



DATE: June 10, 2020

Foothill Development Permits

TO: PLANNING COMMISSION

FROM: Bruce Ambo, Principal Planner (879-6801) bruce.ambo@chicoca.gov

RE: Amendments to Title 19 of the Chico Municipal Code Chapters 19.27.010 and 19.52.100 Regarding Foothill Development Permits

SUMMARY

The purpose set forth in Section 19.52.100 of the Foothill Development (-FD) overlay zone is *“to prevent environmental degradation, slope failure, increased erosion, sedimentation, and stormwater run-off; to preserve natural conditions in areas visible from public spaces; to retain topographic features and vegetation; to require site specific design solutions for unique topographic, landscape, and geotechnical settings; and to implement General Plan policies that apply to foothill development.”* Chapter 19.27 of the Municipal Code further requires a foothill development permit prior to “development” on any parcel within the -FD overlay zone. The purpose of such a permit is to provide an extra layer of design review to ensure a project complies with the intent established in the standards provided in Section 19.52.100.

The Municipal Code defines “development” broadly, and specific language requiring a foothill development permit prior to “development” could imply that such a permit is required for every project in the -FD overlay zone, no matter how small. However, that was not the City’s intent when it adopted Chapter 19.27 in 2013 (via Ordinance No. 2440), and it is not how staff have interpreted the Code on this point. For example, staff have not required a foothill development permit for a project on a particular parcel, when that parcel is part of a subdivision plan the City approved after reviewing for compliance with the City’s foothill development standards. Staff therefore recommends amending the Chico Municipal Code to bring its express language regarding foothill development permits in line with the City’s practices.

Recommendation:

The Community Development Director (Planning/Housing) recommends that the Planning Commission:

- 1) Hold a public hearing regarding the proposed amendments to Title 19 of the Chico Municipal Code relating to Foothill Development Permits; and
- 2) Adopt Resolution No. 20-09 recommending City Council approval of the amendments to Title 19 of the Chico Municipal Code (see **Attachment A**).

Proposed Motion:

I move that the Planning Commission adopt Resolution No. 20-09 recommending City Council adoption of the proposed amendments to Title 19 of the Chico Municipal Code

relating to Foothill Development Permits as set forth therein.

BACKGROUND/DISCUSSION

The City Attorney is recommending that the foothill development permit provisions be amended to reflect the current practice where minor projects are not subject to the requirement of a foothill development permit, and larger more potentially impactful subdivisions would be subject to the foothill development permit requirements through the design review and entitlement process (please see Attachment B “Foothill Development Permits - Applicability”). The proposed ordinance amendments only require a foothill development permit when the City reviews a subdivision in the -FD overlay zone, or when someone applies for *initial* development of a parcel in that zone (please see Attachment C “Foothill Development Overlay Zone – Permit Requirements.” Additionally, this proposal gives planning staff discretion to require a foothill development permit for projects in the -FD overlay zone when they are able to make either of the following findings: (a) the project is outside the scope of a previous review, or (b) the project has features which may conflict with the stated purpose of the -FD overlay zone as set forth in Section 19.52.100.

Environmental Review

The proposed amendments are not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because they have no potential to result in physical change in the environment, directly or indirectly. If the proposed amendments are found to be a project under CEQA, they are exempt from environmental review under Section 15061 of the CEQA guidelines because it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment. To the extent any environmental analysis was required, the proposed amendments are consistent with the Final Environmental Impact Report (EIR) prepared and certified for the Chico 2030 General Plan update (State Clearinghouse #2008122038).

PUBLIC CONTACT

A display ad for the June 18, 2020 Planning Commission meeting to consider the proposed Title 19 amendments was published in the June 6, 2020 *Chico Enterprise Record*.

DISTRIBUTION

PC Distribution

ATTACHMENTS

Attachment A – Planning Commission Resolution No. 20-09

Attachment B – Foothill Development Permits – Applicability (strikeout/underline)

Attachment C – Foothill Development (-FD) Overlay Zone – Permit Requirements (strikeout/underline)

RESOLUTION NO. 20-09

**RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF CHICO RECOMMENDING THAT THE CITY COUNCIL
AMEND SECTIONS 19.27.010 AND 19.52.100 OF THE
CHICO MUNICIPAL CODE REGARDING
FOOTHILL DEVELOPMENT PERMITS**

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WHEREAS, the Planning Commission considered amendments to add various provisions in Title 19 of the Chico Municipal Code regarding foothill development permits in Sections 19.27.010 and 19.52.100; and

