

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO
PLANNING COMMISSION MEETING
APPROVED MINUTES

6:45 P.M.	AUGUST 22, 2017	TUESDAY
CITY COUNCIL CHAMBERS		

The regular Planning Commission meeting of August 22, 2017, was called to order at 6:45 p.m. in the Cupertino Council Chambers, 10350 Torre Avenue, Cupertino, CA. by Chairperson Don Sun.

SALUTE TO THE FLAG

ROLL CALL

Commissioners Present:	Chairperson:	Don Sun
	Commissioner:	David Fung
	Commissioner:	Alan Takahashi

Commissioners Absent:	Vice Chairperson:	Geoff Paulsen
	Commissioner:	Jerry Liu

Staff Present:	Asst. Director of Community Development:	Benjamin Fu
	Senior Planner:	Catarina Kidd
		Assistant City Attorney:

APPROVAL OF MINUTES: None

POSTPONEMENTS/REMOVAL FROM CALENDAR: None

ORAL COMMUNICATIONS: None

WRITTEN COMMUNICATIONS: None

CONSENT CALENDAR: None

PUBLIC HEARING:

- | | |
|---------------------------|---|
| 1. EXC-2016-08 | Hillside Exception to allow the construction of an attached pool house, pool and patio to an existing residence on slopes greater than 30%. |
| Charles Holman | |
| (Hirano residence) | |
| 11406 Lindy Place | |

Catarina Kidd, Senior Planner, presented the staff report:

- Reviewed the application for a Hillside Exception to allow the construction of an attached pool house, pool and patio to an existing residence on slopes greater than 30% as outlined in the staff report.
- Said that a hillside exception is required for development on slopes greater than 30%. Discussed the planning permit, based on comments received from the public, much of which is informative as far as understanding how the Planning Code is perceived and understood; when the notice for this project was routed there were a number of questions received why the hillside exception was being allowed. She

clarified that they have a nomenclature issue; the way the Code is written any development on slopes over 30% and in the hillside zoning district requires a permit called Hillside Exception. Even though it is called a hillside exception, it is not a variance in the sense of the definition that it doesn't meet the requirements of that district. Because of the nature of the location of this property as well as the topography in the general area any home that does development similar to this would require this type of permit with this name. The footprint of the pool house is 412 square feet, which alone does not require the hillside exception but because of the relocation of the pool to the northeast and demolition of that part of the backyard and reconstruction of the pool; that work together on slopes over 30% requires this review before any construction permits can be pulled.

- She illustrated the prospective drawings and elevation drawing showing the existing home, pool, proposed pool and pool house area; and also reviewed the site plan and described the changes to be made. Relative to zoning, she summarized the property because the characteristics of the property applies all residential hillside zoning properties, have a criterion for reducing square footage by 30% depending on the average slope of the lot. A formula was provided that shows 6500 sq. ft. is the maximum allowed square footage in the hillsides, that amount of square footage is reduced; the steeper the property; the more the square footage is reduced. Based on that formula that determined the size allowed for the pool house and they used that math to calculate how much they were able to add to the house; 412 sq. ft. is the limit allowed to be added to the home. The home conforms to the height limits of the residential hillside lot; and is asking for no variances. In the staff report all the setbacks required for front and side are highlighted; there is no rear on this lot because it is only a 3-sided lot.

The second story patio on the roof of the pool house meets the setbacks as well as the property was also subject to geotechnical review on a preliminary basis. Those recommendations are added to the conditions of approval and it would require from preliminary which is where it is now, planning all the way to construction drawings and a field supervision, the geotechnical expert will be involved with reviewing the construction drawings as well as the design of footings, piers, of foundation as well as retaining wall and verifying field conditions once they are granted that permit. The conditions actually meet the preliminary report or if the conditions are different, those conditions will be documented and design would respond accordingly. Those draft conditions from the geotechnical engineer are included in the draft resolution for consideration.

- She said the application is something they would like to move toward as a Planning Division and that is field mockups of colors and materials; there are renderings that show a general sense of the colors, elevation and perspective drawings; however they wanted to clarify those are not the final approved colors. Residential hillside requires earth tone materials, natural colors, basically browns and greens are the approved pallets. The existing home is a brown tone and in the plans the applicant indicates they will match that pallet; the renderings do contain some artistic expression, but staff does not recommend those specific colors. Said in the past they received material pallets from applicants and it often looks different in the field so they would recommend as a condition of approval that a field mockup be required between framing and final of the project.
- A condition about tree protection was added; there is a standard tree protection requirement for all projects based on the tree protection ordinance. However, for this project staff requests, because of the Oaks on the downslope, that construction fencing be provided for that area so that there is no construction proposed for that area, but there would be, based on the civil drawings some drainage and so forth that would have to go downhill and that should be supervised and documented through an arborist report at the construction phase. Those are staff's recommended conditions; public comments with concerns about geotechnical concerns were received; staff agrees that hillside is always going to have that geotechnical sensitivity and the code is written to accommodate those concerns. With the condition that this project is supervised as all projects would be from conception to final by a geotechnical engineer, staff feels this project meets the requirements of the residential hillside zoning district and recommends the Planning Commission approve the project.

Staff answered Commissioners' questions.

