

Eckhaus
Last

From: Josh Eckhaus <
Sent: Tuesday, July 22, 2025 9:31 AM
To: Clerk of the Board; David Bowie; LYNN STANTON; Jennifer Ostrander
Subject: CDLP23-02046 BOS Submission
Attachments: CCC_Land_Use_Appeal_Deck.docx

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Attached is the legal argument for why Contra Costa County must evaluate the Carnelian facility in its entirety and not just one parcel thereof.

Please advise any questions or concerns and please accept this for the record.

Thanks,
Josh Eckhaus

Via Email:

JULY 22, 2025

**Board Of Supervisors, Contra Costa County
Candace Andersen, Supervisor District 2
30 Muir Road
Martinez, CA 94553**

**Re: CLP23-02046 – Carnelian Residential Care Facility for the Elderly;
2374 Warren Road, Walnut Creek, CA APN: 184-120-071
Legal Basis For Evaluating the Entire Carnelian Site**

Dear Supervisors:

The appellants have urged the County to evaluate the entire Carnelian facility and not just the single parcel being developed. Below is the legal argument to substantiate that requirement.

These regulations show how the operational interdependency of the two parcels necessitates a holistic fire safety review, ensure safety, procedural fairness, and respect for neighborhood zoning.

In essence, while the county's role is primarily to ensure general building safety and appropriate land use, a fundamental omission like a kitchen or dining room would likely be caught at the local level by the Planning department, as these are basic requirements for any residential occupancy and critical for life safety and egress.

While it's true that county planners and building departments don't enforce every granular detail of state RCFE law (Title 22), there are fundamental physical requirements for any habitable building, including those intended as RCFEs, that fall squarely within Contra Costa County's jurisdiction.

Below are citations and arguments proving that the Land Use application CDLP23-02046 must be evaluated as an entire facility:

1. Full Facility Must Be Considered

- Facility spans 3 contiguous parcels with shared operations.
- Licenses issued separately but used as a single, unified business.
- Reviewing only one parcel hides real intensity and zoning violations.
- State documentation defining capacity must be respected.

2. Safety, Egress, and Emergency Response

- Located on narrow residential streets with poor fire access.
- No dedicated emergency lanes or commercial ingress.
- Facility expansion = 40% traffic increase (staff, trucks, services).

- Endangers residents and facility occupants in emergencies.
3. Compatibility with Residential Zoning
- Increased traffic, noise, lighting, and commercial deliveries.
 - Overflow parking congests streets and lowers property values.
 - Violates spirit and letter of single-family zoning protections.
 - Violates character of the neighborhood
 - Goes against ContraCosta2040 Mater Plan to restrict development.

Requested Action

- Deny the land use permit based on improper segmentation and zoning violations.
- Alternatively, remand for a comprehensive review of the full facility footprint.

Regulatory Citations Tying Fire Safety Codes to RCFE Land Use Approval

California Fire Code (CFC) - General Scope and Application:

- **CFC, Chapter 1, Section 101.2 (Purpose):** This section establishes that the purpose of the code is to "safeguard the public health, safety and general welfare from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises." This provides the overarching mandate for the fire marshal to ensure safety across all interconnected operations.
- **CFC, Chapter 1, Section 101.3 (Application):** This section states that the code applies to the "construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such building structures throughout the State." This is crucial for arguing that the fire marshal's jurisdiction extends to the functionally connected centralized parcel, even if it's on a separate legal parcel, because it's an "appurtenance connected or attached" by function to the RCFE.
- **CFC, Chapter 1, Section 101.4 (Dangerous Conditions):** This section explicitly covers "hazardous conditions in the use or occupancy of buildings or premises." This allows the fire marshal to address any risks arising from the centralized facility's operations (e.g., cooking, waste, chemical storage) that could impact the RCFE.

Application Requirements for Fire Clearance:

- **California Code of Regulations, Title 22, Section 87305 (Alterations to Existing Buildings or New Facilities):** This regulation requires obtaining a building permit prior to any construction or alterations. This confirms that the addition itself triggers a review.
- **Local Fire Marshal's Office:** While not a statewide code, CCFD fire departments, when requesting fire clearance applications, explicitly require a "dimensional site plan showing all buildings on site, driveways, setbacks from property lines, and distances between buildings." They also require "a floor plan of the building that shows all rooms... Indicate the use of each room on the plan." An application omitting the centralized facility would be incomplete under these standard requirements.
- **General Application Principles:** Failure to include all required documents may result in extended application and review time, or rejection.

Occupant Load and Means of Egress:

- **California Building Code (CBC) / California Fire Code (CFC) Chapter 10, Section 1004.1 (Design Occupant Load):** This section states that the "design occupant load" determines the means of egress requirements. If residents from the RCFE use the centralized facility, they contribute to its occupant load, which must be accounted for in egress calculations.
- **CBC/CFC Chapter 10, Section 1004.3 (Multiple Function Occupant Load):** This section specifies that where an area contains multiple functions with different occupant load factors, the design occupant load for each function is calculated independently. This applies to a centralized dining room or other shared spaces.
- **CBC/CFC Chapter 10, Section 1003.6 (Means of Egress Definition):** A "means of egress" is defined as a "continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way." If residents must travel between the RCFE and the centralized facility for essential services, this path is part of their means of egress and must be safe and unobstructed.
- **CFC/CBC Appendix 425.8.3.4 (or similar sections on prohibited egress paths):** This type of regulation states that "Exits are not to pass through kitchens, storerooms, restrooms, closets or spaces used for similar purposes." If the centralized facility's layout requires residents to traverse such areas to access dining, medication, or supplies, this would be a direct violation and a significant safety concern.

Hazardous Materials and Waste Management (relevant to centralized services):

- **California Code of Regulations, Title 22, Section 87309(a) (Storage Space and Access):** This requires dangerous items (disinfectants, cleaning solutions, poisonous substances, knives, matches, tools, sharp objects) to be kept in locked storage. If these are stored in the centralized facility, their compliance impacts the overall safety.
- **CCR Title 22, Section 87555(15) (Food Service):** This section prohibits the storage of pesticides and similar toxic substances in food storerooms, kitchen areas, or where kitchen equipment/utensils are stored, and requires soaps/detergents to be stored separately from food supplies. These apply to the centralized kitchen.
- **CCR Title 22, Section 87465 (Incidental Medical and Dental Care Services) and Section 87915 (Storage of Medications):** These sections detail strict requirements for medication storage (locked, secure, temperature control, separation of internal/external use, proper labeling, disposal). If medication is centrally stored, these regulations must be met at that location.
- **CCR Title 22, Section 87303(f) (Maintenance and Operation - Waste Management):** This requires waste to be stored and disposed of in a manner that prevents disease, odors, and pests. Centralized waste generation would fall under this.

CDSS Authorization for Centralized Services (implies comprehensive review):

- **California Code of Regulations, Title 22, Section 87308(a) (Resident and Support Services):** This regulation explicitly states: "The provision of required services from a centralized service facility that serves two or more licensed facilities is permitted, provided it receives written approval from the licensing agency." This means that the California Department of Social Services (CDSS) must approve the *arrangement* for

centralized services, which inherently involves assessing the safety and compliance of the centralized facility in relation to all facilities it serves.

1. **County's Obligation for Basic Layout (Building Code):**

- **California Building Code (CBC) Requirements:** The California Building Code (CBC), which local building departments enforce, has fundamental requirements for dwelling units. For instance, the California Residential Code (a part of the CBC) states that "Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink." Similarly, while not always explicitly defining a "dining room" as a separate structural element, the CBC does classify **spaces for "food or drink consumption"** as assembly uses, which have specific requirements for occupant load and egress.
- **Land Use Permit Review:** When a county planning department reviews a land use permit for an RCFE expansion, they are typically looking at whether the proposed use (e.g., a residential care facility) is allowed in that zoning district and if the overall site plan meets local development standards (e.g., density, setbacks, parking). If the application includes architectural plans for the building, these plans are reviewed by the **local building department** for compliance with the California Building Code.
- **The "Call Out":** If a land use application for an RCFE addition or new facility literally shows a building **without a kitchen or a designated dining area, the county's building department would be obligated to call this out during their plan review for the building permit.** This is because a kitchen is a basic requirement for a dwelling unit under the California Building Code, and a dining area is a fundamental common space for an RCFE. Such an omission would likely prevent the issuance of a building permit.

2. **Fire Marshal's Role (Egress and Occupancy):**

- The **local fire department** (or State Fire Marshal, depending on jurisdiction) also reviews the plans for fire and life safety. They are concerned with "means of egress" (safe exit paths) and "occupant load" (how many people a space can safely hold).
- **Dining Room as Egress Concern:** A dining room is a common gathering space, and the fire marshal would need to ensure it has adequate exits for the number of residents it serves. The California Fire Code (CFC) explicitly states that egress paths generally "shall not pass through kitchens where building construction separates the kitchen from other rooms" and "shall not pass through storerooms, closets, garages or spaces used for similar purposes." If a facility lacks a proper dining room, or if the proposed layout forces residents to traverse unsafe areas for meals, this would be a significant fire safety concern that the fire marshal would flag.

3. **The State's Ultimate Authority (CDSS CCLD):**

- Even if a county somehow approved a building lacking these basic features, the **California Department of Social Services (CDSS)**

Community Care Licensing Division (CCLD) would be the ultimate authority to deny the RCFE license.

- **Title 22 Mandates:** Title 22, Section 87555, explicitly requires RCFEs to have "one or more dining rooms or similar areas suitable for serving residents at a meal service" that are "convenient to the kitchen" and "attractive and promote socialization." It also details extensive requirements for kitchen areas, including cleanliness, equipment for food storage and sanitization, and separation of hazardous substances from food supplies.
- **Pre-Licensing Inspection:** During their pre-licensing inspection, CDSS Licensing Program Analysts (LPAs) would thoroughly assess the facility against *all* Title 22 physical environment and operational standards. A missing or non-compliant kitchen and dining room would be a direct violation of these core requirements, leading to citations and likely denial of the RCFE license until corrected.

If an addition is proposed for a single licensed Residential Care Facility for the Elderly (RCFE) that lacks a kitchen and dining room but operates under a California Department of Social Services (CDSS) Community Care Licensing Division (CCLD) centralization authorization, the land use application for the RCFE addition **would need to include information about the centralized service provider's facility.**

Here's why the county would be compelled to require this information, even though the facilities are on separate parcels and the centralized services are authorized by the state:

1. Completeness of the Land Use Application:

- County planning departments require comprehensive site plans for land use applications. These plans typically demand details on "all buildings on site," "distances between buildings," and the "use of all existing structures and outdoor use areas" on the property and often on contiguous, commonly owned parcels.
- An application that omits the functionally essential centralized facility would be considered incomplete and misleading, as it fails to represent the full operational context of the RCFE. County planning departments have procedures to deem applications incomplete if they lack required information.

2. Basic Building Code Requirements (Local Building Department):

- The California Building Code (CBC), enforced by local building departments, generally requires a kitchen area with a sink for each dwelling unit. While an RCFE is a specialized residential use, a building intended for residential occupancy is expected to have these basic provisions. If the RCFE itself lacks a kitchen and dining room, the local building department would likely flag this as a fundamental building code issue for a residential occupancy, regardless of external services.

