

County of Santa Clara

Department of Planning and Development

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****VIA Emails Only****

March 1, 2024

Vietnamese Bhikkhuni Buddhist Congregation

Via Email @ txnh9@yahoo.com

FILE NUMBER: PLN22-204

SUBJECT: Grading Abatement Application for VIO20-0136

SITE LOCATION: 2054 Old Piedmont Road, San Jose, CA 95132 (APN: 092-34-015)

DATE RECEIVED: January 31, 2024

Dear Vietnamese Bhikkhuni Buddhist Congregation,

Staff has reviewed your application, submitted on the date above. The comments below are not incomplete items and are not required to deem this application complete for processing. This section is informational only and can be discussed further if desired with County Staff.

PLANNING OFFICE

Please note that per California Environmental Quality Act (CEQA) Section 15304, grading is not exempt from environmental review if it occurs in an officially designated wetland, Alquist-Priolo Earthquake Fault Zone, or State Seismic Hazard Zone. As the proposed grading appears to fall into an Alquist-Priolo Earthquake Fault Zone and a State Seismic Hazard Zone, this project may be subject to CEQA review. However, a full review for CEQA applicability will not be conducted until the project is deemed complete.

Contact Reva Kakaria at (408) 299-5792 or reva.kakaria@pln.sccgov.org regarding the following comments:

1. Per comment #4 on the incomplete letter dated 12/12/22, the site plan is incomplete as Berryessa Creek is a Category II Stream in the Santa Clara County Habitat Plan, and the site plan must identify a 35-foot setback measured from the top of bank or beyond the riparian edge (if the site supports riparian vegetation), whichever is greater. While sheet 2 partially shows a 35-foot setback from the top of bank, it does not identify the riparian edge. Please show the following on the site plan:
 - a. Edge of the riparian vegetation (as existed pre-violation)
 - b. 35-foot setback line beyond the edge of the riparian vegetation (as-existed pre-violation)

- Per comment #2 on the incomplete letter dated 12/12/22 and comment #1 on the incomplete letter dated 4/27/23, please provide complete information regarding tree preservation and removal. The submitted plan, dated 1/31/2024, indicates the removal of one existing 15-inch tree. On the demo plan, please provide the species of that tree to be removed in a tabular format (see a sample table below).

| Tree Removal Summary | | |
|----------------------|-------------|--------------|
| Tree Number | Common Name | DBH (inches) |
| 1 | | |
| 2 | | |
| 3 | | |
| Etc. | | |

Note: The subject parcel is zoned R1-2.5s-d1 in the area of proposed work. 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 ([County Ordinance Section C16-3](#)).

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.

Due to the removal of one existing 15-inch tree, (3) 15-gallon trees **or** (2) 24-inch box replacement trees shall be required. On the plans, please provide the locations and common names for the replacement trees.

Replacement trees are required for each protected tree that will be removed. Replacement trees should be native and like for like. Oak trees shall be replaced by oak trees.

- In the provided planset, an existing shed is shown within the 35-foot setback from the top of bank of Berryessa Creek. Please note that no development is allowed within the creek setback unless a stream setback exception is obtained from the Habitat Agency. Please clarify on the plans if the shed is to be removed.
- The planset is labeled PLN23-227 throughout, which is not the correct file number for this project. Please correctly label the project as PLN22-204.
- In the provided grading quantities, please clearly and separately quantify the amount of

unpermitted grading, the amount that is proposed to be legalized, and the amount that is proposed to be abated.

Habitat Plan

6. The subject property is in Santa Clara Valley Habitat Plan Area 1: Private Development Covered; Area 2: Rural Development Equal to or Greater Than 2 Acres Covered; and Area 4: Urban Development Equal or Greater Than 2 Acres Covered. According to the HCP Geobrowser mapping, land cover on the 32.5-acre property includes: Rural Residential, Willow Riparian Forest and Scrub, Urban – Suburban, Coast Live Oak Forest and Woodland, Serpentine Bunchgrass Grassland, and California Annual Grassland. The property is also in the HCP wildlife survey area for Tricolored Blackbird, plant survey area, and potential serpentine fee zone. The proposed work is located within areas of sensitive land cover and the wildlife survey area.

Per comment #5 in the incomplete letter dated 12/22/22, the following is required:

- 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 Tricolored Blackbird habitat. The survey must also include whether or not the proposed development will impact the wildlife habitat if any is found.

The land cover verification report associated with this property, prepared by H. T. Harvey & Associates, was completed on 8/17/2017. It is not sufficient to assess HCP impacts for this project, as the unpermitted work to be abated under this application had not yet occurred and therefore could not be assessed for potential impacts in this report. A wildlife survey has not been submitted.

Provide both a wildlife survey for the Tricolored Blackbird habitat and Land Cover Verification Mapping prepared by a qualified biologist to verify the habitat land covers within the area of currently proposed work. The land cover mapping shall be overlain by the revised site plan and identify the development area, including all permanent and temporary impacts. The grading for this project is a temporary impact.

- a. Temporary development area is defined as land that will be temporarily affected during development (construction laydown areas, subsurface utilities) that will be restored within one year of completing construction, plus a 10-foot buffer surrounding these areas.
- b. Permanent development area is defined as all land that will have permanent improvements (removal of land cover, structures, driveway, landscaping, off-site road improvements, etc.), plus a 50-foot buffer surrounding these areas.

SANTA CLARA VALLEY WATER DISTRICT

Contact Gennifer Wehrmeyer at (408) 630-2588 or gwehrmeyer@valleywater.org regarding the following comments:

7. The applicant needs to submit the following: Topography of the site, including the creek. Topography of the creek should delineate the existing top of both banks and the bottom of channel.
8. A Valley Water permit is not required.
9. This project will not modify or use a Valley Water facility or easement, however; Berryessa Creek is located on the site. Valley Water staff is interested in reviewing and providing consultation on the project because of impacts the proposed project may have on Valley Water's adjacent facility or on water resources. Please consider the comments below and send revised drawings for our review and comment.
 - a. While a Valley Water permit is not required for vegetation removal within/adjacent to Berryessa Creek at this location, California Department of Fish and Wildlife, Regional Water Quality Control Board, and U.S. Army Corps of Engineers have jurisdiction for work within and adjacent to creeks and the proposed work may be subject to permitting by these agencies.
 - b. Berryessa Creek should be shown and labeled on Sheets 2, 3, 4, and 6.
 - c. According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) 06085C0086H, effective May 18, 2009, the property is in Flood Zone A, a special flood hazard area without base flood elevations. FEMA Flood Zone A should be shown as transparent or hatched, not a solid fill.
 - d. Valley Water records indicate the site contains 1 well. Any abandoned wells, or wells that are no longer in use, must be properly destroyed. Any wells in use that will be impacted by project activities must be protected. As required by Valley Water Ordinance 90-1, an application must be filed with Valley Water for a permit to construct or destroy any well or to drill any exploratory borings deeper than 45 feet. Contact Valley Water's Wells and Water Measurement Unit at (408) 630-2660, for more information.

If you have questions regarding this application, please contact (408) 299-5792 or reva.kakaria@pln.sccgov.org.

Sincerely,

Reva Kakaria

Reva Kakaria
Assistant Planner

CC: Samuel Gutierrez, Principal Planner