



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 07/10/2024

ITEM NO: 1

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DATE: July 5, 2024  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Requesting Approval for Site Improvements (Retaining Walls) Requiring a Grading Permit on Property Zoned HR-1. **Located at 17020 Los Cerritos Drive.** APN: 532-21-012 and -013. Architecture and Site Application S-24-005. Categorically Exempt Pursuant to CEQA Guidelines Section 15304: Minor Alterations to Land. Property Owner: Sandra Campbell. Applicant: David Fox. Project Planner: Erin Walters.

**RECOMMENDATION:**

Consider approval for site improvements (retaining walls) requiring a grading permit on property zoned HR-1, located at 17020 Los Cerritos Drive.

**PROJECT DATA:**

General Plan Designation: Hillside Residential  
Zoning Designation: HR-1, Hillside Residential  
Applicable Plans & Standards: General Plan; Hillside Development Standards and Guidelines; and Hillside Specific Plan  
Parcel Size: 2.56 acres (111,513 square feet)  
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Hillside Residential	HR-1
South	Residential	Hillside Residential	HR-1
East	Residential	Hillside Residential	HR-1
West	Residential	Low Density Residential	R-1:8

**PREPARED BY:** Erin Walters  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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CEQA:

Categorically Exempt Pursuant to CEQA Guidelines Section 15304: Minor Alterations to Land.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15304: Minor Alterations to Land.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).
- The project is in compliance with the applicable sections of the Hillside Development Standards and Guidelines (HDS&G) other than the requested exceptions for: grading outside of the Least Restrictive Development Area (LRDA); exceeding the maximum allowable retaining wall height (five feet); and exceeding the maximum allowable fill depths (three feet) for yards.
- The project is in compliance with the Hillside Specific Plan.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code, the considerations in review of an Architecture and Site application were all made in reviewing this project.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is 2.56 acres and contains an existing 4,692-square foot residence with a 525-square foot attached garage and associated site improvements.

On May 22, 2012, the Development Review Committee (DRC) approved an Architecture and Site application (S-11-090) to remodel and construct an addition to the house.

In September of 2012, building permits were issued and construction began on the house. In 2013, a building permit application was submitted for a new pool and site retaining walls, but was not issued as the proposed retaining walls did not meet the HDS&G.

In February of 2016, the Building Department issued a stop work order for work that was done without permits on the subject property. The stop work order was issued because the work included site improvements requiring a grading permit, grading of 50 cubic yards or more,

BACKGROUND (continued):

without receiving approval of an Architecture and Site Application. In addition, retaining walls were built without approval of a building permit.

In October of 2016, the applicant submitted an Architecture and Site application for the site improvements requiring a grading permit.

On February 13, 2019, the Planning Commission considered the application and continued the matter to April 10, 2019, with direction to the application to provide a feasibility analysis for an alternative to restore the hillside areas (rear yard area and driveway area) to the grades that existed prior the construction of the unpermitted retaining walls. The Commission requested the applicant provide alternatives to mitigate the construction of the unpermitted retaining walls by meeting the following HDS&G to the maximum extent possible:

- Maximum exposed retaining wall heights of five feet;
- Maximum exposed uninterrupted retaining walls lengths of less than 50 feet; and
- Minimal exceptions for exceeding the maximum allowable cut and fill depths.

The meeting minutes are included in Exhibit 4. The staff report can be found online here:

[www.losgatosca.gov/17020LosCerritosDr\\_PCFeb132019](http://www.losgatosca.gov/17020LosCerritosDr_PCFeb132019)

The video of the meeting can be found online here:

[www.losgatosca.gov/17020LosCerritosDr\\_YouTubePCFeb132019](http://www.losgatosca.gov/17020LosCerritosDr_YouTubePCFeb132019)

On April 10, 2019, the Planning Commission considered and approved design Alternative One for the driveway area and the rear yard alternative for Architecture and Site Application S-16-065. The meeting minutes are included in Exhibit 5.

The staff report can be found online here:

[www.losgatosca.gov/17020LosCerritosDr\\_PCApr102019](http://www.losgatosca.gov/17020LosCerritosDr_PCApr102019)

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Architecture and Site Applications expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested by issuance of building permits and successful completion of first foundation inspection. On April 10, 2021, the Architecture and Site Application's two-year expiration date was extended by an additional two years due to the COVID-19 Urgency Ordinance, resulting in a new expiration date of April 10, 2023. By virtue of the Governor's Executive Order No. N-38-20, the expiration date was extended to May 28, 2023.

