



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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ADMINISTRATIVE HEARING STAFF REPORT

Meeting Date: February 20, 2025

Subject

Development Permit, Architectural & Site Approval, and Parking Exception to construct a single-family residence with an Accessory Dwelling Unit on a vacant lot. (Application No(s): DP-2023-003, ASA-2023-007, EXC-2024-005; Applicant: Vijaya Sarathy Kasi; Location: 21670 Lomita Avenue; APN(s): 357-18-005

Recommended Action

Staff recommends that the Hearing Officer, in accordance with the Draft Resolutions, (Attachment 1 and 2):

1. Find the actions exempt from CEQA and approve the Development Permit, DP-2023-003;
2. Approve the Architectural and Site Approval, ASA-2023-007, and
3. Approve the Parking Exception, EXC-2024-005

Discussion

Project Data:

General Plan Designation	Industrial / Residential	
General Plan Planning Area	Monta Vista Village Special Area	
Zoning Designation	P(ML)	
Lot Size	5,759 sq. ft. (no change)	
Density	15 DU/Acre	
	Allowed¹	Proposed
Floor Area	45% of net lot area (2,591 sq. ft.)	48.6% of net lot area (2,800 sq. ft. ²)
Building Height	28 feet	24 feet 10 inches

¹ Within the Planned Development zones in the Monta Vista Special Area, the applicant’s parcel is to keep within the requirements with the zone in which the use is ordinarily permitted, in this case, the R1-5 zoning district.

² Floor Area does not include a 530 sq. ft. Accessory Dwelling Unit (ADU), the total building size is 3,330 sq. ft.

Setbacks	Required	Proposed
Front		
First Floor	20 feet	20 feet
Second Floor	25 feet	20 feet
Street Side		
First Floor	12 feet	12 feet
Second Floor	12 feet	12 feet
Interior Side		
First Floor	5 feet	5 feet
Second Floor	15 feet	15 feet
Rear		
First Floor	20 feet	20 feet 11 inches
Second Floor	25 feet	30 feet 6 inches
ADU	4 feet	4 feet
Parking	4/DU (2 garage + 2 open)	2 garage + 1 open (Parking Exception)
Project Consistency With:		
General Plan	Yes	
Zoning	Yes	
Environmental Assessment	Categorically Exempt per Section 15303(a) – New Construction or Conversion of Small Structures.	

Project location

21670 Lomita Avenue is located on a corner lot within the Monta Vista Village Special Area, at the southwest corner of the intersection of Lomita and Imperial Avenues. It is bordered by an office use to the south, an autobody repair shop to the west, Lomita Avenue to the North, and Imperial Avenue to the east (see Figure 1). The surrounding uses vary and include light industrial, low to moderate density housing, and office uses.



Figure 1: Project site (highlighted in red) and surroundings

Application Summary

The applicant, Vijaya Sarathy Kasi, is requesting to develop an undeveloped parcel into

a 2,800 square foot two-story, single-family home with a 530 square foot attached Accessory Dwelling Unit (ADU) on a 5,759 square foot parcel. Although a single accessor's parcel, the project area consists of two legal lots which will need to be merged prior to the issuance of building permits.

Background

The subject property is zoned Planned Light Industrial P(ML). Historically, it has been undeveloped with orchard uses on the site up until the 1950's and by at least 1963, it was developed as a paved parking lot. The property was reportedly leased and used by the adjoining property to the west (21680 Lomita Avenue), an auto body repair shop, for storing cars and materials from approximately the mid-1980s to 2019. It has been vacant since 2020. The applicant purchased the property in 2021.

A Phase I Environmental Site Assessment (ESA) and subsequent subsurface investigations were conducted as part of the development review of this site. Soil vapor analytical data indicated vapor levels above those for residential development. As such, the applicant voluntarily opened a case on Geotracker (ID T10000022453) with the County of Santa Clara Department of Environmental Health (DEH) Site Cleanup Program. DEH has accepted the reports, provided technical comments, and is expecting further testing to be provided by May 30, 2025³. While the City requires a Focused Phase 2 ESA because the Phase 1 ESA identified use of the site as an orchard after 1950, because the applicant has voluntarily applied for soil remediation through DEH, and because DEH has accepted the Phase 1 ESA explanation related to the presence of pesticides and subsequent soil samplings, neither the City nor DEH has required a Phase 2 ESA analysis.

