

Board Meeting Date: October 17, 2023
Special Notice / Hearing: 10-day notice;
publication and
300-foot radius
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Planning Commission's decision to adopt an Initial Study/Mitigated Negative Declaration and approve a Design Review Permit and Grading Permit, to allow the construction of a new three-story, 4,249 sq. ft. single-family residence in the unincorporated Palomar Park area.

County File Number: PLN 2020-00251 (Thalapaneni Jackson)

RECOMMENDATION:

Public hearing to consider an appeal of the Planning Commission's decision to adopt an Initial Study/Mitigated Negative Declaration and approve a Design Review Permit and Grading Permit to allow construction of a new three-story, 4,249 sq. ft. single family residence in the unincorporated Palomar Park area:

- A) Open public hearing
- B) Close public hearing
- C) Deny the appeal and uphold the Planning Commission's decision to approve the Design Review Permit and Grading Permit, PLN 2020-00251, by making findings and adopting the conditions of approval in Attachment A of the Memorandum and adopting the Initial Study/Mitigated Negative Declaration, pursuant to the California Environmental Quality Act.

BACKGROUND:

The applicant proposes construction of a new three-story, 4,249 sq. ft. single-family residence, 315 sq. ft. covered terrace, a 155 sq. ft. deck, and a 554 sq. ft. attached garage, on a 18,122 sq. ft. legal parcel (Lot Line Adjustment recorded on April 26, 1983). The property would be accessed from an improved existing gravel driveway and access easement located on 636 Palomar Drive and an undeveloped parcel (APN 051-022-470). The project involves 880 cubic yards (c.y.) of cut and 90 c.y. of fill and the removal of two (2) significant trees. The property is located within an existing residential neighborhood and adjoins developed parcels on the east, south, and southwest sides.

The property slopes upward from Los Cerros Road with an average slope of approximately 34 percent.

DISCUSSION

On July 6, 2023, an appeal of the Planning Commission's decision to approve the project to the Board of Supervisors was filed by Denise Enea, Terry Irwin, Jim Goodrich, Mary Lassiter, Josh Miller, Yuriy Makarov, and Kathy Fagliano (referred to as "Appellants" in this report). The appeal pointed to site instability, attributed to landslides and springs, which the Appellants argue could be exacerbated by location and construction of the proposed pool, septic system, and the proposed removal of a mature Oak tree located near referenced landslides.

The following is a discussion of each point raised by the appeal:

1. The Appellants assert that the proposed expansion leach field should not be located within 100 feet of the unstable land mass or the existing current 2023 landslide. *Staff's Response:* The Appellants' assertions of a "2023 landslide" and that the property is "an unstable land mass" have not been substantiated. As further discussed in Section B.2 of the Memorandum, Denise Enea Charlebois, in a letter dated April 5, 2023, notified the Property Owners of 634 Palomar Drive, regarding emergency measures taken under a building permit at 738 Loma Court, including installation of subdrain lines, in response to two potential new landslides. No information from a geotechnical or engineering professional was submitted as part of the April 5, 2023 letter or the building permit records (BLD 2023-00624) for the emergency work. Based on review by the County's Geotechnical consultant and the Project Geotechnical Engineer, there is no formal documentation or evidence of any new landslides.

The applicant has submitted comprehensive, site-specific reports, including subsurface exploration and testing, for the proposed residence and septic system, which have been reviewed by and received preliminary approval from the County Environmental Health Services and the County's Geologist and Geotechnical Engineer, and staff's recommendation of approval is based on the analysis and conditions of approval recommended in those reports.

2. The Appellants assert that the 100+ year old multi trunk oak, located in the 10-foot setback and located within 20 feet of current 2023 landslide and 2018 landslide, should not be removed, that the roots are vital to hillside stability and dewatering. The Appellants assert the applicant can slightly modify the house and slightly trim canopy to preserve the tree. *Staff's Response:* Based on review by the County's Geotechnical consultant and the Project Geotechnical Engineer, there is no formal documentation or evidence of any new landslides. As further discussed in Section B.1, Tree 14 with stems of 21.1" and 17.5" d.b.h., is located in the right-side setback and the two significant trees to be removed will be replaced by three (3) oak trees in the same location. The removal of the tree is necessary as it is in the proposed location of a new retaining wall for the attached pool.

3. The Appellants assert that the swimming pool should not be allowed as it sits at the base of a repaired landslide adjacent to unstable land mass. Appellants state that excess pool water will need to drain through neighbor's private drainage and flow into creek without treatment. *Staff's Response:* The County requires pool water to be de-chlorinated prior to release and released in a metered, slow flow, preferably over landscaping and in dry weather. Condition 7 imposes these requirements.
4. The Appellants assert that a percolation test should be conducted under wet season conditions and stacking of existing neighboring leach fields should not be allowed per Environmental Health Ordinance. *Staff's Response:* Condition 64 requires the applicant, at the time of building permit application, to submit an updated percolation test and plans consistent with the On-site Wastewater Treatment System (OWTS) design that has been reviewed and preliminarily approved by Environmental Health Services.

This report has been reviewed and approved by the County Attorney's Office as to form.

FISCAL IMPACT:

There is no fiscal impact to the County from denying the appeal and upholding the Planning Commission's approval of the requested permits.