

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



STAFF REPORT
Zoning Administration
November 7, 2019

Continued Public Hearing Item #1

Staff Contact: Lara Tran, Associate Planner
(408) 299-5759/ lara.tran@pln.sccgov.org

File: PLN19-0096

Special Permit for a detached accessory building (garage) located within the front setback.

Summary: Special Permit to allow a 499 sq. ft. detached garage to be located within the 25 ft. front setback of a residential lot, pursuant to Section 4.20.020(F)(1)(a-e) and Section 5.60.030.

Owner: Saeid Assadi

Applicant: Saeid Assadi

Lot Size: 0.2 acres (7,841 s.f.)

APN: 612-02-059

Supervisory District: #3

General Plan Designation: USA (San Jose)

Zoning: R1-10

Address: 0 Miradero Avenue, San Jose

Present Land Use: Single-Family Residence

Approved Building Site: Yes

RECOMMENDED ACTIONS

- A. Accept a Statement of Exemption, under Section 15303(e) of the CEQA Guidelines, Attachment A.
- B. Grant Special Permit Approval, subject to Conditions outlined in Attachment B.

ATTACHMENTS INCLUDED

- Attachment A – Proposed CEQA Determination
- Attachment B – Proposed Conditions of Approval
- Attachment C – Location & Vicinity Map
- Attachment D – Proposed Plans
- Attachment E – Letter from Roads and Airports
- Attachment F – Continuance Memorandum from October 3, 2019

PROJECT DESCRIPTION

The proposed project involves the construction of a new 499 square-foot detached garage located within the 25 ft. front setback of a property on Miradero Avenue, within the County of Santa Clara jurisdiction. The subject property has a grade elevation difference of 16 feet, as measured from the edge of the subject right-of-way (elev. 737'), 50 feet inward on the property (elev. 721'). According to Section 4.20.020(F)(I)(a-e), a garage is permitted to encroach into the required 30-foot front yard setback with approval of a Special Permit when there is a 10 ft. difference in elevation or greater, measured 50 ft. inward from the edge of the right-of-way. As proposed, the detached garage is located 12 feet from the front property line, 8 feet and 53 feet from the side setbacks, and 47 feet from the rear property line.

The lot is a 7,841 square foot (0.2-acre) parcel, with an average slope of 32%. The property is located southeast on Miradero Avenue, off from Crothers Road, in the unincorporated area of San Jose of the County of Santa Clara. As the lot is currently vacant, a separate building permit for the single-family residence will be issued before or concurrently with the building permit for the detached garage. The detached garage is the subject of this Special Permit application. There is no proposed grading or tree removal associated with the project as the detached garage is built on elevated piers.

Setting/Location Information

The subject property is located in the eastern foothills of unincorporated Santa Clara County. The property is located southeast on Miradero Avenue, off from Crothers Road, east of Highway. 680 and northeast of Alum Rock Avenue and Penitencia Creek Road. The lot was created with by the Miradero Parcel Map of 1929. The neighborhood character consists of a mix of homes built in the late 1960s and 1970s ranging in size from 1,200– 2,200 square feet.

REASONS FOR RECOMMENDATIONS

A. Environmental Review and Determination (CEQA)

The proposed project qualifies for a Categorical Exemption, Section 15303(e), for accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in a residential zone.

B. Project/Proposal

1. **General Plan:** Urban Service Area (USA) – San Jose.
2. **Approved Building Site:** Yes. – Miradero Map of 1929 (Book X, pages 50-51).
3. **Zoning Standards.** The project satisfies the required development standards for parking structures on sloping lots (Section 4.20.020(F)(1)), as summarized in Table 1 below:

Table 1: Development Standards – Parking Structures on Sloping Lots

| Special Permit Req. | Requirement Summary | Meet or Doesn't Meet |
|---|---|-------------------------|
| Size | Maximum of 600 square feet | Yes. |
| Sight Clearance for Traffic Safety | Adequate Sight Clearance and Vehicle Movement | Yes (see Attachment E). |
| Height Exception | 12 ft. from highest adjacent grade | Yes. |
| Location | Minimum of 10 ft. grade difference from edge of right- of-way | Yes. |
| Stories | 1 story | Yes. |

In addition to the development standards listed in Table 1 above, the project requires two special findings, as discussed in Section 4 of this Staff Report. Additionally, “Special Permit Findings” are discussed in Section 5 of this Staff Report.

