

# County of Santa Clara

## Department of Planning and Development

County Government Center, East Wing, 7th Floor  
70 West Hedding Street  
San Jose, CA 95110  
Phone: (408) 299-5700  
www.sccplandev.org



**December 12, 2022**

Vietnamese Bhikkhuni Buddhist Congregation  
2054 Old Piedmont Rd  
San Jose, CA 95132

[txnh9@yahoo.com](mailto:txnh9@yahoo.com)

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

**FILE NUMBER:** PLN22-204  
**SUBJECT:** Grading Abatement of Existing Grading Violation (VIO20-0136).  
**SITE LOCATION:** 2054 Old Piedmont Rd, San Jose (APN: 092-34-015)  
**DATE RECEIVED:** November 14, 2022

Dear Vietnamese Bhikkhuni Buddhist Congregation,

Your application for Grading Abatement of Existing Grading Violation (VIO20-0136) received on the above date is deemed **incomplete**. For the application processing to resume, you must resolve the following issues and submit the information listed below.

Resubmittals are made via the internet, to do so, follow the instructions at the following URL: <https://plandev.sccgov.org/how/apply-permit/planning-resubmittal-procedures>. Before resubmitting, please consult me as this process is dynamic and at the time you choose to resubmit the process may have changed and/or been enhanced. The resubmitted materials must include all requested information. Once the information is submitted, the Planning Office will distribute the plans, reports, and/or information to the appropriate staff or agency for review.

If you have any questions about the information being requested, you should first call the person whose name is listed as the contact person for that item. They represent a specialty or office and can provide details about the requested information.

AS NOTED ABOVE, PRIOR TO RESUBMITTAL PLEASE E-MAIL ME TO DISCUSS THE PROCESS.

Please submit all electronic copies of the revised plans/resubmittal documents (PDF) with a written response letter addressing each incomplete comment.

## PLANNING

Contact your project planner Lulu Pang at (408) 299-5718 or [lulu.pang@pln.sccgov.org](mailto:lulu.pang@pln.sccgov.org) regarding the following comments:

### *Required Application Materials*

1. The Petition for Exemption from Environmental Assessment Form as it is not complete, please sign and date the form and resubmit it with your application.

### *Tree Preservation and Removal Information*

2. The submitted plans are incomplete because it does not provide information regarding tree preservation and removal. Please provide the species and trunk sizes of all existing trees to be removed (or have been removed) in table format in the plan set (add more rows as needed).

Tree Removal Summary		
Tree Number	Common Name	DBH (inches)
1		
2		
3		
etc		

Note: The subject parcel is zoned “R1-2.5s-d1”. Tree Removal Approval is required prior to any tree removal on the subject parcel. A protected tree on this parcel requiring removal approval is any tree having a main trunk or stem measuring 12 inches or more in diameter at a height of 4½ feet above ground level, or in the case of multi-trunk trees a total of 24 inches or more in diameter of all trunks.

- A. The subject parcel is located in the “-d1” Design Review Combining District. According to *Santa Clara County Guidelines for Tree Protection and Preservation* for Land Use Applications, tree replacement will be required based on the sizes and species of the removed trees. The following tree replacement ratios apply:
  - For the removal of one small tree (5- 18 inches):  
(3) 15 gallon trees, or (2) 24-inch box trees.
  - For the removal of one medium tree (18 – 24 inches):  
(4) 15 gallon trees or (3) 24-inch box trees.
  - For the removal of a tree larger than 24 inches  
(5) 15 gallon trees or (4) 24-inch box trees.

Please indicate the locations and common names for the replacement trees on the site plan. Replacement trees are required for each protected tree that will be removed. Note: Replacement trees should be California native.

### *Archaeological Review*

3. Based on comments from the Northwest Information Center of Sonoma University, please provide the following items:
  - a. As the proposed project parcel contains a recorded Native American archaeological site: P-43-000168 (CA-SCL-156). Please update the conditions of this site on the Office of Historic

Preservation's DPR 523 resource recordation forms, assess the potential impacts of the proposed project activities on this resource, and provide project-specific recommendations as warranted, by a qualified professional archaeologist.

- b. As the proposed project area has the possibility of containing unrecorded archaeological sites. Due to the passage of time since the below-listed surveys and the changes in archaeological theory and method, please provide an archaeological report including further archival and field study for the entire project area to identify any unrecorded archaeological resources. A qualified professional archaeologist shall prepare the archaeological report. For your reference, a list of qualified professionals in California that meet the Secretary of the Interior's Standards can be found at <http://www.chrisinfo.org>. If archaeological resources are encountered during the project, work in the immediate vicinity of the finds should be halted until a qualified archaeologist has evaluated the situation.

