

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDTP22-00045;
SAGIV WEISS-ISHAI (APPLICANT) AND SBL3 LLC (OWNER)**

FINDINGS

A. Tree Permit Findings

The County Zoning Administrator is satisfied that the following required factors, as provided by County Ordinance Code Section 816-6.8010 for granting a tree permit, have been satisfied:

1. *The arborist report indicates that the tree is in poor health and cannot be saved.*
2. *Reasonable development of the property would require the alteration or removal of trees, and this development could not be reasonably accommodated on another area of the lot.*

Finding: The twelve subject trees for removal or alteration are six valley oak trees, three California buckeye trees, two black walnut trees, and one California laurel tree that are within a stand of four or more or part of an oak savanna area and located within a riparian area, and therefore considered to be protected pursuant to the County's tree ordinance (Sec. 816-6.6004). The subject property is a fairly heavily wooded, long, narrow lot fronting Castle Hill Ranch Road. The existing single-family residence is located on the south end of the lot. Construction of an addition to the existing single-family residence will be within the driplines of two of the subject trees (#161 and #162). Demolition of the shed would harm two of the subject trees (#156 & #157) due to their growth or leaning against the shed and hollowed out trunks; therefore, the arborist recommends removal of the trees. Construction of the detached accessory dwelling unit (ADU) and new driveway for the ADU will be within the driplines of seven of the subject trees (#147 to #150, #152, #154 and #155) and will require removal of one tree (#153). The ADU is located such to comply with the setback requirements of the R-20 zoning district and to minimize the number of trees to be removed. Due to the narrowness of the lot, there is no other feasible area to locate the ADU. An Arborist Report for the project prepared by Maija Wigoda-Mikkila of Traverso Tree (June 15, 2022, and revised September 16, 2022) recommends preservation measures for the trees to remain on the subject property. Due to the significant number of trees to remain on the subject property, requiring more than three replacement trees as restitution for removing three code-protected trees is not warranted. Therefore, as conditioned, the project will remain consistent with the intent and

purpose of the County's tree ordinance to preserve certain protected trees in the unincorporated area of the County.

B. Exception Findings

Approval of an exception request of Chapter 914-14, "Rights of Way and Setbacks" of the County Code in accordance with County Code section 92-6.002 to allow a 10-foot creek structure setback from the top of the Tributary of Tice Creek bank for the construction of an addition to the existing single-family residence and a proposed ADU is based on the following:

1) *That there are unusual circumstances or conditions affecting the property.*

Project Finding: The unusual circumstances and conditions includes the unique, long and narrow shape of the property in addition to the location of a creek running through the middle of the property. In addition, the ADU is designed to conform to a required 25-foot front setback for ADUs in the R-20 zoning district. As such, there is a very small area on the lot to build an ADU. In addition, the existing residence that was built in approximately 1920 is located on top of the creek. This location requires any potential addition to the main house to be closer than 30 feet to the top of the creek bank. The project proponent has based their request for exception on a geotechnical engineering study and creek stability analysis demonstrating a high level of stability supporting a new or addition to an existing structure if a minimum 10-foot creek structure setback is maintained.

2) *That the exception is necessary for the preservation and enjoyment of substantial property rights of the Applicant.*

Project Finding: Due to the narrow shape of the property, the creek running in the approximate center of the property, and the location of the existing residence on top of the creek, it would not be possible to construct an ADU or addition to the existing house outside of the creek structure setback. As such, the exception is necessary for the preservation and enjoyment of substantial property rights of the Applicant.

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

Project Finding: Based on the geotechnical engineering study and creek stability analysis demonstrating a high level of stability supporting a new or addition to an existing structure if a minimum 10-foot creek structure setback is maintained, and

as conditioned, granting the exception will not be materially detrimental to the public welfare or injurious to other property in the vicinity. The exception will allow the construction of an ADU and an addition to the existing residence, while maintaining all other setbacks per the county's requirements.