WHEREAS, the Chico Municipal Code currently requires a foothill development permit prior to “development” within the Foothill Development overlay zoning district; and

WHEREAS, the City has never interpreted the foothill development permit requirements to mean that every project in the Foothill Development overlay zoning district requires a foothill development permit; and

WHEREAS, instead, the City’s practice has been not to require a foothill development permit for a project on a particular parcel, when that parcel is part of a subdivision plan the City approved after reviewing for compliance with the City’s foothill development standards; and

WHEREAS, the Planning Commission wishes to formalize its existing practice as to foothill development permits, and to provide further direction on when projects require such a permit; and

WHEREAS, the Planning Commission finds that the proposed amendments are consistent with the other applicable provisions of these regulations and compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning districts for which it is proposed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Chico as follows:

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Section 1. Section 19.27.010 of the Chico Municipal Code is amended to read as follows:

19.27.010 Applicability.

A foothill development permit shall be required in conjunction with any land division or prior to initial development on any parcel within the Foothill Development (-FD) overlay zoning district. In the Director’s discretion, a foothill development permit may be required for the following projects within the -FD overlay zoning district:

A. Construction, reconstruction, expansion of existing structures, or development projects which are outside the scope of a previous review, or

B. Any project with design features that may conflict with the stated purpose of the -FD overlay zoning district as set forth in section 19.52.100 of these regulations.

Section 2. Section 19.52.100 of the Chico Municipal Code is amended to read as follows:

19.52.100 Foothill Development (-FD) overlay zone.

A. – C. [No change.]

~~D. Permit Requirements. Foothill development permit approval in compliance with Chapter 19.27 shall be required for all construction, reconstruction, or expansion of existing structures and all development projects within the -FD overlay zone shall be required as set forth in Section 19.27.010.~~

The requirements in Subdivisions (G) and (H) of this Section shall apply to projects for which a foothill development permit is required. They do not apply when a foothill development permit is not required.

E. – H. [No change.]

Section 3. Environmental Determination. The proposed amendments in this resolution are not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because they have no potential to result in physical change in the environment, directly or indirectly. If the proposed amendments are found to be a project under CEQA, they are exempt from environmental review under Section 15061 of the CEQA guidelines because it can be seen with

1 certainty that there is no possibility that the proposed amendments may have a significant effect on
2 the environment. To the extent any environmental analysis was required, the proposed amendments
3 are consistent with the Final Environmental Impact Report (EIR) prepared and certified for the Chico
4 2030 General Plan update (State Clearinghouse #2008122038).

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6 **Section 4.** Severability. If any section, subsection, sentence, clause, phrase, or word of this
7 ordinance is for any reason held to be invalid and / or unconstitutional by a court of competent
8 jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
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10 **Section 5.** Declaratory of Existing Law. The Planning Commission declares that, as noted
11 above, the City’s practice has been not to require a foothill development permit for a project on a
12 particular parcel, when that parcel is part of a subdivision plan the City approved after reviewing for
13 compliance with the City’s foothill development standards. To the extent the amendment to the
14 Chico Municipal Code effected by this ordinance simply codifies that existing practice, it is therefore
15 declaratory of existing law.
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17 **Section 6.** Effective Date. This ordinance shall be effective 30 days after approval by the
18 City Council.
19

20 THE FOREGOING RESOLUTION was adopted by the Planning Commission of the City of
21 Chico, California, at its Planning Commission meeting held on June 18, 2020, by the following vote:
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23 AYES:

24 NOES:

25 ABSENT:

26 ABSTAINED:

27 DISQUALIFIED:
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ATTEST:

APPROVED AS TO FORM:

Bruce Ambo, Planning Commission Secretary

Andrew L. Jared, City Attorney

Attachment B

Chapter 19.27

FOOTHILL DEVELOPMENT PERMITS

Section:

19.27.010 Applicability

19.27.020 Application

19.27.030 Action on foothill development permits

19.27.010 Applicability.

A foothill development permit shall be required in conjunction with any land division or prior to initial development on any parcel within the Foothill Development (-FD) overlay zoning district. In the Director's discretion, a foothill development permit may be required for the following projects within the -FD overlay zoning district:

A. Construction, reconstruction, expansion of existing structures, or development projects which are outside the scope of a previous review, or

B. Any project with design features that may conflict with the stated purpose of the -FD overly zoning district as set forth in Section 19.52.100 of these regulations.

