

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
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December 8, 2023

****Sent via email****

Chen Yang
1638 Corte Via
Los Altos, CA 94024
bobacortevia@gmail.com

FILE NUMBER: PLN23-202
SUBJECT: Building Site Approval for new single-family residence with attached accessory dwelling unit
SITE LOCATION: 1638 Corte Via, Los Altos (APN: 331-11-052)
DATE RECEIVED: November 8, 2023

Dear Chen Yang:

The comments below are not incomplete items and are not required to deem the application complete for processing. However, the information highlights concerns Planning Staff have regarding the project meeting the required findings of the [Santa Clara County Zoning Ordinance](#), [Floor Area Ratio Regulations and Procedures](#), and procedures for establishing [lot legality](#). The information in this section is informational only and can be discussed further if desired with County Staff.

ZONING

Setbacks

1. The subject property is zoned One-Family Residence – Estate with a 20,000 square feet minimum lot area combining district within the Los Altos neighborhood preservation combining district (R1E-20-n1). The proposed single-family dwelling is setback five (5) feet from the side property line and does not conform to the required side-yard setback per Section [§4.20.110](#) (C) (1) of the County Zoning Ordinance:

§4.20.110 (C) (1): *Side setback reduction based on area*

Substandard Lot Area (net square feet)	Minimum Side Yard (feet)
6,001 – 8,000	8

Staff recommend revising the proposed side setback of the single-family residence to comply with the minimum required side-yard setback per the County Zoning Ordinance.

Floor Area

2. The property is subject to -n1 District (Los Altos) zoning requirements pursuant to Section [§3.40.030](#) of the County Zoning Ordinance: The proposed floor area ratio of 0.39 as listed on the site plan does not conform to the floor-area ratio as required by the County Zoning Ordinance:

§3.40.030 (A) (1) (a): Lots of 10,000 square feet (net) or less: a floor area ratio not to exceed 0.35.

To comply with the 0.35 floor area ratio, staff recommend reducing the floor area of the single-family residence.

3. The site plan shows the proposed floor area as 2,560 square feet, while the Area Diagram / Material Board shows various iterations of the proposed floor area that do not coincide with the figure listed on site plan. Pursuant to the Section [§1.30.030](#) of the County Zoning Ordinance:

§1.30.030: Floor are ratio (FAR) is determined by dividing the gross floor area of a specified building(s) on a lot by the net lot area.

Staff recommend reviewing the enclosed *Floor Area Ratio Regulations and Procedures* document for further details on calculating the floor area ratio and required detailing on site plan, and confirming that the floor area ratio is consistent across all applicable application materials.

4. The Area Diagram / Material Board does not meet the floor area requirements as stated within the County Zoning Ordinance:

§3.40.030 (A) (3): Floor area calculations shall be noted on building permit site plans. These computations must be calculated, verified, signed, and stamped by a registered civil engineer, a licensed land surveyor, or a licensed architect.

To satisfy the floor area ratio requirements outlined by the County Zoning Ordinance, staff recommend providing floor area calculations completed by one of the above parties in a manner consistent with the Regulations and Procedures document.

Building Height

5. The subject property is located within the -n1 District (Los Altos) and must abide to neighborhood-specific development standards. The proposed project does not include building elevations or other materials indicating if proposed height of the structure complies with the -n1 District development standards. The height measurements are to correlate to the topographic elevations on the civil survey. Pursuant to §3.40.030 (B) of the County Zoning Ordinance:

§3.40.030 (B): The maximum height of dwellings shall be 27 feet.

Furthermore, the proposed project does not include proposed building elevations for the attached accessory dwelling unit (ADU). Pursuant to Section [§4.10.015](#) (C) (3) of the County Zoning Ordinance:

§4.10.015 (C) (3): An attached accessory dwelling unit shall not exceed sixteen (16) feet in height if the dwelling unit does not comply with the setback limitations for a single-family residence, prescribed by the applicable zoning district.

To verify that the project will comply with the height requirements of the -n1 District and ADU development standards, staff recommend providing building elevations that measure the maximum height of the proposed single-family residence and attached ADU. The building elevations should directly correlate to the elevation figures provided on the civil survey.

LOT LEGALITY

6. Proof of legal lot creation is required at the time an applicant submits an application for land development approval. The submitted Assessor's Parcel Map does not confirm legal lot creation of the subject property.

