



Meeting Date: July 18, 2023

AGENDA MEMORANDUM

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Tara Vargish, Director of Development Services

Title: Discussion/Direction: History of Skyline/Ridgeline Ordinance and Variance Approval Authority

Executive Summary

At the June 20, 2023, Town Council meeting, Town Council requested that staff provide a memorandum of the Skyline/Ridgeline Ordinance containing information on the creation of the ordinance, and more specifically, details concerning the variance approval authority contained within the overall ordinance. Town Council voted 6-1 in favor of directing staff to prepare the memorandum. Staff has researched the Skyline/Ridgeline ordinance and old meeting minutes from 1999 to help better understand the ordinance and its structure.

The ordinance was originally created with Planning Commission as the deciding body for variances, and Town Council acting on appeals. This ordinance was amended in 2003 to further clarify that an appeal to Town Council had to be filed within 30 days of the Planning Commission decision. No other detailed information on why Planning Commission was the designated deciding body on variances was uncovered. Planning Commission had completed the bulk of the technical review with the consultant and committees in 1998-1999, so it may have been a natural choice at the time to have them decide on variance requests.

Further detailed below, staff's research shows that of the 7 variances approved over the past 24 years, 4 were done in conjunction with residential Site Development Plans and affected multiple lots, ranging from 17 to 182 lots. For those examples, it does not appear to have any impact if the authority were to shift to Town Council, as the Site Development Plan itself also goes to Town Council for final decision.

Town Council could modify the ordinance to have all Skyline/Ridgeline variances only go to Town Council. Alternatively, the ordinance could distinguish that single lot requests only go to Town Council for decision, and that multi-lot requests are included in Site Development Plans that go to Planning Commission for recommendation, and then to Town Council for final decision. This would allow a single lot request to only have one public hearing, while the multi-lot request would be processed typically with a residential site development plan that is already going through the two public hearings.

Discussion

Chapter 17.48 of the Castle Rock Municipal Code (Attachment A) regulates development proposals within the Town of Castle Rock with respect to protecting our Skyline and Ridgeline areas. This ordinance was drafted to preserve unique landforms that were identified through an extensive effort of the View Shed Study Committee, Planning Commission and the Town Council throughout most of 1998. The originating ordinance was approved by Town Council on February 25, 1999 by a vote of 5-2. The map below (Fig 1), shows the Skyline/Ridgeline areas, with the Major Skyline in solid red, Moderate Skyline in yellow, and Minor Skyline in blue; and the Major Ridgeline in hatched red and the Minor Ridgeline in hatched green.