3. Fire and Life Safety (Local Fire Marshal):

- The local fire marshal's office has a broad mandate to ensure life safety for all occupants and would be highly concerned about this setup.
 - **Occupant Load and Egress:** The centralized dining room serves residents from the RCFE. The fire marshal needs to calculate the total occupant load of that dining room and ensure its egress capacity is sufficient for *all* individuals it serves.
 - **Means of Egress:** The pathways between the RCFE and the centralized facility are critical components of the residents' "means of egress" for daily activities (e.g., going to meals) and emergency evacuation. A "means of egress" must be a "continuous and unobstructed path... from any occupied portion of a building... to a public way." The fire marshal must assess these pathways to ensure they are safe, unobstructed, and meet all code requirements, including width and separation from hazards.
 - **Prohibited Egress Paths:** Fire codes generally prohibit egress paths from passing through kitchens or storerooms if building construction separates them from other rooms. If the centralized facility's layout involves residents traversing such areas, this would be a significant concern.
 - **Hazardous Operations:** The centralized facility handles food preparation, potentially medication storage, and waste generation, all of which involve fire and health hazards. The fire marshal's review extends to identifying and eliminating hazardous conditions arising from the "storage, handling, and use of hazardous materials and devices" and "hazardous conditions in the use or occupancy of buildings or premises." Any risks from the centralized facility that could impact the RCFE's residents would fall under their purview.
 - **Inter-Agency Coordination:** The fire marshal's office often states that they cannot issue a fire clearance until "all agencies' requirements have been met," including County Zoning and Building departments. This means they would likely push for the inclusion of the centralized facility's details in the land use application.
4. **CDSS Centralization Authorization Does Not Override Local Permits:**
- While CDSS CCLD may have granted "written approval" for centralized services from a separate licensed facility (as permitted by CCR Title 22, Section 87308(a)), this authorization pertains to the

state licensing aspect of the operational model. It does not exempt the applicant from complying with local land use, building, and fire codes.

- The CDSS approval acknowledges the operational arrangement, but the physical manifestation of that arrangement must still meet local safety and building standards.

The county should be compelled to require the centralized service provider's information on the land use application. The application would be considered incomplete and inadequate for a proper review of life safety and building code compliance without it.

To compel the county to require comprehensive information on the land use application, even for separate parcels, specific statutes from the California Building Code (CBC), California Fire Code (CFC), California Code of Regulations (CCR) Title 22, and California Government Code are cited. These citations highlight the county's obligation to ensure basic habitability and life safety across functionally interdependent facilities.

1. For the RCFE's basic physical requirements (Kitchen and Dining Room):

- **California Residential Code (CRC) Section R306.2 (Kitchen):** "Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink."
 - **Argument:** An RCFE, as a residential occupancy, must meet basic dwelling unit requirements, including having a kitchen.
- **California Code of Regulations (CCR) Title 22, Section 87307(a)(1) (Common Rooms):** "There shall be common rooms such as living rooms, dining rooms, dens, or other recreation/activity rooms. They shall be of sufficient space and/or separation to promote and facilitate the program of activities and to prevent such activities from interfering with other functions."
 - **Argument:** This explicitly mandates a dining room within the RCFE facility itself.
- **CCR Title 22, Section 87555(b)(19) (Food Service - Dining Areas):** "There shall be one or more dining rooms or similar areas suitable for serving residents at a meal service... The dining areas shall be convenient to the kitchen so that food may be served quickly and easily and shall be attractive and promote socialization among the diners."
 - **Argument:** This reinforces the requirement for an on-site dining area that is functionally connected to a kitchen.
- **CCR Title 22, Section 87555(b)(12)(B) & (C) (Off-Premises Food Preparation):** Even if food is prepared off-site, the facility "shall have the equipment and staff necessary to receive and serve the food and for cleanup" and "shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies."
 - **Argument:** This means a basic kitchen area for receiving, serving, cleanup, and emergency preparation is still required on-site, even with centralized services.

2. For compelling the county to consider the centralized facility (Interdependency and Life Safety):

- **California Government Code, Section 65943(a) (Permit Streamlining Act - Application Completeness):** "Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant... If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete."

- **Argument:** The county is legally obligated to ensure the application is complete. An application omitting a functionally essential, commonly owned, contiguous parcel is incomplete and misleading.
- **California Fire Code (CFC), Chapter 1, Section 101.3 (Application):** "The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such building structures throughout the State."
 - **Argument:** The centralized facility, though on a separate parcel, is an "appurtenance connected or attached" by function to the RCFE. The fire marshal's jurisdiction extends to this interconnected operational complex.
- **CFC, Chapter 1, Section 101.2 (Purpose):** "to safeguard the public health, safety and general welfare from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises."
 - **Argument:** This is the overarching mandate for the fire marshal to ensure comprehensive safety, which necessitates evaluating the entire interdependent operation.
- **CFC Chapter 10, Section 1003.6 (Means of Egress Definition):** "A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way."
 - **Argument:** The pathways between the RCFE and the centralized facility are critical "means of egress" for residents. The fire marshal must evaluate these paths for safety and obstructions.
- **CFC Chapter 10, Section 1004.1 (Design Occupant Load) and 1004.3 (Multiple Function Occupant Load):** These sections require calculating occupant load based on the function of a space and for areas with multiple functions.
 - **Argument:** The centralized dining room's occupant load must include residents from all RCFEs it serves, and its egress capacity must be sufficient for that total.
- **CFC Appendix 4, Section 435.8.3.4 (or similar local adoption of CBC 435.8.3.4):** "The egress path shall not pass through kitchens where building construction separates the kitchen from other rooms." and "shall not pass through storerooms, closets, garages, or spaces used for similar purposes."
 - **Argument:** If residents must traverse the centralized kitchen or storage areas to access services, this poses a direct life safety violation.
- **CCR Title 22, Section 87308(a) (Resident and Support Services - Centralized Service Facilities):** "The provision of required services from a centralized service facility that serves two or more licensed facilities is

permitted, provided it receives written approval from the licensing agency."

- **Argument:** This state authorization *itself* implies an interconnected operational model that local authorities must acknowledge for safety purposes, even if they don't directly enforce Title 22. The county's review should be informed by this state-approved operational model.

3. [PJR-129 Site Plan Requirements for Planning Applications - Permit Sonoma](#)
4. [Sec. 8-2.210. Discretionary review and determining completeness of development applications. - American Legal Publishing](#)
5. codelibrary.amlegal.com/codes/yolocounty/latest/yolo/0-0-0-28014
6. [What are California ADU Kitchen Requirements](#)
- 7.



- 8.
9. gatheradu.com/blog/what-are-california-adu-kitchen-requirements
10. [2022 California Building Code, Title 24, Part 2 \(Volumes 1 & 2\) - CHAPTER 11B ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC ACCOMMODATIONS, COMMERCIAL BUILDINGS AND PUBLIC HOUSING - 11B -804.3 Kitchen work surface.](#)



- 11.
- 12. codes.iccsafe.org/s/CABC2022P1/chapter-11b-accessibility-to-public-buildings-public-accommodations-commercial-buildings-and-public-housing/CABC2022P1-Ch11B-SubCh08-Sec11B-804.3

13. Sources and related content

14.

- 15. [Overview Title 24 Building Standards Code as Adopted by the Division of the State Architect](#)

16.

17.



18.

- 19. www.dgs.ca.gov

20.

21.

- 22. [Planning Permits - LA County Planning](#)

23.

24.



25.

- 26. planning.lacounty.gov

27.

28.

- 29. [2022 California Residential Code, Title 24, Part 2.5 - CHAPTER 3 BUILDING PLANNING - R306.2 Kitchen.](#)

30.

31.



32.

- 33. codes.iccsafe.org

34.

35.

- 36. [Fire and Life Safety | OSFM - CA.gov](#)

37.

38.



39.

- 40. osfm.fire.ca.gov

41.

42.

- 43. [2022 California Residential Code, Title 24, Part 2.5 - CHAPTER 3 BUILDING PLANNING - R306.2 Kitchen.](#)

44.

45.



46.

47. codes.iccsafe.org/s/CARC2022P1/chapter-3-building-planning/CARC2022P1-Pt03-Ch03-SecR306.2

48.

June McHuen

From: Josh Eckhaus <josh.eckhaus@gmail.com>
Sent: Monday, July 21, 2025 11:23 PM
To: Clerk of the Board; LYNN STANTON; Jennifer Ostrander
Subject: CDLP023-02046 CARNELIAN BOS SUBMISSION

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Attached is the final submission for the Board Of Supervisors Appeal Hearing on July 22, 2025.

These are new documents and may be referred to (but not shown) in the hearing.

I will send one final file to be presented at the hearing soon.

These are for the record only

Thank you,

Josh Eckhaus

Appellant



Carnelian BOS Appeal Submission072225.pptx



CDLP23-02046 Staff Report - Public Commentary 072125.docx



ResidentialElderCareFacility06222025.xlsx

Carnelian Expansion Appeal & Grounds for Denial Land Use Application # CDLP23-02046

Board Of Supervisors

Contra Costa County

July 22, 2025

FACTS

- The Carnelian is a single integrated facility, which is not contested by any of the parties, and is owned and operated by a single corporate entity and currently houses 30 residents – not the 6 declared on the application and is expanding to 42 – not 18.
- The Carnelian is unique in Contra Costa County as it is the largest RCFE located in an R-10 single-family residential neighborhood and is the *only* RCFE in the county comprised of 3 contiguous parcels.
- Since there are three separate land use permits and licenses for each, the Carnelian operates a centralized model where the main facility at 2380 Warren provides services to the 2374 Warren and 170 Flora locations and has a documented plan to operate as authorized by CCLD.
- This centralization involves providing residents with meals and a dining room, as well as administering the resident's care.
- This centralization allows the 2374 Warren expansion to avoid many requirements such as a lobby and offices and cleaning supply storage, as all of these reside at the 2380 Warren home.
- Because the state has documented layouts and services provided at the neighboring site, those data points need to be included in a land use application. Not doing so means 2374 Warren needs to stand alone.

FIVE REASONS WHY THIS APPLICATION SHOULD BE DENIED

1. The Carnelian is A single integrated facility spanning three contiguous parcels which are owned and operated as A single business entity and must be evaluated as such in order to make an accurate assessment of the impact of the project on all three lots that make up the carnelian campus. The current application is for one parcel only and therefore presents an incorrect picture of the scope fo the project
2. The carnelian is already the largest RCFE located in an R-10 single-family residential neighborhood in all of Contra Costa and is the *only* RCFE in the county comprised of 3 contiguous parcels.
3. Even though there are three separate land use permits for the three parcels, they have evolved in the 50+ years since permits were granted and no longer meet the criteria for separate facilities. In fact, the two of the three licenses no longer meet the criteria for RCFEs as they are they function as extensions to the main parcel and cannot meet land-use or licensing requirements in its current form and the three parcels could be combined into one and be judged as the single operation that it is.
4. If the land use application were correctly submitted as a single three-parcel facility, it would be subject to a variety of additional regulations that would present a whole and honest picture of the facility. The applicants are surely aware of this and by omitting the details of the other components of the facility – 2380 Warren and 170 Flora – the Carnelian is claiming several exemptions.
5. There are alternatives to the proposed project that could be acceptable to the neighborhood, but the Carnelian has refused to consider those opportunities and is requesting a variance based on commercial goals and not on a legal justification for granting a variance.

