

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



August 23, 2023

Dang Nguyen
Vandayshia Real Est Inv LP
PO Box 32568
San Jose, CA 95152

Dang@re-bi.com

BY EMAIL ONLY

FILE NUMBER: PLN23-132
SUBJECT: Grading Approval to abate VIO21-0128 by legalizing existing grading with 3,656 CY of cut and 139 CY of fill.
SITE LOCATION: 15900 Simoni Drive, San Jose (APN 612-10-004)

Dear Mr. Nguyen:

The application for Grading Abatement Approval to abate VIO21-0128 at 15900 Simoni Drive, San Jose (APN 612-10-004) is **incomplete**. For the application processing to resume, please resolve the following issues and submit the information listed below.

Resubmittals are to be made electronically with Rebecca Rockom, the assigned project manager/planner, and must include all requested information along with a completed application form (which is used to track the resubmittal). Once the information is resubmitted, the Planning Office will distribute the plans, reports and/or information to the appropriate staff or agency for review.

If there are any questions about the information requested, please contact the specific staff for that item.

A VIRTUAL APPOINTMENT IS REQUIRED FOR A RESUBMITTAL. PLEASE EMAIL ME TO SCHEDULE AN APPOINTMENT.

Please submit electronic copies of the revised plans /resubmittal documents (PDF) with a *written response* addressing the following items.

PLANNING OFFICE

Contact (408) 299-5707 or rebecca.rockom@pln.sccgov.org regarding the following comments:

1. The submitted materials for this project did not include the 15900 Simoni As Built Plan file signed and dated March 3, 2023, previously submitted for PLN23-078-PRE. These plans provided the most accurate extent of the grading done to date. Aerial views of the parcel from

the last ten years indicate grading for roads/vehicular access on mid and upper areas of the parcel, as well as considerable area of cut/fill to the east, well beyond the footprint of the home. Original plans approved for 6912-98B-98G-04B did not include any grading on mid or upper portion of parcel (only a small pad for a single water tank), nor did it include any grading for the southeastern side of parcel. The review of this grading abatement cannot be based on previously submitted/approved plans. Submitted plans must portray current site conditions and specify the previously unpermitted grading that is proposed to be legalized.

2. The Grading Justification letter submitted does not address the grading findings as listed below. Any existing or proposed grading cannot be approved without a letter of justification which outlines why this illegal grading should be approved. Please revise the Grading Justification letter and explain how the grading is consistent with the findings detailed in the [Section C12-433](#) of the County Grading Ordinance. This ordinance requires ALL Grading Findings to be met. If the Grading Findings (listed below) are not met, the project will not be approved.
 - a. 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.
 - b. 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.
 - c. Grading will minimize impacts to the natural landscape, scenic, biological and aquatic resources, and minimize erosion impacts.
 - d. 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.
 - e. 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.
 - f. Grading conforms with any applicable general plan or specific plan policies; and
 - g. Grading substantially conforms with the adopted "Guidelines for Grading and Hillside Development" and other applicable guidelines adopted by the County.

Habitat Conservation Plan

This parcel is located within the Habitat Conservation Plan: Area 2: Rural Development greater or equal to 2 acres. Land cover on the 16.32 acre parcel is primarily California Annual Grassland (12 acres) and Coast Live Oak Forest and Woodland (4 acres), with a small portion of the southwestern edge of the parcel listed as Urban Suburban land cover (.4 acres).

3. To determine coverage of the Habitat Conservation Plan, please show on the site plans the limits of the permanently disturbed areas, and include the square footage of the total land area that is permanently affected by the project (i.e. all new impervious surfaces, landscaping, retaining walls, and structures).

LAND DEVELOPMENT ENGINEERING

Contact Darrell Wong at (408) 299-5735 or darrell.wong@pln.sccgov.org regarding the following comments:

4. Provide updated earthwork calculations of the earthwork quantities shown on the plans. There is a clear difference in the field conditions between the original permitted plans and the “As-Built Grading” plans/field conditions. Provide sections and calculations reflecting the current field grading and calculations to justify the revised grading.
5. Please provide an updated table of the estimated earthwork quantities per County Ordinance [C12-424\(g\)](#). Quantities should be separated into the different bodies of work for the project. You may separate the quantities for the unpermitted scope of work from the originally permitted work, but those quantities are clearly not the same and must be reflected on the earthwork quantity table.
6. Please provide a table of the estimated impervious areas that are created as a part of the development. The net change in impervious areas shall be clearly stated on the plans. (These are required to determine whether a drainage permit or whether Clean Water requirements are triggered creating further grading requirements.)
7. Clearly show all of the unpermitted work on the plan set, documenting all of the additional grading, drainage, and ground disturbance with spot grades and contours. The plans shall include, but are not limited to:
 - a. The cut and fill of the elongated pad located to the south of the residential development;
 - b. The widened pad and development to the north-northwest of the cul-de-sac;
 - c. The grading to create and widen access to the unpermitted water tank area;
 - d. The grading to create the water tank pad area;
 - e. The flattened grading between and behind the retaining walls;
 - f. The grading to expand the paved area at the front of the house along the western property line;
 - g. The grading required for the shoulder supporting the driveway and the wood header.
8. Please show the limits of the disturbed area as a result of the proposed development. Include the disturbed areas of the septic field and any stockpile areas as well.
9. Show the correct location of the installed water lines and tanks and associated tank pad on the plans.
10. Please provide a justification for the placement of CB#6. Is this installed to drain the area of unpermitted grading not shown on the plans?
11. The proposed legalization of unpermitted work increases the impervious surfaces of the property Section C12-407 of the County Grading & Drainage Ordinance. Please provide a revised Drainage Plan that demonstrates the following items:
 1. the site can be adequately drained,
 2. the proposed development will not cause problems to the nearby properties,
 3. 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.

