



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 03/26/2025

ITEM NO: 2

DATE: March 21, 2025
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a Request for Approval to Construct a New Single-Family Residence and Site Improvements Requiring a Grading Permit on Vacant Property Zoned HR-1. **Located at 16497 S. Kennedy Road.** APN 532-17-038. Architecture and Site Application S-24-037. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction. Property Owner: Robert Nicol. Applicant: Chris Spaulding. Project Planner: Jocelyn Shoopman.

RECOMMENDATION:

Consider a request for approval to construct a new single-family residence with site improvements requiring a Grading Permit on vacant property zoned HR-1, located at 16497 S. Kennedy Road.

PROJECT DATA:

General Plan Designation: Hillside Residential
Zoning Designation: HR-1, Hillside Residential (40,000 square feet minimum)
Applicable Plans & Standards: General Plan; Hillside Development Standards and Guidelines; and Hillside Specific Plan
Parcel Size: 111,843 square feet (2.56 acres)
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:10
South	Residential	Hillside Residential	HR-1
East	Residential	Hillside Residential	HR-1
West	Residential	Low Density Residential	R-1:10

PREPARED BY: Jocelyn Shoopman
Senior Planner

Reviewed by: Planning Manager, Community Development Director, and Town Attorney

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SUBJECT: 16497 S. Kennedy Road/S-24-037

DATE: March 21, 2025

CEQA:

The project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.

FINDINGS:

- As required, the project is Categorical Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations).
- As required, that other than the exceptions to grading depths, retaining wall heights, retaining wall length, and building located outside of the least restrictive development area (LRDA), the project complies with the Hillside Development Standards and Guidelines (HDS&G).
- As required, the project complies with the Hillside Specific Plan (HSP).

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION:

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

BACKGROUND:

The subject property is located south of Kennedy Road and accessed via Vivian Drive, a private road serving several lots east of the property (Exhibit 1). The subject property is vacant and approximately 2.56 acres (111,843 square feet) with an average slope of 45 percent.

On February 27, 2023, the Town approved a Senate Bill 9 (SB 9) Urban Lot Split (ULS) for the property located at 16491 S. Kennedy Road, submitted by the current applicant for this Architecture and Site application. The ULS divided a 4.276-acre lot into two parcels: a 74,531-square foot lot developed with a 6,189-square foot single-family residence and 1,170-square foot garage; and the subject property, a 111,843-square foot vacant lot. The subject property is zoned HR-1 and complies with the minimum lot area and lot width.

The Architecture and Site application has been referred to the Planning Commission based on the applicant's request for exceptions to grading depths, retaining wall heights, retaining wall length, and the LRDA.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located south of Kennedy Road and accessed via Vivian Drive, a private road serving several lots east of the property (Exhibit 1). Single-family residential development surrounds the property. Due to the existing topography of the site, the few areas of LRDA are concentrated in the southwest portion of the property, adjacent to existing easements.

B. Project Summary

The applicant proposes construction of a two-story residence with an attached two-car garage. The project includes areas of below-grade square footage that would not count toward the size of the residence. The proposed residence and attached garage would be located outside of the LRDA due to site and access constraints. The proposed residence would not be visible from any of the Town's established viewing platforms, pursuant to the HDS&G. The project requires a Grading Permit for site improvements for earthwork quantities exceeding 50 cubic yards. The project also requires exceptions to grading depths, retaining wall heights, retaining wall length, and LRDA.

C. Zoning Compliance

A single-family residence is permitted in the HR-1 zone. The proposed residence is in compliance with the zoning regulations for allowable floor area, height, setbacks, and on-site parking requirements for the property.

DISCUSSION:

A. Architecture and Site Analysis

The applicant proposes construction of a new 4,194.2-square foot, two-story residence with an attached two-car garage (Exhibit 13). The applicant has provided a Letter of Justification detailing the project and the requested exceptions to the requirements of the HDS&G (Exhibit 5). In addition to the 4,194.2 square feet of countable FAR, the residence includes 800.1 square feet of below-grade square footage. The residence also includes an attached 663.4-square foot garage. A summary of the floor area for the proposed residence is included in the table on the following page.