WOULD YOU BE GOOD WITH THIS

DIRECT LINE OF SIGHT INTO OUR
KITCHEN, LIVING ROOM & BATHROOM

NEW

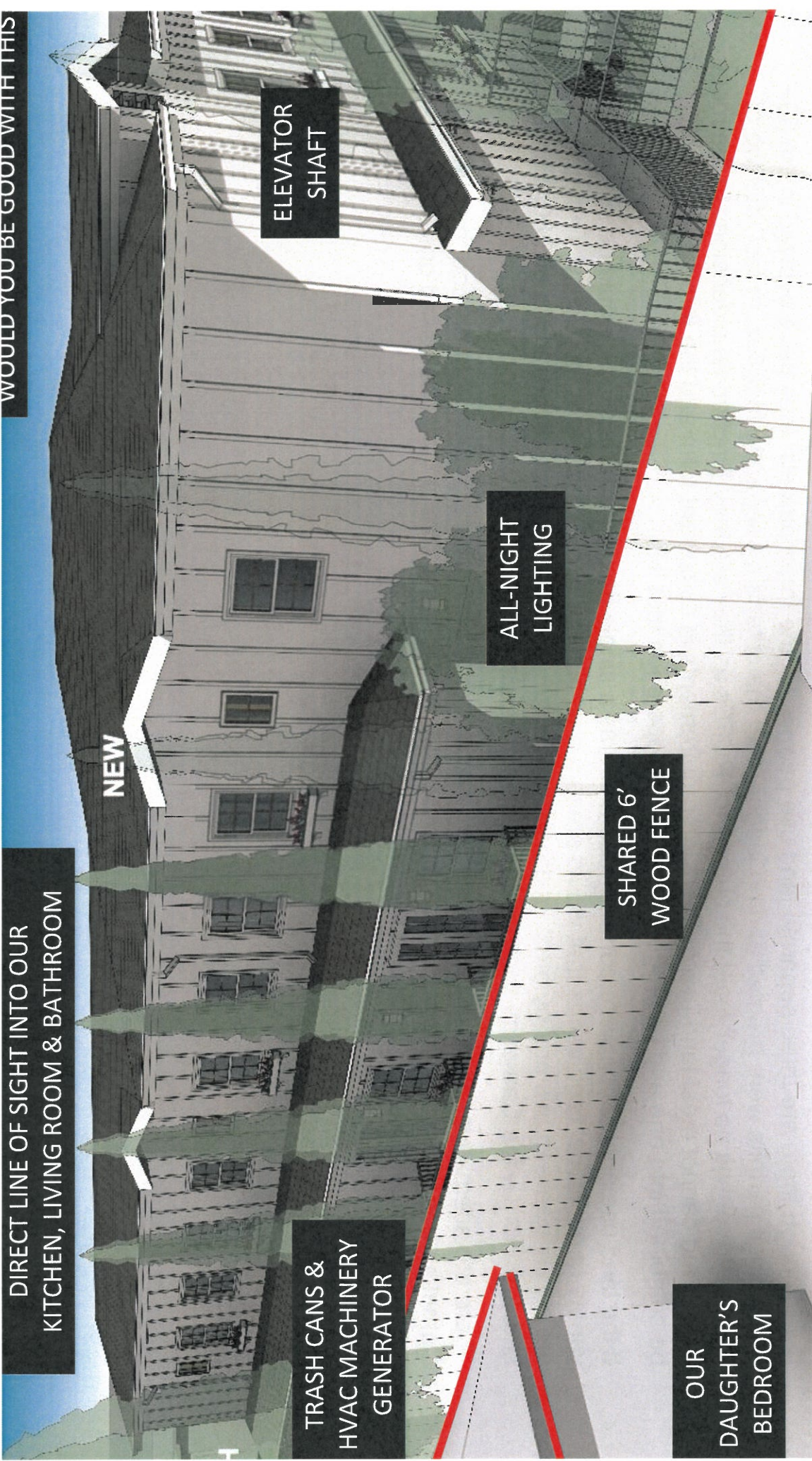
ELEVATOR
SHAFT

TRASH CANS &
HVAC MACHINERY
GENERATOR

ALL-NIGHT
LIGHTING

SHARED 6'
WOOD FENCE

OUR
DAUGHTER'S
BEDROOM



UNIQUE RCFE COMPRISING 3 HOMES – BIGGEST IN CCC R-10

THE CARNELIAN IS
ONE INTEGRATED FACILITY

ONLY PARCEL
IN APPLICATION

170 FLORA

2380 WARREN

2374 WARREN

2368

Flora Ave

Flora Ave Flora Ave

Layers

X Clear search results



ALTERNATIVE SITES AVAILABLE – COMPROMISE OFFERED

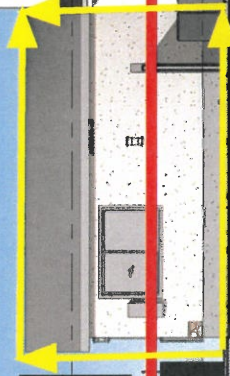
2574 WARREN ROAD
PROPOSED EXPANSION

ELEVATOR AND
ONLY STAIRWAY

ADDITION

ORIGINAL
HOME

FENCELINE



THE CARNELIAN IS ALREADY THE LARGEST SENIOR CARE FACILITY IN A RESIDENTIAL AREA IN CONTRA COSTA COUNTY!

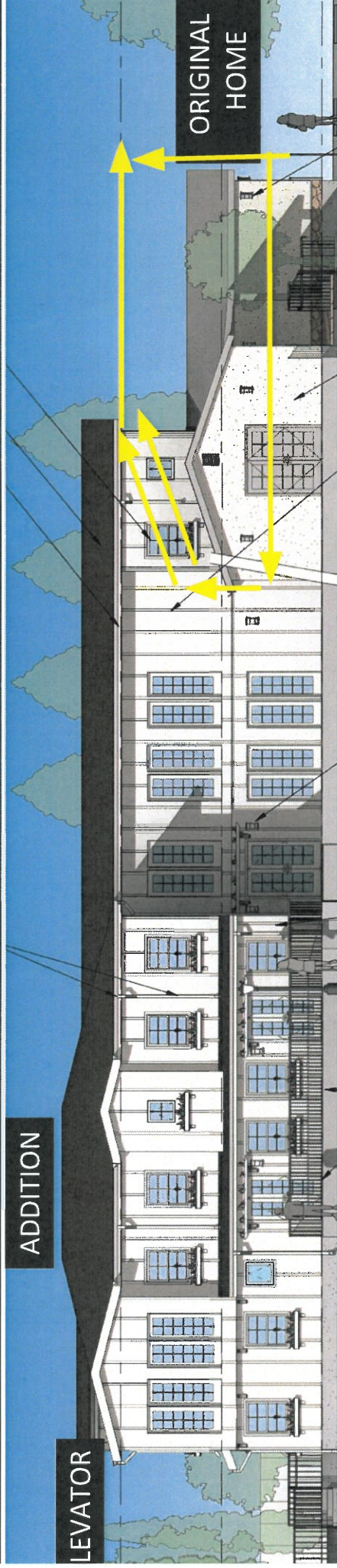
THE CARNELIAN ALREADY HAS 30 BEDS TODAY - AND WANTS TO EXPAND TO 42

THIS IS A MULTI-MILLION DOLLAR COMMERCIAL OPERATION IN OUR QUIET FAMILY NEIGHBORHOOD
APPROVAL OF THIS EXPANSION WOULD SET A PRECEDENT FOR FUTURE EXPANSIONS – AND LOWER PROPERTY VALUES!
THIS IS OUR LAST CHANCE TO SPEAK OUT AS A NEIGHBORHOOD

ADDITION

ELEVATOR

ORIGINAL
HOME





The Carnelian Project

Site Location: 2374 Warren Road, Walnut Creek, CA

The Carnelian Project is our planned addition at our 2374 Warren Road property. We're building a new two-story structure that will allow us to welcome 12 additional residents, increasing this property's capacity from 6 to 18 beds.

Self Identification
As 3-Building Campus
(Carnelianproject.com)

Right now, our community serves 30 residents across three neighboring properties (2380 and 2374 Warren Road, 170 Flora Avenue), all connected by our shared garden spaces. Once our addition is complete, we'll be able to provide a home for 42 seniors altogether.

The new building will stand 25 feet tall with a footprint of 2,590 square

**COPY / PASTE ACROSS
THE 3 BUILDINGS**

075601538-5-24-2024-15-A5-JS A R-D5K W5S-2X240524165839

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Department of
SOCIAL SERVICES

Community Care Licensing

FACILITY EVALUATION REPORT

Facility Number: 075801538
Report Date: 05/24/2024

Report Date: 03/24/2024
Date Signed: 05/24/2024 04:59:06 PM

Document Has Been Signed on 05/24/2024 04:59 PM. It Cannot Be Edited

STATE OF CALIFORNIA: HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
COMMUNITY CARE LICENSING DIVISION
DANIEL AND ASSOCIATES, 1515 CLAY STREET, STE. 310
DANIEL, CA 94612

FACILITY NAME:	CARVELIAN III	FACILITY NUMBER:	7401
ADMINISTRATOR:	GRITAS JAY	FACILITY TYPE:	(925) 938-2020
ADDRESS:	2270 CARVEL ROAD	TELEPHONE:	9459
CITY:	WALNUT CREEK	ZIP CODE:	94596
CAPACITY:	100	DATE:	08/26/2024
RENTAL:	1 Year	UNANNOUNCED BEGAN:	10:00 AM
VISIT:	Required	TIME COMPLETED:	05:00 PM
NET WITH:	Administrator Katherine Grutas		

On 10/20/2020, at 10:05 AM, LPA members (LPA) James C. Garza and Jennifer Garza arrived to conduct the Required Annual Inspection. Upon entry, LPA stated the purpose of the visit to staff members. Administrator (ADM) Katherine Grizas arrived at approximately 11:15 AM.

1 The LPA inspected the interior and exterior of the facility with the ADM. The inspection of the physical
2 plant included the action, dining area, restrooms, community living spaces, resident rooms, storage
3 areas, laundry, and kitchen. The LPA observed that the facility was clean and well-maintained.
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51

11. mailto:thornewill@discovery.com acili@discovery.com

THREE IDENTICAL INSPECTION REPORTS EXECUTED SIMULTANEOUSLY
WITH COMBINED EVALUATION OF A SINGLE FACILITY

Clear Intero

Topaz Ln

THIS FACILITY IN PLEASANT
HILL CONSISTS OF 3
SEPARATE BUILDINGS AND
OPERATES UNDER A SINGLE
LICENSE

Carlton Senior Living
Pleasant Hill - Martinez

Stepping Stones
Learning Center

3D



FALL RIVER, MA COULD
= WALNUT CREEK, CA

Abbott Pl

211

Express. Fashion.
Designer "EFD.UNISEX"

188

196

206

Gabriel House Assisted
Living Facility

Temporarily closed

JULY 14, 2025
9 SENIORS PERISH IN
72 BED FACILITY NOT
UNLIKE THE CARNELIAN

The Washington Post

Fire kills 9, injures 30 at assisted-living facility in Massachusetts

Fifty firefighters, including 30 off-duty first responders,
rescued people when "mayhem" broke out at the facility.
July 14 at 7:10 PM 2025

SIMILAR RESIDENTIAL
AREA BORDERING MIXED
USE





FALL RIVER, MA COULD
= WALNUT CREEK, CA

Flora Ave

180

JULY 17, 2025
THE CARNELIAN:
WHERE EMERGENCY
EGRESS HAS ALWAYS
BEEN A HUGE
CONCERN

We Build in 3-D!



DEVELOPER BEHIND THE
CARNELIAN EXPANSION -
BUILDING HUGE FACILITIES
ALL OVER THE BAY AREA

QUALITY / COST / SCHEDULING

A New HGCI Project: Residential Care Facility



A Design That is Ready To Go!


The project will expand the operations of this existing residential care facility to 140 beds from its current 32 beds to meet the needs of seniors seeking an affordable care facility in Morgan Hill (the South Bay). A new three-story building that is 18,201 square feet will be built on site to complement the existing one-story, 5,770 square-


foot structure's overall style and design. The new facility will have these on-site amenities for residents: meal service, laundry, cleaning, medical services and other personal services as needed. Some of the property will not be developed and reserved for future use. This senior-care facility will break ground in fall 2021.

What is HGCI's Three-Dimensional (3-D) Approach?





