CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION

APPROVED PERMIT

APPLICANT:	Tom Dudley, Engineered Soils Repairs, Inc. 1267 Springbrook Road Walnut Creek, CA 94597	APPLICATION NO.:	CDDP24-03004
		ASSESSOR'S PARCEL NO.:	365-530-024, -025 and -026, 365-530-016
		PROJECT LOCATION:	North Pond Court, South Pond Court and 768 S. Pond Court Lafayette, CA 94549
OWNER:	California Reserve Owners Assn., Willis Management Group and James Dinning/Deanna Anderson Trust 3180 Crow Canyon Place #100 San Ramon, CA 94583	ZONING DISTRICT:	P-1
		APPROVED DATE:	March 17, 2025

This matter having not been appealed within the period of time prescribed by law, a DEVELOPMENT PLAN MODIFICATION to County File #CDDP86-03041 to allow a 0-foot setback for the construction of two new retaining walls over 3 feet in height, and a Tree Permit for the removal of six (6) code-protected redwood trees, on the subject property in the LAFAYETTE 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 #CDDP24-03004; TOM DUDLEY, ENGINEERED SOILS REPAIRS INC. (APPLICANT) AND CALIFORNIA RESERVE OWNERS ASSN, WILLIS MANAGEMENT GROUP, & JAMES DINNING/DEANNA ANDERSON TRUST (OWNERS) AS APPROVED BY THE ZONING ADMINISTRATOR ON MARCH 17, 2025

FINDINGS

A. Development Plan (Planned Unit District) Findings

Pursuant to County Ordinance Chapter 84-66 (P-1 Planned Unit District), Development Plan approval of the retaining wall improvements for an existing residential subdivision is based on the following:

1) *The proposed project shall be consistent with the intent and purpose of the P-1 district.*

Project Finding: The subject property is within a Planned Unit (P-1) zoning district which allows for residential uses typically permitted in a single-family residential district, including the construction of accessory structures. The project consists of the construction of two new retaining walls to support the existing private roads of an existing residential subdivision. The project includes a request for approval of a deviation for a 0-foot front setback for retaining walls over 3 feet in height.

The topography of the project site is hilly with the natural grade sloping steeply down from west to east. Based on the Geotechnical Investigation prepared for the project (GeoForensics, June 17, 2021), the area between North and South Pond Courts and Reliez Valley Road has been experiencing soil creep (slow landslide) as observed over approximately fourteen years and both cul-de-sacs have signs of damage. The retaining walls will be sited in a manner that is necessary to achieve the structural stability of the slope. They are substantially similar to other retaining walls found in the vicinity with similarly sloped topography and will significantly improve the safety of the private roads and of neighboring properties. The project is consistent with other lots in similar P-1 zoning districts and for which deviations were granted for similar retaining wall features due to steep topography. As such, the deviations to the conditions of approval of County File #DP86-3041 are consistent and compatible with the residences within the surrounding area and subdivision. Therefore, the project is consistent with the intent and purpose of the P-1 district in which it is located.

2) *The proposed project shall be compatible with other uses in the vicinity, both inside and outside the district.*

Project Finding: The project site is located within an area of unincorporated Lafayette that is dominated by single-family residential developments and open space uses on hillsides. The improvements are accessory to the single-family residential subdivision use of the subject property. The retaining walls will support the hillside below two existing private roads which have been damaged due to earth movement. The deviation from the front setback development standard of Development Plan #DP86-3041 requested as part of the project is substantially consistent to those granted for development of similar retaining walls within the subdivision and surrounding vicinity. As designed, the project remains compatible with other uses in the vicinity and the P-1 zoning district of the subdivision.

B. Tree Permit Findings

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 as follows:

1) Reasonable development of the property would require alteration or removal of a code-protected tree, and this development could not be reasonably accommodated on another area of the lot.