BACKGROUND (continued):

On August 8, 2022, Building Permit B19-1154 was issued, however, no work has been performed on site in reliance on the building permit. Architecture and Site application S-16-065 was not vested before the expiration date of May 28, 2023, and expired.

An Architecture and Site application is being considered by the Planning Commission as the applicant requests approval of a new Architecture and Site Application in order to complete the mitigation work that was approved by the Planning Commission on February 13, 2019. The scope of work has not changed.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The property is located at 17020 Los Cerritos Drive, located on the west side of Los Cerritos Drive, approximately 180 feet east of Crescent Drive (Exhibit 1). Surrounding properties contain single-family hillside residential development to the north, east, and south; and low-density single-family residential development to the west.

B. Project Summary

The applicant is requesting approval of an Architecture and Site application for site improvements requiring a grading permit.

Unpermitted Work

The unpermitted work occurred within two areas of the site (Exhibit 9, Sheet G4.0): a portion of the driveway area (northeastern section); and a portion of the rear yard (southwestern section). The following summarizes the scope of the work that was completed in the field without the benefit of permits:

- Grading outside of the LRDA (on slopes over 30 percent) within the rear yard and driveway area;
- Construction of a seven-foot tall retaining wall in the rear yard;
- Cutting a maximum depth of nine feet, one-inch in the rear yard;
- Construction of 100 continuous linear feet of retaining wall in the rear yard;
- Construction of a 12-foot, four-inch retaining wall in the driveway area;
- Cutting a maximum depth of 12 feet, one-inch in the driveway area; and
- Construction of 122 continuous linear feet of retaining wall in the driveway area.

The applicant's proposed remedy is to retain the unpermitted retaining walls and construct additional shorter walls in front of the walls to create tiered walls. This would reduce the

PROJECT DESCRIPTION (continued):

exposed retaining wall heights, break up portions of the continuous retaining wall lengths, and add landscaping between tiers. The remedy also includes the addition of buttresses to the existing retaining walls in order to meet structural requirements.

The applicant has provided a scope of work and a letter of justification (Exhibit 6) describing the unpermitted completed work and proposed remedy with justification. The applicant has provided development plans showing existing conditions with the construction of the unpermitted walls (Exhibit 9, Sheet C6 of 7) and the proposed wall remediation plan (Exhibit 9, Sheet C2 of 7).

C. Zoning Compliance

A single-family residence is permitted in the HR zone.

DISCUSSION:

A. Architecture and Site Application

Pursuant to the Town Code, an Architecture and Site application is required in order to apply for a grading permit. A grading permit is required for total cut and fill volumes greater than 50 cubic yards.

The site was graded and retaining walls were constructed without permits. The applicant has proposed to build tiered walls in front of the unpermitted walls to reduce the exposed retaining wall heights, to break up the continuous retaining walls, and add landscaping at both the rear yard and driveway areas as described in Exhibit 9, Sheet C2 of 7, and discussed further below.

B. Proposed Driveway Area Mitigation

The project proposes to implement mitigation for the driveway area retaining walls. This proposed mitigation would include adding structural buttressing to the unpermitted retaining walls and terrace the retaining walls to bring the current site conditions into substantial conformance with the HDS&G (Exhibit 9, Sheet S1.0). Some of the grades outside of the LRDA would be restored to pre-violation conditions. Maximum exposed retaining wall heights would be reduced from 12 feet to seven feet. The uninterrupted retaining wall lengths would be reduced to approximately 33 feet. Additional engineered fill depths of four feet would be required (Exhibit 9).

The proposed driveway area mitigation would require exceptions to the HDS&G as described on the following page.

DISCUSSION (continued):

1. Grading outside of the LRDA (on slopes over 30 percent);
2. Exceeding the maximum allowable retaining wall height of five feet;
3. Exceeding the maximum allowable fill depths (three feet) for yards.

