



# MILPITAS PLANNING COMMISSION STAFF REPORT

October 9, 2019

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**APPLICATION:** **NEW HILLSIDE RESIDENCE – Site Development Permit No. SD18-0016 and Minor Site Development Permit P-MS19-0174** – A Site Development Permit to develop a new 5,807-square foot, one-story, single-family residence, with a metal fence up to six feet in height at the front of the property and an internal fence with a gate up to nine feet in height, and a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be located within the front half of the property on a vacant 1.274-acre hillside lot within Planned Unit Development No. 23.5, zoned R1-H Single-Family Residential Hillside Combining District with a Site and Architectural (-S) overlay.

**RECOMMENDATION:** **Staff recommends that the Planning Commission adopt Resolution No. 19-030, recommending approval of Site Development Permit SD18-0016 and Minor Site Development Permit P-MS19-0174 to the City Council, subject to the attached Conditions of Approval.**

**LOCATION:**  
Address/APN: 898 Calaveras Ridge Drive (APN 029-06-038)  
Area of City: Calaveras Ridge Drive

**PEOPLE:**  
Project Applicant: Kevin Chiang, Architect  
Property Owner: Jibing Lin  
Project Planner: Krishna Kumar, Assistant Planner

**LAND USE:**  
General Plan Designation: Hillside Medium-Density (HMD)  
Zoning District: Single Family Residential-Hillside (R1-H)  
Planned Unit Development: No. 23.5  
Site Area: 1.274 acres

**ENVIRONMENTAL:** Categorically exempt from environmental review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures) and Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning).

## EXECUTIVE SUMMARY

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The proposed project includes a Site Development Permit for the following:

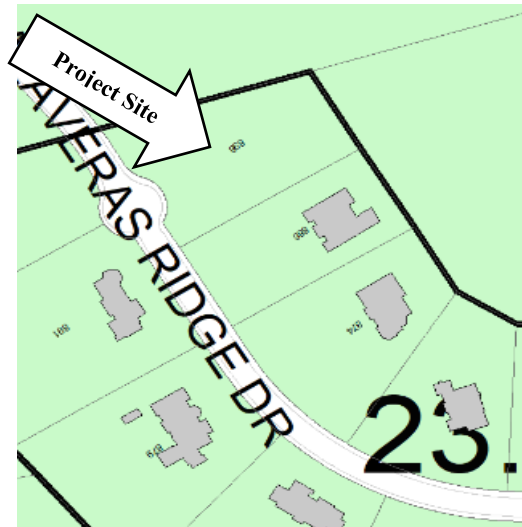
1. Develop a 5,807-square foot, one-story single-family residence on 1.274 acres
2. Allow a metal fence up to six feet in height along the street frontage
3. Allow an internal fence with a gate up to nine feet in height

The proposed project also includes a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be located within the front half of the property to minimize grading on a vacant hillside lot.

**Map 1**  
**Project Location**



**Map 2:**  
**Zoning Map**



## BACKGROUND

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### *History*

On September 1, 1981, the City Council approved Planned Unit Development (PUD) No. 23A (now known as PUD No. 23.5), also known as Calaveras Ridge, to allow the development of Residential PUD No. 23A and the Tentative Map for a 17-lot hillside residential subdivision on approximately 40 acres. The original lots ranged between approximately 0.9-acres and 7.0-acres. Review of site and architectural design for the development of each home site is required under the provisions of an “S” Zone Application or Site Development Permit. Each home site is also restricted to a precise building envelope established by the PUD. To date, a majority of the original lots have been developed.

### *The Application*

The applicant’s request includes a *Site Development Permit* to:

1. Develop a 5,807-square foot, one-story single-family residence on 1.274 acres
2. Allow a metal fence up to six feet in height along the street frontage
3. Allow an internal fence with a gate up to nine feet in height

The applicant’s request also includes a *Minor Site Development Permit* to allow a portion of the accessory dwelling unit to be located within the front half of the property to minimize grading on a vacant hillside lot.

### *Process*

In addition to satisfying the substantive and procedural requirements typically applicable to a Site Development Permit and Minor Site Development Permit, the application must be considered by both the Planning Commission and the City Council due to the project’s location within the Hillside Combining District (“H”) (Milpitas Municipal Code Section XI-10-45.09) for conformance with the Hillside Site and Architectural Guidelines.

