



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

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**DESIGN REVIEW COMMITTEE STAFF REPORT**

Meeting: May 20, 2021

Subject:

R-1 Exception Permit to consider allowing the construction of a new 3,026 SF single-story residence with reduced side-yard setbacks of five feet on each side, where a combined side-yard setback of 15 feet is usually required in the R1-7.5 zoning district. (Application No.: EXC-2020-005; Applicant: T.N. Design (Kumar residence); Location: 10290 Imperial Avenue; APN: 357-19-053)

Recommended Action:

That the Design Review Committee adopt the draft resolution (Attachment 1) to:

1. Find the project exempt from CEQA; and
2. Approve the R-1 Exception (EXC-2020-005).

Project Data:

<b>General Plan Designation:</b>	Residential (0-4.4 DU/Ac.)		
<b>Zoning Designation:</b>	R1-7.5		
<b>General Plan Neighborhood:</b>	Monta Vista		
<b>Site Development Regulations:</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>
Lot Area	7,500 sq. ft.	6,726 sq. ft.	No change
Lot Width	60'	50'	No change
Floor Area	45% FAR	~2,910 sq. ft. (43%)	3,026 sq. ft. (45%)
<b>Lot Coverage:</b>	50%	N/A	3,363 sq. ft. (50%)
<b>1<sup>st</sup> Floor Setbacks:</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Front	20'-0"	~24'-9"	24'-8"
Side	Combined 15'	~8'-8" Left ~5'-6" Right	5' Left 5' Right 10' Combined
Rear	20'-0"	~61'	29'-6"

<b>Project Consistency with:</b>	
General Plan:	Yes
Zoning:	No, exception requested for reduced side-yard setbacks of 10' combined.
Environmental Assessment:	Categorically Exempt per Sections 15303 (Class 3) of the California Environmental Quality Act (CEQA)

## Background:

### *Site Description*

The subject single-family residential property is located on Imperial Avenue in the Monta Vista neighborhood (Figure 1). The site is surrounded by planned development light industrial, P(ML), to the north and east, with other single-family residential uses to the south and west.

The existing single-story residence was originally built under the County of Santa Clara's jurisdiction in 1961 and was annexed into the City in 2004. The existing lot is substandard in area at 6,726 square feet where 7,500 square feet is the minimum lot area for R1-7.5 zoned properties. Furthermore, the lot is substandard in lot width at 50 feet, which is 10 feet less than the minimum lot width of 60 feet required for R1-7.5 properties.



**Figure 1: Vicinity Aerial**  
(subject property outlined in blue)

## Discussion:

### Applicant Request

The applicant, Nghi Le, representing the property owner, Sandeep Kumar, is proposing to demolish an existing residence and detached structure in the rear to construct a new 3,026 sq. ft. single-story residence with an attached garage and new landscaping in the front and rear yards. The project requires an R-1 Exception for the proposed five-foot first floor side-yard setbacks on either side of the home. The City's Municipal Code (Chapter 19.12) requires Design Review Committee review for all R-1 Exception applications.

### Side-Yard Setback Exception

The project site is located in the Monta Vista neighborhood where there are numerous lots that are substandard in width. The original subdivision in this neighborhood subdivided lots into 25 feet in width. Over time, many lots were conveyed together and

eventually merged into 50-foot-wide lots as allowed by the Subdivision Map Act. Furthermore, much of Monta Vista was developed in the County under different development regulations. Consequently, many of the neighboring homes have side-yard setbacks that do not conform to the City of Cupertino's development regulations.

The R-1 Ordinance requires a combined 15-foot first floor side-yard setback, with no side yard setback less than five feet from the property line. The R-1 Ordinance allows properties located in the R1-5 zoning district (Rancho Rinconada neighborhood), where there are several hundred lots that have a lot width between 47 feet and 51 feet, to have minimum five-foot side-yard setbacks on both sides. These reduced side-yard setbacks therefore allow greater flexibility for smaller and narrower lots to construct a reasonable and balanced, floor plan and front elevation.

Given the project's lot area and width constraints, the applicant is requesting the five-foot side-yard setback exception. There have been other properties for which a reduced side yard setback has been approved due to being narrow and smaller sized lots. While research indicates that some of these residences were built under the County of Santa Clara's jurisdiction with varying building setback and development parameters that are considered non-conforming under the City's requirements, there are eight recent first floor side-yard setback exception approvals<sup>1</sup> in the neighborhood to allow five-foot first floor side yard setbacks on either side. See Attachment 3 for a map of R1-zoned Monta Vista residences with existing first floor side-yard setbacks less than 15 feet combined.

### Project Design

The proposed single-story residence (Figure 2) is designed to meet all aspects of the R-1 Ordinance, with the exception of the first-floor side-yard setbacks. The proposed design is generally consistent with the Single-Family Residential Design Guidelines and is compatible with other homes in the neighborhood in terms of massing and design with the architect proposing a design that features neutral-colored stucco and stone veneer. The site is not subject to the Monta Vista Design Guidelines, which regulate architectural style and materials within a portion of the Monta Vista Specific Plan area.



