

**Anthony Sinapi & Anna Natasha Sinapi**

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January 11, 2023

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

Email: **Joanna Wilk**, Senior Planner (joanna.wilk@pln.sccgov.org)

**\*\*VIA EMAIL ONLY\*\***

**Re: Response to Staff Report for January 12 Zoning Administration Hearing (PLN21-098)**

Dear Ms. Wilk,

The attached memorandum is in response to staff report prepared in preparation for the Zoning Administration hearing scheduled for January 12, 2023 (“Staff Report”)

Please include it in the official record for the hearing.

Sincerely,



Anna Natasha Sinapi & Anthony Sinapi

**TO:** Official Record for Zoning Administration Hearing  
**FROM:** Anna Natasha Sinapi & Anthony Sinapi *AS*  
**CC:** Joanna Wilk, Senior Planner  
**DATE:** January 11, 2023

**RE: Preliminary Objections (Preservation of Grounds Should Appeal Become Necessary)**

**Document:** Staff Report Prepared in Preparation for the Zoning Administration Hearing Scheduled for January 12, 2023 (“Staff Report”)

**File:** PLN21-098 (16968 Bohlman Road, Saratoga 95070) (APN: 517-30-013)

**Citations:** All Legal Citations refer to: Appendix I, Zoning, of the Ordinance Code of the County of Santa Clara (Zoning Ordinance of the County of Santa Clara)

**PRELIMINARY OBJECTIONS**

We have chosen to cooperate with the Planning Department’s assertion that a public hearing before the Zoning Administrator is required because we believe that the entire application will be approved at the public hearing, our objections will be moot, and complying with the hearing requirements will result in fewer project delays. If however, our application is not fully approved at the public hearing, then we retain our right to appeal the application of the public hearing process and to present additional evidence, documentation and information as grounds to appeal the substance of information and procedure applied for this hearing.

We have several substantive additions and objections to the applicability of the regulations included in the Staff Report and used to justify the procedure and substance of the hearing. We have attempted to outline some of them in this memorandum; however, as we only received the Staff Report on January 6, 2023, three (3) business days before the hearing, the arguments are not to be considered exhaustive or completely inclusive. This limited timeline was exacerbated because the project was inaccurately characterized as consisting of a development the was more than 5,000 square feet, and that is what necessitated the Design Review hearing. The idea that the inaccurate square footage was the reason for the public hearing requirement was confirmed in a phone conversation (in November 2022) by the Senior Planner. This was not corrected until I received the Staff Report in January 2023. This was also our first notice of the other elements of the application that the Staff Report claims are subject to the Zoning Administration hearing.

I am not requesting a continuance, which would further delay the project; however, should an appeal become necessary, I reserve the right to add additional grounds for appeal regarding both the procedure and substance of the information presented in the Staff Report.

**Administrative Design Review without Public Hearing**

The subject of the public hearing should be limited to the application for a variance to the required 30’ front yard setback for the water tanks. The Design Review, and Grading approval should all have been approved administratively either on the basis of the Staff Report or on the basis of the property documentation. The fact that the water tank variance requires a public hearing, does not

automatically subject the other elements of the application or approval process to the public hearing requirements.

The “scenic road” zoning designation should only have subjected this project to an Administrative Design Review process (rather than a public hearing) because it is only subject to the “Tier 1 Design Review” standards because it is 4,866 square-feet (less than the 5000 square-foot threshold for a Tier 2 Design Review). 3.20.040 (A)(1). The fact that the residence will be located within 100 feet of the scenic road (33 feet from Bohlman Road) does not necessitate the processing of the Design Review application with a public hearing. The Staff Report erroneously asserts that, because “the residence is located within 100 feet of a scenic road (33 feet from Bohlman Road)” it is necessary that the Design Review application is processed with a public hearing. In support of this proposition staff cites 5.50.020 [presumably subsection (B)]. However, 5.50.020 (B) merely states that “[t]he design review procedure shall be required . . . [f]or development within 100 feet of designated scenic roads on lots to which the “-sr” combining district applies.” It does not state, as the Staff Report asserts, that the design review process with a public hearing shall be required for lots that are close to scenic roads, nor does it state that the Tier 2 design review process with a public hearing shall be required for lots that are close to scenic roads. In fact, the proper design review process is still Tier 1, which is an Administrative Design review without a public hearing.

In fact, projects farther than 100 feet of a scenic road are eligible for a Design Review Exception, not merely an Administrative Design Review. 3.30.030 (A), (B).

