

**FILE NUMBER:** PLN22-234  
**SUBJECT:** Special Permit and Design Review Application for Small Scale Permanent Agricultural Employee Housing  
**SITE LOCATION:** 2425 Old Calaveras Road, Milpitas 95035 (APN: 029-34-004)  
**DATE RECEIVED:** December 27, 2022

**PLANNING OFFICE**

Contact your Project Planner Parya Seif at (408)299-5783 or [parya.seif@pln.sccgov.org](mailto:parya.seif@pln.sccgov.org) regarding the following comments:

*Plan Set*

1. The submitted plan set is incomplete as it does not provide a project description on Sheet C0.1. Please clearly describe all the proposed buildings, structures and improvement in this application.

Response: As per the discussion with Planner Parya on 02/03/23 We have included project description on Sheet C0.1 which clearly describes all the proposed buildings, structures and improvements in this application. This application is meant to get entitlement for a 1199 sqft Small Scale Permanent Agricultural employee housing.

2. The submitted site plan does not provide consistent information on page C0.1, C1.1, SS1, and H1 regarding the proposed/existing improvement. Please remove all the unapproved/future improvements from your plan set to prevent any confusion and clearly label all the existing buildings/improvements with (E) and Proposed Buildings/improvements with (N).

Response: We have called out all the improvements as follows:

- Existing improvements that are under violations and that are going to remain are labelled as Existing.  
Eg: “Existing tool shed to remain”

Existing improvements that are under violations and that are going to remain and will be regularized is called out as ‘5 Existing well shed to be regularized’

- Existing improvements that are under violations and that will be demolished are called out as Existing shelter to be demolished.

Ref: Sheet C0.1 shows the existing building numbers 1,2,3,4,6 & 7 to be demolished (VIOLATION VIO19-00082) & Sheet C1.1

- Proposed improvements under this application is labelled as (N) Small scale permanent ag employee housing (PLN22-234)

- Future improvements that are approved and submitted for building permit application is called out as : (N) Shed 1: Dev22-3196, (N) Shed 2: Dev22-3201, (N) Shed 3: Dev22-3202, (N) Storage 1: Dev22-3206, (N) Storage 2: Dev22-3207 & (N) 202,290 Gallon steel tank for fire flow & irrigation (Dev23-0115)
  - Future improvements that are approved and that will be submitted for building permit in the future are labelled as (Approved under PLN20-125). Eg: “(F) Agriculture shed 100’ x 29’ (Approved PLN20-125)
3. The submitted plan set is not properly scaled. Note that the measurements cannot be done if the scaling is off. As such, please submit properly scaled plan set.

Response: All pages in the plan set have been properly scaled. In particular the architectural plan set has been modified to show the proper scale. Please refer sheets ‘A01, A02, A03, A04, A05 & A06’

4. The submitted site plan does not provide information about the height of fences. Please identify the height of the existing/proposed fences on your site plan.

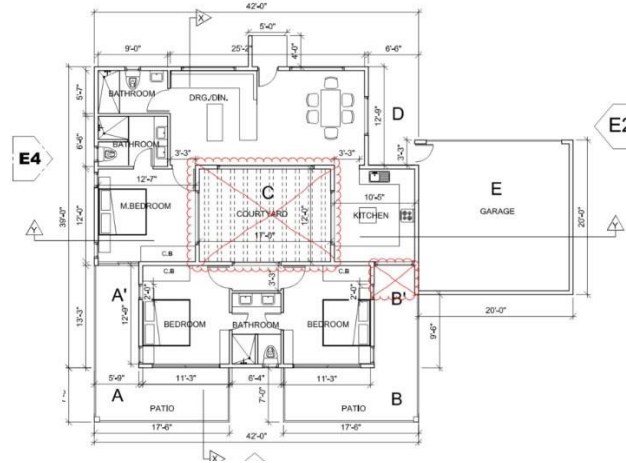
Response: The site plan shows the height of the existing fences that will remain in two areas.

1. The existing fence that will remain at the height of 5’ 2” behind the small scale agricultural permanent employee house is shown in sheet C2.1
2. The existing fence that will remain at the height of 6’ near the property entrance at Old Calaveras Road is shown in sheet C1.1

There are no new fences proposed in this application. This note is added in the sheet C1.1.

