# APPEAL OF 10000 MORGAN TERRITORY RD– ENTRY GATE SUPPORT COLUMNS IN FRONT SETBACK
# County File #CDVR25-01012

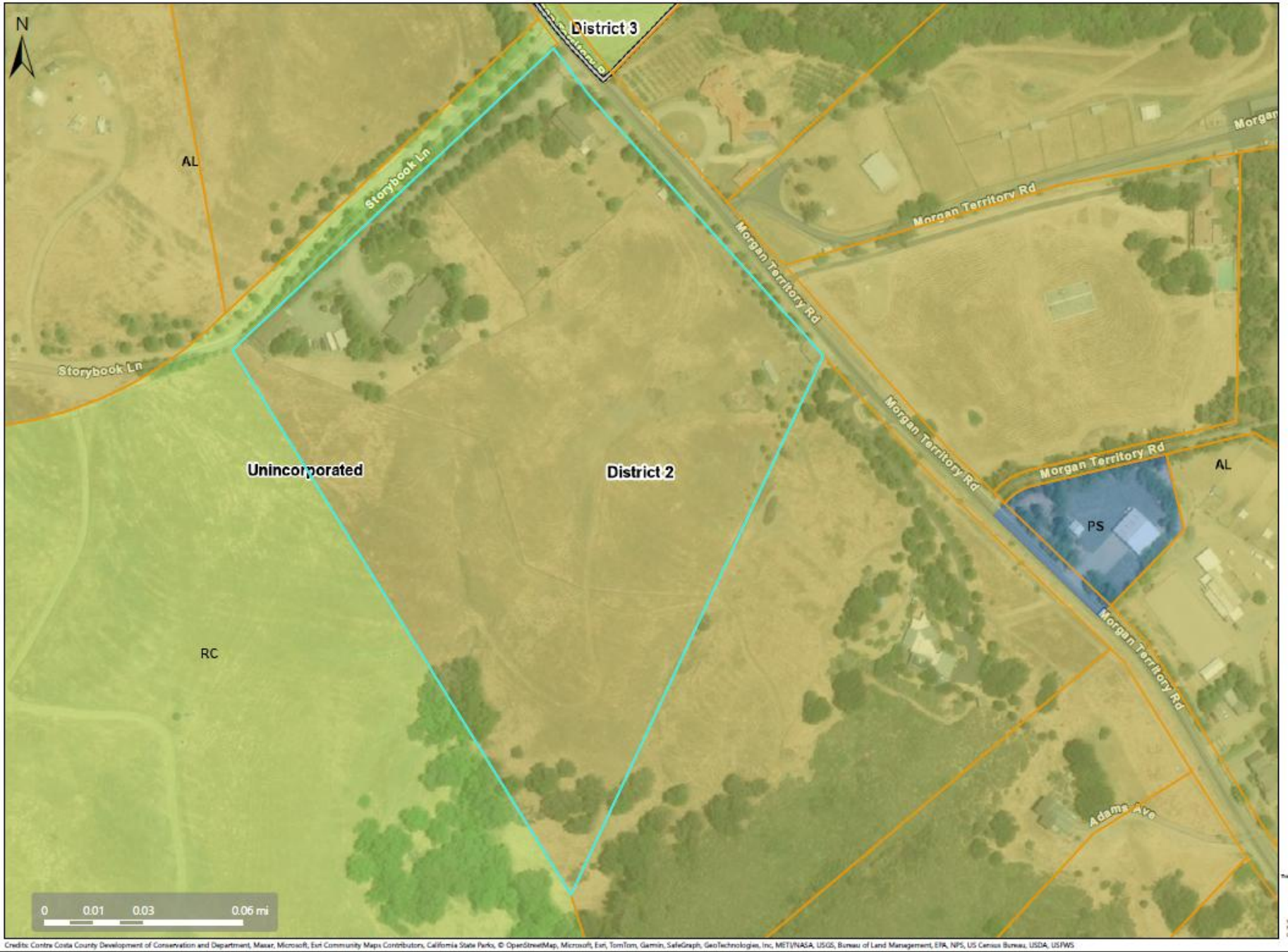
COUNTY PLANNING COMMISSION

AUGUST 13, 2025

ALLISON SEOANE, PROJECT PLANNER

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

General Plan



