

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



December 20, 2023

****Sent via email****

Raymond Nguyen

0 Bon Vista Court

San Jose, CA 95127

raynguyen88@yahoo.com

FILE NUMBER: PLN23-214

SUBJECT: Grading Approval and Design Review Administrative Approval – Tier 1 (DRX) for a new single-family residence with detached garage and retaining walls.

SITE LOCATION: 0 Bon Vista Court, San Jose (APN: 612-50-014)

DATE RECEIVED: November 20, 2023

Dear Raymond Nguyen:

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 Ordinance Code](#), regulations for [Height Measurement on Lots with Irregular Topography](#), [Design Review Guidelines](#), [Guidelines for Grading & Hillsides Development](#), and the [County General Plan](#). The information in this section is informational only and can be discussed further if desired with County Staff.

ZONING

Setbacks

1. The detached garage is proposed to be constructed in front of the single-family residence, roughly 42 feet from the front property line when measured. Accessory structures are subject to different setback regulations than primary structures. The proposed detached garage does not conform to the required setbacks per [Section 4.20.020](#) (E) (2) of the County Zoning Ordinance:

§4.20.020 (E) (2): Location shall be in the rear half of the lot, in the rear yard (defined in Chapter 1.30), or at least 75 feet from the front property line or edge of ultimate right-of-way.

As proposed, the location of the detached garage cannot be approved. Revising the proposal to attach the garage to the proposed single-family residence, or proposing a breezeway (as defined in [§ 4.20.110](#) (D) (1) and (2)) between the single-family residence and garage would allow the garage to remain in its proposed location in a Code compliant manner. Alternatively, the plans may be revised to propose the garage in a different location on the lot consistent with §4.20.020 (E) (2) of the County Zoning Ordinance. **Proposed a breezeway between main house and garage. See sheet A2-0 and A2-2**

Building Height

2. The subject property has an estimated average slope of 32.6%. Pursuant to Figure 1.30-4b of [Section 1.30.030](#) of the County Zoning Ordinance regulating height measurements:

§1.30.030: On slope lots or lots with irregular topography, height shall be measured vertically upward from a hypothetical surface representing the final grade as projected through the structure site.

In consistency with County regulations on height measurement with irregular topography, the average final grade calculated from each cross section should be represented as an elevation, and not converted to a building height measurement before the calculation is complete. Staff recommend revising the height calculation on Sheet A4-0 to remove any conversions of average final grade (X and Y) to building height until after the projected grade under high point of structure (Z) is calculated. Once the average projected grade under the high point of structure is calculated, the measurement between the projected grade and the high point of structure can be converted to building height. The applicant may also consider clarifying within the height calculations that the referenced sections are “Building Height Calculation A” and “Building Height Calculation B”, since there are other sections “A” and “B” on the sheet that do not directly correspond with the height calculation. **Height calculations have been revised. See Sheet A4-0**

3. Sheet A4-0 states that the detached garage is proposed with a maximum height of 15 feet 3 inches above finished grade. The right elevation on Sheet A3-1 shows the top of plate at 10 feet and a top of ridge height of 14 feet 9 inches. The proposed detached garage does not conform to the required building height per Section 4.20.020 (E) (1) of the County Zoning Ordinance:

§4.20.020 (E) (1): If gross lot area is less than two and one-half (2.50) acres, maximum height allowed is 12 feet, and one (1) story. When such a building has a hip or gable roof, the height is measured to the average vertical dimension between the ridge and top plate of wall. In no case may the absolute height exceed 16 feet.

Additionally, Building Height Calculation A on Sheet A4-0 measures the height of the garage from finished grade to the top of ridge, while the remaining sections and elevations measure the height of the garage from finished floor level (FFL).

Staff recommend adding a reference to finished grade (FG) on the garage elevations to accurately measure the height of the garage and show that it meets the height requirements per §1.30.030 and §4.20.020 (E) (1) of the County Zoning Ordinance. **FG references added, garage height reduced to meet height requirements.**

Building Massing and Form

4. The subject property is zoned Rural Residential with a Santa Clara Valley Viewshed design review combining district (RR-d₁). The project does not exceed 5,000 square feet of proposed floor area and is therefore eligible for Tier 1 Administrative Review. Projects eligible for Tier 1 Administrative Review must comply with building form and massing requirements provided in [Section 3.20.040](#) (C) of the County Zoning Ordinance. Staff need additional information to confirm if the project complies with (2) and (3) of this section:

§3.20.040 (C) (2): Maximum height of a wall plane, including foundation and other continuous components, shall be 24 feet.

§3.20.040 (C) (3): Portions of a wall plane must be offset by at least five horizontal feet to be deemed discontinuous for the purposes of this provision.