TAKEN FROM CARNELIAN
FACEBOOK PAGE - ONLY 3
STAFF MEMBERS WERE
IDENTIFIED IN APPLICATION


 This photo is


 Carnelian
22h · 🌐

The amazing m
Assisted Living

 5

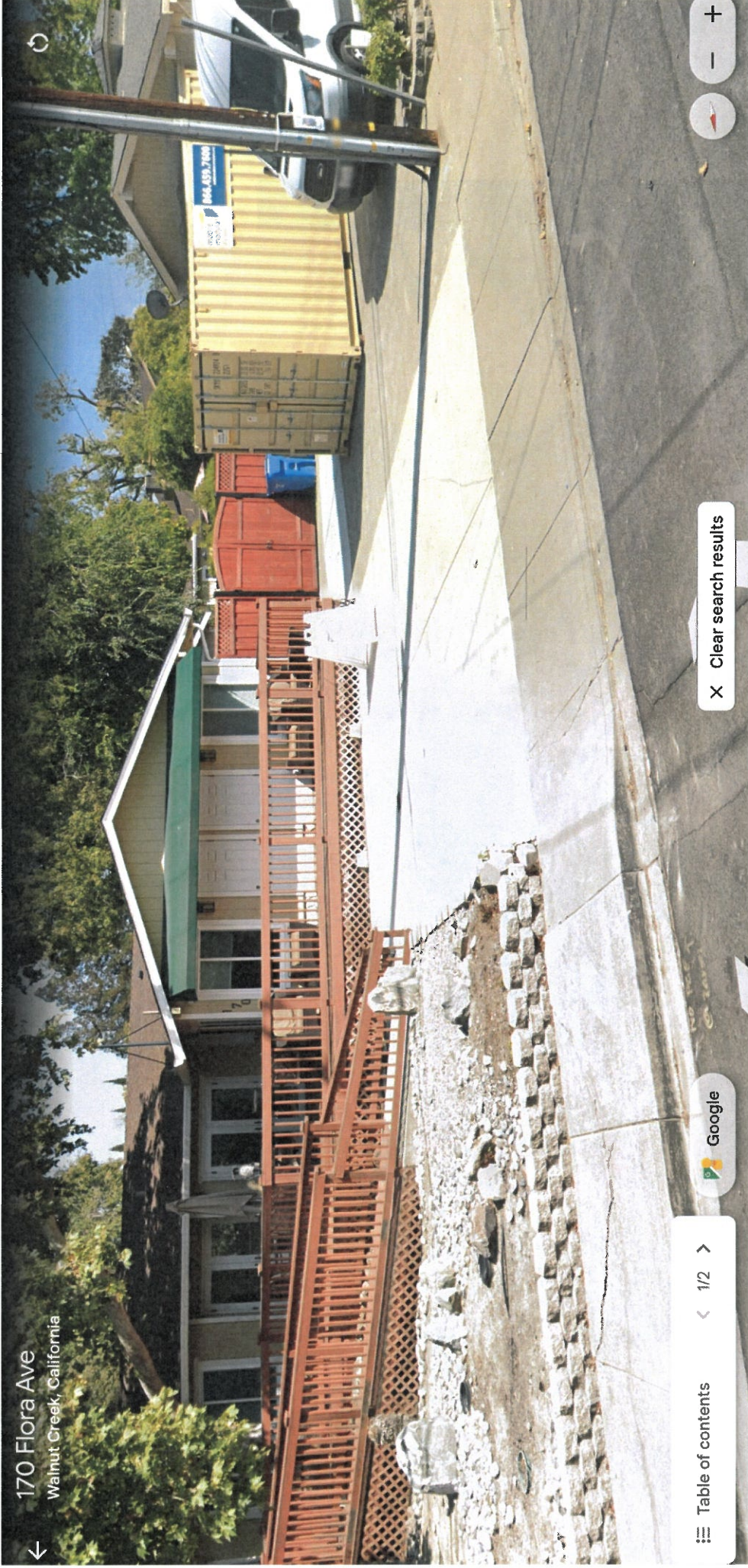
 Like

 Write a



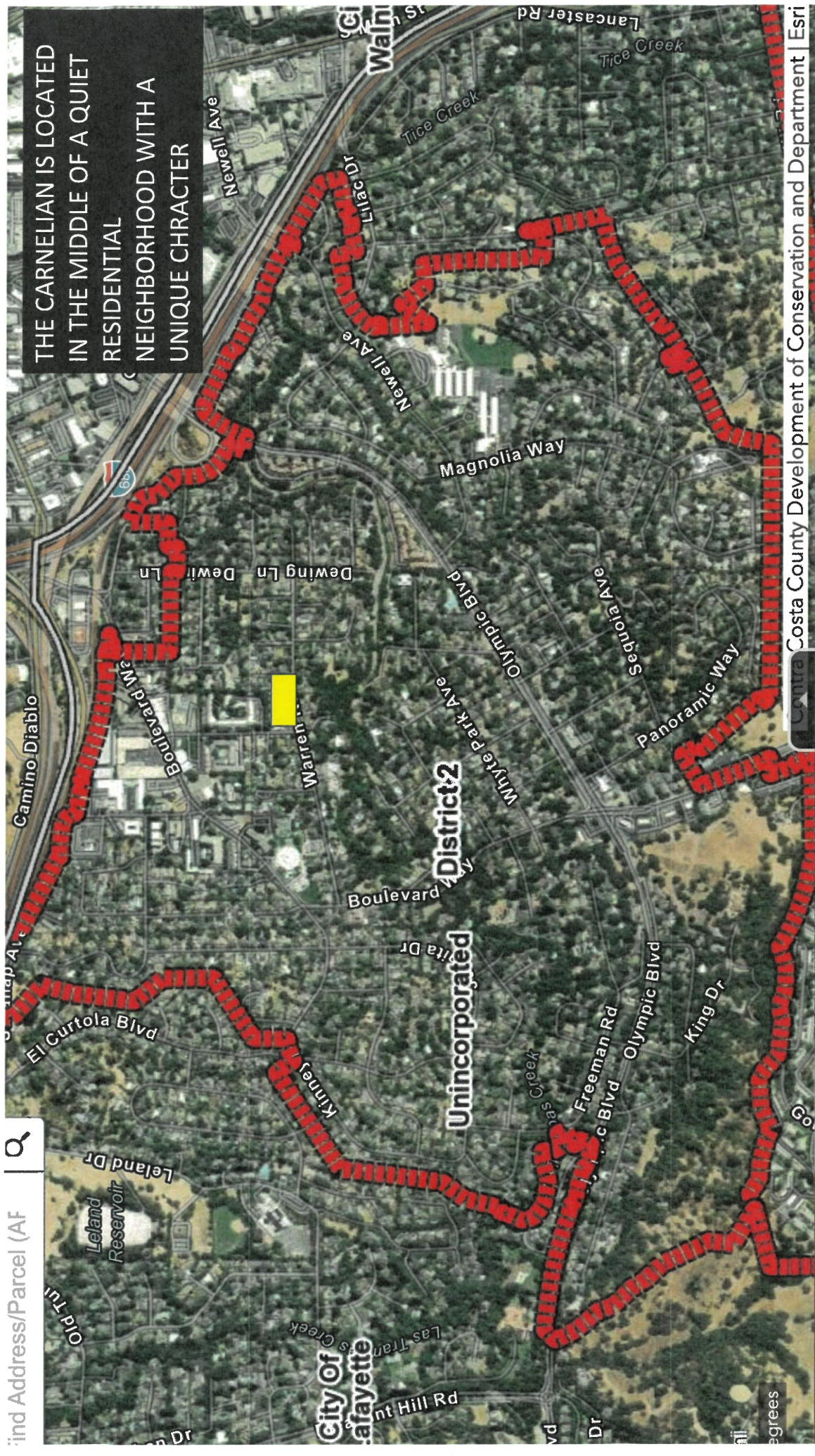
CARNELIAN II - 170 FLORA AVE

170 Flora Ave
Walnut Creek, California



2021 - COVID TESTING BUSINESS OUT OF A CONTAINER

THE CARNELIAN IS LOCATED
IN THE MIDDLE OF A QUIET
RESIDENTIAL
NEIGHBORHOOD WITH A
UNIQUE CHARACTER



NEIGHBORHOOD IS
CONCERNED FOR
CARNELIAN RESIDENTS
WHO MAY THEMSEVLES
NEED OUR HELP TO GET
OUT

42 SENIORS WOULD
EVACUATE ON A
NARROW STREET
(30 ALREADY TOO MANY)

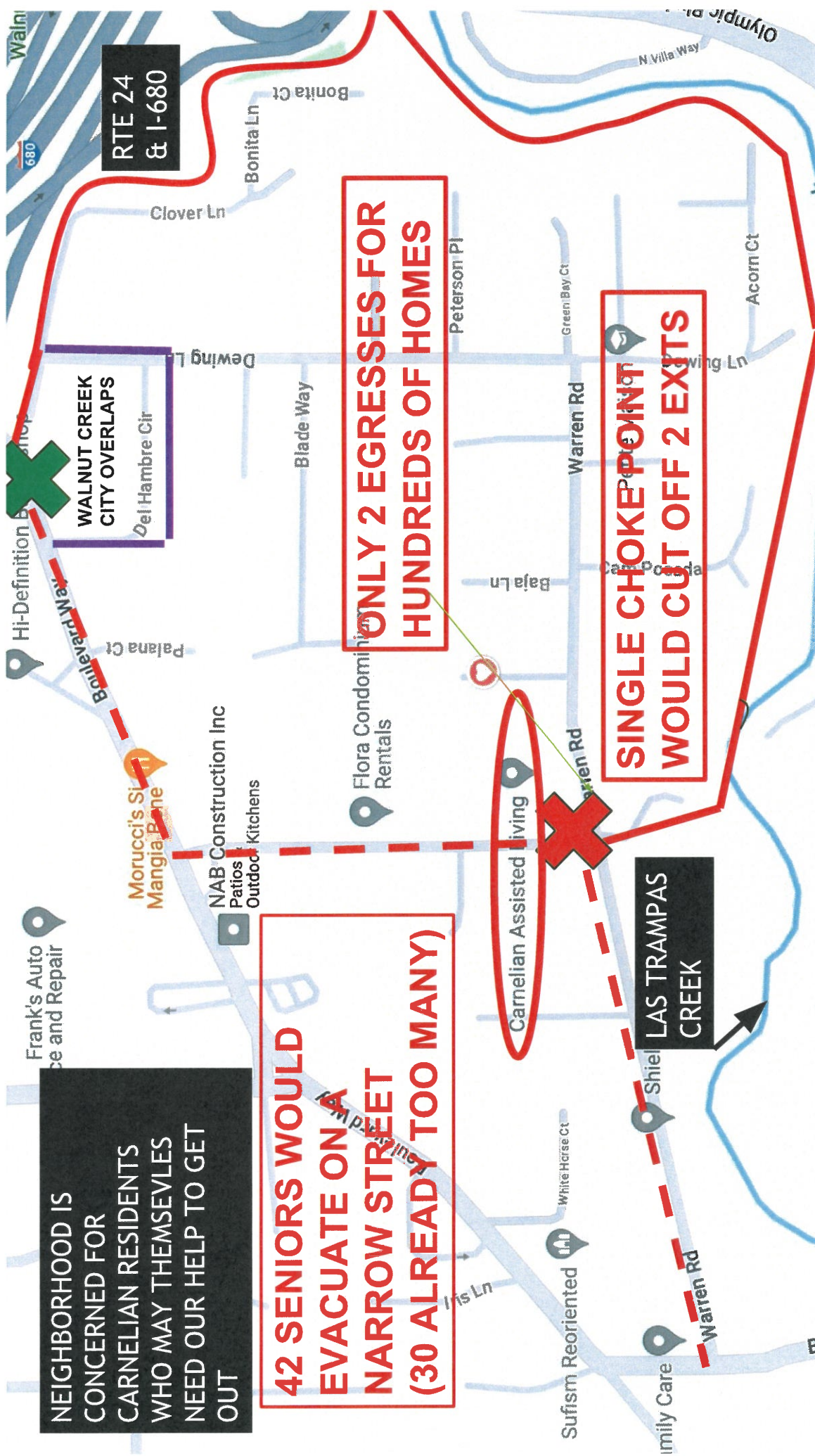
RTE 24
& I-680

WALNUT CREEK
CITY OVERLAPS

ONLY 2 EGRESSES FOR
HUNDREDS OF HOMES

SINGLE CHOKEPPOINT
WOULD CUT OFF 2 EXITS

LAS TRAMPAS
CREEK



Carnelian Expansion Statutory Citations Land Use Application # CDLP23-02046

PLANNING COMMISSION HEARING

Contra Costa County

April 23, 2025

REGULATORY CERTAINTY

- ▶ County has refused to comment or take action on Plaintiff's claims other than to state that they do not agree with them – there is nothing on the books to point to therefore the issue was escalated
- ▶ Pure question of law with no existing controlling precedent: Must a County evaluate the zoning compliance of an RCFE operating across three contiguous parcels as one integrated facility, or may it be segmented to fall below discretionary thresholds?
- ▶ Applicant intentionally submitted a land use application for one parcel, knowing that in fact there are three parcels involved. As the details of the application are carried forward and disseminated to other agencies, the misrepresentation will be exponentially exacerbated – therefore must be stopped in the planning stage since other agencies will not question the single-parcel details.
- ▶ By omitting the details of the other components of the facility – 2380 Warren and 170 Flora – the Carnelian is claiming several exemptions - and is avoiding scrutiny of multiple criteria - including capacity, statewide fire and safety statutes, parking, and licensing procedures, and is opening the door to piecemeal future development of the excluded parcels.
- ▶ THE COUNTY IS OBLIGATED TO FOLLOW THE DOCUMENTED CCLD PROGRAM DETAILS THAT ENCOMPASS THE ENTIRE FACILITY IN EVALUATING LAND USE AND NOT DOING SO MEANS FIRE DEPARTMENT AND OTHER AGENCIES WORK WITH BAD INFO
- ▶ IF NOT, THE STAND ALONE RCFE RULES APPLY – AND THERE IS NOT EVEN A

Contra Costa County, California - Ordinance Code
Title 8 - Zoning

Division 84 - Land Use Districts

Chapter 84 - Land Use Permits For Dev Projects

84-63.416 - Facility.

84-63.432 - Residential property.

84-63.416 - Facility.

"Facility" means a group of buildings, structures, or units with the same purpose on contiguous parcels (including parcels separated by a right-of-way, as defined in Section [1002-2.002](#) of this Code) under common ownership or control.

(Ords. 98-48 § 5, 96-50, 96-20).

84-63.432 - Residential property.

"Residential property" means all properties with a residential designation in the general plan, including, but not limited to, the following: single-family residential, multiple-family residential, and mobile homes.

(Ords. 98-48 § 5, 96-50, 96-20).

Meets
Criteria

Title 22. Social Security

Division 6. Licensing of Community Care Facilities (Refs & Annos)

Chapter 8. Residential Care Facilities for the Elderly (RCFE)Article

10. Food Services

87555. General Food Service Requirements.

- (4) Meals on the premises shall be served in a designated dining area suitable for the purpose and residents encouraged to have meals with other residents. Tray service shall be provided in case of temporary need.
- (14) If food is prepared off the facility premises, the preparation source shall meet all applicable requirements for commercial food services. The facility shall have adequate equipment and staff to receive and serve the food and for cleanup, and shall maintain adequate equipment for in-house preparation and service of food in emergencies.
- (19) There shall be one or more dining rooms or similar areas suitable for serving residents at a meal service, in shifts where appropriate. The dining areas shall be convenient to the kitchen so that food may be served quickly and easily and shall be attractive and promote socialization among the diners.
- (22) Adequate space shall be maintained to accommodate equipment, personnel and procedures necessary for proper cleaning and sanitizing of dishes and other utensils.

Meets
Criteria

Land Use and Parking Ordinances

Loading Space Required:

Chapter 82-16.410