C. California Environmental Quality Act (CEQA) Findings

The project is categorically exempt under CEQA Guidelines, Section 15301(e), regarding "Existing Facilities" which exempts additions to existing structures that will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less, and Section 15303(a) regarding "New Construction" which exempts the construction of second dwelling units in a residential zone. The project is the construction of an approximately 2,180-square-foot addition to an existing 1,043-square-foot primary residence which is less than 2,500 square feet, and the construction of a new accessory dwelling unit which would result in a second dwelling on the subject property.

The project is also categorically exempt under CEQA Guidelines, Section 15301(h), regarding "Existing Facilities" which exempts maintenance of existing landscaping or native growth (e.g., trees), and Section 15304(b) regarding "Minor Alterations to Land" which exempts new gardening or landscaping including the replacement of existing landscaping with water efficient or fire-resistant landscaping. The project involves the removal of three code-protected, mature trees and has requested a tree permit. The County's Tree Preservation and Protection Ordinance (816-6) is intended to provide for the protection of trees on private property through restitution for tree removal including planting replacement trees while allowing for reasonable enjoyment of private property rights and development. As conditioned, the project would plant three replacement trees as restitution for the removal of the code-protected trees.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDTP22-00045:

Project Approval

1. **Tree Permit approval** is granted to allow:
 - a. the removal of three (3) code-protected trees (#153, #156, & #157) with a combined diameter of approximately 30 inches; and
 - b. work within the driplines of nine (9) code-protected trees (#146 to #150, #152, #154, #155, #161, and #162) with a combined diameter of approximately 146 inches on the subject property,

for the construction of an addition to the single-family residence, a new, detached accessory dwelling unit (ADU), and to perform site improvement activities including grading of a new driveway for the ADU and demolition of an existing shed on the subject property.

2. **Exception approval** to the requirements of Chapter 914-14 "Rights of Ways and Setbacks" is granted to allow construction of a building addition and an ADU within the creek structure setback area. The addition and ADU shall not encroach within 10 feet of the top of the creek bank as identified in the plans dated received September 24, 2024.
3. The approvals described above are granted based on, or as generally shown on, the following materials submitted to the Department of Conservation and Development, Community Development Division (CDD):
 - a. Application and materials received on June 6, 2022;
 - b. Revised project plans received on September 24, 2024;
 - c. Revised arborist report, revised tree inventory, and revised tree protection plan prepared by Traverso Tree, received on September 20, 2022;
 - d. Revised Storm Drain Calculation prepared by SMP Engineers, received on August 22, 2023;
 - e. Hydrology Study prepared by MAA Design Group, received on April 30, 2024; and
 - f. Revised Hydrology Calculations prepared by Abdolreza Abdi, Civil Engineer, received on September 24, 2024.
4. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of an application for a new Tree Permit.
5. Any tree alteration, removal, or encroachment within a dripline of a code-protected tree or trees not identified in this permit may require submittal of a separate Tree Permit application.

Application Costs

6. The Tree Permit application was subject to an initial deposit of \$750.00. 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.

Building Permit

7. Approval of this permit does not constitute a building permit. The applicant shall obtain a building permit prior to construction of the residential improvements and/or ADU.

Tree Alteration/Removal

8. **Prior to any tree removal**, the applicant shall obtain the necessary building permits for demolition of the shed and construction of the ADU on the subject property.
9. Any tree alteration, removal, or encroachment within a dripline of a tree or trees not identified in this permit will require submittal of a separate Tree Permit application.

Restitution for Tree Removal

10. The following measures are intended to provide restitution for the removal of code-protected trees:
 - A. Planting and Irrigation Plan: **Prior to CDD stamp of approval of plans for the issuance of a grading or building permit, whichever is first**, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Department of Conservation and Development, Community Development Division (CDD). The plan shall provide for the planting of **two (2) trees**, minimum 15-gallons in size and comply with the County's Water Efficient Landscapes ordinance (Chapter 82-26).

