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STAFF REPORT
Zoning Administration
May 4, 2023

Public Hearing Item No. 2

Staff Contact: Carl Hilbrants, Senior Planner
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PLN22-018 **Design Review Tier II and Grading Approval**

Summary: Design Review Tier II and Grading Approval for a two (2) story 5,830 square foot single-family residence with a 570 square foot attached garage and a 905 square foot detached garage. Proposed grading quantities are 886 cubic yards of cut and 671 cubic yards of fill with a maximum fill depth of 8.92 feet.

Owner:	Amandeep and Surjit Saini	General Plan: Rural Residential
Applicant:	Amandeep and Surjit Saini	Zoning: RR-d1
Location:	3745 Norwood Creek, San Jose	Parcel: 1.08 acres
APN:	654-10-010	Supervisory District: 1
Present Land Use:	Single-Family Residence	HCP: Area 2

RECOMMENDED ACTIONS

- A.** Approve Categorical Exemption, under Section 15303 (a) of the CEQA Guidelines, Attachment A

- B.** Approve Design Review and Grading 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—Color and Material Sample Board
Attachment F—Reverse Visibility Site Analysis
Attachment G—Alternative Site Analysis
Attachment H—Landscape Plan

Board of Supervisors: Sylvia Arenas, Cindy Chavez, Otto Lee, Susan Ellenberg, Joe Simitian
County Executive: Jeffrey V. Smith

PROJECT DESCRIPTION

The proposed project includes a request for concurrent land use entitlement of Design Review Tier II and Grading Approval for a two (2) story 5,830 square foot single-family residence with a 570 square foot attached garage and a 905 square foot detached garage. Proposed estimated grading are 886 cubic yards of cut and 671 cubic yards of fill with a maximum fill depth of 8.92 feet. The new construction does not qualify for a Tier I Design Review as the new construction exceeds 5,000 square feet. The existing 1,672 square foot residence, proposed to be demolished to allow for the proposed residence, sits at the demarcation line between “Medium-High” and “High” visibility per County GIS data. The proposed residence will be located at the same location as the existing residence but will be larger in size. As such, the visual impact of the proposed residence will be similar to the existing residence. As shown in the alternative grading site analysis (Attachment G), the area nearer to Norwood Avenue is wholly within the “Medium-High” visibility area. From a strictly visibility standpoint this, of course, would be preferred. However, the necessary grading for the same residence in this lower visibility area would require 2,809 cubic yards of additional fill but with a reduction of 279 cubic yards of cut; either location requires obtaining a Grading Approval. The vastly reduced grading of the site farther, from Norwood Avenue, was deemed to be more advantageous than the advantage of the lower visibility of the site nearer to Norwood Avenue. As such, the proposed development is the preferred location on this parcel. Proposed landscaping will supplement the existing landscaping with the purpose of providing screening of the residence from view from the Santa Clara Valley floor. This required additional landscaping must include twelve (12) 36-inch box trees or larger immediately to the west of the proposed residence. The currently provided landscape plan shows the twelve trees being 24-inch box. When submitting for the building permit, the landscape plan will need to be amended to show the proposed trees being 36-inch box instead of 24-inch box. The conditions of approval will be codified with a Notice of Permit and Conditions of Approval document which must be recorded with the County Clerk-Recorder’s Office to ensure enduring compliance with the conditions of approval.

Setting / Location Information

The proposed two-story residence is to be located on a 2.5-acre parcel in the lower hills immediately above and less than 0.25 miles from the eastern border of the City of San Jose. The neighborhood consists exclusively of single-family residences on lots larger than one acre. The area within the City of San Jose immediately to the west and less than 1,000 feet away consists of typical single-family residences on lots less than 10,000 square feet in size. The proposed development includes a septic system and circular driveway to provide access to the primary dwelling as well as to a detached garage. The project site does not encroach into a creek setback. However, Norwood Creek is directly across Norwood Avenue to the south of the project site. Norwood Creek is not a Category 1 Habitat Plan creek, and the proposed development is approximately 450 feet from the stream. The subject parcel is not within any top-of-bank setback required area. The parcel has no mapped species according to the California Natural Diversity Database (CNDDDB). The parcel is not within any mapped habitat area for California Red Legged Frog or serpentine soils. However, the parcel is within the California Tiger Salamander mapped area. This mapped species is widely mapped throughout Santa Clara County and this instance being a new residence essentially in the same area as an existing residence is deemed to pose no threat to the species.