	Proposed Square Footage	Counts Towards Floor Area
First Floor	1,854.1 sf	1,854.1 sf
Second Floor	1,211.6 sf	1,211.6 sf
Lower Floor *	1,745.2 sf	865.1 sf
Attached Garage **	663.4 sf	263.4 sf
Total	5,474.3 sf	4,194.2 sf

* Pursuant to Sec. 29.10.020, floor area means the entire enclosed area of all floors that are more than four feet above the proposed grade, measured from the outer face of exterior walls or in the case of party walls from the centerline.

** Pursuant to the HDS&G garages up to 400 square feet in area are not included in the floor area ratio calculation.

The proposed residence would be sited at the southernmost portion of the lot, adjacent to Vivian Drive (Exhibit 1). The residence and attached garage are proposed outside of the LRDA due to the existing topography and closest vehicular access to Vivian Drive, the private road providing access to the property. The maximum height of the proposed residence is 25 feet, where a maximum of 25 feet is allowed by the HDS&G for nonvisible homes. The maximum high-to-low height of the proposed residence is 34 feet, eight inches, where a maximum of 35 feet is allowed by the HDS&G for nonvisible homes. The project requires a Grading Permit for site improvements for earthwork quantities exceeding 50 cubic yards. The project also requires exceptions to grading depths, retaining wall heights, retaining wall length, and LRDA.

B. Building Design

The applicant proposes a traditional style residence with subdued colors to blend with the surrounding hillside environment. Proposed exterior materials include: a dark bronze standing seam metal roof; smooth coat stucco siding; wood clad windows; and painted metal railings (Exhibit 4). The proposed exterior materials comply with the HDS&G standard for nonvisible homes, each having a light reflectivity value (LRV) less than 30.

The Town’s Consulting Architect reviewed the proposed residence and noted that the very constrained hillside parcel is surrounded by large homes on much larger parcels (Exhibit 6). The Consulting Architect identified two issues and concerns and provided two recommendations for changes. In response to these recommendations, the applicant made modifications to the design of the residence and submitted a letter responding to the recommendations (Exhibit 7). The Consulting Architect’s issues and recommendations are provided below, followed by the applicant’s response in *italics*.

1. Increase the roof overhang to provide a stronger eave shadow line to mitigate the two-story façade.

The eaves have been lengthened over the area with the two-story façade.

2. There may be two ways to address the issue of the two-story flat downhill façade section:
 - a. Leave it as proposed given the amount of downhill landscaping that is currently a buffer to views from the home below and the applicant’s commitment to plant screen landscaping at the lower property line.
 - b. Extend the balcony across the façade connecting the currently proposed balcony and deck.

The middle floor has been cantilevered out 18 inches between the balconies to break up the two-story section.

C. Neighborhood Compatibility

Based on Town and County records, the residences in the immediate neighborhood range in size from 2,149 square feet to 5,978 square feet. The FAR ranges from 0.05 to 0.25. The applicant is proposing 4,194 square feet of countable FAR for the home on a 111,843-square foot parcel (0.04 FAR). Pursuant to the Town Code, the maximum allowable floor area for the subject property is 6,000 square feet for the residence and 400 square feet for the garage. The following table reflects the current conditions of the homes in the immediate area and the proposed project.

Address	Zoning	House SF	Garage SF	Lot Size	House FAR	No. of Stories
16515 S. Kennedy Rd.	HR-1	4,590	720	46,528	0.10	2
16505 S. Kennedy Rd.	HR-1	4,496	630	51,710	0.09	2
16491 S. Kennedy Rd.	HR-1	5,268	1,408	74,201	0.07	2
16575 Kennedy Rd.	HR-1	5,978	1,572	57,692	0.10	2
16565 Kennedy Rd.	HR-1	3,530	1,152	53,125	0.07	2
16555 Kennedy Rd.	HR-1	4,604	707	47,922	0.10	2
16450 Kennedy Rd.	HR-1	2,500	583	43,716	0.06	2
16510 Kennedy Rd.	HR-1	2,660	480	49,979	0.05	2
16566 Kennedy Rd.	R-1:10	2,149	460	14,914	0.14	1
16570 Kennedy Rd.	R-1:10	2,961	720	18,943	0.16	1
101 Bond Ct.	R-1:10	2,738	380	10,815	0.25	2
100 Pinta Ct.	R-1:10	2,424	504	12,043	0.20	1
101 Pinta Ct.	R-1:10	2,624	440	13,726	0.19	1
16497 S. Kennedy Rd. (P)	HR-1	4,194	663	111,843	0.04	2