Facility with a gross floor area of **ten thousand** or more square feet that each off-street loading space must meet the following requirements:

170 FLORA = **2927** SFT +

2374 WARREN = **1991** SFT +

2380 WARREN = **5014** SFT +

NEW ADDITION = **2352** SFT

TOTAL = 12,284 SFT

Each loading space must be located so that: (A) It is accessible from a public street; and (B) Any vehicle that regularly uses it does not encroach within any sidewalk or street right-of-way, or within any required front yard or side yard of the facility that it serves. (2) Each loading space must have a **minimum unobstructed width of ten feet, a minimum unobstructed length of thirty-five feet**, and a minimum unobstructed clearance height of fifteen feet for the entire length and width of the loading space.



Title 22. Social Security Division 6. Licensing of Community Care Facilities (Refs & Annos) Chapter 8. Residential Care Facilities for the Elderly (RCFE) Article 2. License

§ 87108. Integral Facilities.

(a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:

- (1) Separate buildings or portions of the facility shall be integral components of a single program.
- (2) All components of the program shall be managed by the same licensee
- (3) All components of the program shall be conducted at a single site.

Credits

Note: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.30, Health and Safety Code.

Contra Costa County, California - Ordinance Code
Title 8 - Zoning
Division 82-16 Off Street Parking - Land Use Districts
Chapter 84 - Land Use Permits For Dev Projects
82-16.404 – Design and Layout

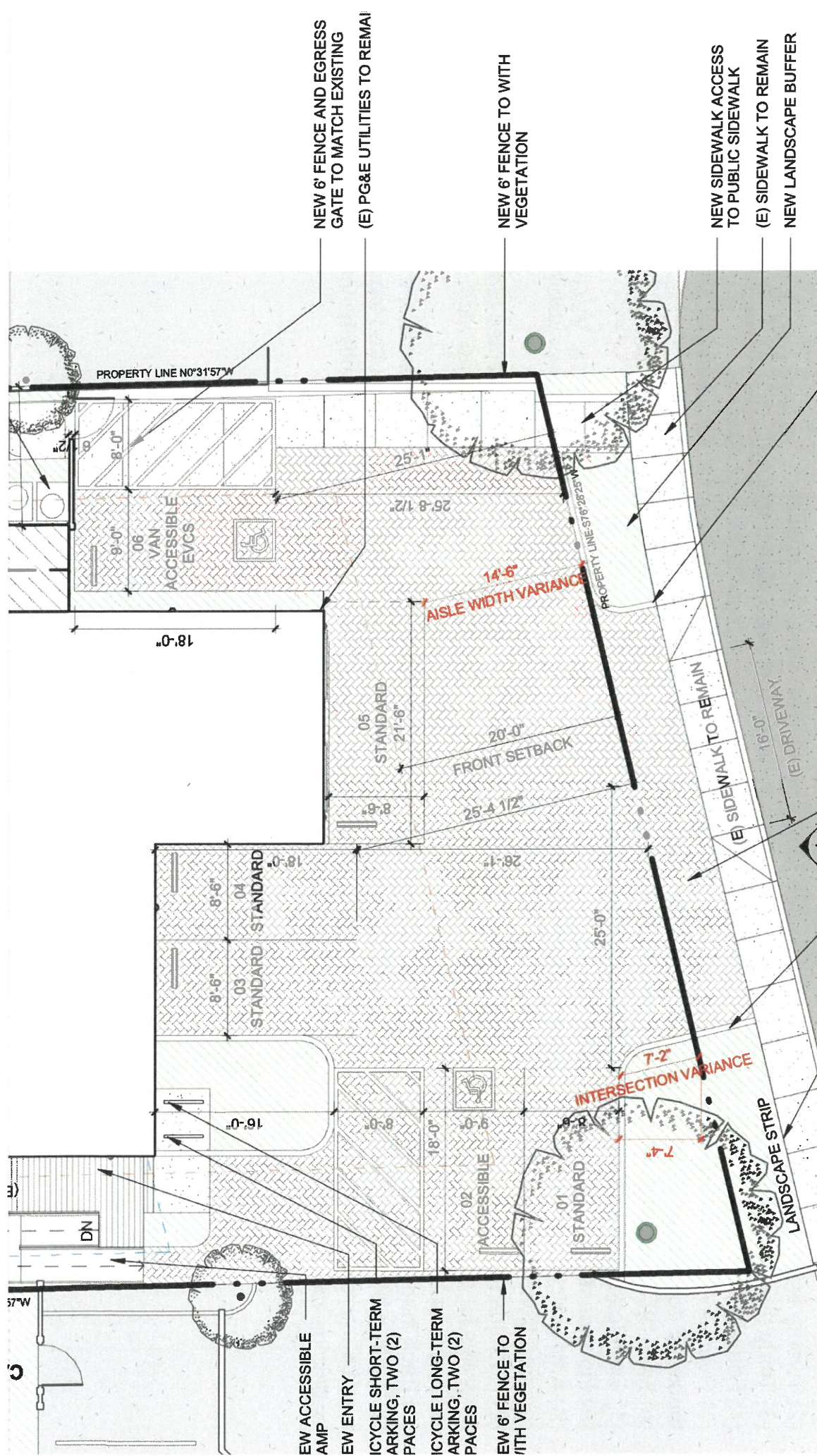
82-16-404 - Design and Layout

(b) Parking Space Design and Layout. Each parking space within a parking area must meet all of the following requirements:

(1) Parking Space Sizes. Except as provided in this subsection, **each parking space in a parking area must be a standard size parking space**. If twelve or more parking spaces are required by this chapter, a maximum of twenty-five percent of the total required parking spaces may be designated for compact vehicles. Each compact-vehicle parking space must provide pavement markings or signage identifying it for use by compact vehicles. Each standard size parking space, each compact-vehicle off-street parking space, and each driveway aisle must have the following minimum dimensions:

(Ord. No. 2012-12, § II, 10-16-12)

**WHOLE FACILITY
LACKING IN PARKING**



CCC Ordinance Code Title 8 Zoning, Division 82 General Regulations, Chapter 82-16 Off-Street Parking

In any zoning district, each building or facility with a gross floor area of ten thousand or more square feet that is used for manufacturing, storage, warehousing, displaying of goods, retail sales, wholesale sales, hotel, hospital, mortuary, laundry, dry cleaning, or other land use that requires the receipt or distribution by vehicles of materials and merchandise, must include off-street loading space on the same lot as that building or facility. The required amount of off-street loading space is based on the size of the building or facility that it serves, calculated as follows:

(1) Ten thousand to twenty thousand square feet of gross floor area, one space.

(2) Twenty thousand one to thirty thousand square feet of gross floor area, two spaces.

(3) Thirty thousand one to forty-five thousand square feet of gross floor area, three spaces.

(4) Forty-five thousand one to seventy-five thousand square feet of gross floor area, four spaces.

(5) Over seventy-five thousand square feet of gross floor area, one additional space for each additional seventy-five thousand square feet of gross floor area, or portion thereof.

(b) Each off-street loading space must meet the following requirements:

(1) Each loading space must be located so that:

(A) it is accessible from a public street; and

(B) Any vehicle that regularly uses it does not encroach within any sidewalk or street right-of-way, or within any required front yard or side yard of the building or facility that it serves.

(2) Each loading space must have a minimum unobstructed width of ten feet, a minimum unobstructed length of thirty-five feet, and a minimum unobstructed clearance height of fifteen feet for the entire length and width of the loading space.

(3) Each loading space required by this section must be permanently maintained during the existence of the building or facility that it serves, and must be used only for loading and unloading purposes. No part of a required loading space may be encroached upon by buildings or temporary structures, or used for storage or any other activity not related to loading or unloading.