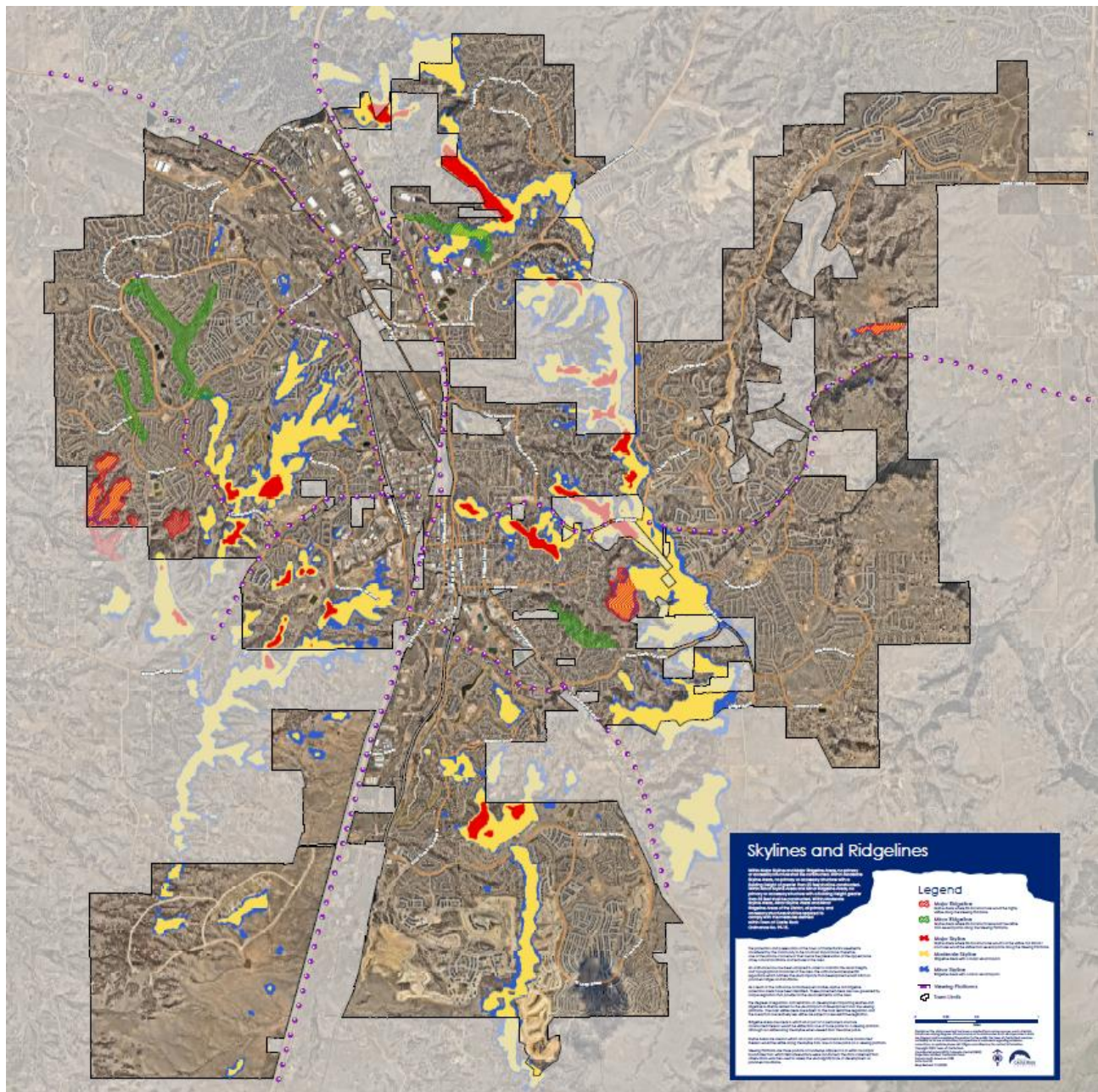
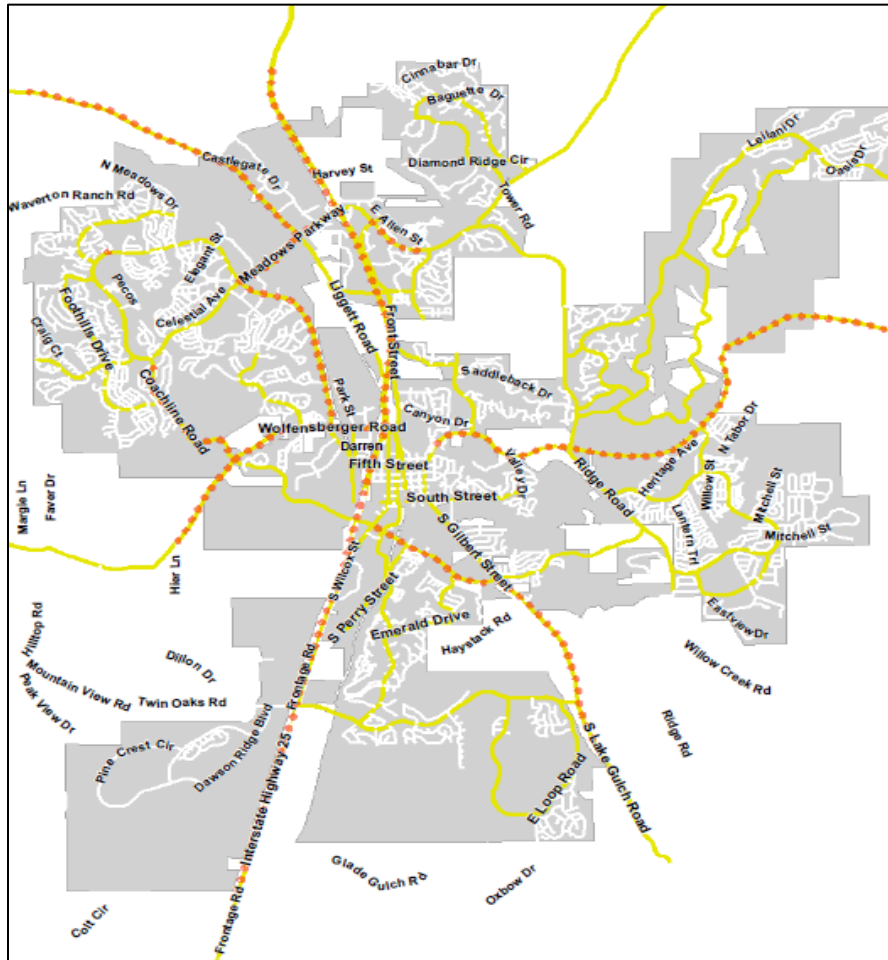