4. Special Findings for Parking Structures on Sloping Lots: In addition to the Special Permit Findings of Section 5.60.030, two (2) additional findings shall be made by the Zoning Administration Hearing Officer. In the following discussion, the Special Findings are delineated in **bold** type, and an explanation of how the project meets the required findings is in plain text below.

i. There are no available, practical, or feasible alternative sites for a parking structure that would conform to setbacks, and;

The subject lot is a 7,841 square foot sloping lot that descends from the public right-of-way. Additionally, the lot is only 98’ wide and between 51’ and 81’ deep. Due to the shallow depth of the lot, lot size, and topography, adequate development area is limited for the construction of a residence and garage. As designed, the proposed residence will utilize two (2) automatically applied setback exceptions/reductions granted by the County Zoning Ordinance in order to construct a new residence. The first setback reduction, based on lot area, would reduce the required 10-foot side yard setback to 8 feet (Section 4.20.110(C)(1)). The second setback reduction, based on lot depth, would reduce the required rear yard setback from 25’ to 13’ feet (Sections 1.30.030 “Lot Depth” and 4.20.110(C)(3)). For these reasons, and to accommodate adequate access to a garage, the applicant is proposing a garage to encroach into the front yard setback. Additionally, Staff analyzed the surrounding neighborhood and found that the location of the proposed garage is consistent to the overall neighborhood. Many of the adjacent single-family residences also have garages within the front setback. Therefore, given the limited ability to meet all required setbacks and the topography on the property, this finding can be made.

ii. The garage location minimizes grading or minimizes impacts to trees or other natural features.

The project minimizes grading because the design is on elevated piers, as opposed to being graded into the hillside. In addition, the garage is proposed in a location where there is no impact to trees or any natural features. As such, this finding can be made.

5. Special Permit: In addition to the special findings identified in Section 4 of the report, parking structures on sloping lots (parking garage) that are located within the front setback are also subject to the Special Permit Findings of Section 5.60.030, pending approval by the Zoning Administration Hearing Officer. In the following discussion, the scope of review findings for a Special Permit are delineated in **bold** type, and an explanation of how the project meets the required findings is in plain text below.

A. The proposed use conforms with the general plan, with the zoning ordinance, and with all standards applicable to the proposed use that have been adopted by the Planning Commission or Board of Supervisors;

As discussed in Section 3 and Section 4 above, the project conforms to all standards stipulated the County Zoning Ordinance for special setbacks of parking structures located on a sloping lot, per Section 4.20.020(F)(1)(a-e). The property is within the City of San Jose's urban surface area (USA) and is identified as "Residential" within San Jose's General Plan. Therefore, the proposed single-family residence is consistent to San Jose's General Plan. The proposed detached garage has a flat roof design and has a roof height of 11 feet, which is within the average 12 ft. maximum height allowance for accessory structures with an urban zoning district. Due to the site configuration and proposed development, physical constraints, and topography of the lot, space is not available in the rear or side areas of the residence to accommodate a parking structure, and therefore, the detached garage can only be located within the 25 ft. front setback of the property. The accessory structure also has a 16 ft. difference in elevation, measured 50 ft. inward from the edge of right-of-way, which complies with the "Special Setback Standards" for accessory structures Section 4.20.020(F)(1). As such, this finding can be made.

B. The site is adequate for the proposed use, including but not limited to being of adequate size and shape to accommodate all facilities and development features to integrate the use into the surrounding area and to provide any necessary or appropriate buffers between the use and the surrounding area;

The subject site is approximately 0.2 acres (7,841 s.f.) in area, and the proposed garage can only be located within the 25 ft. front setback due to layout constraints of the lot. There are no other feasible alternative sites for a parking structure that would conform to setback requirements on the lot because of the shallow depth.

The proposed layout the detached garage is of an appropriate design as there are no indication of partitions for dwelling purposes. The area of the property and the location of the proposed structure is consistent to the surrounding uses and/or neighborhood as there appears to be other residences on Miradero Avenue that have garages within the 25 ft. front setback. As such, this finding can be made.

C. The proposed use will not be detrimental to the public health, safety, or general welfare. In this respect the zoning administrator hearing officer shall further find, without limitation, that:

1. Adequate off-street parking, loading and unloading areas (if applicable) and handicapped access will be provided;

The property would have adequate space for off-street parking with the propose detached garage, which would exceed accommodation of the required minimum one (1) covered parking space, per County Zoning Ordinance Section 4.30.030. As such, this finding can be made.

2. Appropriately designed site access will be provided, including safe and adequate access for fire and emergency vehicles (including secondary access where deemed necessary by the fire marshal);

The site is adequately designed to provide access for fire and emergency vehicles as Miradero Avenue provides direct access to proposed residence and property. According to the Fire Marshal, fire sprinklers will not be required for the proposed structures, as the detached garage is less than 500 s.f. in area, and the accessory building is not used for living quarters. This project has been reviewed by the Fire Marshall, and applicable Conditions have been incorporated. As such, this finding can be made.

3. The use will not adversely affect water quality. Adequate wastewater treatment, disposal and sanitation facilities will be provided and will satisfy all applicable local, state and federal requirements;

This finding is not applicable, as the project is a proposed garage with no plumbing fixtures.

4. The use will not be detrimental to the adjacent area because of excessive noise, odor, dust or bright lights;

The project would not require a Special Permit if the location of the accessory structure was in the rear of the residence (or at least 75 feet from the front setback), instead of within the front setback,, per County Zoning Ordinance. Due to layout constraints and lack of alternative location on the lot that would conform to existing accessory structure setback on the property, the only available area to locate the detached garage is within the

25 ft. front setback. The location of the detached garage within the front setback would not create noise, odor, or dust, beyond temporary construction dust and noise. The finished floor of the garage is five (5) feet below the actual paved road on Miradero Avenue, so headlights from ingress and egress would not be an issue to oncoming traffic. Furthermore, residential and accessory uses shall be subject to the County Noise Ordinance. As such, this finding can be made.