Although there are no formal definitions for “Administrative Design Review” or “Design Review Exemption,” the code consistently refers to these two terms in separate and distinct ways such that the most meaningful interpretation of the terms would necessitate interpreting “Administrative Design Review” as a type of design review which does not require a public hearing and a “Design Review Exemption” as applicable to projects for which no Design Review is required (neither a public hearing nor an administrative review). 3.30.030 (A), (B); 5.50.060. An Administrative Design Review is still a Design Review. An Administrative Design Review is not a Design Review Exemption. Unlike this project, if a project is eligible for a Design Review Exemption then it is not only exempt from the Design Review application with a public hearing, but it is also exempt from the Administrative Design Review.

Thus, I object to the subjection of this application to a public hearing.

### **Eligibility for Design Review Exemption for Sites Not Visible**

The project is eligible for an exception for “Sites Not Visible” because the development is not visible from viewshed, and, in fact, is only visible from the immediately adjacent properties and the scenic roadway directly in front of the house. 3.20.040 (G) [ “-d1 District (Santa Clara Valley Viewshed)” “Exemption for Sites Not Visible”]. Therefore, the Design Review elements relating to the appearance of the property from any point (other than the scenic road directly in front of the property, and the two properties immediately adjacent to proposed house) are inapplicable. Even if the ridgeline did not render the lower roofline invisible, the 10” oak tree directly in front of the roof line, and the cluster of 12 6-10” Bay trees along the eastern property line adjacent to the

roofline would hide the roof from all points outside the property (including points on the directly adjacent lots).

In fact, the following portions of the Staff Report acknowledge the invisibility of much of the site, but nonetheless apply a Design Review analysis to the entire viewshed area:

[T]he subject property is located behind two ridges, one located to the north along Bohlman Road and the other to the southwest which is used for open space . . . These ridges hide the property from being visible from the valley floor. Additionally, the proposed residence is not visible from the southern portions of Bohlman Road (farther uphill past the residence) due to the steep topography of the area, existing vegetation, and the proposed building location tucked into the hillside. Staff Report p. 6-7 § E (4).

The retaining wall and associated improvements cannot be seen from the valley floor or nearby properties (with the exception of adjacent properties to the west, uphill from the subject property) due to the area's steep terrain and existing vegetation[.] Staff Report p. 10 § E (2).

We complied with a request to change the slope of the roof line in an attempt to work with our Senior Planner, but should our design not be approved at the hearing we reserve our right to object because the house is being subject to additional unreasonable review although it is invisible from nearly all points outside the property.

### **Story Pole Design**

On January 10, 2023 the Senior Planner for this project indicated that the story pole design and execution was compliant. On January 9, 2023, she indicated that installation of the story poles is a statutory requirement; however, she subsequently reviewed the statute and, on January 10, 2023, she indicated that the requirement was actually imposed pursuant to her discretionary authority, and that their installation could only benefit the approval of our application by the Zoning Administrator. Between the change in position regarding the legal justification for requiring the installation of story poles many claims were made by the Senior Planner regarding the sufficiency of the story poles. Should this become an issue on appeal, I reserved the right to present additional information objecting to the legal justification for requiring the story poles, as well as the sufficiency of the story poles, and the timing of their construction and repair.

### **No Building Site Approval Required**

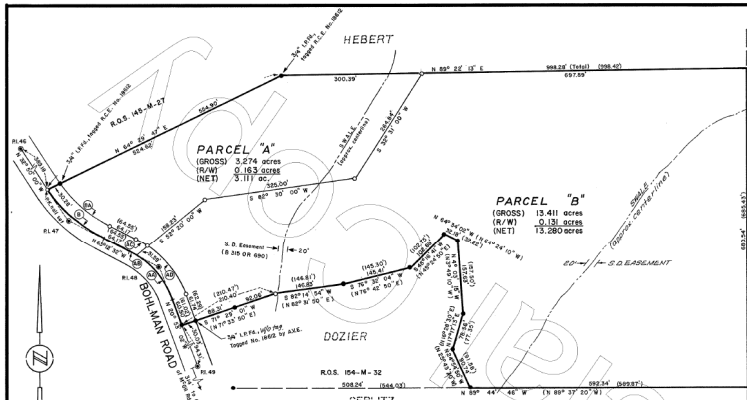
In a phone call on January 10, 2023, the Senior Planner agreed that this section of the Staff Report is inaccurate. The Staff Report erroneously states that “the subject property is not a numbered tract on a numbered Tract Map or a whole Parcel on a Parcel Map from a legal subdivision”. The Parcel Map is attached as well as e-mail confirmation from a Senior Planner (which we obtained prior to purchasing the property as part of our due diligence investigations) indicating that no building site approval is required. C12-310; (Attachment A “Parcel Map”, Attachment B “Email Confirmation That No Building Site Approval Is Required”).

