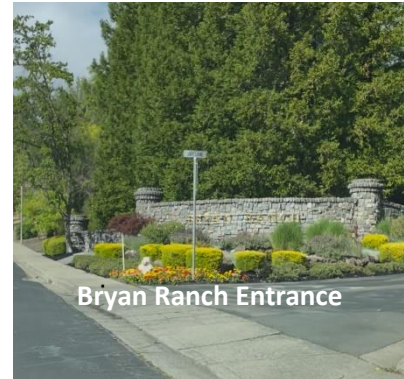


May 27, 2025

**Appeal of Planning Commission Decision Approving Removal of 3 Protected Native Oak Trees
CDTP24-00064
19 Jay Court, Alamo, CA**

Dear Contra Costa County Board of Supervisors

We, concerned residents of the Bryan Ranch community, respectfully appeal the Planning Commission's approval (CDTP24-00064) to remove three protected native Oak trees at 19 Jay Court, Alamo, CA, on a west-facing slope, treated as HOA open space and located on the sole access road to the development.



While the Architectural Review Committee (ARC) initially approved the project, that approval was subsequently revoked once the staked layout of the project revealed that the submitted plans did not fully or accurately represent the scope, visual impact, and positioning of the installation. Unfortunately, despite the ARC's revocation of its approval, the ARC's decision was appealed by the Homeowner and later approved by the HOA Board — a decision we strongly believe was based on misleading, inaccurate, and incomplete information provided to the HOA Board.

There are several critical concerns that warrant a formal reconsideration and denial of this project:

1. CEQA Exemption Misapplication
2. Contractor Licensing and Credibility
3. Misrepresentation of Plans and Visual Impact
4. Prescriptive Easement
5. Errors in Staff Report
6. Dangerous Precedent Setting
7. Engineering Report Not Addressed
8. Unnecessary Tree Removal

1. CEQA Exemption Misapplication

The project is not categorically exempt under California Environmental Quality Act ("CEQA") Section 15303(e). Exemptions depend on the project characteristics, such as size, location, and environmental impact.

Relevant to the request submitted by the Homeowner, the exemption 15303(e) refers to "small" projects. While the term "small" is not defined in CEQA, there are several examples provided for reference (garages, carports, patios, swimming pools, and fences).

The Staff Report calculates the size of the solar array with fence as 1,200 sq. ft. (Staff Response item 2 page 5 and Staff Response Item 3, page 5). Two of the structures provided for reference in the CEQA code as 'small structures' are garages (average size 308 sq. ft.) and swimming pools (average size 600 sq. ft.). A garage the size of the proposed 1,200 sq. ft. project would comfortably hold four cars. The proposed project is four times the size of the average garage and twice the size of the average swimming pool and far exceeds CEQA's "small" structure threshold.

We assert that the proposed project's actual size is 2,100 sq ft (35 ft. x 60 ft.) to comply with California Fire Code Section 1205.5.1 (Ground-mounted Photovoltaic panel systems, Vegetation Control), not the 1200 sq. ft. as represented by the Homeowner, Contractor, and Staff Report. California Fire Code Section 1205.5.1 mandates a clear, brush-free area of 10 feet around the perimeter of the panels. Additionally, a noncombustible base, like gravel or a maintained vegetative surface is required under

the arrays. Based on the information provided by the Homeowner and contained within the Staff Report, the approved size does not comply with the Fire Code.

Based on our calculated project size of 2,100 sq. ft., a similar sized garage would comfortably fit 6-8 vehicles, far exceeding the standards for exemption as provided in 15303(e).

To further quantify the size of the project, if the project were to be installed as a rooftop solar system, it would not qualify for SolarAPP+ expedited permitting as it exceeds the size maximum of 10kW. The wattage size of 11.2 kW therefore should also exclude this system from exemption under CEQA 15303(e).

The installation must also be reviewed for Environmental Impact. Staff Report item 3 page 5 states:

“the property owner has indicated to staff that the stumps and root systems of the subject trees will remain intact and in the ground which will provide continuing stability of the hillside. Therefore, it is not expected that there will be significant impact on the structural integrity of the slopping hillside due to erosion...”

Leaving the tree stumps intact violates the California Fire Code and undermines the aforementioned Staff statement regarding erosion mitigation.

The 2,100 sq ft footprint far exceeds the CEQA standards for ‘small’ and the requirements of the California Fire Code increase the likelihood of environmental impacts, including erosion. Therefore, the project is not exempt under 15303(e).