5. The floor area of the proposed agricultural housing is not correctly calculated. Please update the floor area calculation on Sheet A01 to include the area of the covered porch (~20 sq.ft.) and Courtyard (204 sq.ft.) [shown in the below picture]. As per the County of Santa Clara Zoning Ordinance section §1.30.030, “floor area” includes “the total area of any attached garage, and any carport, porch or similar attached structure or feature that is both: (a) covered, and (b) greater than 50% enclosed by perimeter walls.”

*Note: Per Section 4.10.040(C), individual units used as small scale permanent agricultural employee housing shall not exceed 1,200 square feet.*



Response:

- a. We have removed the top covering in the courtyard (Ref Sheet A01). As a result of this 204sqft can be excluded from the gross floor area calculation.
- b. As per the discussion with Parya on 05/09 we have moved the garage front and B1 is no longer enclosed on 3 sides. Thus, it cannot be counted in the total square footage.
- c. The gross floor area of proposed dwelling unit is 1199 square feet and it is under the 1,200 square feet limit Per Section 4.10.040(C).1 which says “Individual dwelling units shall not exceed 1,200 square feet”.

#### *Elevation*

6. The submitted colored elevations do not provide enough information for the staff to review the elevations of the project. Please provide uncolored elevation drawings and update your drawings with following information.

Response: As per the discussion with Parya we have provided the uncolored elevation drawings for the staff to review the elevations of the project. Ref Sheets ‘A03, A04 and A05’

7. Revise the elevation drawings of the proposed building on Sheet A03, A04, and A05 to indicate the final grade level and correct where the building height is being measured from. Per Section 1.30 of the Zoning Ordinance, building height is measured as the vertical distance from the final grade to the top of a building or structure. The elevation drawings appear to measure the building height from the finished floor level.

Response: The elevation drawings of the proposed buildings on Sheet A03, A04 and A05 is revised indicating final grade level. The building height is measured as the vertical distance from the final grade to the top of a building and not from the finished floor level.

8. Update the spot point elevation on Sheet A03, A04, and A05 to represent the actual elevation according to the submitted civil plans. Please make sure that the scaling and point of measurements are correctly represented.

Response: The spot elevation on Sheet A03, A04 and A05 has been incorporated in line with the actual elevation according to the civil plans. The scaling and point of measurements are correctly represented.

9. Identify height of ridgeline for all elevation plans. Note that the grade elevations on the architectural sheets shall be consistent with the grade elevations on the civil sheets.

Response: As per the discussion with Parya, the ridgeline cannot be shown on the elevation plans since the ridge line is at 730ft elevation and this building is been proposed at 421.92ft elevation. There is 300ft difference between the two.

The grade elevations on the architectural sheets A03, A04 and A05 are consistent with the grade elevations on the civil sheets C2.1 and C2.2.

#### Tree Removal Information

10. Please provide a tree removal plan to identify the common names, trunk sizes, and canopy profiles of all trees proposed to be removed and a tree removal summary table in the recommended format below on Sheet C1.1 of the proposed plan set or provide a note on the Sheet that no tree removal is proposed. Please note that tree replacement will be required based on the sizes and species of the removed trees (for the replacement ratio, refer to comment #12 in the Policy Issue Letter).

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

Response: No trees will be removed under this application and this has been noted on Sheet C0.1.

11. Please provide the species and trunk sizes of all existing trees in table format if the proposed improvements, including the driveways and accessory structures, extend into the dripline of existing trees. According to *Santa Clara County Guidelines for Tree Protection and Preservation for Land Use Applications* (see enclosed document), a report prepared by an ISA certified arborist is required to provide assessment for all existing trees if the proposed construction is located within the driplines of the trees. The arborist report shall also provide recommendations or mitigation measures for tree protection from pre-construction through post-construction.

Response: As per the discussion with Parya on 05/09 the proposed improvements, including the driveways and accessory structures do not extend into the dripline of existing trees.

