



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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## PLANNING COMMISSION STAFF REPORT

Agenda Item No. \_\_\_\_\_

Agenda Date: January 17, 2016

**Application:** EXC-2014-15, TR-2014-70, (EA-2014-08)

**Applicant:** Amy Cheng

**Property Owner:** Amy Cheng

**Property Location:** 22823 San Juan Road (APN 342-22-078)

### APPLICATION SUMMARY:

- 1) A Hillside Exception to allow the construction of a new 3,245-square-foot single-family residence on slopes greater than 30%; and
- 2) A Tree Removal Permit to allow the removal and replacement of six (6) specimen size Oak trees to facilitate the construction of a new residence.

### RECOMMENDATION:

Staff recommends that the Commission approve:

- A mitigated negative declaration for the project (EA-2014-08),
- The Residential Hillside Exception (EXC-2014-15) per the draft resolution (see Attachment 1), and
- The Tree Removal Request (TR-2014-70) per the draft resolution (see Attachment 2)

### PROJECT DATA:

General Plan Designation	Very Low Density (1/2 Acre Slope Density Formula)
Zoning Designation	RHS-21 (Residential Hillside with minimum net lot area of 21,000 sq.ft.)
Lot Size	14,933 sq.ft.

Project Feature	Ordinance Requirement		Proposal		Consistency with City Ordinance
Residential Building Square Footage					
Total Proposed Building Area	3,271 sq. ft. max.		3,245 sq. ft.		Yes
Setbacks	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	
Front	10' min. (grade >20%)	25' min.	10'	N/A	Yes
Sides	10' min.	15' min.	10'	25'	Yes
Setbacks	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	1 <sup>st</sup> Floor	2 <sup>nd</sup> Floor	
Rear	20' min.	25' min.	101' min.	101' min.	Yes
Other Requirements					
Building Height	30' max.		29.3'		Yes
Slope	Exception required for > 500 square feet of development on slopes of 30% or more.		Onsite topography over which the home is built is around 55% slope.		Yes, with exception requested for development on slope.
Grading Quantity in cubic yards	2,500 cubic yards max.		115 cubic yards		Yes
Parking	6 spaces min.		6 spaces		Yes

**BACKGROUND:***Project Site & Development Requests*

The applicant, Amy Cheng, is requesting a hillside exception to facilitate the construction of a new single-family residences on slopes greater than 30% in a RHS zoning district. As part of the project, the applicant is also requesting a tree removal permit to allow the removal of six (6) Coast Live Oaks, twelve inches or more in trunk diameter.

The lot is vacant and surrounded by hillside single-family residences to the north, east, and south. A religious retreat, the Legionnaires of Christ, is located to the west. The lot is quasi-rectangular, sloping downward north with an average gradient of 55% and completely covered with vegetation, consisting of Coast Live Oaks and other native vegetation.

The Planning Commission approved a hillside exception and tree removal permit for a similarly designed residence for this property in 2009 (EXC-2008-14 and TR-2008-05).

**Site Aerial****DISCUSSION:***Residence and Site Plan Description*

The proposed residence is accessed by a shared private driveway that is an extension of San Juan Road and a maintenance agreement currently exists for all properties using this access route. The parcel will have six parking spaces, three enclosed (inside garage) and three exterior (parking deck). The steep topography of the lot has caused the proposed residence to be located near San Juan Road, as close as ten feet for a front setback from the property line. The proposed residence will be 3,245 square feet and consist of two stories, with one story downslope below San Juan Road. The home will be accessed at street level and second story living areas will be accessible by an internal stairwell. The proposed residences generally follows the primary natural contour of the lot.

The building colors and roof material depicted in the plan set complies with RHS design standards, which require muted vegetation or earth tones with low light reflectivity values of 60 or less.

*Exception for Development on Slopes Greater Than 30%*

The Residential Hillside (RHS) Zones Ordinance prohibits any structures or improvements over 500 square feet in area on slopes greater than 30% unless an exception is granted. The intent of this rule 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 siting and design of the proposed house minimizes the removal of the oak trees and reduces the visibility of the retaining walls necessary to develop the property in a manner consistent with the RHS Zones Ordinance. The City has historically granted exceptions to allow reasonable development of steeper hillside properties planned for residential use.

The entire property is steep with a slope average of 55%. The property cannot be developed without a hillside exception request. With the exception of the proposed development on a slope over 30%, the proposed home complies with all other aspects of the RHS zone's site development regulations.

In order to mitigate any impacts, the proposed residences will be supported on pier-and-grade beam foundation systems extending into the underlying bedrock. The development will be constructed with appropriate geotechnical review and inspections as described below.