Consistent with lots created prior to June 25, 1969, staff recommend providing the deed that was in effect on June 25, 1969; the deed showing first transfer of title after June 25, 1969; and the current deed to determine if the subject lot was created legally. Please ensure the documents are complete with no missing pages, and the deeds must be clearly readable. Please also provide the book and page number of the document if that information was not shown on the document itself. Please mark / note on the deed if it involved more than one parcel.

OTHER POLICY ISSUES

California Environmental Quality Act (CEQA)

7. A Petition for Exemption from an Environmental Assessment form was submitted with application for Building Site Approval. The Form states that the project does not include demolition or alteration of a historic structure more than 50 years old. The scope of work of the application includes demolition of an existing single-family residence. County records show that the existing single-family residence was constructed in 1952. Staff recommend revising the Form to accurately describe the proposed scope of work.

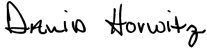
Formatting

8. Upon resubmittal, Staff recommend compiling the site plan with floor area, topographic survey, elevations, and any other plan sheets into one plan set to streamline the routing and review process.

To reiterate, while the above comments are not incomplete items, Staff may not be able to support the project due to inconsistencies with the Santa Clara County Zoning Ordinance, Floor Area Ratio Regulations and Procedures, and procedures for establishing lot legality.

If there are questions regarding the applications, please contact David Horwitz at (408) 299-5795 or david.horwitz@pln.sccgov.org to schedule a meeting to discuss the comments regarding this project.

Sincerely,

DocuSigned by:

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David Horwitz
Assistant Planner

cc:
Samuel Gutierrez, Principal Planner

enclosed:
Floor Area Ratio Procedures and Regulations
Deeds & Lot Legality

COUNTY OF SANTA CLARA
DEPARTMENT OF PLANNING AND DEVELOPMENT
PLANNING OFFICE
(408) 299-5770 www.sccplanning.org

Floor Area Ratio Regulations and Procedures

Floor Area regulations controlling the maximum size of dwellings and certain accessory buildings (cumulative) pertain in –n Neighborhood Preservation Combining Zoning Districts. They also pertain in –d1 Design Review Zoning Districts, defining the permitting and review requirements for new buildings based on size categories (Tier 1, 2, or 3). This handout provides instructions for complying with the substantive and procedural requirements of the Zoning Ordinance’s Floor Area Ratio (FAR) regulations for –n zones and provides general guidance for use in complying with –d1 regulations. For definitions and terms see the glossary items and explanations in the attached handout.

Step 1: Determine precise net lot area and clearly delineate the property lines, ROWs, ingress/egress easements on the site plan. Use an engineering scale.

Net lot area is derived from the gross area of the lot in square feet by excluding rights-of-way (ROW) and any ingress-egress easements. Other types of easements (storm drainage, slope, etc.) do not affect net lot area. To determine net lot area, consult and utilize any recorded Parcel Map, Tract Map, Record of Survey, or Certificate of Compliance that reliably furnishes that information. Alternatively, consult the grant deed or other recorded documents for property boundaries, dimensions, and easement or ROW information. Assessor’s Office information is not a reliable source of this information.

Step 2: Determine maximum allowable FAR.

Using the regulations of the appropriate –n1 (Los Altos) or –n2 (Burbank, San Jose) zoning district, determine the maximum allowed gross Floor Area.

- 2a. –n1 Zoning District: FAR = 0.35 multiplied by net lot area for lots of 10,000 sq. ft. net or less. For lots greater than 10,000 sq. ft. net, FAR = 3,500 sq. ft. of floor area plus one additional square foot of floor area per 10 square feet of net lot area over 10,000 sq. ft., to an absolute maximum of 5,700 sq. ft.
- 2b. –n1 Zoning District, Underlying Lots: FAR = 0.25 multiplied by net lot area. Lots of 16,660 sq. ft. or more, apply the standard FAR (2a above).
- 2c. –n2 Zoning District, FAR = 0.5 multiplied by net lot area.

Step 3: Determine Proposed Floor Area.

Using the following methodology, calculate and summarize the proposed gross floor area of all buildings and structures to which FAR regulations pertain (for –n1, see Section 3.40.030 and attached definitions; for –n2, see Section 3.40.040).

