

DATE: September 1, 2021

AGENDA ITEM # 5

TO: Design Review Commission

FROM: Guido F. Persicone, Planning Services Manager

SUBJECT: V20-0003 – 2460 N Foothill Blvd

RECOMMENDATION:

Approve variance application V20-0003 subject to the listed findings and conditions

PROJECT DESCRIPTION

The applicant is requesting approval of a 1,068 square foot detached garage and carport when the zoning code restricts accessory structures to 800 square feet and placement of the structure 16 feet from the rear yard setback when a 25-foot setback is the standard. The following table summarizes the project's technical details:

GENERAL PLAN DESIGNATION:	Single-Family, Residential					
Zoning:	R1-10 67,760 square feet Presidential TL composition roof, plywood siding T- 11, exterior brick trim on garage pop out area to match the existing main residence					
PARCEL SIZE:						
MATERIALS:						
	Existing	Proposed	Allowed/Required 23,716 square feet 9,526 square feet			
COVERAGE:	5,290 square feet	6,585 square feet				
FLOOR AREA:	5,295 square feet	5,295 square feet				
SETBACKS: ¹						
Front (southeast)	25 feet	25 feet	25 feet			
Rear (northwest)	25 feet	16 feet	25 feet			
Right side	15 feet	15 feet	15 feet			
Left side	15 feet	15 feet	15 feet			
HEIGHT:	17 feet	17 feet	18 feet			

¹ Setbacks and height are listed for proposed detached accessory structure and not the main house.

BACKGROUND

Zoning Conformance and Parcel History

The subject parcel is designated Single-Family Medium Lot (SF-4) and Other Open Space (OS) in the General Plan and has a Zoning Designation of R1-10 (Single-Family). The property is located on the most southern portion of the City of Los Altos along the edge of the City of Cupertino. The subject lot is 1.9 acres in size and is considered a flag lot with an access corridor along Foothill Expressway. As defined by the Zoning Code, the front yard is along the east property line, the side yards are along the north and south property lines, and the rear yard is along the west property line abutting the Southern Pacific Railroad. This determination was made by staff in recognition of the location of the access corridor and the placement of the existing house.

The property is located on the west side of the Foothill Christian Center, south of Cristo Rey Drive and east of the Southern Pacific Railroad. There is a creek (Henry Creek) running through the southeast portion of the property, which is located on the opposite side of the proposed accessory structure. According to the Zoning Code for the R1-10 district, the required front and rear yard setbacks are 25 feet from the property line (§14.06.080). On flag lots, the minimum width of side yards are 15 feet from the property line (§14.06.080).

In July 2020, a design review application (DR20-0044) for a new detached garage (750 square feet in size) was approved administratively. The application met the required design review findings and was found to be consistent with the Residential Design Guidelines. While applying for the building permit, the fire department discovered that the property was missing a fire hydrant within 600 feet of the property and therefore required a fire protection system. The fire department required fire engine access with ample turnaround space. To achieve the 75 feet to 80 feet of paved surface, the proposed garage structure was required to be moved from its original location within the building envelope . In order to meet the turnaround requirements for the fire department, the accessory structure is proposed to be located inside the 25-foot rear yard setback area.

In November 2020, the applicants applied for a variance to allow the accessory structure to encroach into the rear yard setback by nine feet, resulting in a distance of 16 feet from the property line. In addition, the project includes a proposed size of 1,068 square feet, which exceeds the maximum permitted size of 800 square feet. The proposed scale of the garage and carport would be consistent with the scale of the primary residence. Since this property abuts the railroad tracks along the rear of the property, there are no visibility concerns from the neighboring properties.

DISCUSSION

Variance Request

The variance request is seeking to allow a new detached garage and carport (1,068 square feet in size to be located within the rear yard setback area, where 800 square feet is the maximum size in the R1-10 District.

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

Design Review Commission V20-0003 – 2460 N Foothill Blvd October 20, 2021

- 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 a variance to allow a new detached garage and carport to be located within the defined rear yard setback area would be consistent with the objectives of the City's zoning plan because the accessory structure would be located adjacent to the closed Southern Pacific Railroad tracks which minimizes public visibility and would maintain a harmonious and convenient relationship with the neighboring properties. The proposed setback from the southwest property line would preserve a reasonable rear yard relationship with the adjacent properties with the separation of the train tracks while also allowing for a reasonably sized accessory structure that is proportional to a lot of this size. The location of the accessory structure would accommodate the turnaround requirements of the Fire Department.

