

CONTRA COSTA COUNTY

AGENDA

Contra Costa County Planning Commission

Wednesday, September 10, 2025

6:30 PM

30 Muir Road, Martinez

Zoom: https://cccounty-us.zoom.us/j/84769800896 | Call in: (888)278-0254 Access code: 198675

CHAIR: Kevin Van Buskirk VICE-CHAIR: Bhupen Amin

COMMISSIONERS: Jeffrey Wright, Donna Allen, Bob Mankin, Ross Hillesheim, Sanjiv Bhandari

The public may attend this meeting in person at the above location. The public may also attend this meeting remotely via Zoom or call-in. Login information and call-in information is provided below. Persons wishing to view the meeting but not participate may view the meeting live online at: https://www.contracosta.ca.gov/4314/County-Planning-Commission.

Persons who wish to address the Commission during public comment on matters within the Commission's jurisdiction that are not on the agenda, or who wish to comment with respect to an item on the agenda, may comment in person, via Zoom, or via call-in. Those participating in person should come to the podium when called upon. Those participating via Zoom should indicate they wish to speak by using the "raise your hand" feature in the Zoom app. Those calling in should indicate they wish to speak by pushing "#2" on their phone.

All public comments will be limited to 3 minutes per speaker. Public comments may also be submitted before the meeting by email at planninghearing@dcd.cccounty.us, or by voicemail at (925) 655-2860. Comments submitted by email or voicemail will be included in the record of the meeting but will not be read or played aloud during the meeting.

For assistance with remote access, please contact County staff at (925) 494-4516

Any disclosable public records related to an item on a regular meeting agenda and distributed by County staff to a majority of the Planning Commissioners less than 96 hours prior to the meeting are available for inspection at 30 Muir Road, Martinez, CA 94553, during normal business hours.

The Community Development Division of the Department of Conservation and Development will provide reasonable accommodations to those persons needing translation services and for persons with disabilities who wish to participate in County Planning Commission meetings. Please contact County staff at least 48 hours before the meeting at (925) 655-2860.

25-3477

- 1. PLEDGE OF ALLEGIANCE
- 2. PUBLIC HEARINGS
- 2a. MICHAEL MILANI (Appellant) CHERYL RAYMA GREEN (Applicant and Owner), County File CDVR25-01012: This is an appeal of the Zoning Administrator's decision to deny a Variance and Small Lot Design Review to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot tall columns to support an entry gate. The project site is located at 10000 Morgan Territory Road in the Livermore area of unincorporated Contra Costa County. (Zoning: A-40 Exclusive Agricultural District) (Assessor's Parcel Number: 006-110-016) AS

Attachments: Attachment A Findings & TP COAs final

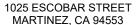
Attachment B Letter of Appeal Received on June 26, 2025

Attachment C Maps
Attachment D Site Photos
Attachment E Project Plans
Attachment F Agency Comments

Attachment G PowerPoint Presentation rev
Attachment G PowerPoint Presentation rev

- 3. PUBLIC COMMENTS
- 4. STAFF REPORT
- <u>5.</u> <u>COMMISSIONERS' COMMENTS</u>
- <u>6.</u> <u>COMMUNICATIONS</u>

THE NEXT MEETING OF THE CONTRA COSTA COUNTY PLANNING COMMISSION WILL BE HELD ON WEDNESDAY, SEPTEMBER 24, 2025.





CONTRA COSTA COUNTY

Staff Report

File #: 25-3477 Agenda Date: 9/10/2025 Agenda #: 2a.

Project Title: 10000 Morgan Territory Road Variance and Tree Permit

County File Number: CDVR25-01012

Appellant: Michael Milani

Applicant/Owner: Cheryl Rayma Green (Applicant & Owner)

Zoning/General Plan: A-40 Exclusive Agricultural District / AL Agricultural Lands

Site Address/Location: 10000 Morgan Territory Road in the Livermore area of

unincorporated Contra Costa County (Assessor's Parcel

Number: 006-110-016)

California Environmental

Exempt, CEQA Guidelines Section 15061(b)(4) and CEQA

Quality Act (CEQA) Status:

Guidelines Section 15301(a)

Project Planner: Allison Seoane, Project Planner (925) 655-2871

Allison.Seoane@dcd.cccounty.us

Staff Recommendation: Deny (See section II for full recommendation)

I. PROJECT SUMMARY

This is an appeal of the Zoning Administrator's decision to deny a Variance and Small Lot Design Review to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot tall columns to support an entry gate.

The Zoning Administrator's decision to approve a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment for the entry gate is not being appealed.

II. RECOMMENDATION

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Department of Conservation and Development, Community Development Division (CDD) staff recommends that the County Planning Commission:

- A. DENY the appeal.
- B. FIND that the Variance is exempt from CEQA under Section 15061(b)(4) of the CEQA Guidelines.
- C. FIND that the Tree Permit is exempt from CEQA under Section 15301(a) of the CEQA Guidelines.
- D. UPHOLD the Zoning Administrator's denial of the Variance and Small Lot Design Review and approval of the Tree Permit under County File CDVR25-01012, based on the attached findings and conditions of approval.

E.DIRECT staff to file a Notice of Exemption with the County Clerk.

III. GENERAL INFORMATION

- A. General Plan: AL Agricultural Lands.
- B. Zoning: A-40 Exclusive Agricultural District.
- C. <u>California Environmental Quality Act (CEQA)</u>: CEQA Guidelines, Section 15061(b)(4), Review for Exemption, exemption for projects that will be rejected or disapproved by a public agency.

CEQA Guidelines, Section 15301(a), Existing Facilities, Class 1 exemption for exterior alterations of existing facilities.

- D. <u>Previous Applications</u>:
 - 1. <u>CDLL85-00081</u>: A Lot Line adjustment to change the common property line to conform to an existing fence between APN: 006-110-019 and the subject property at APN: 006-110-016 was approved by the CDD on December 27, 1985.
 - 2. <u>CDLL12-00002</u>: A Lot Line Adjustment between the subject property at APN: 006-110-016 and 006-110-028 was denied by the Zoning Administrator on October 23, 2012 due to non-payment of penalty fees.

- 3. <u>CDLP23-02055</u>: A Land Use Permit to legalize an existing second single-family residence with a Variance to allow a 7-foot front yard setback (where 25 feet is the minimum required) and a 43-foot side yard setback (where 50 is the minimum required) was approved by the Zoning Administrator on November 18, 2024 contingent on completion of concurrent Lot Line Adjustment CDLL23-00022.
- 4. <u>CDLL23-00022</u>: A Lot Line adjustment to transfer 6,525 square feet of land from APN: 006-110-028 to the subject property at APN: 006-110-016 concurrent with CDLP23-02055 is still ongoing and has not been completed.

IV. BACKGROUND

A. <u>BIRF05-00618 Code Enforcement Case</u>: Code Enforcement Case BIRF05-00618 for two columns exceeding 6 feet in height, an electric gate built without permits, and two unpermitted residences was initiated on April 7, 2005. A Courtesy Letter was sent to the property owner on April 18, 2005. A Notice of Pending Nuisance Abatement was sent on August 21, 2007. A Determination of Fine was filed on July 15, 2010. The case was closed with a lien on February 28, 2012.

On June 26, 2018, the Board of Supervisors approved Ordinance No. 2018-15 to amend the County Zoning Code section 82-4.270 to exempt fences with a maximum height of seven feet from the definition of "structure," where previously, fences with a maximum height of six feet were exempt from the definition of structure. This Zoning Code amendment was passed in order to align with the new California Building Codes that were in effect as of January 1, 2017.

- B. <u>CDLP23-02055 Land Use Permit:</u> A Land Use Permit application and a Lot Line Adjustment application were accepted by the Department of Conservation and Development on December 4, 2023. The Land Use Permit was approved by the Zoning Administrator on November 18, 2024, which legalized one previously constructed, unpermitted residence with a Variance to allow substandard front yard and side yard setbacks and conditioned the second unpermitted residence inside a previously existing barn to be restored to a barn. The Variance is contingent upon completion of concurrent Lot Line Adjustment CDLL23-00022 as the approved setbacks are based on the new lot line configuration.
- C. Zoning Administrator Decision on the CDVR25-01012 Variance: A Variance application was accepted by the Department of Conservation and Development on February 12, 2025. A Notice of Intent to Recommend Denial of the Variance and Small Lot Design Review was sent on April 10, 2025, which included an opportunity to request a public hearing before the Zoning Administrator (ZA). There was no hearing request received by staff.

On June 18, 2025, the CDVR24-01012 permit to deny the Variance and Small Lot Design

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Review and approve the Tree Permit was signed by the Deputy Zoning Administrator.

D. <u>Appeal of the Zoning Administrator Decision</u>: An appeal of the Zoning Administrator decision was filed on June 26, 2025, within the 10-day appeal period, by Michael Milani, the project contact person, on behalf of the property owner.

V. SITE AREA/DESCRIPTION

The subject property is in a 14.55-acre kite-shaped lot on the west side of Morgan Territory Road. The lot is developed with a barn in the north corner, and two, two-story single-family residences along the northeast property line to the south-west of the barn. The lot is similar to several neighboring lots in that many of the lots along Morgan Territory Road are substandard and less than the required minimum 40-acre lot size and 250-foot average lot width. A mechanical gate and two 8-foot tall stone supporting columns have been built on the lot between the primary residence and Morgan Territory Road, as shown on the photos as Attachment D. The gate and columns are within the required minimum front yard setback.

VI. PROJECT DESCRIPTION

The applicant requests approval of a Variance to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot tall columns to support an entry gate and a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment. The two columns and mechanical equipment were installed without first obtaining a building permit. Approval of the Variance and Small Lot Design Review is necessary to obtain a building permit for the columns as built, because at their current height they are considered structures pursuant to County Code Section 82-4.270(2), and therefore, are subject to setbacks and small lot design review. The applicant is requesting the County Planning Commission to overturn the Zoning Administrator's decision to deny the Variance and Small Lot Design Review.

VII. APPEAL

An appeal letter from Michael Milani, the contact person for CDVR25-01012, was received on June 26, 2025. The appeal letter is included as Attachment B. This appeal is based on three appeal points, each of which are summarized below and followed by a staff response.

A. <u>Summary of Appeal Point #1:</u> In response to Variance finding #1, the appellant states that the Variance would not constitute a grant of special privilege because the property is located in a rural area, and many immediate neighbors have similar, large, entrance gates. The appellant also states that the support columns do not pose health and safety concerns.

Staff Response: Variance finding #1 requires evidence to be brought forth that proves that

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there is not a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district of the subject property. There is no quality about the subject property that constitutes a limitation that the neighboring properties do not experience. The subject lot is a similar size and topography to the neighboring properties. The shape of the lot, while different from its neighbors, does not limit the property from constructing an entry gate with support columns to be either 7 feet tall and thus not subject to setbacks, or taller than 7 feet and conforming to A-40 zoning setbacks.

The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback for the columns, and the reduced front yard setback is inconsistent with the A-40 zoning district.

The appellant did not provide addresses so Staff may verify the legality or existence of these alleged gate structures located in the required front setback for properties in the vicinity. Further, the approval of a variance for one property does not constitute that other neighboring properties in the vicinity may be subject to the same variance. Each project must meet variance findings independent of each other.

Finally, health and safety are not requirements of the Variance findings.

B. <u>Summary of Appeal Point #2</u>: In response to Variance finding #2, the appellant claims that the property is in a rural area and the strict application of zoning requirements would not protect the general public or visitors. The appellant states that the gate has been in place for decades without health or safety issues.

<u>Staff Response:</u> The appellant has not provided evidence as to what special circumstance applies due to the property's size, shape, topography, location, or surroundings that deprives the subject property of rights enjoyed by others in the vicinity. The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback as required for the two columns.

The area is relatively flat, and the entry gate is still achievable even if the columns were lowered to 7 feet, so the columns could legally be located within the front yard setback without a variance.

Further, the fact that the gates have been in place for 20 years without necessary permits and the property owner has never sought to legalize the gates until now. is not a finding for granting a variance.

