

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDTP24-00056,
DON VIVATSON, ALDER POOL & LANDSCAPE CO., (APPLICANT) CRAIG M. &
CAITLIN HORNSBY (OWNERS)**

FINDINGS

A. Tree Permit Findings

1. Required Factors for Granting a Tree 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:

- *The arborist report indicates that the tree is in poor health and cannot be saved;*

The Arborist Report submitted with the application on September 4, 2024 (*Arborist Report for 15 Morningside Place, Alamo*, Atlas Tree Service, Inc., August 22, 2024) that was prepared by a Certified Arborist, assesses 13 trees in the vicinity of the planned backyard improvements (a pavilion, a pool, and a sports court). The arborist identifies four (4) code-protected trees within a stand of four or more natural trees as having poor structure, excessive lean and have potential for failure. Two Valley Oak trees (trees #930 and #932) and a California Bay tree (tree #931) will be affected by construction of the backyard improvements. In addition, one Valley Oak tree (tree #928) is overcrowding three other Valley Oak trees (trees #938, #939, and #940), and is leaning towards the existing single-family residence on the project site. The arborist states that the four trees (trees #928, #930, #931, and #932) cannot be saved and are a concern for the safety of the property owner's family.

- *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.*

The project site has largely level topography, with clusters of trees at the center and along the sides of the property. The existing 2,092 square-foot single-family residence is located on the eastern side of the property. The project includes a new pavilion, pool, and sports court in the backyard on the undeveloped west end of the project site. The development will be constructed on a portion of the property that maximizes the use of the

developable area of the property. Due to the location of the existing single-family residence, the backyard improvements cannot be reasonably accommodated on another area of the lot.

2. *Required Factors for Denying a Tree Permit.* The Zoning Administrator is satisfied that none of the factors for denying a tree permit as provided by County Code Section 816-6.8010 apply.

B. Environmental Review

Tree Permit CDTP24-00056 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (e) for the new construction of accessory structures. There is no substantial evidence that the project involves unusual circumstances, including future activities, resulting in, or which might reasonably result in, significant impacts which threaten the environment. None of the exceptions in CEQA guidelines section 15300.2 apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDTP24-00056

Project Approval

1. A Tree Permit to remove four (4) code-protected trees including three (3) Valley Oak trees (identified in the Arborist Report as trees #928, #930, and #932) and one (1) California Bay tree (tree #931) with trunk diameters measuring between 9-inches to 40-inches, for the construction of backyard improvements, is APPROVED, subject to the conditions below.
2. Approval of the Tree Permit is based on the following documents:
 - Application materials and plans accepted by the Department of Conservation and Development, Community Development Division (CDD): on September 4, 2024.
 - *Arborist Report for 15 Morningside Place, Alamo*, prepared by Atlas Tree Service, Inc., August 22, 2024, received on September 4, 2024.
 - *Supplemental Report for 15 Morningside Place, Alamo*, prepared by Atlas Tree Service, Inc., November 20, 2024, received on November 20, 2024.
 - Site Plan, prepared by Alderland, January 9, 2025, received on January 13, 2025.
 - Tree Planting Plan, prepared by Alderland, January 20, 2025, received on February 26, 2025.

3. Tree removal shall only occur with an approved grading or building permit.
4. Any deviation from the approved plans stated above shall require review and approval by the CDD and may require the filing of a new application to modify this Tree Permit.

Building Permit

5. Approval of this permit does not constitute a building permit. The applicant shall obtain a building permit prior to the construction of the backyard improvements (pavilion, pool and sports court).

Application Costs

6. The Tree Permit application is subject to an initial application deposit of \$750.00, which was paid with the application submittal, plus time, and material costs if the application review expenses exceed 100% of the initial deposit. Any additional fee due must be paid prior to an application for a grading or 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 2019/553, where a fee payment is over 60 days

Arborist Expenses

7. The applicant shall be responsible for all arborist expenses related to the work authorized by this permit.

Tree Protection Measures

8. The applicant shall implement all tree protection measures in the September 4, 2024 Arborist Report. **These tree protection measures shall be included on the construction drawings for building permits. A Certified Arborist shall monitor all construction-related activities within the drip lines of remaining trees, as identified on the January 13, 2025 Site Plan.**

Additional Tree Permit

9. If any impacts to the trees occur, in addition to those described herein, a new Tree Permit will be required. The fee for this application is a deposit of \$750.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

Restitution for Tree Removal

10. The following measures are intended to provide restitution for the removal of four code-protected trees:
 - a. Tree Planting and Irrigation Plan: Prior to CDD stamp of approval of plans for the issuance of a grading or building permit, whichever is first, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the CDD. The plan shall provide for the planting of the fifteen (15) trees proposed by the applicant in the February 26, 2025 Tree Planting Plan. The plan shall comply with the Water Efficient Landscaping Ordinance (County Code Chapter 82-26). Verification of compliance with the Water Efficient Landscape Ordinance shall accompany the plan.
 - b. Tree Installation and Verification: The tree planting and irrigation plan shall be implemented prior to final building inspection. Following the installation of the trees, **the applicant shall submit written verification of the tree installation in order to release the hold on the final building inspection.**

Tree Removal and Construction Requirements

11. All tree removal and construction activity shall comply with the following restrictions, which shall be included on the construction drawings. **These measures shall be included on construction drawings for grading and building permits.**
 - 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 all project-related contractors.
 - b. The applicant 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 as far away from existing residences as possible.

- c. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
- d. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
- 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 date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov/policy-data-oversight/holidays-leave/federal-holidays/)

California Holidays: [State Holidays \(ca.gov\)](https://www.ca.gov/holidays/)

- f. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE 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 CDD within 90 days of the approval date of this permit.

- B. Additional requirements may be imposed by the following agencies:
- Department of Conservation and Development, Building Inspection Division
 - Contra Costa County Public Works Department
 - East Bay Municipal Utility District
 - Contra Costa County Fire Protection District
 - Central Contra Costa Sanitary District

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