



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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PLANNING COMMISSION STAFF REPORT

Meeting: February 23, 2021

SUBJECT

Hillside Exception application to consider allowing the construction of a 1,400 square foot deck at an existing hillside residence on a prominent ridgeline. (Application No(s): EXC-2020-004; Applicant(s): Yash Kapadia; Location: 22245 Canyon View Circle; APN(s): 366-45-004)

RECOMMENDED ACTIONS

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

1. Find the project exempt from the California Environmental Quality Act (CEQA); and
2. Approve the Hillside Exception (EXC-2020-004)

DISCUSSION

Project Data:

General Plan Designation:	Very Low Density (5-20 Acre Slope Density Formula)			
Zoning Designation:	RHS-170 (Residential Hillside with minimum net lot area of 170,000 sq. ft.)			
Net Lot Area	181,245 sq. ft. (4.16 acres)			
Project Data	Allowed	Existing	Proposed	Total
Floor Area (square feet)	Smaller of 6,500 sq. ft. or RHS FAR formula calculation	3,976 sq. ft.	0 sq. ft.	3,976 sq. ft.
Deck Area	N/A	0 sq. ft.	1,400 sq. ft.	1,400 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.
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Background:

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



Figure 1. Aerial View

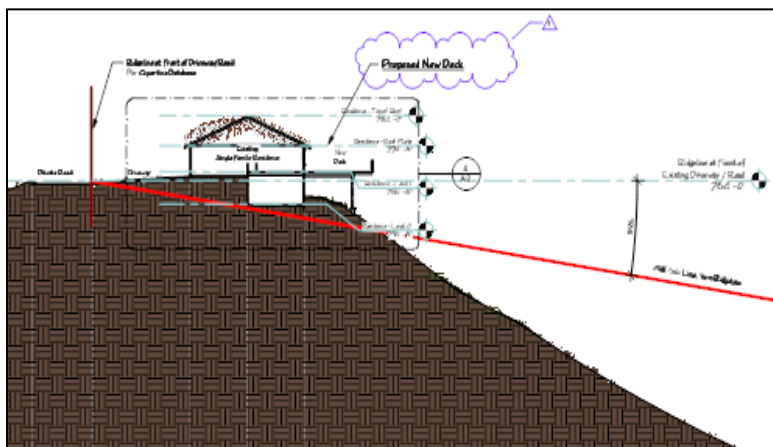
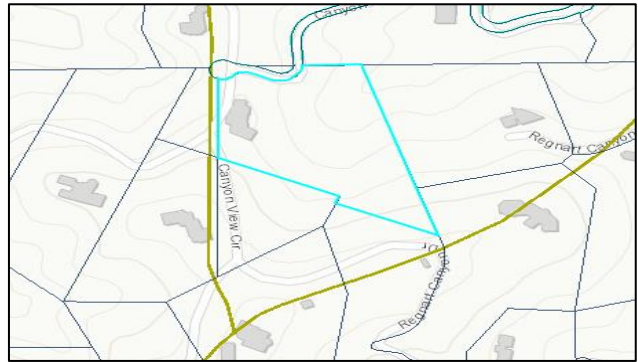
The property is accessed by a private road onto Canyon View Circle. The site contains a 3,976 square foot two story home developed in 1981. A new deck is proposed at the rear of the building, in an area where a deck existed formerly, presumably constructed around the same time as the home. A building permit issued in February 2015 included demolition of an existing rotting deck and construction of a replacement deck. Although the existing deck was demolished, construction of the replacement deck was never initiated, and the permit expired in March 2017.

Proposed Project

The applicant, and property owner, Yash Kapadia, is proposing to build a new, attached 1,400 square foot deck along the rear of his hillside residence. The proposed project requires a Hillside Exception since it is located within a 15% sight line from a prominent ridgeline and is no longer considered a replacement since significant time has lapsed since the old deck was demolished. The deck will be made of composite deck board and surrounded by an anodized aluminum railing approximately 3.5 ft in height. Additionally, a new wooden staircase will replace an existing one. The new staircase will be located along the northern edge of the deck to allow access below the deck to maintain the yard downslope. No trees will be removed as part of the project.