Charles Holman, Applicant:

- Outlined the reason for the proposed development was to utilize more of their lot; presently there is very little of it they can use for outdoor use. An existing pool takes up the space of the rear yard; the pool will be moved over, increase the patio size and construct the 412 sq. ft. pool house. A neighborhood outreach was done by letter; many responses were received, one of them was positive; many had concerns about the geotechnical aspects, and they have been assured and applicant has been in communication with them that they have hired a reputable geotechnical engineer and the civil engineers will address the grading and drainage plan and other structural engineers who will be doing the actual structural drawings. He said that when the retaining wall is in place the hill be more stable and less likely to fail in a severe rainstorm.

Chair Sun opened the public hearing.

Larry Wilson, (uphill) neighbor:

- Said he was not informed of the meeting and just learned about it 30 minutes prior to the meeting from his neighbor. Said he fully supported that the Hiranos should be able to construct an accessory building on their property. His concern is that they live on a very fragile slope where they are considering putting the building if it is greater than a 100% slope; and said it is unimaginable that somebody would want to place a building on a 100% slope. In 1982 and 1983 contiguous to both Mr. Hirano's property and his property there was a giant slide and the city of Cupertino hired a Geotechnical engineer and the engineer gave a very comprehensive report because he was onsite for over 6 months repairing the hill. In Murray's report he never mentioned that Barnes and Assoc. said this is what you need to do if you were going to disturb this hill. You know you are putting up the wrong building when you have to have to move 290 yards of dirt; that is enough dirt to excavate 3 swim pools and it is an unimaginable amount of dirt and you end up with a 17 ft. high retaining wall. He said they have had many retaining walls and many have failed; and the reason they have failed is because you have to do extraordinary amount of engineering. It is not mentioned in the report, it seems it has not been done completely.

Catarina Kidd:

- Explained the notification procedures for the surrounding area. Mail notice is mailed out 10 days in advance of the meeting; there is a 3 ft. by 5 ft. weatherproof sign for onsite posting on the street facing Lindy Place.

Chair Sun:

- Reported that he had visited Larry Wilson's residence about 3 months ago regarding the neighborhood construction.

Chair Sun closed the public hearing.

Com. Fung:

- Said he understood the concerns that have been raised; said in general it seems like this project as proposed is well within the zoning restrictions; but there are some concerns. He said the retaining wall was quite large and part of that is coming from leveling the property. He said he thought it was a preliminary geotechnical report so they haven't said specifically how they are going to handle this and that is something that will come after this approval. Said it was his belief that from an engineering standpoint either it can or cannot be done and that has yet to be determined after this proposal goes

forward and if it can't be done then back to the drawing board. In terms of the scope of what has been done here it appears there must have been an earlier version that was not quite within the existing zoning rules and this seems to address the outstanding issues very well. Said his concern coming back is that there were a large number of specifics there; and he hoped that if it needs to be adjusted it needs to be standard restrictions that were applied and there was nothing unusual unless that was warranted.

Com. Takahashi;

- Said he assumed the sequence of events is driven by the economics of the situation, the cost of the shoring plan and all the other elements is significant enough that it can't be done prior to approval of the project. Is that the gist of the reasoning for the possibility of a pending approval?

Catarina Kidd:

- Said yes, that much of the work is based on literally the fact that you are digging and you are now doing the work to disturb the hillside; until you get that green light the city wouldn't issue a grading permit to do that.

Chair Sun:

- For this particular case having visited Mr. Wilson's home and also viewed the applicant's residence, said he agreed with the neighbor at 11446 that it is a steep slope; but on the other side, the applicant submitted an application just to continue working on this project. Said he was leaning in favor of letting them start working on further developing their geotechnical investigation and working with neighbors to try to solve some technical problem or concern about land sliding or the unstable land, Said that was his position for this particular case.

Com. Takahashi:

- Said that a 17 foot wall is very tall; it is a very significant retaining wall which means the design, the piers are believed to be very significant and ensure that the 17 foot wall remains stable through seismic activities and all of that so that the scale of that wall is definitely something to not take lightly and the cost of that wall is going to be very expensive during construction. Said the second element is where he could use help from city staff; the shoring plan and all of the other elements that are to be approved after they move on this project; he said it is up to city code enforcement and the hired geotechnical engineer to assess those plans and make sure they are adequate and then building inspectors to ensure that the plans are being followed during construction and that there is a high level of confidence that the wall will be sound.

Catarina Kidd:

- Clarified there is a geotechnical consulting engineer who works for the city and works with the city engineer specifically at the building construction phase for the grading and drainage plans; that engineer will also work with the building plan checker staff, the city engineer, the consulting engineers, the plan checkers and building inspectors. She clarified that a significant percentage of that wall referenced is the back wall of the pool house.

Motion: Motion by Com. Fung, second by Chair Sun, and carried 3-0-2, Coms. Liu and Paulsen absent, to approve Application EXC-2016-08 as presented.

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE PLANNING COMMISSION

REPORT OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Benjamin Fu:

- Reported that Part 2 of the Speakers' Series will be held Thursday, August 24th, 6:30 p.m. to 8:30 p.m. which will feature the housing component.

COMMITTEE REPORTS: No Committee reports given.

ADJOURNMENT:

- The meeting was adjourned to the next Planning Commission meeting on September 12, 2017, at 6:45 p.m.

Respectfully Submitted: /s/Elizabeth Ellis
Elizabeth Ellis, Recording Secretary

Approved as presented: September 12, 2017