



DATE: July 6, 2022

AGENDA ITEM # 3

TO: Design Review Commission
FROM: Sean K. Gallegos, Senior Planner
SUBJECT: V21-0003 & DR22-0067 – 10900 Beechwood Lane

RECOMMENDATION:

Approve variance application V21-0003 and design review application DR22-0067 subject to the listed findings and conditions

PROJECT DESCRIPTION

This is an application for a Variance for a 10-foot front yard setback, where a 25-foot setback is required in the R1-10 Zoning District and design review applications for an emergency generator in a sound attenuating accessory structure for a pre-existing community facility, an existing potable water pump station at 10900 Beechwood Lane. No other improvements are proposed for the site. The following table summarizes the project’s technical details:

GENERAL PLAN DESIGNATION: Single-Family, Residential
ZONING: R1-20
PARCEL SIZE: 26,555 square feet (net)
MATERIALS: Metal exterior

	Existing	Proposed	Allowed/Required
COVERAGE:	251 square feet	351 square feet	6,390 square feet
FLOOR AREA:			
Buildings	251 square feet	251 square feet	
Generator Enclosure	-	100 square feet	
Total	251 square feet	351 square feet	5,350 square feet
SETBACKS:			
Front	50 feet	13.5 feet	30 feet
Rear	25 feet	145.6 feet	35 feet
Right side	25 feet/25 feet	74 feet/-	25 feet/25 feet
Left side	35 feet/35 feet	43 feet/-	25 feet/25 feet
HEIGHT:	27 feet	11.52 feet	12 feet

BACKGROUND

The project site, which is located at 10900 Beechwood Lane, is designated as a “Single Family (2 du/net acre)” land use in the General Plan and is in the Single-Family (R1-20) District.

Prior to the incorporation of the City of Los Altos, Santa Clara County approved the steel tank for water storage, tank for hydropneumatic pressure, and a booster pumping station enclosed within a one-story structure that currently exists at the site. The site is enclosed with a six-foot tall chain link fence along the street frontage and a six-foot tall wood fence along the side and rear property lines. The site is located adjacent to a single-family residence (10950 Beechwood Lane) to the north, a single-family residence (10850 Beechwood Lane) to the south, two single-family residences (2244 Sycamore Court and 2254 Sycamore Court) to the east, and the Beechwood Lane right-of-way is located to the west along its front property line.

Application History

The existing facility has non-conforming 23.6-foot rear setback, where a 35-foot setback is required in the R1-10 Zoning district. The setback encroachment was created at the time of construction of the potable water pump facility, and it is therefore considered to be a legal nonconforming structure. Since the project will not eliminate or replace more than 50 percent of the pump facility, the non-conforming setback can be maintained.

DISCUSSION

Variance

The applicant is seeking a variance for a ten-foot front yard setback, where 30 feet is required by the Zoning Code. A variance justification letter from the applicant that provides additional information about the variance requests is included in Attachment A.

In order to approve a variance, the Commission must make three positive findings pursuant to Section 14.76.070 of the Zoning Code:

1. The granting of the variance will be consistent with the objectives of the City’s zoning plan;
2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
3. Variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

The granting of the variance is consistent with the objectives of the zoning plan because maintaining the encroachment into the yard areas would still ensure the Zoning Code’s objective of a harmonious, convenient relationship among the adjacent residential properties which have existed in this location since 1948.

The proposed emergency generator will be located in a 11.3-foot-tall sound attenuating accessory structure with a ten-foot front setback, 74-foot right side setback, 43-foot left side setback and 150-foot rear setback. The side and rear yard complies with the setback requirements of the R1-20 District.

The site plan shows a new proposed six-foot tall solid fence with two feet of lattice, with a six-foot tall wood fence along all property lines. The 35-foot front yard is landscaped with 15 trees, which include 12 Silver Wattle (*Acacia Delbata*) trees and three willow peppermint (*Eucalyptus Nicholii*) trees, and side and rear yards are planted with 28 trees of various species. The applicant proposes to remove four silver wattle trees due to conflicting with the footprint of the generator and accessory structure. The tree removals are consistent with the tree removal criteria (Section 11.08.090) under the Tree Protection Ordinance.

The variance will not be detrimental to persons living or working in the vicinity or injurious to any properties in the vicinity because the proposed accessory structure and generator will not further impact the relationship of the structure to surrounding properties and the persons living in those houses, and it will comply with the City's Noise Ordinance.