The granting of the variance would 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 the proposed accessory structure is built to an appropriate size and scale that is nonintrusive to neighboring properties and would preserve a reasonable rear yard relationship with the adjacent properties to the west and would maintain an appropriate level of privacy between the surrounding properties and persons living and working in the vicinity.

The special circumstance applicable is the unique surroundings of the train tracks along the west side of the property. The proposed location of the garage/carport would have no impacts on the neighboring properties due to the buffer of the train tracks. In addition, the proposed location would accommodate the fire engine turnaround space required by the Fire Department, which creates a constrained building envelope and minimal space in the rear yard. Strict application of the R1-10 District setback requirements would deprive this property of rear yard space that could accommodate a detached accessory structure.

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 a detached accessory structure on a single-family zoned property.

Public Notification

A public hearing notice was published in the *Town Crier*, posted on the property and mailed to all property owners as required per 14.76.080 of the Los Altos Municipal Code for the October 20, 2021 meeting. The mailed notice included 19 property owners and a copy of the notification map is included in Attachment C.

Cc: Hal and Laurie Nelson, Applicant and Property Owners

Design Review Commission V20-0003 – 2460 N Foothill Blvd October 20, 2021 <u>Attachments</u>

- A. Variance Justification Letter
- B. Notice of Development Proposal Sign
- C. Arborist Report
- D. Area, Vicinity and Notification Map
- E. Project Plans

FINDINGS

V20-0003 – 2460 N Foothill Blvd

With regard to the variance to allow a new detached accessory structure to be located within the required rear yard setback, the Design Review Commission finds the following in accordance with Section 14.76.060 of the Municipal Code:

- a. The granting of the variance for a new detached garage and carport to be located within the defined rear yard setback area would be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02 because the accessory structure would be located adjacent to the closed Southern Pacific Railroad tracks which minimizes public visibility and would maintain a harmonious and convenient relationship with the neighboring properties. The proposed setback from the southwest property line would preserve a reasonable rear yard relationship with the adjacent properties with the separation of the train tracks while also allowing for a reasonably sized accessory structure that is proportional to a lot of this size. The location of the accessory structure would accommodate the turnaround requirements of the Fire Department.
- b. The granting of the variance would 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 the proposed accessory structure is built to an appropriate size and scale that is nonintrusive to neighboring properties and would preserve a reasonable rear yard relationship with the adjacent properties to the west and would maintain an appropriate level of privacy between the surrounding properties and persons living and working in the vicinity.
- c. The special circumstance applicable is the unique surroundings of the train tracks along the west side of the property. The proposed location of the garage/carport would have no impacts on the neighboring properties due to the buffer of the train tracks. In addition, the proposed location would accommodate the fire engine turnaround space required by the Fire Department, which creates a constrained building envelope and minimal space in the rear yard. Strict application of the R1-10 District setback requirements would deprive this property of rear yard space that could accommodate a detached accessory structure.

CONDITIONS

V20-0003 – 2460 N Foothill Blvd

GENERAL

1. Approved Plans

The approval is based on the plans received on November 3, 2020, and then resubmitted on June August 4, 2021, except as may be modified by these conditions.

2. Tree Protection

The accessory structure shall comply with the tree protection recommendations provided in the arborist report to preserve existing on-site trees, and as approved by the Planning Division.

3. 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.

4. Prior to the issuance of building permits the applicant shall demonstrate approval from the County Fire Department.

ATTACHMENT A

Variance Justification Letter

Hal Nelson and Laurie Klatt Nelson 2460 N Foothill Blvd Los Altos

We are in need of a variance in order to build a detached two car garage with a carport, a fire protection system including a 10,000 gallon water tank and a wharf hydrant. We have a 1.992AC flag lot in Los Altos on the edge of Cupertino. Our home is 5354SF and we have the southern pacific railroad on one side and a creek on another side.

While applying for the building permit, the fire department discovered we do not have a fire hydrant within 600 feet of our property and therefore will require a fire protection system. This includes fire engine access on our driveway with ample turnaround per spec sheet D-1. (Please reference the attached D-1 diagram).

To achieve the 75'-80' of paved surface, we have to relocate the proposed structure to another part of our property and will be encroaching on the 25' setback. The new garage is intended to be the same height as our existing home (17') for aesthetics. The 10,000 gallon water tank will be 13.25' round by 11' high and 20' away from the new garage, per code. The area of the property we are placing the new garage and water tank is along the railroad tracks. In order to meet the turnaround requirements for the fire department, the structures will be inside the 25' setback along the railroad tracks.