~~(Ord. 2440 §16)~~

19.27.020 Application.

An application for a foothill development permit shall be filed with the Department on a form prescribed by the Director and shall include all information necessary to allow the Director to determine if the proposed project will comply with the foothill development standards set forth in Section 19.52.100 of these regulations.

(Ord. 2440 §16)

19.27.030 Action on foothill development permits.

Upon review of a completed application for a foothill development permit, the Director shall issue a permit if the Director determines that the proposed development complies with all of the development standards set forth in Section 19.52.100 of these regulations. Foothill development permits shall be approved or denied in writing. All denials shall state the reasons for the denial. Reasons for denial shall be limited to a finding or findings by the Director that the proposed development is not permitted in the applicable zoning district or that the development does not comply with one or more of the requirements of Section 19.52.100 of these regulations.

(Ord. 2440 §16)

Attachment C

19.52.100 Foothill Development (-FD) overlay zone.

A. Purpose. The purpose of the -FD overlay zone is to prevent environmental degradation, slope failure, increased erosion, sedimentation, and stormwater run-off; to preserve natural conditions in areas visible from public spaces; to retain topographic features and vegetation; to require site specific design solutions for unique topographic, landscape, and geotechnical settings; and to implement General Plan policies that apply to foothill development.

B. Applicability. The -FD overlay zone may be combined with any primary zoning district established by Section 19.40.010. The -FD overlay zone shall be applied and as shown on the Zoning Map for those properties at an elevation of 270 feet or greater.

C. Allowable Land Uses. Any land use normally allowed in the primary zoning district may be allowed within the -FD overlay zone.

D. Permit Requirements. Foothill development permit approval ~~in compliance with Chapter 19.27 shall be required for all construction, reconstruction, or expansion of existing structures and all development projects within the -FD overlay zone shall be required as set forth in Section 19.27.010. The requirements in Subdivision (G) and (H) of this Section shall apply to projects for which a foothill development permit is required. They do not apply when a foothill development permit is not required.~~

E. Basis for Slope Determinations. For the purpose of this section, slope shall be computed on the natural slope of the land before any grading is commenced, as determined from a topographic map having a scale of not less than 1 inch equals 100 feet and a contour interval of not more than 5 feet.

F. Development Standards for Projects Within the -FD Overlay Zone. The following development standards apply to all projects within the -FD Overlay Zone.

1. Structure Height. Height shall be measured as the vertical distance to an imaginary plane located above the natural (pre-development) grade (See Figure 4-1). The height limit in the -FD overlay zone is 25 feet, with an allowance of up to 5 additional feet for chimneys, vents, other projecting architectural features, water tanks, and renewable energy devices. Heights less than 25 feet may be required along ridgelines and where prominently visible from public rights-of-way, parks, and other public spaces. Heights up to 35 feet may be allowed if the additional height does not impact public viewsheds.

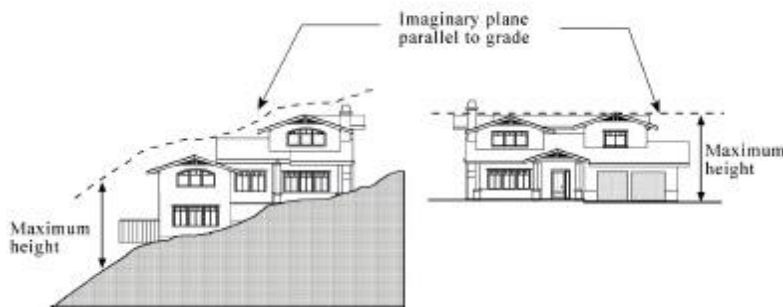


Figure 4-1 HEIGHT MEASUREMENT

2. Height measurement on downhill lot. Where the average slope of a parcel is greater than a 1-foot rise or fall in 7 feet of distance from the street elevation at the property line, one story shall be allowed on the downhill side of any structure in addition to the height allowed by the applicable zoning district; provided that the height of the structure shall not be increased above the limit established by the zoning district, measured from the finished street grade to the top of the roof (See Figure 4-2).