The generator will be placed inside a custom enclosure specifically built to reduce the sound pressure level. Hammett & Edison, Inc., Consulting Engineers performed a noise study, which is provided as Attachment C. The Noise Study found the maximum calculated noise levels at the surrounding parcels to the north, west, and south are 50.9, 51.2, and 55.0 dBA. The projected noise levels would exceed the maximum permitted noise level of 45 dBA between 10:00 pm to 7:00 am. However, Section 6.16.090.A of the Noise Ordinance exempts the generator from the Noise Ordinance standards when the utilities activities are associated with the emission of sound in the performance of emergency work, such as the operation of a back-up power generator during an emergency, when commercial power is unavailable. Therefore, the generator noise levels are permissible for a public utility site under the performance of emergency work.

After the installation of the generator, the generator will be tested intermittently for 15 minutes per week. The noise study found the generator custom outdoor enclosure, meets the City's daytime limit of 60dbA for short-duration noise in residential areas. Therefore, the custom-built reduced-noise generator complies with Section 6.16.050A.2.B of the Noise Ordinance. Condition No. 3 requires that all generator testing will occur between 7:30 am to 3:30 pm and the maximum testing period shall be 15 minutes.

Variations from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications

There is a special circumstance applicable to the property due to the existing location of the tank and ancillary structure for the potable water pump station, which constrains or limits the potential alternative locations on the subject site. The strict application of the provisions of the chapter would require the generator be installed at the rear of the site, which create potential noise impacts to five adjacent properties. The proposed generator location reduces potential noise impacts to the street frontage due to limiting potential noise impacts to two adjoining properties, and it is consistent with City's Noise Ordinance.

Staff recommends approval of the variance application subject to the findings and conditions attached to the agenda report.

Design Review

A generator is proposed at the subject site, and it will be located in a 11.52-foot-tall noise attenuating accessory structure with a depth of five feet and width of 18.5 feet. As noted on Sheet LAS9-3575-C-004, the structure will be painted an earth tone color to improve its screening from public view.

Procedurally, the Community Development Director typically acts on design review applications for accessory structures (generator and generator enclosure). Since the generator and enclosure requires a variance application, the review was referred to Design Review Commission.

The proposed structure or alteration complies with all provisions of the Zoning Ordinance and Noise Ordinance. On the cover sheet in the project plans, the Zoning Compliance table indicates the site exceeds the maximum permissible floor area and lot coverage for the R1-20 zoning district. However, the applicant incorrectly counted the water tank as a building. Under the building code, a water tank is neither a non-habitable or habitable building or structure. Therefore, the water tank does not count toward the floor area or coverage for the site. The proposed emergency generator will be in a 11.3-foot-tall sound attenuating accessory structure with propose a ten-foot front setback, 74-foot right side setback, 43-foot left side setback and 150-foot rear setback. The side and rear yard complies with the setback requirements of the R1-20 District. With approval of the variance for a reduced front yard setback of ten feet, where a 30-foot front setback required, the proposed generator and enclosure will comply with the Zoning Ordinance.

As discussed above, Section 6.16.090.A of the Noise Ordinance exempts the generator from the Noise Ordinance standards when the utilities activities are associated with the emission of sound in the performance of emergency work, such as the operation of a back-up power generator during an emergency, when commercial power is unavailable. Therefore, the generator noise levels are permissible for a public utility site under the performance of emergency work, which would occur if the site lost commercial power.

After the installation of the generator, the generator will be tested intermittently for 15 minutes per week. The generator in the custom enclosure meets the City's daytime limit of 60dbA for short-duration noise in residential areas. Therefore, the custom-built reduced-noise generator complies with Section 6.16.050A.2.B of the Noise Ordinance. Condition No. 3 requires that all generator testing will occur between 7:30 am to 3:30 pm and the maximum testing period shall be 15 minutes.

The height, elevations, and placement on the site of the generator structure, when considered with reference to the nature and location of residential structures on adjacent lots, will not create unreasonable interference with views and privacy and its finished floor height and structure's overall height considers the topographic constraints imposed by site conditions.