Hillside Exception:

The RHS Ordinance, Chapter 19.40 of the Cupertino Municipal Code, has several regulations to ensure that the hillsides are protected, and views of the hillsides are protected while allowing reasonable development. These include liming the grading on site and establishing maximum floor area ratio and minimum setback standards. The RHS Ordinance also prohibits any new or expanded structures that disrupt a 15% sight line from a prominent ridgeline, or for any development over 500 square feet in area on slopes greater than 30%. The intent of these requirements is to minimize unnecessary hillside grading activities and visual disturbances as viewed from certain prominent intersections at the foothills. The RHS Ordinance allows deviation from these standards with an exception granted by Planning Commission in the event the site is too constrained to allow reasonable development from occurring.



The intent of the requirement to minimize structures within 15% of the sight line is to minimize and discourage visual disturbance of the foothills and to maintain the integrity of the ridgeline by ensuring adequate screening is provided for any structures constructed to allow a largely unblemished view from certain vantage points in the City. To

ensure that there are no visual impacts from prominent intersections on the valley floor within the City, the applicant has prepared studies to indicate that the deck upon construction will not be very visible from these locations (see Attachment 3). Therefore, no screening landscaping is required to ensure that the deck is not visible.

Other than for the fact that the proposed development encroaches into the 15% sight line of the prominent ridgeline, the proposed home complies with all other aspects of the RHS zone's site development regulations. As mentioned previously, the City may consider an exception provided that the project is designed to minimize the extent of the exception and impacts to views of the hillside, to the environment and from natural hazards and has historically granted exceptions to allow reasonable development of steeper hillside properties planned for residential use.

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.

The proposed deck will be supported by structural columns that require the removal of approximately 8 cubic yards (CY) of drill spoils from the pier holes. These spoils will be relocated to an area along the southeast corner of the house approximately three and a half feet from the eastern property line. The fill will follow existing natural contours, be compacted appropriately, and be designed with positive drainage away from the home. The maximum elevation change in the fill area will be approximately three to four inches. The Geotechnical Report Peer Review, conducted by Cotton, Shires and Associates, Inc., recommends that the consultant inspect, test (as needed), and approve all geotechnical aspects of the project construction, including the required grading, prior to building final inspections to ensure adequate compaction and drainage. A condition of approval has been added to reflect this requirement.

Environmental Review:

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>)▪ 16 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 17, 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: August 24, 2020; ***Deemed Incomplete:*** September 22, 2020

Project Resubmission: December 7, 2020; ***Deemed Complete:*** January 7, 2021

The City has 60 days from the date the project is determined to be categorically exempt to decide on the project.

CONCLUSION

The lot is surrounded by existing hillside single-family residences and any onsite development that disrupts the 15% sight 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 and steep slopes towards the east. The location and design of a proposed deck will integrate with the existing home design, result in minimal grading and minimize the removal of landscaping necessary on site to develop the property in a manner consistent with the Residential Hillside Ordinance. Additional screening is not required for the proposed deck since it is not visible from prominent intersections on the valley floor. 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 proposed approval. Staff recommends approval of the Hillside Exception since the plans and conditions of approval address all findings required to approve the 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. The applicant may apply for building and other permits at the end of the appeal period.

This approval expires on February 23, 2023, at which time the applicant may apply for a one-year extension.

Prepared by: Jeffrey Tsumura, Associate Planner

Reviewed by: Piu Ghosh, Planning Manager

Approved by: Albert Salvador, Acting Director of Community Development

ATTACHMENTS:

1 – Draft Resolution for EXC-2020-004

2 – Plan Set

3 – Intersection Visual Study