12. Please clearly identify all retaining walls necessary to establish the grading shown with appropriate top and bottom of wall elevations. 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.
13. Correct the plans to properly identify the retaining walls constructed without a permit. One of the retaining walls is currently called out as the limit of the building foundation on sheet C3 which is not correct.
14. Provide the rear and side elevations for the structure. The grading elevations have significantly changed around the rear and the sides of the structure and must be reflected in the proposal for modification and grading abatement.
15. The retaining wall extending toward the northerly property line suggests that the access to the upper part of the property may be on the neighboring property on the Northwest side of the property line. Please verify the topographic survey documenting the improvements constructed on the property.
16. Provide a typical section cut through the retaining wall and grading extending toward the northerly property line depicting the maximum area of cut slope retention.
17. Provide the surveyor's information for the documentation of the property lines and the improvements documented on the plans. Provide the Land Surveyor's information for the underlying topographic survey. The topography shown doesn't appear to match that which exists in the field
18. Document all of the improvements that have been made outside of the dedicated right of way at the cul-de-sac bulb. There appears to be improvements behind the curb on the photos for the site, but nothing is currently shown on the permitted plans.
19. All areas of rock surfacing shall be documented around the pad area created adjacent to the cul-de-sac and the access along the northern end of the property. The quantity of the import of rock must be documented on the grading quantities of the plans.
20. Provide an accounting of the impervious area compared to the originally approved plans. There have been impervious areas added to the project after the initial permit, especially that in the flatter area near the cul-de-sac and the gazebo. That addition must be accounted for and shown on the plans in the form of a table.

GEOLOGY

Contact David Seymour at (408) 299-6711 or david.seymour@pln.sccgov.org regarding the following comments:

21. The property is located within a State Seismic Hazard Zone for Earthquake-Induced Landslides, which is also a County Landslide Hazard Zone. The as-built plans provided with the submittal do not include the as-built topographic conditions. The as-built topography is required in order to assess any potential impacts that the grading had on the stability of the slopes.

ROADS AND AIRPORTS

Contact Tom Esch at (408) 573-2450 or tom.esch@rda.sccgov.org regarding the following comments:

22. Improvement plans must clearly indicate existing and proposed site conditions within the right-of way (ROW), including but not limited to, fences, gates, poles and structures.
23. Construction fence, and possibly the chain-link gate and pole, are within the ROW and not approved for placement within the ROW and shall be located outside the limits of the County maintained road ROW. Identify intent to relocate.

FIRE MARSHAL'S OFFICE

Contact Alex Goff at (408) 299-6757 or alex.goff@sccfd.org regarding the following comments:

Land Use

24. Plans are to clearly show what the scope of work is. It's not clear what the intent of the review was supposed to be. Fire's review will include ensuring that fire department access and fire protection haven't been affected.
25. Plans to show any gates crossing fire department access. Gates to be labeled as (N)new or (E)existing and manual or mechanical. All mechanical gates to have a Knox Key Switch shown as (N) or (E). [CFMO-A3 and CFC Section 503.5 and Section 506]
 - a. A topic of a recent meeting with the applicants was regarding fencing crossing the access to the site. The plans would need to show any gates or fencing crossing fire access to a structure.

NORTHWEST INFORMATION CENTER / CALIFORNIA HISTORICAL RESOURCES INFORMATION SYSTEM, SONOMA STATE UNIVERSITY

Contact Bryan Much at (707) 588.8455 or nwic@sonoma.edu regarding the following comments:

This office has no record of any previous cultural resource field survey for the proposed project area conducted by a professional archaeologist or architectural historian (*see recommendation below*).

26. Archaeological and Native American Resources Recommendations:

- a. The proposed project area had the possibility of containing unrecorded archaeological site(s). A study by a qualified professional archaeologist is recommended.
- b. We recommend that the lead agency contact the local Native American tribe(s) regarding traditional, cultural, and religious heritage values. For a complete listing of tribes in the vicinity of the project, please contact the Native American Heritage Commission at (916) 373-3710.

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 manager.** If the requested information is not submitted within **180 days**, you are 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 the incomplete letter. **PARTIAL RESUBMITTALS WILL NOT BE PROCESSED.** Fees required at the time of resubmittal will be those in effect at that time.

PLN23-132
August 23, 2023

Note the Grading Abatement Approval application has been charged a minimum fee and will be charged additional fees to continue processing when the initial payment is exhausted.

In submitting the land use application, the owner/applicant included an initial application fee. Application fees are categorized as "fixed fees" and "billable fees", based on the specific 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.

If you have questions regarding the application, please contact (408) 299-5707 or rebecca.rockom@pln.sccgov.org.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Rockom".

Rebecca Rockom
Assistant Planner