Ref 'Googleimage\_trees'

### *Design Review*

12. As part of the requirements for Design Review in the Milpitas Hillside (-d2), submit color samples that show manufacturer specifications to ensure the Light Reflective Value (LRV) on the paint swatches have a value of 45 LRV or less per Section 3.20.050(C). Please note, the zoning administrator may additionally specify subdued chroma (color saturation) for a structure deemed to have high visibility. Color/paint samples are required prior to deeming the Design Review application and project complete. You can find the form at the following weblink: [DR\\_ColorMatBoard.pdf \(windows.net\)](#)

Response: The color samples are added that show manufacturer specifications to ensure the Light Reflective Value (LRV) on the paint swatches having a value of 45 LRV or less as per Section 3.20.050(C). Refer the attachment 'DR\_ColorMatBoard'

13. Please specify if outdoor lighting is proposed. If no outdoor lighting is proposed with this application, please include a note on Sheet C1.1 of the plans stating that no outdoor lighting is proposed.

Response: No outdoor lighting is proposed with this application and this has been noted on Sheet C1.1.

14. Your submitted visual simulation documents proposes planting of 16 trees to mitigate the visibility of the proposed structures from the valley floor. As such, please show the location, type, and size of the proposed trees on the site plan.

Response: The location, type, and size of the proposed fourteen Citrus Sinensis (Navel Orange) trees are shown in the site plan and is consistent with the visual simulation documents submitted. Please refer sheet 'C2.1'.

Please note: The fruit trees that are proposed to mitigate the visibility of the proposed structures from the valley floor falls under commercial Agriculture use and is exempted from Landscape plan submission per Santa Clara Ordinance Section 490.1.(c)(2).

(c) This division shall not apply to

(2) Any commercial or educational cultivation of agricultural products, including but not limited to, products of farms, orchards, production nurseries and forests.

### *Violations or Conflicts of Laws*

15. The subject property has a verified violation (VIO19-00082). County Zoning Ordinance § 5.20.140 states that the decision-making body may deny an application for any permit or approval if there is a recorded notice of violation for any zoning, grading, building code, housing code, or other land use violation on the property. Pursuant to the County Ordinance

Code C1-71, due to the existing violations on the property, the requested Special Permit and Design Review (d2) may not be issued until all violations have been expunged or a compliance agreement covering all violations has been finalized.

Response: We have a compliance agreement with the county. A copy of the signed and recorded agreement is attached for your reference. Ref the attachment 'Gokulam compliance agreement2023'

### **LAND DEVELOPMENT ENGINEERING**

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

16. Apply for a Grading Permit for your development.

Response: We are currently in the process of building infrastructure for commercial agricultural operations on this property. Under PLN20-125, Santa Clara County has sanctioned design review approval and preliminary grading plan approval for these improvements. We have submitted several building permit applications for the proposed buildings as noted on Sheet C0.1. We are in the process of submitting for a holistic Grading Approval which encompasses all the structures that have been approved under PLN20-125. The proposed Small Scale Agricultural Employee Housing under this application PLN22-234 will require an incremental grading approval for 23 cubic yards of cut and 205 cubic yards of fill. This will be included in the overall Grading Plan Approval submission. Hope this approach is acceptable to LDE.

17. Submit a completed San Francisco Bay Watershed Questionnaire. Based on the results of the Questionnaire, incorporate the applicable stormwater treatment measures in the plans. This project is a part of a larger common plan of development and its impervious area (not single family residential) shall be combined with the impervious areas of the other portions of the project when calculating stormwater treatment requirements. The stormwater treatment measures shall be clearly shown on the plans with all necessary grading reflected. 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.

Response: Completed San Francisco Bay Watershed Questionnaire incorporating the applicable stormwater treatment measures in the plans is provided. Please refer the attachment 'Stormwater\_CWP\_Questionnaire\_SC'

18. Show the location of the future subdivided lots with all future easements required to support the proposed development. If the subdivision is no longer proposed, it doesn't need to be shown on the plans.

Response: The location of the subdivision with all the future easements required to support the future development is shown. Please refer sheet no. 'C1.1'

19. Clearly identify what improvements are a part of this development proposal and distinguish them from those proposed as a part of a separate development proposal. The utilities, specifically water service, shall be specified what improvements are associated with what development proposal.

