

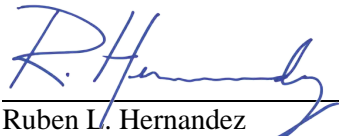


**CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION**

APPROVED PERMIT

APPLICANT:	Ben Byers Soil Engineering Construction 927 Arguello Street Redwood City, CA 94063	APPLICATION NO.:	CDDP23-03014
		ASSESSOR'S PARCEL NO.:	433-020-056
		PROJECT LOCATION:	600 & 610 Stanley Ln El Sobrante, CA 94803
OWNERS:	Margarita Navarro John Vanek 610 Stanley Lane El Sobrante, CA 94803	ZONING DISTRICT:	P-1
		APPROVED DATE:	September 4, 2024

This matter having not been appealed within the period of time prescribed by law, a DEVELOPMENT PLAN PERMIT, and a tree permit for work within the driplines of five code-protected Oak trees, for a retaining wall with a maximum height of 11-feet and 0-foot side yards on two adjacent properties, with an exception to the Creek Structure Setback requirements of Title 9 of the County Code, in the EL SOBRANTE area is hereby APPROVED, subject to the attached conditions of approval.

By: 

Ruben L. Hernandez
County Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE (1) YEAR from the approved date if the use allowed by this permit is not established within that time.

PLEASE NOTE THE APPROVAL DATE, as no further notification will be sent by this office.

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP23-3014, SCOTT TAYLOR – SOIL ENGINEERING CONSTRUCTION (APPLICANT) AND JOHN & BARBARA VANEK AND MARGARITA & RAMON NAVARRO (OWNERS) AS APPROVED BY THE ZONING ADMINISTRATOR ON SEPTEMBER 4, 2024

FINDINGS

A. Development Plan Modification Finding

1. *Required Finding: That the proposal is consistent with the purpose of the zoning district.*

Staff Finding: The subject properties are located within the Planned Unit District (P-1), which was originally established under County File # 2475-RZ. Under Tract 6465 and County File #DP85-3018, the development standards were established for the subdivision that the two subject properties are a part of, which include a 20-foot front setback, a 3-foot side yard, a 15-foot aggregate side yard, and a 15-foot rear yard. The retaining wall, ranging in height from 5-11 feet (15 foot maximum), is a use consistent with and accessory to single-family residential development, which has been established for the two subject properties and the surrounding neighborhood. The retaining wall crosses the shared side property line between 600 and 610 Stanley Lane, resulting in zero-foot side yards. As such, a modification is required for the portion of the wall that encroaches upon these setbacks. Due to the nature of the request stemming from a landslide behind the two residences, a geotechnical study was submitted with this application. This study recommended a retaining wall in the subject location and configuration with a maximum height of 11 feet in order to stabilize the soil behind the residences. As such, there is a special circumstance for these properties that necessitate the need for a retaining wall in the subject location with zero-foot side yards. Moreover, the retaining wall is a use consistent with the P-1 zoning and final development plan for the subject properties, and there is a special circumstance for these properties that necessitate the need for a retaining wall in the subject location with zero-foot side yards.

2. *Required Finding: That the proposal is architecturally compatible with other uses in the vicinity, both inside and outside the zoning district.*

Staff Finding: The project involves the construction of a new retaining wall within the restricted development area in the rear yard of two adjacent properties and within the creek structure setback area, ranging in height from 5 to 11 feet, spanning 112 feet in length, and with zero-foot side yards (where three feet is

required) for the portion of the retaining wall that crosses the shared side property line between 600 and 610 Stanley Lane. This retaining wall is for the purpose of stabilizing the soil behind two existing single-family residences after a landslide event. Due to the nature of the request stemming from a landslide behind the two residences, a geotechnical study was submitted with this application. This study recommended a retaining wall in the proposed location and configuration with a maximum height of 11 feet in order to stabilize the soil behind the residences. A retaining wall is a compatible use that is accessory to the established single-family residences on the subject property and in the surrounding neighborhood. Furthermore, the retaining wall was constructed based on the recommendations of the geotechnical study for the purpose of stabilizing the soil behind the two subject residences is a matter of building safety to preserve the existing residences and provide a safe living environment on-site. The retaining wall is at the rear of the properties and at a lower elevation than the front of the residences, so they would not be visible from the street and would not create a visual nuisance to adjacent properties to the front, side or rear of the subject properties. As such, the project will be architecturally compatible with the surrounding neighborhood and other uses in the vicinity.