Avoiding Requirement When
Delivery Lane Is Needed

Evaluated As A Whole Facility It
Would Be Over 10,000 SFT And

This Would Apply

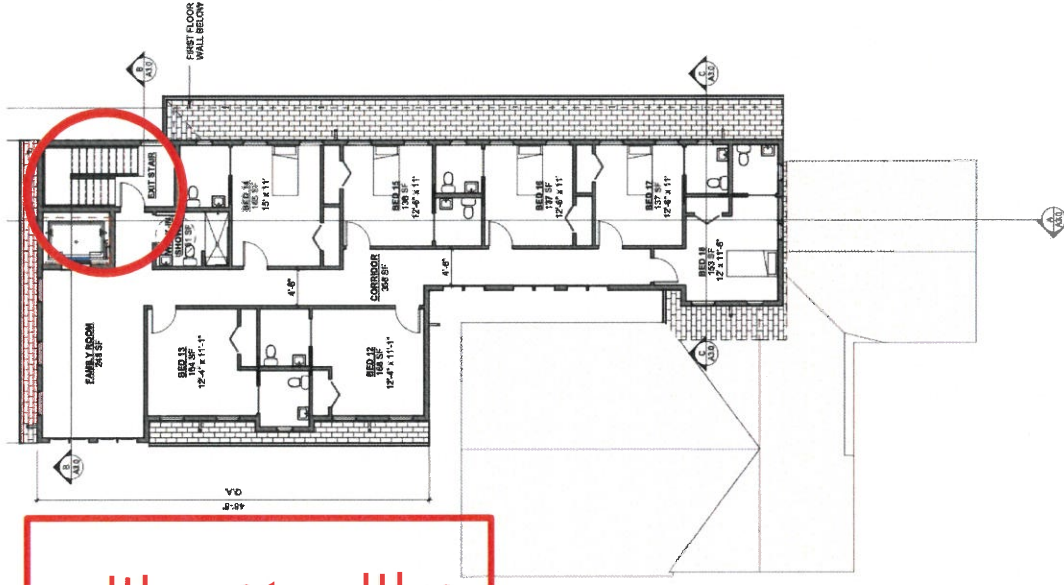
Health and Safety Code - HSC
Division 12. Fires And Fire Protection [13000 - 14959]
Part 2. Fire Protection [13100 - 13263]
Chapter 1. State Fire Marshal [13100 - 13159.10]

13131.5.

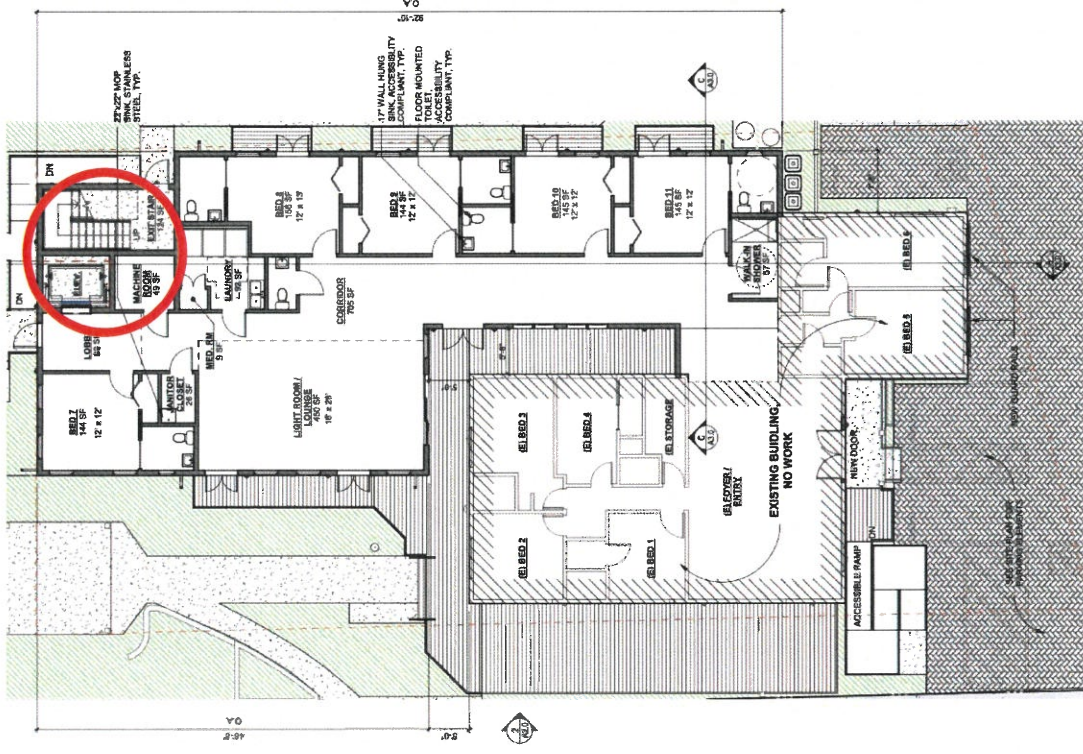
- (a) All of the following building standards shall apply to any single-story building housing nonambulatory persons which is operated as a **residential care facility for the elderly and licensed to care for more than six persons:**
- (1) The entire building shall have installed a State Fire Marshal approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801(d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.
- (2) The entire building shall have installed a State Fire Marshal approved and listed manual fire alarm system.
- (3) The entire building shall be of at least Type V one-hour fire resistive construction, as described in Chapter 2-22 of Part 2 of Title 24 of the California Code of Regulations.
- (4) A building with individual floor areas over 6,000 square feet per floor shall have an approved smoke barrier dividing the floor approximately in half, unless there is direct exiting available from each dwelling unit.
- (b) **All of the following building standards shall apply to any two-story building housing nonambulatory persons on a second floor, which is operated as a residential care facility for the elderly and licensed to care for more than six persons:**
- (1) The entire building shall have installed a **State Fire Marshal** approved fully automatic fire extinguishing system, designed and installed in accordance with Section 2-3801(d) of Chapter 2-38 of Part 2 of Title 24 of the California Code of Regulations.
- (2) The entire building shall have installed a State Fire Marshal approved and listed automatic fire alarm system.
- (3) The entire building shall be of at least Type V one-hour fire resistive construction, as described in Chapter 2-22 of Part 2 of Title 24 of the California Code of Regulations.(4) N/A
- (5) **The entire building shall have at least two sets of enclosed stairways.**

Plan Has Only One Staircase

SINGLE
STAIRCASE
NEXT TO
ELEVATOR
BUT TWO
SHOULD BE
REQUIRED



2 SECOND FLOOR
SCALE: 1/8" = 1'-0"



1 FIRST FLOOR
SCALE: 1/8" = 1'-0"

CCC Ordinance Code Title 2 Administration, Division 26 Commissions, Agencies and Boards, and Land Use Districts Chapter 26-2.2008 - Variance, conditional use and special permits—Conditional use permit standards

26-2.2008 - Variance, conditional use and special permits—Conditional use permit standards.

An application for a conditional use permit is an application to establish a conditional land use within a land use district which does not allow establishment by right, but does allow the granting of a land use permit after a public hearing. The division of the planning agency hearing the matter either initially or on appeal, shall find the following before granting the permit:

- (1) That the proposed conditional land use shall not be detrimental to the health, safety and general welfare of the county;
- (2) That it shall not adversely affect the orderly development of property within the county;
- (3) That it shall not adversely affect the preservation of property values and the protection of the tax base within the county;
- (4) That it shall not adversely affect the policy and goals as set by the general plan;
- (5) That it shall not create a nuisance and/or enforcement problem within the neighborhood or community;
- (6) That it shall not encourage marginal development within the neighborhood;
- (7) That special conditions or unique characteristics of the subject property and its location or surroundings are established. Failure to so find shall result in a denial.

(Ord. 1975: prior code § 2204.40: Ord. 917).

There Are No Special Conditions

Land Use Application CDLP23-02046 Should Be Denied

- ▶ CDLP23-02046 was approved on Feb 3, 2025 for 2374 Warren Road is incorrect and misleading because it does not include the totality of The Carnelian facility and thereby under reports capacity and size, impacting safety, infrastructure, and environmental evaluations.
- ▶ The Carnelian is unique in Contra Costa County as it is the largest RCFE located in an R-10 neighborhood and is the only one in the County comprised of 3 contiguous interoperable parcels. Since there is no direction to the contrary, the County has applied it's practice of evaluating all parcels individually, even when that individual treatment jeopardizes compliance with regulations designed to protect both the residents and the neighbors of the facility.
- ▶ As one of 3 contiguous parcels that operate as The Carnelian LLC, it is an integrated and inter-dependent single business with common owners and currently houses 30 residents – not the 6 declared on the application.
- ▶ DCD claims that each parcel stands alone as an RCFE however 2374 Warren and 170 Flora are dependent on the central 2380 Warren home and thus would not qualify as separate RCFEs. This would intimate that the three land use permits should be combined into one and the facility treated as a single entity
- ▶ By omitting the details of the rest of the facility – 2380 Warren and 170 Flora – The Carnelian is claiming several exemptions - and is avoiding scrutiny of multiple criteria - including capacity, statewide fire and safety statutes, parking and licensing procedures, and is opening the door to piecemeal future development of the excluded parcels.

Via Email:

JULY 21, 2025

**Board Of Supervisors, Contra Costa County
Candace Andersen, Supervisor District 2
30 Muir Road
Martinez, CA 94553**

**Re: CLP23-02046 – Carnelian Residential Care Facility for the Elderly; 2374 Warren Road,
Walnut Creek, CA APN: 184-120-071
RESPONSES TO Attachment A CDLP23-02046 Findings and COA072225.pdf**

Dear Supervisor:

The residents of the Saranap neighborhood herein submit commentary of the July 22, 2025, Zoning Administrator Staff Report (File # 25-179 Agenda 3d.) as presented for the Board of Supervisors Appeal:

As previously documented, the neighbors have identified mistakes of fact in Land Use Application CDLP23-02046 and corresponding Findings and COA which directly contradict State records and if approved by this body would lead to an inaccurate and dramatically understated evaluation of the project.

To eliminate any doubt as to the neighbor's specific concerns, the following citations and feedback are entered in the record.

Page 2, Item 5. Previous Applications: Because the application incorrectly limits evaluation to one parcel, the previous applications of the adjoining parcels – which increased their resident beds to current levels - are not visible and not considered – *and represent a historical grant of special privilege to the same applicants and should be considered*. It appears that this would be the *third* time an expansion has been requested for the facility – which suggests there will be more unconstrained growth in the future.

Page 3, IV. BACKGROUND

The last paragraph in this section says: "At the request of the Zoning Administrator, the applicant invited the neighborhood to discuss the project on October 1, 2024. (See attached Community Meeting Notes). During this meeting, the applicant and neighbors discussed the topics of concern and any changes/revisions that will be made to address these concerns. During the meeting, the applicant proposed new revisions to address neighbor concerns."

Though the applicant did hold a meeting on October 1, 2024, the neighbors in attendance came away with a very different interpretation of what transpired than the applicant describes. In our view, the owners and applicant lectured the audience on the minor cosmetic changes they were willing to make while otherwise claiming that they were unable to make substantive changes due to an unquantified claim of negative financial impacts and unwillingness to relocate garden space. There were no new revisions offered or discussed that adequately addressed the neighbor's concerns.