## **Permit Streamlining Act**

Several deadlines were missed in the leadup to this hearing. The Senior Planner was notified of these violations by email upon occurrence. If the application is not approved at the January 12, 2023 Zoning Administration hearing, then we reserve the right to object on the basis of Permit Streamlining Act violations.

**ATTACHMENT A**

**PARCEL MAP**



CURVE	DELTA	RADIUS	LENGTH	TANGENT
AA	38° 37' 30"	183.95	104.02	64.37
AB	1° 14' 59"	28.95	14.14	8.07
AC	7° 36' 27"	49.95	24.36	14.41
AD	14° 11' 54"	83.95	41.72	24.82
AE	20° 47' 31"	117.95	59.08	36.23
AF	27° 23' 39"	151.95	76.44	47.64
AG	34° 00' 00"	185.95	93.80	59.05
AH	40° 36' 07"	219.95	111.16	70.46
AI	47° 12' 14"	253.95	128.52	81.87
AJ	53° 48' 21"	287.95	145.88	93.28
AK	60° 24' 28"	321.95	163.24	104.69
AL	67° 00' 35"	355.95	180.60	116.10
AM	73° 36' 42"	389.95	197.96	127.51
AN	80° 12' 49"	423.95	215.32	138.92
AO	86° 48' 56"	457.95	232.68	150.33
AP	93° 25' 03"	491.95	250.04	161.74
AQ	100° 01' 10"	525.95	267.40	173.15
AR	106° 37' 17"	559.95	284.76	184.56
AS	113° 13' 24"	593.95	302.12	195.97
AT	119° 49' 31"	627.95	319.48	207.38
AU	126° 25' 38"	661.95	336.84	218.79
AV	133° 01' 45"	695.95	354.20	230.20
AW	139° 37' 52"	729.95	371.56	241.61
AX	146° 13' 59"	763.95	388.92	253.02
AY	152° 50' 06"	797.95	406.28	264.43
AZ	159° 26' 13"	831.95	423.64	275.84
BA	166° 02' 20"	865.95	441.00	287.25
BB	172° 38' 27"	899.95	458.36	298.66
BC	179° 14' 34"	933.95	475.72	310.07
BD	185° 50' 41"	967.95	493.08	321.48
BE	192° 26' 48"	1001.95	510.44	332.89
BF	199° 02' 55"	1035.95	527.80	344.30
BG	205° 39' 02"	1069.95	545.16	355.71
BH	212° 15' 09"	1103.95	562.52	367.12
BI	218° 51' 16"	1137.95	579.88	378.53
BJ	225° 27' 23"	1171.95	597.24	390.94
BK	232° 03' 30"	1205.95	614.60	403.35
BL	238° 39' 37"	1239.95	631.96	415.76
BM	245° 15' 44"	1273.95	649.32	428.17
BN	251° 51' 51"	1307.95	666.68	440.58
BO	258° 27' 58"	1341.95	684.04	453.99
BP	265° 04' 05"	1375.95	701.40	467.40
BQ	271° 40' 12"	1409.95	718.76	480.81
BR	278° 16' 19"	1443.95	736.12	494.22
BS	284° 52' 26"	1477.95	753.48	507.63
BT	291° 28' 33"	1511.95	770.84	521.04
BU	298° 04' 40"	1545.95	788.20	534.45
BV	304° 40' 47"	1579.95	805.56	547.86
BW	311° 16' 54"	1613.95	822.92	561.27
BX	317° 53' 01"	1647.95	840.28	574.68
BY	324° 29' 08"	1681.95	857.64	588.09
BZ	331° 05' 15"	1715.95	875.00	601.50
CA	337° 41' 22"	1749.95	892.36	614.91
CB	344° 17' 29"	1783.95	909.72	628.32
CC	350° 53' 36"	1817.95	927.08	641.73
CD	357° 29' 43"	1851.95	944.44	655.14
CE	364° 05' 50"	1885.95	961.80	668.55
CF	370° 41' 57"	1919.95	979.16	681.96
CG	377° 18' 04"	1953.95	996.52	695.37
CH	383° 54' 11"	1987.95	1013.88	708.78
CI	390° 30' 18"	2021.95	1031.24	722.19
CJ	397° 06' 25"	2055.95	1048.60	735.60
CK	403° 42' 32"	2089.95	1065.96	749.01
CL	410° 18' 39"	2123.95	1083.32	762.42
CM	416° 54' 46"	2157.95	1100.68	775.83
CN	423° 30' 53"	2191.95	1118.04	789.24
CO	430° 06' 00"	2225.95	1135.40	802.65
CP	436° 42' 07"	2259.95	1152.76	816.06
CQ	443° 18' 14"	2293.95	1170.12	829.47
CR	449° 54' 21"	2327.95	1187.48	842.88
CS	456° 30' 28"	2361.95	1204.84	856.29
CT	463° 06' 35"	2395.95	1222.20	869.70
CU	469° 42' 42"	2429.95	1239.56	883.11
CV	476° 18' 49"	2463.95	1256.92	896.52
CW	482° 54' 56"	2497.95	1274.28	910.93
CX	489° 31' 03"	2531.95	1291.64	925.34
CY	496° 07' 10"	2565.95	1309.00	939.75
CZ	502° 43' 17"	2599.95	1326.36	954.16
DA	509° 19' 24"	2633.95	1343.72	968.57
DB	515° 55' 31"	2667.95	1361.08	982.98
DC	522° 31' 38"	2701.95	1378.44	997.39
DD	529° 07' 45"	2735.95	1395.80	1011.80
DE	535° 43' 52"	2769.95	1413.16	1026.21
DF	542° 19' 59"	2803.95	1430.52	1040.62
DF	542° 19' 59"	2803.95	1430.52	1040.62