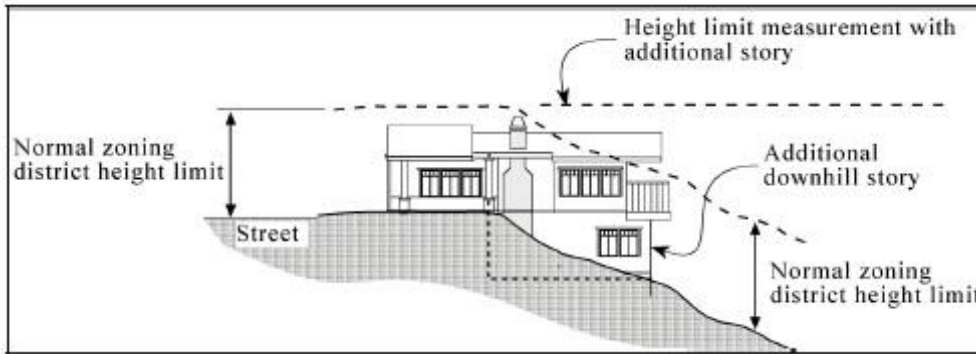


Figure 4-2 ADDITIONAL BUILDING HEIGHT ON DOWNHILL LOT

3. Setbacks Between Structures and Toes/Tops of Slopes.

a. On adjacent lots having a difference in finished grade elevation of 3 feet or more, the side yard shall be measured from the toe or top of slope to any structure, whichever is nearer.

b. On adjacent lots having a difference in finished grade elevation of 6 feet or more, the minimum distance between the toe or top of the slope, whichever is nearer, and any main structure shall be 15 feet.

c. The grading standards of Title 16 R (Building Standards) shall also apply and may result in greater setback requirements.

4. Clustered Development. In clustered development, dwelling units shall be grouped on more level or gently sloping terrain so as to reduce grading alterations on steeper slopes that shall be preserved in a natural state.

5. Maximum Density Calculation. To retain the natural features of hillsides, densities shall be reduced as slope increases. Each property to be developed shall be divided into cells of similar slope, using the average slope ranges listed in Table 4-16. The maximum density of the base zoning is then multiplied by the relevant reduction factor assigned to each cell to determine the maximum allowable density for each cell.

TABLE 4-16

ALLOWABLE RESIDENTIAL DENSITY BASED ON SITE SLOPE

Average Slope Range	Density Reduction Factor
0% to 10%	None
10.1% to 15%	0.9
15.1% to 20%	0.8
20.1% to 25%	0.6
25.1% to 30%	0.4

Attachment C

Greater than 30% No development

6. Exterior Lighting. Lighting for new project sites and new streets shall be shielded to avoid glare and the spill of light to surrounding areas. Street lighting shall consist of multiple, shielded, low-intensity, pedestrian-scale lighting fixtures instead of fewer, taller fixtures.

7. Retaining Walls. Large retaining walls shall be broken into elements and terraces to avoid creating a uniform plane and landscaped to screen them from view (See Figure 4-3).

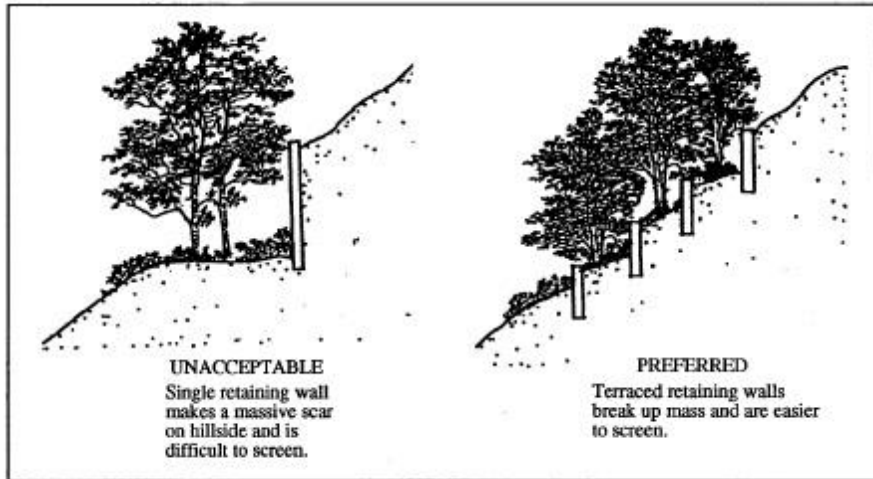


Figure 4-3 RETAINING WALLS

8. Street Design.

a. Street Layout. Streets shall follow the natural contours of the terrain, where possible, to minimize the need for grading. Cul-de-sacs and loop roads should be used where necessary to fit the natural contours and topography, subject to the approval of the City Engineer and Fire Department.

b. Reduced Street Widths. Streets may be designed without parking lanes when the result is a substantial decrease in cutting and/or filling. Streets may be reduced as provided for in Title 18R, Design Criteria and Improvement Standards.