The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized and will be in keeping with the general appearance of neighboring developed areas. The 35-foot front yard is landscaped with 15 trees, which include 12 Silver Wattle

(Acacia Delbata) trees and three willow peppermint (Eucalyptus Nicholii) trees, and side and rear yards are planted with 28 trees of varies species. The applicant proposes to remove four silver wattle trees due to conflicting with the footprint of the generator and accessory structure. The tree removals are consistent with the tree removal criteria (Section 11.08.090) under the Tree Protection Ordinance. The development does not create significant grade changes for the proposed generator, and it is in keeping with the general appearance by painting the structure an earth tone color to blend into the environment. The generator will be screened from public view by a six-foot tall solid fence with two-feet of lattice, and four new 15-gallon evergreen screening trees (prunus caroliana or podocarpus gracilior) along the street front and the existing mature landscaping that exists between the existing fence and street.

General architectural considerations, including the character, size, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings. The 100-square foot generator enclosure has a maximum height of 11.52 feet, which is below the maximum permitted 12-foot height for an accessory structure. The structure size and overall height reduces the overall appearance of size and scale. The metal building will be painted an earth tone color to be consistent with surrounding neighborhood, and the structure will be screened by fencing and evergreen screening vegetation. The generator enclosure has a similar architectural design style and shares similar architectural elements of existing on-site structures. Pursuant to the Zoning Code, the generator enclosure meets the specific site development and objective design standards in the Municipal Code.

The proposed addition has been designed to follow the natural contours of the site with minor grading to reduce the overall height of the structure, and 100 square-foot footprint of the structure minimizes impacts to impervious cover and does not create greater erosion protection.

Landscaping

The 35-foot front yard is landscaped with 15 trees, which include 12 Silver Wattle (Acacia Delbata) trees and three willow peppermint (Eucalyptus Nicholii) trees, and side and rear yards are planted with 28 trees of varies species. The applicant proposes to remove four silver wattle trees due to conflicting with the footprint of the generator and accessory structure. The tree removals are consistent with the tree removal criteria (Section 11.08.090) under the Tree Protection Ordinance.

The applicant proposes four new 15-gallon evergreen screening trees (prunus caroliana or podocarpus gracilior) along the street frontage. The landscaping is taller than the top of the generator.

ENVIRONMENTAL REVIEW

This project is categorically exempt from environmental review under Section 15303 of the California Environmental Quality Act because it involves the construction of an accessory structure and under Section 15301 due to negligible expansion of an existing facility of a public utility service

PUBLIC CONTACT

For this meeting, a public hearing notice was published in the *Town Crier*, a public meeting notice was posted on the property and mailed to 13 nearby property owners on Beechwood Lane, Sycamore Court, and Aspen Drive. The Notification Map is included in Attachment B. The applicant has provided an outreach letter, and it is provided as Attachment C. The applicant also posted the public notice sign (24" x 36") in conformance with the Planning Division posting requirements, as shown in Attachment d.

Cc: California Water Service, Applicant, Engineer and Owners

Attachments:

- A. Justification Letter
- B. Notification Map
- C. Noise Study
- D. Proof of Public Notice

FINDINGS

V21-0003 and DR22-0067 – 10900 Beechwood Lane

1. With regard to the front setback variances for a ten-foot front setback, the Design Review Commission finds the following in accordance with Section 14.76.070 of the Municipal Code:
 - a. The granting of the variance is consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02 because maintaining the encroachment into the yard areas would still ensure the Zoning Code’s objective of a harmonious, convenient relationship among the adjacent residential properties which have existed in this location since 1948; the modified structure will maintain the existing exterior wall setbacks at the front, left, and right side yard areas; The proposed emergency generator will be located in a 11.3-foot-tall sound attenuating accessory structure proposes a ten-foot front setback, 74-foot right side setback, 43-foot left side setback and 150-foot rear setback. The side and rear yard complies with the setback requirements of the R1-20 District. With approval of the variance for a reduced front yard setback of ten feet, where a 30-foot front setback required, the proposed generator and enclosure will comply with the Zoning Ordinance; and
 - b. The granting of the variances will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity because section 6.16.090.A of the Noise Ordinance exempts the generator from the Noise Ordinance standards when the utilities activities are associated with the emission of sound in the performance of emergency work, such as the operation of a back-up power generator during an emergency, when commercial power is unavailable. Therefore, the generator noise levels are permissible for a public utility site under the performance of emergency work, which would occur if the site lost commercial power; and after the installation of the generator, the generator will be tested intermittently for 15 minutes per week. The generator custom outdoor enclosure meets the City’s day time limit of 60dbA for short-duration noise in a residential area.
 - c. There is a special circumstance applicable to the property due to the existing location of the tank and ancillary structure for the potable water pump station, which constrains or limits the potential alternative locations on the subject site. The strict application of the provisions of the chapter would require the generator be installed at the rear of the site, which create potential noise impacts to five adjacent properties. The proposed generator location reduces potential noise impacts to the street frontage and limits potential noise impacts to two adjoining properties.
2. With regard to one-story addition and remodel of the existing residence, the Design Review Commission finds the following in accordance with Section 14.76.060 of the Municipal Code:
 - a. The proposed addition complies with all provision of this chapter;
 - b. The height, elevations, and placement on the site of the addition, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid

unreasonable interference with views and privacy and will consider the topographic and geologic constraints imposed by particular building site conditions;

- c. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized and will be in keeping with the general appearance of neighboring developed areas;
- d. The orientation of the proposed addition in relation to the immediate neighborhood will minimize the perception of excessive bulk and mass;
- e. General architectural considerations, including the character, size, scale, and quality of the design, the architectural relationship with the site and other buildings, building materials, and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings; and
- f. The proposed addition has been designed to follow the natural contours of the site with minimal grading, minimum impervious cover, and maximum erosion protection.

CONDITIONS

V21-0003 and DR22-0067 – 10900 Beechwood Lane

GENERAL

1. **Expiration**

The Design Review Approval will expire on July 6, 2024 unless prior to the date of expiration, a building permit is issued, or an extension is granted pursuant to Section 14.76.090 of the Zoning Code.

2. **Approved Plans**

The approval is based on the plans and materials received on June 6, 2022, except as may be modified by these conditions and specifically as follows:

3. **Generator Testing**

All generator testing will occur between 7:30 am to 3:30 pm and the maximum testing period shall be 15 minutes.

4. **Protected Trees**

Trees Nos. 306 to 343 shall be protected under this application and cannot be removed without a tree removal permit from the Community Development Director. Trees Nos. 301 to 305 shall be removed as part of this design review permit

5. **Tree Removal Approved**

Trees Nos. 301 to 305 shown to be removed on plan Sheet LAS9-3575-C0-00c of the approved set of plans are hereby approved for removal. Tree removal shall not occur until a building permit is submitted and shall only occur after issuance of a demolition permit or building permit. Exceptions to this condition may be granted by the Community Development Director upon submitting written justification.

6. **Encroachment Permit**

An encroachment permit shall be obtained from the Engineering Division prior to doing any work within the public right-of-way including the street shoulder. All work within the public street right-of-way shall be in compliance with the City's Shoulder Paving Policy.

7. **Landscaping**

The landscape plan is subject to the City's Water Efficient Landscape Regulations pursuant to Chapter 12.36 of the Municipal Code.

8. **Underground Utilities**

Any new utility service drops may need be located underground from the nearest convenient existing pole pursuant to Chapter 12.68 of the Municipal Code.

9. **Fire Sprinklers**

Fire sprinklers may

be required pursuant to Section 12.10 of the Municipal Code

10. **Indemnity and Hold Harmless**

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the

City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.

INCLUDED WITH THE BUILDING PERMIT SUBMITTAL

11. Conditions of Approval

Incorporate the conditions of approval into the title page of the plans.

12. Tree Protection Note

On the grading plan and/or the site plan, show all tree protection fencing for the tree Nos. 306 to 314, and 334 to 342 and also for trees on neighboring properties where dripline areas encroach into the subject site and add the following note: "All tree protection fencing shall be chain link and a minimum of five feet in height with posts driven into the ground."

13. Underground Utility Location

Show the location of underground utilities pursuant to Section 12.68 of the Municipal Code. Underground utility trenches shall avoid the drip-lines of all protected trees unless approved by the project arborist and the Planning Division.

14. Storm Water Management

Show how the project is in compliance with the New Development and Construction Best Management Practices and Urban Runoff Pollution Prevention program, as adopted by the City for the purposes of preventing storm water pollution (i.e. downspouts directed to landscaped areas, minimize directly connected impervious areas, etc.).

PRIOR TO ISSUANCE OF BUILDING OR DEMOLITION PERMIT

15. Tree Protection

Tree protection fencing shall be installed around the driplines of tree Nos. 306 to 314, and 334 to 342 and for trees on neighboring properties where dripline areas encroach into the subject site. Tree protection fencing shall be chain link and a minimum of five feet in height with posts driven into the ground and shall not be removed until all building construction has been completed unless approved by the Planning Division.