



## City Council Staff Report

From: City Manager

Report Type: **ACTION ITEMS**

Lead Department: Planning and Development Services

Meeting Date: **November 13, 2023**

Report #:2309-2006

### TITLE

PUBLIC HEARING / QUASI-JUDICIAL. 575 Los Trancos Road [21PLN-00196] Request for Major Site and Design Review to Allow the Construction of a new 7,110 sf single-family residence with a new 895 sf Accessory Dwelling Unit and Associated Site Improvements, Including a Swimming Pool, on a 5.38-acre Site. Environmental Assessment: A Mitigated Negative Declaration has been prepared for the proposed project. Zoning District: OS (Open Space).

### RECOMMENDATION

Staff Recommends the City Council take the following action(s):

1. Approve the Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan
2. Approve the proposed project based on findings and subject to conditions of approval.

### EXECUTIVE SUMMARY

The applicant proposes to construct a new single family home and accessory dwelling unit on a vacant property in the foothills. Because of its location, a site and design review application is required. Earlier this year the City Council remanded the project back to the Planning and Transportation Commission to address concerns related to potential impacts to the intermittent stream and riparian corridor. The Commission has reviewed the project revisions and recommends approval.

### BACKGROUND

The subject application for site and design review was filed in July 2021 and is required due to the project's location in an environmentally sensitive location in the foothills. The Planning and Transportation Commission (PTC) reviewed the project in August 2022<sup>1</sup> and made a recommendation to approve the new single family home and accessory dwelling unit on a vacant lot off Los Trancos Road and in proximity to an intermittent stream.

---

<sup>1</sup> August 31, 2022 Planning and Transportation Commission Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2022/ptc-08.31.2022-575-los-trancos.pdf>.

The City Council in January 23, 2023<sup>2,3</sup> considered the project and the Commission's recommendation and was unable to make all of the site and design review findings. Specifically, the Council (4-2; Lythcott-Haims, Tanaka) remanded the project back to the PTC to address the following:

- a) Evaluate a project design that provides for an approximate 50-foot setback from the top of bank;
- b) Effective bird-safe glazing treatment of all glass surfaces achieving the American Bird Conservancy Threat Factor rating of 15;
- c) Eliminate fencing that could impede wildlife movement along the creek;
- d) Minimize nighttime lighting along the riparian corridor and allow only minimal lighting in all other locations. Lighting should not interfere with wildlife movement through the landscape, and all outdoor lighting should be limited to Correlated Color Temperature of 2700 Kelvin or less, and extinguished at 11 P.M.; and,
- e) Pool should be covered and fenced in a way that ensures that small animals, such as amphibians and reptiles cannot enter the swimming pool.

The City Council also directed staff to return with a plan and timeline to amend the zoning code to address Comprehensive Plan Policy N.3.3 (Protection of Creeks). On this last point, the City Council authorized funding for staff to hire a consultant to complete this work in 2024. Staff is currently working on securing a consultant to prepare this work.

On August 9, 2023,<sup>4,5</sup> the PTC reviewed a revised project that reflects the applicant's efforts to address Council's concerns. These project plans included a new home setback of at least 49 feet from the stream's top of bank, but the swimming pool setback ranged from 28'8" to 45'9" from the top of bank. The PTC discussed the pool's location and ultimately made a recommendation to approve the project with the following points or conditions:

- The PTC recommendation neither supported nor opposed the pool location;
- Modify the conditions of approval to include best practices to prevent Sudden Oak Death; to require that tools be disinfected and cleaned prior to coming on site and that no materials shall be relocated to portions of the parcel that are not part of the construction for any reason; and,

---

<sup>2</sup> January 23, 2023 Council Report:

<https://cityofpaloalto.primegov.com/meetings/ItemWithTemplateType?id=851&meetingTemplateType=2>.

<sup>3</sup> January 23, 2023 Council Action Minutes:

<https://cityofpaloalto.primegov.com/Public/CompiledDocument?meetingTemplateId=1066&compileOutputType=1>.

<sup>4</sup> August 9, 2023 Planning and Transportation Commission Report:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2023/ptc-8.09-575-los-trancos.pdf>.

<sup>5</sup> August 9, 2023 Planning and Transportation Commission Summary Minutes:

<https://www.cityofpaloalto.org/files/assets/public/v/2/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2023/ptc-8.9.2023-summary2.pdf>.

- Modify the conditions of approval to “ensure that any excavated soils not be relocated to portions of the parcel that are not part of the construction for any reason, no storage in riparian setback”.

The latter two approval condition modifications have been incorporated as Conditions #7 and #8 accordingly.

## **ANALYSIS**

The City Council previously was unable to make required findings to approve the subject application. The Council remanded the project to the PTC to address specific issues. Each of those topics and the applicant’s response are provided below:

### Top of Bank Setback

The City Council requested the project design be evaluated to provide for an approximately 50-foot setback from the top of bank. The applicant responded with building wall setbacks ranging from 49' to approximately 100'. Some building roof overhangs project into the 50-foot setback by approximately three feet. To achieve this footprint reduction, the second story floor plate increased by nearly 1,200 square feet, while the overall project floor area decreased by approximately 135 square feet.

After receiving the PTC’s approval recommendation, staff had a follow up conversation with the applicant encouraging a design modification to increase the pool setback. The applicant responded with revised plans showing an additional four-foot setback from the stream’s top of bank, resulting in a pool setback ranging from 32'8" to 51'1".

