



Item #2

OC DEVELOPMENT SERVICES REPORT

DATE: August 27, 2025

TO: Orange County Planning Commission

FROM: OC Development Services / Planning Division

SUBJECT: Planning Application PA24-0040 for a Site Development Permit and Variance.

PROPOSAL: The applicant is requesting a Site Development Permit to permit an unpermitted existing single-family residence of 1,618 square feet with an attached 1,478 square foot 3-car garage and 677 square foot balcony and for a proposed future addition of 3,723 square foot to the unpermitted residence. The applicant is also seeking a variance to allow for 3,740 cubic yards of unpermitted grading activity that has occurred on the property where 3,000 cubic yard is the allowable grading threshold and a vertical change in grade of up to 16 feet from the natural grade where a vertical change in grade of no greater than 10 feet from the natural grade is allowed.

ZONING: Foothill/Trabuco Specific Plan (F/TSP) - "Trabuco Canyon Residential" (TCR) District

GENERAL PLAN DESIGNATION: 1A "Rural Residential"

LOCATION: The project is located at 30122 Canyon Creek in Trabuco Canyon (APN 856-041-22), within the Third (3rd) Supervisorial District.

APPLICANT: John Reed, property owner

STAFF CONTACT: Ilene Lundfelt, Associate Planner
Phone: (714) 667-9697 E-mail: Ilene.Lundfelt@ocpw.ocgov.com

RECOMMENDED ACTION(S)

OC Development Services/Planning recommends the Planning Commission:

- 1) Receive staff report and public testimony as appropriate;
- 2) Find that the proposed project is statutorily exempt under California Code of Regulations Title 14, Section 15182 and Government Code Section 65457(a), which exempt residential development projects that are consistent with a specific plan for which an environmental impact report was certified after January 1, 1980. Final EIR No. 531, certified on December

- 10, 1991, for the Foothill/Trabuco Specific Plan is such a specific plan, and this proposed residential development is consistent with it;
- 3) Approve Planning Application PA24-0040 for a Site Development Permit and Variance subject to the attached Findings (Attachment 1) and Conditions of Approval (Attachment 2).

BACKGROUND AND EXISTING CONDITIONS

The subject property, identified as Parcel 3 of Parcel Map 12/33 (recorded on February 14, 1968) and assigned Assessor's Parcel Number 856-041-22, is located within the "Trabuco Canyon Residential" (TCR) District of the Foothill/Trabuco Specific Plan (F/TSP). The site encompasses approximately 1.69 acres and has a generally triangular configuration, with property line dimensions of approximately 385 feet (front), 278 feet and 262 feet (sides), and 211 feet (rear). Access to the site is provided via Canyon Creek Road along the front property line.

There are no County records indicating that grading permits or building permits were issued for the existing single-family residence or the associated accessory structures on the site.

Currently, the property is the subject of an open code enforcement case (CE130442) due to unpermitted construction. The applicant has constructed a single-family residence with an attached three-car garage and a detached accessory dwelling unit (ADU), along with associated grading—all without permits. Based on a review of historical aerial imagery and Assessor records, site grading appears to have occurred in the early 1970s, with the establishment of a single-family dwelling around 1995.

Planning Application PA150032 was approved by the Orange County Planning Commission on December 13, 2017, for a Site Development Permit and Variance to entitle the unpermitted development. The approval included a 1,618-square-foot single-family residence with an attached 1,478-square-foot three-car garage and 677-square-foot balcony, a detached 1,000-square-foot ADU with a 663-square-foot deck, a proposed 3,723-square-foot addition to the primary residence, and a variance to address unpermitted grading in excess of 3,000 cubic yards as well as a vertical change in grade greater than 10 feet from the natural grade. The Planning Commission approval was the first step for the applicant in coordinating with the County of Orange to address the open code enforcement case by getting the necessary discretionary permits. Approval of the Site Development Permit and Variance allowed the applicant to apply for the appropriate ministerial permits (e.g., building and grading permits) to permit the existing unpermitted improvements on their property.

Although the applicant applied for building and grading permits after approval of the Site Development Permit and Variance, these ministerial permits were never issued (and have expired) before the end of the three (3)-year period of validity of the discretionary permits. Due to unforeseen personal matters, the applicant was unable to complete the permitting process in a timely manner. Since the applicant was unable to establish the discretionary permits per Zoning Code Section 7-9-125.7, the applicant is required to apply for a Site Development Permit and Variance again and receive approval from the Planning Commission before continuing to pursue the necessary ministerial permits.