2. Contractor Licensing and Credibility

The contractor for this project, *Freedom Forever, LLC, Greg Russell Albright, RMO* (CSLB License 1029644) (“Contractor”) was presented as a qualified expert during the commission hearing and his statements were relied upon by Staff in preparing the Staff Report and evaluating alternate installation locations (Staff Response item 4). However, according to the California Contractors State License Board, this Contractor has more than thirteen citations against his license and as of September 4, 2024, in a Stipulated Settlement and Disciplinary Order filed by the Attorney General of California, the Contractor’s license was revoked. The Settlement stayed the revocation and Freedom Forever was placed on probation for three years with conditions as outlined in the Settlement. A \$100,000 bond was required to be posted by the Contractor in response to the excessive and continual nature of complaints against him.

Freedom Forever’s Contractor’s license expires 8/31/2025, raising concerns about his continuing license status. Item 11 of the Stipulated Settlement and Disciplinary Order states:

“No New Applications. While Respondent Freedom LLC’s license is on probation, no CSLB application for culpable personnel will be processed for a new or reissued license. Respondent Freedom LLC shall retain the ability to replace its Responsible Managing Officer (RMO).”

Complaints in the Attorney General’s Accusation that are specifically relevant to this project include “willfully departed from accepted trade standards for good and workmanlike construction”, including failing to properly install a roof mounted system resulting in a failed roof, and failure to adequately measure and plan and/or failure to follow measurements or plans. In addition to the multiple complaints outlined in the Accusation, the Settlement estimated there were approximately forty-five additional unresolved consumer complaints against the Contractor. (A copy of the Attorney General’s Accusation and Stipulated Settlement are included in this packet).

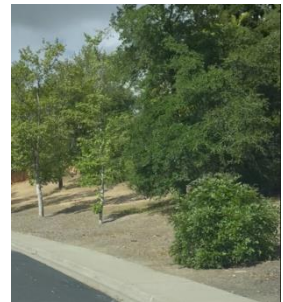
As further described in Section 3 below, the plans submitted by the Contractor for this project are not in compliance with the Fire Code, nor do they accurately represent the location of the array. As indicated in other complaints filed against him, he has previously failed to adequately measure and plan for his projects. In this particular case, he has represented a 1200 sq. ft. installation, when in fact to be compliant it must be at least 2100 sq ft. which is similar to the size of some of the homes in Bryan Ranch.

Given the terrain and engineering challenges posed by the hillside, there is significant concern regarding the Contractor's qualifications to carry out such a sensitive installation without compromising the stability of the slope and the surrounding environment. It is also reasonable to conclude that the Contractor failed to properly consider or advance a roof mounted alternative based on his negative history with such installations.

Private property rights in the U.S. are not absolute; they're subject to regulations balancing individual freedom with public interests like environmental protection. In California, native oak trees are protected due to their ecological value—stabilizing soil, supporting biodiversity, and mitigating climate impacts. Local ordinances, rooted in state laws like the California Environmental Quality Act (CEQA), prioritize these benefits over unrestricted property rights.

3. Misrepresentation of Plans and Visual Impact

The Site Plan submitted by the Contractor and relied upon in the Staff Report inaccurately depicts the location and size of the solar array. The solar array is consistently drawn in the Site Plans as 8 feet wide and 22 feet long based on the scale provided on each plan. However, the technical specifications specify the proposed solar array to be 15 ft. by 40 ft. The Site Plans are either intentionally or negligently in error. The submitted Plans depict a far less intrusive project onto the hillslope than will exist after installation. The Site Plan errors are egregious to the extent they cannot be relied upon for the purpose of approving any aspect of this project.



Furthermore, the Plans submitted show the Valley Oak tree located outside of the proposed installation. The Staff Report (item VI.) states the valley oak is located approximately 10 feet west of the proposed PV system. This is physically impossible based on the 19 ft. distance between the existing fence and the Valley Oak and the dimensions of the project. The drawings also misrepresent the solar array positioning as fully between the Blue Oak and Coast Live Oak trees. Essentially, the visual representations provided in the Site Plans are inaccurate and misleading, leading to faulty conclusions in the Staff Report.

These errors also raise concern over whether the 15-foot secondary front setback requirement will be met.

4. Prescriptive Easement Qualification

The sloped hillside at issue for the project installation meets the four elements required to qualify as a Prescriptive Easement.

