



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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PLANNING COMMISSION STAFF REPORT

Meeting: February 9, 2021

SUBJECT

Hillside Exception application to consider allowing the construction of an 864 square foot deck expansion on slopes greater than 30% to an existing hillside residence. (Application No(s): EXC-2020-007; Applicant(s): Curt Cline (Rifai residence); Location: 22637 San Juan Rd. APN(s): 342-17-064)

RECOMMENDED ACTIONS

That the Planning Commission adopt the proposed draft resolution (Attachment 1) to:

1. Find the proposed project exempt from CEQA; and
2. Approve the Hillside Exception (EXC-2020-007)

DISCUSSION

Project Data:

General Plan Designation:	Very Low Density (1/2 Acre Slope Density Formula)			
Zoning Designation:	RHS-30 (Residential Hillside with minimum net lot area of 30,000 sq.ft.)			
Net Lot Area	15,770 sq. ft. (.36 acres)			
Project Data	Allowed	Existing	Proposed	Total
Flat Yard Area (square feet)	2,500 sq. ft. max., exclude driveways	1,148 sq. ft.	0 sq. ft.	1,148 sq. ft.
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 Inspiration Heights neighborhood in a Residential Hillside (RHS) zoning district and is surrounded by hillside single-family residences to the north, south, and west, and a Single Family R-10 neighborhood to the east. The RHS district is intended to balance residential uses with preserving natural settings and protecting life and property from natural hazards.

The property is accessed off of San Juan Road by a shared private driveway. The site contains a 4,256 sf two story home developed in 1970 and remodeled in 2011.



Figure 1 Site Aerial

Proposed Project

The applicant, and property owner, Steven Rifai, is proposing adding an 862 sf deck extension to an existing deck and pool along the rear facade of the home. The deck will be made of Ipe wood with artificial grass in the middle and surrounded by a cable wire railing approximately 3.5 ft in height.

The developed deck will be supported by structural columns that require no grading to install. A new wooden staircase will replace an existing one along the southern edge of the new deck allowing access below the deck and maintain the yard downslope. No trees will be removed as part of this addition.

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 use.

Much of the property has slopes greater than 30% (see Figure 2). Therefore, almost any development on the property, outside of the existing building footprint, including the addition of any type of accessory structure (except an Accessory Dwelling Unit) such as the proposed deck, cannot be feasibly constructed on the property without a hillside exception request.

The siting and design of the proposed structure eliminates the need for grading as it is adjacent to the house and existing deck and pool. Except that the proposed development is occurring on slopes greater than 30%, the proposed deck 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.

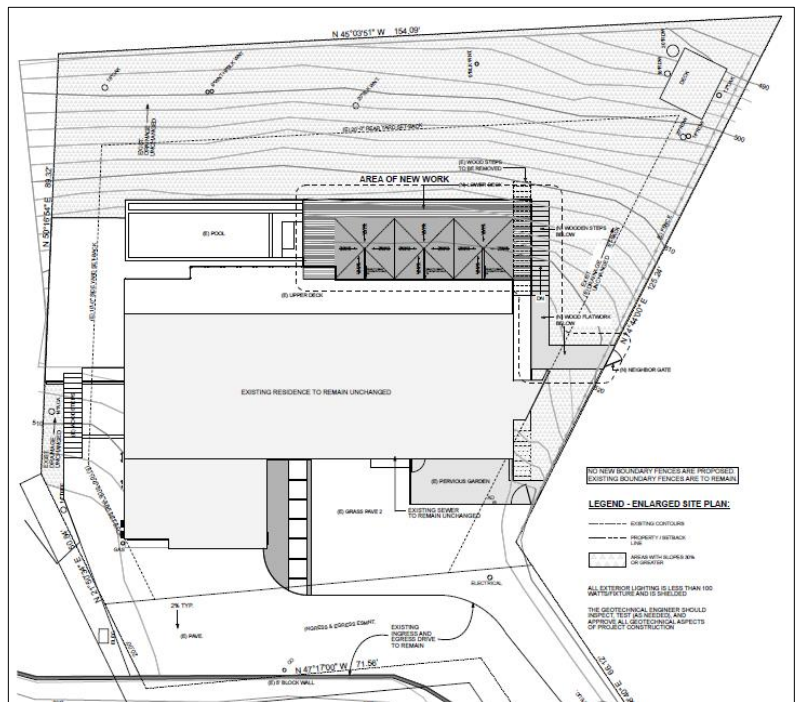


Figure 2 Slope Percentage over 30%

Geological Review:

The property is in a hillside and slope instability geologic hazard zone. The City's Geotechnical Consultant has peer-reviewed the applicant's geotechnical reports and has concluded that the project is feasible from a geologic standpoint. Their recommendations have been added as conditions of approval.

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 accessory structures, such as patios and swimming pools (see CEQA

Guidelines § 15303(e)), 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 following table 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>)▪ 45 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 (January 29, 2021).

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: November 4, 2020; ***Deemed Incomplete:*** December 5, 2020

Project Resubmission: December 9, 2020; ***Deemed Complete:*** January 8, 2021

The City has 60 days from when the project is deemed categorically exempt to decide on the project.

CONCLUSION

The lot is surrounded by existing hillside single-family residences and any onsite development that is greater than 500 square feet on a slope greater than 30% would require a Hillside Exception. Development cannot feasibly occur on the property without a Hillside Exception request as the undeveloped portion of the lot is virtually entirely sloped greater than 30%. The location and design of a proposed deck will align with the existing deck and also eliminate grading and minimize the removal of landscaping

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 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 February 9, 2021. The applicant may apply for building and other permits at the end of the appeal period.

This approval expires on February 9, 2023, at which time the applicant may apply for a one-year extension.

Prepared by: Gian Paolo Martire, Senior Planner

Reviewed by: Piu Ghosh, Planning Manager

Approved by: Albert Salvador, Acting Director of Community Development

ATTACHMENTS:

1 – Draft Resolution for EXC-2020-007

2 – Plan Set