It should be noted that the unpermitted 1,000-square-foot ADU and 663-square-foot attached deck is currently not subject to discretionary approval to comply with AB 2533, which allows for a ministerial legalization process for ADUs constructed before January 1, 2020.

PROPOSED PROJECT

The applicant is requesting a Site Development Permit and Variance to get discretionary approval for the same items previously approved by the Planning Commission under the now expired Planning Application (PA150032). The only change in request to the previously approved discretionary permits is the removal of the 1,000-square-foot ADU and 663-square-foot attached deck from the request because those items will be permitted through a ministerial legalization process in compliance with AB 2533.

Under this planning application, the applicant is seeking a Site Development Permit to permit an unpermitted two-story, 1,618-square-foot single-family residence with an attached 1,478-square-foot three-car garage and a 667-square-foot balcony and to allow for the future construction of a 3,723-square-foot addition to the currently unpermitted residence.

The applicant is also requesting a variance to allow for 3,740 cubic yards of unpermitted grading activity that has occurred on the property where 3,000 cubic yard is the allowable grading threshold and a vertical change in grade of up to 16 feet from the natural grade where a vertical change in grade of no greater than 10 feet from the natural grade is allowed (Attachment 3 – Applicant’s Letter of Explanation).

SURROUNDING LAND USES

Zoning and existing land uses for the project site and for other surrounding properties beyond are as follows.

DIRECTION	ZONING DISTRICT	EXISTING LAND USE
Project Site	F/TSP Trabuco Canyon Residential	Single-Family Dwelling
North	F/TSP Trabuco Canyon Residential	Single-Family Dwelling
South	F/TSP Trabuco Canyon Residential	Single-Family Dwelling
East	F/TSP Trabuco Canyon Residential	Vacant Land
West	F/TSP Trabuco Canyon Residential	Church

DISCUSSION/ANALYSIS

Below is a table comparing the development standards for the TCR District with the Applicant's proposal:

STANDARD	PERMITTED	PROPOSED
Building Site Area	2 acres minimum except for lots that were legal building sites prior to Foothill/Trabuco Specific Plan adoption	1.69 acres (existing at time Foothill/Trabuco Specific Plan adopted)
Maximum Building height	35' max.	Single family residence: 32'7"
Total Building Site Coverage	30%	5%
Structural Front Setback	20' min	Single family residence: 74'
Structural Side Setback	15' min.	Single family residence: Left: 32'11" Right: 134'10"
Structural Rear Setback	20' min	Single family residence: 90'
Retaining Wall Height	20' max	5'
Off-Street Parking requirement residential uses	2 Covered Parking 1 Uncovered	3 Covered Parking
Grading (TCR Section 6.8.h.)	Limited to an average of 3,000 cubic yards per dwelling unit permitted by the development cap	Cut: 3740 cubic yards*, Fill: 60 cubic yards
Change in Vertical Grade	10'	16'***
Natural Open Space preservation	66%	66%

* Variance is required if any grading operation involves the extraction or relocation of more than 3,000 cubic yards on a building site under Section 6.8.h of the F/TSP.

** Variance is required to allow cut or fill slopes to exceed 10 feet in height under Section 6.8.h of the F/TSP.

Site Development Permit

Section 6.3 of the TCR District Regulations in the F/TSP requires Planning Commission approval of a Site Development Permit for a single-family dwelling. The project is to construct a two-story residential home of insulated concrete forms designed to integrate energy efficiency and fire safety. The structural walls are made of reinforced concrete, and the exterior of the house will be stucco. The project meets all zoning requirements except the two items for which variances have been requested, grading volume and the difference in natural to proposed grade which are discussed below.

Variance

The applicant is requesting two variances: (1) to grade over 3,000 cubic yards on a building site, and (2) to cut or fill slopes exceeding ten (10) vertical feet. The grading plans identify 3,740 cubic yards of cut and 60 cubic yards of fill and a maximum vertical cut of 16 feet. Most of the grading work has already taken place on the site; most of which had taken place prior to the adoption of the F/TSP.