C. Proposed Rear Yard Area Mitigation

The project proposes to implement mitigation for the rear yard area retaining walls. This proposed remedy would include adding structural buttressing to the unpermitted retaining walls beneath one tiered wall to bring the current site conditions into substantial conformance with the HDS&G (Exhibit 9, Sheet S2.0 and S2.1). Some of the grades outside of the LRDA would be restored to pre-violation conditions. Maximum exposed retaining wall heights would be reduced to five feet and uninterrupted retaining wall lengths would be reduced to approximately 23 feet. Additional engineered fill depths of three feet would be required (Exhibit 9).

The proposed rear yard area mitigation would require the following exception to the HDS&G:

1. Grading outside of the LRDA (on slopes over 30 percent).

D. Exceptions to the HDS&G

In order to implement the proposed tiered mitigation walls the applicant is requesting several exceptions to the HDS&G. The analysis of the requested exceptions is summarized below.

- ***HSD&G Section II.C. Standard 1-  
Grading outside of the LRDA***

The HDS&G requires that each development application identify and map the LRDA. This is to identify the most appropriate area or areas on the lot for locating buildings in the least constrained areas. One of the elements in determining the LRDA is topography with slope less than 30 percent. Grading and the construction of retaining walls occurred outside of the site's LRDA in areas where slopes exceeded 30 percent in the rear yard area and driveway area (Exhibit 9, Sheet C2 of 7). The proposed remediation of introducing a series of tiered walls in front of the existing unpermitted walls does not mitigate grading work completed outside of the LRDA. The applicant's request an exception from this standard.

DISCUSSION (continued):

- **HDS&G Section III.A. Standard 1-  
Exceeding the maximum allowable fill depths (three feet) for yards**

The HDS&G requires that the development of yards meet the required a maximum fill depth of three feet (Table 1 of the HDS&G, page 20). Absent adequate justification, cut and fill in excess of maximum levels are considered excessive and contrary to the objectives of the HDS&G. Project should only grade the minimum amount necessary to accommodate building and site structures consistent with slope contours.

The proposed remediation introduces shorter walls to be built in front of the existing walls. The applicant requests an exception to the HDS&G to exceed the maximum allowable graded fill depth of three feet to accommodate the tiered retaining walls. The chart below summarizes the maximum graded cut and fill for the project.

Maximum Graded Cut and Fills – HDS&G						
	Maximum Cut Depths (feet)			Maximum Fill Depths (feet)		
	Allowed	Unpermitted Cut	Proposed Remediation Cut	Allowed	Unpermitted Fill	Proposed Remediated Fill
Site Work	4 feet	Driveway 12 feet and 1 inches Rear Yard 9 feet and 1 inches	Driveway 0 feet Rear Yard 0 feet	3 feet	Driveway 3 feet Rear Yard 3 feet	<b>Driveway 4 feet Rear Yard 3 feet</b>
<b>Bold-</b> requires exception to the HDS&G						

- **HDS&G Section VI.C. Guideline 1-  
Exceeding the maximum allowable retaining wall height (five feet)**

The HDS&G state that retaining walls should not be taller than five feet. Where additional retained portions are necessary due to unusual or extreme conditions (e.g., lot configuration, steep slope, or road design), the use of multiple-tiered lower retaining structures is preferred.

The remediation at the driveway wall would introduce a tiered planter wall with the maximum height of seven-foot, four-inches in front of the unpermitted 12-foot, four-inch wall. The proposed remediation wall for the driveway wall would exceed the HDS&G five-foot wall height requirements.

DISCUSSION (continued):

The retaining wall maximum height chart below provides a comparison of the allowed, unpermitted and proposed remediated wall height:

Retaining Wall Height Maximum Height			
	Allowed	Unpermitted Walls	Remediated Walls
Driveway	5 feet	12 feet and 4 inches	<b>Proposed 7 feet and 4 inches</b>
Rear Yard	5 feet	7 feet	Proposed 4 feet
<b>Bold</b> - requires exception to the HDS&G			

- ***HDS&G Section VI.C. Guideline 4-  
Exceeding retaining wall lengths that run in a continuous direction for more than 50 feet without a break, offset, or planting to break up the long flat horizontal surface***

The applicant has proposed tiered planter walls to break up the continuous retaining walls at both the rear yard and driveway areas. The walls have a natural textured surface to help blend with the natural hillside (Exhibit 8). The applicant has included a conceptual landscape plan that will help screen the walls to mitigate their visual impact (Exhibit 9, Sheets L-2). A Condition of Approval has been included that the final landscape plan shall be in compliance with the HDS&G (Exhibit 3, Condition of Approval 9).

