



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 09/13/2017

ITEM NO: 2

DESK ITEM

DATE: SEPTEMBER 13, 2017

TO: PLANNING COMMISSION

FROM: JOEL PAULSON, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: TOWN CODE AMENDMENT APPLICATION A-17-002. PROJECT LOCATION:
TOWN WIDE. APPLICANT: TOWN OF LOS GATOS.
CONSIDER AMENDMENTS TO CHAPTER 29 (ZONING REGULATIONS) OF
THE TOWN CODE REGARDING **FENCES, HEDGES, AND WALLS.**

REMARKS:

The attached public comments (Exhibit 13) were received after distribution of the staff report and addendum for this meeting.

EXHIBITS:

Previously received with July 26, 2017 Staff Report:

1. Findings
2. Ordinance Priorities Memorandum dated February 12, 2017, from Robert Shultz, Town Attorney
3. Draft Amendments to Chapter 29 of Town Code
4. General Plan Policies and Actions pertaining to Fences, wildlife habitats, and migration corridors
5. Hillside Development Standards and Guidelines pertaining to fences
6. Public Comments received by 11:00 a.m., Friday, July 21, 2017

Previously received with July 26, 2017 Desk Item:

7. Public Comment received between 11:01, Friday, July 21, 2017, and 11:00 a.m., Wednesday, July 26, 2017

PREPARED BY: SEAN MULLIN, AICP
Associate Planner

Reviewed by: Planning Manager and Community Development Director

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SUBJECT: CONSIDER AMENDMENTS THE TOWN CODE REGARDING FENCES, HEDGES,
AND WALLS. TOWN CODE AMENDMENT/A-17-002
SEPTEMBER 13, 2017

Previously received with September 13, 2017 Staff Report:

8. Revised Draft Amendments to Chapter 29 of the Town Code
9. Neighboring Jurisdictions Fencing Regulations
10. Public Comments received between 11:01, Wednesday, July 26, 2017 and 11:00 a.m.,
Friday, September 8, 2017

Previously received with September 13, 2017 Addendum:

11. July 26, 2017 Planning Commission Meeting Minutes (38 pages)
12. Public Comments received between 11:01 a.m. Friday, September 8, 2017 and 11:00 a.m.
Tuesday, September 12, 2017

Received with this Desk Item:

13. Public Comment received between 11:01, Tuesday, September 12, 2017, and 11:00 a.m.,
Wednesday, September 13, 2017

From: kdeloumi [<mailto:kdeloumi@yahoo.com>]
Sent: Tuesday, September 12, 2017 8:58 PM
To: Council
Subject: Proposed fence ordinance input

Please consider modifying or adding to whatever ordinance or existing ordinance is to be altered the following:

Restrict building of fencing across watersheds and creeks. whether dry or wet during dry season.
My reason-

-These are natural highways, food supplies and habitat for our deer etc... I have seen over the years people building fences across these watersheds and waterways, blocking off natural habitat little by little, over and over.

-I have also seen people building these fences and not maintaining growth over time they backing up the flow of water causing issues for those upstream and alter of the water flow and actual waterway layout /infrastructure.

I find it sad as natural pathways are slowly cut off one house at a time. However a standard 30ft ordinance does not seem fitting as each property is unique and should be addressed against guidelines that take into consideration the lay of the land and other factors. It's a nice idea but it needs great revamping. 30ft seems unreasonable.

I find the fencing off of waterway and watershed sad and unnecessary as fencing can easily be built along the waterway or dry watershed allowing the homeowner to close off their yard but still leaving access for wildlife. I was dumbfounded when I had an issue of my own and found that there is not anything in the town code that staff can use to remove fencing across these various waterways. All they can do he is talk to those who put up fences and put them on notice if they do not maintain the growth. Unfortunately not old neighbors are so neighborly when these issues come up. It becomes the neighbor upstream being affected by the neighbor downstreams maintenance abilities . The neighbor Upstream has no legal authority to touch the fence or easy access to deal with in an emergency. There should be some town code that makes the situation easier to remedy. It took working with the town who would that time was hiring contractors in this area and then a few more changes of staff before my situation got some what resolved. I had to beg for an email to be sent to me noting that if there was a problem the town has the authority to cut open the fence. If I didn't push for that I would have gotten nothing. It took over 2 years to remedy as many of the neighbors involved chose to ignore request when the town tried to do it by talking to individuals. Those with the fences were far from the creek. My house is built very close to the creek so I was getting the Major Impact in those with the control of the fencing had no impact at all in perspective.