C. <u>Summary of Appeal Point #3:</u> In response to Variance finding #3, the appellant claims that the Variance meets the intent and purpose of the land use district because the A-40 zoning district allows for accessory structures auxiliary to single-family residences. The

appellant claims that the columns, while oversized, are still subordinate to both residences on the property.

Staff Response: The property in the A-40 district is subject to the allowed uses set forth in Section 84-82 of the County Ordinance Code, which includes a detached single-family dwelling and the accessory structures and uses normally auxiliary to it. An entry gate with support columns could be consistent with the residential uses allowed in the A-40 district provided it meets the regulations set forth in County Code Section 82-4.270 that either allow for two 7-foot tall support columns that are exempt from setback requirements, or two 8-foot tall support columns that would be deemed accessory structures required to be set back 25 feet from the front property line. Because the support columns comply with neither of these requirements, the previously constructed oversized columns do not meet the intent and purpose of the A-40 district.

VIII. STAFF ANALYSIS

Columns that exceed 7 feet in height are considered structures that are required to meet the setbacks of the zoning district where the subject property is located per County Ordinance Code Section 82-4.270. The subject property is located along the east side of Morgan Territory Road where lots in the A-40 Exclusive Agricultural District are intended to be a minimum of 40-acres, but are generally a minimum of 5 acres. The subject property lacks qualities that would be considered a limitation that is not experienced by other properties in the vicinity and in the respective A-40 land use district that necessitate the placement of column structures within the front yard setback. Therefore, granting a variance to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two 8-foot tall entry gate support columns would be a grant of special privilege.

There does not appear to be any special circumstance applicable to the subject property due to its size, shape, topography, location or surroundings that support relief from the zoning regulations for the oversized columns. The lack of physical constraints on the property does not show that the applicable zoning regulations would deprive the subject property of the rights enjoyed by other properties in the vicinity and in the A-40 District.

The A-40 District allows a detached single-family dwelling and auxiliary accessory structures. The two entry gate support columns could be consistent with the residential uses allowed in the A-40 District provided they are reduced to 7-feet in height, and are therefore not structures subject to setback requirements per County Ordinance Code Section 82-4.270. Alternatively, the columns could be setback 25 feet so as to not be in the front yard setback. Therefore, approval of a Variance to allow the previously constructed oversized support columns would not meet the intent and purpose of the A-40 District.

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IX. CONCLUSION

The location of the previously constructed columns on the subject property is a predominantly flat area. The subject property in the A-40 Exclusive Agricultural District can accommodate two support columns that are 7-feet in height, or alternatively, columns that are not in the front yard setback, and therefore, a Variance to the A-40 front setback requirement would not be required. Staff is unable to make the required findings for recommending approval of the Variance and the Small Lot Design Review to allow for two eight-foot-tall entry gate support columns that have a front setback of 6 feet (where 25 feet is the minimum required). Therefore, staff recommends denying the appeal and upholding the Zoning Administrator's decision on CDVR25 -01012 to deny the Variance and Small Lot Design Review to not allow the two 8-foot tall columns to have a front setback of 6 feet (where 25 feet is the minimum required), and approve the Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment for the entry gate, based on the findings, which are included as Attachment A.

FINDINGS FOR COUNTY FILE CDVR25-01012; CHERYL GREEN (APPLICANT & OWNER)

FINDINGS FOR DENIAL

A. Variance Findings

County Code Section 26-2.2006 states that all of the following findings must be made to approve the Variance permit application.

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

<u>Project Finding</u>: Approval of the requested variance would allow a 6-foot front yard setback (where 25 feet is the minimum required) for two entry gate support columns that are 8 feet in height that were constructed without permits. Granting of the variance to allow the columns within the required front setback would be a grant of special privilege as the columns can be reduced to 7 feet in height, and therefore, would not be considered structures that are subject to setback requirements, or could be set back 25 feet from the front property line.

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of the rights enjoyed by other properties in the vicinity and within the identical land use district.

<u>Project Finding</u>: The subject property is a 14.55-acre lot in the A-40 Exclusive Agricultural District that has been developed with an agricultural building near the northern corner and a single-family residence and legalized second single-family residence along the northeast property line. Access to the buildings is along the northeast property line with existing fencing and entry gate. There are no special circumstances applicable to the subject property's size, shape, topography, location or surroundings, where strict application of the A-40 zoning regulations can be found to deprive the subject property of the rights enjoyed by other properties in the vicinity. The area is relatively flat, and the entry gate is still achievable even if the columns were lowered to 7 feet so the columns could legally be located within the front yard setback without a variance.

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the property is located.

<u>Project Finding</u>: The property in the A-40 District is subject to the allowed uses set forth in Section 84-82 of the County Ordinance Code, which includes a detached single-family dwelling and the accessory structures and uses normally auxiliary to it. A second single-family residence is allowed with an approved land use permit. An entry gate could be consistent with the residential uses allowed in the A-40 District provided it meets the accessory structure regulations in County Code Section 82-4. that either allow for two 7-foot tall support columns that are exempt from setback requirements, or two 8-foot tall support columns that would be deemed accessory structures required to be set back 25 feet from the front property line. Because the support columns comply with neither of these requirements, the previously constructed oversized columns do not meet the intent and purpose of the A-40 district.

B. <u>Small Lot Design Review Findings</u>

County Code Section 82-10.002(c) states that all of the following findings must be made to approve the Small Lot Design Review permit application.

- 1. <u>Location</u>. The entry gate columns taller than 7 feet are considered structures pursuant to County Code Section 82-4.270, and therefore, are subject to setback requirements. As such, they do not meet the minimum required front yard setback of 25 feet from the front property line in the A-40 District. Because the columns do not meet the minimum required front yard setback, the project's location is not compatible with the surrounding neighborhood.
- 2. <u>Size</u>: The columns' footprint is approximately 3'x3', which is within the size range for entry gate columns. Therefore, the size of the columns is compatible with the surrounding neighborhood.
- 3. <u>Height</u>. County Code Section 82-4.270 restricts the height of the columns to a maximum height of 7 feet to not be considered structures. The intent of the height limitations is to maintain a certain scale for accessory structures to be considered as subordinate to the single-family residence. Therefore, the project's height being 8 feet is not compatible with the surrounding neighborhood.

4. <u>Design</u>: The neighborhood consists of a variety of architectural designs. Columns for entry gates are common throughout the area. However, as stated previously, unless the height of the columns is reduced to 7 feet, the location of the columns is at variance. Thus, the design is not compatible with the surrounding neighborhood.

C. Environmental Findings for the Variance and Small Lot Design Review

The Variance and Small Lot Design Review under County File CDVR25-01012 are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(4), Review for Exemption, which provides an exemption for projects that will be rejected or disapproved by a public agency.

FINDINGS FOR APPROVAL

A. Tree Permit Findings

- 1. <u>Required Factors for Granting a Tree Permit</u>. 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 will require the alteration or removal of code-protected trees, and this development could not be reasonably accommodated in another area of the lot.

Installation of the mechanical equipment for the entry gate necessitates work within the drip line of one code-protected Valley Oak tree. Given the construction has occurred, work within the drip line was unavoidable and therefore cannot be reasonably accommodated on another area of the lot.

2. <u>Required Factors for Denying a Tree Permit</u>. 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 Findings

A Tree Permit under County File CDVR25-01012 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA

Guidelines Section 15301(a), Existing Facilities, which provides a Class 1 exemption for exterior alterations of existing facilities, in this case the existing gate, for running of electrical to the mechanics. 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 CDVR25-01012:

Project Approvals

- 1. A VARIANCE and SMALL LOT DESIGN REVIEW to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot tall columns to support the entry gate is **DENIED**.
- 2. A Tree Permit to allow work under the dripline of one code-protected Valley Oak for installation of the mechanical equipment for the entry gate tree is **APPROVED**.
- 3. The denial and approval described above are based on the following documents:
 - Application materials accepted by the Department of Conservation and Development, Community Development Division (CDD) on February 12, 2025.
- 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 the Tree Permit.

Application Costs

5. The Variance Permit application is subject to an initial application deposit of \$3,250.00, 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 past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance in the event that additional fees are due.

Building Permit

6. No construction is approved with this permit. Any construction at the project site will require issuance of grading and/or building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Column Height Verification

- 7. Plans submitted for a building permit application shall show the height of the columns reduced to no taller than 7 feet or the columns moved to be 25 feet from the front property line.
- 8. Prior to final inspection, evidence shall be submitted to CDD for review and approval from a licensed surveyor on the field elevations of the heights of the columns as measured from existing grade indicated on building permit site plans for purposes of determining compliance with maximum height limit of 7 feet or set back 25 feet from the front property line.

Construction Restrictions

All construction activity shall comply with the following restrictions, which shall be included in the construction drawings.

- 9. 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.
- 10. 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.
- 11. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
- 12. 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.

13. 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: <u>Federal Holidays (opm.gov)</u>
California Holidays: <u>State Holidays (ca.gov)</u>

14. 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 ORDICNANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF NINETY (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. This project may be subject to the requirements of the following agencies:
 - Contra Costa County Public Works Department
 - Department of Conservation and Development, Building Inspection Division
 - Contra Costa Health, Environmental Health Division
 - San Ramon Valley Fire Protection District

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



APPLICATION & PERMIT
June 26, 2025
Job No. 1186

Mr. Stanley Muraoka
Deputy Zoning Administrator
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Variance Denial - Application CDVR25-01012 – 10000 Morgan Territory Road, Livermore, CA APN 006-110-016, Pcl A MS 64-71 (18 PM 19.) Entrance Gate Height - Variance request for Pillar Height exceeding seven (7') feet.

Dear Stanley,

On behalf of the applicant, Cheryl Green, this office is officially submitting a formal appeal to the variance denial determination with was issued by the County Zoning Administrator, Ruben Hernandez, on June 18, 2025. Accompanying this formal appeal request is the required appeal fee in the amount of \$250.

This appeal is being filed on several grounds that will be presented at the hearing, including the following:

- 1. The variance request would not constitute a grant of special privilege. This is a rural area, and many of the immediate neighbors have similar, large, elegant entrance gates. The columns and gate complex do not pose any significant health and safety concerns.
- 2. There are special circumstances regarding this property. The property is in a rural area. The strict application of the zoning/setback rules would do little/nothing to protect the general public or visitors. The gate structures have been in place for decades, without any health and safety issues.
- 3. The variance meets the intent and purpose of the land use district. The property in the A-40 District allows for a detached single-family dwelling and accessory structures normally auxiliary to it. Given the rural setting, and the large site area, the columns that slightly exceed the height requirements are still subordinate to the residence(s) and the entire site.

Respectfully, reducing the long-standing rock/stone columns a few inches in height would require extensive work and cost, would be extraordinary and punitive, and would not give any benefit to the public or community. The proposed variance would have absolutely no impact on neighbors and would not create any precedent.

We will be submitting supplemental documentation mid-week next week in support of this appeal request. This appeal request is submitted within the ten-day (10) appeal period from the approved date of June 18, 2025.

I trust this provides you with the documentation that you require.