C. California Environmental Quality Act (CEQA) Findings

The project is exempt from environmental review pursuant to CEQA Guidelines Section 15303(e), Class 3, related to the "New Construction or Conversion of Small Structures". The project involves the construction of two new retaining walls approximately 4 feet in height and ranging from approximately 65 linear feet to 364 linear feet in length. The walls are accessory to the primary roadway and residential use of the property.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP24-03004

Project Approval

1. **Development Plan approval** is granted to allow the non-substantial modification to County File #CDDP86-03041 with a deviation to allow a 0-foot setback for the construction of two new retaining walls over 3 feet in height on the subject property adjacent to the South Pond Court and North Pond Court roadways, and grading with approximately 1,122 cubic yards (cy) cut and 1,100 cy fill.

2. **Tree Permit approval** is granted to allow the removal of six (6) code-protected redwood trees (trees # 253, 255, 258, 259, 261, and 263) located on the subject property with a combined diameter of approximately 122 inches for required grading and construction activities.

3. The approvals described above are granted based on and as generally shown on the following documents:

    - Application and materials received by the Department of Conservation and Development, Community Development Division (CDD) on January 29, 2024;
    - Revised site and structural plans received on August 5, 2024, and revised tree plans received on November 14, 2024;
    - Revised Arborist Report, updated by Maija Wigoda-Mikkila, Traverso Tree, dated and received on August 5, 2024;
    - Geotechnical Investigation for Proposed Pavement Stabilization, prepared by GeoForensics Inc., dated June 17, 2021, and received on August 5, 2024;
    - Review of Retaining Wall Plans, letter by GeoForensics Inc. dated December 4, 2023, and received on August 5, 2024.

4. Any modifications to the project approved under this permit that is not required by a Condition of Approval herein shall be subject to the review and approval of the CDD.

5. Unless expressly stated otherwise herein, the Conditions of Approval of County File #CDDP86-03041 shall remain in full force and effect.

Board of Supervisors Approval

6. **Prior to submitting for a building or grading permit, whichever is first**, for construction of retaining wall #1, the applicant shall obtain authorization from the Contra Costa County Board of Supervisors to allow grading and construction of retaining wall improvements on parcel APN 365-530-016, where development rights over a portion of Lot 16 of Subdivision 7144 have been grant deeded to the County pursuant to County File #CDSD88-07144 and COA #14 of County File #DP86-3041 (County Recorder Document 1995 183727, recorded October 23, 1995). The approvals granted by the Zoning Administrator are contingent upon this approval of the Board of Supervisors, which must be obtained prior to the execution of this CDDP24-03004 Development Plan modification and construction of the retaining wall #1.

Application Costs

7. The development plan application was subject to an initial deposit of $2,000.00. Applications are subject to time and material costs if the application review expenses exceed 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. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

Indemnification

8. The applicant agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, and employees to attack, set aside, void, or annul this approval. The applicant also agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any and all liability caused by negligent or wrongful acts of the applicant, its agents, or employees arising out of the issuance or exercise of this Development Plan permit, or the interpretation of any of its provisions, and to pay all claims, damages, judgements, legal costs, adjuster fees, and attorney fees incurred by the County or its agents, officers, and employees related thereto. The applicant shall be entitled to select its own legal counsel in the defense of all such actions. The applicant shall provide written acknowledgement and acceptance of this condition of approval.

Trees

General

9. The six (6) code-protected trees approved for removal shall remain on the property until a grading or building permit has been obtained.

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

11. Any required tree alteration, removal, or encroachment within the dripline of a code-protected tree(s) not identified in this permit will require submittal and approval of a separate Tree Permit application.

Restitution for Tree Removal

12. The following measures are intended to provide restitution for the removal of six (6) code-protected redwood trees (trees # 253, 255, 258, 259, 261, and 263) with a combined diameter of approximately 122 inches s, that have been approved for removal:

A. Planting and Irrigation Plan: **Prior to any tree removal, ground disturbance, or CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs 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 Department of Conservation and Development, Community Development Division (CDD). The plan shall provide for the planting of **eighteen (18) trees**, minimum 15-gallons in size, or an equivalent and sufficient number/size of trees as recommended by the licensed arborist or landscape architect within the vicinity of the project site. To the extent possible and pursuant to COA #12.A. of County File #CDDP86-03041, the replacement trees shall provide or contribute to screening along the Reliez Valley Road corridor. The plan shall comply with the County's Water Efficient Landscape Ordinance. Verification of such shall accompany the plan.