## PROJECT DESCRIPTION

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### *Location and Context*

The project site is located in the northeastern portion of the City of Milpitas in the hillside area. Table 1 provides a summary of the Zoning and Land Uses surrounding the site:

**Table 1:**  
**Surrounding Zoning and Land Uses**

	<b>General Plan</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>Subject Site</b>	Hillside Medium Density (HMD)	Single-Family Residential-Hillside (R1-H)	Vacant
<b>North</b>	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Vacant

<b>South</b>	Hillside Medium Density (HMD)	Single-Family Residential-Hillside (R1-H)	Single-family home
<b>East</b>	NA	Single-Family Residential-Hillside (R1-H)	Vacant
<b>West</b>	Hillside Medium Density (HMD)	Single-Family Residential-Hillside (R1-H)	Vacant

## PROJECT ANALYSIS

### *General Plan and Zoning Conformance*

The General Plan designation for the project site is Hillside Medium Density (HMD). The General Plan details the goals, objectives and policies for the City’s Hillside Area. This area is characterized by gentle to steep slopes, grassy terrain with some chaparral and trees, wildlife, geologically unstable areas, the Ed R. Levin County Regional Park, and a feeling of remoteness from the more urban portions of the city. The Hillside Medium Density designation allows a maximum of three (3) units per gross acre. The project is in conformance with the policies and standards in the City’s General Plan policies, as outlined in Table 2:

**Table 2: General Plan Consistency**

<b>Policy</b>	<b>Conformance</b>
<i>2.a-G-3 Provide for a variety of housing types and densities that meet the needs of individuals and families.</i>	<u>Consistent.</u> The project will allow development of one residential home in the Hillside District which is consistent with the development standards of the Hillside Area. Low density is one type of housing for individuals and families that differs from other residential zones within the city.
<i>2.a-I-23 Limit new development in the Hillside Area to only to Very Low Density Residential, open space and park uses.</i>	<u>Consistent.</u> The project is one residential home on the vacant hillside lot and maintains the very low-density development standards.
<i>2.a.I-25 To ensure that development in the foothills is in keeping with natural character of the hillside, and that views are protected, require city review and approval of all proposed development or major alterations to existing development in the hillside.</i>	<u>Consistent.</u> The project’s low-profile design and earth tone materials will blend with the natural environment of the hillside area. The project proposes 565 cubic yards of cut and fill and the use of indigenous landscaping such as Deodar cedar, Canary Island Palm tree, Oleander Pink shrubs, etc.

<p><i>As part of the review, ensure that:</i></p> <ul style="list-style-type: none"> <li>• <i>Landscaping is of a type indigenous to the area;</i></li> <li>• <i>That building designs, materials, and colors blend with the environment; and</i></li> <li>• <i>Grading is minimized and contoured to preserve the natural terrain quality</i></li> </ul>	
<p><b>2.a.I-26</b> <i>Establish crestline protection areas around the ridges which will ensure that buildings and grading west of the first ridge do not visually penetrate a band of land that lies 100 feet vertically below the apparent crestline when viewed from certain specific sites on the valley floor and that no structures just east of the crestline extend above the crestline sight line.</i></p>	<p><u>Consistent.</u> The project site is located west of the crestline and is not at risk of visually penetrating views of the hillside from the valley floor.</p>

The site is located in the R1-H Single-Family Residential-Hillside Combining District. The “H” Zoning District promotes and encourages the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular constraints associated with development of hillside areas, including, but not limited to, geologic problems, slope, safe access and visibility. The proposed project meets the minimum setback requirements for the R1-H zoning district as well as the development standards set forth by PUD No. 23.5.

***Development Standards***

Table 3 demonstrates the project’s consistency with the applicable development standards of the R1-H zone and PUD 23.5:

**Table 3:**  
**Summary of Development Standards**

<b>Standards</b>	<b>Hillside &amp; PUD 23.5 Requirements</b>	<b>Proposed</b>	<b>Complies</b>
Front Setback	25 ft.-40 ft. / 40 ft.	40 + ft. from the property line	Yes
Side Yard Setback	40 ft. / 40 ft.	40 ft. on west, and 40 ft. on east.	Yes
Rear Yard Setback	40 ft. / 40 ft.	40+ ft.	Yes
Size of Main Residence	6,000 sq. ft. maximum/ 6,000 sq. ft. maximum	5,807 sq. ft.	Yes

<b>Standards</b>	<b>Hillside &amp; PUD 23.5 Requirements</b>	<b>Proposed</b>	<b>Complies</b>
Size of Accessory Dwelling unit (maximum area)	1,200 sq. ft.	1,195 sq. ft.	Yes
Impervious Surfaces (maximum area)	8,000 sq. ft.	7,994 sq. ft.	Yes
Building Height (maximum)	17 ft. west of crestline; 27 ft. east of crestline	17 ft.	Yes