Sincerely Yours,

Michael Milani

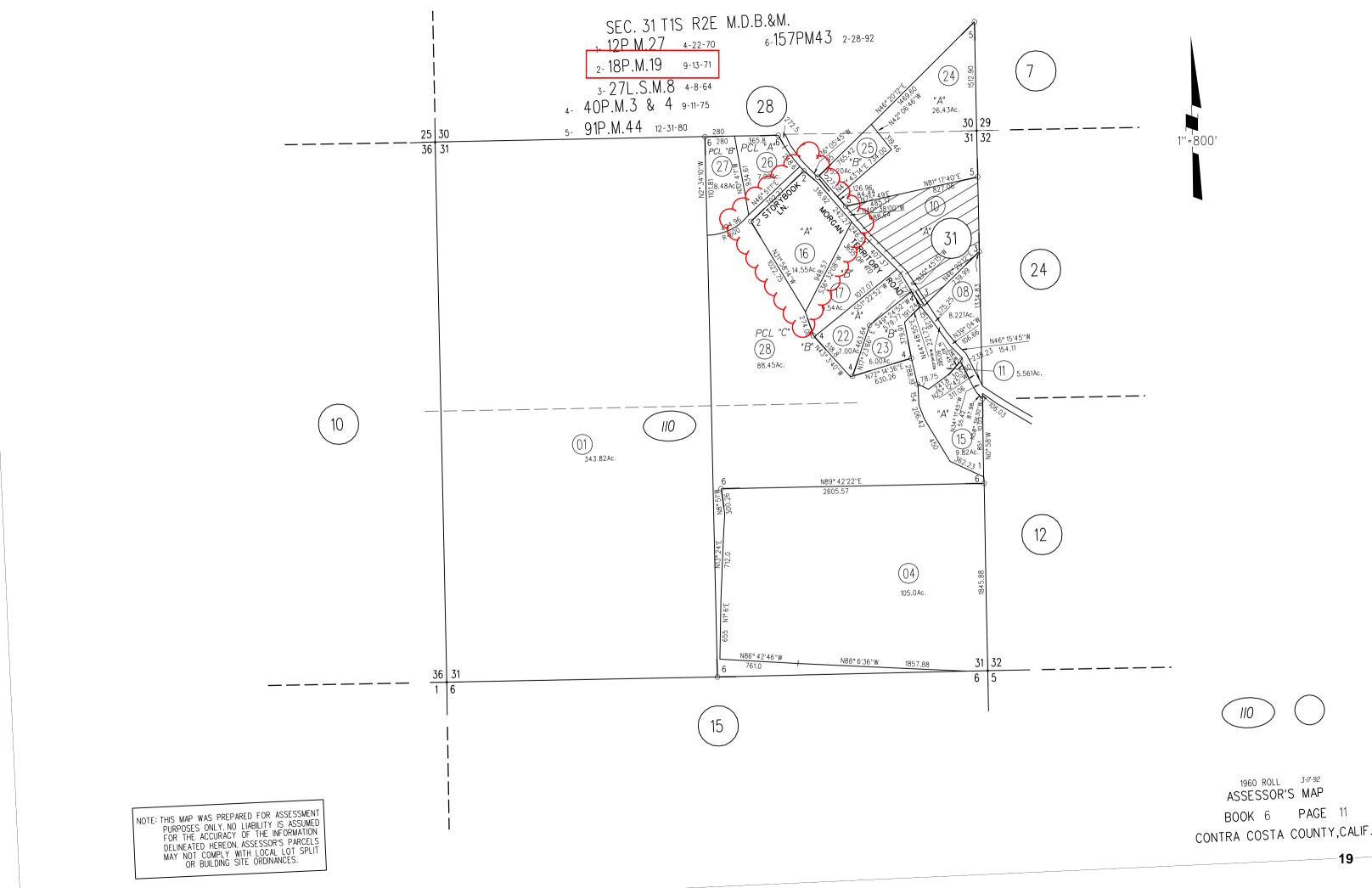
Michael Milani Principal Civil Engineer at Milani & Associates RCE 35121 exp 09-30-2025 PLS 5311 exp 12-31-2025

Enclosures: Appeal Fee - Check in the amount of \$250.

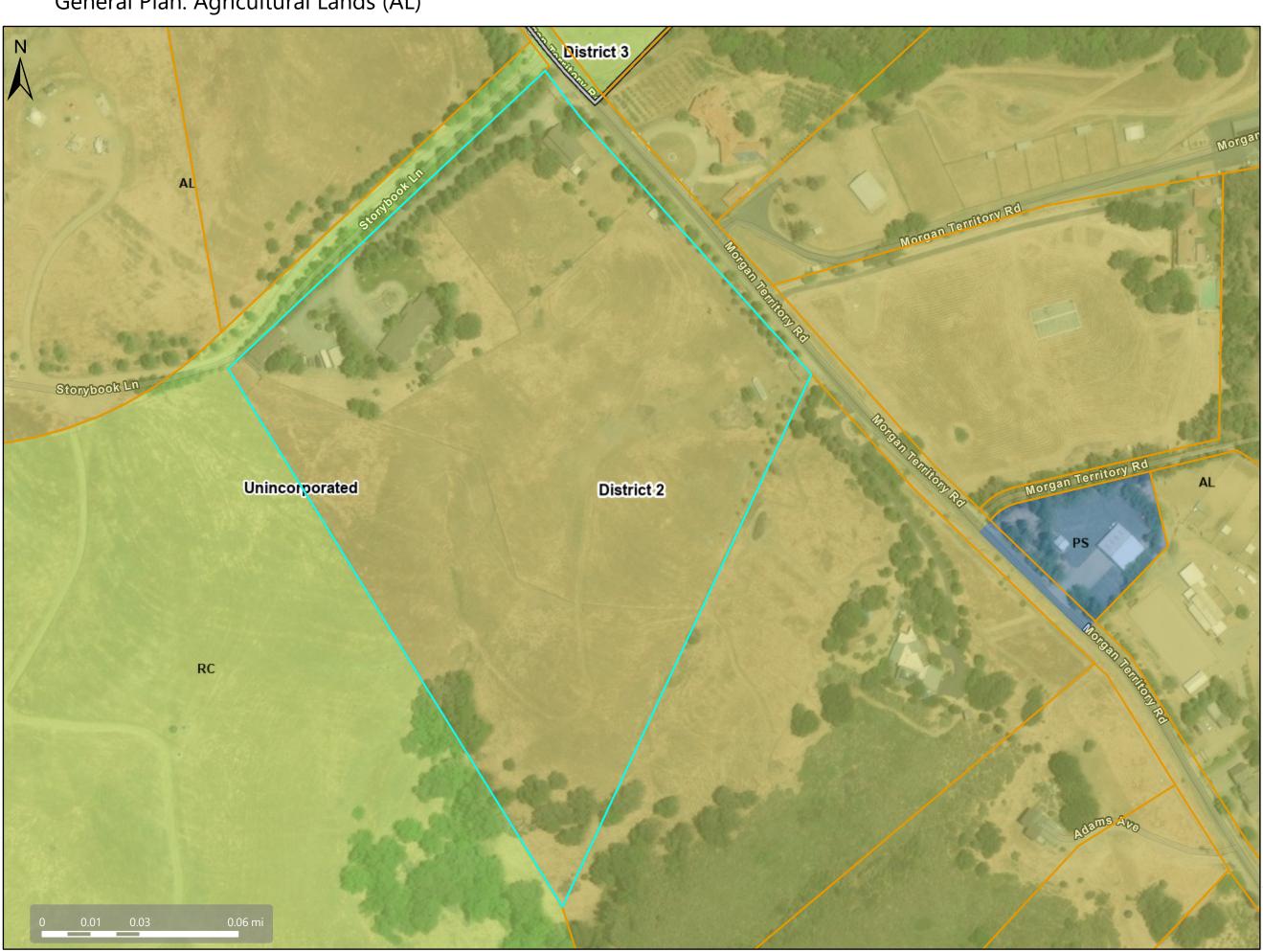
Cc: Cheryl Green

Christian Green

Allan Moore, Law Office of Allan Moore, A.P.C.



General Plan: Agricultural Lands (AL)



Map Legend

Assessment Parcels

General Plan

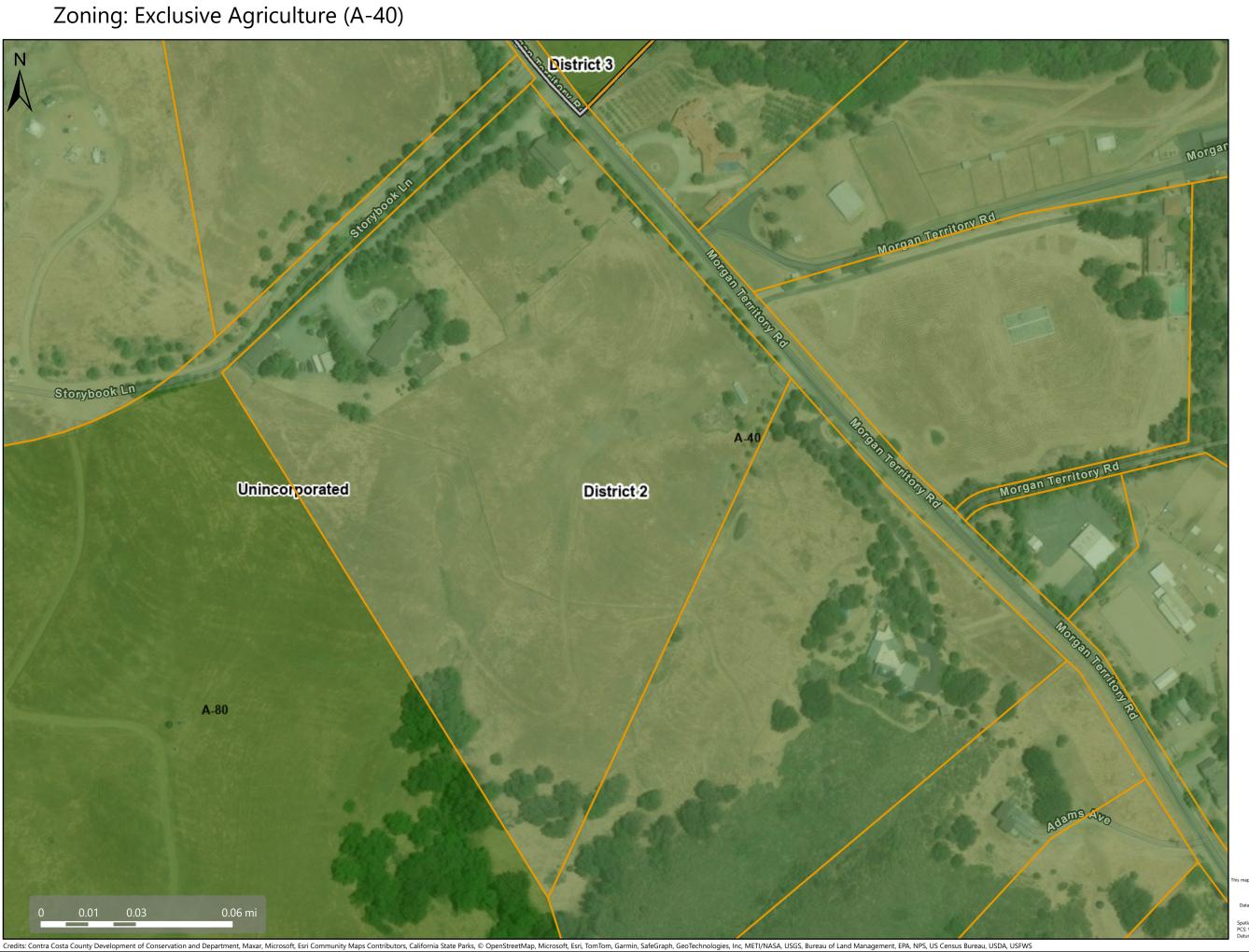
PS (Public and Semi-Public)

RC (Resource Conservation)

AL (Agricultural Lands) (1 du/10 ac) (1 du/20 ac in DPZ)