REASONS FOR RECOMMENDATION

A. Environmental Review and Determination (CEQA)

The proposed project qualifies for a Categorical Exemption under Section 15303(a) of a new single-family residence. As such, an Initial Study and further analysis under the CEQA was not required.

B. Project / Proposal

1. **General Plan:** Rural Residential.
2. **Building Site Approval:** The parcel is an approved building site, created with Parcel Map 469 Page 47. The proposed project meets all development standards for a primary residence, that is, minimum of 30 feet from the recorded road dedication at the front, minimum of 30 feet from both sides and the rear and a maximum height of less than 35 feet.
3. **Zoning Standards:** The Santa Clara County Zoning Ordinance specifies the required development standards for the RR-d1 zoning district, summarized below and in Table "A," to note the project's conformance with Section 3.20.040 "-d1" Combining District:

Main Residence:

Setbacks (RR): 30 feet from all property lines and / or rights-of-way (ROW)
 Height: 35 feet maximum
 Stories: 2 story maximum

Table A: Compliance with Development Standards for -d1 Combining District

STANDARDS & REQUIREMENTS	CODE SECTION	Meets Standard (Y/N) *
Siting	§ 3.20.040 (A)(2)(b)	Y
Story Poles	§ 3.20.040 (A)(2)(c)	Y
Color & LRV	§ 3.20.040 (B)	Y
Building Form & Massing	§ 3.20.040 (C)	Y
Retaining Walls	§ 3.20.040 (D)	Y
Ridgeline Development	§ 3.20.040 (E)	Y
Design Review Guidelines	§ 3.20.040 (F)	Y
Ongoing Compliance	§ 3.20.040 (H)	Y

*See Discussion in Design Review Findings Section C below

- C. **Design Review Findings:** Per Section §5.50.040 of the County Zoning Ordinance, all Design Review applications are subject to the stated scope of review. The overall purpose of Design Review is to encourage quality design and mitigate potential adverse

visual impacts of development. In the following discussion, the scope of review findings is listed in bold, and an explanation of how the project meets the required standard is in plain text below.

1. Mitigation of any adverse visual impacts from proposed structures, grading, vegetation removal and landscaping;

The County's Geographic Information System (GIS) data show the proposed residence to be located at the cusp of the "Medium-High" and "High" visibility designations. As the parcel is completely within either the medium-high or high designations, development of a proposed residence being visible is unavoidable. The residence could be proposed solely within the medium-high designated area but doing so would have incurred significantly greater grading quantities. To balance out the benefits of lower visibility versus the benefits of lower grading quantities it was decided that the presently disturbed area at the demarcation line between the medium-high and high visibility areas was optimal. The inevitable visual aspect of the project will be mitigated by the requirement to provide trees immediately to the west of the proposed residence. This requirement is included in the conditions of approval for the project. The condition of approval requires twelve (12) trees to aid in screening the proposed residence from view as seen from the Santa Clara Valley floor. To ensure the screening is effective, the trees must be planted immediately to the west of the proposed residence. The trees must be indigenous to the Santa Clara Valley climate and require minimal irrigation to ensure survival. For these reasons, this finding can be made.

2. Compatibility with the natural environment;

The project consists of the construction of a new single-family residence with both an attached and a detached garage. The parcel has a modest consistent change in grade leading upward from the front (street) to the back of the parcel. The proposed development will require grading quantities of 1,041 cubic yards of cut and 671 cubic yards of fill. These fill amounts necessitate the project include a Grading Approval and Grading Permit. The alternative site grading, nearer to Norwood Avenue, proposed for this development would have necessitated 762 cubic yards of cut and 3,480 cut yards of fill required the padding-up with a net import of 2,718 cubic yards. The development will not impact any existing riparian land cover associated with Norwood Creek, as the site is located across Norwood Avenue to the south of the property. Norwood Creek is not a Category 1 Habitat Plan creek and the associated disturbed area would be approximately 450 feet from the stream. The subject parcel is not within any top-of-bank setback required area. The parcel has no mapped species according to the California Natural Diversity Database (CNDDDB). The parcel is not within any mapped habitat area for California Red Legged Frog or serpentine soils. However, the parcel is within the California Tiger Salamander mapped area. This mapped species is widely mapped throughout Santa Clara County and this instance being a new residence essentially in the same area as an existing residence is deemed to pose no threat to the species. For the above reasons, the proposed project is designed to be compatible with the natural and

existing environment and does not compromise the natural terrain. For these reasons, this finding can be made.