- B. Required Security to Assure Completion of Plan Improvements: A security shall be provided to ensure that the approved planting and irrigation plan is implemented. **Prior to CDD stamp of approval of plans for the issuance of a building permit**, the applicant shall submit an estimate prepared by a licensed landscape architect, arborist, or landscape contractor that accounts for the materials and labor costs to complete the improvements (supply, delivery, and installation of trees and irrigation). Upon approval of the estimate by the CDD, the applicant shall submit a security to the CDD in the amount of the approved cost estimate *plus* a 20% inflation surcharge.
- 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. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
- 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 security between 12- and 24-months following receipt of the letter, 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 which 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.

Contingency Restitution Should Altered Trees Be Damaged or Removed

- 11. Security for Possible Damage to Trees Intended for Preservation: Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction or grading activities damage trees that are to be preserved, the applicant shall provide the County with a security (e.g., cash deposit or bond) to be submitted **prior to CDD stamp-approval of**

plans for the issuance of building or grading permits, whichever occurs first, to allow for replacement of trees to be preserved that are significantly damaged or destroyed by construction activity.

The security shall be based on:

- A. Extent of Possible Restitution Improvements – The planting of up to **eleven (11) trees**, minimum 15-gallons in size, in the vicinity of the affected tree(s), or an equivalent planting contribution as determined appropriate by the CDD, subject to prior review and approval of the CDD.
- B. Determination of Security Amount – An estimate for the security shall be submitted for CDD review which accounts for all of the following costs:
 - i. Preparation of a tree planting and irrigation plan by a licensed landscape architect, arborist, or landscape contractor for up to three (3) trees as described in Section A above. The plan shall comply with the County's Water Efficient Landscapes Ordinance and verification of such shall accompany the plan.
 - ii. The labor and materials for planting the potential number of trees and related irrigation improvements (accounting for supply, delivery, and installation of tree and irrigation) shown on the approved planting and irrigation plan.
 - iii. An additional 20% above the costs described in Sections B.i. and B.ii. above to account for potential inflation.
- 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. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
- D. Duration of Security – The security shall be retained by the County for a minimum of 12 months and up to 24 months beyond the completion of the tree altering improvements (i.e., date of final inspection). **After the final inspection has been completed**, the applicant shall submit a letter to the CDD, composed by a consulting arborist, describing any construction impacts to trees intended for preservation.

As a prerequisite of releasing the security between 12 and 24 months after final inspection, the applicant shall arrange for the consulting arborist to

inspect the trees and to prepare and submit to the CDD for review a report on the trees' health. The report shall include any additional measures necessary for preserving the health of the trees and the measures shall be implemented by the applicant. In the event that the CDD determines that any trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution, then the CDD may require that all or part of the security be used to provide for mitigation of the damaged tree(s), including replacement of any trees that have died.

Compliance with Arborist Recommendations

12. **Prior to any ground disturbance at the site**, the applicant shall implement all tree preservation measures recommended in the approved consulting arborist's report.
13. The applicant shall be responsible for all arborist expenses related to the work authorized by this permit.

Accessory Dwelling Unit Permit

14. Approval of this permit does not constitute approval for an Accessory Dwelling Unit (ADU). Approval of the ADU is contingent on the review of a separate Accessory Dwelling Unit permit **prior to CDD stamp of approval of plans for the issuance of a building permit** for an ADU.

Construction Period Restrictions and Requirements

15. The applicant shall comply with the following restrictions and requirements which shall be stated on the plans for building permit(s) as construction notes:
 - A. Tree removal/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 the calendar dates that these holidays are observed by the state or federal government as listed below:

New Year's Day (State and Federal)
Birthday of Martin Luther King, Jr. (State and Federal)
Washington's Birthday (Federal)
Lincoln's Birthday (State)
President's Day (State 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/>

- B. 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.
- C. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows.
- D. All internal combustion engines shall be fitted with mufflers that are in good condition and stationary noise-generating equipment such as air compressors shall be located as far away from existing residences as possible.
- E. Construction equipment and materials shall be stored onsite.
- F. The construction site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed of, as necessary.
- G. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.