Response: As specified under the comment number 2. We have called out all the improvements as follows:

- Existing improvements that are under violations and that are going to remain are labelled as Existing.  
Eg: “Existing tool shed to remain”

Existing improvements that are under violations and that are going to remain and will be regularized is called out as ‘5 Existing well shed to be regularized’

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- Future improvements that are approved and that will be submitted for building permit in the future are labelled as (Approved under PLN20-125). Eg: “(F) Agriculture shed 100’ x 29’ (Approved PLN20-125)

## **ROADS AND AIRPORTS**

Contact Leo Camacho at (408)-299-5780, [leo.camacho@rda.sccgov.org](mailto:leo.camacho@rda.sccgov.org) regarding the following:

20. Old Calaveras Road has a Future Width Line (FWL) for a 30-foot half street width (60-foot full street). A curvilinear dedication to public right-of-way will be required.

Response: The FWL of 30-foot half street on the old calaveras road has been marked in the plan. Please refer sheet ‘C1.1’. We acknowledge that a curvilinear dedication to public right-of-way will be required.

21. Provide a Sight Distance Analysis (SDA) for both driveway approaches. The SDA shall be based on County Standard driveway approach layouts consistent with Caltrans Highway Design Manual Section 200 and prepared by a licensed civil engineer demonstrating adequate stopping sight distance in both directions is available. The SDA is to include the following: (a) The design speed used to determine the stopping sight distance; (b) The basis of the design speed, i.e., the engineer's statement that he/she has determined the speed by driving the section of roadway or the engineer's calculation of the speed based upon the existing measured roadway geometry; (c) The limits of any obstruction(s) to be removed between the edge of pavement and the sight line.

Response: Sight Distance Analysis is prepared by a licensed civil engineer based on county standard driveway approach layouts consistent with Caltrans Highway Design Manual Section 200. Only the southerly entrance is to be used as the project entrance both for EVA and standard vehicular access to the project site and SDA has been added for this entrance of the project site. Refer to sheet C1.2

22. As a result of the SDA, indicate on plans if any conflicts will require mitigation, such as tree or shrub removal, fence removal, or additional grading.

Response: As a result of the SDA there are no conflicts identified. Therefore, the plans do not show any mitigation like tree or shrub removal, fence removal or additional grading.

23. Indicate on plans the existing barbwire fencing at the east driveway (as shown on plan sheet C2). This fencing in the travel way of the ROW is considered a hazard and will be required to be removed to outside of the ROW.

Response: The existing barbwire fencing at the driveway entrance has been marked on the plan and is outside the ROW. Please refer to sheet C1.2 for additional information. We have also attached document "ROW Images" which includes the pictures demonstrating that the existing barbwire fence is outside the ROW.

24. Gates, fences, retaining walls, fixed appurtenances, etc. shall be located outside the limits of the County maintained road right-of-way (ROW). If any items must remain in the ROW a Maintenance and Indemnification Agreement (MIA) recorded against the property will be required. Non-breakaway fixed appurtenances must be located outside the ROW (will not be permitted to be retained under an MIA). Indicate on plans the intent of any existing or future items in the ROW.

Response: There are no gates, fences, retaining walls, fixed appurtenances, etc. within the limits of the County maintained road right-of-way (ROW). The existing barbwire fencing at the driveway entrance has been marked on the plan and is outside the ROW. We have also attached document "ROW images" which includes the pictures demonstrating that the existing barbwire fence is outside the ROW.



**FIRE MARSHAL OFFICE**

Contact Alex Goff at (408) 299-5763 or [alex.goff@sccfd.org](mailto:alex.goff@sccfd.org) regarding the following:

25. Plans are to clarify fire hydrant location as plans appear to show 2 different locations (sheet 7 of 20 differs from sheet 20 of 20). Ensure that the hydrant is located in the path of travel to the structures, is at a 20 ft. drivable width and will be kept clear and accessible at all times.
- a) Sheet 7 appears to show a hydrant behind parking spaces, this wouldn't be accessible at all times.
  - b) Sheet 20 doesn't appear to show a hydrant in the path of travel to the house.

Response: Proposed Hydrant is correctly identified adjacent to the fire truck turnaround and it is located in the path of travel to the structures, is at a 20 ft. drivable width and will be kept clear and accessible at all times. All sheets have been updated to consistently show this correct location.

26. The proposed water tank shows different sizes on different sheets, all sheets are to match. An example is sheet 2 of 20 shows a 209,292 gallon tank for Fire and a 10,000 gallon Domestic tank, sheet 17 of 20 shows a 158,368 gallon Fire tank and a 10,000 gallon Domestic tank and sheet 20 of 20 shows a 128,427 gallon Fire tank (no 10,000 gallon Domestic tank).