Thank you for listening. I prefer those on the Planning Commission not read my letter out loud but take into consideration the frustrations and anguish I went through dealing with my specific issue. I felt this was the appropriate time to give feedback as it is clearly related. I am in town limits and not sure if this ordinance applies to my property or not as I did not receive this notice but saw talked about on Nextdoor.

Level of frustration and anguish was quite high and was completely unnecessary. If an ordinance that existed it could have been cleared up quite quickly. A little bit more definition on fencing - across- watersheds whether wet or dry during the summer would be greatly appreciated.

Karen

Sent via mobile device.



Comments re: Proposed fencing restrictions

Commissioners,

My name is David Fox and I am a practicing landscape architect with my office in town. The majority of my practice revolves around the design and construction of landscapes for hillside homes in Los Gatos, Monte Sereno, and Saratoga.

In regards to fencing I find that my client have their greatest concerns in three areas:

Security: From both two legged and four legged predators. Protecting their family and property.

Containment: Most of clients have children, many of them young children. There is a strong desire to provide a safe area for their children to play in outside the home that will allow for general play and sports activities. Just keeping a ball from rolling all the way down the hill becomes important in day to day life.

Safety: Keeping the dog in the lot. Keeping the kids from rolling all the way down the hill. Keeping the children and pets away from the street and on the property. And separating those that use the yard from animals that can be aggressive and destructive.

There are four exhibits.

Exhibit A shows that even a modest outdoor design proposal that takes up a very small percentage of the yard could not be fenced under the current proposed standard.

Exhibit B shows the current scenic easement overlay on the example lot which is part of the Highlands of Los Gatos subdivision. This approach could be done on any future subdivision proposed in the town and would provide linked space throughout the development. At the Highlands the scenic easements were roughly based on the LRDA of the lot.

Exhibit C shows what designated setbacks for fences would look like and this could be applied to any hillside lot in town. For lots with existing fences the standard could be written such that any proposed development that requires planning approval would require that the existing fences be brought to the designated setbacks.

Exhibit D illustrates setting the fences back a designated distance from the approved landscape development on the property. This would create a yard and still leave the vast majority of the lot open. The designated setback could be anywhere from 30' to 50' (40' is shown in the exhibit) and still keep large open areas on most hillside lots. On lots where this would interfere with established easements or other considerations, the staff could work with the applicant on the final fence line.