- 3a. Create floor plan diagrams to scale of each separate level of the primary residence, secondary dwelling, and/or accessory buildings to which FAR regulations pertain. Place these diagrams on either the same sheet as proposed floor plans, or the next sheet in the set, and utilize easily verifiable polygons (rectangles, squares, triangles) to scale, with each polygon area calculation noted in a tabular form as shown in the following example:

Polygon/Area Designation	Dimensions	Area
A	18 x 28	504
B	30 x 40	1200
C	8 x 12	96
TOTAL		1800

- 3b. Compile the net lot area and floor area calculations in the tabular form prescribed below and place the table on the SITE PLAN. All summary information required to comply with FAR regulations must be placed on the site plan, and it shall be calculated, verified, stamped, and signed by a licensed surveyor, registered engineer, or licensed architect. Wet stamp and signature of the professional who is responsible for this information is required on the site plan and any other plan sheet supplying information used to verify FAR, including the floor plan diagrams, cross sections for determining whether basement or attic space counts or does not count, etc.

-n1 Zoning District FAR Summary Information (example)

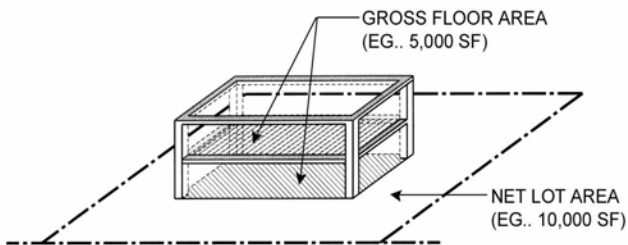
Gross Lot Area	15,250
Net Lot Area	15,000
Maximum Allowed FAR (-n1)	3500 + 500 = 4,000
Floor Area Calculations	
Primary Single Family Residence (SFR)	
Main or 1 st floor	2,500
Upper or 2 nd floor	1,000
Attic space, countable	NA
Basement space, countable	NA
Porches, decks, attached garage/carport	300
Subtotal	3,800
Secondary dwelling	NA
Detached accessory building(s)	NA
Subtotal	0
Grand Total	3,800

- 3c. Provide notes on SITE PLAN immediately below the table above indicating any other sheets within the set containing the information, tables, diagrams, etc. from which the information on the SITE PLAN was derived. Ideally, these sheets will be included in a logical order following site plan, floor plans, and elevations.

DEFINITIONS & INFORMATION APPLICABLE TO FAR REGULATIONS OF THE “-n1” and “-n2” COMBINING ZONING DISTRICTS

(-n1, Los Altos and Los Altos Hills; -n2 Burbank,
Zoning Ordinance Sections 3.40.030 & 3.40.040)

Part 1: General Information



$$\text{FAR} = \frac{\text{GROSS FLOOR AREA}}{\text{NET LOT AREA}}$$

$$\text{(EG: } \frac{5,000}{10,000} = \text{FAR } 0.5\text{)}$$

Floor Area Ratio (FAR) is determined by dividing the gross floor area of a specified building(s) on a lot by the net lot area. Net lot area is the gross lot area exclusive of land within public or private rights-of-way, including ingress/egress easements.

On flag lots, all portions of fee access corridors which are less than 25 feet in width shall be excluded from floor area calculations.

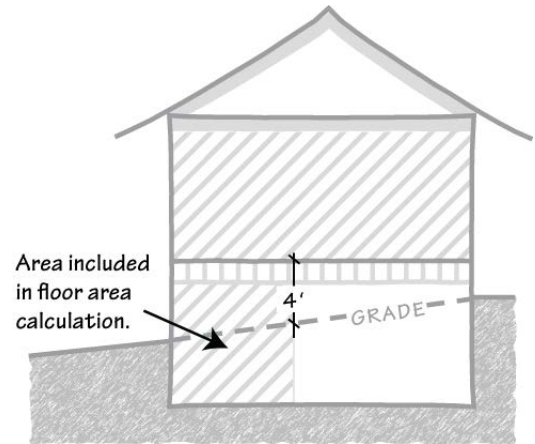
Floor area, gross: The sum of the gross horizontal areas of the several floors of a building, as **measured from the rough exterior faces of the exterior walls**, or (if applicable) from the centerline of a common wall between two attached buildings.