5. The use will not substantially worsen traffic congestion affecting the surrounding area;

The Department of Roads and Airports confirmed that the location of the proposed garage would not worsen traffic on Miradero Road, and that there is adequate space for ingress and egress of cars from the garage onto Miradero Avenue (Attachment E). As such, this finding can be made.

6. Erosion will be adequately controlled; and

Standard Conditions and Best Management Practices are conditioned and will be required through building permit review. As such, this finding can be made.

7. Adequate storm drainage management exists or will be provided and will comply with all applicable local, state and federal requirements.

Special Permit is only for the proposed 499 square foot detached garage. The plans show proposal for a residence which will be a separate building permit. The Special Permit by itself would not trigger the requirement of a Drainage Permit as construction is less than 2,000 square feet of impervious surface. As such, this finding can be made.

BACKGROUND

The vacant property was created as part of a subdivision reflected on a map entitled “Miradero” of Book X, pages 50-51, recorded on September 23, 1929.

On May 15, 2019, the property owner applied for a Special Permit for the construction of a detached garage within the required 25-foot front setback. The application was initially deemed incomplete on June 11, 2019. After submitting all required information, the application was deemed complete on September 16, 2019. A public notice was published in the Post Record on September 16, 2019, and sent to all neighboring property owners within a 300-foot radius on September 24, 2019.

On October 3, 2019, the Zoning Administration Hearing Officer continued the public hearing to November 7, 2019, to require Staff from Roads and Airport to re-review the project for site clearance and traffic safety, as required by the Zoning Ordinance (Section 4.20.010(F)(1)(c) and

Zoning Administrator. At the time of preparation of the October 3, 2019 Staff Report, although the County Roads and Airport Staff had reviewed and recommended approval of the project, the Zoning Administrator requested additional review to substantiate the Zoning Ordinance requirements. Subsequently, Staff from Roads and Airport determined there would not be any visual impacts to oncoming traffic on Miradero Avenue for ingress/egress (see Attachment E). Given confusion that ensued regarding the October 3, 2019 public hearing, Staff re-noticed the project for the November 7, 2019 Zoning Administration Hearing. Therefore, a second public notice was mailed to all property owners within a 300-foot radius on October 21, 2019 and published in the Post Record on October 17, 2019.

STAFF REPORT REVIEW

Prepared by: Lara Tran, Associate Planner 
Reviewed by: Leza Mikhail, Principal Planner/Zoning Administrator 

ATTACHMENT A

STATEMENT OF EXEMPTION

from the California Environmental Quality Act (CEQA)

| | | |
|--|---|---------------------------|
| FILE NUMBER PLN19-0096 | APN(S) 612-02-059 | DATE 10/28/19 |
| PROJECT NAME Detached Garage (499 s.f.); 0 Miradero Avenue | APPLICATION TYPE Special Permit | |
| OWNER Saeid Assadi | APPLICANT Saeid Assadi | |
| PROJECT LOCATION 0 Miradero Avenue, San Jose | | |
| PROJECT DESCRIPTION Special Permit to allow a 499 sq. ft. detached garage to be located within the 25 ft. front setback of a residential lot, pursuant to Section 4.20.020(F)(1)(a-e) and Section 5.60.030. | | |
| All discretionary development permits processed by the County Planning Office must be evaluated for compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended). Projects which meet criteria listed under CEQA may be deemed exempt from environmental review. The project described above has been evaluated by Planning Staff under the provisions of CEQA and has been deemed to be exempt from further environmental review per the provision(s) listed below. | | |
| CEQA (GUIDELINES) EXEMPTION SECTION Section 15303(e) - for accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences in a residential zone. | | |
| COMMENTS Property is currently a vacant lot. A proposed residence that will be applied for with a separate building permit, prior to the issuance of the subject permit. | | |
| APPROVED BY: | | |
| Lara Tran, Associate Planner |  _____ Signature | 10/28/19 _____ Date |

Date: 10/28/19 Signature: 
Name/Title: Lara Tran/Associate Planner

Approved by: 

ATTACHMENT B
SPECIAL PERMIT
Preliminary Conditions of Approval

Owner/Applicant: Saeid Assadi
File Number: PLN19-0096
Location: 0 Miradero Avenue, San Jose, CA (APN: 612-02-059)
Project Description: Special Permit for a detached garage (499 square feet) located within the front (25 ft.) setback.

If you have any question regarding the following preliminary conditions of approval, call the person whose name is listed as the contact for that agency. He or she represents a particular specialty or office and can provide details about the conditions of approval.

| Agency | Name | Phone | E-mail |
|------------------------------|---------------|------------------|--|
| Planning | Lara Tran | (408) 299- 5759 | lara.tran@pln.sccgov.org |
| Land Development Engineering | Eric Gonzales | (408) 299 – 5731 | eric.gonzales@pln.sccgov.org |
| Building Inspection | | (408) 299-5700 | |

STANDARD CONDITIONS OF APPROVAL

Building Inspection

1. For detailed information about the requirements for a Building Permit, obtain a Building Permit Application Instruction handout from the Building Inspection Office or visit the website at www.sccbuilding.org.