The fire hydrant issue took us by surprise. We have been here 14 years unaware of the fire danger we are in. We will need to set up the property to be fire safe, regardless of whether we are allowed to build our garage or not. We hope you understand our dilema and will grant our variance.



Thank you, in advance, for your consideration.



ATTACHMENT C



McClenahan Consulting, LLC

Arboriculturists Since 1911

1 Arastradero Road, Portola Valley, CA 94028-8012 Telephone (650) 326-8781 Fax (650) 854-1267 www.spmcclenahan.com

April 28, 2021

Mr. Hal Nelson

2460 Foothill Boulevard Los Altos, CA 94024

Assignment

As requested, I performed a visual inspection of seven trees to determine species, size and condition and define tree protection zones (TPZ) and provide tree preservation guidelines.

<u>Summary</u>

There are two species on site coast live oak (*Quercus agrifolia*) and valley oak (*Quercus lobata*). Proposed plans include construction of a new garage and water tank. The overall impacts to trees from construction will occur to less than 20 percent of the root environments and will require some crown raising and reduction in some limbs. Tree eight will be removed and is under the protected tree size limit. Tree six is recommended for removal due to lean and borer infestation in tension wood. However, current plan will retain the tree and reduce crown over proposed water tank. A root collar inspection and treatment for borers is recommended should retention be desired. Tree three will require the heaviest pruning above ground and has the least root disturbance. Tree Protection Zones are defined for each tree in Figure 2. Any grading or excavation within a TPZ must be accomplished by hand or air digging. A qualified arborist should approve, supervise and provide mitigation for any root cutting within a TPZ.

Methodology

No root crown exploration, climbing or plant tissue analysis was performed as part of this survey. For purposes of identification, trees have been numbered on the preliminary site plan shown in Figure 1.

In determining Tree Condition several factors have been considered which include:

Rate of growth over several seasons; Structural decays or weaknesses; Presence of disease or insects; and Life expectancy.

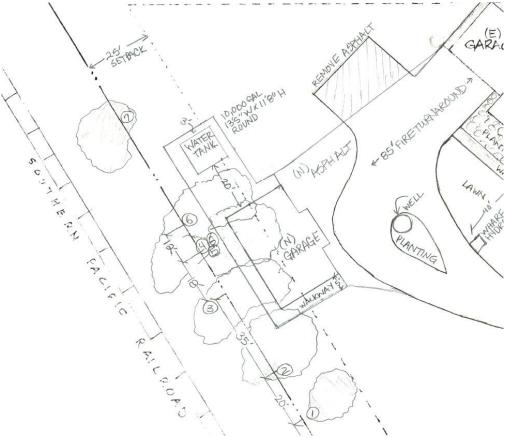


Figure 1: site plan

#	Name	Diameter	TPZ	Height	Spread	Condition	Location	Observation
1	Coast live oak	29"	25-feet	45'	40'	Poor to Fair	Railroad setback	Below average vigor. Proposed garage is outside TPZ.
2	Valley oak	17.7"	15-feet	40'	25'	Fair	Railroad property	Moderate accumulation of deadwood. Proposed sidewalk outside garage is 15-feet from the tree. Minimal impacts anticipated from proposed improvements.
3	Coast live oak	24"	20-feet	37'	30'	Fair	Railroad setback	Although proposed garage is outside the TPZ of 20-feet, pruning for building clearance may be needed to less than 15 percent of the canopy.
4	Valley oak	10.3"	10-feet.	25'	25'	Fair	Railroad setback	Grows to a lean. Understory tree. Proposed garage is outside TPZ of 10-feet.
5	Valley oak	21.7"	18-feet	40'	50'	Fair	Railroad setback	Crown overlaps with adjacent trees. Proposed garage is 11-feet from the tree and will impact less than 20 percent of root environment.
6	Coast live oak	20.6"	18-feet	30'	30'	Poor	Railroad setback	Grows to an exagerrated lean toward proposed water tank. Significant borer infestation observed on tension side of lean. 9-feet from proposed sidewalk, 14-feet from garage. Impacts from improvements are anticipated to less than 15 percent of root environment.
7	Valley oak	33.5"	28-feet	50'	40'	Fair	Railroad setback	Proposed water tank is 20-feet from the tree and will impact less than 10 percent of the root area. The TPZ is 28-feet.
8	Coast live oak	14.3"	N/A	16'	20'	Fair	Railroad setback	Grows to a significant lean into proposed garage corner. Below protected tree size of 48 inches circumference and will be removed.