RESPONSE TO APPLICANT'S CLAIM OF COMPROMISE

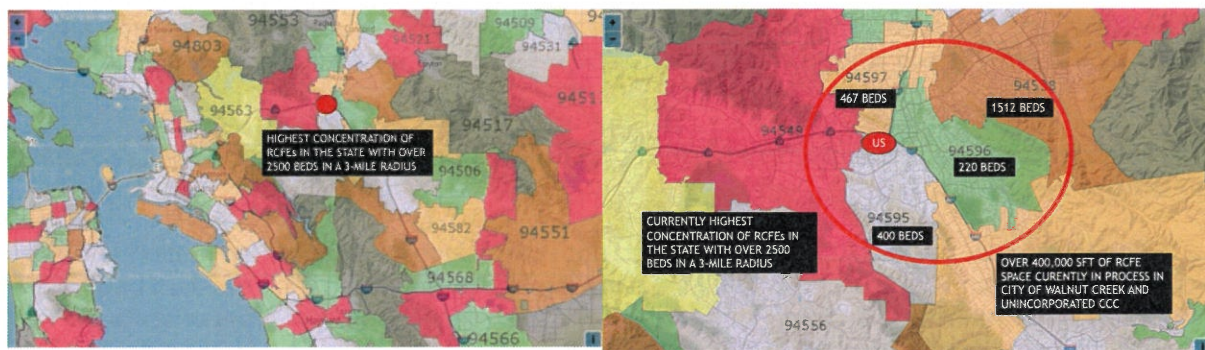
- Item 3.C. 2-story addition: Intangible reasons for not considering alternatives
- Would lead to less profits for applicant
- Would require re-locating of "Grandma's Garden"
- Removing second-story was offered as compromise but not accepted
- Neighbors would have agreed to resolve other issues - but are now inclined to oppose the project outright

RESPONSE TO CLAIM OF COMPROMISE

- Item 3.E. Emergency Egress: No detail provided
- No claim of past practice evacuations
- No evidence of an actual plan (requested but not received)
- Misperception of importance of issue as 18 residents is a much different scenario than 42
- Number one concern of the entire neighborhood

Page 3, V. SITE/AREA DESCRIPTION

The 3 zip codes that make up Walnut Creek constitute the densest concentration of RCFE beds in all of Contra Costa County – over 2,500 - and in fact over 20% of all RCFEs in the County are within a 3 mile radius of the proposed expansion. In addition, there are currently six different RCFE projects underway in commercial areas in the city of Walnut Creek and vacancy signs are currently in view at several other local RCFEs.



Page 3, VI. PROJECT DESCRIPTION

The second line of the first paragraph states that the “parcel is located within a *transitional* residential neighborhood...” when in fact the neighborhood is a stable and long-settled single family residential area that is evolving to a young family neighborhood with strollers and bikes more prevalent than ever.

In the July 1 hearing, the Zoning Administrator specifically instructed the applicant to eliminate the proposed elevator, explore alternatives and compromise with the offended neighbors - however the applicant chose to ignore this explicit direction (see transcript of July 1, 2024 ZA hearing). In addition to disregarding the will of the ZA, the applicant revised the design to increase – instead of decrease – the overall square footage by 10% and instead of eliminating a second-story and elevator, moved the elevator shaft even closer to the sleeping quarters of the neighbors, ensuring constant the constant din of machinery to multiple families.

On Page 5 there is mention of staffing at the facility however it fails to disclose that these staff members work across the entire facility and are not dedicated to just one structure – which raises other questions regarding things like payroll taxes that should be spread across 3 facilities as well. Additionally, it does not account for the multiple visiting care providers and family who tend to each patient daily and cause additional traffic and parking congestion not accounted for in this application.

Page 5, VI. AGENCY COMMENTS

Item 6. No response from numerous agencies – especially Fire Protection District given the residents anxious concerns in the wake of SoCal fires in similar circumstances - and recent warnings regarding the flammability of the surroundings (see San Francisco Chronicle, January 18 **“The Bay Area’s Pacific Palisades: This is one of the cities most at risk of urban [firestorm](#)”** by S. Bollag which discusses extreme fire risk conditions just 5 minutes away from the facility in Moraga and Orinda).

We believe the ZA has an obligation to solicit definitive input from the Fire Protection District prior to approving this land use permit, given the strong evidence supporting our concerns regarding neighborhood egress and recent evidence of increased risk.

As the neighbors have submitted previously, there are only two means of egress from our neighborhood of 150 homes and the Warren Road main egress is on the corner where The Carnelian is located. In an emergency we are highly skeptical that 30 non-ambulatory seniors can be evacuated without obstructing that vital egress point – let alone the 42 non-ambulatory seniors who would be resident if this is application approved.



Page 6 VIII. STAFF ANALYSIS

Item 1. General Plan consistency: States that “the proposed elderly residential care facility will be replacing an existing elderly care facility”. The truth is that this construction will more than double the size of the existing structure as a major addition- not a replacement. The original structure is 2072 SFT while the expansion will add another 2665 SFT to create a huge building not at all in keeping with the character of the neighborhood and will triple the number of residents in that facility.

As we have stated, we believe this mistaken interpretation of this fact invalidates the exception to CEQA 15301(e)(2) as the exception to the exception does apply to 15301(e)(1), whereas 15301(e)(2) also applies when considering the entirety of the facility over 10,000 sft.

Further, this statement is completely subjective with no basis in fact: “The proposed facility consisting of eighteen beds is *not considered inordinately large for the site,*” based on historical use and lack of enforcement. We do not agree with this statement and seek empirical justification since there is no other facility with 18 residents of this size and it is out of character for the neighborhood and violates R.10 zoning restrictions requiring *small* additions.

Land Use Policy discussion:

Policy 3-21 - The predominantly single-family character of substantially-developed portions of the county shall be retained.

Neighbor Response: There is no “single-family nature” of this expansion, and it does in fact resemble multi-family or institutional housing, therefore the claim that this policy is complied with is incorrect and subjective and is out of character for the neighborhood.

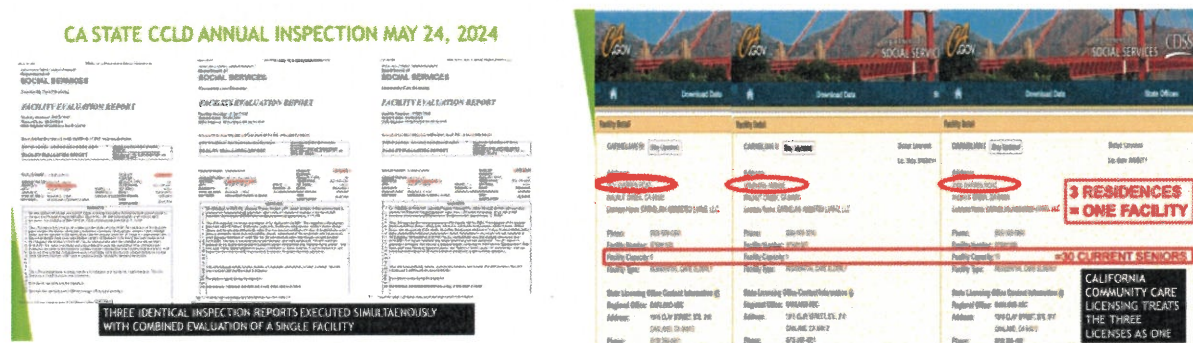
Policy 3-23 - A diversity of living options shall be permitted while ensuring community compatibility and quality residential development

Neighbor Response: The term community has been used liberally by the applicant to intimate a level of inclusion of the surrounding residents and that the project is to their benefit. The truth is that the “community” they refer to is their group of paying customers who come from other areas and have little to no connection to the actual neighborhood or permanent residents.

Item 2. Consistency with zoning: The evaluation of a single parcel of an integrated three-parcel facility is not supported by the facts . Despite the evidence presented by the neighbors that prove The Carnelian is treated as a single facility by the state of California, and by the prima facia evidence that the three parcels are an integrated, inter-dependent, and contiguous operation, the DCD has chosen to not address this major concern of the neighbors and no mention is made of it in any of the documents published regarding this application.

Though it is the practice of CCC Planning to evaluate single parcels as declared in the application, the ZA has the authority to expand that evaluation to the three parcels that constitute the single facility, especially after being presented with evidence that compels such an evaluation.

The ZA should make it clear that there will be many impacts to the other parcels and the evaluation must be of the entire facility.



3. Off-Street Parking: If the application were expanded to include the other two parcels, the combined square footage of the three would be over 10,000 SFT and the off-street parking requirements would increase to require both a dedicated Fire Lane and a separate dedicated Delivery Lane. Since the combined 3 parcels will not be able to accommodate either a Delivery or Fire Lane, the project would need to be radically reconfigured. Since off-street parking is the focus of the variance request for this application (CDLP23-02046), the intentional mischaracterization of the size and scope of the expansion is further evidence of the applicant’s suspect motives.

5. Appropriateness of use: In addition to the inclusion of the adjoining parcels in the evaluation, corrections also need to be made regarding other RCFEs in the area. Though the applicant lists 2 small facilities within the (arbitrary) radius of 2100 feet, the truth is that there are over 400 RCFE beds just within the 94595 Zip Code – and over 2,500 beds within a 3 mile radius (Zips 94596, 94597, 94598), making this area one of the highest concentration of RCFE beds in the state (not just

Contra Costa). We posit that the waiting list to get in to The Carnelian is attributable to the luxuriously high level of service they provide and that seniors with the ability to pay the \$15,000 per month fee also have many other choices of care. The Carnelian does nothing to provide additional housing to those who cannot afford it (see earlier discussion regarding applicability of exemption under Section 822-4.408(a)(4)).

Page 9. Item 6. Revisions To Address Concerns: The report intimates that there was some sort of productive negotiation or compromise reached at the October 1, 2024 meeting, however the truth is that the ~30 neighbors in attendance were lectured about the minor cosmetic changes to be made and not one supported the project.

When the neighbors questioned why the applicant was not heeding the ZA direction to reduce the facility to one-story and eliminate the elevator, the applicant gave dismissive and weak answers claiming only that they had thought about compliance but ultimately chose not to in order to preserve their profits and their flower garden.

Besides increasing the square footage, adding additional windows facing the next door yard, and moving the elevator shaft even closer to the neighbors, the applicant refuses to provide any quantifiable reasoning for not exploring other options and displayed absolutely no willingness to negotiate or compromise beyond the minor cosmetic changes proposed.

- The specific dimensional changes listed serve to increase the square footage by 10% and add even more windows facing the neighbors.
- The addition of cypress trees as a proposed solution to the problem of 9 non-ambulatory seniors with direct line of sight into the adjacent yard will do nothing to abate that issue or the accompanying noise and light pollution resulting therefrom.
- The shadow study that was provided to allay the neighbors concern that the structure will inhibit light to their solar panels, as prohibited by the California Solar Rights Act (Civil Code 714) and the Solar Shade Control Act PRC 25980-25986. Given the errors and omissions identified elsewhere in this staff report and application, the neighbors are highly skeptical of their submitted conclusions and reserve the right to conduct their own investigation, should it be necessary in the future.

Page 10. Before and After graphics – Conveniently, the EAST facing changes – which would show the 9 windows directly facing the adjacent yard, security lighting that would shine into that yard all night long, an elevator shaft mere feet from 3 bedrooms, and locations of heat pumps and outdoor machinery along the side – is completely omitted and the other renderings of the revised plan change the East angles at which the CAD designs are displayed to make the addition appear less intrusive than it would be in reality.

Page 12. Item 7. Traffic and Circulation: We continue to voice concerns at the evaluation of a single-parcel's parking needs when facility shares parking spaces, and do not see the rationale for a variance, however the proposal will result in a sizable commercial-like parking lot and destroy any semblance of looking like a residential area.