3. Conformance with the “Design Review Guidelines,” adopted by the Board of Supervisors;

The proposed project conforms to the County’s Board adopted Design Review Guidelines. The siting of the proposed residence is advantageous when reviewed with the context of a parcel designated per County GIS data as either “Medium-High” or “High” and the knowledge that a less visible portion of the parcel would need significantly more grading to establish. Significant tree planting and continued maintenance to help ensure minimal visibility from the Santa Clara Valley floor will be incorporated and noted as a condition of approval (Attachment B). Impacts on privacy and views of neighboring properties are negligible due to the lack of elevation difference between the proposed residence and neighboring residences, some being slightly higher in elevation and some lower. The parcel is located on a lower slope of the eastern hills above the City of San Jose and far below the ridgeline.

The architectural design of the proposed residence avoids excessive bulk and mass by incorporating non-continuous wall planes. Exterior colors for the house façade, trim, and roof materials all have a Light Reflective Value (LRV) of 45 or less, as shown on the color and materials board (Attachment E). There are no proposed retaining walls with one existing retaining wall to remain. As part of the requirement for Design Review (Tier 2), the applicant is required to erect story poles prior to the Zoning Administration Hearing. To ensure compliance with the story pole erection requirement (Zoning Ordinance Section 3.20.040 (A)(2)(c)), story pole placement was verified by Staff on April 27, 2023. After inspecting the required story poles, no new impacts were observed by Staff. The project is conditioned to include screening trees to mitigate the visibility of the proposed residence as viewed from the Santa Clara Valley floor from the west, and to a lesser extent the south. For these reasons, this finding can be made.

4. Compatibility with the neighborhood and adjacent development;

The neighboring properties are either undeveloped, or if developed, contain single-family residences, either one or two stories. All but two residences were built in the second half of the 20th century, the other two in the early 20th century. The proposed residence is typical of many of the existing residences in the neighborhood as well as the County of Santa Clara as a whole. The proposed residence will be in keeping with the characteristics of the surrounding neighborhood and not be obtrusive in its context as the proposed size, number of stories, and architectural design are compatible with adjacent development and residences. For this reason, this finding can be made.

5. Compliance with applicable zoning district regulations; and

As summarized in Section B(3) and Table A of this staff report, residential use is an allowed use in the RR-d1 (Rural Residential with a Design Review Combining District overlay) zoning district, and the project complies with the current zoning regulations and development standards. The proposed residence meets the required setbacks (30 feet front, 30 feet side, and 30 feet rear) and height not exceeding the allowed maximum 35 feet. Furthermore, the proposed design is also in keeping with the “-d1” design guideline standards and building massing standards as the proposed structures incorporate varied roof heights and use architectural elements, such as windows and cornices, to produce patterns of light and shade. Exterior colors are proposed and conditioned to have a Light Reflectivity Value (LRV) of 45 or less. For these reasons, Staff has determined that the project is in compliance with the applicable zoning district regulations, and this finding can be made.

6. Conformance with the general plan, any applicable specific plan, other applicable guidelines.

The proposed development conforms with the Santa Clara County General Plan Policies *R-LU 56*, *R-LU 57*, *R-GD 22*, and the Santa Clara Design Review Guidelines. General Plan Policy *R-LU-56* and *R-LU 57* states Rural Residential areas include lands outside of a city Urban Service Areas and of which the land is primarily for residential purposes. Additionally, General Plan Policy *R-GD 22* states that grading shall be kept to a minimal to establish a primary use and avoidance of unnecessary grading. The property is currently outside of the City of San José’s Urban Service Area (USA) with the property and entire neighborhood comprised exclusively of residential uses or undeveloped land. The proposed project includes construction of one (1) single-family residence with an attached garage and one (1) detached garage and associated improvements on one (1) lot. The two (2) story residence is appropriately sized and does not require any unnecessary grading. The proposed development is consistent to the County’s Board adopted Design Guidelines as it is sited in such a way as to reduce grading and will incorporate tree planting to reduce the visual impacts to persons located on the Santa Clara Valley floor. The exterior colors and materials are muted and will use paints with a Light Reflectivity Value (LRV) of 45 or less to ensure compatibility with the surrounding environment and minimal visibility from the Santa Clara Valley floor. As noted above, proposed landscaping will be incorporated into the project to ensure minimal visibility of the residence from persons on the Santa Clara Valley floor. Additionally, the proposed residence has a conforming residential setback of a minimum of 30 feet that incorporates the recorded road dedication on Norwood Avenue (as shown on the site plan within the project plans in Attachment D). The property is not located within a specific plan. For these reasons, this finding can be made.