Report No	Author(s)	Year	Title
S-004772	Thomas L. Jackson, Miley P. Holman, and Stephen A. Dietz	1973	An Archaeological Reconnaissance of the Santa Clara County Flood Control and Water District East Zone Flood Control Project
S-005274	Miley Paul Holman	1980	An archaeological reconnaissance of the Old Piedmont Property (letter report)
S-009192	Rebecca Loveland Anastasio, Patricia M. Ogrey, and Margaret V. Farnsworth	1987	A Cultural Resources Assessment of the Lands of Brancato on Old Piedmont Road, Santa Clara County, California
S-027082	Robert R. Cartier	2003	Cultural Resource Evaluation of Lands of Brancato on Old Piedmont Road in the City of San Jose

#### *Riparian Setback*

4. The site plan is incomplete as Berryessa Creek is a Category II Stream in the Santa Clara County Habitat Plan, the required riparian setback is 35 feet measured from the top of bank or 35 feet beyond the riparian edge (if the site supports riparian vegetation), whichever is greater. Please identify the following items on the Site Plan:
- 35-foot setback line measured from the top of bank
  - Edge of the riparian vegetation (as existed pre-violation)
  - 35-foot buffer line beyond the edge of the riparian vegetation (as existed pre-violation)

Note: Applicant must either move the development outside of the riparian setback or apply for a stream setback exception approval from the Habitat Agency.

#### Santa Clara Valley Habitat Plan Review

Contact Lulu Pang at (408) 299-5718 or [lulu.pang@pln.sccgov.org](mailto:lulu.pang@pln.sccgov.org) regarding the following:

NOTE: As stated on the Santa Clara Valley Habitat Plan coverage screening form, "if the proposed project affects any wildlife and/or plant species covered by the Habitat Plan, or any unmapped burrowing owl occupied nesting habitat, serpentine, riparian, stream, pond, or wetland land covers on the property, then coverage under the Habitat Plan is required." The proximity to Berryessa Creek may

trigger coverage. After reviewing the following requested additional information, Staff will determine the extent (if any) of Habitat Plan requirements.

5. The subject property is in Habitat Plan Permit (HCP) Areas 1, 2, and 4. The property contains sensitive land covers and is within a Wildlife Survey Area. In order to determine the HCP impact of this project, please submit the following information:
  - a. Land cover verification mapping prepared by a qualified biologist to verify the land cover types for the development areas (including areas of grading) and evaluate the impacts of the proposed development on the riparian habitat, including the location of the edge of riparian vegetation.
  - b. A Wildlife Survey conducted by a qualified biologist for the Tri-Colored Blackbird habitat. The survey must also include whether or not the proposed development will impact the wildlife habitat if any.
  - c. A completed and signed (by the owner and applicant) [Santa Clara Valley Habitat Plan-Coverage Screening Form](#).

### **ROADS AND AIRPORTS**

Contact Tom Esch at (408)-573-2450, [tom.esch@rda.sccgov.org](mailto:tom.esch@rda.sccgov.org) regarding the following:

6. Encroachment permit is required for the removal of the fence outside of County right-of-way (ROW). Any abatement application will require the removal of the fence outside of the ROW.
7. Drainage appears to be modified and relocated closer to the County ROW. Any modification to the drainage must demonstrate that the post-development maximum flow rate into the County Road right-of-way is equal-to or less-than the pre-development corresponding storm event flow rate per the County Drainage Manual. Provide engineered plans and drainage calculations for any detention or retention system necessary to satisfy this requirement.
8. Any fixed object must be relocated outside of the County ROW. It appears there are yellow bollards installed next to the mailbox.
9. Preliminary Improvements plans must clearly indicate, existing and proposed site conditions within the ROW, including but not limited to, edge of pavement, existing ROW line, above and below ground utility lines, easements, drainage facilities, trees, landscaping, and other structures and features. All utility relocations, replacements, abandonments, temporary facilities, and new facilities shall be shown.
10. All the following standards shall be consistent with Roads and Airports Department's Standard Details and Standard Specifications. Copies of these details are available at the following web site:  
<http://www.countyroads.org>

### **ENVIRONMENTAL HEALTH**

Contact Jeff Camp at 408-918-3473 regarding the following:

For septic system/grading clearance:

11. Call the Department of Environmental Health (DEH) at 408-918-3445 (Raymond Chung) for septic system clearance. This is a separate submittal to DEH and subject to completion of a service and application and additional review fees. After obtaining septic clearance, through Accela's public portal upload the approved plans to 70 W. Hedding, Permit Center, for sign-off.
12. Septic system clearance is required even if there is no plumbing involved with the project. The plans must be evaluated to ensure all setbacks to the septic system (tank and dispersal fields) are met.