Response: We have made the changes in all plan sheets to maintain consistency in the information to show a 209,292 gallon tank for fireflow and irrigation and 2nos of 10,000 gallon tanks for domestic use. Please refer sheets 'C1.1', 'SS1' & 'H1'

27. Clarify how the tank was sized as the Fire Tank Calculation Report shows 89,654 gallons is required for Fire. However, it appears that some information including the Occupancy Hazard Classification Number may be incorrect (a 6 was used, but a Commercial Barn is listed as a 4).

Response: We have attached an updated Fire Tank Calculation Report "20230504 IHF Tank Analysis & Report". This document shows that the capacity of fire tank required for the Small Scale Permanent Agricultural Employee Housing is 12,046 gallons. The proposed Fireflow and Irrigation tank of 209,292 gallons will have a dedicated FireFlow capacity of 54,500 gallons which is significantly higher than the required capacity for this building.

In the report, the occupancy hazard classification for Small Scale Permanent Agricultural Employee Housing is shown as 7 as per NFPA 1142 Section 5.2.

**CALFIRE**

Contact Carlos Alcantar at [carlos.alcantar@fire.ca.gov](mailto:carlos.alcantar@fire.ca.gov) for information regarding the following items.

This project is located within the State Responsibility Area (SRA) and is recommended to follow all minimum wildfire protection standards of **California Code of Regulations Title 14 Natural**

**Resources Division 1.5 Department of Forestry Chapter 7 - Fire Protection Subchapter 2  
SRA Fire Safe Regulations Articles 1-5.**

**Response:** The Fire protection notes on Sheet C1.1 clarify that this project is located within the State Responsibility Area (SRA). In addition, there is a notation that all structures shall meet Wildland Urban Interface (WUI) requirements.

28. **Access:** Ensure existing road that leads to the new fire access road is to be designed and constructed to provide a minimum of two ten (10) foot traffic lanes, not including shoulder and striping to the new fire access road per § 1273.01.

**Article 2 Emergency Access and Egress**

**§ 1273.00. Intent**

Roads and driveways, whether public or private, unless exempted under 14 CCR § 1270.02(d), shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent with 14 CCR §§ 1273.00 through 1273.09.

**§ 1273.01. Width.**

- a) All roads shall be constructed to provide a minimum of two ten (10) foot traffic lanes, not including shoulder and striping. These traffic lanes shall provide for two-way traffic flow to support emergency vehicle and civilian egress, unless other standards are provided in this article or additional requirements are mandated by local jurisdictions or local subdivision requirements. Vertical clearances shall conform to the requirements in California Vehicle Code section 35250.
- b) All one-way roads shall be constructed to provide a minimum of one twelve (12) foot traffic lane, not including shoulders. The local jurisdiction may approve one-way roads.
  - 1) All one-way roads shall, at both ends, connect to a road with two traffic lanes providing for travel in different directions, and shall provide access to an area currently zoned for no more than ten (10) residential units.
  - 2) In no case shall a one-way road exceed 2,640 feet in length. A turnout shall be placed and constructed at approximately the midpoint of each one-way road.
- c) All driveways shall be constructed to provide a minimum of one (1) ten (10) foot traffic lane, fourteen (14) feet unobstructed horizontal clearance, and unobstructed vertical clearance of thirteen feet, six inches (13' 6").

**Response:** The Fire access road for this project has been designed to be 24 feet wide in initial portions and 22 feet wide in the remaining portions. Please refer sheets C5.1 and C6.1. It is thus consistent with all Calfire requirements highlighted above.

29. **Defensible Space:** Maintain defensible space specifications described in Public Resource Code 4291

January 26, 2023

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**§ 1276.01. Setback for Structure Defensible Space.**

(c) Structures constructed in the SRA are required to comply with the defensible space regulations in Title 14. Natural Resources Division 1.5. Department of Forestry and Fire Protection Chapter 7. Fire Protection Subchapter 3. Fire Hazard.

**Response:** The Fire protection notes on Sheet C1.1 clarify identifies “Property to maintain 100 feet defensible space at all times”.