**Figure 2: Proposed Design**

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<sup>1</sup> **Note:** Prior to 2005, 5-foot first floor side-yard setbacks were allowed for all lots 60' or less in width and less than 6,000 sq. ft. in size, without the need for an exception throughout the City. This was amended by the City Council in 2005.

### Site Improvements

The scope of work includes the installation of new landscaping in the front and rear yards comprised of turf, mulch, and a mixture of drought-tolerant plantings and decorative trees. As a condition of approval, the applicant shall submit a Prescriptive Compliance Application or a full Landscape Documentation Package prior to Building Permit issuance per the Water Efficient Landscape Ordinance (Chapter 14.15) of the Cupertino Municipal Code. There are no proposed tree removals as part of this project.

The existing 6-foot high CMU wall along the entire length of the shared property line between the industrial property to the north and the subject property shall remain, per the conditions of approval of a previously approved Use Permit (U-1991-01) for the industrial property at 10280 Imperial Avenue. As part of their final landscape package prior to Building Permit issuance, the applicant will include drought-tolerant taller plantings along the portion of the CMU wall located within the front yard setback to provide visual relief and screening. The landscaping will also help provide a transition between the light industrial uses to the north and the single-family residential uses to the south of the subject property. These plantings must be maintained as a condition of approval as long as the requirement to retain the CMU wall remains.

The project shall comply with the requirements indicated on the Public Work Confirmation Form dated October 22, 2020, including but not limited to providing street improvement designs to be reviewed and approved by the Director of the Public Works Department prior to Building Permit issuance.

### Environmental Assessment

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15303: New construction or conversion of small structures.

### Public Outreach and Noticing

The following table is a brief summary of the noticing done for this project:

<b>Notice of Public Hearing and Intent, Site Notice &amp; Legal Ad</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>▪ Site Signage (10 days prior to the hearing)</li><li>▪ 7 public hearing notices mailed to adjacent property owners (10 days prior to the hearing)</li></ul>	<ul style="list-style-type: none"><li>▪ Posted on the City's official notice bulletin board (one week prior to the hearing)</li><li>▪ Posted on the City of Cupertino's website (one week prior to the hearing)</li></ul>

No public comments have been received as of the date of production of this staff report.

### Permit Streamlining Act

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

**Project Received:** September 11, 2020; **Deemed Incomplete:** October 9, 2020

**2<sup>nd</sup> Submittal Received:** January 20, 2021; **Deemed Incomplete:** February 18, 2021

**3<sup>rd</sup> Submittal Received:** March 26, 2021; **Deemed Complete:** April 9, 2021

The City has up to 60 days from the date of deeming the project complete (until June 9, 2021) to make a decision on the project.

### Conclusion

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed project and all of the findings for approval of the proposed project, consistent with Chapter 19.28 of the Cupertino Municipal Code, may be made.

With respect to the R-1 Exception, the following findings may be made:

1. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.

*The project is consistent with the intent of the R-1 Ordinance in that it minimizes visual impacts to adjacent residential properties and that it is compatible with other homes in the neighborhood. The five-foot side-yard setbacks are appropriate to allow for a functional floor plan and a balanced, aesthetically pleasing front elevation, that is not dominated by a two-car garage door, on a substandard lot.*

2. The proposed development will not be injurious to property or improvements in the area, nor be detrimental to the public and safety, health and welfare.

*The project will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare. The project is a single-story single-family residence that is compatible with other homes in the neighborhood in terms of massing and overall design.*

3. The exception to be granted is one that will require the least modification of the prescribed design regulation and the minimum variance that will accomplish the purpose.

*Due to the substandard lot width of the subject property and the two-car garage requirement for new homes, the strict application of the prescribed side-yard setback requirement per the R-1 Ordinance would create a situation that would result in an unbalanced floor plan and front elevation. All other aspects of the project comply with the R-1 Ordinance in terms of height, building envelope, front and rear setbacks, and design. The intent of the R-1 Ordinance is met since the R-1 Exception would result in a house that is comparable in siting, scale, and design as others in the neighborhood.*

4. The proposed exception will not result in significant visual impact as viewed from abutting properties.

*The project is a single-story single-family residence that is consistent with other existing homes in the Monta Vista neighborhood. The granting of a side-yard setback exception is not anticipated to create adverse visual impacts as viewed from abutting properties as it will allow for a balanced front elevation on the substandard lot. All other aspects of the project comply with the R-1 Ordinance in terms of height, building envelope, front and rear setbacks, and design.*

#### Next Steps

Should the project be approved, the Design Review Committee's decision on this proposal is final unless an appeal is filed within 14 calendar days of the date of the decision, on June 3, 2021. The applicant may apply for building and other permits at the end of the appeal period.

This approval expires on May 20, 2022, at which time the applicant may apply for a one-year extension.

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Prepared by: Erika Poveda, Associate Planner

Reviewed and Approved by: Piu Ghosh, Planning Manager

#### **ATTACHMENTS:**

1 – Draft Resolution

2 – Plan Set

3 – Monta Vista Residences with Reduced First-Floor Side-Yard Setbacks