D. Grading Approval: Pursuant to Section C12-433 of the County Ordinance Code, all Grading Approvals are subject to specific findings. In the following discussion, the scope of review findings are listed in **bold**, and an explanation of how the project meets the required standard is in plain text below.

1. **The amount, design, location, and the nature of any proposed grading is necessary to establish or maintain a use presently permitted by law on the property.**

The design of the proposed development incorporates land disturbance requiring minimal grading to establish a flat pad for a residence. The majority of the grading is to establish hardscape, landscaping and driveway improvements, all of which are reasonable and minimal to establish a logical footprint normally associated with a single-family residence. An alternative site analysis was performed. This analysis demonstrated that the currently proposed location, although slightly more visible than the area nearer to Norwood Avenue, requires significantly less grading to establish the proposed residence. For this reason, this finding can be made.

2. **The grading will not endanger public and / or private property, endanger public health and safety, will not result in excessive deposition of debris or soil sediments on any public right-of-way, or impair any spring or existing watercourse.**

Plans prepared by IENGCO and 08 Design Studio, submitted November 9, 2022, incorporate a Site Grading and Drainage Plan which delineates where and how runoff will be controlled to ensure; no danger to public and / or private property, no impact on public health and safety, no sedimentation on any public right-of-way and no impairment of a spring or watercourse. For this reason, this finding can be made.

3. **Grading will minimize impacts to the natural landscape, scenic, biological and aquatic resources, and minimize erosion impacts.**

The subject parcel is modestly and consistently sloped upward from Norwood Avenue to the rear of the parcel. As shown in the alternative grading site analysis (Attachment G), the area nearer to Norwood Avenue although normally would require a shorter driveway, and, with all other things being equal, a shorter driveway with assumed lesser grading quantities. However, in this instance a driveway has already been developed—with modern driveway standards necessitating some grading—leading to the proposed residence location, which is the same location that is proposed for the new residence. As such, the driveway aspect of the development is moot particularly when bearing in mind that the maximum fill depth necessary for the currently proposed site is half that required for the alternate site nearer to Norwood Avenue. The development will not impact any existing riparian land cover associated with Norwood Creek, located across Norwood Avenue to the south of the property. Norwood Creek is not a Category 1 Habitat Plan creek, and the proposed development is approximately 450 feet from the stream. The subject parcel is not within any top-of-bank setback required area. The parcel has no mapped species according to the California Natural Diversity Database (CNDDDB). The parcel is not within any mapped habitat area for California Red Legged Frog or serpentine soils.

However, the parcel is within the California Tiger Salamander mapped area. This mapped species is widely mapped throughout Santa Clara County and this instance being a new residence in the same area as an existing residence is deemed to pose no threat to the species. For the above reasons, the proposed project is designed to be compatible with the natural and existing environment and does not compromise the natural terrain. For these reasons, this finding can be made.

- 4. For grading associated with a new building or development site, the subject site shall be one that minimizes grading in comparison with other available development sites, taking into consideration other development constraints and regulations applicable to the project.**

The subject parcel is modestly and consistently sloped upward from Norwood Avenue to the rear of the parcel. As shown in the alternative grading site analysis (Attachment G), the area nearer to Norwood Avenue although normally would require a shorter driveway, and, with all other things being equal, a shorter driveway with assumed lesser grading quantities. However, in this instance a driveway has already been developed—with modern driveway standards necessitating some grading—leading to the proposed residence location, which is the same location that is proposed for the new residence. As such, the driveway aspect of the development is moot particularly when bearing in mind that the maximum fill depth necessary for the currently proposed site is half that required for the alternate site nearer to Norwood Avenue. The necessary grading for the same residence nearer to Norwood Avenue would require 2,809 cubic yards of additional fill but with a reduction of 279 cubic yards of cut; either location would require obtaining a Grading Approval. The vastly reduced grading of the site farther from Norwood Avenue was deemed to be more advantageous than the advantage of the lower visibility of the site nearer to Norwood Avenue. As such, the proposed development is the preferred location on this parcel. For these reasons, this finding can be made.