The proposed Architecture and Site Application remediation plan for the unpermitted grading and retaining walls were approved by the Planning Commission on April 10, 2019 (Exhibit 4), and building permits were issued for the project, however the applicant let the Architecture and Site application expire. The proposed project is the same scope of work as approved by the Planning Commission on April 10, 2019.

E. Grading/Geotechnical Review

The property, in its current condition, features unpermitted retaining walls and grading activities, which include an estimated 1,360 cubic yards of cut. The proposed remediation tiered retaining walls will require additional fill (an estimated 86 cubic yards).

The applicant's structural engineering firm evaluated the unpermitted walls and determined that the walls are inadequate and required a buttress system to be installed. The proposed design includes adding a buttress system. The applicant submitted geologic investigations for review by the Town's Geotechnical Consultant. The consultant concluded that the investigation and associated documents were satisfactory and complete.



DISCUSSION (continued):

F. Tree Impacts

On April 29, 2024, the Town's Consulting Arborist revisited the site and provided an updated report providing the current condition of the trees on site (Exhibit 7). Tree protection will be provided on site per the report recommendations.

G. CEQA Determination

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15304: Minor Alterations to Land.

PUBLIC COMMENTS:

Project identification signage was installed on the site and written notice was sent to property owners and tenants located within 500 feet of the subject property. Public comments received by 11:00 a.m., Friday, July 5, 2024, are included as Exhibit 10. Based on the public comment received by a neighboring property owner, Condition of Approval #3 has been included to restrict construction work hours to Monday through Friday from 8:00 a.m. to 5:00 p.m. and construction work is prohibited on Town Holidays to reduce noise for surrounding neighbors.

CONCLUSION:

A. Summary

The project includes the following mitigation to both the driveway and the rear yard areas: adding structural buttressing; and terracing the unpermitted retaining walls to bring the current site conditions into substantial conformance with the HDS&G. The revised project would include maximum exposed retaining wall heights of five feet at the rear yard area, reducing the 12-foot exposed retaining wall height to seven feet at the Driveway Area, reducing the maximum exposed uninterrupted retaining wall lengths to less than 50 feet, and adding landscaping between the terraces.

The proposed project would require exceptions to the HDS&G including grading outside of the Least Restrictive Development Area (LRDA); exceeding the maximum allowable retaining wall height (five feet); and exceeding the maximum allowable fill depths (three feet) for yards. Should the Planning Commission find merit with the proposed project the Commission may grant the exceptions to the HDS&G.

CONCLUSION (continued):

B. Recommendation

Based on the analysis above, staff recommends approval the Architecture and Site Application subject to the recommended conditions of approval (Exhibit 3). If the Planning Commission finds merit with the proposed project, it should:

1. Find that the proposed project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Quality Act, 15304: Minor Alterations to Land (Exhibit 2);
2. Make the finding the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) (Exhibit 2);
3. Make the finding that the project is in compliance with applicable sections of the Hillside Development Standards and Guidelines other than the requested exceptions for: grading outside of the Least Restrictive Development Area (LRDA); exceeding the maximum allowable retaining wall height (five feet); and exceeding the maximum allowable fill depths (three feet) for yards (Exhibit 2);
4. Make the finding that the project is in compliance with the Hillside Specific Plan (Exhibit 2);
5. Make the required considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
6. Approve Architecture and Site Application S-24-005 with the conditions contained in Exhibit 3 and the development plans in Exhibit 9.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Approve the application with additional and/or modified conditions; or
3. Deny the application.

PAGE **11** OF **11**

SUBJECT: 17020 Los Cerritos Drive/S-24-005

DATE: July 5, 2024

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. February 13, 2019 Planning Commission Meeting Minutes
5. April 10, 2019 Planning Commission Meeting Minutes
6. Project Description and Letter of Justification
7. Consulting Town Arborist Report Month, Day, Year
8. Color Board
9. Development Plans
10. Public Comments Received Prior to 11:00 a.m., Friday, July 5, 2024

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