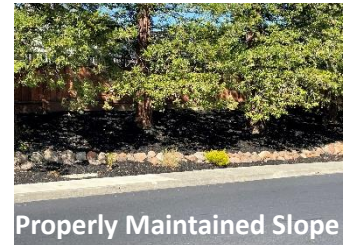
The project site, part of parcel 193-670-016, qualifies as a prescriptive easement due to the HOA's 40+ years of open, continuous and hostile use.

- **"Open and Notorious"**: this requirement is met as the HOA planted, watered, and maintained the five Sycamore trees along with the other 89 HOA owned trees which are on HOA land and designated 'open space' areas. The HOA also serviced the area annually by discing for fire mitigation paid for by the members of the association. This activity was clearly visible to the current Homeowner, and he took no action since purchasing the property in 1999.
- **"Continuous"**: the use was continuous as HOA fire mitigation, annual discing, and tree maintenance has regularly occurred since the Homeowner purchased the property.
- **"Hostile and Adverse"**: use of the land has been exclusive and not shared with others who have the owner's consent. As stated above, the HOA has maintained the property without the Homeowner's permission, which is considered hostile and adverse use. Additionally, the Homeowner failed to maintain the hillside, despite ARC rules while the HOA used the area consistent with other Association open space, adverse to the owner's claim.

- **"Duration":** All of this exceeds California's five-year requirement for a prescriptive easement claim.

The Homeowner abdicated maintenance of the area at issue to the HOA by failing to comply with the following CC&R: "Maintenance of Lawns and Plantings: Landscaping plans for areas adjacent to any streets shall be submitted to the Committee for approval within eight (8) months of occupancy." As you can see in Exhibit A, other neighbors whose property backs up to Stone Valley have landscaped their yards – all except for this Homeowner and the immediately adjacent property.

Additionally, the Homeowner has not complied with the following ARC rule: *Slope areas shall be maintained by the owner in a neat, orderly and safe condition and in such a manner to enhance their appearance and to maintain established land contours and prevent erosion and land slide problems. All slope areas facing the street or neighbor shall have some form of ground cover to meet these requirements.*



Based on the above, all of the elements for Prescriptive Easement are met and the HOA has easement rights to this location. The HOA Board would be required to obtain approval of its membership prior to releasing these Easement rights.

5. Errors in the Staff Report

The Staff Report contains multiple factual errors, likely due to the lack of accurate, consistent information provided by the Homeowner, Contractor, and the HOA's property management.

These errors include, but are not limited to:

- a) Misrepresenting the solar array size on the submitted drawings;
- b) Misrepresenting the solar array placement on the hillside relative **to Oak trees;**
- c) Misrepresenting the extent of array intrusion onto the hillside on the Site Plans;
- d) Diminishing the visual impact on the neighbors and community;
- e) Diminishing the visual impact as related to the entrance to Bryan Ranch;
- f) Dismissing the historical use of the area as Association open space;
- g) Inclusion of inaccurate information by Common Interest who did not have approval of the HOA Board to submit a position on its behalf; and
- h) Erroneous identification and status of the adjacent fence enclosure.

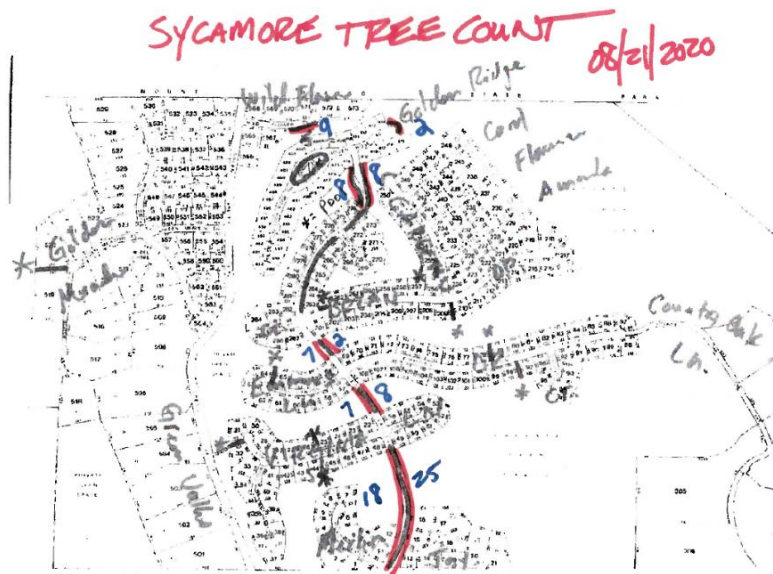
Items a) through e) have been addressed elsewhere; however, item f) and g) are further explained below.