B. Tree Permit Findings

Required Factors for Granting Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

- Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;

C. Title 9 Exception Findings

Subject to the Subdivision Map Act, the advisory agency may authorize exceptions to any of the requirements and regulations set forth in this title. Before granting any such exception, the advisory agency shall find:

1. Required Finding: *That there are unusual circumstances or conditions affecting the property.*

Staff Finding: The unusual circumstance affecting the subject properties that

would require an exemption to construct a retaining wall within the creek structure setback area is the landslide that occurred on the subject properties. This retaining wall is for the purpose of stabilizing the soil behind two existing single-family residences after a landslide event. Pursuant to Section 74-6.010 and Section 914-14.014 of the County Ordinance, no permanent structures of any kind, other than drainage structures, may be constructed within, under or over any structure setback area. The purpose of the retaining wall is to protect the residences from a large landslide that threatens the stability of the soil beneath the homes. The wall will not have any effect on the creek because of the distance from the 100-year flood zone and is not intended to stabilize the creek bank below the proposed wall. Therefore, the retaining wall cannot be considered to be a drainage facility and in order for the County to approve the construction of a retaining wall within the creek structure setback area, an exception under Title 9, Section 92-6.002, must be granted. Staff finds that the landslide's degradation of the rear yards of the two properties and the potential for further damage to the existing residences constitutes an unusual circumstance affecting the subject properties.

2. *Required Finding: That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

Staff Finding: As a result of the landslide that occurred at the rear of the two subject properties, the two subject residences are at risk of sliding down the hill. This retaining wall is for the purpose of stabilizing the soil behind two existing single-family residences after a landslide event. Staff finds that the landslide's degradation of the rear yards of the two properties and the potential for further damage to the existing residences, if the retaining wall was not constructed constitutes the necessity for the retaining wall's construction. As such, granting this exception is necessary for the preservation and enjoyment of the subject properties.

3. *Required Finding: That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.*

Staff Finding: The granting of the exception to construct a retaining wall within the creek structure setback area will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated. The slide repair work is fully contained within the rear yards of the two

subject properties, and the retaining wall serves the purpose of stabilizing the soil on the slope in the rear of the properties, which improves safety to the residences and neighboring residences. Therefore, the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP23-03014

Project Approval

1. A DEVELOPMENT PLAN MODIFICATION for a new retaining wall within the restricted development area in the rear yard of two adjacent properties and within the creek structure setback area, ranging in height from 5 to 11 feet, spanning 112 feet in length, and with zero-foot side yards (where three feet is required) for the portion of the retaining wall that crosses the shared side property line between 600 and 610 Stanley Lane in the El Sobrante area is generally **APPROVED** based on the revised application materials and plans received by the Department of Conservation and Development, Community Development Division on June 6, 2023, and is subject to the conditions below.
2. Tree Permit approval is granted to allow work within the drip lines of five code-protected oak trees ranging in size from 8 to 24 inches in diameter.

General Provisions

3. Any deviation from or expansion beyond the limits of this permit may necessitate the filing and approval of a request for modification to the Development Plan Permit approval.

Grant Deed of Development Rights

4. This approval is contingent upon receiving the Board of Supervisors' approval to construct the new retaining wall within the area where development rights have been grant deeded to the County pursuant to CDS85-6465.

Building Permits

5. Within 45 days of the Board of Supervisors' approval, the applicant shall obtain all appropriate building permits required for the construction of the retaining wall.

Security for Possible Damage to Trees Intended for Preservation

6. Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages trees that are to be preserved, the applicant shall provide the County with a security to allow for replacement of trees that are significantly damaged or destroyed by construction activity. **Prior to issuance of building permits**, the applicant shall provide a cash or surety bond that is acceptable to the CDD.

A. Amount of Security: The security shall be an amount sufficient to cover:

- i. Preparation of a landscaping and irrigation plan by a licensed landscape architect, arborist, or landscape contractor for the review and approval of the CDD. The plan shall provide for planting of up to **twelve (12)** 15-gallon-size trees of species appropriate for the subject site. The plan shall comply with the County's Water Efficient Landscapes Ordinance, and verification of such shall accompany the plan. **If deemed necessary by the CDD, the plan shall be implemented prior to final building inspection.**
- ii. The estimated materials and labor costs to complete the improvements shown on the approved planting and irrigation plan (accounting for supply, delivery, and installation of trees and irrigation).
- iii. An *additional* 20% above the costs described in Sections A.i and A.ii above to account for inflation potential.

B. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.

