



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333  
CUPERTINO.ORG

**PLANNING COMMISSION STAFF REPORT**

Meeting: August 13, 2019

**SUBJECT**

Hillside Exception permit for the construction of a new 4,076-square-foot single-family residence within the 15% site line of a prominent ridgeline. (Application No(s): EXC-2018-07; Applicant(s): Walter Chapman; Location: 21650 Rainbow Court; APN(s): 366-38-007)

**RECOMMENDED ACTIONS**

That the Planning Commission adopt the proposed draft resolutions to:

1. Find the project exempt from CEQA; and
2. Approve the Hillside Exception (EXC-2018-07) (Attachment 1)

**DISCUSSION**

*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.)			
Net Lot Area	32,211 sq. ft. (0.74 acres)			
Project Data	Required		Proposed	
Maximum Allowable Development	4,076.99 sq. ft. max.		4,075.62 sq. ft.	
Building Height	30' max.		29'	
Setbacks	1st Floor	2nd Floor	1st Floor	2nd Floor
Front	20'	25'	55'	55'
Sides	10'	15'	35'	40'
Rear	20'	25'	105'	105'
Grading Quantity (cubic yards)	2,500 cubic yards max. (excluding basements)		1,481 cubic yards	
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 Monta Vista South neighborhood in a Residential Hillside (RHS) zoning district and is surrounded by hillside single-family



**Figure 1 Site Aerial**

residences to the north, east, south, and west. The RHS district is intended to balance residential uses with preserving natural settings and protecting life and property from natural hazards.

The vacant property sits at the cul-de-sac of Rainbow Court. An existing undeveloped emergency access easement connecting

Rainbow Court to Upland Way runs through the northern portion of the site, connecting it with the neighboring three properties to the east. The site previously underwent grading and residential development with an approved building permit in the 1990s. A residence was on the site in the early 1980s but was demolished in 1988. The previously constructed concrete slab and foundation as well as a concrete retaining wall currently remain on site.

Proposed Project

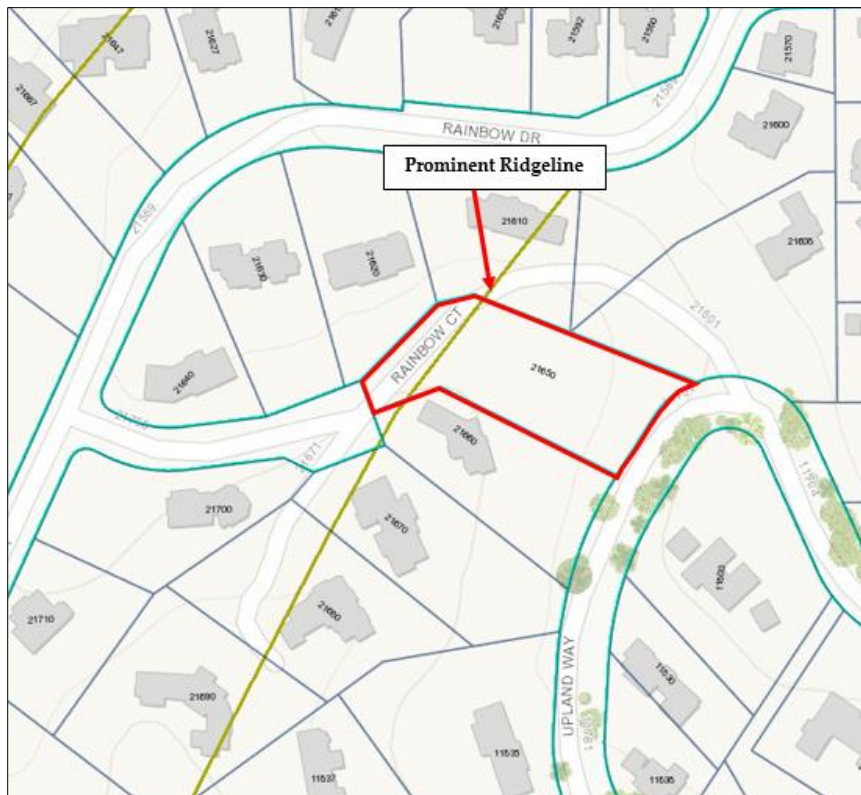
The applicant, Walter Chapman, representing the property owners, Michal and Zuri Barniv, is proposing the construction of a new two-story single-family residence. The proposed residence will be 4,076 square feet and consists of two stories with a 1,378-

