



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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PLANNING COMMISSION STAFF REPORT

Meeting Date: March 11, 2025

SUBJECT

Hillside Exception to consider the construction of a new single-family residence on a vacant hillside property with cumulative disturbance exceeding 500 square feet on slopes greater than or equal to 30%. (Application No(s): EXC-2023-001; Applicant(s): Zhaoguang Lei and Weiju Zhang; Location: 22346 Regnart Road; APN(s): 366 40 005)

RECOMMENDED ACTIONS

That the Planning Commission adopt the proposed draft resolution to:

1. Find the project exempt from CEQA; and
2. Approve the Hillside Exception (EXC-2023-001) (Attachment 1)

DISCUSSION

Project Data:

General Plan Designation:	Very Low Density (5-20 Acre Slope Density Formula)			
Zoning Designation:	RHS-120 (Residential Hillside with minimum net lot area of 120,000 sq.ft.)			
Net Lot Area	132,432 sq. ft. (3.04 acres)			
Project Data	Required		Proposed	
Maximum Allowable Development	6,500 sq. ft. max.		6,436 sq. ft.	
Building Height	30' max.		29'	
Setbacks	1st Floor	2nd Floor	1st Floor	2nd Floor
Front	10'	25'	26'-6"	26'-6"
Sides	10'	15'	68'	74'
Rear	20'	25'	335'	340'
Grading Quantity (cubic yards)	2,500 cubic yards max. (excluding basements)		1,254 cubic yards	
Total Flat Yard Area	2,500 square feet max. (excluding driveways)		2,351 square feet	

Parking	6 spaces min.	6 spaces
Project Consistency with:		
General Plan:	Yes	
Zoning:	Yes, with approved Hillside Exception	
Environmental Assessment:	Categorically Exempt per Section 15303 (Class 3) of the California Environmental Quality Act (CEQA) construction or conversion of small facilities or structures.	

Background:

The project site (Figure 1) is located within the South Monta Vista neighborhood in a Residential Hillside (RHS) zoning district and is surrounded by hillside single-family residences. The RHS district is intended to balance residential uses while preserving natural settings and protecting life and property from natural hazards.



Figure 1 Site Aerial

The vacant property sits near the terminus of a privately maintained extension of Regnart Road. The lot was created as part of the 24-lot Regnart Ridge subdivision in 1979. No previous construction has been proposed on this site and the property is not on a prominent ridgeline.

Application Request:

The applicants and property owners, Zhaoguang Lei and Weiju Zhang, are proposing the construction of a new, two-story, single-family residence. The proposed residence will be 6,436 square feet and consists of a 2,996 square foot lower story living area with an 877 square foot garage and a 2,563 square foot upper story living area. Much of the property faces downhill. A downhill, rear yard facing deck wraps the majority of the upper story. The parcel will have six parking spaces as required by the Parking Ordinance, Chapter 19.124 of the Cupertino Municipal Code, three enclosed (inside garage) and three driveway parking spaces. As part of the project, the applicant is required to improve the existing private street, which serves this and neighboring properties, pursuant to the Fire Department requirements. The applicant is required to widen the existing private street

along their front property line and construct an improved fire turn-around at the terminus of the street.

Analysis:

Hillside Exception

The RHS Ordinance, Chapter 19.40 of the Cupertino Municipal Code, prohibits any structures or improvements over 500 square feet in area on slopes greater than 30% unless an exception is granted. The intent of the requirement is to minimize and discourage unnecessary hillside grading activities and visual disturbances. However, if the project/property presents unique circumstances or hardships (typically physical/topographic challenges), then the City may consider an exception provided that the project is designed to minimize the extent of the exception and impacts to the surrounding hillside. The City has historically granted exceptions to allow reasonable development of steeper hillside properties planned for residential or allowed accessory uses.

Much of the property has slopes greater than 30%, with the entire site having an average slope of 45%. Therefore, almost any development on the property or grading will require the City to consider a hillside exception request.

The proposed residence will be located on the least sloping portion of the property with an average slope of 36% within the area of work. The residence has been located adjacent to the existing private street in order to avoid excessive grading of the site. The proposed residence is largely located on less steep slopes; however, portions of the house and the proposed leach field lines are on the steeper slopes. Cumulatively, the area of development on slopes greater than 30% exceeds 500 square feet and requires an exception.

Other homes in the neighborhood have been developed with similar floor areas and on similar slopes, with two residences requiring approval of a Hillside Exception along the shared private road. Other properties within the neighborhood have similar slopes, however, residences on these properties were developed prior to the Residential Hillside standards being put into place and, therefore, did not require a Hillside Exception.

The total grading for the development on the property is 1,254 cubic yards (cut and fill), within the maximum allowable grading limits of the Residential Hillside Ordinance of 2,500 cubic yards. Except for development that impacts more than 500 square feet on slopes greater than 30%, the proposed residence complies with all other aspects of the RHS zone's site development regulations. The development will be constructed with appropriate geotechnical review and inspections as described below.