Part 2: -n1 District Information (Los Altos Area)

In -n1 combining districts, “floor area, gross” also includes:

- Secondary dwellings.
- All accessory buildings on any lot where the cumulative area of accessory buildings exceeds 500 square feet. On underlying lots, accessory buildings exempt under this provision must be designed and used as garage or storage buildings exclusively. Such exempt buildings shall not contain integral heating, ventilation or air conditioning systems, and shall not include bathrooms.
- Carport, porch or similar attached element that is both: (a) covered, and (b) greater than 50% enclosed by perimeter walls.

- Attached garages.
- Horizontal area of an interior stairway at each of the two or more stories to which the stairway provides access.
- Exposed portions of basements where finish floor level immediately above is more than four (4) feet above grade (see illustration).
- Attic space that has a minimum clearance of seven (7) feet in each of three (3) dimensions (l/w/ht) for at least 70 contiguous square feet.
- Where the vertical distance between any floor and the ceiling above exceeds 15 feet, floor area shall be counted twice.



FAR computations must be calculated, verified, signed and stamped by either a registered civil engineer, a licensed land surveyor, or a licensed architect.

“-n1” Floor Area Ratio (FAR) (for lots that are not underlying lots):

- **Lots of 10,000 square feet (net) or less:** a floor ratio not to exceed 0.35
- **Lots larger than 10,000 square feet (net):** 3,500 square feet of floor area, plus one additional square foot of floor area per 10 square feet of lot area over 10,000 square feet, to a maximum of 5,700 square feet.

“-n1” MAX SQ. FT. FORMULAS

Lots ≤ 10,000 sq ft:
 Max floor area = Lot size x 0.35

Lots > 10,000 sq ft:
 Max floor area = $\frac{\text{Lot size} - 10,000}{10} + 3,500$

Max floor area = 5,700 sq. ft.

Height of Dwellings: maximum 27 ft, 2 stories
 On **flag lot** of less than 20,000 sq. ft. net: maximum height is 21 ft., 1 story (Sec. 2.30.030(B))

“-n1” Special Development Standards for Underlying Lots:

- **Underlying lot** is defined per § 3.40.030(C) as any lot that meets all of the following criteria: (a) was contiguous to a lot under common ownership as of May 5, 1998; (b) was neither separately developed nor approved as a single building site as of May 5, 1998; and (c) does not meet the minimum lot size of the applicable zoning district.
- **Floor area ratio:** not to exceed 0.25. 5,700 sq. ft. maximum floor area applies. For underlying lot larger than 16,660 sq. ft., the standard “-n1” FAR formula applies.
- **Design review** is required for any proposed two-story house.

Part 3: -n2 District Information (Burbank Area)

In -n2 combining districts, “floor area, gross” also includes:

- any attached garage or secondary dwelling (attached or detached);
- carport, porch or similar attached structure or feature that is both (a) covered, and (b) greater than 50% enclosed by perimeter walls;
- horizontal area of an interior stairway at each of the two or more stories to which the stairway provides access;
- attic space that has a minimum clearance of seven (7) feet in each of three (3) dimensions for at least 70 contiguous square feet;
- areas where the vertical distance between any floor and the ceiling above exceeds 15 feet, floor area shall be counted twice;

Note: Does not include or regulate detached accessory buildings or structures. Any basement/underfloor space that does not constitute a story (Section 1.30.030, Definition of Terms) is excluded also.

FAR computations must be calculated, verified, signed and stamped by either a registered civil engineer, a licensed land surveyor, or a licensed architect.

Deeds & Lot Legality



At the time an application for land development approval or certificate of compliance is submitted, the applicant must present proof that the lot was created legally. This form describes the types of documents that satisfy this requirement.