# Zoning

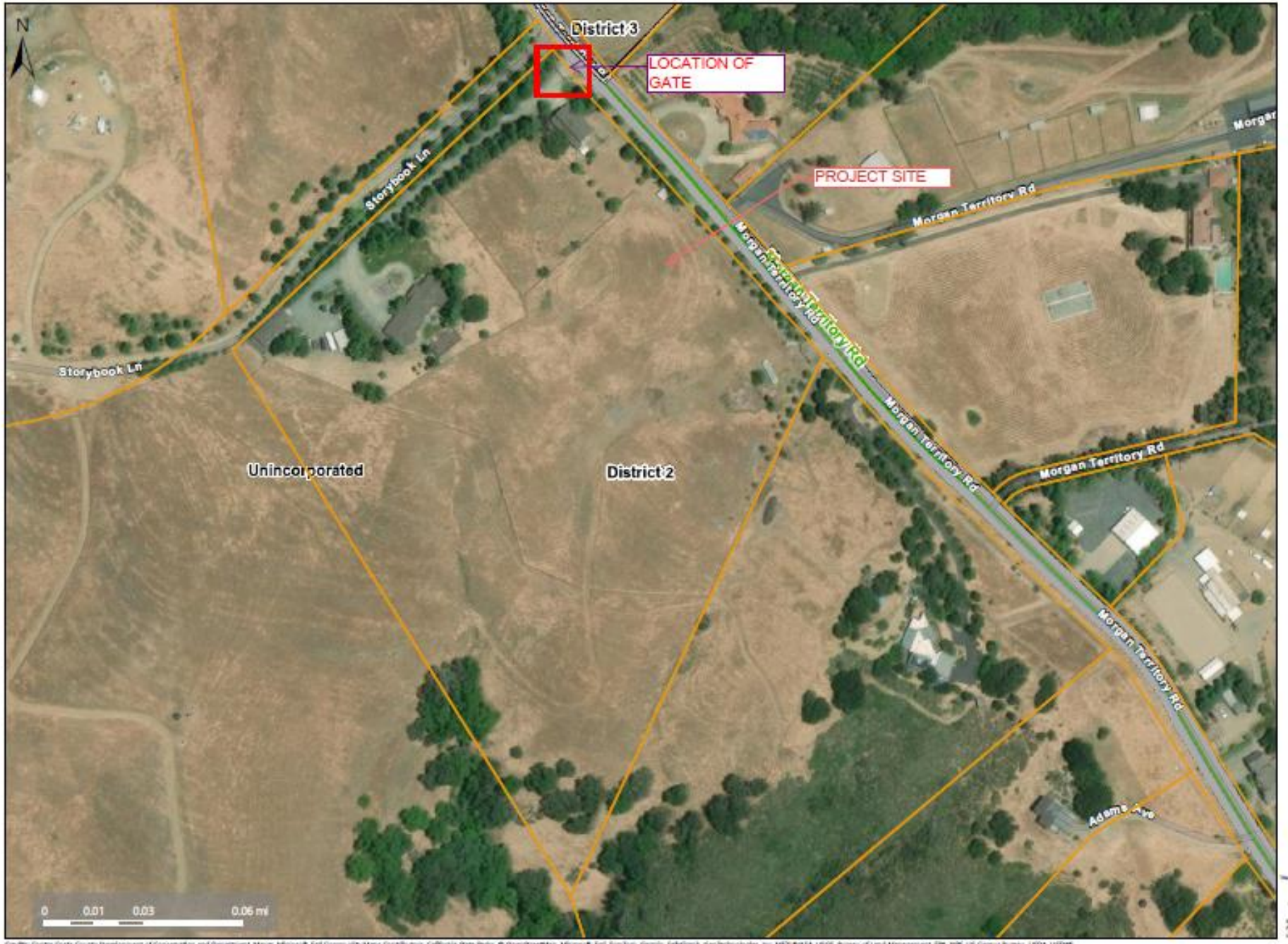

**Map Legend**

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



Spatial Reference
PCS: WGS 1984 Web Mercator Auxiliary Sphere
Datum: WGS 1984

Orthophotography




Map Legend

- Assessment Parcels
- Unincorporated
- Board of Supervisors' Districts
- Maintained Roads