Unincorporated

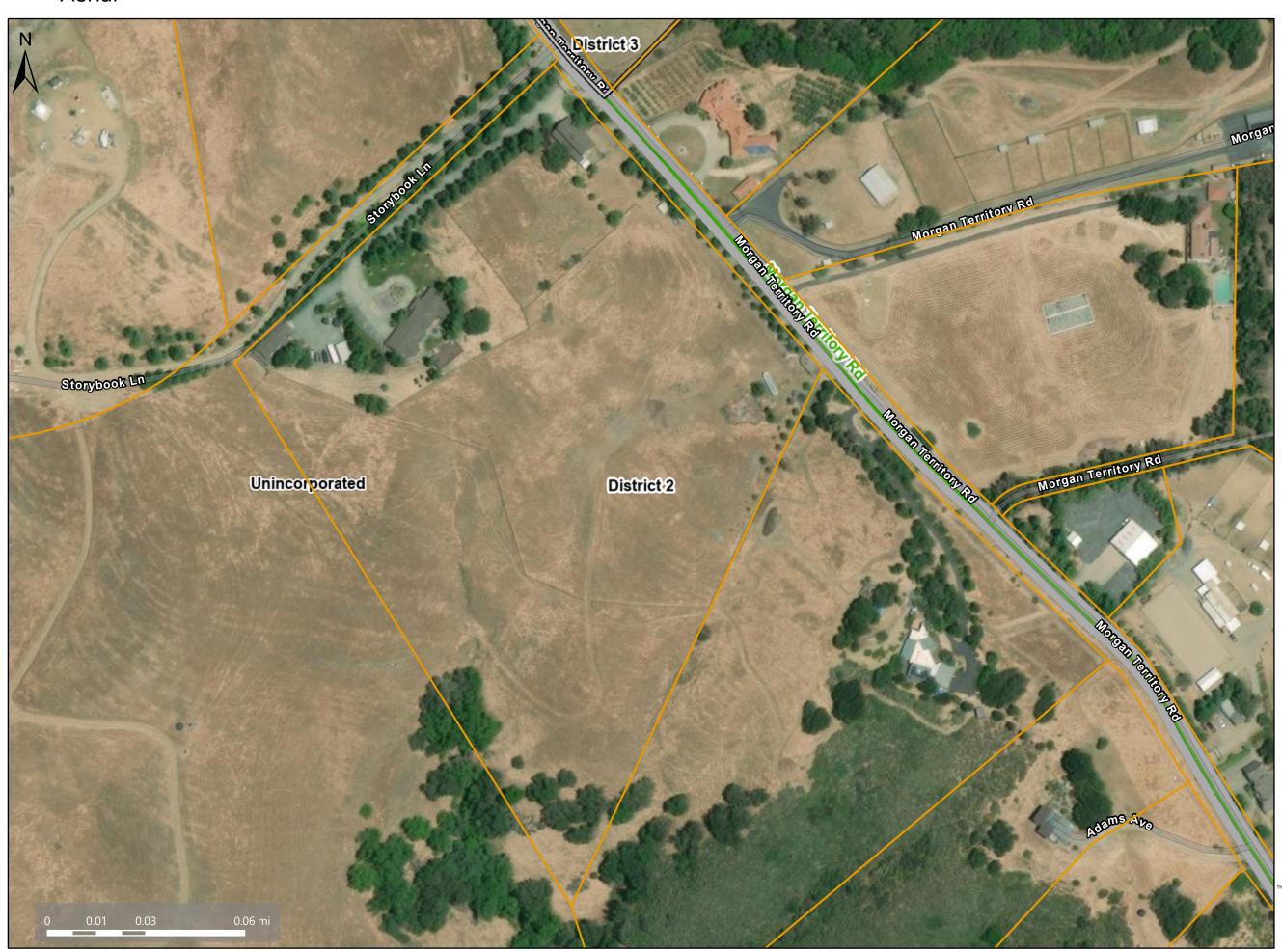
Board of Supervisors' . Districts



Map Legend Assessment Parcels Zoning ZONE_OVER A-40 (Exclusive Agriculture) A-80 (Exclusive Agriculture) Unincorporated Board of Supervisors'

Districts

Aerial



Map Legend Assessment Parcels Unincorporated Board of Supervisors'
Districts Maintained Roads





Department of Conservation and Development

CIVIL ENGINEER:

LIVERMORE, CA 94551 PHONE: (925) 216-3355

2655 STANWELL DRIVE, SUITE #105 CONCORD, CA 94520 PHONE: (925) 465-2033 CONTACT: MIKE MILANI RCE 35121 EXP 09-30-25 PLS 5311 EXP 12-31-25

MILANI AND ASSOCIATES

MILANI AND ASSOCIATES ENVIRONMENTAL ENGINEER: 2655 STANWELL DRIVE, SUITE #105

CONCORD, CA 94520 PHONE: (925) 465-5144 CONTACT: MARK MILANI

PROPERTY ADDRESS: 10000 MORGAN TERRITORY ROAD LIVERMORE, CA 94551

ASSESSOR PARCEL NUMBER: 006-110-016

> 14.55 ACRES EXISTING USE: AGRICULTURAL

PS (PUBLIC, SEMI-PUBLIC) EXISTING ZONING: A-40 (EXCLUSIVE AGRICULTURE DISTRICT)

STRUCTURE SETBACKS:

GENERAL PLAN DESIGNATION:

BASIS OF BEARINGS:

BASIS OF ELEVATION:

SIDE - 50'

REAR - NOT APPLICABLE

ZONE 3. BEARING CALCULATED AS NORTH 40° 14' 36" WEST BETWEEN TWO FOUND

RAILROAD SPIKES ALONG MORGAN TERRITORY ROAD, AS SHOWN ON PARCEL MAP MS 64-71, FILED SEPTEMBER 13, 1971 IN BOOK 18 OF PARCEL MAPS AT PAGE 19, CONTRA

THE BASIS OF BEARINGS FOR THIS PROJECT IS CALIFORNIA COORDINATE SYSTEM NAD83,

PARCEL A, AS SHOWN ON THE PARCEL MAP, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, FILED SEPTEMBER 13, 1971, IN BOOK 18 OF PARCEL MAPS, AT LEGAL DESCRIPTION:

PAGE 19, CONTRA COSTA COUNTY RECORDS.

THE BASIS OF ELEVATION FOR THIS PROJECT IS A DISC IN A CONCRETE MONUMENT ON EAST SIDE OF MORGAN TERRITORY ROAD, APPROXIMATELY 10.55 MILES SOUTH OF ITS INTERSECTION WITH MARSH CREEK ROAD, BEING CONTRA COSTA COUNTY

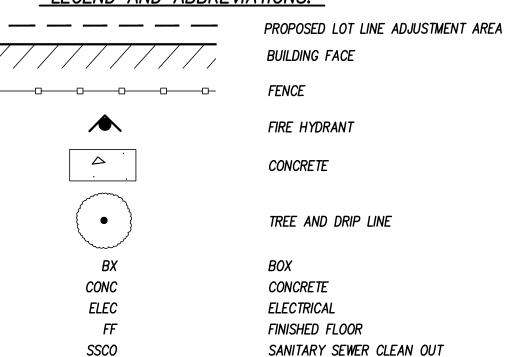
BENCHMARK #3606. ELEVATION TAKEN AS 2031.071 FEET.

SCHEDULE OF WORK:

COUNTY BUILDING INSPECTION OF PREVIOUSLY INSTALLED ENTRANCE GATE, ELECTRICAL INSTALLATION, KEYPAD AND KNOW BOX. INSPECTION TO INCLUDE EXISTING STONE MASONRY WALL AT GATE LOCATION.

PLANS BASED UPON A FIELD INSPECTION OF AN EXISTING MASONRY-WROUGHT IRON ENTRANCE GATE. THE PURPOSE OF THE SITE INSPECTION IS TO ASSIST THE PROPERTY OWNER TO CLEAR A NOTICE OF VIOLATION (CODE ENFORCEMENT ACTION) PER COUNTY CODE VIOLATION RF05-00618

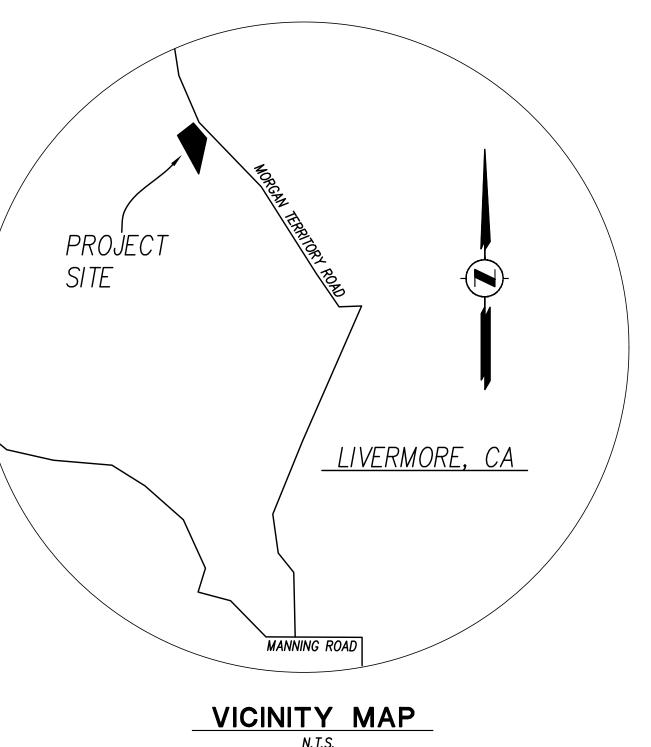
LEGEND AND ABBREVIATIONS:



GATE PERMIT PLANS GREEN PROPERTY

CITY OF LIVERMORE, CONTRA COSTA COUNTY, CALIFORNIA





NOTES:

- (1) EXISTING MASONRY SECURITY WALL
- 2) EXISTING MASONRY GATE COLUMN
- 3 DOUBLE WROUGHT IRON GATE
- (4) AUTOMATIC GATE CONTROLLER 2 TOTAL.
- (5) GATE KEY PAD & KNOX BOX 1 TOTAL.
- 6 3" ELECTRICAL CONDUIT
- (7) ELECTRICAL CONDUIT TO BARN SUB-PANEL LOCATED IN THE MAIN

BASED UPON TESTIMONY PROVIDED BY CHERYL GREEN, THE LONG TERM PROPERTY OWNER, THE EXISTING MASONRY SCREEN WALL AND COLUMNS ARE CONSTRUCTED WITH HAND SET MASONRY STONES SET WITH WET MORTAR. THE MASONRY WALL IS A MINIMUM OF THREE FEET IN DEPTH AND THREE FEET IN WIDTH, WITH TWO (2) LONGITUDINAL #4 REBAR WET SET WITH THE MASONRY

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> REVIEW COPY SUBJECT TO REVISION NOT FINAL THIS NOTICE TO BE REMOVED UPON COMPLETION OF MAP AND UPON AGENCY/CLIENT APPROVAL OF MAP



Storm Water Monitoring & Reporting Land Development Engineering Environmental Engineering Municipal Engineering Surveying & Mapping **Construction Staking**



3/4 INCH ELECTRICAL CONDUIT

TYPICAL

PRESSURE TREATED

ELECTRICAL BOX

APN: 006-110-016

2655 Stanwell Drive, Suite 105 Concord, CA 94520 Phone: (925) 674-9082 Fax: (925) 674-9279 Web: www.milaniassociates.com

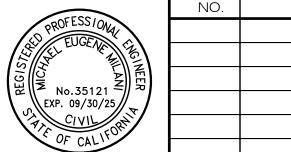
AS-BUILT MASONRY GATE ENTRANCE EXHIBIT 10000 MORGAN TERRITORY ROAD

LIVERMORE **CONTRA COSTA COUNTY** **NOV RF05-00618**

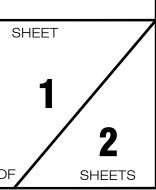
SCALE: 1"=5"

	MICHAEL E. MILANI L.S. No. 5311 REGISTRATION EXPIRES 12/31/25	DATE R.C.E. No. 35121 REGISTRATION EXPIRES 9-30-25	REG1 <i>STES</i>
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CALIFORNIA	CHECKED: MEM	SCALE: AS SHOWN	