#### *Geological Review*

The City's Geotechnical Consultant has peer-reviewed the geotechnical reports prepared by the applicant's Geotechnical consultant, concluded that the project is feasible, and has no objections to the proposed residences layout based on the manner of construction proposed by the applicant's geotechnical consultant.

The City Geotechnical Consultant recommends that the private geologist's recommendations be incorporated into the construction plans and the foundation of the proposed residences be sufficiently imbedded into the bedrock. Additionally, the applicant's geotechnical consultant should review and approve all geotechnical aspects of the project and building and grading plans to ensure that the recommendations have been properly incorporated. The City Geologist's recommendations are incorporated as a condition of approval in the draft resolutions.

#### *Tree Removal Request*

As a part of the project, the applicant proposes to remove six (6) protected trees onsite in order to facilitate the proposed residences and site improvements. All trees proposed for removal are Coast Live Oaks of specimen size and are proposed for removal as they are in the footprint of the new residence and parking deck. The City's Consulting Arborist reviewed the proposal and concurs.

In order to mitigate the trees being removed, the applicant shall be required to plant twelve (12) 24-inch box Coast Live Oak trees consistent with the replacement requirements of the Protected Tree Ordinance. A condition of approval has been added to the draft resolution for the required replacement trees. The final location and species of the tree replacements will be reviewed by staff in conjunction with the building permit review.

## **ENVIRONMENTAL ASSESSMENT**

On December 1, 2016, the Environmental Review Committee recommended a Mitigated Negative Declaration (EA-2014-08) for the project per the California Environmental Quality Act (CEQA).

The project includes mitigation measures, which have been added as conditions of approval to the draft resolutions, in the following areas, to reduce the potential environmental impacts of the project to less than significant levels:

- *Air Quality*: Construction shall comply with the BAAQMD's recommendations and the City's standard air quality measures.
- *Biological Resources*: Tree replacements in conformance with the City's Protected Tree Ordinance.
- *Geology and Soils*: Design-level geotechnical plans shall be provided to the satisfaction of the City Building Official and all foundational piers shall extend into the bedrock.
- *Cultural Resources*: In the event that cultural resources (archeological or human remains) are discovered during construction all work shall be temporarily halted.
- *Temporary Noise Levels*: Construction shall comply with the City's Noise Ordinance and standard noise mitigation measures.

#### OTHER DEPARTMENT/AGENCY REVIEW

The City's Public Works Department, Building Division, and the Santa Clara County Fire Department reviewed the project and have no objections. Their pre-hearing comments/conditions have been incorporated as conditions of approval in the draft resolutions.

#### PUBLIC NOTICING & OUTREACH

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

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> <li>▪ Site Signage (<i>14 days prior to the hearing</i>)</li> <li>▪ Legal ad placed in newspaper</li> <li>▪ (<i>at least 10 days prior to the hearing</i>)</li> <li>▪ Notices mailed to property owners adjacent to the project site (300 foot) (<i>10 days prior to the hearing</i>)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Posted on the City's official notice bulletin board (<i>five days prior to the hearing</i>)</li> <li>▪ Posted on the City of Cupertino's Web site (<i>five days prior to the hearing</i>)</li> </ul>

#### *Community Outreach & Public Comments*

In addition to the standard noticing and information on the City's website, the applicant mailed a letter in October, 2016, which included a brief project description and plans to the property owners within 300 feet of the project site in order to gather community input. Staff received a comment from a neighbor needing clarification of the tree removal and location of replacement plantings. The applicant has been made aware of the comments and the conditions of approval in the draft resolutions requiring that the removal and replacement of trees will be consistent with the Protected Tree Ordinance.

#### PERMIT STREAMLINING ACT

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

***Project Received:*** December 19, 2014

***Deemed Incomplete:*** January 16, 2015, April, 20, 2016, and September 29, 2016

***Deemed Complete:*** November 14, 2016

The City has 180 days, until May 14, 2017, to make a decision on the project since a Mitigated Negative Declaration under CEQA is recommended. The Planning Commission's decision on this project is final unless appealed within 14 calendar days of the decision.

## **CONCLUSION**

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all of the findings for approval of the proposed project, consistent with Chapter 19.168 of the Cupertino Municipal Code, may be made.

Prepared by: Gian Paolo Martire, Associate Planner

Reviewed by: Benjamin Fu, Assistant Director of Community Development

Approved by: Aarti Shrivastava, Assistant City Manager

## **ATTACHMENTS:**

1- Draft Resolution for EXC-2014-15

2- Draft Resolution for TR-2014-70

3 - Initial Study, ERC Recommendation

4 - Plan set