



Item No:
Meeting Date: 02-12-13

To: Planning Commission

Date: February 7, 2013

Authorized By: Ron Munekawa
Chief of Planning

By: Stephen Scott, Principal Planner

Subject: PA 10-015 Suhl Site Development Permit, 493 Edgewood Road (APN 031-052-250)

RECOMMENDATION

That the Planning Commission approve the project by making the following motions:

- A. Certify the Negative Declaration as adequate to assess environmental impacts, based upon the Findings for Approval in Exhibit A; and
- B. Approve the Site Development Permit for site grading based upon the Findings for Approval in Exhibit A and subject to the Conditions of Approval in Exhibit B.

BACKGROUND

On May 3, 2006, a new two-story dwelling was approved by the Zoning Administrator for Mr. Suhl at the above address (PA 06-020 Suhl R1DR). That approval did not include a Site Development Permit for grading. However, prior to completion of construction of the dwelling, Mr. Suhl initiated landscaping work to the rear portion of the site, which due to the extent of grading and tree removal, required a Site Development Permit.

The City instituted compliance actions to address the work done without permits. The tree removal issue was handled separately and resolved to the satisfaction of the Park & Recreation Department and City Attorney's Office, and so that issue is not part of the current application. The City also obtained a court order requiring Mr. Suhl to obtain a Site Development Permit for the actual grading portion of the work, which is the subject of this application.

There are two phases to a Site Development Permit. The first is the Site Development planning application (SMMC Section 23.40.040(a)) and the second is the Site Development Permit (SMMC Section 23.40.040(b)). These can be viewed similarly to approval of a planning application for a building from the Planning Division and subsequently obtaining a building permit from the Building Division to construct the building. The current application is intended to approve the plans for grading and landscaping, and the applicant will then need to complete the process of meeting the court order by obtaining the actual Site Development Permit from the Public Works Department.

PROJECT DESCRIPTION

The property is an approximately 21,737 square foot single family parcel zoned R1-A. The surrounding uses are large-lot single-family residential dwellings (see Attachment 2). The project site and the adjacent properties on the same (northerly) side of Edgewood Road slope steeply down to a small creek (Cherry Canyon Creek) and a wooded area along the margin of the creek.

The applicant is seeking approval of a Site Development Permit to authorize grading work that has already been completed. The project includes the excavation and re-grading of a portion of the rear flat portion of the lot and the import of a large quantity of dirt onto the rear sloped portion of the lot extending down to Cherry Canyon Creek. The end result was to raise the ground level, re-contour and re-landscape the slope.

The project submittals include landscaping engineering and landscaping plans (see Attachment 3). The engineering plans indicate approximately 260 cubic yards (CY) of total earthwork, including approximately 20 CY of on-site excavation and approximately 240 CY of imported dirt. They also illustrate the drainage and sub-drain systems installed on the slope. Also included is a letter from an engineer testifying as to the degree of compaction (minimum of 90% relative compaction) across the site and the conclusion that this is an acceptable and stable soil condition. In addition, the letter states that the drainage system was properly installed.

On two occasions over the past two years, Public Works has inspected the site prior to the winter rain season to verify that appropriate “winterization” systems were in place to assure that the slope was not eroding and adversely affecting adjacent properties or the creek. At the time of the first inspection, the final landscaping had not been installed, and at the time of the second inspection, the landscaping had begun to mature. In both instances, the site was found to be properly winterized and no impacts to the creek were observed.

The landscape plan illustrates a pathway that meanders down to the bottom of the slope and the addition of 15 new trees and a variety of shrubs and groundcover. The plan also indicates that there are 36 Italian Cypress trees planted along the easterly property line. While the plans categorize these as “shrubs”, they should really be considered trees. They also operate to provide visual screening between those two adjacent properties, but may also result in shading of

the property to the east. Staff would again note that the work that constitutes the project has already been completed.

