

**FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE# CDLP23-02046,
NATHAN WATKINS (APPLICANT) & CARNELIAN HOLDINGS LLC (OWNER)**

FINDINGS

A. GROWTH MANAGEMENT PERFORMANCE STANDARDS

1. **Traffic:** Policy 4-c under the Growth Management Program (GMP) requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. Since the residents of the care facility are not allowed to have personal vehicles, it is reasonable to assume that the project will not generate more than 100 peak hour trips, and in all likelihood will be much less. Additionally, the Contra Costa County Transportation Planning Section reviewed the project and had no comments or concerns. Therefore, a traffic impact analysis was not required. The facility will have two staff members during the day and one during night hours. The project provides sufficient parking to accommodate all vehicles expected to be at the facility. As such, the project will not adversely affect traffic levels in the area.
2. **Water:** The GMP requires new development to demonstrate that adequate water quantity and quality can be provided. The subject property currently obtains water service from the East Bay Municipal Utility District (EBMUD). While the project will increase the amount of individuals at the site, the increase is not substantial enough that demand for water will exceed capacity. Moreover, the project was reviewed by EBMUD and will be required to be reviewed and approved by EBMUD for any change to water service.
3. **Sanitary Sewer:** The subject property currently receives sanitary sewer service from the Central Contra Costa Sanitary District (CCSD). The proposed change is not expected to produce an unmanageable added capacity demand on the wastewater system, nor interfere with existing facilities. During the building permit process, the applicant is responsible for submitting plans to the Sanitary District and receiving its stamped approval.
4. **Fire Protection:** The subject property is in the service area of the Contra Costa County Fire Protection District. The site is zoned urban unzoned and is not within a high or very high fire zone. The applicant is required to obtain building permits for any necessary ADA upgrades or improvements needed for the facility. The Fire District will inspect the facility prior to occupancy to confirm that the facility meets the required fire protection elements for its occupancy type. Prior to submitting a building permit application, the

applicant is responsible for submitting plans to the Fire District and receiving its stamped approval.

5. **Public Protection:** The project will not require any increase in public protection services. The proposed facility will not create a substantial increase in new housing, provide previously unavailable services, nor will it provide substantial amounts of new business opportunities within the County that would result in a significant population increase. Typically, residents who will move into the elderly facility already live within the area. Moreover, the facility will be staffed with authorized workers who will ensure that the residential care facility is operated in the manner that is required. Therefore, the project will not impact the County's ability to maintain the standard of having 155 square feet of Sherriff's facility per 1,000 members of the population.
6. **Parks and Recreation:** The project is to create a residential care facility for the elderly. 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. Therefore, will not increase the demand for parks or recreational facilities.
7. **Flood Control and Drainage:** The project site is not located within a flood-prone area as determined by FEMA, the Federal Emergency Management Agency. The project was reviewed by the County Public Works department who had no concerns with flood control. Per the conditions of approval, the applicant will be required to comply with Division 914 of the County Ordinance Code that requires the project to comply with the collect and convey requirements.

B. LAND USE PERMIT FINDINGS

The following are required findings for the approval of a land use permit.

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

Project Finding: The proposed Residential Care Facility for the Elderly will be licensed and regulated by the California Department of Social Services. Currently, the parcel has an active license from the Department of Social Services to operate a residential care facility for the elderly for up to six residents. The project will increase that total to 18 total residents. All residential care facilities are regulated

by the State of California and will be required to maintain licensing with the State. The project will be required to comply with State regulations. Moreover, the project will have to comply with all building code and fire code regulations in respect to the construction of the building and emergency access.

The project will provide a resource for elderly persons in the community that require assisted living opportunities. Moreover, the site has already been operating as a residential care facility for the elderly. The use will remain the same and is properly regulated by the State. 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.

Staff has included conditions of approval that address parking, traffic and screening to allow the project to be better integrated into an area of Walnut Creek that is transiting from single-family residential to mixed use residential. The residential care facility for the elderly will not be detrimental to the health, safety, and general welfare of the County.

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

Project Finding: The project seeks to increase the overall number of elderly served from six to eighteen persons. The existing facility has been established since 1975 for six residents. The project to allow 18 residents is conditioned to comply with all the requirements of the regulatory and utility agencies prior to operation of the facility. Because the use was established and has been operating for five decades, the project will not adversely affect the orderly development within this area. Moreover, the project was reviewed by outside agencies who provided comments and conditions of approval that directly relate to the orderly development of the project.

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.***

Project Finding: As stated in the Staff Report, the project is consistent with the General Plan, consistent with area policies and consistent with the Zoning District. As stated, the site was previously approved for a residential care facility for the elderly in 1975. The project will continue the established use while increasing the

number of persons served. The expansion of the use will allow more elderly persons who need care to obtain the necessary services required. Additionally, the project will increase the tax revenue of Contra Costa County as the applicant will be required to obtain and maintain a business license in order to operate. Additionally, the project will create new job opportunities for persons in the healthcare field in this area, further enhancing the tax base within the County. Therefore, the project will improve the value of the property and will limit adverse impacts to other properties within the County to ensure that the tax base within the County is protected.