9. Site and Structure Design. Site and structure design shall visually blend structures with the surrounding terrain.

a. Lot Line Locations. Lot lines should be placed at the top of slope areas.

b. Location of Structures. Structures should be sited in a manner that will:

(1) Minimize the creation of flat pads by using compact, split-level designs;

(2) Preserve vistas from public places; and

(3) Preserve visually significant rock outcroppings, natural hydrology, native plant materials, and areas of visual significance.

c. Architectural Design. Buildings shall demonstrate the following design principles:

a. Building scale that complements the character of the foothills and avoids massive forms that dominate public views of the foothills.

b. Varying setbacks, building heights, foundation designs, building forms, materials, and colors that blend structures into the terrain.

c. Building facades with varied planes and overhangs as a means to create changing shadow lines that further break up massive forms.

d. Incorporation of single story elements, setbacks, roof pitches, and landscaping for wall surfaces facing public viewsheds (See Figure 4-4).

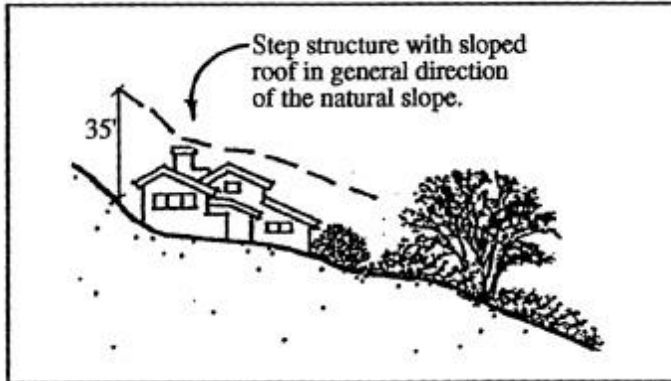


Figure 4-4 RELATING BUILDING FORM TO TERRAIN

e. Roof pitches placed to generally follow the angle of the slope, but with variation to avoid a monotonous appearance.

f. Medium to dark earth tone colors used for building elevations and roof materials.

g. Surface materials to blend with the landscaping and natural vegetation, such as textured stucco, wood, natural brick, and coarse block.

h. Rough-textured roof materials (and in some cases terra cotta and metal) in a muted, darker tone, including browns, grays and greens.

10. Grading and Drainage.

a. Grading shall be designed to conserve natural topographic features and appearances by retaining major natural topographic features (for example, canyons, knolls, ridgelines, and prominent landmarks), by minimizing the amount of cut and fill, and by means of landform grading to blend graded slopes and benches with the natural topography (See Figure 4-5).

Attachment C

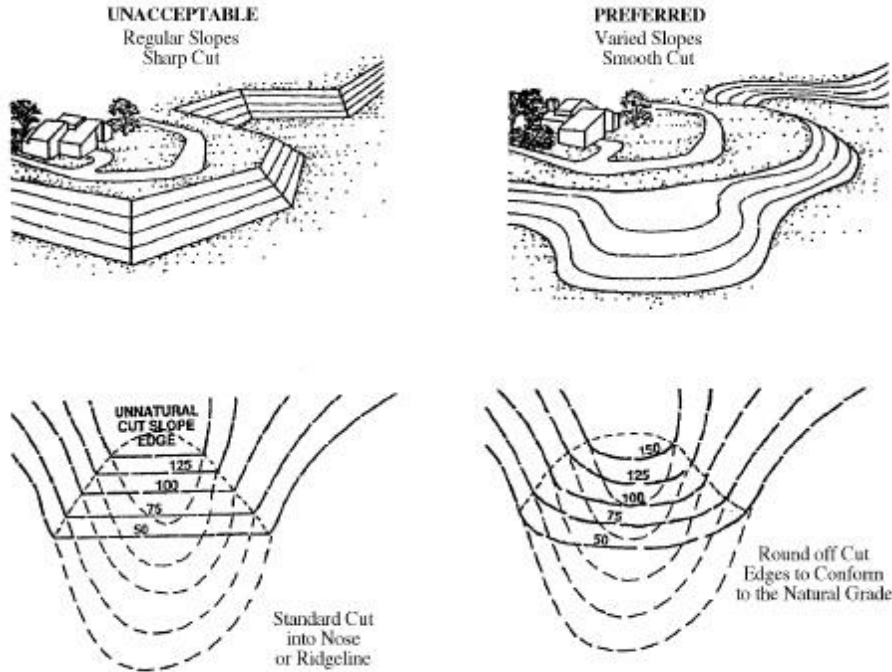


Figure 4-5 PREFERRED GRADING METHODS

b. Grading plans shall identify slopes that are to be landform graded. "Landform grading" shall mean a contour grading method that creates artificial slopes with curves and varying slope ratios in the horizontal plane designed to simulate the appearance of surrounding natural terrain.