Item F:

The hillside slope is currently maintained and landscaped as open space with the planting of a continuous row of 25 Sycamore trees and open grass hillside continuously along Stone Valley Road and continuing unabated to the next privately owned property at Virginia Lane. This use is consistent with all other HOA owned open space areas along Stone Valley Road (*See Video email to Nai Stephens*). All other privately owned backyard or side yard sloped areas fronting Stone Valley Road are planted and maintained by the homeowner.

Upon entering Bryan Ranch, neighbors are used to driving past open space lined with beautiful Sycamore trees. The proposal at issue will introduce a disjointed fence surround and solar structure that is not in alignment with any other fences in the community and permanently alter the look and feel of Bryan Ranch.

Item G:



The Staff Report references and relies upon a March 17, 2025, letter from “Marnie Collier, Executive Vice President of Common Interest Management Services”. The Staff Report references this letter as being written “for the Bryan Ranch HOA Board of Directors” and in support of the application. Based on information obtained to date, there is no evidence that the HOA Board requested, reviewed, or supported this document. Additionally, the March 17 letter is factually incorrect and contains significant omissions in that it fails to state the ARC revoked its approval; fails to include the history of the neighboring pool solar fence (see below); and makes personal unnecessary and unbecoming attacks on a current homeowner. Ms. Collier overstepped the boundaries of her role as “support” to the HOA Board, not the voice of the HOA Board.

Item H:

Item VII.2 in the Staff Report references a ‘ground mounted PV system adjacent to the proposed project’. There is no other ground mounted PV system visible in the neighborhood, and more specifically not along the main entrance to the community – Stone Valley Road. The adjacent fence enclosure referenced contains a pool passive solar array. This enclosure was not approved by the HOA ARC or Board. It was built in violation of HOA procedure and rules, and the house was sold with the pool system violation. It was the subject of many homeowner complaints and in 2024; and recently in an effort to improve the visual view of the entrance, it was agreed the illegal fence would be replaced. The fence enclosure is significantly smaller than the proposed solar array, and pool solar panels are flat to the ground whereas the PV solar panels will be 4-6’ off the ground on a 26–30-degree slope. The proposed panels will be completely visible from all neighbors coming and going. Not only will such solar array be an eye sore for the neighborhood, but potential reflection risk may cause safety hazards for drivers.

An additional fence would only increase the affront and create an uneven and disconnected area of fencing along this hillside. Existence of the adjacent fence structure should not be interpreted as an indication that a similar installation is desirable.

6. Dangerous Precedent Setting

Permitting this size of highly visible, ground-mounted solar installation on a small, prominent hillside — particularly when roof-mounted alternatives are viable — risks establishing a precedent that could alter Bryan Ranch’s cohesive aesthetic as well as the visual aesthetics in other Contra Costa County neighborhoods. The Bryan Ranch development also supports and provides access to Mt. Diablo State

Park for many residents of Contra Costa County. Multiple trailheads to Mt. Diablo Park begin within Bryan Ranch and are intended to support the “open space” feel of the neighborhood. A decision to approve the solar installation doesn’t only impact the residents of Bryan Ranch, but everyone who comes to the neighborhood to hike the trails. To be more specific, one of the most populated trailheads begins just at the entrance to Bryan Ranch. Visitors to that trail head park along this portion of Stone Valley Road. Local school sports teams use the area for after school training in running and mountain biking. Allowance of this installation sets a precedent for any other homeowner to install a similar ground mounted PV array adjacent to the street, in their front yard, on their back fence, or in the driveway – it’s a slippery slope.

Residential ground-mounted systems of this size are rare in Contra Costa County’s neighborhoods and are typically confined to large (1+ acre) properties with screening or a good distance from any main artery to a neighborhood. Located along the sole access road, this structure would be highly visible and introduce a precedent that would erode the community’s open-space character.

The Bryan Ranch community is very supportive of solar energy as evidenced by the numerous installations. Many of these homeowners have successfully installed roof mounted solar with similar considerations of surrounding trees and shake roofs. It is imperative that proper consideration and evaluation of a roof mounted system be undertaken prior to approving removal of the 3 Oak trees and altering the native character of the hillside.