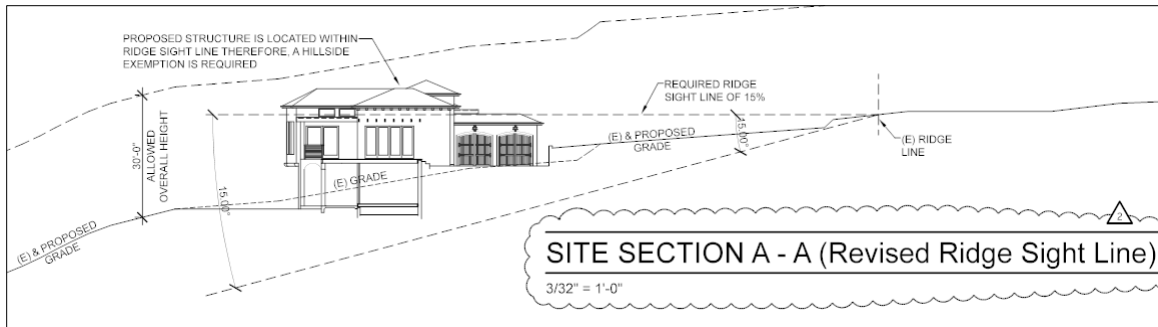
square-foot basement. The parcel will have six parking spaces as required by the Parking Ordinance, Chapter 19.124 of the Cupertino Municipal Code, two enclosed (inside garage) and four driveway parking spaces. As part of the project, the applicant will be required to improve the site by: (1) developing the existing emergency access easement, (2) installing a fire turn-around, and (3) removing the existing foundation and retaining wall.

The proposed residence will be in the previously graded portion of the property in order to avoid excessive grading of the site. Moreover, developing on any other portion of the site would be impractical due to slope restrictions. The residence complies with the RHS design standards as it generally follows the primary natural contour of the lot and incorporates natural earth tones with low light reflectivity values of 60 or less.

#### Hillside Exception:

The RHS Ordinance, Chapter 19.40 of the Cupertino Municipal Code, prohibits any structures that disrupt a 15% site line from a prominent ridgeline unless an exception is granted by Planning Commission. The intent of this regulation is to minimize and discourage visual disturbances of the





**Figure 3 Ridgeline Site Line**

The City has historically granted exceptions to allow reasonable development of steeper hillside properties planned for residential use.

Given that a prominent ridgeline (Figures 2 & 3) runs along the western portion of the property, development cannot feasibly occur on the property without a hillside exception request. The siting and design of the proposed house minimizes grading and removal of existing landscape in a manner consistent with the RHS Zones Ordinance. With the exception of the proposed development into the 15% site line of the prominent ridgeline, the proposed home 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 located in a fault rupture zone approximately 300 feet from the Monta Vista fault. The City's Geotechnical Consultant has peer-reviewed the geotechnical reports and has concluded that the project is feasible, and has no objections to the proposed manner of construction proposed by the applicant's geotechnical consultant.

#### *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. The pre-hearing

comments/conditions have been incorporated as conditions of approval in the draft resolutions (Attachment 1).

## **PUBLIC NOTICING & OUTREACH**

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

<b>Public Notice</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>▪ Site Signage (<i>14 days prior to the hearing</i>)</li><li>▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)</li><li>▪ 27 public hearing notices mailed to property owners within 300 feet of the project site (<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>one week prior to the hearing</i>)</li><li>▪ Posted on the City of Cupertino's website (<i>one week prior to the hearing</i>)</li></ul>

No public comments have been received as of the date of production of this staff report (August 7, 2019).

## **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 20, 2018; ***Deemed Incomplete:*** January 17, 2019

***Project Resubmission:*** March 6, 2019; ***Deemed Incomplete:*** March 26, 2019

***Project Resubmission:*** April 22, 2019; ***Deemed Incomplete:*** May 8, 2019

***Project Resubmission:*** June 20, 2019; ***Deemed Complete:*** July 3, 2019

Since this project is Categorically Exempt, the City has 60 days (until September 3, 2019) to decide on the project.

## **CONCLUSION**

The lot is surrounded by existing hillside single-family residences and any onsite development that disrupts the 15% site line of the prominent ridgeline would require a Hillside Exception. Development cannot feasibly occur on the property without a Hillside Exception request as the site is constrained by a prominent ridgeline that runs along the western portion of the property, steep slopes towards Upland Road, and an emergency access easement that limit areas on the parcel where development may occur. The siting and design of a proposed house 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. Staff recommends approval of the Hillside Exception since the plans and conditions of approval address all concerns related to the proposed project. Additionally, all of the findings for approval of the proposed project, consistent with Chapter 19.40 of the Cupertino Municipal Code have been met.

#### **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 August 13, 2019. The applicant may apply for building and other permits at the end of the appeal period.

This approval expires on August 13, 2020, at which time the applicant may apply for a one-year extension.

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Prepared by: Erika Poveda, Assistant Planner

Reviewed by: Gian Paolo Martire, Associate Planner

Approved by: Benjamin Fu, Director of Community Development

#### **ATTACHMENTS:**

1 – Draft Resolution for EXC-2018-07

2 – Plan Set