Figure 2: Skylines and Ridgelines Map

The extensive research, review, and adoption of the ordinance was directed based upon the Town recognizing the importance of preserving the appearance of key natural landforms and features which give Castle Rock its unique geological character. Extensive review of the Town's skyline's and ridgelines were reviewed and a way to protect them was quantified. Through the use of consultants, citizen study groups and town staff Ordinance No. 99-15 was passed and enacted to meet this preservation goal.



The research initially established multiple “viewing” platforms at selected locations along major roadways. The “viewing” platforms (Fig 2) provided the basis for how development applications would be judged with respect to relative impacts upon the Town’s unique and natural landforms. The highly technical data and computer simulations used to establish the methodology and final form of the ordinance were contained within the Technical Methodology and Field Observation Report prepared by outside consultants, Town citizen groups and the Planning Commission in 1999 (Attachment B).

Figure 2: Location of Viewing Platforms

The report defined and established skyline/ridgeline concepts through additional technical formulas and field observation (Fig 3). The technical formulas, along with more subjective field observations for ridgeline protection, formed the overall basis for the ordinance

approved by Planning Commission and Town Council. Once the methodology research was completed and agreed upon the remainder of the ordinance was used to establish details that are typically used currently when discussing the ordinance. Terms such as Minor and Moderate skylines, Major and Moderate Ridgelines and Viewing platforms were created and defined. The ordinance detail was expanded to include an “exemptions” section. A lot of discussion, uncovered through researching of previous minutes, details how to apply the ordinance to current and future proposals. Generally properties that had received a Final Plat approval prior to the enactment of the ordinance were exempted from requirements of the ordinance. Vested Development Plans at the time were also exempted from the requirements of the approved ordinance.

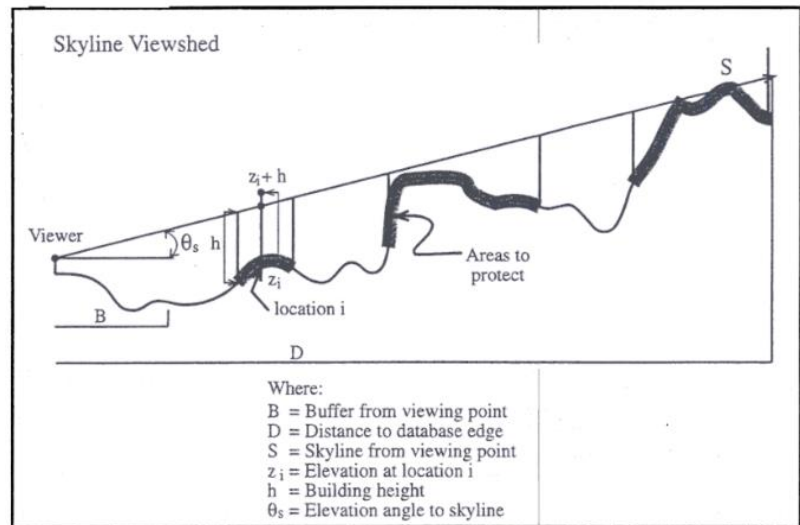


Figure 3: Skyline Viewshed Formula

This graphic below shows the allowable building heights, per the ordinance, in the Major, Moderate and Minor Skyline areas. Although not depicted in this graphic, the Major Ridgeline area is a No Build area, just like the Major Skyline area, and the Minor Ridgeline areas are also regulated to 35 feet similar to the Minor Skyline areas.