### **LAND DEVELOPMENT ENGINEERING**

Contact Darrell Wong at (408)-299-5735, [darrell.wong@pln.sccgov.org](mailto:darrell.wong@pln.sccgov.org) regarding the following:

13. Please provide a table of the estimated earthwork quantities per C12-424(g). Quantities should be separated into the different bodies of work for the project, such as hillside landscape grading and imported rock on flatter areas. The quantities must include the entire unpermitted scope of work to be legalized. The quantities must also include the proposed scope of work including such grading as the relocation of the storm drainage detention basin. Any rock imported for the purpose of the expansion of the impervious paving shall also be included in the quantity.
14. Please provide a table of the estimated impervious areas that are created or legalized as a part of the development. The net change in impervious areas shall be clearly stated on the plans. The plans shall clearly distinguish the previously permitted impervious area from the expanded impervious area based on the previous drainage permit approval per Record # LDE15-10648DP. Any unpermitted impervious area constructed, not included as a part of the previous permit, must be permitted and mitigated for storm drainage peak flow, or otherwise proposed to be restored to previously approved conditions and abated. Much of the area identified by #4 in your plans appears to be unpermitted. Only the porch and step for the main residence was included in the drainage calculations for the previous permit. The impervious driveway was also expanded from the previous approval and must be accounted for.
15. Please show the limits of the disturbed area as a result of the proposed legalization, abatement and development. Include the disturbed areas of the spread material, landscaping and any stockpile area.
16. Please fully show the extent of the soil placement on the hillside. The owners communicated that the fill was spread on the hillside to the investigating inspector on site and acknowledged the placement with the Compliance Agreement. The topographic contours also indicate a disturbance on the plans. The previous topo in this area depicts a different condition and grade for this area. Consider utilizing the previous topo and comparing the current topo to depict the unpermitted fill in this area behind the house. Provide a section through the area of grading and the landscape wall.
17. The proposed development impacts drainage flows, thereby not meeting the exemption requirements of Section C12-407 of the County Grading & Drainage Ordinance. Please provide a Drainage Plan that demonstrates the following items:

- a. the site can be adequately drained utilizing appropriate storm drainage and grading improvements. The location of the storm drain line must be shown on the plans with preliminary grades for the invert elevations,
  - b. the on-site drainage will be controlled in such a manner as to not increase the downstream peak flow or cause a hazard or public nuisance. If this cannot be demonstrated, provide a detention system pursuant to the Design Guidelines in Section 6.3.3 of the 2007 Santa Clara County Drainage Manual.
18. Clearly show the location and height of the landscape wall installed after the sign off of the previous permit, with associated top and bottom of wall elevations, located at the rear of the house near the toe of the slope of the recently graded hillside. Please provide a cross-section of the grading, including the proposed wall, per Section C12-424 (j) and (k) of the County Grading & Drainage Ordinance as necessary.
19. Show verify and correct the limits and location, and elevation of the flood plain shown on the plans. The limits of the floodplain and the location of the BFE elevation limits do not appear to match that of the FEMA maps. Identify the datum for the survey and the floodplain.
20. Submit a completed San Francisco Bay Watershed Questionnaire with the appropriate impervious area additions. Based on the results of the Questionnaire, incorporate the applicable stormwater treatment measures in the plans. **Please note that requirements for the SF Bay watershed will change for projects not approved by June 30, 2023, for all projects that have not yet obtained approval by that date.**

**Prior to resubmittal, please feel free to contact me to schedule an appointment so we can meet virtually and discuss my comments regarding the project.**

Please make sure the requested changes are made for the revised plan sets and documents that are needed for the resubmittal. **Resubmittals are only accepted by appointment with the assigned project planner.** If the requested information is not submitted within **180 days**, you will be required to pay a fee of 10% of the application fee at the time the information is submitted. All requested information must be submitted no later than **one (1) year** from the date of this letter. **PARTIAL RESUBMITTALS WILL NOT BE PROCESSED.** Fees required at the time of resubmittal will be those in effect at that time.

In submitting this land use application, the owner/applicant included an initial application fee. Application fees are categorized as "fixed fees" and "billable fees", based on the particular application types. "Fixed fee" applications do not require any additional fees to continue processing. However, when funds associated with a "billable fee" application have been spent, an additional deposit will be required to continue processing the application.

Any future application submittals must address all comments listed above. If you have questions regarding the application, please contact me your project planner at (408) 299-5718 or [lulu.pang@pln.sccgov.org](mailto:lulu.pang@pln.sccgov.org).

Sincerely,

Handwritten signature consisting of the letters 'L' and 'P' in a cursive style.

Lulu Pang  
Assistant Planner

**cc:**  
Samuel Gutierrez, Principal Planner