Planning

2. Development must take place in substantial accordance with the approved plans, prepared by Assadi Home Construction, submitted on August 20, 2019.
3. Accessory structure(s) shall not exceed more than 12 ft. in height, when measured from the horizontal plane that is equal to the grade at the front (entry) portion of the building, pursuant to Section 4.20.020(F)(1)(d).
4. Accessory structure(s) shall be limited to one (1) story.
5. A minimum of 6 feet of separation between the detached accessory and a dwelling shall be maintained (exterior wall to exterior wall), per Zoning Ordinance Section 4.20.020(D)(4).

6. Subject detached garage may not be used for dwelling purposes or overnight accommodations.
7. A separate building permit for the single-family residence shall be issued before or concurrently with the building permit for the detached garage. The detached garage is not permitted to be constructed before the single-family residence.
8. Subject detached garage will not be eligible for conversion to a secondary dwelling or accessory dwelling unit (ADU), as the structure will be constructed and inspected after January 1, 2017, per Zoning Ordinance Section 4.10.340(E)(1), unless County Ordinances are amended in the future to allow conversion.

Land Development Engineering

9. The proposed project (new 499 sf detached garage) meets the grading and drainage exemption requirements as outlined in the County's Grading Ordinance. If any Building Plan revisions or construction field changes occur that alter the existing drainage pattern, alter a drainage course, increase the proposed impervious area greater than 2000 square feet, and/or any earthwork that is in excess of the limits as outlined the County's Grading Ordinance starting at C12-400 then a Grading Permit or Drainage Permit will be required.

Building Inspection Office

10. For detailed information about the requirements for a building permit, obtain a Building Permit Application Instruction handout from the Office of Building Inspection or visit their website (www.sccbbuilding.org).

CONDITIONS OF APPROVAL TO BE COMPLETED PRIOR TO BUILDING PERMIT ISSUANCE

Planning

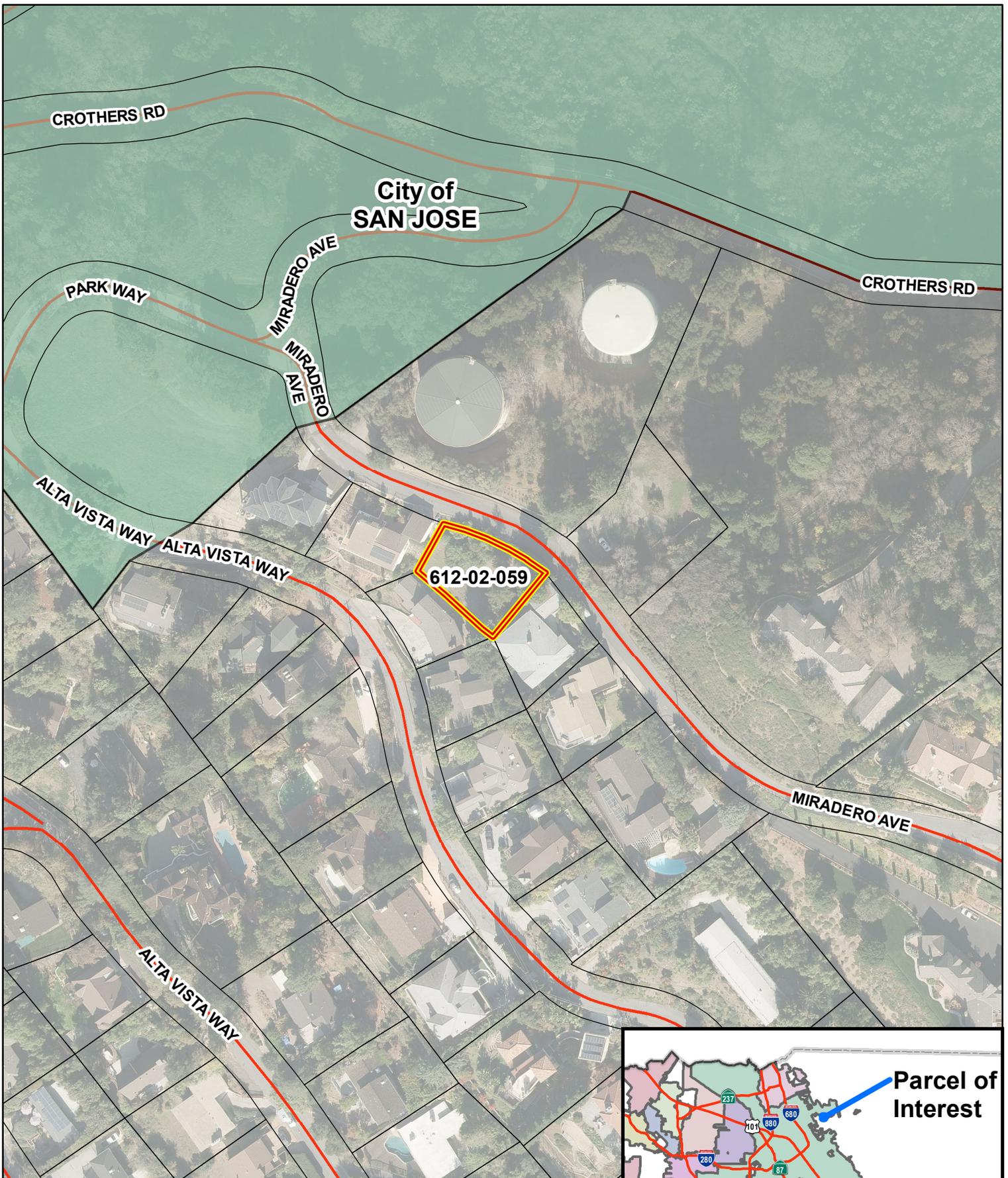
11. **Prior to building permit issuance**, record a Notice of Permit and Conditions with the County Office of Clerk-Recorder, to ensure that successor property owners are made aware that certain conditions of approval shall have enduring obligation. Evidence of such recordation shall be provided pursuant to Section 5.20.125.