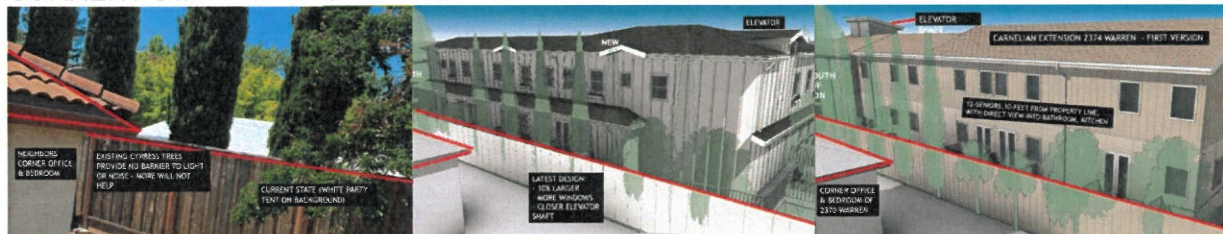
Item 11. Lighting District Annexation: Though not disclosed explicitly by the applicant, it appears that new street lighting will be required outside of the facility. The neighbors have no information regarding where and how many of these lights are planned, however we are opposed to any street lighting as it would only serve to further erode the character of this single family residential neighborhood.

Page 13. IX. CONCLUSION

The author states that: "The applicant has revised the project to address many of the concerns the neighborhood had in regards to compatibility..."

The neighbors vehemently disagree with this assessment and are of the view that virtually none of their primary concerns regarding size, location, and appropriateness of the proposed expansion have been addressed by the applicant.

CURRENT STATE -> FIRST DESIGN -> LATEST DESIGN



FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE# CDLP23-02046

A. GROWTH MANAGEMENT PERFORMANCE STANDARDS

Page 18. Item 1. Traffic: The neighbors have expressed frustration at the excessive traffic created by visiting caregivers, material delivery trucks, emergency vehicles and family visitors and disagree that a traffic impact study is not needed. If the application were correctly evaluating the three parcels as one facility, we believe it would show the level of traffic – especially along the Flora Ave side of the facility – will exceed the threshold of 100 peak hour trips.

The neighbors continue to be inconvenienced by frequent delivery trucks, emergency vehicles, and frequent visitors. Though the Carnelian has relocated their staff parking from Warren Road to Flora Ave, the lack of on-site employee parking for the entire facility remains an issue.

Item 4. Fire Protection: In light of recent tragic events in southern California, and in consideration of our [proximity](#) to very high risk areas in nearby Moraga and Orinda, the residents of our neighborhood are motivated more than ever before to ensure their access to egress from the neighborhood and will continue to oppose this expansion on this issue alone. Fire code compliance is a key concern of the neighbors and the current application prevents that.

Item 6. Parks and Recreation: States that "the project does not create any permanent new housing units as the individuals who will use the elderly care facility will generally come from the surrounding neighborhood." The truth is that very few individuals in the surrounding neighborhood use the facility as the cost is out of the affordable range for most neighborhood residents. In addition, some of the most vocal opponents of the development are neighborhood residents who previously had relatives in The Carnelian and – though they have no issues with care – do not want this expansion to go forward.

B. LAND USE PERMIT FINDINGS

1. Required Finding: The proposed project shall not be detrimental to the health, safety and general welfare of the county.

The neighbors disagree with this finding since it intimates that the facility is integral to the neighborhood – which it is not – and that the neighborhood is in transition to mixed use – which is categorically not true.

Further, the report states: “The project is also conditioned to obtain approval from the water and sanitary utilities, fire department and The Public Works Department *prior to the issuance of any building permit or operation of the facility, whichever occurs first.*” The neighbors see this as an attempt to circumvent the approval process by allowing for the possibility of facility operation prior to the issuance of a building permit. This language should be changed to: ““The project is also conditioned to obtain approval from the water and sanitary utilities, fire department and The Public Works Department *prior to the issuance of any building permit AND operation of the facility.*”

2. Required Finding: The proposed project shall not adversely affect the orderly development within the County or the community.

Based on our belief that the facility consists of 30 residents – not 6 – and is expanding to 42 – not 18, the neighbors absolutely see the potential for haphazard, unplanned development on one or more of the other properties not currently subject of this application. If the County continues to turn a blind eye toward the development of the other parcels, further development is likely to adversely affect the community.

3. Required Finding: The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the county.

This expansion will absolutely affect property values – starting with the immediately adjacent neighbors at 2370 Warren Road – where informal appraisals estimate the property to lose up to 20% of it's current market value due to the negative impact of this expansion on the neighboring property – which will have a cascading effect on other properties in the neighborhood and bring down property values for all.

Further, since all three of the parcels are benefitting from Prop 13 tax benefits and are paying a negligible amount, the additional revenue would likely not offset the level of county resources required to manage it. In fact, the public service resources involved with considering this very application have arguably already negated any positive benefit from additional taxes.

Finally – The Carnelian, LLC is the operating entity for all three contiguous parcels which would infer that business license taxes of the entire facility are reported together, making it impossible to evaluate the tax base of the single parcel in this application. Therefore, the declaration that this expansion protects the tax base is *not true* since there is no visibility to any additional revenue generated and shared resources and costs of the entire facility make protection of the business tax base of this one facility tenuous.



4. Required Finding: The proposed project shall not adversely affect the policies and goals as set by the General Plan.

General Plan goals and policies that call for an increase in the supply of *appropriate* housing for persons who need additional care, however the Carnelian expansion is not appropriate because it only caters to the very wealthy who can afford the 5-star service they provide. Since most neighbors in the community cannot afford it, the expansion is not appropriate for the area.

5. Required Finding: The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.

This document – as well as previously submitted communication and evidence to the contrary - are proof that this finding is not true. Since the Carnelian has pursued this expansion in a dishonest and untrustworthy manner, the neighbors are now poised to escalate each and every issue that previously would have been resolved in a neighborly fashion.

The proposed project has already caused nuisance by forcing the neighbors to spend their time opposing it, however the lack of documented enforcement actions do not mean there have not been any issues – in fact, testimony can be provided of past incidents including residents “escaping” the facility, loud parties, dangerous traffic incidents, and other social and institutional activities.

A recent development is heightened concern regarding trash removal:

WHERE IS THE MEDICAL WASTE?



- ▶ ADJACENT NEIGHBORS HAVE COMPLAINED OF VERMIN, FOUL ODORS AND NOISY COLLECTIONS
- ▶ NO VISIBLE LANDFILL WASTE CONTAINERS?
- ▶ NO CLARITY AROUND WASTE HANDLING PROCEDURES (IS IT IN THESE CONTAINERS?)
- ▶ PHOTO TAKEN DIRECTLY ACROSS THE STREET FROM SINGLE-FAMILY HOMES ON FLORA AVE.
- ▶ CLEARLY INCOMPATIBLE WITH THE CHARACTER OF THE NEIGHBORHOOD

180 FLORA AVE - CARNELIAN

6. Required Finding: The proposed project shall not encourage marginal development within the neighborhood.

A key component of the neighbor's opposition to the expansion and their insistence that the entire facility be evaluated is that this single-parcel project opens the door to marginal development on the adjoining parcels. Since those parcels are not incorporated to this application, marginal development is almost assured.

7. Required Finding: That special conditions or unique characteristics of the subject property and its location or surroundings are established.

The finding states that: "The project has enough parking spaces and provides a much-needed service to elderly people in the immediate vicinity." As established above, the elderly people in the immediate vicinity cannot afford their accommodations and have a wide variety of choices in the area so this finding is also disputed.

C. VARIANCE PERMIT FINDINGS

1. Required Finding: 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.

This quotation from the Staff Report does not answer the question of legal basis for the variance and is not clearly written: *The parking improvements are necessary to support the expanded residential care facility use and do not confer development privileges beyond what has been historically permitted and would allow parking to be on-site, which would reduce the amount of cars parked in the street. As such, the variances do not represent a grant of special privilege.*

We repeat our concern regarding the county's practice of evaluating a single parcel in this project and reiterate that this narrow interpretation of the zoning and planning process is itself a grant of special privilege. This must be refuted by the Board.

2. Required Finding: 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 rights enjoyed by other properties in the vicinity and within the identical land use district.

The variance to the parking configuration identified as a "right enjoyed by other properties in the vicinity..." is not accurate as no other property in this single-family residential neighborhood has a commercial grade striped parking lot in front of their homes. Therefore, the existing parking lot already looks more commercial than residential and this change will exacerbate that problem.

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

The neighbors object to this finding because it does not take into account the other parcels and the shared nature of their parking options. As stated above, if all 3 parcels were evaluated together, the additional requirement of a dedicated delivery lane and Fire Lane would render parking configuration moot because the facility cannot accommodate the requisite number of parking spaces as well as those special access lanes.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02046

Page 8 - GENERAL: Should this project proceed, the residents have the following changes and COAs to request (after all three buildings of the Carnelian facility are evaluated together) :

- Access to all agency application filings prior to approval and copies of approvals so the neighbors can monitor compliance.
- 24-hour manned security to prevent theft and mischief and for the safety of the community
- Introduce permit parking in the neighborhood to reduce transitory business parking and increase revenue
- Erect temporary sound baffling wall along the fenceline between the east facing property and the construction site until a certificate of occupancy is issued.
- Access to construction schedule including notification to neighbors 24-hours prior of a day where heavy equipment will be used
- Red stripe no parking on both sides of Warren
- Licensed arborist supervising activity disturbing neighboring trees at applicants cost
- New privacy trees shall be a minimum of 20 feet in height at planting and should have no more than 12 inches between them at their widest point
- The current east facing 6-foot fence currently in place will be replaced with a solid 9-foot wall the length of the structure, construction to include sound absorbing material and be above the height of outdoor lighting
- No smoking will be allowed anywhere on the property by anyone
- In response to past experience with rodent problems around construction, applicant to provide professional rat abatement services to the surrounding homes
- Switch to electric outdoor landscaping and pressure washing equipment
- Relocate all machinery away from the east side, including heat pumps, backup generators or any other noise producing permanently installed mechanical device.
- Privacy trees to be mature and a minimum of 20' in height
- Provide temporary office space for displaced home-based neighbors during construction

- Install sound, light, and visibility barriers – such as high walls and sound baffling
- Notify residents via paper and electronic means of any upcoming events that may impact traffic flows at least one week in advance.
- Provide sufficient on-site parking for all visitors at all times
- Install barriers to curbside between 2374 and 2370 Warren so parking spots facing 2370 are not visible

In addition, we comment on these published conditions:

4. Add that neighborhood notification needs to occur regardless of type of change to project
5. Residents are non-ambulatory and therefore have no vehicles anyway, however this should be extended to staff as well as many vehicles seem to reside permanently at the facility
6. No comment on visitation
7. The neighbors are unaware of any permanent new signage that may be required and ask to be included in the decision making process for any signs that may further impact the character of the neighborhood.

Page 9 - Landscaping

16. The adjacent east side neighbors do not believe 3 cypress trees will provide adequate privacy and protection from light and noise and we will need to understand applicant's plan to protect stand of heritage redwood trees on the other side of the fence.

Page 9 - Delivery Vehicles

18. The facility receives deliveries daily and a dedicated delivery lane should be required as delivery trucks are frequently impeding traffic.

Page 10 - Construction Period Restrictions and Requirements:

The proposed construction site is in a densely populated, narrow residential street with only one point of access which runs the length of the east side of the parcel – along the fence of the east side neighbors. These neighbors believe they will suffer damage to their fence, their heritage redwood trees, and their yard-bound pets and would need assurances that construction activities would not interfere with the normal enjoyment of their property.

That said, a 2-year construction project in a quiet single-family residential neighborhood is bound to negatively impact the entire neighborhood with construction noise, traffic detours, and other inconveniences.

In conclusion, the residents and neighbors of The Carnelian have demonstrated firm opposition to the proposed expansion since we first learned about it and have presented a long list of reasons why. We are submitting the above input to ensure that all available information and detail is available to the BOS

Sincerely,
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