Due to the subject property’s location, the project is also required to comply with the development standards in the City’s Hillside Combining District. Per Section XI-10-45.09-7 of the Zoning Ordinance, the Planning Commission and City Council shall consider the following guidelines in their review of proposed new development. Staff has determined the home to be consistent with the Hillside Architectural Guidelines as demonstrated below. See Table 4 below for consistency:

**Table 4**  
**Hillside Zoning Ordinance Compliance**

<b>Site and Architectural Guidelines</b> <i>Section 45.09-7</i>	<b>Consistency Finding</b>
<i>(a) Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.</i>	<u>Consistent.</u> The home is located west of the crestline and is subject to a maximum height of 17 feet, as noted in the Conditions of Approval no. 22 in Resolution No. 19-030. Additionally, the home is on a 1.274-acre parcel set back from all property lines and will not interfere with privacy.
<i>(b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.</i>	<u>Consistent.</u> The project site is currently undeveloped with few trees. No trees will be removed from the site, and the applicant will plant 24 trees, shrubs and ground cover on the lot. Proposed structures are designed to minimize grading.
<i>(c) Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should</i>	<u>Consistent.</u> The footprint of the home and accessory dwelling unit is angled in its orientation to the front property line. The design of the home, accessory dwelling unit and gazebo are designed to mitigate the perception of excessive bulk.

<b>Site and Architectural Guidelines</b> <i>Section 45.09-7</i>	<b>Consistency Finding</b>
<i>minimize the perception of excessive bulk.</i>	
<i>(d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.</i>	<b>Consistent.</b> The project will not exceed 17 feet in height as is permitted for homes located in PUD 23.5 and meets or exceeds all minimum setbacks as required by the City Code. The project is sited to minimize the impairment of natural light and airflow for the adjacent properties and will not impair their utilization of solar energy.
<i>(e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.</i>	<b>Consistent.</b> As proposed, the main dwelling and the accessory family dwelling unit shall be located where the parcel is relatively flat so that grading can be minimized. The proposed grading plan shows that 565 cubic yards aggregate grading will be required for the construction of the home, accessory family dwelling unit and the accessory structure. The impact will be minimal since the new contours will be designed to blend with the natural contours as demonstrated in the civil drawings and therefore meets the grading ordinance criteria.

***Site & Architectural Design***

The project is designed in a contemporary style, which adds to the diversity of the neighborhood. The exterior materials are composed of stucco and a concrete tile roof. The articulation of the architectural forms blending with a variety of finishes creates an attractive front elevation, and an integrated driveway pattern enhances the house and the neighborhood. All exterior materials and finishes work together as a palette of earth tone colors to be harmonious with the surroundings. The colors used and materials are complementary to the neighboring residences.

***Grading and Landscaping***

Due to the sloped lot and vehicular access requirements, the applicant has requested that the site be graded in order to make the site feasible for residential development. In an effort to limit the amount of soil to be removed, the applicant has proposed a site plan which locates the proposed home on the flattest portion of the site which will result in 565 cubic yards of cut and fill for the construction of the new home and the accessory dwelling unit and the required grade of the driveway for firetruck access. The proposed landscape plan includes a variety of indigenous flowers, shrubs and trees. As demonstrated in Attachment B (Project Plans) these plans are consistent with the grading/landscaping requirements within the Hillside Ordinance.

***Crestline Zone of Protection***

To protect the quality of views of the hills from the valley floor, development standards related to crestlines have been incorporated into the Zoning Code. Per Municipal Code Section XI-10-45.06,

the purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes immediately below when viewed from the valley floor. To demonstrate compliance with the crestline zone of protection, the applicant installed “story poles” along the building perimeter and staff took pictures from areas recognized by the City as “vantage points. As demonstrated in Attachment C, the project will not be visible from the valley floor, and therefore, is compliant with the Crestline Zone of Protection.

## **FINDINGS FOR APPROVAL (OR DENIAL)**

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A finding is a statement of fact relating to the information that the Planning Commission must consider in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Based on substantial evidence in the public record, Staff has determined that the proposed project is consistent with the General Plan, Zoning Ordinance, and all required Findings.

### ***Site Development Permit Findings (Section XI-10-57-03-1(F))***

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

As described within the staff report, the architectural design and site planning of the proposed home is aesthetically compatible with the neighboring homes with an emphasis of minimizing changes to the natural topography. The proposed single-family residence and accessory dwelling unit incorporate earth-tone colors and are sited and designed in a manner that does not draw attention when viewed from the valley floor.