- 5. Grading and associated improvements will conform with the natural terrain and existing topography of the site as much as possible, and should not create a significant visual scar.**

The proposed location will conform with the natural terrain to the greatest extent possible, the reasons for that opinion are outlined in items 3 and 4 immediately above. It should be emphasized that the historic (pre-development) natural terrain was altered with the construction allowed with Santa Clara County Environmental Management Agency (Planning Office) permit number 1978-27540. This new grading aligns with the driveway established by this permit. For this reason, this finding can be made.

- 6. Grading conforms with any applicable general plan or specific plan; and**

Development within the Rural Residential area has no specific grading findings aside from the general grading thresholds of 150 cubic yards of cut and / or fill. The subject parcel is not subject to regulations associated with any specific plan. For these reasons, this finding can be made.

7. Grading substantially conforms with the adopted "*Guidelines for Grading and Hillside Development*" and other applicable guidelines adopted by the County.

The proposed development does not require; siting that cuts into any hillside and also grading avoids all natural hazards which are non-existent on the parcel, does not require roads and / or driveways other than a direct non-serpentine access to the parking area (which was created pursuant to a building permit issued by the County Planning Office), terrain grading is lesser in intensity—as demonstrated in the alternative grading site analysis (Attachment G)—for the residence and detached garage, and landform grading is minimal to accommodate hardscape, landscape and driveway improvements. For these reasons, this finding can be made.

In conclusion, Staff recommends the Zoning Administration Hearing Officer approve the concurrent land use entitlements for Design Review Tier II and Grading Approval pursuant to recommended conditions of approval (Attachment B). As noted throughout the staff report, the proposed project meets all development standards for the primary residence (minimum of 30 feet from recorded road dedication at the front, minimum of 30 feet from sides and rear, and a maximum height of 35 feet) as well as all the necessary findings for Design Review Tier II.

BACKGROUND

An application for Design Review Tier II and Grading Approval was submitted to the County Planning Office for review on January 13, 2022. On February 12, 2022, the Design Review Tier II and Grading Approval application was deemed incomplete by the County Planning Office and an incomplete letter and policy issues letter were sent to the property owners (Amandeep and Surjit Saini). Early Outreach notification was mailed out to affected neighboring parcels on February 8, 2022. The application was resubmitted on April 18, 2022, addressing items noted in the February 12, 2022, incomplete letter and policy issues letter. The application was deemed incomplete again on May 18, 2022, and an incomplete letter and policy issues letter were sent to the property owners. The application was resubmitted again on August 4, 2022, addressing some of items noted in the May 18, 2022, incomplete letter. The application was deemed incomplete again on August 31, 2022, and another incomplete letter and policy issues letter were sent to the property owners.

During this timeframe, the applicant applied to CalFire for an exemption to their requirements regarding the necessary width of the access road. CalFire denied this application. County Counsel determined per 14 CCR § 1270.02(a)(4); 76 Ops. Cal. Atty. Gen. 19 (1993) the parcel is exempt from CalFire requirements. However, it is important to note, County Fire Marshal Office requirements remain in effect.

The application was resubmitted again on November 9, 2022, addressing some the items in the August 31, 2022, incomplete letter, however the application was placed on-hold until January 5, 2023, to ensure a complete status from the Santa Clara Valley Water District. The application was deemed complete on March 8, 2023, and was scheduled for the Zoning Administration Hearing on May 4, 2023. Final decision on the project, per the Permit Streamlining Act, requires a final decision on the project to be rendered no later than May 7, 2023.

On April 21, 2023, a public notice was mailed to all property owners within a 300-foot radius of the parcel and was also published in the San Jose Post Record on April 24, 2023. As of April 26, 2023, staff has received one comment from the public related to the project.

STAFF REPORT REVIEW

Prepared by: Carl Hilbrants, Senior Planner

Carl Hilbrants
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Approved by: Samuel Gutierrez, Principal Planner

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