Current Grant Deed

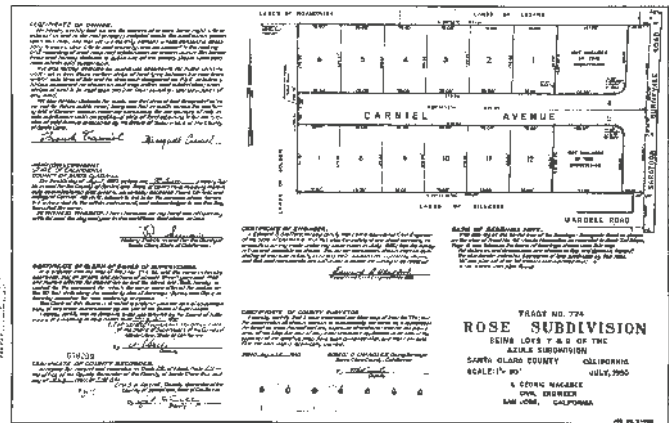
The current deed (such as grant deed or quit claim deed-- not a deed of trust) is required to verify ownership. The owner's name(s) as shown on the deed must match the name(s) and signature(s) on the application. The lot description on this deed must also correspond with the descriptions on other deeds or items submitted to verify legal creation.

If the owner does not have a copy of the recorded deed, one may be obtained at the County Recorder's Office, (County Government Center, 1st floor) or from a title company. A deed of trust is not acceptable.

Evidence Showing Legal Creation of Lot

1. Parcel Map/ Tract Map

A parcel map normally records minor subdivisions and some lot-line adjustments. Tract maps are records of major subdivisions comprised of more than four lots. If the legal description on a current deed describes a whole lot or parcel as shown on a recorded parcel/ tract map, such lot or parcel is considered legal.



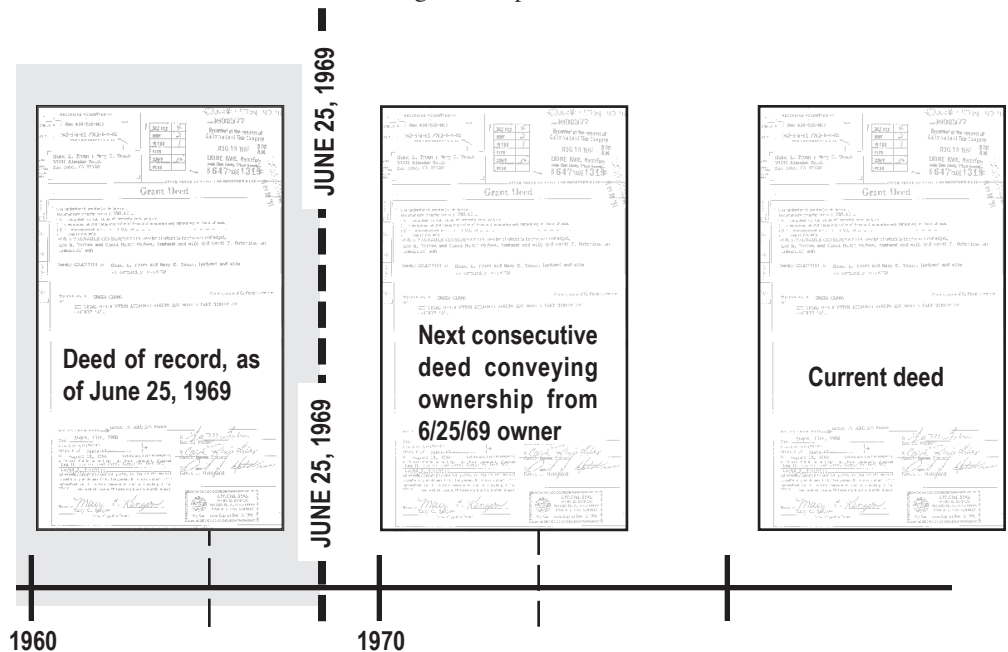
Sample Tract Map

2. Deeds of Record as of June 25, 1969

On June 25, 1969, the County established a procedure which required lot splits to undergo the same requirements as other minor subdivisions. This includes the filing of a map for record.

Prior to June 25, 1969 lots could be created by simply recording a deed with a description of the new parcel. A lot created in this manner generally requires copies of 3 deeds to verify its legality. Submittal must include:

- the deed that was in effect on June 25, 1969;
- the deed showing first-transfer of title after 6/25/69, and;
- the current deed.



Other Qualifying Evidence of Lot Legality

- Recorded certificate of compliance issued by the County of Santa Clara.
- Recorded certificate of lot merger or lot line adjustment.
- The lot is on a recorded record of survey, with a certification by the Clerk of the Board of Supervisors stating that it is a legal lot.
- If a portion of a legal lot was acquired by a government agency, the residual may be a legal lot, pursuant to the Subdivision Map Act.