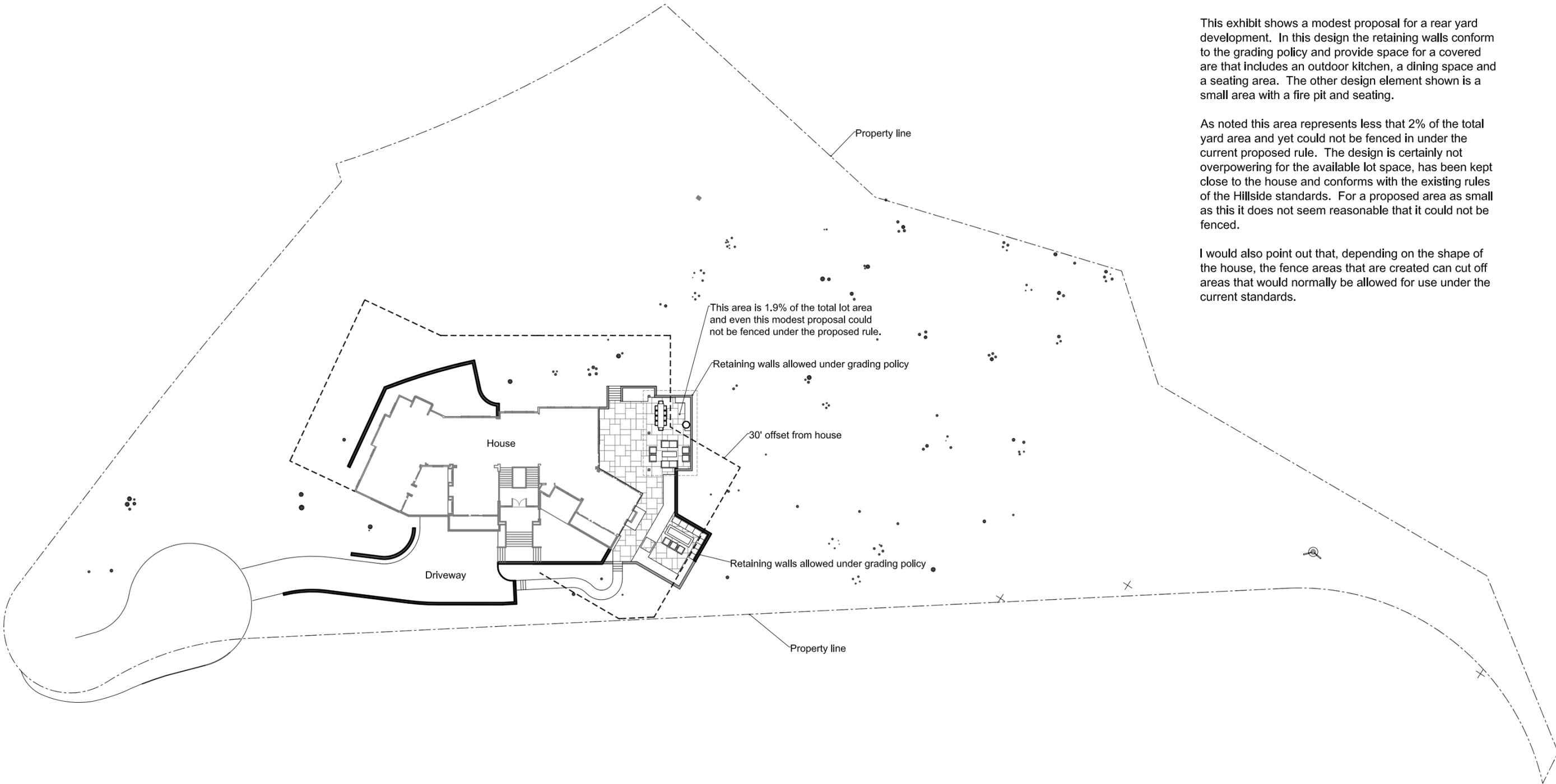
I believe that any of these proposals achieve the aim of keeping the hillside properties with open space and wildlife corridors and still provide the owners of these properties areas that are contained and can provide security and safety for their families and pets.

Notes:
This is an actual lot in the Highlands of Los Gatos subdivision.

This exhibit shows a modest proposal for a rear yard development. In this design the retaining walls conform to the grading policy and provide space for a covered area that includes an outdoor kitchen, a dining space and a seating area. The other design element shown is a small area with a fire pit and seating.

As noted this area represents less than 2% of the total yard area and yet could not be fenced in under the current proposed rule. The design is certainly not overpowering for the available lot space, has been kept close to the house and conforms with the existing rules of the Hillside standards. For a proposed area as small as this it does not seem reasonable that it could not be fenced.

I would also point out that, depending on the shape of the house, the fence areas that are created can cut off areas that would normally be allowed for use under the current standards.