To demonstrate conformance with the building form and massing requirements of Section 3.20.040 (C) (2) and (3) of the County Zoning Ordinance, staff recommend providing a measurement on the floor plans indicating the horizontal distance between the rear wall of the second floor and the rear wall of the first floor. **Provided dimension of 9'-1/2" between rear wall of 2nd floor and rear wall of 1st floor. See sheet A2-1.**

5. The roof plan shows the proposed single-family residence under one, single roof plane as viewed from the rear side of the house facing the valley floor. The roof plan does not comply with the building form objectives regarding roof design within the Design Review Guidelines:

Design Review Guideline 2 (b): Building Form. Bulk of the building should be broken up by incorporating varied roof heights rather than having just one or two massive roof planes.

Staff recommend revising the roof plan to show additional, varying roof planes to break up the perceived size of the building as viewed from the valley floor. Adding additional roof planes to the proposal will more closely comply with the building form and massing objectives of the Design Review Guidelines. **Provided gable roof plane on the rear side roof of the house. See sheet A2-2 and A3-0**

Colors and Materials

6. The Color / Materials Board does not include color samples and/or LRV for the proposed roofing, door and window frames, deck railings, and proposed retaining walls. Pursuant to Section §3.20.040 (B) of the County Zoning Ordinance, the LRV of exterior surfaces shall not exceed 45. The inclusion of this information is critical to the review and approvability of the proposed project. As such, staff recommend completing the Colors / Materials Board with materials specs, color sample, and LRV for the above mentioned project components to ensure compliance with the County Zoning Ordinance.

Retaining Walls

Provided LRV values for all materials. See sheet A3-0, A3-1 and Materials Board

7. Retaining walls associated with Tier 1 Design Review projects must comply with the Design Review Guidelines to screen the walls and reduce visibility from the valley floor, as described in Design Guideline 3 (b): Retaining walls should be landscaped by using vines, shrubbery or planters to reduce their apparent height to ensure that they blend with the natural surroundings.
Provided shrubbery screen around the retaining wall. See sheet A1-0
In addition to providing a color sample and LRV for the retaining walls, staff recommend landscaping the retaining walls to conform with the design review guidelines to better favor approval of the project.

GRADING ORDINANCE

Provided LRV value for retaining wall. See sheet A3-0, A3-1 and Materials Board.

Grading Approval

8. The proposed house and garage are perched on top of a significant amount of fill and do not comply with the following County General Plan policies and County Guidelines for Grading and Hillside Development:

County General Plan (R-GD 27): Grading and excavation to situate a residence or other structure within a hillside to reduce visual impacts is encouraged.

Grading and Hillside Development Guidelines: Building form and design. New buildings in hillside areas should be designed to minimize intensive terrain alteration and grading, incorporating design concepts that visually integrate a building into the hillside setting and avoid extensive vertical cuts or fills.

Cutting into the hillside and tiering the levels of the proposed home could further limit the amount of necessary grading by balancing the cut and fill quantities versus development that sits on top of fill, in addition to lowering visibility of the structures from the valley floor.

To illustrate this evaluation, Staff recommend providing an additional plan sheet detailing a hypothetical grading plan with the proposed house pulled closer to Bon Vista Court, cut into the hillside with a more balanced fill quantity. The sheet should also include a grading quantities table to reflect the potential changes in grading quantities.

Grading quantities table provided; Grading statement of justification provided.

9. Grading Approval may be granted if all the findings can be made pursuant to the [County Ordinance Code C12-433](#). As currently proposed, Staff have difficulty making the findings pursuant to County Ordinance Code Section C12-433 (a) and (f):

C12-433 (a): Grading Approval may be granted if the amount, design, location, and nature of any proposed grading is necessary to establish or maintain a use presently permitted by law on the property.

C12-433 (f): Grading conforms with any applicable general plan policies:

County General Plan (R-GD 22): the amount, design, location, and the nature of any proposed grading may be approved only if determined to be: a) appropriate, justifiable, and reasonably necessary for the establishment of an allowable use, b) the minimum necessary given the various site characteristics, constraints, and potential environmental impacts that may be involved, and c) that which causes minimum disturbance to the natural environment, slope, and other natural features of the land.

Staff recommend providing justification to the amount of fill proposed for the development and the vertical depth of grading for the residence to further assess if the project is in conformance with the County Grading Ordinance. **Grading statement of justification provided; Ordinance design standards form filled & provided.**

OTHER POLICY ISSUES

Structure Encroachments

10. The plans indicate there is an existing block retaining wall at the rear property boundary that encroaches 3 feet into a public service easement on the subject property. Pursuant to [Section C1-71 \(a\)](#) of the County Code Ordinance, no permit may be issued in connection with any premises upon which there exists a violation of any County ordinance or State law.

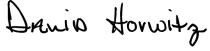
If the civil survey accurately places the existing retaining wall within the easement, then the retaining wall needs to be removed from the easement prior to issuance of any land use permit.

The existing block wall was constructed for a neighboring property and is not under this project jurisdiction.

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 Ordinance Code, regulations for Height Measurement on Lots with Irregular Topography, Design Review Guidelines, Guidelines for Grading & Hillside Development, and the County General Plan.

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:

7066FCE5977A4A3...

David Horwitz
Assistant Planner

cc:
Samuel Gutierrez, Principal Planner