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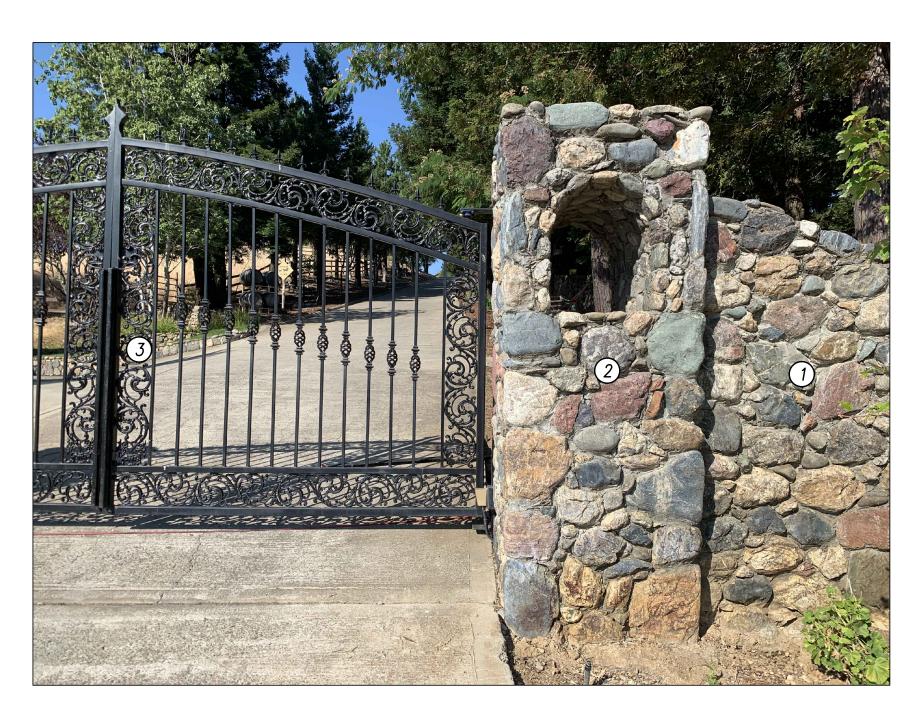


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Department of Conservation and Development





GATE - LOOKING WEST FROM MORGAN TERRITORY ROAD

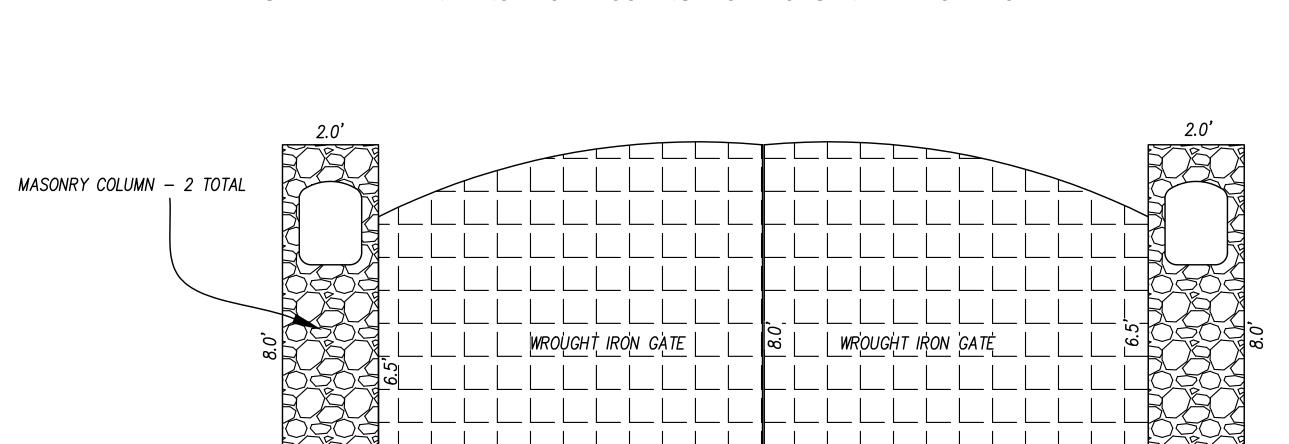


GATE CONTROLLER - NORTH SIDE SWING GATE OPERATOR

BASED UPON TESTIMONY PROVIDED BY CHERYL GREEN, THE LONG TERM PROPERTY OWNER, THE EXISTING MASONRY SCREEN WALL AND COLUMNS ARE CONSTRUCTED WITH HAND SET MASONRY STONES SET WITH WET MORTAR. THE MASONRY WALL IS A MINIMUM OF THREE FEET IN DEPTH AND THREE FEET IN WIDTH, WITH TWO (2) LONGITUDINAL #4 REBAR WET SET WITH THE MASONRY STONE.



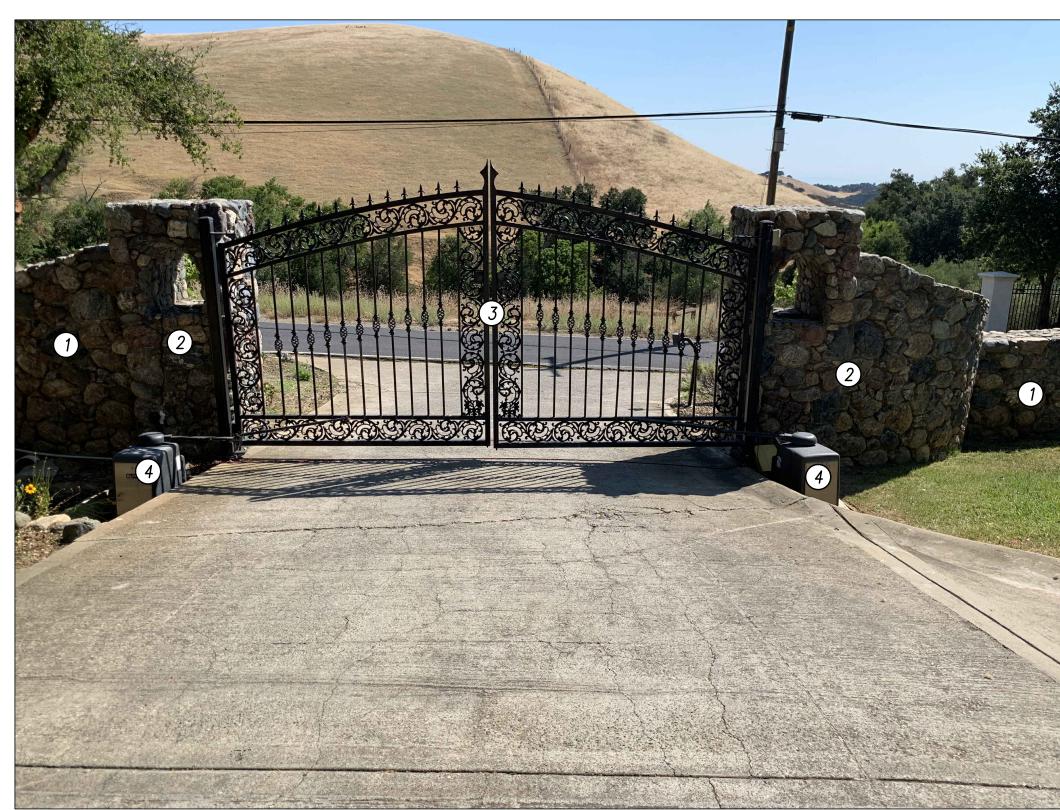
GATE KEYPAD AND KNOX BOX - LOOKING FROM MORGAN TERRITORY ROAD



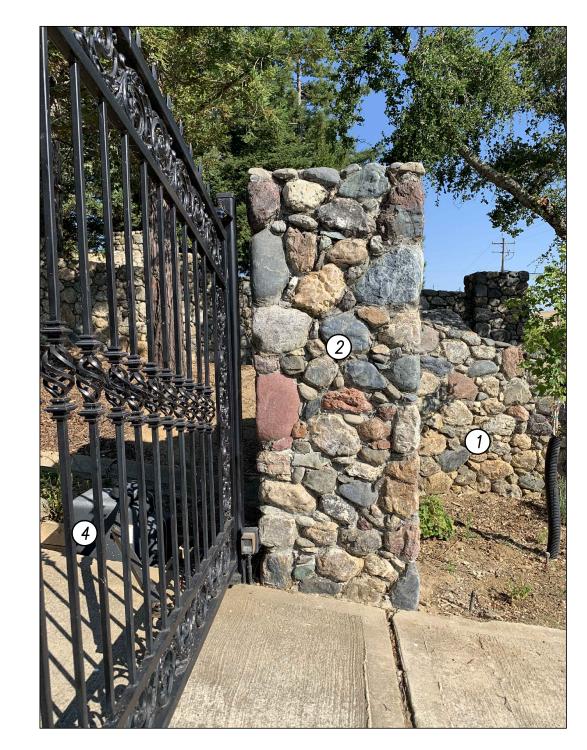


GATE DIMENSIONS

DESIGNED UNDER THE DIRECTION OF:



GATE - LOOKING EAST TOWARD MORGAN TERRITORY ROAD



GATE - LOOING NORTH FOR CENTER OF DRIVEWAY

REVIEW COPY SUBJECT TO REVISION NOT FINAL
THIS NOTICE TO BE REMOVED UPON
COMPLETION OF MAP AND UPON
AGENCY/CLIENT APPROVAL OF MAP



GATE DETAILS AND NOTES

2655 Stanwell Drive, Suite 105 Concord, CA 94520 Phone: (925) 674-9082 Fax: (925) 674-9279 Web: www.milaniassociates.com

AS-BUILT MASONRY GATE ENTRANCE EXHIBIT 10000 MORGAN TERRITORY ROAD

LIVERMORE **CONTRA COSTA COUNTY**

NOV RF05-00618

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	DESIGN: MEM	JOB NO: 1186	
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SHEETS

Storm Water Monitoring & Reporting Land Development Engineering Environmental Engineering Municipal Engineering Surveying & Mapping Construction Staking

APN: 0**0**6-110-016

CALIFORNIA

CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT

COMMUNITY DEVELOPMENT DIVISION

30 Muir Road

Martinez, CA 94553-4601 Phone: 925-655-2700 Fax: 925-655-2758



RECEIVED on 02/20/2025 CDVR25-01012
By Contra Costa County
Department of Conservation and Development

AGENCY COMMENT REQUEST

DISTRIBUTION	
INTERNAL ■ Building Inspection Advance Planning Trans. Planning ALUC Staff County Geologist HEALTH SERVICES DEPARTMENT ■ Environmental Health Engineering Services Traffic Flood Control (Full-size) LOCAL ■ San Ramon Valley – (email) rwendel@srvfire.ca.gov Consolidated – (email) fire@cccfpd.org Sanitary District Water District City of School District(s) LAFCO Reclamation District # East Bay Regional Park District Diablo/Discovery Bay/Crockett CSD MAC/TAC Improvement/Community Association ■ CC Mosquito & Vector Control Dist (email) OTHERS/NON-LOCAL CHRIS (email only: nwic@sonoma.edu)	Please submit your comments to: Project Planner Allison Seoane Phone #_925-655-2871 E-mail_ allison.seoane@dcd.cccounty.us County File #_CDVR25-01012 Prior to March 12, 2025 ***** We have found the following special programs apply to this application: Landslide
CA Fish and Wildlife, Region 3 – Bay Delta Native American Tribes ADDITIONAL RECIPIENTS	Print Name Signature DATE Agency phone #



San Ramon Valley Fire Protection District Community Risk Reduction Division 2401 Crow Canyon Road, Suite A San Ramon, CA 94583

phone: 925.838.6600 **web:** www.firedepartment.org

Wednesday, February 26, 2025

Hello Allison Seoane,

The Fire District has reviewed the Planning Application for the below noted address. Based upon the information provided, comments and requirements have been made as conditions of approval.

If during the course of the entitlement process the project changes, additional requirements may apply. Thank you for the opportunity to comment on the project. Please feel free to contact me directly with any questions or concerns.

PROJECT: CDVR25-01012

ADDRESS: 10000 MORGAN TERRITORY RD (006110016)

APPLICATION TITLE: Planning and Site Development Review

PROJECT NUMBER: 1624975

Roy Wendel Fire Marshal rwendel@srvfire.ca.gov 925.838.6687

Planning Comments

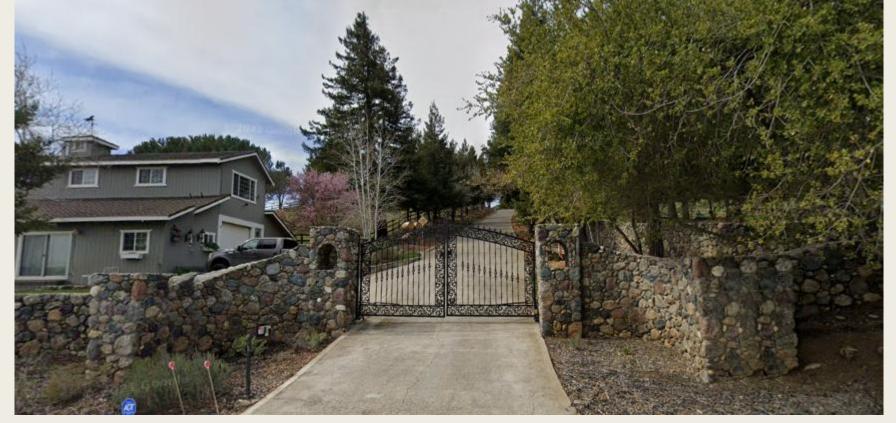
Open Issues: 1

PLANNING

General Issues

1. No Comment

Roy Wendel The San Ramon Valley Fire Protection District has reviewed the his application and 2/26/25 6:42 AM has no comments.