ISSUES

Slope Stability and Drainage

The primary issue regarding the project, and the reason the Municipal Code requires a Site Development Permit for grading and earthwork to this extent, is to assure that the resulting condition is stable and properly drained. The compaction testing that was conducted indicates that the slope is stable and the engineer's statements indicate that the drainage system was properly installed. Staff observation of the resulting condition verifies that the slope is not eroding and winter rains are not undermining the slope or causing impacts upon the creek.

Staff has not been on the site to directly observe the site condition during a rain event. However, staff received a letter from the next door neighbor, Mr. Strambi, (see Attachment 4) stating that there is run-off and some mud and silt coming onto his property during rains. Staff is proposing a condition of approval that requires the applicant to demonstrate that the project site is not resulting in off-site impacts to the Strambi property and/or to correct any instances where any additional drainage is occurring onto the Strambi property over and above the amount that would otherwise have drained in the pre-existing, natural condition (see Condition of Approval # B3.3).

Staff has received a series of questions from Commissioner Moran related to potential creek impacts from the construction (see Attachment 5). Some of those questions have been addressed above, but to respond directly, there have been measures to protect the creek. The base of the new slope is approximately 30 feet from the creek and the intervening area is only slightly sloped leading to the creek bank. During the period prior to completion of the grading and landscaping, controls were in place at the base of the slope to prevent silt run-off into the creek. On multiple occasions, including two specific site visits to confirm that winterization systems were in place and operating, no sedimentation or erosion into the creek was observed. The lower margin of the newly constructed slope is at the approximate outer edge of the creek side riparian margin, so slightly under the canopy of the creek side trees. This construction was also far enough away from the creek bank to meet the City's slope setback requirements (the slope in this instance would be the slope of the creek bank). There are no specific creek setbacks that apply to this creek, but the approximately 30 foot distance exceeds the 10-foot setback requirement that applies in other locations within the City.

Fence

Mr. Strambi's letter also states a belief that the fence Mr. Suhl built along the property line between them is inappropriately constructed and is in the process of failing in places due to the fact it is actually operating to retain dirt on the Suhl side of the fence. The letter also states that the fence may not meet the City's fence standards as to height. Fences may be six feet in height and may have a two-foot latticework extension with the adjacent property owner's consent and with approval of a building permit. Staff would note a long-standing policy that when fences have different grades on either side of the fence, the fence height is measured from the higher

grade, so there may be instances where a fence may exceed six feet on one side but meet the height requirement on the uphill side.

In this case, the manner in which the fence is constructed to “step down” the slope, rather than “angle” down the slope, may result in certain spots where the solid portion of the fence exceeds six feet on the higher side. The fence does not have a building permit. Staff proposes, within the same Condition of Approval # B3.3, referenced above, to require the applicant to demonstrate the fence meets the City’s fence standards or modify it and/or obtain a building permit for it.

Screening Trees

Mr. Strambi’s letter further states that the cypress trees planted along the property line result in shade impacts on his property. Staff would note that these trees have a columnar form and also serve to provide screening between the properties. Staff is not recommending any change to this condition, since it appears the pros and cons are equally balanced. Following any testimony at the public hearing, the Planning Commission may believe that the potential shading is unacceptable and propose a less dense planting pattern or that a deciduous tree or shorter shrub be substituted as landscape screening.

ENVIRONMENTAL REVIEW

An Initial Study and Negative Declaration were prepared and circulated for a 20-day review period. The Negative Declaration concluded that there were no significant impacts or any potential impacts requiring mitigation. No comments on the Environmental Document have been received.

EXHIBITS

- A. Findings for Approval
- B. Conditions of Approval

ATTACHMENTS

- 1. Negative Declaration and Initial Study
- 2. Vicinity Map
- 3. Project Plans and Documents
- 4. Letter from Michael Strambi
- 5. Questions from Commissioner Moran

CC: Ronald Munekawa, Chief of Planning
Gabrielle Whelan, Assistant City Attorney
Craig Suhl, Owner/Applicant
Michael Strambi
Ken Pacini, Associate Engineer