Further, two of the Commissioners appeared to dismiss any concerns or considerations regarding this project, expressing that the private property rights and the Solar Rights Act all but eliminate any other considerations, including HOA approval and concerns about native Oak removals. While some decisions are justified under the umbrella of personal property rights, this is not the sole criteria when considering the broader community standards, HOA CC&Rs, and neighborhood aesthetics. By purchasing a home in an HOA, homeowners voluntarily enter into a contractual agreement which limits certain property rights in exchange for community benefits, such as community standards, enjoyed by all members of the community.

7. Engineering Report Not Addressed

The engineering report shared at the hearing raised significant concerns about the potential instability and environmental impact of installing 28 solar panels on a steep hillside. This report appears not to have been considered as part of the Board’s final approval. Any resulting damage to community infrastructure — including roads and underground utilities — would be the liability of the Homeowner and Contractor, who already demonstrate signs of unreliability as a bond of \$100,000 would not cover the damage to the hillside and the street

8. Unnecessary and Harmful Tree Removal

The removal of three native Oak trees is not only environmentally detrimental but unnecessary. The prevalent installation for solar systems in the community, as well as in the State in general, is roof mounted solar. Many neighbors have installed solar panels on roofs with less sunlight exposure than this property receives. This includes shake roofs.

In evaluating alternate locations, the Staff Report relies on the statements of the Contractor and Homeowner. As the project Contractor has significant license citations, particularly as it relates to prior roof mounted solar projects, evaluations for alternate locations should be obtained from reputable contractors. If ground-mounting is absolutely preferred, there are alternative locations higher on the lot that would preserve native Oak trees and be less detrimental to the community.

The purpose of the Tree Preservation section of the code is to preserve trees in the unincorporated area of the county on “private property in the interest of the public health, safety and welfare and

to preserve scenic beauty.” Further the section states, “(t)rees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty.....”(Section 816-6.2004(1-2)).

This location in the Diablo Range and abutting the Mount Diablo has long been of particular importance to the residents of Contra Costa County for native tree and habitat preservation. In the submitted Tree Plan, the Homeowner proposes to remove three healthy, well established native Oak trees and replace them with a Pepper Tree (*Schinus Molle*), a Chinese Pistache (*Pistacia Chinensis*) and a Meyer Lemon.

The Chinese Pistache is native to China, Taiwan, and the Philippines. It is invasive in nature and has caused its use in California to be of concern. The Pepper Tree is also a non-native tree, originating from the Andes mountains in Peru, and is listed in the UC IPM Invasive Plants of California (published 6/17) on the “Other invasive plant species of horticultural origin” table. It is designated to have invaded Central Coast, South Coast, Central Valley, and the Sierra Nevada and Cascade Mountains of California.

It is important, especially in areas such as Bryan Ranch that are adjacent to natural habitats, to be avoidant of planting trees that have invasive tendencies. None of the three proposed replacement trees should be considered a good alternative to a native Oak tree in terms of ecological benefits and environmental impact.

Permitting the removal of our native Oak trees, particularly in the Diablo range and habitat so interconnected with the State Park, is also a dangerous precedent. If each Oak tree removal is considered as independent and insignificant to the whole, then the impact of the removals is minimized, especially when replaced with non-native species.

It is our contention that the native Oak trees should not be removed. However, should the tree removals be approved, they should be replaced with native Oaks. At minimum, they should be replaced with a tree species native to the Diablo range. Continued removal of these native trees will ultimately have a significant and long-lasting impact on the natural habitat and native species in the region, especially these areas so closely interconnected with Mt. Diablo State Park.

Solutions and Recommendations

In light of the above, we respectfully request the following actions be considered:

1. **Deny the tree removal request**, requiring the homeowner to either relocate the project higher on their property or consider a roof-mounted solution.

Or in the alternative:

2. **Return the issue to the Planning Department** for re-evaluation without the CEQA exemption and require updated plans that include accurate measurements, alternative proposals, engineering details, tree protection options, and contractor licensing disclosures.

We believe it is both possible and necessary to find a balanced solution that respects the Homeowner's desire for sustainable energy while also preserving the visual, structural, and environmental integrity of our shared neighborhood.

Thank you for your time and consideration of these important issues.

Sincerely,

On Behalf of Concerned Bryan Ranch Homeowners

Judy Huggins (189 Emmons Canyon Ln, Alamo, 925.788.0422), Heidi Welsh (1301 Virginia St, Alamo), and Tony Kalliaras (1316 Virginia St), and many more.