**LEGEND**  
 -○- Indicates 3/4" iron pipe found in monument box  
 -●- Indicates 3/4" iron pipe found, tagged R.C.E. No. 2372, unless otherwise noted  
 -○- Indicates 3/4" iron pipe set, tagged R.C.E. No. 18812  
 ( ) Indicates Record Data per Parcel Map 355-M-37

**BASIS OF BEARINGS**  
 The bearing, N 32° 50' 00" W, of the centerline of Buchanan Road, as shown on that certain survey map recorded in Book 353 of Maps, at page 37, Santa Clara County Records, was taken as the basis of bearings on this map.

**SURVEYOR'S CERTIFICATE**  
 This map was prepared by me or under my direction and is based upon a field survey, in conformance with the requirements of the Subdivision Map Act and of the request of Edward W. George. I hereby state that the parcel map conforms to the approved tentative map and the conditions of approval thereof which are required to be fulfilled prior to the filing of the map.

*John S. Williams*  
 R.C.E. No. 18812

**COUNTY SURVEYOR'S CERTIFICATE**  
 This map conforms with the requirements of the Subdivision Map Act and Local Ordinance.  
 Dated: September 1978 DEAN P. LARSON, County Surveyor  
 Signed: *Dean P. Larson*

**RECORDER'S CERTIFICATE**  
 Filed this 25th day of December, 1978 at 2:15 P.M., in Book 427 of Maps, at Page 23, of the request of Almaden Valley Engineers, ETC. 4606 SAN JOSE, George A. Mann, County Recorder  
 By *George A. Mann*  
 County Recorder  
 Fee 5.00 PAID

**OWNER'S CERTIFICATE**

I (We) hereby certify that I (We) am (are) the subdivider/owner(s) of, or have some right, title, or interest in and to the real property included within the subdivision shown upon the parcel map; that I (We) am (are) the only person(s) whose consent is (are) necessary as set forth under Government Code, Section 65445 (1); that I (We) hereby consent to the preparation and recording of said map and subdivision as shown within the distinctive borderline.

*Edward W. Scripps, III*  
 Owner  
*Mary Barbara Scripps*  
 Owner

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA  
 On this 30 day of August in the year one thousand nine hundred and 78, before me, LA NETTE LEE CONKEY, a Notary Public, State of California, duly commissioned and sworn, personally appeared Edward W. Scripps, III and Mary Barbara Scripps known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal, in the County of Santa Clara the day and year in this certificate first written above.