c. All graded areas shall be protected from wind and water erosion, in compliance Titles 16 (Buildings and Construction) and 16R (Building Standards). Interim erosion control plans, certified by the project engineer, shall be required.

d. Exposed slopes shall be replanted with non-invasive but self-sufficient trees, shrubs, and groundcover that are compatible with existing surrounding vegetation, to help blend manufactured and natural slopes and to protect slopes from soil erosion.

e. Grading that would create a slope exceeding a ratio of 3:1 requires a report and a stabilization study that indicates a greater permissible slope, unless it is determined by the Director that site conditions (as supported by data) do not warrant the report and study.

G. Required Plans and Reports. A subdivision or land use entitlement application for a site within the -FD overlay zone shall include the following documents as determined by the Director. If an applicant believes that any or all of the documents are not applicable, a written justification supported by factual information shall be submitted to the Director in order to justify an exception.

1. Topographic Map. A topographic map of the project site and land and structures within 100 feet of the project boundaries. Section drawings and/or elevations may be required where necessary to indicate those residences which may be affected in terms of view obstruction. The map shall be drawn to a scale of not less than 1 inch = 100 feet, with a maximum contour interval of 5 feet;

2. Project Plans. Plans of the proposed project, including property lines with recorded and proposed easements and public rights-of-way, existing and proposed contours, a representative cross-section showing existing and proposed conditions, ridgelines if applicable and the proposed treatment thereof, proposed erosion control and/or slope stabilization techniques, structure siting criteria and/or building envelopes, any height limitations, and any solar orientation considerations;

3. Slope Maps. Maps of existing and final slope depicting the following slope categories: 0-5 percent, 6-10 percent, 11-15 percent, 16-20 percent, and 21+ percent;

4. Soils Report. A soils engineering report, including data on the nature, distribution, and strengths of existing soils, approximate depth and location of shallow impervious layers; subsurface drainage; design criteria for identified corrective measures; and recommendations regarding existing conditions and proposed grading. The report shall be prepared by a registered engineer;

5. Geology Report. A geology report, including the surface and subsurface geology of the site, degree of seismic hazard, recommendations regarding the effect of geologic conditions on the proposed development, and recommended design criteria to mitigate any identified geologic hazards. The report shall be prepared by a registered geologist, civil engineer, or other qualified professional in engineering geology and may be combined with the soils report;

6. Hydrology Report. A hydrology report that identifies areas of possible inundation, downstream effects, natural drainage courses, primary groundwater recharge areas, effect of hydrologic conditions on the proposed development, recommendations regarding the adequacy of proposed facilities, and proposed solutions to mitigate identified hydrologic hazards. The report shall be prepared by a registered civil engineer experienced in hydrology and hydrologic investigation;

7. Biological Resource Assessment. A biological resource assessment of the subject site by a qualified biologist, including the location and species of trees over six inches in diameter at breast height; habitat type, such as annual grassland, permanent wetland, vernal pools/seasonal wetland or valley oak woodlands; and the occurrence of any special status species within the area;

8. Preliminary Landscaping Plan. A preliminary landscaping plan showing the size and location of existing trees over six inches in diameter at breast height, indicating any trees proposed for removal, and the type and extent of proposed conceptual landscaping;

9. Visual Simulation. A realistic, three-dimensional computer simulation of the proposed structures from multiple view points, including the use of story pole plans for structures along ridgelines or visible from public spaces; and

10. Other Information. Other information or application materials as may be deemed necessary by the Director.

H. Project Evaluation. The review authority's consideration of an application for foothill development shall include an evaluation of the following:

1. Consistency with the foothill development standards listed in this section;

2. The retention of natural topographic and prominent landmark features, significant ridgelines, natural rock outcroppings, prominent trees and woodlands, and other areas of special natural beauty; and

Attachment C

3. Site planning and structure design that minimizes impacts to public viewsheds.
(Ord. 2440 §36, Ord. 2494 §33)