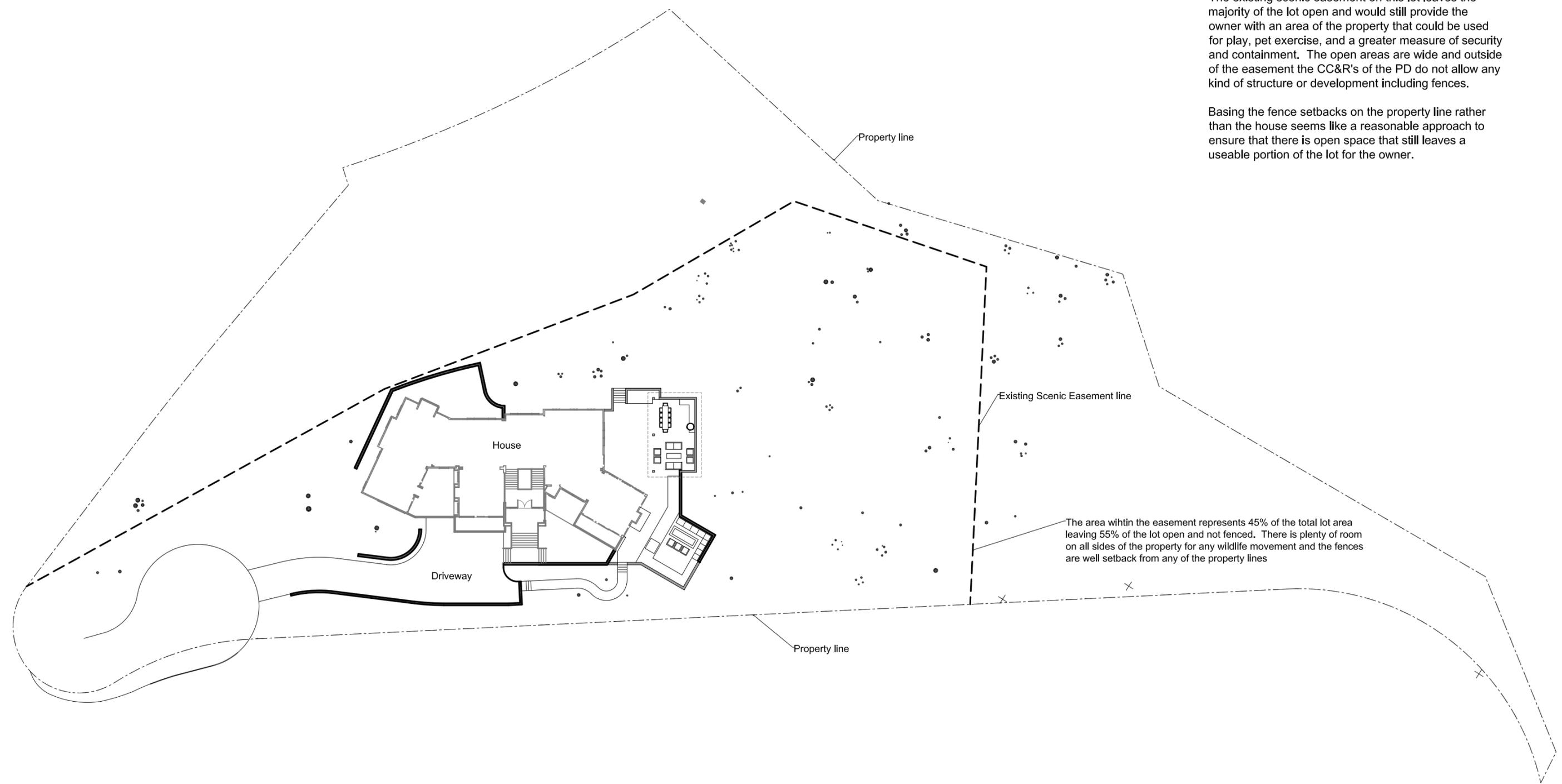


Scenic Easement vs. 30' Offset from house - Exhibit A

Scale 1"=40'

Notes:
The existing scenic easement on this lot leaves the majority of the lot open and would still provide the owner with an area of the property that could be used for play, pet exercise, and a greater measure of security and containment. The open areas are wide and outside of the easement the CC&R's of the PD do not allow any kind of structure or development including fences.

Basing the fence setbacks on the property line rather than the house seems like a reasonable approach to ensure that there is open space that still leaves a useable portion of the lot for the owner.