APPEAL OF 10000 MORGAN TERRITORY RD – ENTRY GATE SUPPORT COLUMNS IN FRONT SETBACK

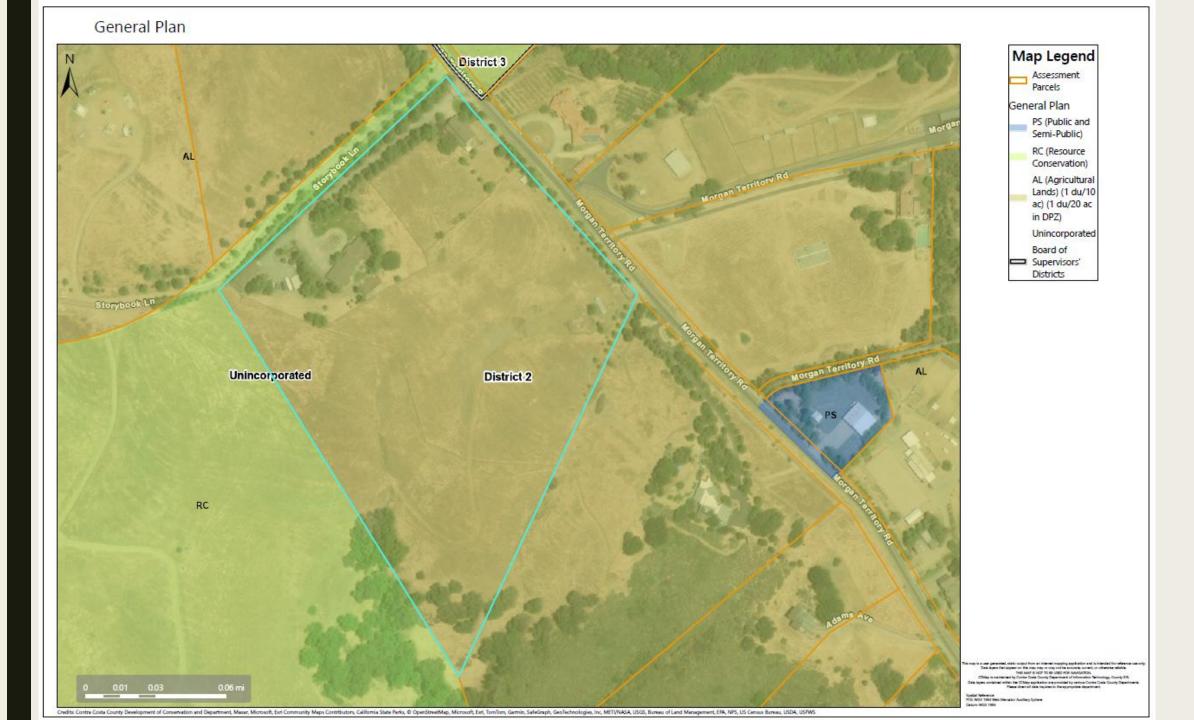
County File #CDVR25-01012

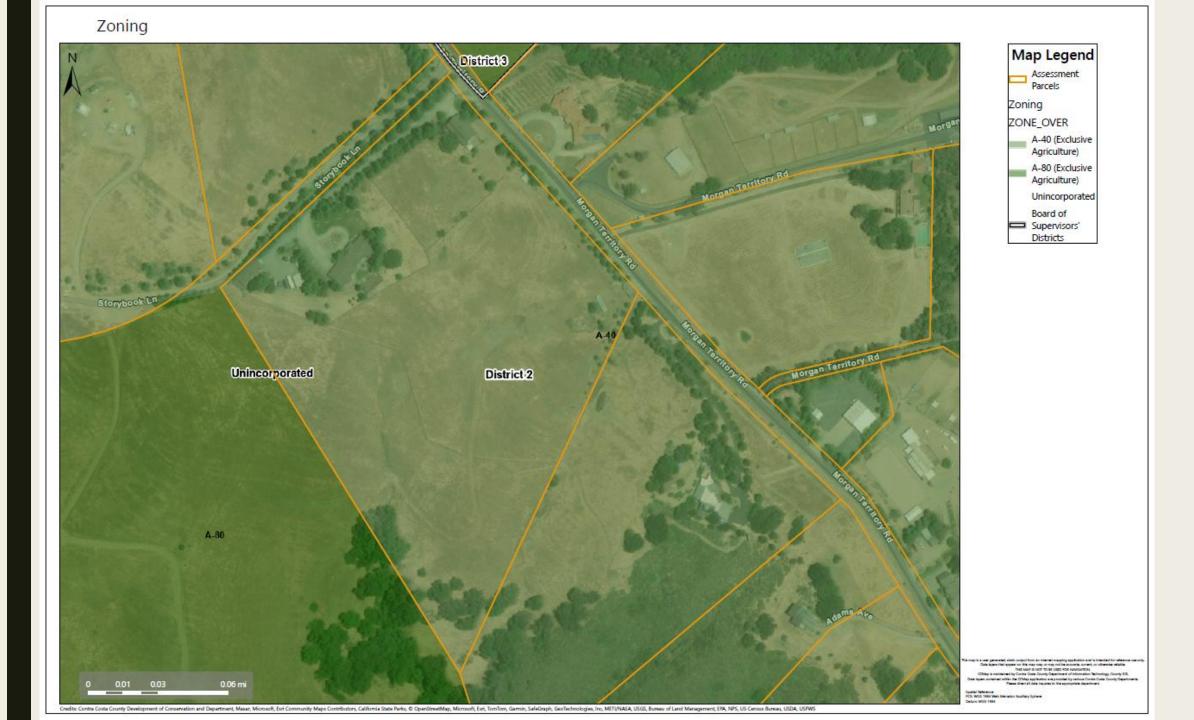
COUNTY PLANNING COMMISSION

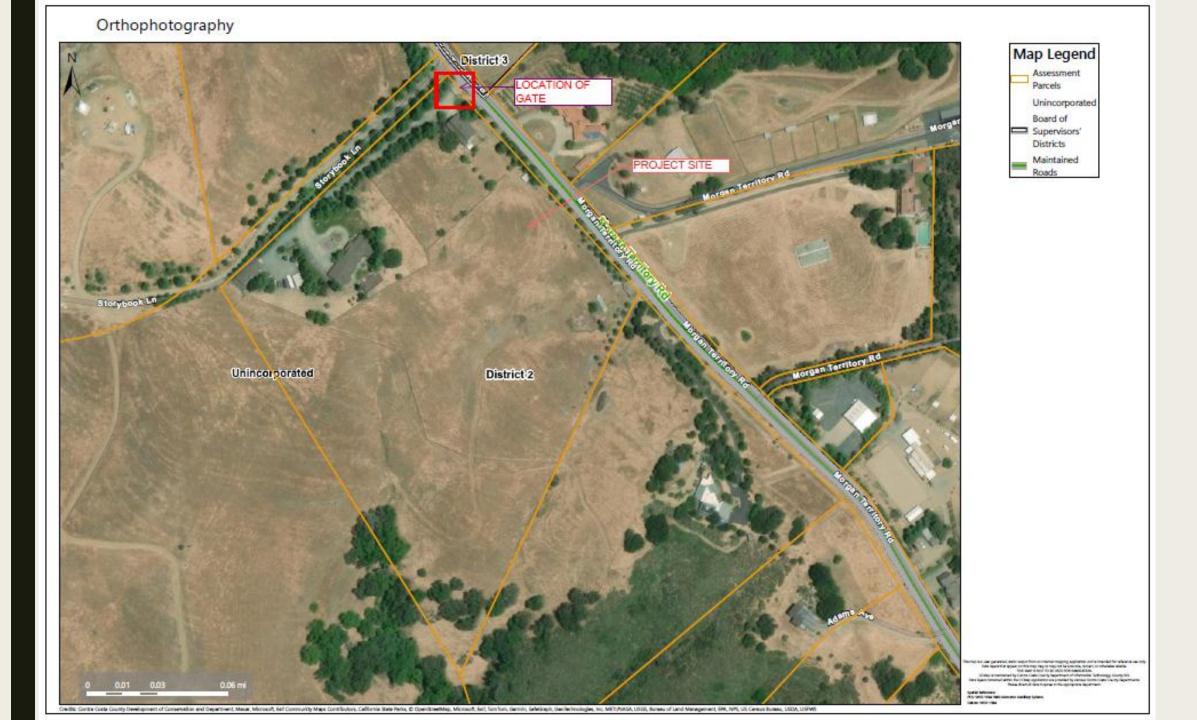
AUGUST 13, 2025

ALLISON SEOANE, PROJECT PLANNER









Background

- April 7, 2005 Code Enforcement Case BIRF05-00618 was initiated for one unpermitted electric gate, two unpermitted support columns, and two unpermitted residences.
- February 28, 2012 County File BIRF05-00618 was closed with a lien on the subject property.
- November 18, 2024 Land Use Permit CDLP23-00022 to legalize one existing second single-family residence with a Variance to the front and side yard setback requirements and Lot Line Adjustment CDLL23-00022 to transfer 6,500 square feet from APN: 006-110-028 to the subject property at APN: 006-110-016 was approved by the Zoning Administrator.
- February 12, 2025 Variance application CDVR25-01012 for the review of two already constructed 8-foot support columns located in the front setback and a Tree Permit was accepted by the Department of Conservation and Development (DCD).
- April 11, 2025 Staff informed the owner and applicant via a Notice of Intent letter that Staff would recommend denial of the Variance and Small Design Review to the Zoning Administrator (ZA) and presented the opportunity to request a public hearing. No hearing was requested.
- May 5, 2025 Zoning Administrator denied the Variance and Small Lot Design Review and approved the Tree Permit under CDVR25-01012.
- June 26, 2025 Michael Milani filed an appeal of the Zoning Administrator's decision on behalf of the property owner.

Project Description

The applicant requests approval of a Variance to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foottall columns to support an entry gate and a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment. The two columns and mechanical equipment were constructed without first obtaining a building permit. Approval of the Variance and Small Lot Design Review is necessary to obtain a building permit for the columns as built because at their current height they are considered structures pursuant to County Code Section 82-4.270(2), and therefore, are subject to setbacks and small lot design review. The applicant is requesting the County Planning Commission overturn the Zoning Administrator's decision to deny the Variance and Small Lot Design Review.

GREEN PROPERTY

CITY OF LIVERMORE, CONTRA COSTA COUNTY, CALIFORNIA



SHOWN ME 400001594 GREAL PLAN (ESCHATION) AT PHILE, INVENTORIAL ARTERIO JOHNSO HIS SECURE ARROATES SENSO!

