

# County of Santa Clara

## Department of Planning and Development

County Government Center, East Wing, 7th Floor

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San Jose, CA 95110

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April 28, 2023

Gurdeep and Rajwant Dhadwal  
2669 Westberry Drive  
San José, CA 95037

\*\*\*via email\*\*\*

**FILE NUMBER:** PLN23-053  
**SUBJECT:** Building Site Approval and Grading Approval  
**SITE LOCATION:** 0 Palm Avenue (APN: 712-27-043)  
**DATE RECEIVED:** March 29, 2023

Dear Gurdeep and Rajwant Dhadwal:

Staff has reviewed the application, submitted on March 29, 2023, and would like to provide staff's assessment of the proposed project design with respect to County's Zoning Ordinance and California Environmental Quality Act (CEQA) requirements.

The concerns provided below are not incomplete items and are not required to deem the application complete for processing. The items below are for the Applicant's information only and can be discussed further with County Staff if desired.

This property is located within the -cv Coyote Valley Climate Resilience Combining District, as described in Chapter 3.95 of the County Zoning Ordinance. The project must conform to all applicable provisions of that chapter. Coyote Valley is designated as an "area of statewide significance" in the Public Resources Code section 35186 (aka AB 948), and as such is not eligible for an exemption from CEQA.

As currently designed, Staff has the following concerns regarding the requirements in the Zoning Ordinance:

1. Pursuant to § 3.95.050, "On parcels over five acres, development of a new single-family residence shall be permitted only as ancillary to onsite agriculture..." This property is approximately 9 acres in size, so this provision applies. Per § 3.95.040, onsite agriculture means that at least 60% of this property must be actively used for agriculture (as defined in § 2.10.040) in at least three years out of every five-year period. This is not required to

be commercial in nature. Please include in your submission a delineated area on your site plan that will be dedicated to ongoing onsite agriculture.

2. Pursuant to § 3.95.030, the maximum development area for parcels with onsite agriculture is two acres (excluding ADUs). Please notate on the site plan the extent of the development area and include calculations of the size of that area. Development area is defined in § 1.30.030 as: “That portion of a property within which buildings, accessory structures, and associated improvements are proposed and delineated on site plans or subdivision maps in accordance with applicable policies of the general plan or the zoning ordinance. Associated improvements include, but not are not limited to driveways, parking areas, turnarounds, septic systems, patios, pools and recreational facilities.”
3. Pursuant to § 3.95.030, the maximum lot coverage for structures (excluding ADUs and structures that are part of the agricultural use) is 7,500 square feet. The current proposal appears to have a lot coverage over 8,500 square feet. Lot coverage is defined in § 1.30.030 as: “The footprint of all buildings and structures over 30 inches in height. Covered patios, carports, arbors, and similar structures are counted in lot coverage. Eaves are excluded provided they do not project more than two and one-half feet.”
4. Pursuant to § 4.10.015(D)(4), the ADU garage cannot exceed 400 square feet in area.
5. Please also note that the grading quantities include grading for a pool, but there is no pool designated on the plans. Either remove the grading amounts or show the pool on plans.
6. Because Coyote Valley is an “area of statewide significance,” this project cannot be exempted from CEQA. In order to complete the County’s CEQA review, please provide renderings or elevations of structures (Aesthetic).

Below are excerpts from County policies, regulations, findings and guidelines whereby Staff is having difficulty supporting the project as currently designed.

**Coyote Valley Climate Resilience Combining District:**

***Chapter 3.95***

***Sections***

***§ 3.95.010 Purpose***

***§ 3.95.020 Applicability***

***§ 3.95.030 Development Standards***

***§ 3.95.040 Onsite Agriculture***

***§ 3.95.050 New Residences Ancillary to Onsite Agriculture***

***§ 3.95.010 Purpose***

*In accordance with California Public Resources Code section 35186(b), Coyote Valley, the area between the cities of San Jose and Morgan Hill, is an area of statewide significance. As acknowledged by the State Legislature, Coyote Valley is a unique landscape providing*

*agricultural, wildlife, recreational, climate, and other natural infrastructure benefits. The purpose of the "-cv" Coyote Valley Climate Resilience combining district is to protect this agricultural greenbelt area as a means of increasing regional climate resilience. The predominantly agricultural lands of Coyote Valley are unique in their combination of natural characteristics, which are well-suited to providing ecological and public benefits, including flood attenuation as a result of sustaining wetland health, maintaining water supply as a result of protecting groundwater recharge potential, and carbon sequestration made available from natural and working lands.*

*The "-cv" combining district is intended to minimize the impacts of new development through supplemental development standards and use requirements, in order to preserve Coyote Valley as a greenbelt area intended for long-term agricultural uses and climate resilience.*

**§ 3.95.020 Applicability**

*The area-specific provisions established in this chapter shall apply to the properties depicted on Figure 3.95-1, which shall have the designator "-cv" added to the base zoning designation and shall supersede any conflicting use regulations of the applicable base zoning district.*

**§ 3.95.030 Development Standards**

*Table 3.95-1 establishes property development standards for all new development within the Coyote Valley combining district. These standards are applied as maximums per legal lot.*