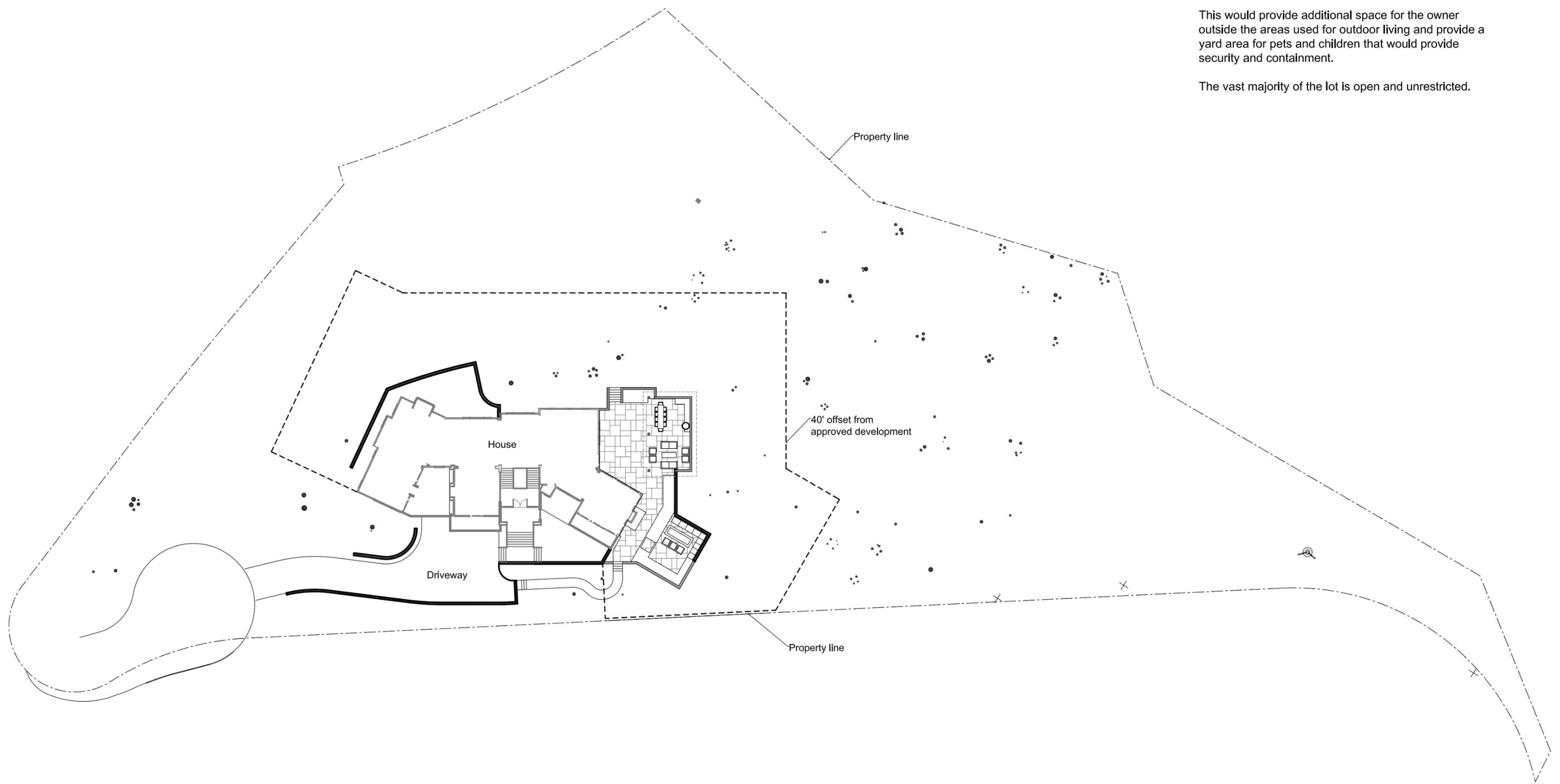
Scenic Easement vs. 30' Offset from house - Exhibit B

Scale 1"=40'

Notes:
An alternative to measuring from the property line could be to measure from the outside of any approved development on the lot.

This would provide additional space for the owner outside the areas used for outdoor living and provide a yard area for pets and children that would provide security and containment.

The vast majority of the lot is open and unrestricted.