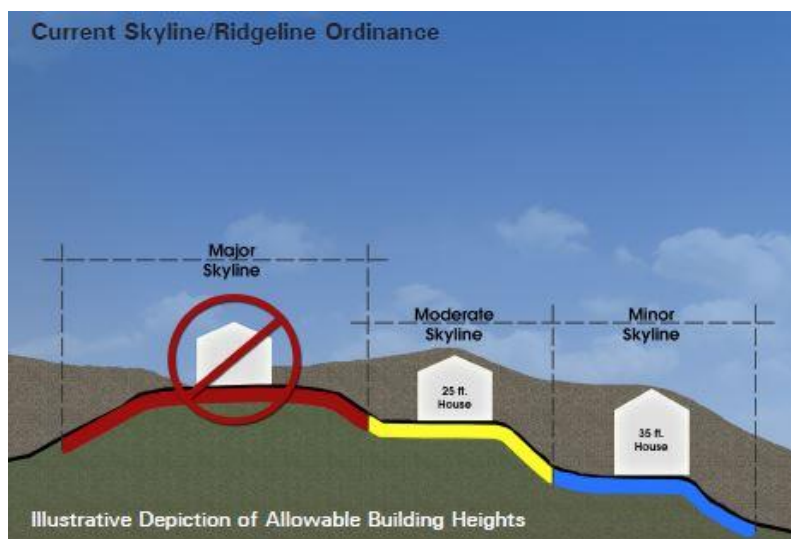


Figure 4: Graphical Depiction of Skyline Allowable Building Heights.

It appears that due to much public outreach, and discussion of concerns, the groups associated with the creation of the skyline/ridgeline ordinance believed a variance procedure needed to be created to address any future unforeseen condition that would impact a property owner's right to develop their land. The section on variances contained in the ordinance is robust and lays out detailed “grounds” for a variance and specifically states the burden of proof lies with the applicant with respect to obtaining a variance from the ordinance regulations.

The ordinance was originally created with Planning Commission as the deciding body for variances, and Town Council acting on appeals. This ordinance was amended in 2003 to further clarify that an appeal had to be filed within 30 days of the Planning Commission's decision. No other information on why Planning Commission was the designated deciding body on variances was uncovered. At that time, Planning Commission had completed the bulk of the technical review with the consultant and committees so it may have seemed a natural choice to have them decide on variance requests.

Historical Use of Variances:

Through an existing records search it appears there have been 9 variance applications, with 7 approved, from 2003 through 2021. One was denied, and one is no longer allowed due to PD Amendment language. Each approved request was unique and ranged from approving a variance for building height on 1 lot, up to 182 lots within an overall development application.

| Year | Number of Lots | General Location | Nature of Variance | Result of Request |
|-------------|-----------------------|----------------------------|---|---|
| 2003 | 1 | 1516 Quail Lane | Moderate Skyline: Resident request to have addition to existing home allowed to match existing home at 28.5 ft. instead of restricted to 25 ft. | Approved |
| 2003 | 27 | Woodlands Filing 12 | Moderate Skyline: Builder request to exceed height by 3 ft. for 22 homes due to grading on the site, existing trees blocking views Major Skyline (no build): Request to smooth the edges of the no build area on 4 lots so there is more buildable area per lot. | Moderate Skyline Approved Major Skyline Denied (Appealed to Council and denial upheld) |
| 2011 | 182 | Meadows Filing 18 | Moderate Skyline: Request to apply Minor skyline restrictions to allow 35 ft. homes instead of 25 ft., due to topography and existing structures making new homes not visible from most viewing platforms | Approved |
| 2014 | 1 | 472 N Ridge Rd | Moderate Skyline: Request to put 70-ft. tall cell tower monopole in area limited to 25 ft. | Approved |
| 2014 | 44 | Meadows Filing 18 | Moderate Skyline: Request to apply Minor skyline restrictions to allow 35 ft. homes instead of 25 ft., due to topography and existing structures making new homes not visible from most viewing platforms | Approved |
| 2016 | 17 | Meadows Filing 18 Tract GG | Moderate Skyline: Request to apply Minor skyline restrictions to allow 35 ft. homes instead of 25 ft., due to topography and existing structures making new homes not visible from most viewing platforms | Approved |
| 2019 | 13 | Memmen Young | Major Ridgeline: Request to allow 13 homes in No Build area, due to views being blocked by homes allowed on unrestricted lots | No longer allowed per PD Zoning |
| 2021 | 25 | Crystal Valley Ranch | Moderate Skyline: Request to apply Minor skyline restrictions to allow 35 ft. homes instead of 25 ft., due to topography making new homes not visible from most viewing platforms | Approved |

Each variance application was different, however the main basis of the multi-lot variances was that the lots designated as being in the various protected areas would not be visible from a certain number of view platforms, either due to topography or existing structures that were built prior to the regulation or in areas that are not regulated by Skyline/Ridgeline. Without getting into the full merits of each request in this memo, a few examples used to support some of the variance requests are shown below.