<i>Table 3.95-1</i>	
<b>PROPERTY DEVELOPMENT STANDARDS</b>	
<i>Lot Coverage (max)</i>	<i>7,500 sq. ft.</i>
<i>Development Area (max)</i>	<i>acre</i>
<i>Development Area with Onsite Agriculture (max)</i>	<i>acres</i>

*The development of agricultural uses are exempt from the above lot coverage standard, meaning they do not count toward the lot coverage maximum per parcel provided that such development is ancillary to onsite agriculture, as specified in § 3.95.040. Agricultural uses mean agricultural employee housing or any non-residential use defined in § 2.10.040 having the parenthetical classification of "agricultural" following the title of each primary use type. Uses classified as Agriculturally Related Entertainment & Commercial Uses are not exempt from the lot coverage standard. Parcels with onsite agriculture have a maximum development area of two acres instead of one acre.*

*Accessory dwelling units, as defined in § 2.10.030 and pursuant to § 4.10.015, are exempt from both lot coverage and development area standards.*

**§ 3.95.040 Onsite Agriculture**

*For the purposes of this chapter, onsite agriculture means that the property shall be actively used for agriculture, as defined in § 2.10.040, in at least three years out of every five-year period and consist of either: (a) no less than six acres under cultivation, (b) no less than sixty percent of the*

*parcel under cultivation, or (c) no less than twenty-four acres dedicated to raising livestock. Onsite agriculture is not required to be commercial in nature.*

**§ 3.95.050 New Residences Ancillary to Onsite Agriculture**

*On parcels over five acres, development of a new single-family residence shall be permitted only as ancillary to onsite agriculture, as defined in § 3.95.040. An alteration to an existing legally established single-family residence requires onsite agriculture only if the alteration is classified as a rebuild, pursuant to Section C1-22 of the Ordinance Code. Development of a new accessory dwelling unit, as defined in § 2.10.030 and pursuant to § 4.10.015, does not require onsite agriculture.*

*A notice shall be recorded pursuant to § 5.20.125 stating that such residence shall be used only ancillary to onsite agriculture as defined in this section. A property owner shall also provide written disclosure of all such conditions and requirements before any sale, lease, or financing of the property.*

**§ 4.10.015 Accessory Dwelling Units**

*This section refers to uses classified as Accessory Dwelling Units, which includes Standard ADUs, Movable Tiny Homes, and Junior ADUs, as set forth in § 2.10.030. Such uses are subject to all of the following provisions:*

*D. Detached Accessory Dwelling Units. A detached accessory dwelling unit is a structure that is separated from the primary residence by no less than six (6) horizontal feet. Detached accessory dwelling units are subject to all the following provisions:*

- 1. Shall have a maximum floor area not exceeding 1,200 square feet.*
- 2. Shall be setback at least four (4) feet from side and rear lot lines, and shall be subject to the same front yard setback as the primary residence, with the exception of conversions as stated in Section 4.10.015(H).*
- 3. Shall not exceed sixteen (16) feet in height if the dwelling unit does not comply with the setback limitations for a single-family residence, as prescribed by the applicable zoning district. If the accessory dwelling unit complies with the setback limitations for a single-family residence, the accessory dwelling unit shall be subject to the same height limitations as the single-family residence in the applicable zoning district, as measured from the lowest finished grade to the highest point of the structure.*

*Detached accessory dwelling units exceeding sixteen (16) feet in height shall incorporate a hip, gable, or other similar styled roof design.*

*4. An attached garage or carport of up to 400 square feet in floor area may be incorporated in the design of a detached accessory dwelling unit, provided the dwelling portion of the building does not exceed the applicable maximum floor area for the detached accessory dwelling unit (1,200 square feet).*

*5. Decks and porches, covered or uncovered, that are attached to a detached accessory dwelling unit are limited to a cumulative 400 square feet beyond the applicable maximum dwelling size (1,200 square feet). This limitation does not apply to any portion of an uncovered deck that is less than 30 inches above finished grade.*

*6. An attached junior accessory dwelling unit of up to an additional 500 square feet in floor area may be incorporated into a detached accessory dwelling unit. The cumulative square footage of both accessory dwelling units shall not exceed 1,700 square feet.*

*7. For properties with a multifamily dwelling, no more than two detached accessory dwelling units may be located on the same property.*

Building Site and Grading Approval involve a staff level review and requires an action to either grant, deny, or continue the project. The decision may be appealed to the Planning Commission. Decisions of the Planning Commission may be appealed to the Board of Supervisors. A CEQA Initial Study will be conducted once the application is deemed complete.

Should the applicant voluntarily choose to modify the project design based on the information provided above, to better meet the County's Findings, Guidelines and Policies, please include with the resubmittal to address the items listed in the Incomplete Letter dated April 28, 2023. For questions regarding this letter, please call me at (408) 299-5706 or [robert.cain@pln.sccgov.org](mailto:robert.cain@pln.sccgov.org) to discuss by telephone or to schedule an appointment to do so.

Sincerely,



Robert Cain  
Associate Planner

Cc: Samuel Gutierrez, Principal Planner