### Bird Safety Glass

The City Council requested effective bird-safe glazing treatment of all glass surfaces with the intent to achieve the American Bird Conservancy Threat Factor rating of 15.

The project has been revised to eliminate all but one small upper-level window from the building façade facing the creek. Other non-egress windows on the second story have decorative wood slat screens which will decrease the likelihood of bird strikes. Three egress windows are not behind screens on the front facade, as they are required to be operable and unblocked for fire safety. There are several other side-facing, non-operable windows that are unscreened, such as in the stairway and at the master bedroom balcony. Most of the other unscreened windows are recessed into the building articulation, below deep roof overhangs, which reduce the risk of bird strikes from the windows being shaded. The stairway window is behind a large tree. The wood screen slats are 1.5 inches wide, 4 inches deep (projecting from window), and with 4 inches between the slats. This is equivalent to a threat factor of 25, which reduces the risk of bird strikes by more than 50%.

The American Bird Conservancy established guidelines<sup>6</sup> describing how to meet an ABC rating of 20, which includes acid etched glass, opaque, or less than 15% reflective and has a visual pattern (such as dots, stripes, etc.) that are at least 1/8 inches wide and no more than 2 inches apart vertically and horizontally. The guidance document does not include a definition for a rating of 15, but their website assigned a rating of 15 to materials such as glass with 5mm (larger than 1/8 inch) etched dots in a two-inch array, or 6 mm dots spaced 10 mm on center covering 25% of the surface of the glass.

While the project redesign reduces the risk of bird strikes, it falls short of the Council's intended standard (ABC Threat Factor 15). The PTC discussed this topic during the hearing and noted that an ABC rating of 20 or 25 is more easily achieved, because there are more products available at these ratings. Moreover, many preventive measures to reduce bird strikes focus on commercial development with large windowpanes and the ability to see through portions of some buildings. For the subject redesigned residential building, efforts were made to reduce bird strikes by using screens, recessed windows and building modulation. The PTC did not request any changes to the project related to bird safety. If the City Council were to approve the project and wanted to see the more stringent standards adhered to, then a condition could be imposed with specific direction.

While staff is currently working on an ordinance to propose new bird safe glass standards, no such standards currently exist or apply to the subject project.

#### Fencing Near Creek

The City Council requested the elimination of fencing that could impede wildlife movement along the creek.

No fencing is proposed for the majority of the property. An automatic safety cover will be used on the pool to meet the requirements of the Swimming Pool Safety Act; this pool cover is in place of a perimeter fence. Additionally, an approximately 55-foot-long wall is proposed to block vehicle headlights from shining towards the creek.

No other fences are proposed. A condition of approval has been added to the record of land use action following the PTC's review, imposing restrictions on future fencing.

#### Outdoor Lighting

The City Council sought to minimize nighttime lighting along the riparian corridor and to restrict outdoor lighting to a Correlated Color Temperature of 2700 Kelvin or less and to have outdoor lighting turn off by 11 P.M., so as to not interfere with wildlife movement

As noted above, the number of windows facing the creek has been reduced, thereby reducing the amount of glare from windows toward the riparian corridor. Additionally, light fixtures have

---

<sup>6</sup> American Bird Conservancy Threat Rating System: <https://dariuszdziedk.wpenginepowered.com/wp-content/uploads/2023/06/What-is-a-Material-Threat-Factor-January-2023.pdf>.

been moved away from windows to more interior locations in the rooms; windows will also have shades, but these are not set to a timer and cannot be relied upon as an effective means to minimize glare.

A light shield wall has been added to the driveway to reduce light from vehicle headlights from reaching the creek (Plan Sheet L1.00).

The record of land use action has been updated (Condition 8) to specify the Correlated Color Temperature of 2700 Kelvin or less requirement and the programmed shut off time by 11:00 P.M.

### Pool Covering

The City Council wanted to ensure the pool covering was adequate to prevent small animals, such as amphibians and reptiles, from entering the swimming pool. The pool now includes an automatic safety cover that will meet the requirements of the Swimming Pool Safety Act. If animals attempt to enter the pool, the cover provides a surface that makes it easier to escape and return to their habitat.

### **FISCAL/RESOURCE IMPACT**

There are no significant fiscal or resource impacts associated with the recommendation in this report. Site and design review applications are cost-recovery projects.

### **STAKEHOLDER ENGAGEMENT**

As of the writing of this report, no new comments were received. Prior comments have been attached to the PTC and prior Council staff reports.

### **ENVIRONMENTAL REVIEW**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, a draft IS/MND was prepared and circulated from August 17, 2022 until September 16, 2022. Three comment letters were received and a Response to Comments, as well as the Final IS/MND has been prepared and was published prior to the August 9, 2023 Planning and Transportation Commission meeting. The final IS/MND included updates based on changes to the project made after circulation, comments received, and to clarify information. Corrections and additional text are shown as track changes in the text of the Final IS/MND. No additional changes have been made since this publication.

In no case did the project revisions, any of the public comments or the changes made to the IS/MND result in or identify new significant impacts or new, avoidable significant effects compared to the impacts identified in the Draft IS/MND. Because none of the revisions to the IS/MND are “substantial” as defined in CEQA Guidelines Section 15073.5(b) and the information added merely clarifies and amplifies the information previously provided in the analysis, recirculation of the IS/MND is not required.

**ATTACHMENTS**

Attachment A: Location Map

Attachment B: Zoning Comparison Table

Attachment C: Draft Record of Land Use

Attachment D: Link to Project Plans and CEQA

**APPROVED BY:**

Jonathan Lait, Planning and Development Services Director