

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDVR25-01044; BACILIA MACIAS, BACILIA MACIAS ARCHITECTURE (APPLICANT) EDUARDO LANDEROS (OWNER)

FINDINGS

A. Variance Findings

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

Project Finding: The project site located in the R-6 Single Family Residential District, which requires a minimum lot size of 6,000 square feet and a minimum front yard setback of 20 feet. The parcel is a 3,900 square-foot trapezoidal lot that is substandard in area for the R-6 District, and the project is the construction of a new approximately 2,128 square-foot single-family residence located at 9 feet from the front property line, within the front yard setback. Development on the parcel is severely constrained by the substandard lot area and the severe slope and variation of topography (the property declines from approximately 490 feet above mean sea level at the southern portion of the parcel to 462 feet above mean sea level at the north of the parcel). These physical constraints severely limit the viable buildable area on the parcel and force any construction to be located closer to the front which has flatter areas. The variance for a 9-foot front yard setback rather than the required minimum 20-foot front yard setback allows for the reasonable placement of the residence in an area that is flatter and will have less impact on the steeper portions of the parcel. Variances for reduced front setbacks are common occurrences within areas of the County where steep topography is present. Additionally, this variance is consistent with the intent of the zoning code to allow flexibility in unique situations, ensuring that all property owners have the opportunity to develop their land in a reasonable manner and does not constitute a grant of special privilege.

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.*

Project Finding: The project site has special circumstances, including its substandard size, configuration and changes in topography. These circumstances combine to create a severely constrained buildable area on the parcel. The new residence has been designed to utilize the flatter portions of the property, and although its construction will require additional geotechnical support to mitigate the steep topography, its placement

minimizes disturbing the steeper slopes located towards the back of the parcel, as shown on the Topographic Survey. Lots in the R-6 District have a minimum lot size requirement of 6,000 square feet. The project site is 3,900 square feet, which is 35% less than the 6,000 square-foot required minimum. Therefore, the strict application of the front yard setback regulation combined with the parcel's substandard size and topography, deprive the subject property of the right to pursue any reasonable type of development near the front of the parcel, a right enjoyed by other properties in the R-6 District that are not burdened by such unique physical constraints.

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

Project Finding: The proposed development with the front yard setback variance substantially meets the intent and purpose of the R-6 Single-Family Residential District. The purpose of any front yard setback is to provide for a consistent streetscape, ensure adequate light and air, and maintain separation between structures and public rights-of-way. The reduction in the front setback will not compromise these objectives and will allow the property owner to develop their property with a new single-family residence which is a permitted use within the R-6 District. Therefore, the variance substantially meets the intent of the zoning ordinance.

B. Tree Permit Findings

1. Required Factors for Granting Tree Permit: The Zoning Administrator is satisfied that the following factors, as provided by County Code Section 816-6.8010 for granting a tree permit, have been satisfied:

Section 816-6.8010(2)(G): Reasonable development of the property would require removal and/or work within the dripline of code-protected trees and this development could not be reasonably accommodated on another area of the lot.

The removal of the two Coast Live Oak trees is necessary in order to construct the new residence. Based on Sheet A.0.1 of the plans drafted by Bacilia Macias Architecture and Arborist Report provided by Kevin Pineda ISA Certified Arborist and Donald Cox ISA Certified Arborist, the trees are in fair condition but are recommended for removal due to their locations conflicting with the proposed residence. There are no other trees assessed in the property. Due to the size and topographical constraints of the lot, the residence will impact the trees regardless of any location. It is not possible to relocate the residence to avoid tree impact, and therefore staff recommends approval for the removal of the two Coast Live Oak trees.

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

C. Small Lot Design Review Findings

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

1. Location: The proposed 2,128 square-foot new single-family residence is appropriately sited given the unique physical constraints of the subject property and the established character of the surrounding neighborhood. While the residence is located within the front yard setback, this placement is necessitated by significant topographic constraints, as well as the size constraints of the lot. Specifically, the site's steep upward slope from north to south limits the buildable area to the southernmost portion of the property.

Residence placement in the neighborhood varies significantly due to the variety of lot sizes, as well as the different development standards within the City of Richmond's jurisdiction and County residential development standards. The subject parcel is adjacent to the City of Richmond border, and therefore residences in the vicinity follow different requirements in terms of frontage. The proposed residence is placed closer to the street than some other residences in the neighborhood; however, the location is dictated by the unique geometry and topography of the lot. Based on these constraints and the larger neighborhood, the residence remains compatible with the neighborhood's established land use character.

