

County of Santa Clara

Department of Planning and Development

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FIRE MARSHAL'S OFFICE – FIRE SAFE EXCEPTION APPEAL DECISION

Application: PLN 20-141

Appellants: Miriam Al Saadi and Adil Allawi

Hearing Date: 10/28/2021

Hearing Officer: Hector Estrada

Phone #: (408) 299-5760

E-Mail: hector.estrada@sccfd.org

November 5, 2021

Ms. Al Saadi and Mr. Allawi,

This letter is to inform you of the determination on your appeal, filed with the County of Santa Clara on March 2, 2021, of CalFire's February 16, 2021 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 20-141 ("Application").

I. Findings

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 October 28, 2021, I have made the following findings of fact and conclusions of law:

A. The Fire Safe Regulations Apply to the Application.

The Fire Safe Regulations apply to parcels created by a parcel or tentative maps or other developments approved after January 1, 1991. (Pub. Res. Code § 4290(a); 14 Cal. Code Regs. 1270.02(b).) The Application seeks to construct a two-story, 4,805 square foot single-family residence and associated improvements on Assessor's Parcel No.: 510-49-001, commonly known as 15570 Canon Drive in the Town of Los Gatos ("Subject Property"). The Subject Property was created in 1994 by a lot merger that combined portions of two previously separate parcels. To the extent that the Subject Property was created prior to 1991, there is no evidence that the map creating the Subject Property imposed perimeter and access conditions. (14 Cal. Code Regs. 1270.02(b); 76 Ops.Cal.Atty.Gen. 19, (1993).) As the Subject Property was not created prior to January 1, 1991, this Application is subject to the Fire Safe Regulations.

B. The Application Does Not Provide the Same Practical Effect Towards Providing Defensible Space as Compliance with the Fire Safe Regulations.

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.

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 Canon Drive, 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 Application does not include any measures that provide the same practical effect as the road width requirement. In particular, the design of the house, the multiple access routes, the 500 foot proximity from a complying road, and the low density of the neighborhood do not provide the same effect as two-way traffic flow to support ingress and egress by emergency vehicles and civilians along Canon Drive.

II. Conclusion

For the preceding reasons, your appeal is denied. 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:

Adam Lindgren, Counsel for App

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