Figure 2: tree descriptions

TREE PRESERVATION GUIDELINES

Tree Preservation and Protection Plan

In providing recommendations for tree preservation, we recognize that injury to trees as a result of construction include mechanical injuries to trunks, roots and branches, and injury as a result of changes that occur in the growing environment.

To minimize these injuries, we recommend grading operations encroach no closer than six times the trunk diameter, (i.e. 30" diameter tree x 6=180" distance). At this distance, buttress/anchoring roots would be preserved and minimal injury to the functional root area would be anticipated. Should encroachment within the area become necessary, hand digging is *mandatory.*

Barricades

Prior to initiation of construction activity, temporary barricades should be installed around all trees in the construction area. Six-foot high, chain link fences are to be mounted on steel posts, driven 2 feet into the ground, at no more than 10-foot spacing. The fences shall enclose the entire area under the drip line of the trees or as close to the drip line area as practical. These barricades will be placed around individual trees and/or groups of trees as the existing environment dictates.

The temporary barricades will serve to protect trunks, roots and branches from mechanical injuries, will inhibit stockpiling of construction materials or debris within the sensitive 'drip line' areas and will prevent soil compaction from increased vehicular/pedestrian traffic. No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground around the tree canopy shall not be altered. Designated areas beyond the drip lines of any trees should be provided for construction materials and onsite parking.

Root Pruning (if necessary)

During and upon completion of any trenching/grading operation within a Tree Protection Zone, clean pruning cuts of exposed, damaged or severed roots greater than one inch diameter should be accomplished under the supervision of a qualified Arborist to minimize root deterioration beyond the soil line *within twenty-four (24) hours*.

Pruning

Pruning of the foliar canopies to include removal of deadwood is recommended and should be initiated prior to construction operations. Such pruning will provide any necessary construction clearance, will lessen the likelihood or potential for limb breakage, reduce 'windsail' effect and provide an environment suitable for healthy and vigorous growth.

Fertilization

A program of fertilization by means of deep root soil injection is recommended with applications in spring and summer for those trees to be impacted by construction. Fertilizer should include organic blends and components such as mycorrhizae and bio stimulants.

Such fertilization will serve to stimulate feeder root development, offset shock/stress as related to construction and/or environmental factors, encourage vigor, alleviate soil compaction and compensate for any encroachment of natural feeding root areas.

Inception of this fertilizing program is recommended prior to the initiation of construction activity.

Mr. Hal Nelson 2460 Foothill Blvd., Los Altos, CA

Mulch

Mulching with wood chips (maximum depth 3") within tree environments (outer foliar perimeter) will lessen moisture evaporation from soil, protect and encourage adventitious roots and minimize possible soil compaction.

Inspection

Periodic inspections by the *Site Arborist* are recommended during construction activities, particularly as trees are impacted by trenching/grading operations.

Inspections at approximate four (4) week intervals would be sufficient to assess and monitor the effectiveness of the Tree Preservation Plan and to provide recommendations for any additional care or treatment.

All written material appearing herein constitutes original and unpublished work of the Arborist and may not be duplicated, used or disclosed without written consent of the Arborist.

We thank you for this opportunity to be of assistance in your tree preservation concerns.

Should you have any questions, or if we may be of further assistance in these concerns, kindly contact our office at any time.

McCLENAHAN CONSULTING, LLC

H. MILLE

By: John H. McClenahan ISA Board Certified Master Arborist, WE-1476B member, American Society of Consulting Arborists

JHMc: cm



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ARBORIST DISCLOSURE STATEMENT

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like a medicine, cannot be guaranteed.

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, landlord-tenant matters, etc. Arborists cannot take such issues into account unless complete and accurate information is given to the arborist. The person hiring the arborist accepts full responsibility for authorizing the recommended treatment or remedial measures.

Trees can be managed, but they cannot be controlled. To live near a tree is to accept some degree of risk. The only way to eliminate all risks is to eliminate all trees.

