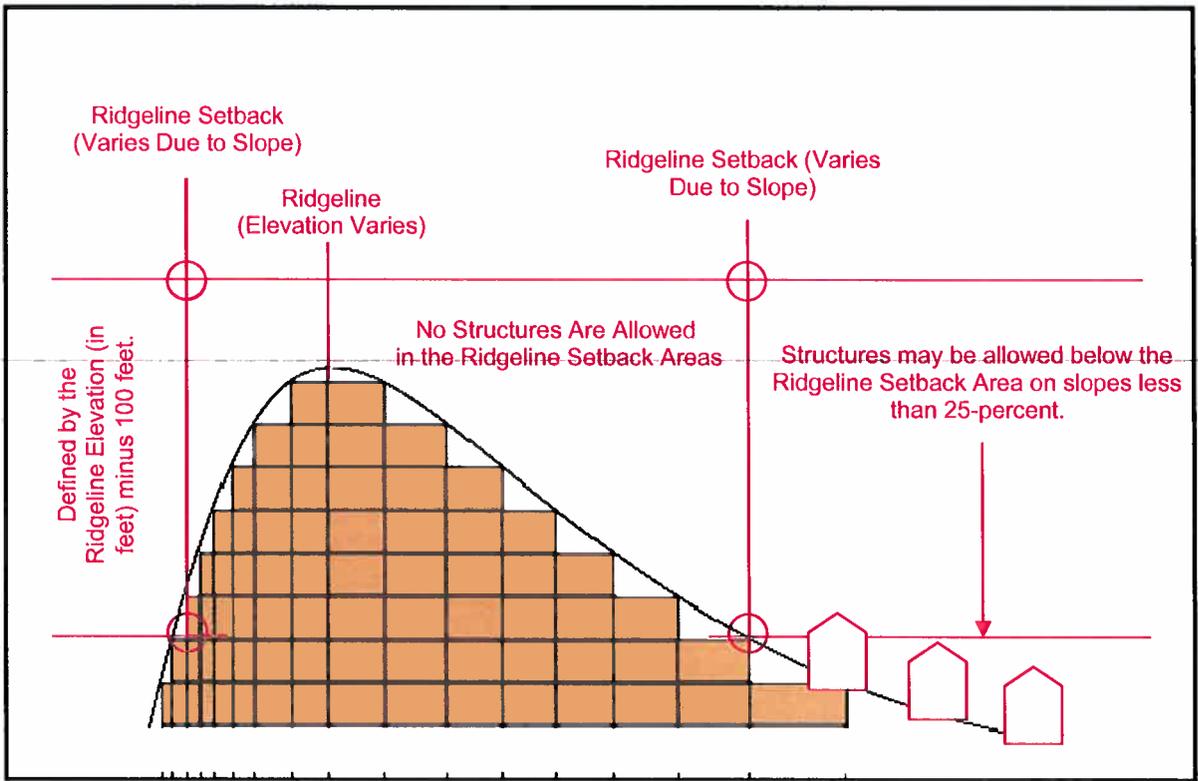


Figure 4: Slope Cross Section with the Ridgeline Setback.

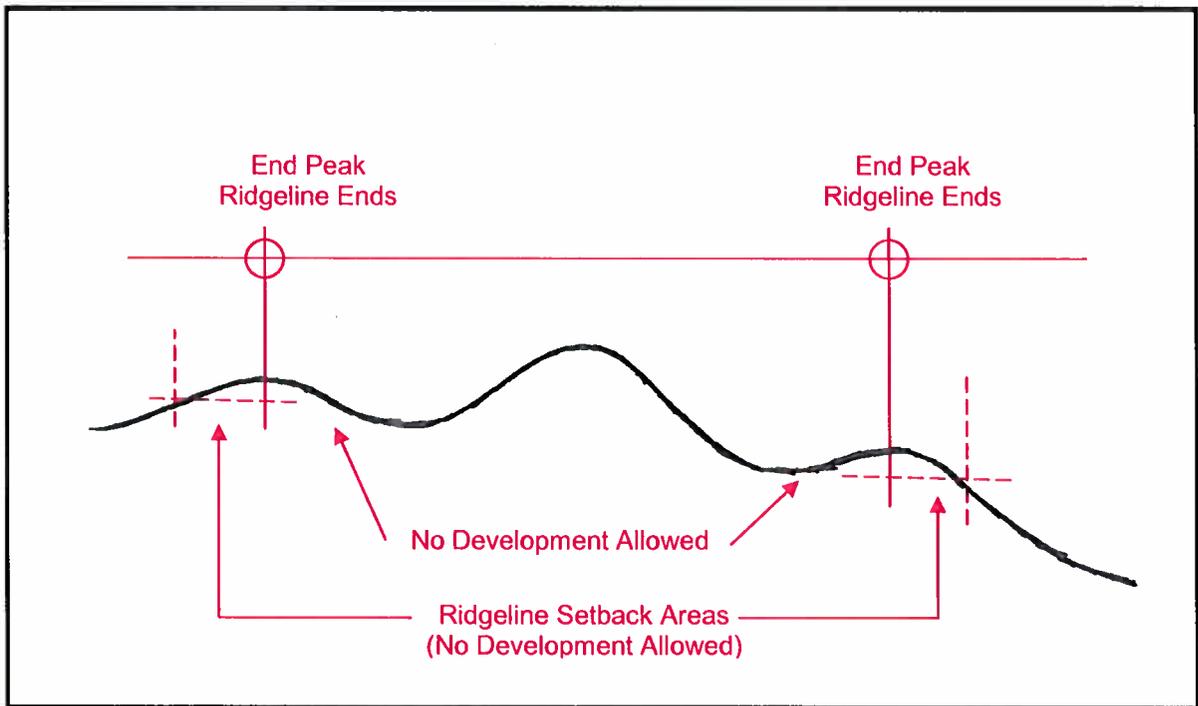


Figure 5: Slope Cross Section Designating Ridgelines and Ridgeline Setbacks

~~G.B.~~ B. Determining the 25-Percent Slope Line.

The 25-percent slope line is the continuous ground line located at the elevation at which the slope grade equals or exceeds a 25-percent grade. Subject to City approval, isolated property features such as mounds, sink-holes, ditches, ravines, furrows, etc., that are surrounded by significant property area having a slope less than a 25-percent grade may be excluded in cases where such exclusion shall not conflict with the purpose of these regulations.

~~D.C.~~ C. Determining the Hillside Development Limit Line.

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

~~E.D.~~ D. Modified Slopes.

If a slope has been modified from its natural or original condition by an act of man, the City shall determine the slope of the land based on the natural or original condition of the land, not the current slope of the land. The City shall rely on historical topographic maps, aerial and other photos, or ~~and~~ other information available to determine the natural or original slope of the land during the public review process for a proposed development.

~~F.~~ Public and Private Streets and Roads.

~~Public and private streets and/or roads serving residential or commercial structures (collectively "streets") and their attendant infrastructure are structures and are subject to the regulations of this Chapter unless covered by a Specific Plan or PUD Development Plan approved prior to November 2008.~~

< End >