Geological Review

The property is in a slope instability hazard zone. The City's consulting geologist, Cotton Shires Associates, has peer reviewed the geotechnical and geologic report submitted by the project geologist, Associated Terra Consultants, Inc. The peer review concludes that the report provided is reasonable and adequate, and the project is geotechnically feasible. The City's geologist recommended that geotechnical plan review and geotechnical construction inspections occur at the time a Building Permit is processed. These recommendations are incorporated as project conditions of approval.

Design

The residence complies with the RHS design standards as it generally follows the primary natural contour of the lot, is designed to present a low, single-story profile from the adjoining roadway, and incorporates natural earth tones with low light reflectivity values of 60 or less. Generally, color reflectivity is measured on a scale from 0 (i.e. black, no light reflection) to 100 (i.e. white, all light reflected). A low to medium reflectivity value is in the 0-60 range, comprising of darker and warmer colors that absorb more light. Existing trees and proposed landscaping, including additional trees and ground covering plants and grasses provide additional assurance of eliminating visual impacts. The subject site is not located within an identified ridgeline and the highest point of the site is located approximately 40 feet below the nearest ridgeline. Thus, the proposed project will not consist of structures which would disrupt the natural silhouette of ridgelines as viewed from established vantage points on the valley floor.

Trees and Landscaping

The project is located in a manner to avoid the removal of any protected trees. The construction will result in the removal of two, non-protected trees (Eastern White Pine) within the area of disturbance. An existing 15-inch oak tree will be protected in place and conditions of approval are incorporated as part of the project approval to ensure that proper tree protection measures are installed and that the tree is monitored during construction. Approximately 14,500 square feet of landscaping, using low water use plant species, is proposed to re-landscape the areas disturbed by project grading.

Road Improvements

The project includes required improvements to the private street to meet fire safety access requirements and storm drainage needs. The improvements have been reviewed by the Public Works Department and County Fire Department. No protected trees will be removed due to the street improvements.

Findings and Conclusion

The Cupertino Municipal Code includes 'findings' for approval of various permits necessary to approve the proposed project. These provide a framework for making

decisions and facilitating an orderly analysis of the review of a project. The findings for the Hillside Exception sought by the applicant that the City must make in rendering a decision whether to grant an exception on this project have been outlined and responded to in the proposed resolution (Attachment 1).

In summary, the lot is surrounded by existing hillside single-family residences. Most onsite development would result in disturbance of more than 500 square feet on slopes exceeding 30% and would require a Hillside Exception. Development cannot feasibly occur on the property without a Hillside Exception request as the site is constrained by steep slopes that limit areas on the parcel where development may occur. The siting and design of the proposed residence will follow the contours of the site to minimize grading, minimize the removal of landscaping and reduce the visibility of retaining walls necessary on site to develop the property in a manner consistent with the Residential Hillside Ordinance. A geotechnical study has been conducted for the proposed project and all recommendations of the geotechnical consultant have been incorporated into the development conditions of the approval.

Therefore, staff recommends approval of the Hillside Exception since the plans and conditions of approval address all concerns related to the proposed project and all of the findings for approval of the proposed project, consistent with Chapter 19.40 of the Cupertino Municipal Code, have been met.

Environmental Assessment:

The project is categorically exempt from the requirements of the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), pursuant to CEQA Guidelines section 15303. The exemption applies to new construction or conversion of small facilities or structures, including single-family residences (see CEQA Guidelines § 15303(a)) and none of the exceptions to the categorical exemptions in CEQA Guidelines section 15300.2 apply.

Other Department/Agency Review:

The City's Building Division, Public Works Department, and the Santa Clara County Fire Department have reviewed and conditionally approved the project. Their pre-hearing comments/conditions have been incorporated as conditions of approval in the draft resolution (Attachment 1).

PUBLIC NOTICING & OUTREACH

The table on the following page is a brief summary of the noticing done for this project:

Public Notice	Agenda
<ul style="list-style-type: none"> ▪ Site Signage (<i>14 days prior to the hearing</i>) ▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>) ▪ 8 public hearing notices mailed to property owners within 300 feet of the project site (<i>10 days prior to the hearing</i>) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (<i>one week prior to the hearing</i>) ▪ Posted on the City of Cupertino's website (<i>one week prior to the hearing</i>)

No public comments have been received as of the date of production of this staff report (February 28, 2025).

NEXT STEPS

Should the project be approved, the Planning Commission's decision on this proposal is final unless an appeal is filed within 14-calendar days of the date of the mailing of the decision on March 11, 2025. The applicant may apply for building and other permits at the end of the appeal period.

This approval expires on March 11, 2027, at which time the applicant may apply for a one-year extension.

Prepared by: Emi Sugiyama, Associate Planner

Reviewed by: Piu Ghosh, Planning Manager

Approved by: Luke Connolly, Assistant Director of Community Development

ATTACHMENTS

1 – Draft Resolution for EXC-2023-001

2 – Site Plan