ACH. Malan

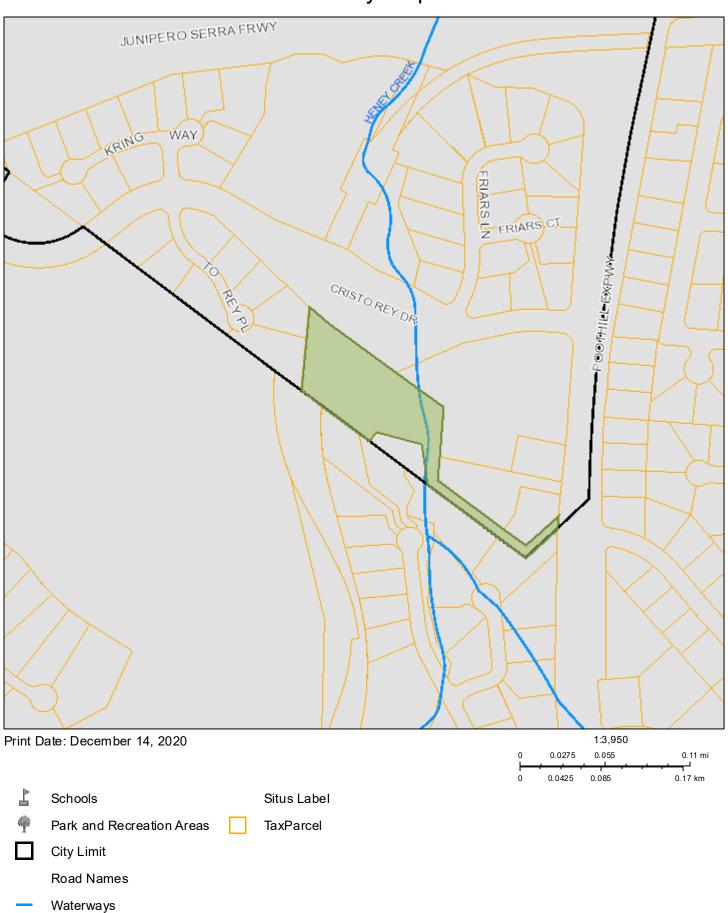
Arborist: Date:

John H. McClenahan April 28, 2021

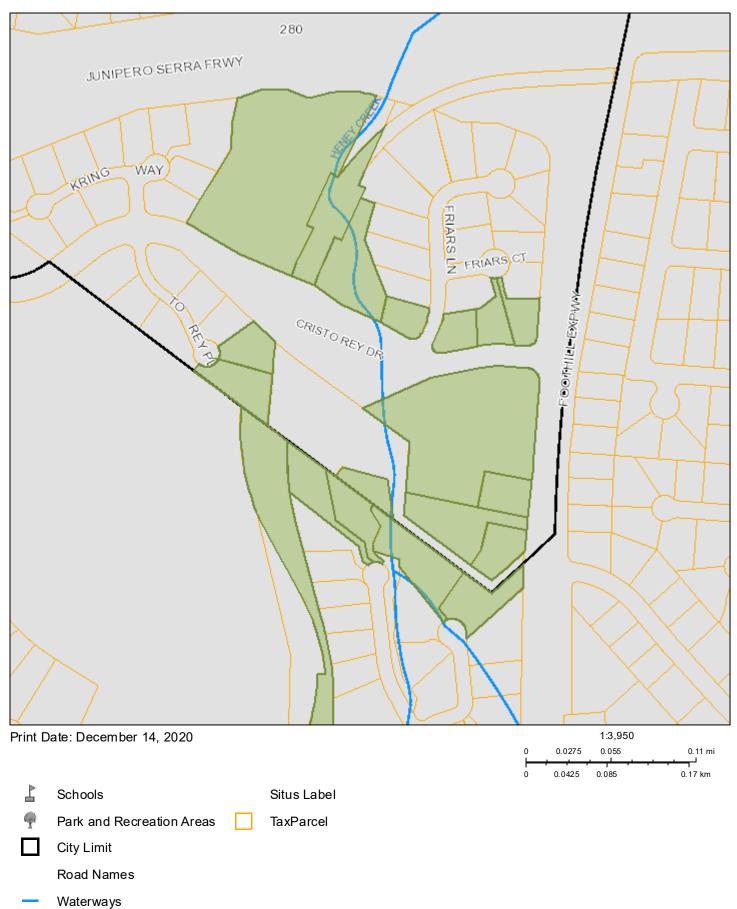


ATTACHMENT D

Vicinity Map



Notification Map





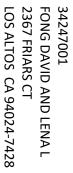
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PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS





Project Location: 2460 Foothill Blvd.