Housing Accountability Act (HAA)

Since an application for both a single-family residence and an accessory dwelling unit (ADU) includes more than one residential unit, the project qualifies as a housing development under the Housing Accountability Act (HAA) (Gov. Code, § 65589.5, subd. (h)(2)).⁴ Since the site has a General Plan Land Use designation of Industrial/Residential with a residential density of 15 dwelling units per acre, but the zoning is limited to Planned Development with Light Industrial uses or (P(ML)), under state law zoning is inconsistent with the land use designation of the site. The HAA clarifies that if the zoning standards and criteria are inconsistent with applicable, objective general plan standards,

³ The most recent soil sampling concluded: "Concentrations of fuel constituents detected in soil and soil vapor do not indicate an on-site source area and do not pose a risk to future site occupants when taking into account attenuation factors typically associated with new construction, including a new concrete slab. No additional assessment is recommended." DEH, in its letter dated December 16, 2024, agrees that site data do not indicate an on-site source, so remediation is not required.

⁴ While the ADU makes the project qualify as a Housing Development under the HAA, the ADU itself is not subject to discretionary review by the City. Review of the ADU is a ministerial action, subject to standards identified in state law.

but a proposed development project is consistent with the applicable objective general plan standards for the site, then the housing development project cannot be found inconsistent with the standards and criteria of the zoning (Gov. Code, § 65589.5, subdivision (j)(4)). Further, the HAA clarifies that if such an inconsistency exists, the local agency may not require rezoning prior to housing development project approval. However, the local agency may require the proposed housing development project to comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan designation, in this case, the standards for Single-family residential zone (Cupertino Municipal Code Chapter 19.28: *Single-Family Residential (R-1) Zones*). However, developments are allowed to deviate from the R1 standards (setbacks, floor area ratio, etc...) with a Development Permit, since the site is located within a Planned Development Zone, as discussed further below.

Analysis

Development Permit

As discussed earlier, the project is subject to the R1-5 standards identified in CMC Chapter 19.28: *Single-Family Residential (R-1) Zones*. Since the property is in the Monta Vista Special Area most of which is designated a planned development zoning district, the applicant is allowed to propose variations to the zoning standards that encourage creative approaches in land development for better design and land planning. In this case, the design standards in the Monta Vista Specific Plan (described below under *Architectural and Site Approval*) can be better observed with these alternatives on a smaller parcel. Pursuant to Ordinance no. 1270, which establishes the allowed uses and development standards for this site, new construction on vacant property in the Monta Vista Special Area that is not in keeping with the requirements of the zone in which the use is ordinarily permitted requires a Use Permit. In 2014, the City established the Development Permit process which succeeded the requirement for a Use Permit to allow the development of structures for permitted uses within the City. This project proposes to deviate from the R1-5 zoning standards in two areas: 1) the primary home has a Floor Area Ratio that is 48.6%, where 45% is the limit, 2) the garage comprises two 10 feet by 20 feet spaces instead of one 20 feet by 20 feet area, and 3) a second-floor front setback that is 20-feet, where 25-feet is required. Since the ADU is ministerial in nature and subject to state law, its Floor Area can exceed 45% and the City may not impose setbacks of more than four feet.

Architectural and Site Approval

The Monta Vista Special Area is characterized by a distinct architecture that has rectilinear forms in “Queen Anne” or “Victorian” style, as required by the Monta Vista

Design Guidelines. Although the project site is outside of the delineated Monta Vista Design Guidelines area, much of the neighboring development adheres to the Guideline's standards.

Therefore, to preserve the design harmony between this proposed



Figure 2 Eastern facade of the proposed home along Imperial Avenue. Note the front entrances of both the main house (right) and the attached ADU (left).

development and the existing buildings, the materials, textures and colors of the new home are required to harmonize with adjacent development. The applicant's architect has designed the project with the following architectural features that conform to the Monta Vista Design Guidelines:

- Two front porches that face onto Imperial Avenue.
- Pitched roofs that vary from hip and gable end.
- Earth toned colors include a beige on the artisan Hardie board siding and a darker brown on window accents.
- Asphalt shingles.

Trees and Right of way Improvements

The two mature Protected Coast Live Oak trees on site are proposed to remain and to be integrated into the landscape plan. The landscape plan will utilize drought tolerant plantings, as well as a variety of native species, such as manzanita ground cover and toyon shrubbery. A condition of approval has been added to ensure protection and preservation of the trees through the construction process.