C. Duration of Security: After the final inspection has been completed, the applicant shall submit a letter to the CDD, composed by a consulting arborist, describing any construction impacts to trees intended for preservation. The security shall be retained by the County for a minimum

of 12 months and up to 24 months beyond the date of receipt of this letter. As a prerequisite of releasing the bond between 12 and 24 months, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. The report shall be submitted to the CDD for review, and it shall include any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant. If the CDD determines that trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then the CDD may require that all or part of the security be used to provide for mitigation of the trees damaged, including replacement of any trees that have died.

Compliance with Arborist Recommendations

7. The applicant shall implement all measures recommended by the consulting arborist that are intended to mitigate potential construction-related impacts.

Application Costs

8. The Development Plan application was subject to an initial deposit of \$2,000.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2013/340, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

Construction Period Restrictions and Requirements

8. The owners and their contractors shall comply with the following restrictions and requirements:
 - A. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to project-related contractors.

- B. The project sponsor shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors and concrete pumps as far away from existing residences as possible.
- C. Transportation of heavy equipment and trucks shall be limited to week days between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on Federal and State holidays.
- D. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
- E. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)

Washington's Birthday (Federal)

Lincoln's Birthday (State)

President's Day (State)

Cesar Chavez Day (State)

Memorial Day (State and Federal)

Juneteenth National Independence Holiday (Federal)

Independence Day (State and Federal)

Labor Day (State and Federal)

Columbus Day (Federal)

Veterans Day (State and Federal)

Thanksgiving Day (State and Federal)

Day after Thanksgiving (State)

Christmas Day (State and Federal)

For specific details on the actual day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: www.sos.ca.gov/holidays.htm

**PUBLIC WORKS CONDITIONS OF APPROVAL
FOR COUNTY FILE #CDDP23-03014**

**COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE
OF A BUILDING PERMIT AND PRIOR TO INITIATION OF THE USE PROPOSED UNDER
THIS PERMIT.**

9. For Public Works review for compliance relative to this Development Plan Permit, a Compliance Review Fee deposit shall be submitted directly to the Public Works Department in accordance with the County's adopted Fee Schedule for such services. This fee is separate from similar fees required by the Department of Conservation and Development and is a deposit to offset staff costs relative to review and processing of these conditions of approval and other Public Works related services ancillary to the issuance of building permits and completion of this project.

Access to Adjoining Property

Proof of Access

10. The applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

Drainage Improvement

Collect and Convey

11. The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to *an adequate* natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to *an adequate* natural watercourse, in accordance with Division 914 of the Ordinance Code.

Miscellaneous Drainage Improvements

12. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.

Floodplain Management:

13. The project is located in a Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The applicant shall be aware of and comply with the requirements of the National Flood Insurance Program (Federal) and the County Floodplain Management Ordinance as they pertain to development and future construction of any structures on this property.

Creek Banks and Creek Structure Setbacks:

14. The applicant shall show the creek structure setback line on the site plan in accordance with Section 914-14.012, "Structures Setback Lines for Unimproved Earth Channels" and observe this setback line as if this were a subdivision.

Exception: Applicant shall be granted an exception from the creek structure setback requirement concerning construction of the proposed retaining wall due to the determination that this would be the optimal location to prevent future landslides.

Area of Benefit Fee Ordinance:

15. The applicant will need to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Richmond/El Sobrante and West Contra Costa Transportation Advisory Committee Area of Benefit, as adopted by

the Board of Supervisors. The fees shall be paid prior to issuing a development plan permit.

Drainage Area Fee Ordinance

16. The applicant shall comply with the drainage fee requirements for Drainage Area 73 as adopted by the Board of Supervisors prior to initiation of the use requested with this application. The fee shall be paid prior to issuance of a building permit.

ADVISORY NOTES

ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCES AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. **NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.**

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Department of Conservation and Development within 90-days of the approval date of this permit.

- B. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II).
- C. Portions of the project site lie within the Special Flood Hazard Area (100-year flood

boundary) as designated on the Federal Management Emergency Agency's Flood Insurance Rate Maps. The applicant shall be aware of the requirements of the National Flood Insurance Program and the County Flood Plain Management Ordinance (Ordinance No. 2000-33) as they pertain to future construction of any structures on this property.

- D. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- E. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.
- F. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Richmond/El Sobrante Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- G. Additional requirements may be imposed by the following agencies:
 - Contra Costa County Building Inspection Division
 - Contra Costa County Public Works Division
 - Contra Costa County Environmental Health Division
 - Contra Costa County Fire Protection District
 - West County Wastewater District
 - East Bay Municipal Utility District
 - California Department of Fish and Wildlife
 - U.S. Army Corps of Engineers

The applicant is strongly encouraged to review these agencies' requirements prior to continuing with the project.