H-55 A0903

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MORE (NO IN-100)

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ALC ADD - 10-10-01

MAY AND ASSOCIATION DOMESTIC ON MICH. SAFE ACT PROVE (NEC) 165-5144 COPPACE WHEN WEAR 10000 AOSTAV MINISTER SCAT LANGERS OF SHIRE

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GOVERNMENT PROMISE

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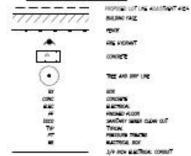
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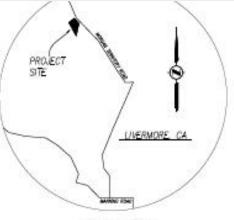
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LECEND AND ABBREMATIONS:







VICINITY MAP

MOTES:

- (7) EXISTING MASSIVEY SECURITY MALL
- (2) EXISTING MASONINY DATE COLUMN
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- (4) AUTOMATIC GATE CONTROLLER 2 TOTAL
- (3) GATE KET IND & KNOK BOX 1 TUTAL
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APR: 008-110-018 State William Harrison & Danielle

MOV RE05-00618

DEMONSTO UNDER THE DIRECTION OF





GATE - LOOKING WEST FROM MORGAN TERRITORY ROAD



GATE CONTROLLER - NORTH SIDE SWING GATE OPERATOR

MILANI

Make other definition records in owner collect, the Lock State recording larger than produce and the collection of the Lock State recording larger than the collection of the



GATE KEYPAD AND KNOX BOX - LOOKING FROM MORGAN TERRITORY ROAD



MOV RF05-00818



GATE DIMENSIONS

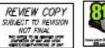


GATE - LOOKING EAST TOWARD MORGAN TERRITORY ROAD



GATE - LOOING NORTH FOR CENTER OF DRIVEWAY





GATE DETAILS AND NOTES

CONTRA COSTA COUNTY

APR: 008-110-018 2856 Septed Spin, Spin 125 Stream, SA 94530 Plane (SSS) 854-9080 Fin (SSS) 854-9259 **AS-BUILT MASONRY GATE ENTRANCE EXHIBIT**

LIVERMORE

(7) EXISTING MASONITY SECURITY MALL

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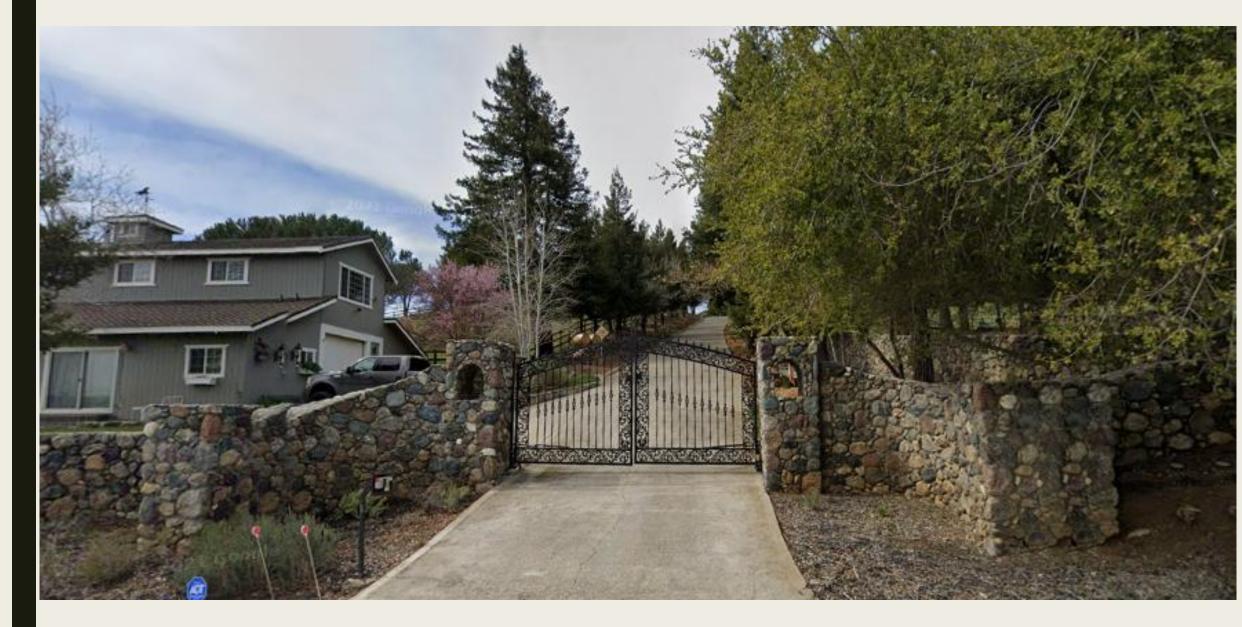
10000 MORGAN TERRITORY ROAD

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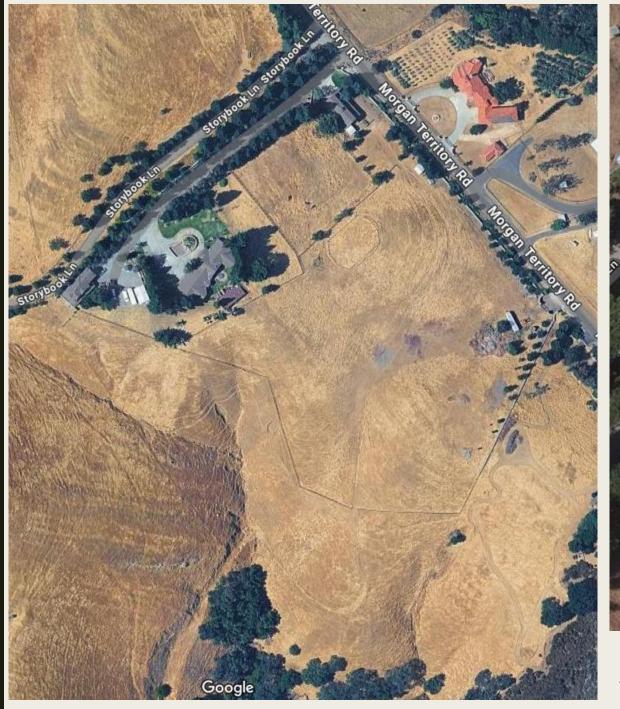
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EXISTING SITE PHOTO





AERIAL SITE PHOTO 10

Summary of Appeal Points

As the basis for their appeal, the appellant mentioned the following concerns:

- The Variance would not constitute a grant of special privilege because the property is located in a rural area, and many immediate neighbors have similar, large, entrance gates. The support columns do not pose health and safety concerns.
- The property is in a rural area and the strict application of zoning requirements would not protect the general public or visitors. The gate has been in place for decades without health or safety issues.
- The Variance meets the intent and purpose of the land use district because the A-40 zoning district allows for accessory structures auxiliary to single-family residences as the columns, while oversized, are still subordinate to both residences on the property.

Staff response to appeal point #1:

- There is no quality about the subject property that constitutes a limitation that the neighboring properties do not experience. The subject lot is a similar size and topography to the neighboring properties and does not limit the support columns to be either 7 feet tall and thus not subject to setbacks, or taller than 7 feet and conforming to A-40 zoning setbacks.
- The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback for the columns, and the reduced front yard setback is inconsistent with the A-40 zoning district.
- The appellant did not provide addresses so Staff may verify the legality or existence of these alleged oversized gates located in the required front setback for properties in the vicinity. Further, the approval of a variance for one property does not mean other neighboring properties in the vicinity may be subject to the same variance. Each project must meet variance findings independent of each other.

Staff response to appeal point #2:

- The appellant has not provided evidence as to what special circumstance applies due to the property's size, shape, topography, location, or surroundings that deprives the subject property of rights enjoyed by others in the vicinity. The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback as required for the two columns.
- The area is relatively flat, and the entry gate is still achievable even if the columns were lowered to 7 feet, so the columns could legally be located within the front yard setback without a variance.
- The fact that the gates have been in place for 20 years without necessary permits and the property owner has never sought to legalize the gates until now, is not a finding for granting a variance.

Staff response to appeal point #3:

■ The property in the A-40 district is subject to the allowed uses set forth in Section 84-82 of the County Ordinance Code, which includes a detached single-family dwelling and the accessory structures and uses normally auxiliary to it. An entry gate with support columns could be consistent with the residential uses allowed in the A-40 district provided it meets the regulations set forth in County Code Section 82-4.270 that either allow for two 7-foot tall support columns that are exempt from setback requirements, or two 8-foot tall support columns that would be deemed accessory structures required to be set back 25 feet from the front property line. Because the support columns comply with neither of these requirements, the previously constructed oversized columns do not meet the intent and purpose of the A-40 district.

Staff Recommendation

Staff recommends that the County Planning Commission:

- OPEN the public hearing, RECEIVE testimony, and CLOSE the public hearing.
- DENY the appeal by Michael Milani filed on behalf of the property owner.
- FIND that the project is exempt from CEQA under Section 15061(b)(4) of the CEQA Guidelines and Section 15301(a).
- UPHOLD the Zoning Administrator's decision on County File CDVR25-01012 to deny a Variance and Small Lot Design Review to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot-tall columns to support an entry gate and approve a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment for the entry gate.
- DIRECT staff to file a Notice of Exemption.

THANK YOU

Questions?