*LaNette Lee Conkey*  
 Notary Public, State of California



**NOTES:**  
 1. Easement is included by an approved water system complying with Health Department Standards prior to issuance of a building permit.  
 2. Minimum driveway width (includes roadway) is 10 feet, including 4 feet for fire purposes and access roads for fire equipment shall be met prior to final building approval and occupancy.  
 3. Prior to the issuance of a building permit the Building Inspection Division will require a water report based on minimum standards.  
 4. All utilities or service connections are to be installed underground per Department of Public Works Standards.  
 5. All easement permit for the construction of a County regulated driveway connection is to be obtained prior to the issuance of a building permit.

**PARCEL MAP**

OF PARCEL 4 OF THE PARCEL MAP RECORDED IN BK 353 OF MAPS, AT Pg. 37 BEING A PORTION OF THE S 1/2 OF THE NW 1/4 OF SECTION 24, T 8 S, R 2 W, M. D. B & M Santa Clara County, California

SCALE: 1" = 100' DEC. 15, 1977

ALMADEN VALLEY ENGINEERS  
 CIVIL ENGINEERING & LAND SURVEYING  
 4606 MERIDIAN AVE., SAN JOSE, CA.

**ATTACHMENT B**

**EMAIL CONFIRMATION THAT NO BUILDING SITE APPROVAL IS REQUIRED**



On Fri, Oct 9, 2020 at 5:02 PM Tom Sloan <[tsloan@metroarchitects.com](mailto:tsloan@metroarchitects.com)> wrote:  
Confirmed NO Building Site Approval. Nice!

**Tom Sloan**  
**Metro Design Group**  
1475 S. Bascom Avenue suite 208  
Campbell, CA 95008  
(408) 871-1071

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**From:** Connolly, Mark [mailto:[Mark.Connolly@PLN.SCCGOV.ORG](mailto:Mark.Connolly@PLN.SCCGOV.ORG)]  
**Sent:** Friday, October 9, 2020 1:56 PM  
**To:** Tom Sloan  
**Subject:** RE: [EXTERNAL] RE: Bohlman Road

I agree.. If it wasn't there would be a note saying " Subject to further approval" all of those notes, are a matter of the building permit. Just submit the PM with the application and you'll be fine avoiding BSA.



**Mark J. Connolly** | Senior Planner, Deputy Zoning Administrator  
Airport Land Use Commission Planning Program Manager  
Department of Planning and Development  
County of Santa Clara  
70 West Hedding Street, East Wing, 7<sup>th</sup> Floor | San José, CA 95110  
Phone: (408) 299-5786

In light of COVID-19 response measures from the Governor of the State of California and the County Public Health Department, commencing **Tuesday, March 17 through TBD**, the Department of Planning and Development will only be providing Essential Public Services that are necessary to protect the health, safety, and welfare of our community.

To facilitate these measures, all Non-essential staff will be under a "Shelter In Place" directive, working remotely from home. If you need an emergency permit, please call (408) 299-5700 and your call or message will be addressed as soon as possible. For non-emergency inquiries, please fill out the form linked [here](#). The non-emergency inquiry will be reviewed daily and will be responded to on a case-by-case basis. Please note: our response to your non-emergency inquiry could be delayed.

Please visit our [website](#).

Click [here](#) to look up unincorporated property zoning information.

Questions on the status of your permit? Please e-mail: [PLN-PermitCenter@pln.sccgov.org](mailto:PLN-PermitCenter@pln.sccgov.org)

**CONFIDENTIALITY NOTICE:** This email message and/or its attachments may contain information that is confidential or restricted. It is intended only for the individuals named as recipients in the message. If you are NOT an authorized recipient, you are prohibited from using, delivering, distributing, printing, copying, or disclosing the message or content to others and must delete the message from your computer. If you have received this message in error, please notify the sender by return email.

8/24/2021

FW: Bohiman Road - ansinapi@googlemail.com - Gmail

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**From:** Tom Sloan <[tsloan@metroarchitects.com](mailto:tsloan@metroarchitects.com)>  
**Sent:** Friday, October 9, 2020 10:33 AM  
**To:** Connolly, Mark <[Mark.Connolly@PLN.SCCGOV.ORG](mailto:Mark.Connolly@PLN.SCCGOV.ORG)>  
**Subject:** [EXTERNAL] RE: Bohiman Road

Hi Mark,

There is indeed a Parcel Map (ATTACHED) that includes this Lot.

It is my understanding that this project will NOT be required to obtain BUILDING SITE APPROVAL?

Thanks for your help...

**Tom Sloan**  
**Metro Design Group**  
1475 S. Bascom Avenue suite 208  
Campbell, CA 95008  
(408) 871-1071