# Background



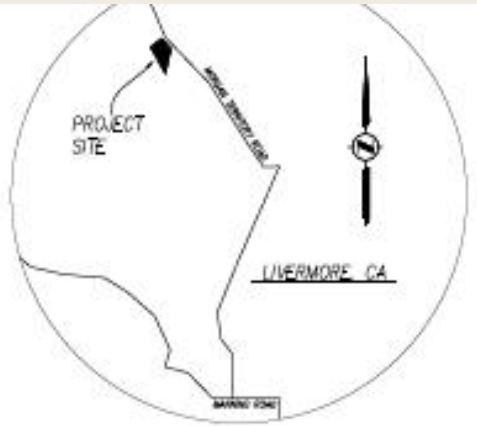
- April 7, 2005 – Code Enforcement Case BIRF05-00618 was initiated for one unpermitted electric gate, two unpermitted support columns, and two unpermitted residences.
- February 28, 2012 – County File BIRF05-00618 was closed with a lien on the subject property.
- November 18, 2024 – Land Use Permit CDLP23-00022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

# Project Description

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

# GREEN PROPERTY

CITY OF LIVERMORE, CONTRA COSTA COUNTY, CALIFORNIA


VICINITY MAP

NOTES:

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

SCHEDULE OF WORK:

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

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

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

LEGEND AND ABBREVIATIONS:

- PROPOSED LOT LINE ADJUSTMENT AREA
- BUILDING FACE
- FENCE
- CONCRETE
- TREE AND DRIP LINE
- BOX
- CONC — CONCRETE
- ELEC — ELECTRICAL
- FF — FINISHED FLOOR
- SSCO — SANITARY SEWER CLEAN OUT
- TYP — TYPICAL
- EP — PEDESTRIAN STRUCTURE
- EB — ELECTRICAL BOX
- 1/4" IRON ELECTRICAL CONDUIT

REVIEW COPY
SUBJECT TO REVISION
NOT FINAL

811

APN: 098-110-018

BOV #PDS-00618

GATE - LOOKING WEST FROM MORGAN TERRITORY ROAD

GATE - LOOKING WEST FROM MORGAN TERRITORY ROAD

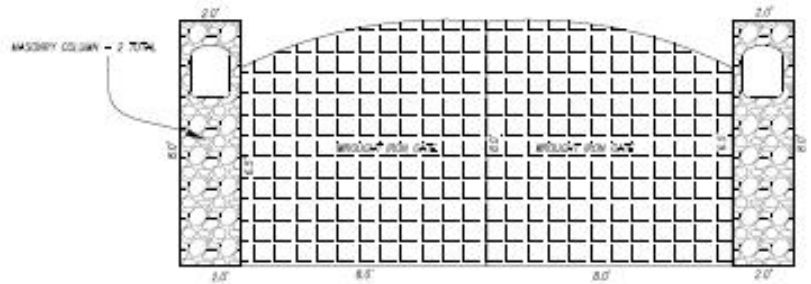
GATE - LOOKING EAST TOWARD MORGAN TERRITORY ROAD

GATE CONTROLLER - NORTH SIDE SWING GATE OPERATOR

NOTES:

1. EXISTING MASONRY SECURITY WALL
2. EXISTING MASONRY GATE COLUMN
3. DOUBLE WROUGHT IRON GATE
4. AUTOMATIC GATE CONTROLLER – 2 TOTAL
5. GATE KEYPAD AND KNOX BOX

GATE KEYPAD AND KNOX BOX - LOOKING FROM MORGAN TERRITORY ROAD




GATE DIMENSIONS

GATE - LOOKING NORTH FOR CENTER OF DRIVEWAY

REVIEW COPY
SUBJECT TO REVISION
NOT FINAL

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# GATE DETAILS AND NOTES

APN: 008-110-018

NOV EF05-00018

## AS-BUILT MASONRY GATE ENTRANCE EXHIBIT
## 10000 MORGAN TERRITORY ROAD

LIVERMORE — CONTRA COSTA COUNTY — CALIFORNIA

MILANI & Associates

DESIGNED UNDER THE DIRECTION OF:
DRAWN: MRM
CHECKED: MRM
JOB NO: 7788
DATE: JULY 2024
SCALE: AS SHOWN

| NO. | REVISION | BY | APP | DATE |
|---|---|---|---|---|

SHEET 2 OF 2 SHEETS

# EXISTING SITE PHOTO



# AERIAL SITE PHOTO

# Summary of Appeal Points

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

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

# Staff Responses

Staff response to appeal point #1:

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

# Staff Responses

Staff response to appeal point #2:

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

# Staff Responses

Staff response to appeal point #3:

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

# Staff Recommendation

Staff recommends that the County Planning Commission:

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

# THANK YOU

Questions ?