D. Site Design

The vacant property is approximately 111,843 square feet, located south of Kennedy Road and accessed via Vivian Drive, a private road serving several lots east of the property (Exhibit 1).

The property has an average slope of 45 percent with steep topography and is encumbered with easements (Sheet A3, Exhibit 13). Due to the existing topography of the site, the few areas of LRDA are concentrated in the southwest portion of the property, adjacent to existing easements. The proposed residence and attached garage are located outside of the LRDA due to site constraints and placement of the proposed structure adjacent to the existing access off of Vivian drive. The front yard area includes the proposed driveway, guest parking spaces, and a firetruck turnaround. The required turnaround is located downslope of the residence and requires construction of retaining walls with a maximum height of 11 feet, five inches.

The proposed site design requires approval of several exceptions to the HDS&G, including:

- Grading depths shall not exceed four feet of cut and/or three feet of fill;
- Retaining wall heights should not be higher than five feet;
- Retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket; and
- Buildings shall be located within the LRDA.

Grading Depths:

The HDS&G limits grading depths outside of the footprint of a primary residence to four feet of cut and three feet of fill. The proposed site work includes cut depths of four feet for the residence and up to 10 feet for the attached garage to bench the structure into the hillside. The required firetruck turnaround requires cut depths up to five feet to accommodate the proposed retaining walls. The proposed turnaround is required by the Santa Clara County Fire Department due to the configuration of the private road, Vivian Drive (Exhibit 1). The applicant also notes that due to the existing slope and limited areas of LRDA, there is no way for the proposal to comply with the HDS&G grading limits while also meeting the Santa Clara County Fire Department requirements (Exhibit 5).

This application has been reviewed and approved by the Town's Engineering Division and the Santa Clara County Fire Department.

The project also includes site improvements with grading quantities exceeding 50 cubic yards, which requires approval of a Grading Permit. The Town's Parks and Public Works Engineering staff have included a condition of approval requiring submittal and evaluation of a Grading Permit in parallel with the required Building Permits (Exhibit 3).

Retaining Wall Heights:

The HDS&G includes a guideline that retaining walls should not exceed a height of five feet and that when additional retained heights are needed due to extreme site conditions, the use of multiple terraced retaining walls is preferred. The proposed on-site firetruck turnaround is required for construction of the single-family residence. The Santa Clara

County Fire Department requires a fire engine turnaround area that does not exceed five percent slope. Due to the numerous constraints of the site and the dimension and slope requirements of a turnaround, the applicant proposes retaining walls on the north portion of the proposed driveway with approximate heights between seven feet, three inches and eight feet; and along the southern portion of the property driveway with approximate heights between five feet, two inches and 11 feet, five inches. There is limited space available to provide a turnaround due to existing easements; therefore, the use of terraced retaining walls is not feasible. The applicant's Letter of Justification describes the exception request and existing site constraints necessitating the request (Exhibit 5). The applicant proposes to paint the retaining walls a darker earth tone, consistent with the proposed residence to blend with the landscape. The landscape plans propose groundcover and plantings adjacent to the proposed retaining walls to provide screening and reduce the visual impact. These proposed plantings are located greater than 30 feet from residence and are required to be consistent with the HDS&G requirement that plant species in this zone be native and indigenous.