Meeting Date and Time: 7:00 p.m., Wednesday, October 20, 2021

Applicant: Hal and Laurie Nelson

Project Description Variance request for a new detached garage and carport (1,068 square feet in size to be located within the rear yard setback area, where 800 square feet is the maximum size in the R1-10 District. This project is categorically exempt from environmental review under Section 15303 of the California Environmental Quality Act.

Meeting Location: This meeting will be held virtually. See below for detailed information.

Please Note: Per California Executive Order N-29-20, the Commissions will meet via teleconference only. Members of the Public may call (650) 242-4929 to participate in the conference call (Meeting ID: 148 961 9881 or via the web at https://tinyurl.com/pe47h2z2). Members of the Public may only comment during times allotted for public comments. Public testimony will be taken at the direction of the Commission Chair and members of the public may only comment during times allotted for public comments. Members of the public comments. Members of the public are also encouraged to submit written testimony prior to the meeting at DesignReviewCommission@losaltosca.gov or Planning@losaltosca.gov or Planning@losaltosca.gov or Planning@losaltosca.gov. Emails received prior to the meeting will be included in the public record.

Project Planner: Guido Persicone, (650) 947-2633 gpersicone@losaltosca.gov

Project plans and information are available for review on the City's website at <u>https://www.losaltosca.gov/communitydevelopment/ page/two-storysingle-family-residential-and-variances</u>. The agenda report will be available on the City's website the Thursday before the meeting date at <u>www.losaltosca.gov/designreview commission</u>. Written comments can be mailed or delivered in person to the Community Development Department or emailed to the Project Planner. Verbal comments can also be made at the Public Meeting.



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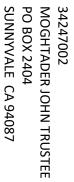
34201011 KLATT LAURIE M ET AL 2470 N FOOTHILL BLVD LOS ALTOS CA 94024-7427

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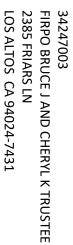
34201039 KAVURI RATNA B AND KILARU HARITHA 2450 N FOOTHILL BLVD LOS ALTOS CA 94024-7427

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34201044 LOS ALTOS CHRISTIAN CTR INC 2420 N FOOTHILL BLVD LOS ALTOS CA 94024-7427

PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS





Project Location: 2460 Foothill Blvd.

Meeting Date and Time: 7:00 p.m., Wednesday, October 20, 2021

Applicant: Hal and Laurie Nelson

Project Description Variance request for a new detached garage and carport (1,068 square feet in size to be located within the rear yard setback area, where 800 square feet is the maximum size in the R1-10 District. This project is categorically exempt from environmental review under Section 15303 of the California Environmental Quality Act.

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PUBLIC HEARING NOTICE DESIGN REVIEW COMMISSION

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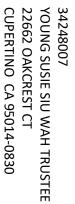
34201046 JASUJA SANJAY AND ANU B TRUSTEE 7429 MESA DR APTOS CA 95003

PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS





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34206048 CALIFORNIA WATER SERVICE CO 1720 N FIRST ST SAN JOSE CA 95112

PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS

34248008 FILO ANDREW S 22670 OAKCREST CT CUPERTINO CA 95014-0830



Project Location: 2460 Foothill Blvd.

Meeting Date and Time: 7:00 p.m., Wednesday, October 20, 2021

Applicant: Hal and Laurie Nelson

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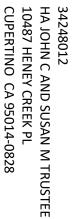
34206066 GUPTA RAJIV AND GLARVEY DEBRA 2465 CRISTO REY PL LOS ALTOS CA 94024-7426

PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS





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34206067 SHERBIN ROBERT AND BLAUM-SHERBIN MOLLIE TRU 2460 CRISTO REY PL LOS ALTOS CA 94024-7426

PUBLIC NOTICE



Los Altos, CA 94022

1 N. San Antonio Road

Planning Division

CITY OF LOS ALTOS

34248013 TICE GREGORY L AND KANGPOL SIRIKANYA 10479 HENEY CREEK PL CUPERTINO CA 95014-0828



Project Location: 2460 Foothill Blvd.

Meeting Date and Time: 7:00 p.m., Wednesday, October 20, 2021

Applicant: Hal and Laurie Nelson

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PUBLIC NOTICE



Planning Division 1 N. San Antonio Road Los Altos, CA 94022

CITY OF LOS ALTOS

34262003 SOUTHERN PACIFIC TRANSPORTATION CO 1 MARKET PLAZA SAN FRANCISCO, CA 94105

PUBLIC NOTICE

CITY OF LOS ALTOS



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