Land Development Engineering

Drainage

12. **Prior to building permit issuance**, building plans shall include an Erosion and Sediment Control Plan that outlines seasonally appropriate erosion and sediment controls during the construction period). Include the County's Standard Best Management Practice Plan Sheets BMP-1 and BMP-2 with the Plan Set.
13. **Prior to building permit issuance**, obtain a drainage permit prior to issuance of a building permit for either the proposed garage, the proposed home or both. A drainage

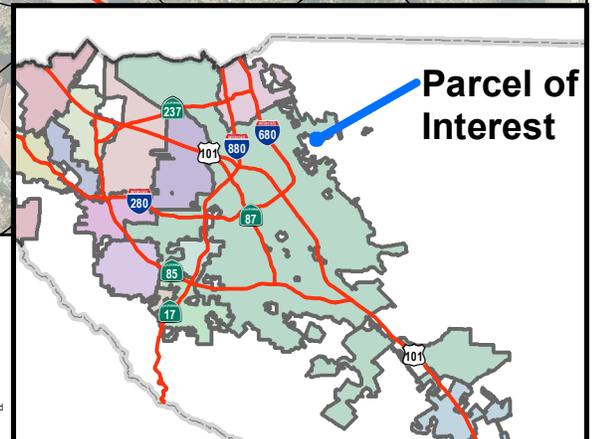
permit is required due to the combined amount of new impervious area being created when the proposed residence and detached garage.