Staff and the applicant could not determine the specific quantity of the grading activity that had taken place prior to the specific plan adoption so all grading is included with this application. Under section 7-9-126.4, for a variance to be granted, the approving authority is required to make the following findings:

(1) *Special circumstances.* There are special circumstances applicable to the subject building site that, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.

(2) *No special privileges.* Approval of the application will not constitute a grant of special privileges that are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations, when the specified conditions are complied with.

There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. Specifically:

1. Grading prior to adoption of the Specific Plan, adopted December 19, 1991 – Based on historical aerial photographs, most of the grading was completed prior to the adoption of the specific plan. Historical aerial photos show the graded area was in existence since at least the early 1970's.
2. Site Topography - The steep topography on the project site requires a significant amount of cut to establish a usable building pad.

Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitation placed upon the properties in the vicinity and subject to the same zoning regulations, when the specified conditions are complied with because:

1. Grading prior to adoption of the Specific Plan - Grading activities that occurred prior to the specific plan adoption would be considered legal conforming. Thus, the applicant would have been

allowed to grade in excess of 3,000 cubic yards before the adoption of the specific plan. There is documentation (historic aerial photos as shown as Attachment 4) that shows that grading was completed prior to the adoption of the specific plan, and although never permitted, based on aerial photos was the existing grade when the specific plan was adopted.

2. Site Topography - The primary purpose of limiting the difference in vertical grade from natural to proposed/existing grade is to reduce the visual impact of large retaining walls. Since the topography slopes downward and away from the road at such a steep angle that the grade of the road is higher than the roof of the house, none of the cut or supporting walls are visible from the public right-of-way. Thus, granting the variance to allow for a 16-foot change in vertical grade does not grant special privileges, but instead allows the applicant to use their property in a manner like neighbors.

Consistency with F/TSP Resource Criteria

The purpose and intent of the Resource Criteria is to preserve and minimize impact on significant regional resources.

Section 2.0 Wildlife Corridors

As described by the F/TSP, the purpose of wildlife corridors is to ensure the future viability and movement of wildlife through preservation of necessary habitat and wildlife movement areas. Parcels within a wildlife corridor area or parcels within 150 feet of a wildlife area are required to submit a site specific wildlife corridor analysis prepared by a biologist. The project site is not located in or within 150' of a wildlife corridor area as mapped on F/TSP Exhibit II-3 (Attachment 6). Thus, no site-specific corridor analysis is required.

Section 3.0 Oak Woodlands

The F/TSP requires a Tree Management/Preservation Plan when any oaks are proposed to be removed, also identifying trees to be preserved. The developed site is not located within oak woodland as mapped on F/TSP Exhibit II-4 (Attachment 6). The project does not propose removal of any trees.

Section 4.0 Streambeds

The streambed preservation designation is to provide for the preservation of stream channels in their natural condition. The primary objective of including streambeds within the Resources Overlay Component is to minimize the need for structures which would alter the natural condition of any designated streambeds. The project site is not located adjacent to or within a streambed as mapped on F/TSP Exhibit II-5 (Attachment 6).

Section 5.0 Visual Resources – Major Ridgelines & Major Rock Outcroppings

The F/TSP designates major ridgelines and major rock outcroppings. It specifies that no structure shall be located closer to the centerline of any ridgeline or rock outcropping than 200' horizontally on a topographic map and 50' measured vertically on a cross section. The project site is not located adjacent to or within a major ridgeline or rock outcropping as mapped on F/TSP Exhibit II-6 (Attachment 6).

Section 5.2 Scenic Roadway Corridors

The scenic roadway corridors specified by the F/TSP are Santiago Canyon Road, Live Oak Canyon Road, and Trabuco Canyon Road. Greater development setbacks are required adjacent to these roads. Additionally, projects adjacent to these roads are required to prepare a viewshed analysis. The project site is on Canyon Creek Drive which is not located adjacent to a Scenic Roadway Corridor as mapped on F/TSP Exhibit II-7 (Attachment 6).

Consistency with Other Foothill/Trabuco Specific Plan Criteria

Section E.2 Fuel Modification Regulations

The project site is located within a High Fire Hazard Severity Zone. Construction of the new residence will be subject to all applicable Orange County Fire Authority (OCFA) fire prevention requirements as determined through the plan check review process.