2. *The project is consistent with the Milpitas Zoning Ordinance in that:*

As described within the staff report, the proposed home meets the development standards in the R1-H Single-Family Residential-Hillside Zoning District and PUD No. 23.5 (Calaveras Ridge) for setbacks, height requirements, and landscaping. Staff supports the applicant’s request for a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be located within the front half of the property to minimize grading.

3. *The project is consistent with the Milpitas General Plan in that:*

The project is consistent with the Milpitas General Plan, and particularly with Policies 2.a-I-23, which limits new development in the Hillside Area to Very Low Density Residential, open space and park uses. The project meets this finding, as part of an approved Planned Unit Development. The home is designed to fit in with the natural topographic features of the property with little or no visual impact as viewed from the valley floor.

### ***Minor Site Development Permit Findings (Section XI-10-57.03 (2)(F))***

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

Per Section XI10-13-08(3)(b) of the Zoning Ordinance, a detached accessory dwelling unit in the Hillside Combining District must be located in the rear half of the lot. Per Section



XI-10-45.09.7(e) of the Site and Architectural Guidelines for the Hillside Combining District, all grading must be minimized. The architectural design and site planning of the proposed accessory family dwelling unit are aesthetically compatible with the neighboring properties, with an emphasis of minimizing changes to the natural topography by locating a portion of the proposed accessory dwelling unit within the front half of the property. Staff recommends that the proposed site design merits approval based on the goal to minimize grading and disturbance of natural topography on the site.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

As described within the staff report, the proposed accessory family dwelling unit meets the development standards in the Single-Family Residential-Hillside Zoning District and Calaveras Ridge PUD No. 23.5 for setbacks, height requirements and landscaping.

3. *The project is consistent with the Milpitas General Plan.*

The project is consistent with the Milpitas General Plan, and particularly with Policies 2.a-I-23, which limits new development in the Hillside Area to Very Low Density Residential, open space and park uses. The project meets this finding, as part of an approved Planned Unit Development. The home is designed to fit in with the natural topographic features of the property and reduces the visual impact as viewed from the valley floor.

***Hillside Zoning Ordinance (Section XI-45.09-7)***

1. *Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.*

The proposed home is located west of the crestline with a maximum height of 17 feet, as required in the Conditions of Approval no. 22 in Resolution No. 19-030. Additionally, the proposed home is located on a 1.274-acre parcel and will have a minimum 40-foot setback from all property lines and therefore will not interfere with privacy.

2. *Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.*

The project site is currently undeveloped with few trees. No trees will be removed from the site, and the applicant will plant 24 trees, shrubs and ground cover.

3. *Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.*

The footprint of the proposed home and accessory dwelling unit is angled in its orientation to the front property line. The design of the home and other accessory structures does not create the perception of excessive bulk.

4. *Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.*

The project will not exceed 17 feet in height as required for homes located in PUD No. 23.5 and meets or exceeds all minimum setbacks as required by the City Code. The project is sited to minimize the impairment of natural light and airflow for the adjacent properties and will not impair their utilization of solar energy.

5. *Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.*

As proposed, the main dwelling and the accessory dwelling unit shall be located where the parcel is relatively flat so that grading is minimized. The proposed grading plan shows that 565 cubic yards aggregate grading will be required for the construction of the primary residence and accessory structures. The impact will be minimal since the new contours will be designed to blend with the natural contours as demonstrated in the civil drawings and therefore meets the grading ordinance criteria.

## **ENVIRONMENTAL REVIEW**

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The proposed Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures) and Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning).

## **PUBLIC COMMENT/OUTREACH**

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Staff provided public notice for the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on September 27, 2019. In addition, the City sent notices to nineteen property owners and occupants within 300 feet of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Consider the exemption in accordance with CEQA and adopt Resolution 19-030, recommending the City Council approve the Site Development Permit No. SD18-0016 and Minor Site Development Permit No. P-MS19-0174, to allow development of a new 5,807-square-foot single-family residence, with a metal fence up to six feet in height at the front of the property and an internal fence with a gate up to nine feet in height, and a Minor Site Development Permit to allow a portion of the accessory dwelling unit to be located within the

front half of the property on a vacant 1.274-acre hillside lot within Planned Unit Development No. 23.5, zoned R1-H Single-family Residential Hillside Combining District, subject to the findings and attached Conditions of Approval.

## **ATTACHMENTS**

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- A: Resolution 19-030
- B: Project Plans
- C: Story Pole Photographs and View Point Study
- D: Grading Requirement in Hillside Zones