VIEWING PLATFORM #2-098

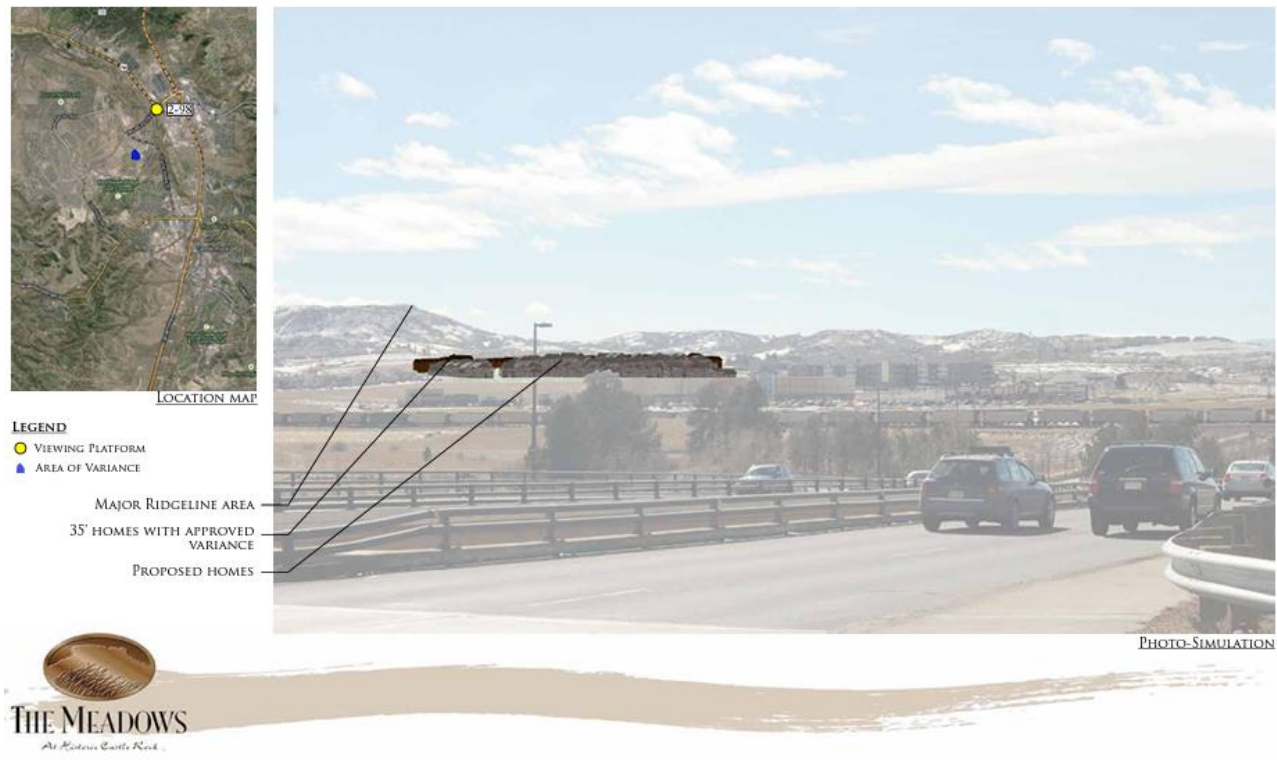


Figure 5: Example from a Meadows Skyline Variance Request

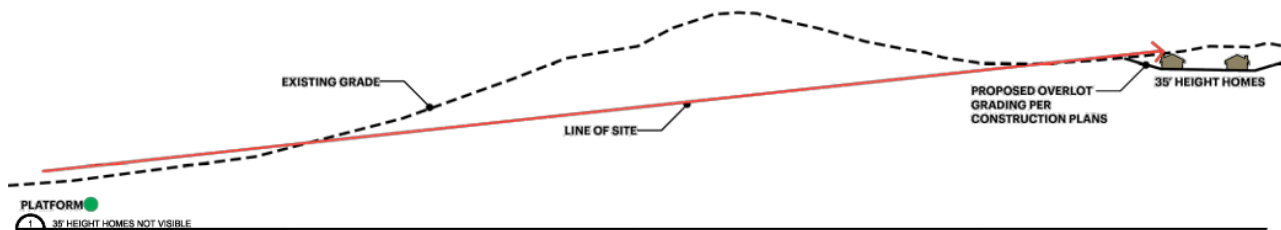


Figure 6: Example from Crystal Valley Ranch Skyline Variance Request

The requirements to request a variance are complex and require applicants to justify their request with intensive reports, using multiple viewing platforms, to show how they meet the approval criteria. Staff has had several inquiries over the past 6 years with respect to Skyline/Ridgeline variances that did not move forward due to the lack of justification. Staff typically relays to most applicants that the Skyline/Ridgeline ordinance is an important and

valued tool to protect the Town's character and uniqueness and that any variance request has an extremely high threshold to achieve in order to be considered for recommendation by staff, thus a major reason why so few requests have been submitted over the past 24 years since the ordinance was approved.

Variance Approval Authority:

Staff has researched available information from the 1998-1999 time period leading up to the adoption of the ordinance, and has been unable to find any specific discussion on why the variance approval authority was established with the Planning Commission. It appears at that time most "variances", such as setback, height, and lot coverage resided with the Board of Adjustment (BOA) and these are typically on a single lot basis. Much of the research and work through the consultant to prepare the ordinance was done in conjunction with the members of the Planning Commission, and this may have led to why the Planning Commission was chosen to review and decide on technical variance requests. There was also discussion on how existing homes, constructed prior to the ordinance, would be impacted by the ordinance if they added an addition to their home.