REFERRAL FOR COMMENT AND PUBLIC NOTICE

A copy of the planning application and proposed site plan were distributed for review and comment to County Divisions (the Building Official, Building/Grading Plan Check, Watersheds, Flood, and Traffic Engineering), OCFA, and the Foothill Trabuco Specific Plan Review Board (FTSPRB) under the previously approved PA150032. Staff has reviewed all comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval (Attachment 2). Since this planning application is to request approval from the Planning Commission on the same previously approved items due to the expiration of the previous discretionary approval, no additional reviews were required to be completed by the County Divisions for this planning application.

Public notices were mailed to all owners of record within 300 feet of the project site, posted at the project site, published in a local newspaper, and posted at the posting kiosk at the County Administration buildings located in Santa Ana, at least ten days prior to this public hearing, as required by established public hearing posting procedures.

On August 9, 2017, the FTSPRB had no recommended actions for this project presented to them under PA150032. The FTSPRB expressed concern that the application was incomplete; they felt that the applicant had not adequately addressed the installation of septic system and the new fire authority requirements. FTSPRB's comments are reflected in the attached Meeting Minutes (see Attachment 5). Staff worked with OCFA and the Building Department and has included conditions of approvals to address the questions that were brought to the attention by FTSPRB (Conditions 7-10 and 12). If the project is approved by the Planning Commission, the applicant will need to submit plans to the Building Department and OCFA for permits. At the time of building plan check, the plans will need to meet current building codes for the septic system and current fire authority regulations. Since this planning application is to request approval from the Planning Commission on the same previously approved items due to the expiration of the previous discretionary approval and the FTSPRB had previously reviewed this same project and their concerns have been addressed with Conditions 7-10 and 12 (Attachment 2), a review of this same project by the FTSPRB previously in August 9, 2017 has been deemed sufficient and still applicable to the currently unchanged proposed project.

CEQA COMPLIANCE

The Board of Supervisors adopted the Foothill/Trabuco Specific Plan, Ordinance No. 3851, and certified Environmental Impact Report No. 531 on December 10, 1991.

The Government Code and the California Environmental Quality Act (CEQA) both provide exemptions for specified residential projects that are consistent with specific plans for which an Environmental Impact Report (EIR) has been certified. Government Code Section 65457(a) exempts a residential development project that is consistent with a specific plan for which an environmental impact report (EIR) was certified after January 1, 1980. In addition, Title 14, Section 15182 of the California Code of Regulations (State CEQA Guidelines) exempts certain residential projects that are consistent with a specific plan for which an EIR has been prepared after January 1, 1980.

PA24-0040 is statutorily exempt based upon the following findings:

- This project was initiated after January 1, 1980, and is therefore eligible for an exemption under Section 15182 of the California Code of Regulations and Government Code Section 65457(a).
- The project characteristics are consistent with the applicable specific plan, the F/TSP;
- This project is consistent with all applicable Regulations and Guidelines of the F/TSP as shown by the F/TSP Specific Plan Project Consistency Checklist (Attachment 7);
- An event described in Section 15162 of the State CEQA Guidelines has not occurred such that the exemption granted under State CEQA Guidelines Section 15182 would not apply;
- An event described in Public Resources Code Section 21166 of has not occurred such that the exemption granted under Government Code Section 65457(a) would not apply;

CONCLUSION

Staff has determined that the required findings for a variance under Zoning Code Section 7-9-126.4(b) can be made and that the project complies with the F/TSP land use regulations and development and design standards. As proposed, the project is compatible with the TCR District purpose and intent of the F/TSP. Staff supports approval of the proposed Site Development Permit and Variance, subject to the attached Findings (Attachment 1) and Conditions of Approval (Attachment 2).

Submitted by:

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Ilene Lundfelt, Associate Planner
OC Development Services/Planning

Concurred by:

DocuSigned by:

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Cindy Salazar, Division Manager
OC Development Services/Planning

ATTACHMENTS

1. Recommended Findings
2. Recommended Conditions of Approval
3. Applicant's Letter of Explanation
4. Historical Aerial
5. FTSPRB Minutes
6. Resource Overlay Maps
7. F/TSP Consistency Checklist
8. Plans

APPEAL PROCEDURE

Any interested person may appeal the decision of the Planning Commission on this permit to the Board of Supervisor within 15 calendar days of the decision upon submittal of required documents filed at the County Service Center, 601 N. Ross Street, Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services/Planning Division.