

County of Santa Clara

Department of Planning and Development

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FIRE MARSHAL'S OFFICE – FIRE SAFE EXCEPTION APPEAL DECISION

Application: PLN 18-8580
Appellants: Emmanuel Bagnas and Marilyn Ingles-Bagnas
Hearing Date: December 7, 2021

Hearing Officer: Hector Estrada
Phone #: (408) 299-5760
E-Mail: hector.estrada@sccfd.org

December 9, 2021

Mr. Bagnas and Ms. Ingles-Bagnas,

This letter is to inform you of the determination on your appeal, filed with the County of Santa Clara on August 23, 2021, of CalFire's denial of your request for an exception from provisions of the "Fire Safe Regulations" (14 Cal. Code Regs. §§ 1270 *et seq.*) with regard to Application PLN 18-8580 ("Application"), seeking to construct a single family home on Assessor's Parcel No.: 517-37-003, commonly known as 16501 Sanborn Road ("Subject Property").

I. Findings

Applications for an exception to the Fire Safe Regulations must provide the same practical effect as the Fire Safe Regulations towards providing defensible space. (14 Cal. Code Regs. § 1270.06(b).) In other words, an application seeking an exception from compliance with a particular provision of the Fire Safe Regulations must provide an alternative means of achieving the same purpose that the provision seeks to accomplish. "Same practical effect" means an alternative with the capability of applying accepted wildland fire suppression strategies and tactics and provision for firefighter safety, including access for emergency wildland fire equipment and safe civilian evacuation. (See 14 Cal. Code Regs. § 1271.00.) "Defensible space" must incorporate basic wildland fire protection practices and measures for escaping structure fires and encroaching wildfires. Wildland fires refer to fires in the environment rather than in structures. While best practices for defending structure fires focus on the defensibility of the structure and the surrounding area, best practices in wildland fire protection focus on ensuring that all civilians are able to escape to centralized defensible locations, allowing firefighters to more effectively deploy limited resources.

Based on the evidence, both oral and documentary, having been introduced, and the matters having been submitted for decision and findings at the hearing on December 7, 2021, I have made the following findings of fact and conclusions of law:

A. The Application Does Not Provide the Same Practical Effect Towards Providing Defensible Space as Limiting the Length of Dead-End Roads.

The Fire Safe Regulations require that the maximum length of a dead-end road may not exceed 1,320 feet for parcels zoned for 1-4.99 acres (14 Cal. Code Regs. § 1273.08(a).) The Subject Property is 4 acres in size and is near the end of Sanborn Road, dead-end road, approximately 1.9 miles from State Highway 9, the nearest collector road. The purpose of this regulation with respect to this project is to allow residents

of the property multiple means of egress in the event of a fire. Multiple means of egress is an essential element of defensible space for wildland fires because it prevents an incident that obstructs access along the primary egress route from trapping civilians and firefighters. An alternative that provides the same practical effect must either provide an alternative means to escape or mitigate the need to escape the property.

None of the proposed improvements included in the Application, including the proposed NFPA 13R sprinkler system, two on-site dry hydrants connected to four interconnected on-site fireprotection water storage tanks,¹ provide the same practical effect toward providing defensible space as having multiple means of egress. In particular, the Applicant argued that the fire apparatus turnaround mitigates the dead-end road condition. While a turnaround would allow fire apparatuses to more easily reverse directions, it provides no benefit if the dead end road is obstructed. Similarly, the water supply improvements could allow firefighters to better defend a structure fire, but would do little to improve the ability of civilians and firefighters on the property to escape if Sanborn Road became obstructed, or to mitigate the need to escape the property. Accordingly, the proposed improvements do not have the same practical effect towards providing defensible space as compliance with the dead-end road requirement.

B. The Application Does Not Provide the Same Practical Effect Towards Providing Defensible Space as Minimum Road Widths.

The Fire Safe Regulations require that “all roads shall be constructed to provide a minimum of two ten (10) foot traffic lanes, not including shoulder and striping.” (14 Cal. Code Regs. § 1273.01(a).) This project is served by Sanborn Road, which does not comply with the requirements for road width in the Fire Safe Regulations. The purpose of the road width requirement is to “provide for two-way traffic flow to support emergency vehicle and civilian egress.” (14 Cal. Code Regs. § 1273.01(a).) The stretch of Sanborn Road between State Highway 9 and the Subject Property varies in width from 14.6 feet to 25.1 feet. (Staff Report, Attachment 4 to Attachment B “Survey of Sanborn Road.”)

The Applicant acknowledges that portions of Sanborn Road do not meet the width requirements, instead asserting that most of the road complies with the width requirement and as a whole Sanborn Road provides sufficient passing space for both wildfire equipment and civilian evacuation concurrently during an emergency. While in some cases, roads less than 20 feet in width can allow for safe concurrent ingress of fire apparatuses and egress of civilians, Sanborn Road’s conditions do not provide the same practical effect as compliant road widths. In particular, Sanborn Road has multiple extended stretches where the road width falls below even 18 feet, creating potential pinch points that could impede simultaneous ingress and egress. The number of blind curves proximate to these narrow stretches further aggravate the potential for blockages.

The Applicant further contends that the proposed improvements would provide the same practical effect as compliance with the road width requirement because the intent of the requirement is to allow for timely access to the structure and the improvements would allow residents to defend the structure longer while

¹ The Application proposes an independent supply line connected to water tank system that can provide up to 20,000 gallons. Independent supplies not allowed for single family homes due to ability to turn off sprinkler system independently from domestic water. CFMO-W5.A.1.

awaiting assistance from firefighters. Response time is a separate issue from the traffic flow issues that are the subject of this requirement. Additionally, any marginal benefits to the ability to defend the structure longer do not outweigh the risk from potential blockages due to insufficient road widths in the event of a wildland fire.

II. Conclusion

For the preceding reasons, your appeal is denied.² This is the final decision of the County of Santa Clara on your appeal as of the date mailed. Review of this decision is governed by Section 1094.5 *et seq.* of the Code of Civil Procedure. Pursuant to Section 1094.6 of the Code of Civil Procedure, any petition for judicial review of this decision must be filed no later than the 90th day after the decision is final.

Sincerely,



Hector R. Estrada
Hearing Officer

cc:

Harry Freitas, Director of Roads and Airports, County of Santa Clara

Michael Alvarez, Building Official, County of Santa Clara

Dwight Good, Assistant Chief – Cooperative Fire Protection, CalFire

² The initial comments from CalFire reference the requirement in the Fire Safe Regulations relating to road capacity. (See 14 Cal. Code Regs. § 1273.07; Staff Report, Attachment G.) The Applicant has not requested an exception from compliance with this requirement. (See Staff Report, Attachment B.) Accordingly, the hearing officer makes no findings regarding the Application's compliance with these requirements, or any request for exception therefrom.