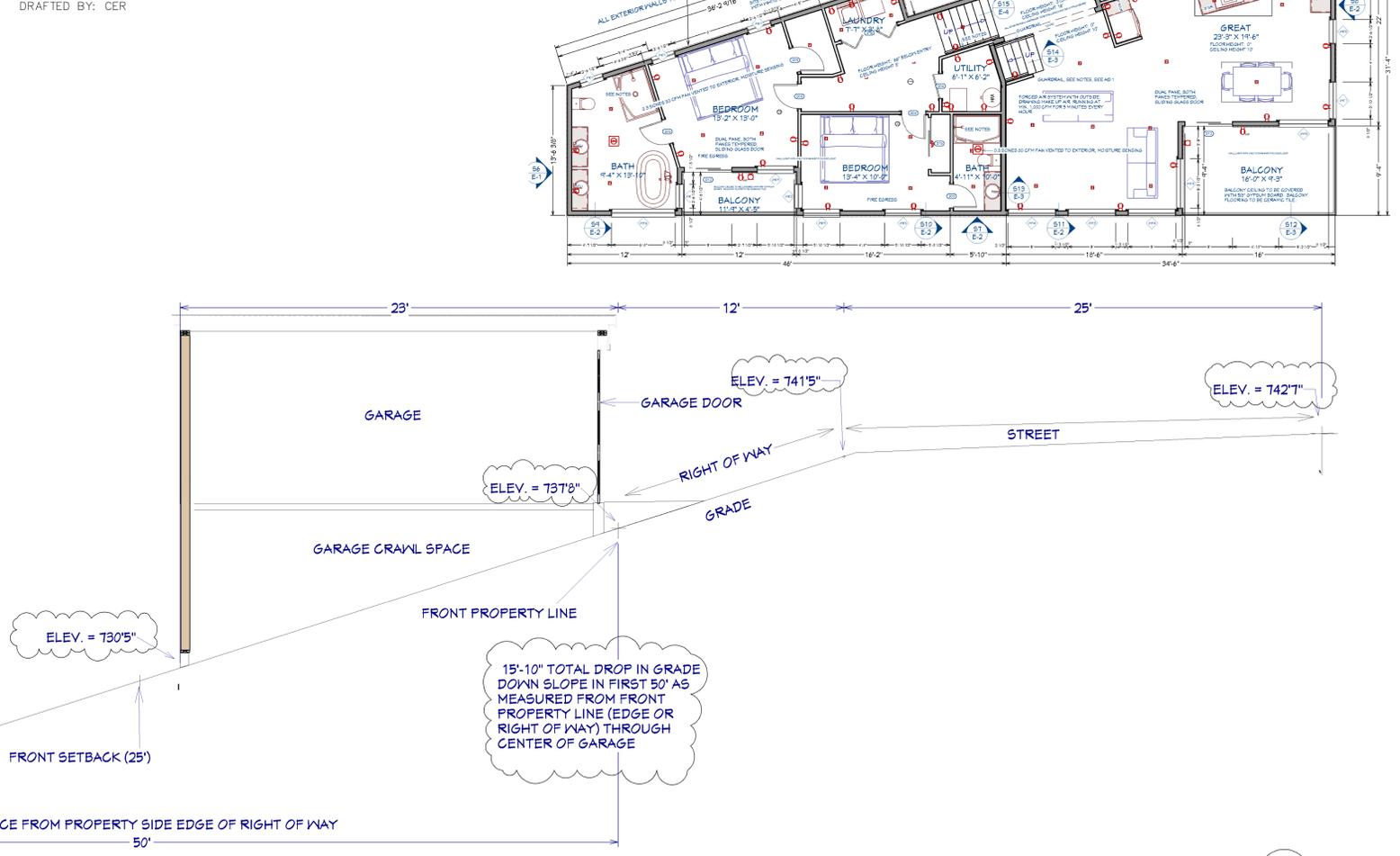
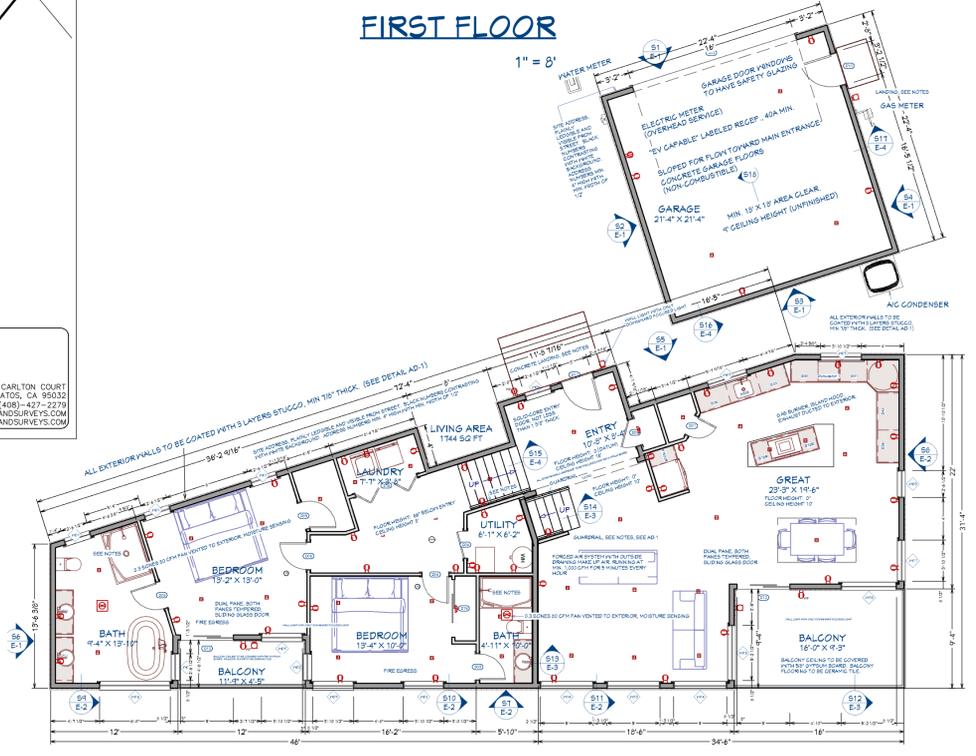
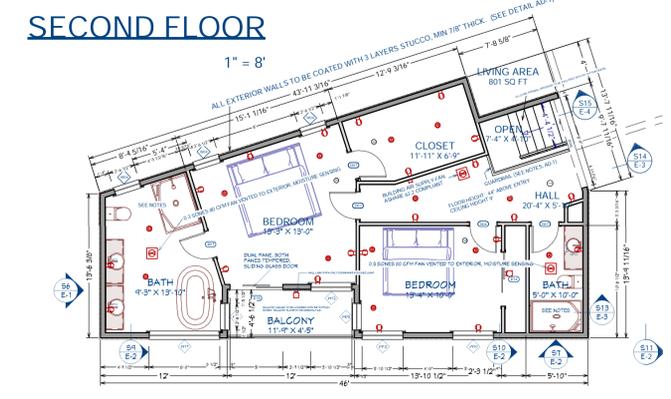
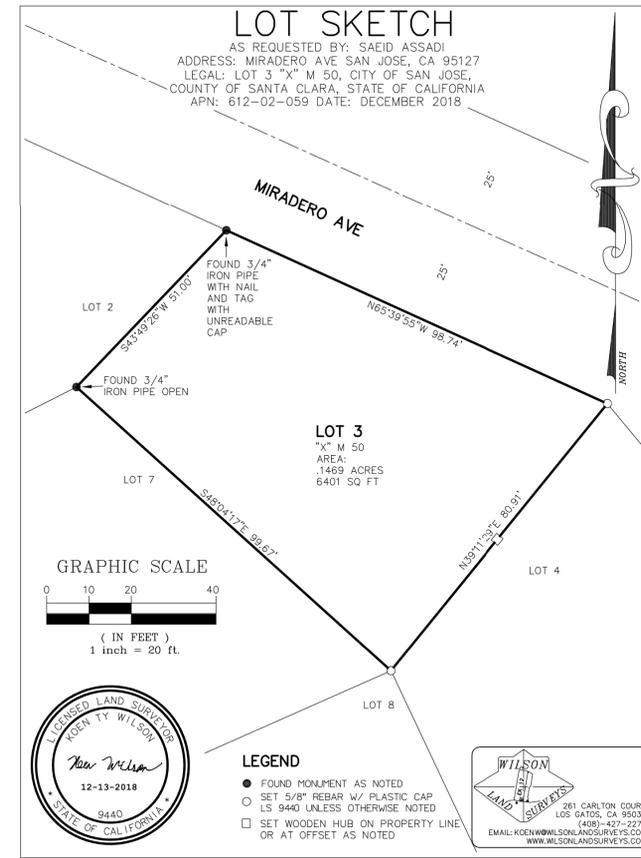