Offsite improvements are extensive as the site has no sidewalks. The applicant has worked with the Public Works Department to include a detached sidewalk on both sides along Imperial Avenue, as well as Lomita Avenue. This also includes a bulb out at the northeast corner of the site with an ADA ramp. The 30-inch DBH Pepper Tree within the Lomita Avenue right-of-way is required to be removed, however, two 24-inch box street trees (Crape Myrtle) will be planted along each frontage.

Parking Exception

In accordance with CMC19.124.040, single-family residences are required to provide 4 spaces per Dwelling Unit (2 garage + 2 open)⁵. While the applicant is able to accommodate space for two 10 foot by 20 foot enclosed spaces in the garage, these are provided in an offset configuration rather than in a 20 foot by 20 foot enclosed garage. Additionally, due to the location of an existing PGE anchor easement for guidewires associated with a power pole along Lomita Avenue, the width of the driveway only allows for a single car open space (See Figure 3). Allowing one driveway parking space, is the least modification and the minimum variance to accommodate on-site parking since the offsite improvements will also facilitate safe, on-street parking along Imperial Avenue.

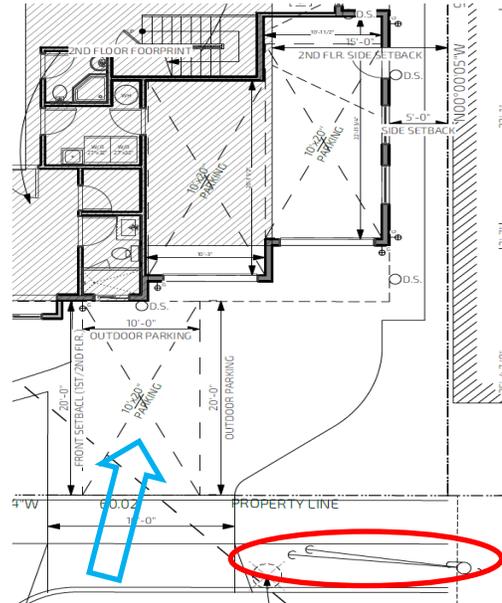


Figure 3 Driveway along Lomita Avenue showing the location of the garage spaces, the driveway (blue arrow), and the power pole with guidewires

Environmental Review

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guideline Section 15303(a), which specifically includes the construction of one single family home and a second dwelling unit, which are the maximum allowable on the site. However, the project must continue to comply with the applicable standard environmental protection requirements, adopted by the City pursuant to Chapter 17.04, which include but are not limited to, requiring adherence to dust control, nest protection, noise and vibration requirements, soil remediation requirements, preservation of paleontological and cultural resources, and stormwater requirements.

Other Department/Agency Review

The Building Division, Environmental Programs Division, Public Works Department and the Santa Clara County Fire Department have no objections to the project.

Public Noticing

A summary of noticing on the project is presented in the table below:

⁵ Per CMC 19.112.030, Streamlined ADUs do not need to provide parking.

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none">▪ Site Signage (14 days prior to the hearing). Sign Posted: February 3, 2025▪ Noticing to adjacent neighbors (10 days prior to the hearing):▪ 65 Notices Mailed: February 6, 2025	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (one week prior to the hearing)▪ Posted on the City of Cupertino's Website

Public Comments

As of the publication of this staff report, no public comments have been received.

Conclusion

Staff recommends approval of the Development Permit, Architectural and Site Approval permit, and Parking Exception, since the plans and conditions of approval address all concerns related to the proposed project. Additionally, all applicable findings for approval of the proposed project, consistent with chapters 19.156, 19.168 and 19.124 of the Cupertino Municipal Code, may be made as indicated in draft Resolutions.

Next Steps

The permit will be effective 14 calendar days from the date of the hearing. The decision of the Administrative Hearing Officer is final, unless appealed within 14 calendar days from the date of the hearing. The applicant team may apply for building and/or other permits with the City at the end of the appeal period.

This approval is valid until February 20, 2027. The applicant may apply for a one-time two-year extension before the approval expires.

Prepared by: Gian Paolo Martire, Senior Planner
Reviewed and Approved for Submission by: Piu Ghosh, Planning Manager

ATTACHMENTS

1. Draft Resolution DP-2023-003
2. Draft Resolution ASA-2023-007
3. Draft Resolution EXC-2024-005
4. Project Plans (abridged due to limitations of state law pursuant to SB1214)