Retaining Wall Length:

The HDS&G includes a guideline that retaining walls should not run in a straight continuous direction for more than 50 feet without a break, offset, or planting pocket to break up the long flat horizontal surface. The applicant's Letter of Justification describes the exception request, stating that the retaining walls in excess of 50 feet are only being proposed to support the required firetruck turnaround and to provide access to the proposed residence with a driveway slope that complies with the HDS&G and Santa Clara County Fire Department requirements (Exhibit 5). The applicant proposes to paint the retaining walls a darker earth tone, consistent with the proposed residence to blend with the landscape. The landscape plans proposed groundcover and plantings adjacent to the proposed retaining walls to provide screening and reduce the visual impact. These proposed plantings are located greater than 30 feet from residence and are required to be consistent with the HDS&G requirement that plant species in this zone be native and indigenous.

Buildings Outside of the LRDA:

The HDS&G includes a standard requiring that buildings be located in the LRDA. Due to the existing topography of the site, the few areas of LRDA are concentrated in the southwest portion of the property, adjacent to existing easements (Sheet A3, Exhibit 13). The proposed residence and attached garage would be located outside of the LRDA due to site and access constraints. In their Letter of Justification, the applicant describes the limited LRDA and that there is not enough area to allow the construction of a new residence. Due to site constraints, the applicant requests an exception to allow the building to be located outside of the limited LRDA (Exhibit 5).

E. Tree Impacts

The development plans were reviewed by the Town's Consulting Arborist who inventoried 29 protected trees within the project area and made recommendations for their preservation (Exhibit 8). The project proposes removal of 17 protected trees to accommodate the new residence and driveway. Tree protection measures are included on Sheet A-2 of the development plans (Exhibit 13). In response to the Consulting Arborist's recommendations, the applicant adjusted the location of trenching and drainage facilities to minimize the impact on any existing trees to remain. The Landscape Plans indicate that 53, 24-inch box trees will be planted on site to offset the proposed tree removal. If the project is approved, tree protection measures would be implemented prior to construction and maintained for the duration of construction activity. Arborist recommendations for tree protection have been included in the Conditions of Approval to mitigate impacts to protected trees (Exhibit 3).

F. CEQA Determination

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.

PUBLIC COMMENTS:

Story poles and project signage were installed on the site by February 21, 2025, in anticipation of the March 26, 2025, Planning Commission hearing. The applicant's neighborhood outreach is included in Exhibit 9. Public comments received by 11:00 a.m., Friday, March 21, 2025, are included as Exhibit 11. The applicant's response to public comments is included in Exhibit 12.

CONCLUSION:

A. Summary

The applicant is requesting approval of an Architecture and Site application to construct a new a single-family residence and site improvements requiring a Grading Permit on a vacant property. The residence is well designed and compatible with the immediate area. The project is consistent with the Zoning and General Plan Land Use Designation for the property. Due to the constraints of the site, the applicant is requesting exceptions to grading depths, retaining wall heights, retaining wall length, and LRDA, and has provided a Letter of Justification discussing these requested exceptions (Exhibit 5). Aside from the requested exceptions, the project complies with the Zoning Code, Hillside Development Standards and Guidelines, and Hillside Specific Plan.

B. Recommendation

Staff recommends that the Planning Commission consider the request and, if merit is found with the proposed project, take the following steps to approve the Architecture and Site application:

1. Make the finding that the proposed project is Categorically Exempt, pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction (Exhibit 2);
2. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code (Zoning Regulations) (Exhibit 2);
3. Make the finding that due to the constraints of the site, exceptions to grading depths, retaining wall heights, retaining wall length, and building located outside of the LRDA are appropriate, and the project is otherwise in compliance with the Hillside Development Standards and Guidelines (Exhibit 2);
4. Make the finding that the project complies with the Hillside Specific Plan (Exhibit 2);
5. Make the 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-24-037 with the conditions contained in Exhibit 3 and the development plans in Exhibit 13.

C. Alternatives

Alternatively, the Planning 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.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Color and Materials Board
5. Letter of Justification
6. Consulting Architect's Report
7. Applicant's Response to Consulting Architect's Report
8. Consulting Arborist's Report
9. Applicant's Neighborhood Outreach
10. Site Photos
11. Public Comments Received by 11:00 a.m., Friday, March 21, 2025
12. Applicant's Response to Public Comments
13. Development Plans

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