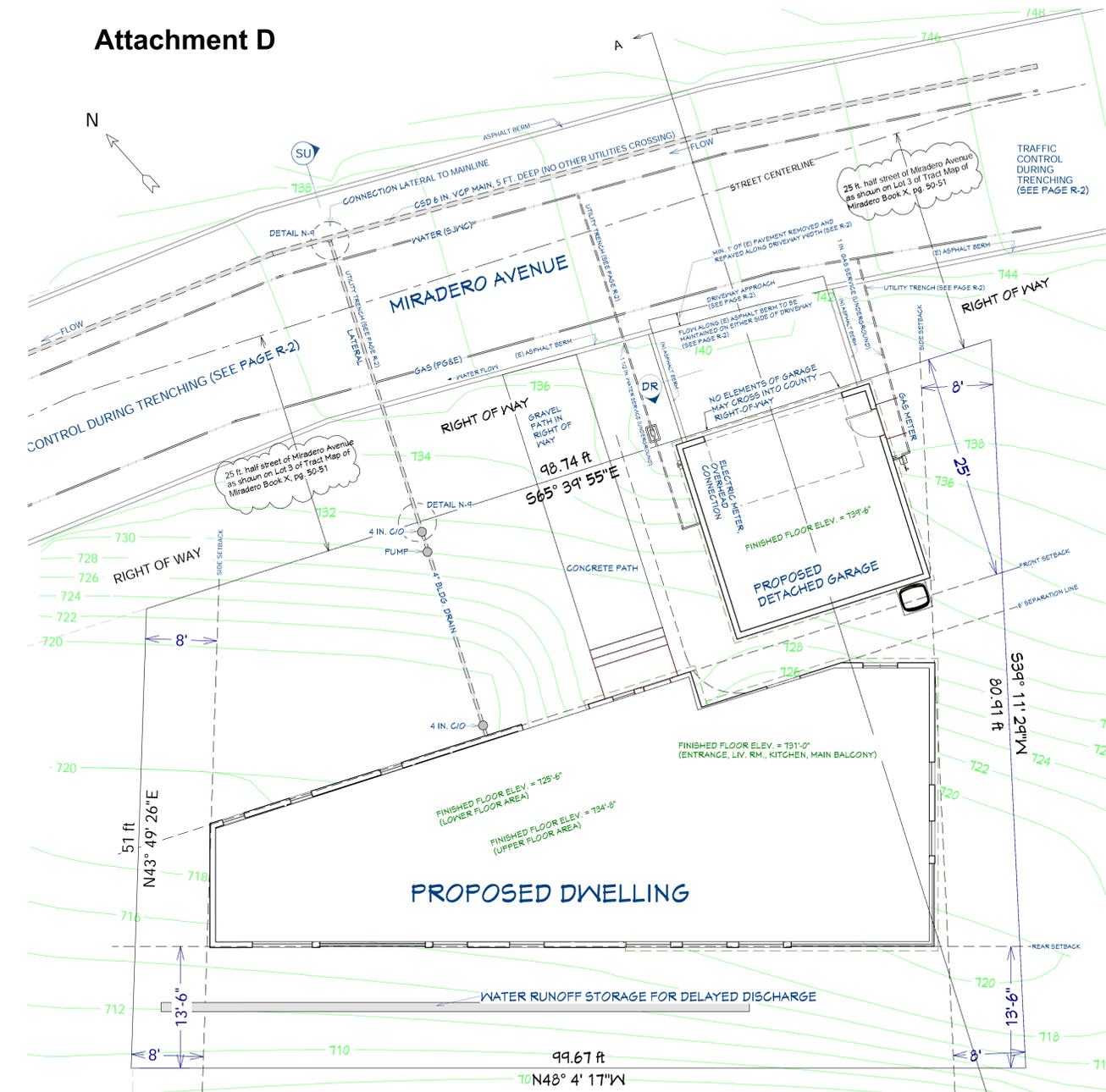
APN: 612-02-059
Address: 0 Miradero Avenue, San Jose, CA 95127
File: PLN19-0096