B. Required Security to Assure Completion of Plan Improvements: **Prior to any tree removal, ground disturbance, or CDD stamp-approval of plans for the issuance of building or grading permits, whichever occurs first,** the applicant shall submit an estimate prepared by a licensed landscape architect, arborist, or landscape contractor for the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation). Upon approval of the estimate by the CDD, the applicant shall submit a security (e.g., cash deposit or bond) to the CDD in the amount of the approved cost estimate *plus* a 20% inflation surcharge to ensure that the approved planting and irrigation plan is implemented.

C. 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. The applicant shall pay an initial deposit of $200.00 at the time the security is submitted.

D. Duration of Security: When the replacement trees and irrigation have been installed, the applicant shall submit a letter to the CDD, composed by a licensed landscape architect, landscape contractor, or arborist, verifying that the installation has been done in accordance with the approved planting and irrigation plan. The CDD will retain the security 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 following completion of the installation, the applicant shall arrange for the consulting arborist to inspect the replacement trees and to prepare a report on the trees' health. The report shall be submitted for the review of the CDD and shall include any additional measures

necessary for preserving the health of the trees. These measures shall be implemented by the applicant.

Any replacement tree that dies within the first year of being planted shall be replaced by another tree of the same species and size. If the CDD determines that the applicant has not been diligent in ensuring the health of the replacement trees, then all or part of the security may be used by the County to ensure that the approved restitution plan is successfully implemented.

Aesthetics/Erosion Control

13. Materials used for the retaining walls are required to have a non-reflective, natural finish to minimize contrast with the natural landscape features of the site. Those portions of the wall that are metal shall be painted to match the adjacent portions of the wall.

14. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete construction of the retrofitted retaining walls as is shown on the approved project plans. Restoration shall include the revegetation of cut slopes, stripped or exposed areas. A revegetation plan shall be submitted as part of the erosion control plan. The plan shall emphasize the use of drought tolerant native species and plants that are adaptive to conditions in the vicinity of the project site and comply with the County's Water Efficient Landscape Ordinance.

15. Color photographs showing the as-built condition of the walls and revegetation/restoration of stripped or exposed areas shall be submitted to the CDD **prior to final inspection**.

Biological Resources

16. If project construction-related activities take place during the nesting season (February through August), preconstruction surveys for nesting passerine birds and raptors (birds of prey) shall be conducted by a qualified biologist **no more than five (5) days prior to the commencement of tree removal or site grading activities, whichever is first**. The survey area (area of influence) shall include the project site and those adjacent areas within 120 feet of the project site. If any bird listed under the Migratory Bird Treaty Act is found to be nesting within the project site or within the area of influence, an adequate protective buffer zone shall be established by a qualified biologist to protect the nesting site. This buffer shall be a minimum of 75 feet from the project activities for passerine birds, and a minimum of 200 feet for raptors. The distance shall be determined by a competent biologist based on the site conditions (topography, if the nest is in a line of sight of the construction and the sensitivity of the birds nesting). The nest site(s) shall be monitored

by a competent biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), the project can proceed without further regard to the nest site(s).

Cultural Resources

17. Pursuant to COA #8 of County File #DP86-3041, should any archeological materials be uncovered during grading, trenching, or other onsite excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigations, if deemed necessary. This condition shall be included on construction drawings.

Geotechnical/Soils

18. The project geotechnical engineer shall provide monitoring services **during clearing, and extending through grading, placement of engineered fill, pier drilling, installation of drainage facilities, and final grading** to ensure that geotechnical recommendations that were the basis for issuance of the construction permits are properly interpreted by the project proponent and the contractor and are properly implemented during construction. General Notes on all construction plans shall identify the geotechnical investigation/reports prepared by GeoForensics, Inc. as providing geotechnical standards and criteria to be implemented during project construction. In addition, General Notes on all construction plans shall identify the features to be inspected by the representative of the geotechnical engineer. If there is a significant difference between the actual field conditions and those that were the basis for the geotechnical design recommendations, supplemental recommendations may be required. Any changes to the approved plans shall require review and written approval by the County Building Inspection Division and CDD staff.