APPEAL OF 10000 MORGAN TERRITORY RD- ENTRY GATE SUPPORT COLUMNS IN FRONT SETBACK

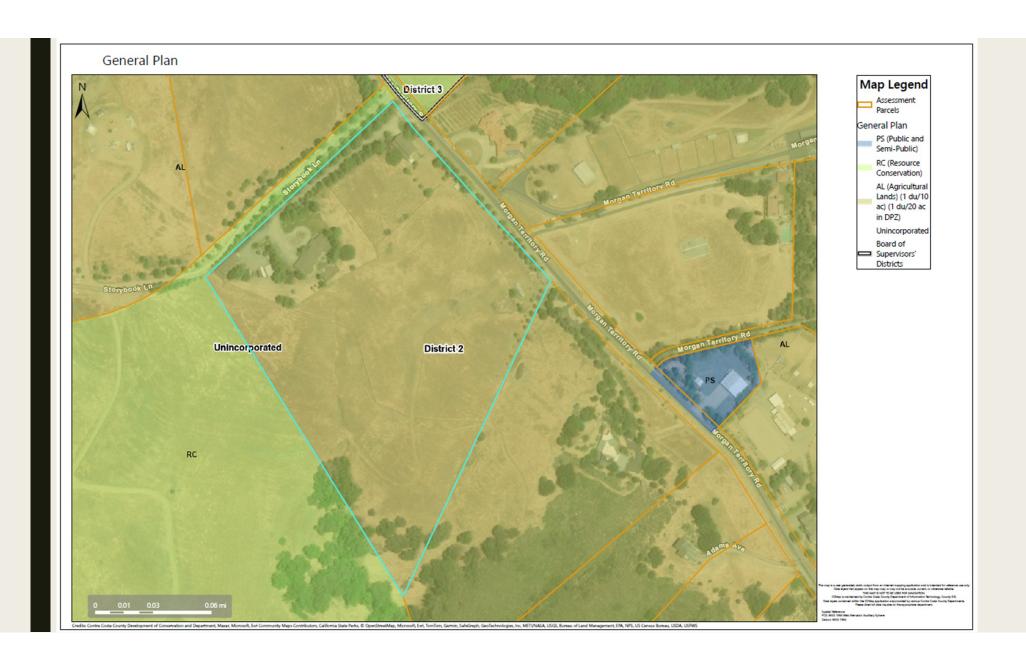
County File #CDVR25-01012

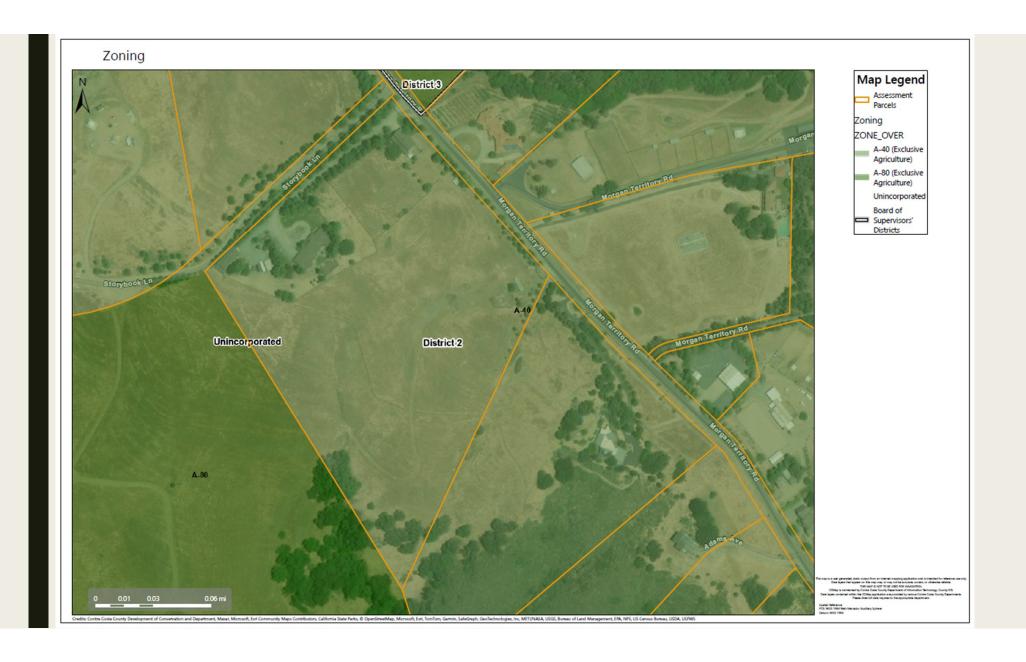
COUNTY PLANNING COMMISSION

AUGUST 13, 2025

ALLISON SEOANE, PROJECT PLANNER

CONTACT: ALLISON.SEOANE@DCD.CCCOUNTY.US 925-655-2871







Background

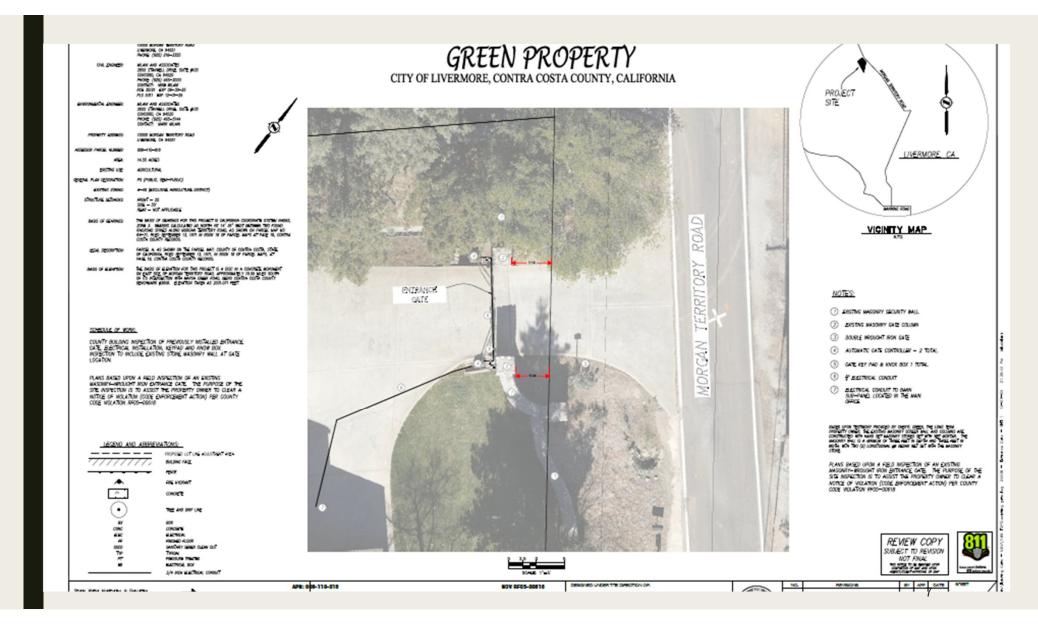
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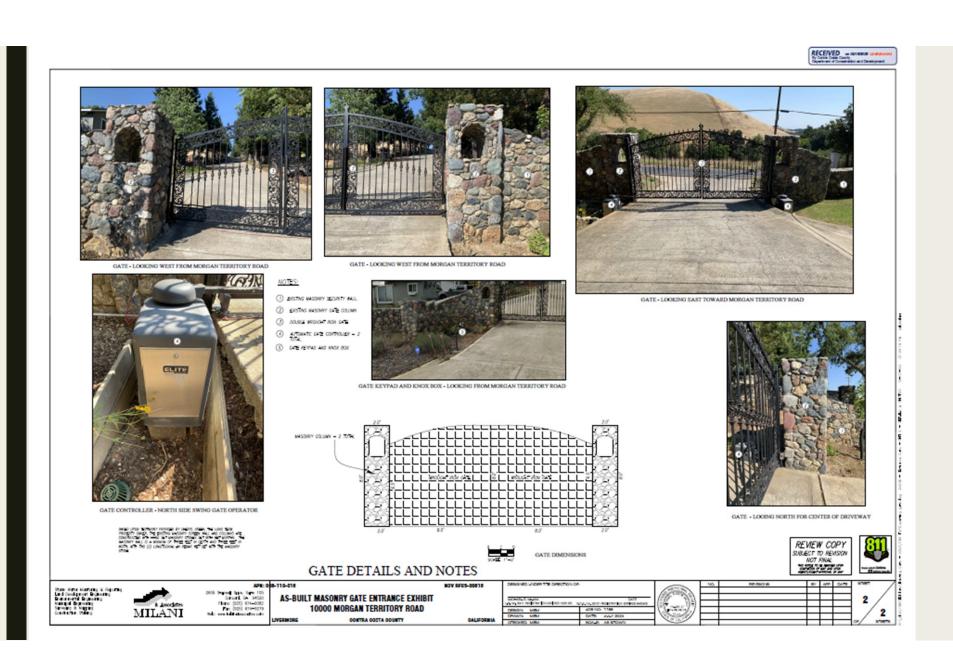
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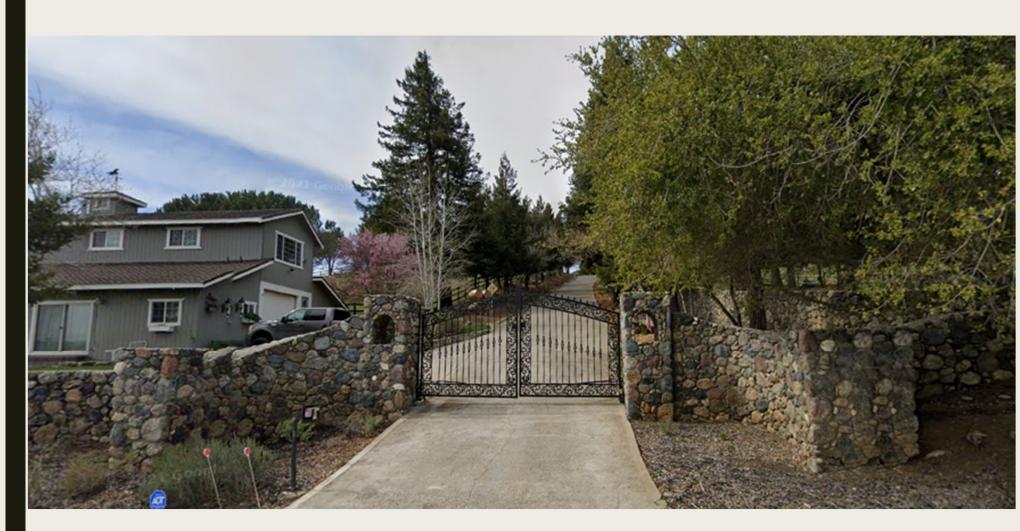
Project Description

The applicant requests approval of a Variance to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foottall columns to support an entry gate and a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment. The two columns and mechanical equipment were constructed without first obtaining a building permit. Approval of the Variance and Small Lot Design Review is necessary to obtain a building permit for the columns as built because at their current height they are considered structures pursuant to County Code Section 82-4.270(2), and therefore, are subject to setbacks and small lot design review. The applicant is requesting the County Planning Commission overturn the Zoning Administrator's decision to deny the Variance and Small Lot Design Review.

would allow the applicant to obtain a building permit for the as-built <u>columns accesso</u>

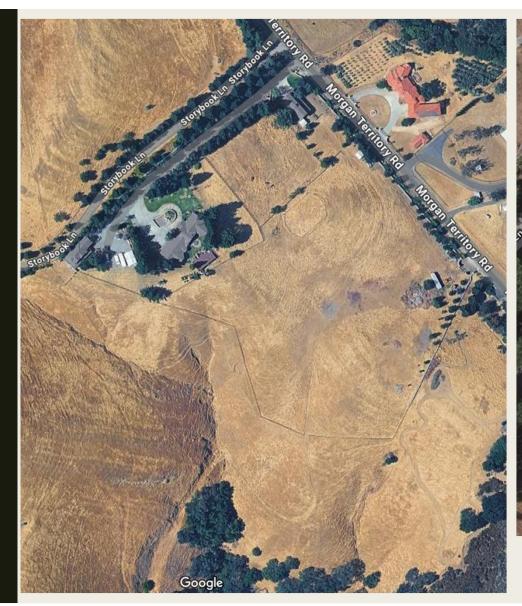






EXISTING SITE PHOTO

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AERIAL SITE PHOTO 10

Summary of Appeal Points

As the basis for their appeal, the appellant mentioned the following concerns:

- The Variance would not constitute a grant of special privilege because the property is located in a rural area, and many immediate neighbors have similar, large, entrance gates. The support columns do not pose health and safety concerns.
- The property is in a rural area and the strict application of zoning requirements would not protect the general public or visitors. The gate has been in place for decades without health or safety issues.
- The Variance meets the intent and purpose of the land use district because the A-40 zoning district allows for accessory structures auxiliary to single-family residences as the columns, while oversized, are still subordinate to both residences on the property.

Staff response to appeal point #1:

- There is no quality about the subject property that constitutes a limitation that the neighboring properties do not experience. The subject lot is a similar size and topography to the neighboring properties and does not limit the support columns to be either 7 feet tall and thus not subject to setbacks, or taller than 7 feet and conforming to A-40 zoning setbacks.
- The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback for the columns, and the reduced front yard setback is inconsistent with the A-40 zoning district.
- The appellant did not provide addresses so Staff may verify the legality or existence of these alleged oversized gates located in the required front setback for properties in the vicinity. Further, the approval of a variance for one property does not mean other neighboring properties in the vicinity may be subject to the same variance. Each project must meet variance findings independent of each other.

Staff response to appeal point #2:

- The appellant has not provided evidence as to what special circumstance applies due to the property's size, shape, topography, location, or surroundings that deprives the subject property of rights enjoyed by others in the vicinity. The A-40 zoning district is specifically designated for low density, rural areas. Therefore, the rural setting is not a reason to allow a reduced front yard setback as required for the two columns.
- The area is relatively flat, and the entry gate is still achievable even if the columns were lowered to 7 feet, so the columns could legally be located within the front yard setback without a variance.
- The fact that the gates have been in place for 20 years without necessary permits and the property owner has never sought to legalize the gates until now, is not a finding for granting a variance.

Staff response to appeal point #3:

■ The property in the A-40 district is subject to the allowed uses set forth in Section 84-82 of the County Ordinance Code, which includes a detached single-family dwelling and the accessory structures and uses normally auxiliary to it. An entry gate with support columns could be consistent with the residential uses allowed in the A-40 district provided it meets the regulations set forth in County Code Section 82-4.270 that either allow for two 7-foot tall support columns that are exempt from setback requirements, or two 8-foot tall support columns that would be deemed accessory structures required to be set back 25 feet from the front property line. Because the support columns comply with neither of these requirements, the previously constructed oversized columns do not meet the intent and purpose of the A-40 district.

Staff Recommendation

Staff recommends that the County Planning Commission:

- OPEN the public hearing, RECEIVE testimony, and CLOSE the public hearing.
- DENY the appeal by Michael Milani filed on behalf of the property owner.
- FIND that the project is exempt from CEQA under Section 15061(b)(4) of the CEQA Guidelines and Section 15301(a).
- UPHOLD the Zoning Administrator's decision on County File CDVR25-01012 to deny a Variance and Small Lot Design Review to allow a 6-foot front yard setback (where 25 feet is the minimum required) for two, 8-foot-tall columns to support an entry gate and approve a Tree Permit to allow work within the dripline of one code-protected tree for the installation of the mechanical equipment for the entry gate.
- DIRECT staff to file a Notice of Exemption.

THANK YOU

Questions?

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