2. Size: Home sizes in this neighborhood range between 860 square feet to 3,300 square feet; however, the majority of larger sized homes in the neighborhood are under the City of Richmond jurisdiction, which may differ in terms of residential development standards. Residences within the County jurisdiction have a narrower range, between 864 square feet and 1,252 square feet. Although the residence is on the larger side, at approximately 2,128 square feet, it will not significantly stand out, as it is designed to utilize the slope to minimize its apparent bulk. Thus, the new residence will be compatible with the surrounding neighborhood as it will remain in line with other residences in the overall vicinity, both in terms of City of Richmond residences and County residences.
3. Height: The proposed two-story residence will be approximately 25 feet in height, at the rear and tallest point, which is below the 35-foot maximum height allowed for residential structures in the R-6 District. The front of the residence facing Barth Avenue holds a total height of approximately 15 feet in height, which is not uncommon for one-story residences in the area. Thus, in terms of height, the project will be compatible with the

surrounding neighborhood.

4. Design: The surrounding neighborhood along Barth Avenue, Harbor View Avenue, and North Arlington Boulevard have a variety of one-story and two-story residences with ranch styled homes, low pitched gable or hipped roofs, stucco exteriors, and some include attached garages. The new residence is of a two-story design; however, at street-level, it is shown to be only as a one-story home mimicking the design of other residences in the neighborhood. Therefore, the new residence will be consistent with the design of other houses in the neighborhood.

D. California Environmental Quality Act (CEQA) Findings:

This CDVR24-01044 project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303(a), New Construction of Small Structures, which provides a Class 3 exemption for construction of a single-family residence. There is no substantial evidence that the project involves unusual circumstances, including future activities resulting in, or which might reasonably result in, significant impact which threaten the environment. None of the exceptions in CEQA guidelines section 15300.2 apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDVR24-01044:

Project Approvals

1. A Variance Permit to allow a 9-foot front yard setback (where 20 feet is the minimum required) for the construction of a new 2,128 square-foot two-story single family residence on a vacant lot is APPROVED.
2. A Tree Permit for the removal of two code-protected Coast Live Oak trees, including an 8-inch diameter tree in the middle of the lot and a 12-inch tree located mid-slope near the eastern property boundary, for the construction of the new single-family residence is APPROVED.
3. Small Lot Design Review for the construction of the new single-family residence is APPROVED.
4. The project approvals described above are granted based on, or as generally shown on, the following documents:
 - Application materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on September 23, 2024.
 - Revised project plans received by the CDD on September 23, 2025.

- *Arborist Report, Tree Inventory, Property Development Project, 1518 Barth Ave., San Pablo, CA; Kevin Pineda, ISA Certified Arborist and Donald Cox, ISA Certified Arborist, November 8, 2024, received by the CDD on November 12, 2024*
 - *Geotechnical Investigation, Proposed Residence, 1518 Barth Ave., San Pablo CA; John Campbell + Associates, October 30, 2024, received by the CDD on November 11, 2025*
5. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of a new Variance Permit, Tree Permit, and/or Small Lot Design Review application.
 6. Tree removal shall only occur with an approved grading or building permit.

Application Costs

7. The application was subject to an initial application deposit of \$3,250.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a 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 application shall be charged interest at a rate of ten percent (10%) from the date of approval. 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 Permits

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

Child Care

9. Prior to issuance of a grading or building permit for the single-family residence, whichever comes first, the applicant is required to pay a fee toward childcare facility needs in the area as established by the Board of Supervisors. The current childcare fee is \$400.00 per parcel. However, the actual fee amount collected will be that which is applicable at the time of building permit issuance.

Park Impact / Park Dedication Fee

10. Prior to the issuance of building permits for the single-family residence, the applicant shall pay a Park Impact / Park Dedication fee for park and recreation improvements in the area as established by the Board of Supervisors. The current park dedication / park impact fee is \$9,584.00, however, the actual fee amount collected will be that which is applicable at the time of the building permit issuance.

Tree Removal Activities

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

Required Restitution for Approved Tree Removal

12. The following measure is intended to provide restitution for the removal of 2 code-protected trees:
 - A. Tree Restitution Planting and Irrigation Plan: **Prior to CDD stamp of approval for the issuance of a grading or building permit, or the removal of trees, whichever occurs first**, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. The plan shall provide for the planting of **two (2)** trees, minimum 25-gallon size. The selected tree species should have a canopy that provides a buffer to the properties located on the downhill northern portion of parcel for privacy screening. The plan shall comply with the County's Water Efficient Landscapes Ordinance. Verification of compliance with the Ordinance shall accompany the plan. The plan shall also include an estimate prepared by a licensed landscape architect, arborist, or landscape contractor of the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation).
 - B. A security shall be provided to ensure that the approved planting and irrigation plan is implemented. **Prior to CDD stamp of approval for the issuance of a grading or building permit, or the removal of trees, whichever occurs first**, the applicant shall submit a security that is acceptable to the CDD. The security shall be the amount of the approved cost estimate described in Section 8.A above, plus a 20% inflation surcharge.
 - C. Initial Fee Deposit for Processing a Security: The County ordinance requires that the applicant pay fees for all time and material costs of staff for processing a landscape improvement security (Code S-060B). At time of submittal of the security, the applicant shall pay an initial deposit of \$200.