Geotechnical/Soils

16. **Prior to CDD stamp-approval of plans for issuance of a building or grading permit, whichever is first**, the project proponent shall submit a final, design-level geotechnical report including the results of expansive soils and corrosion hazard

testing to the CDD for peer review by the County geologist, with design-level recommendations to mitigate the potential effects of expansive soils and corrosive soils on foundations, concrete, and/or steel that is in contact with the ground. The report shall include a review of any proposed drainage for the project, including the roof drainage outfall of the ADU, with recommendations for maintaining stability and controlling erosion of the creek bank, particularly if drainage is to outfall directly into the creek.

17. 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.
18. The project geotechnical engineer shall provide monitoring services **during clearing, earthwork and foundation-related construction work, and installation of drainage improvements** 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, including the backfilling of holes created by the removal of trees. Prior to final inspection of the building permits for the residential addition and ADU, the applicant shall submit a final report from the geotechnical engineer that documents the monitoring services performed (including peer drilling for foundations) and presenting their professional opinion on the compliance of the as-built project with recommendations presented in the geotechnical report(s) (preliminary and final) that was the basis for issuance of the building permit(s).

**PUBLIC WORKS
CONDITIONS OF APPROVAL FOR PERMIT CDTP22-00045**

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan and supplemental documents submitted to the Department of Conservation and Development on September 24, 2024.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.

General

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

Creek Banks and Creek Structure Setbacks:

20. Property owner shall relinquish "development rights" over that portion of the site that is within the structure setback area of the tributary of Tice Creek traversing the subject property. The structure setback area shall be determined by using the criteria outlined in Chapter 914-14, "Rights of Way and Setbacks," of the Subdivision Ordinance. "Development rights" shall be conveyed to the County by grant deed.

Exception (Subject to Advisory Agency findings and approval)

21. The structure setback area may be reduced per the site plan considering the flowrate and velocity of the runoff in the creek reviewed by the Public Works Department and with the Geotechnical Engineer's evaluation and recommendations as to foundation design and concurrence the creek banks and structure will be stable.

Hold Harmless

22. The property owner shall be aware that the creek banks on the site are potentially unstable. The property owner shall execute a recordable covenant which states that the property owner and the future property owner(s) will hold harmless Contra Costa County and the Contra Costa County Flood Control and Water Conservation District in the event of damage to the on-site and off-site improvements as a result of creek-bank failure or erosion.

Floodplain Management

23. **Prior to issuance of the building permit for the ADU**, provide calculations of the 100-year flood depth at the ADU's site. The ADU is subject to the requirements of Section 914-2.002(a) of the County Ordinance Code

Drainage Area Fee Ordinance:

24. Applicant shall comply with the drainage fee requirements for Drainage Area 67 as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of building permits.

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:

- Department of Conservation and Development, Building Inspection Division
- Contra Costa County Public Works Department, Engineering Services
- Contra Costa County Public Works Department, Flood Control District
- Contra Costa County Fire Protection District (CCCFPD)
- Central Contra Costa Sanitary District (Central San)
- East Bay Municipal Utility District (EBMUD)

Prior to applying for a building permit, the applicant is strongly encouraged to contact these agencies.

- C. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the South Contra Costa (SCC) Regional, Tri-Valley and South County Areas of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- D. Applicant shall comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay – Region II).

- E. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- F. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- G. This project may require a 1010 Drainage Ordinance from the Contra Costa County Flood Control District. It is the applicant's responsibility to notify the Flood Control District of any proposed construction within this development within the banks of the creek on the subject property to determine if a permit is required, and if it can be obtained.