19. Geotechnical observation and testing by the project geotechnical engineer shall be administered during construction activities. The monitoring shall commence during clearing, and extend through placement of engineered fill, pier drilling, installation of drainage facilities, and final grading. These observations will allow the project geotechnical engineer to compare actual exposed conditions with anticipated conditions, and to verify that the contractor's work conforms with the geotechnical aspects of the plans and specifications. **Prior to requesting a final grading inspection**, the project proponent shall submit a report from the project geotechnical engineer that (i) documents their

observation and testing services throughout the grading and construction period, and (ii) provides the project geotechnical engineer's opinion of the compliance of the as-built project with the recommendations in the report(s) prepared by GeoForensics, Inc. for the project.

20. A geologic review fee in the amount of $1,500 shall accompany the first corrosion hazard testing results submitted to the County for review by the CDD and County Peer Review Geologist.

Construction Period Restrictions and Requirements

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

21. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows and to minimize project-related disruptions to adjacent properties.

22. Construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, unless extended construction dates/times have been approved by the Zoning Administrator, and are prohibited on state and federal holidays on 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 and Federal)
    Cesar Chavez Day (State)
    Memorial Day (State and Federal)
    Juneteenth National Independence Day (Federal)
    Independence Day (State and Federal)
    Labor Day (State and Federal)
    Columbus Day (State and Federal)
    Veterans Day (State and Federal)
    Thanksgiving Day (State and Federal)
    Day after Thanksgiving (State)
    Christmas Day (State and Federal)

    For information on the actual days and dates that these holidays occur, please visit the following websites:

    Federal: http://www.federalreserve.gov/aboutthefed/k8.htm
    State: http://www.sos.ca.gov/state-holidays/

23. Transportation of large trucks and heavy equipment is 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.

24. 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.

25. The site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed of as necessary. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.

26. The applicant shall immediately notify the CDD of any damage that occurs to any trees during the construction process. Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the CDD to be reasonably appropriate for the particular situation.

27. No parking or storage of vehicles, equipment, machinery, or construction materials and no dumping of paints, oils, contaminated water, or any chemicals shall be permitted within the drip line of any tree to be preserved.

28. No grading, compaction, stockpiling, trenching, paving, or change in ground elevation shall be permitted within the drip line of any tree intended for preservation unless such activities are indicated on the improvement plans approved by the CDD. If any of the activities listed above occur within the drip line of a tree to be preserved, an arborist may be required to be present. The arborist shall have the authority to require implementation of measures to protect the tree.

PUBLIC WORKS

CONDITIONS OF APPROVAL FOR PERMIT CDDP24-03004

Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exceptions(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on August 5, 2024.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A GRADING OR BUILDING PERMIT, WHICHEVER IS FIRST.

General Requirements

29. For Public Works review for compliance relative to this 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 related to reviewing and processing these conditions of approval and other Public Works related services ancillary to the issuance of building permits and completion of this project.

30. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Reliez Valley Road or Hidden Pond Road . Concrete shall be saw-cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doweled into existing improvements.

Access to Adjoining Property:

Encroachment Permit

31. Applicant shall obtain an encroachment permit from the Public Works Department, if necessary, for construction or improvements within the right-of-way of Reliez Valley Road and Hidden Pond Road.

Right of Way Vacation

32. Applicant shall apply for the vacation of a portion of the Reliez Valley Road right of way for installation and permanent maintenance of the retaining walls. Applicant shall pay related fees for County processing of said vacation.

Site Access

33. Applicant shall only be permitted access at the locations to be determined and approved in the encroachment permit.

Maintenance of Facilities:

34. In the event portions of the retaining walls and appurtenances thereto remain within the County right of way, a license (maintenance) agreement with the HOA is required to ensure landscaping, private roads, and retaining walls be privately maintained in perpetuity. A maintenance plan of operation for all common areas, private roads and perimeter walls shall be submitted for the Public Works Department review. The County will not accept these properties or facilities for ownership or maintenance.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

B. Additional requirements may be imposed by the following agencies and departments:

- Contra Costa County Building Inspection Division
- Contra Costa County Public Works
- Contra Costa Environmental Health Division
- Contra Costa County Fire Protection District
- East Bay Municipal Utility District
- Central Contra Costa Sanitary District

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