- D. Duration of Security: When the replacement trees and irrigation have been installed, the applicant shall submit a letter to the Department of Conservation and Development, Community Development Division, composed by the landscape architect, arborist, or landscape contractor, verifying that the installation has been done in accordance with the approved planting and irrigation plan. The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of this letter. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged by development activity, and CDD determines that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then CDD may require that all part of the security be used to provide for mitigation of the damaged trees.

Geology and Soils

The recommendations in the *Geologic Peer Review / CDVR24-01044*, Darwin Myers Associates, January 20, 2025 are applied as Geology and Soils Conditions of Approval.

13. GEO-1: At least 30 days prior to the issuance of Construction Permits, the project proponent shall submit an updated geotechnical report that provides adequate subsurface and laboratory test data. The expectations of the County for the scope of the investigation include the following:
- A. The project geotechnical engineer shall review design-level grading, drainage and foundation plans, referencing the date of the plans reviewed.
 - B. The geotechnical engineer shall excavate and log boring or test pits at/near the four corners of the area proposed for grading to establish the depth to bedrock, characterize. Ther report shall include logs showing the details of the earth materials penetrated. The logs shall not be diagrammatic or generalized. Representative samples shall be retrieved for laboratory testing. The logs should show the weathering profile, and comment on the effect of weathering on engineering properties of the units penetrated.
 - C. Samples of the samples collected shall be subject to laboratory testing moisture/density, compressive strength, shear strength, expansion potential, gradation testing of native soils, and corrosion potential testing of soil and bedrock and gradation),
 - D. Provide an original geologic map of the site that represents the geotechnical engineer's and/or engineering geologist's interpretation of site conditions (i.e., bedrock

stratigraphy, presence of any significant features (shear zones, bedding, deeply weathered zones, properties of native soils).

- E. The geotechnical update report shall provide mitigation measures for any significant impacts that are confirmed to be present of the site,
 - F. Restate recommendation for geotechnical monitoring and testing during the construction period.
14. GEO-2: The geotechnical report shall be subject to review by the County's peer review geologist, and review/approval of the Zoning Administrator. Improvement, grading and building plans shall carry out the recommendations of the approved report.
15. GEO-3: The geotechnical report required by GEO-1 routinely includes recommended geotechnical observation and testing services during construction. These services are essential to the success of the project. They allow the geotechnical engineer to (i) ensure geotechnical recommendations for the project are properly interpreted and implemented by contractors, (ii) allow the geotechnical engineer to view exposed conditions during construction to ensure that field conditions match those that were the basis of the design recommendations in the approved report, and (iii) provide the opportunity for field modifications of geotechnical recommendations (with BID approval), based on exposed conditions. The monitoring shall commence during clearing, and extend through grading, installation of recommended drainage facilities and foundation related work, including retaining wall construction. A **hard hold** shall be place on the "final" building inspection, pending submittal of a report(s) from the project geotechnical engineer that documents their observation and testing services, including the testing of any required backfill (e.g., backfilling of utility trenches) . The monitoring report shall also include the geotechnical engineer's opinion on the compliance of the as graded, as-built project with all recommendations in the design level report.
16. GEO-4: All grading, excavation and filling shall be conducted during the dry season (April 1 through October 15) only, and all areas of exposed soils shall be revegetated to minimize erosion and subsequent sedimentation. After October 15, only erosion control work shall be allowed. Any modification to the above schedule shall be subject to review by the BID Grading Inspector, and the review/approval of the Zoning Administrator
17. GEO-5: The project proponent shall record a deed disclosure that is intended to (i) identify the project geotechnical engineers and reference all reports and letters issued by the geotechnical engineers (i.e., provide full bibliographic citation to these documents), (ii) provide information that explains on how an interested party could access these documents, (ii) provide information that explains on how an interested party could access these

documents (iii) state that no changes to site grading or drainage can be allowed without prior review and approval of the Department of Conservation and Development. Note that DCD's review/approval may require justification from the property owners geotechnical engineer, and (iv) explain that the property owner assumes monitoring and maintenance responsibility for all drainage improvements on the parcel. A draft of the proposed Deed Disclosure language must be reviewed and approved by the Community Development Division (CDD) prior to recordation; after the Deed Disclosure is recorded, the project proponent must provide CDD with a copy of the recoded document to serve as evidence the requirements of GEO- were satisfied.

Construction Period Restrictions and Requirements

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

18. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
19. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
20. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
21. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
22. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 7:30 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:
 - New Year's Day (State and Federal)
 - Birthday of Martin Luther King, Jr. (State and Federal)
 - Washington's Birthday (Federal)

Lincoln's Birthday (State)
President's Day (State)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth National Independence Holiday (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For specific details on the actual date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

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

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

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

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

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90-days of the approval date of this permit.

- B. Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:
- Department of Conservation and Development, Building Inspection Division
 - Contra Costa County Public Works Department
 - Contra Costa County Fire Protection District
 - West County Wastewater District
 - East Bay Municipal Utility District

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