This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability. 9/12/2019 9:20:49 AM Y:\Staff\Reports\PLN19-0096\PLN19_0096_VicinityMap.mxd



Attachment D



NO GRADING PROPOSED

| | Earthwork Quantities | | | | |
|---------------|----------------------------|------|-----|-------------|--------------|
| | Cut | Fill | Net | Max Cut Ht. | Max Fill Ht. |
| Building Pads | | | | | |
| Driveway | | | | | |
| Garage | | | | | |
| Total | NO GRADING PROPOSED | | | | |

PLANS PROVIDED BY SAEID ASSADI, ASSADI HOME CONSTRUCTION
 15871 MIRADERO AVE., SAN JOSE, CA 95127
 s@assadihomes.com | 415.375.2728

DETACHED GARAGE IN FRONT SETBACK

SINGLE FAMILY RESIDENCE WITH DETACHED GARAGE
 APN: 612-02-059 (UNASSIGNED) MIRADERO AVE., SAN JOSE

Attachment E

From: [Finley, Gavin](#)
To: [Tran, Lara](#)
Cc: [Camacho, Leo](#)
Subject: RE: PLN19-0096 (APN: 612-02-059) Miradero Avenue
Date: Tuesday, October 8, 2019 3:27:01 PM

Hi Lara,

When our Traffic Engineering group saw the plans during Encroachment Permit review, they had no comment on the location of the garage as it impacts sight distance along Miradero Avenue.

Let me know if you need anything further. Thanks,

Gavin Finley, PE

Assistant Civil Engineer
Land Development and Permits Unit
County of Santa Clara Roads and Airports Department
101 Skyport Drive, San Jose, CA 95110
P: 1 (408) 573-2491

From: Tran, Lara <lara.tran@pln.sccgov.org>
Sent: Tuesday, October 8, 2019 3:10 PM
To: Finley, Gavin <Gavin.Finley@rda.sccgov.org>
Subject: PLN19-0096 (APN: 612-02-059) Miradero Avenue

Hi Gavin,

Can you please confirm for PLN19-0096, that R&A (specifically from your traffic division) is okay with the location of the proposed garage located within 25 ft. front setback off Miradero Avenue, San Jose. As there is a standard within the Special Permit regarding "Sight Clearance for Traffic Safety" consistent with B17-68 and 69 Planning needs to confirm again with R&A that there won't be an impact.

Attached are the plans for your reference.

Warm regards,

Lara Tran

Associate Planner
County of Santa Clara
70 W. Hedding Street, East Wing 7th Floor
San Jose, CA 95110
Phone: (408) 299-5759
lara.tran@pln.sccgov.org

Please visit our website at www.sccplanning.org

To look up unincorporated property zoning information: www.sccplanning.org/gisprofile

Questions on Plan Check Status?, please e-mail: PLN-PermitCenter@pln.sccgov.org

Attachment F

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



STAFF REPORT
Zoning Administration
October 3, 2019
Item # 1

Staff Contact: Lara Tran, Associate Planner
(408) 299-5759/ lara.tran@pln.sccgov.org

File: PLN19-0096

Special Permit for a detached accessory building (garage) within the front residential setback.

Address: 0 Miradero Avenue, San Jose (APN: 612-02-059)

BACKGROUND

On May 15, 2019, an application for a Special Permit to construct a 499 square foot detached garage within the 25 ft. front setback was submitted to the Planning Office. The initial application was routed to all department agencies for review, including Roads and Airports. The Santa County Roads and Airports Division approved with no comments their review of the application. However, additional information was still required by other agencies, and the project was deemed incomplete on June 10, 2019. The application was resubmitted on several occasions with a final resubmittal on August 20, 2019. The application was subsequently deemed complete for processing on September 17, 2019.

DISCUSSION

The project is located along Miradero Avenue, which is a private road not maintained by the County Roads and Airports Division. Despite the County Roads and Airports approval with no comments of this project, pursuant to Zoning Ordinance Section 4.20.020(F)(1)(c), the County Zoning Administrator is requiring the County Roads and Airports Division to further review this project to determine if there are any sight visibility or traffic impacts that results from a reduced setback for the detached garage.

For this reason, Staff is recommending that the project (PLN19-0096) be continued to the November 7, 2019 Zoning Administration Hearing.

ADDITIONAL INFORMATION

Permit Streamlining Act

The Special Permit application was deemed complete for processing on September 17, 2019, with a Permit Streamlining Act deadline of November 16, 2019 (60-days).

REVIEWED BY

Prepared by: Lara Tran, Associate Planner 
Reviewed by: Leza Mikhail, Principal Planner/Zoning Administrator