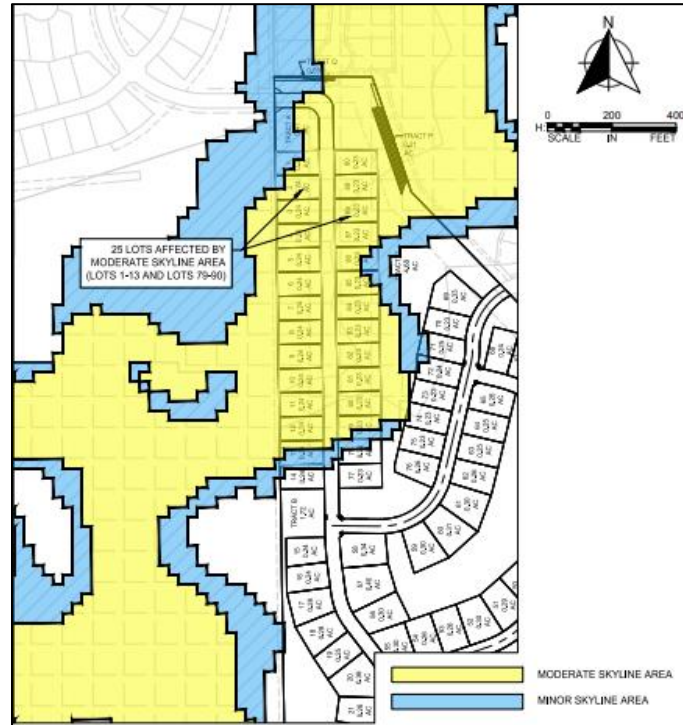


Figure 7: Additional Example from past Skyline Variance Requests

It is also understood that during the late 1990's Town Council, in an attempt to foster development efficiency, eliminated land use applications such as plats and single lot commercial site development plans from having to obtain Town Council approval. Placing Skyline/Ridgeline variance review and approval with Planning Commission at that time would be a logical extension of that effort. The Town Council remains the approval authority for any appeal concerning the Planning Commission's decision on the Skyline/Ridgeline variance requests.

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Town Council for final decision. This would allow a single lot request to only have one public hearing, while the multi-lot request would be processed typically with a residential site development plan that is already going through the two public hearings.

Proposed Motion

“I direct staff to draft an ordinance for future Council consideration that changes the Skyline/Ridgeline variance authority to have:

Single lot request be approved through Town Council; and
Multi-lot requests be included in site development plans and go to Planning Commission for recommendation, and then on to Town Council for final decision.”

Alternate Motions

“I direct staff to draft an ordinance for future Council consideration that changes the Skyline/Ridgeline variance authority to have:

- (insert direction...)”

Attachments

Attachment A: Title 17.48 Skyline/Ridgeline

Attachment B: Methodology Report