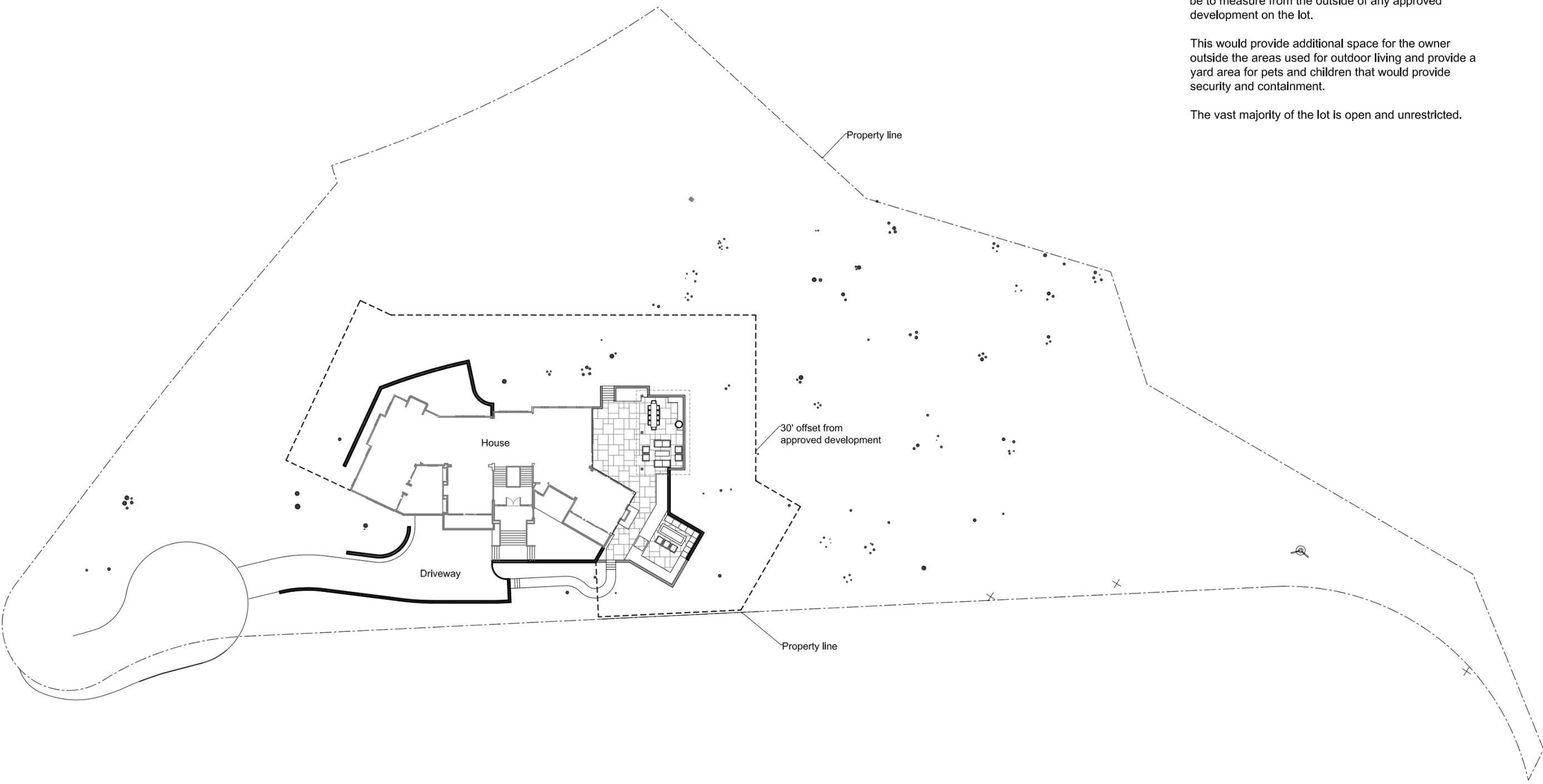
Designated Offset from Approved Development - Exhibit D

Scale 1"=40'

Notes:
An alternative to measuring from the property line could be to measure from the outside of any approved development on the lot.

This would provide additional space for the owner outside the areas used for outdoor living and provide a yard area for pets and children that would provide security and containment.

The vast majority of the lot is open and unrestricted.



30' Offset from Approved Development - Exhibit D

Scale 1"=40'