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

Project Finding: The subject property is located within the Single-Family Residential High-Density (SH) General Plan Land Use Designation. The SH designation allows for small residential care facilities. The project will increase the number of persons at an existing residential care facility. Therefore, the establishment of an 18-person residential care facility for the elderly will not adversely affect the policy and goals as set by the general plan, as the site already supports a similar use. Moreover, as stated in the Staff Report, there are many General Plan goals and policies that call for an increase in the supply of appropriate housing for persons who need additional care. Therefore, the project is consistent with the General Plan.

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

Project Finding: The establishment of a 18-person residential care facility for the elderly is not anticipated to create a crime or nuisance problem within the Walnut Creek area. Patrons of the facility will be under the supervisor of qualified staff members as required by State law. Residents will be accompanied by staff members or family members whenever residents leave the facility property. Moreover, the facility has been operating since 1975 and there have been no code enforcement violations related to the operation of the existing residential care facility. Moreover, the project includes conditions of approval that the applicant will have to abide by. Therefore, the proposed project will not create a nuisance or enforcement problem within the neighborhood or community.

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

Project Finding: The project will comply with the current California Building Code. The project is unique with respect to the improvements, which are strictly related residential care facility uses only. The project will not directly lead to any changes in development within the surrounding community as the project will not substantially increase traffic, water use, sewer use or omit hazardous materials. The use is consistent with the zoning and general plan regulations. Residential Care Facilities can be found in residential neighborhoods. Moreover, the project is residential in nature. Therefore, the potential for the project encouraging marginal development within the neighborhood is negligible.

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

Project Finding: The project area is a residential neighborhood in close proximity to Highway 680 to the east and Highway 4 to the north. The parcel is in an area of Walnut Creek that is transitioning from single-family residential to the south to multifamily and commercial/retail business to the north. The project will fit this transition area as it is residential in nature but also provides services to the surrounding community. The subject property has been used continuously as a residential care facility since 1975. The project as proposed is consistent with the General Plan and Zoning Code of the area. The project has enough parking spaces and provides a much-needed service to elderly people in the immediate vicinity. Finally, the project is a State licensed facility, therefore, the project will be required to obtain the necessary license from the State and comply with all requirements pertaining to the operation of a residential care facility.

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.*

Project Finding: The project is to allow the construction of an approximately 2,665-square-foot residential addition to accommodate 12 additional bedrooms for the elderly. The project also includes the reconfiguration of the exiting parking spaces at the frontage of the parcel to create six parking spaces to serve the project. In the approved land use permit (County File #2155-75), the current parking and driveway area was established. This parking area has been

maintained and has been used as access and parking for the site since the original approval. The project will not change the location of the parking area hardscape and instead, will enhance it. Currently, the site has no striped or designated parking spaces and requires any parked car to have a reduced driveway aisle width due to the current configuration of the parking area. The project would continue to use the approved parking area and redesign the existing parking area to accommodate the six proposed spaces and will not expand the parking area as there is no space in the front. In order to accommodate the parking improvements within the existing parking area, the project will have a 16'-5" driveway aisle width, which does not meet the 25-foot requirement. The applicant's parking proposal has greatly improved the parking situation by creating a safer parking area resulting from the proposed use of the property for a residential care facility for the elderly. Thus, the variance request does not constitute a 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 variance request is to allow an approximately 16'-5" driveway aisle width. As mentioned above, the parcel was approved for a six person residential care facility under County File #2155-75. This permit approved the location of the existing driveway/parking area which is located along the frontage of Warren Road (south end of the parcel). The property is generally rectangular, and the existing building is located at the front of the property and expands out for the width of the property. The addition will be located at the rear of the property and would cover the entire northeast portion of the property. The existing parking area is established but is not striped nor provides adequate parking location. The project will add six designated parking spaces that are striped and provide accessible parking. Approval of the variance requests will provide individuals who come to the site with an improved on-site parking design that is more functional and safer for use. Due to the location of the existing development on-site, the strict application would deprive the subject property of having a dedicated parking area, which is a right enjoyed by other properties.

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.***

Project Finding: The parking area has been established in its current location for five decades. To establish the residential care facility use, adequate parking spaces for staff, visitors and other individuals to use shall be provided on the property. The applicant is repurposing the existing driveway and parking area to provide for off-street parking in a safe manner. Approval of the variances would be necessary to allow the project to overcome the parking constraints found at the subject property and would at the same time, allow the project to meet the intent and purpose of the R-10 Zoning District.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02046

Project Approval

1. The Land Use Permit to allow a residential care facility for the elderly for up to 18 persons is APPROVED, as generally shown in the application materials received by the Department of Conservation and Development, Community Development Division (CDD), based on the following documents, and subject to the conditions below:
 - Application and materials received on October 2, 2023.
 - Revised plans and application materials received on October 11, 2024.
2. Approval is granted to allow the following variance that meet the requirements of Section 26-2.2006 of the County Ordinance Code:
 - 16'-5" driveway aisle width for two-way travel (where 25' is the required minimum)

Application Costs

3. The Land Use Permit application is subject to an initial application deposit of \$5,500.00 which was paid with the application submittal, plus time, and material costs if the application review expenses exceed 100% of 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. If you owe additional fees, a bill will be sent to you shortly after permit issuance in the event that additional fees are due.

General

4. Any deviation from, or expansion beyond the limits of this permit may necessitate the filing and approval of a request for modification of the Land Use Permit approval.
5. Residents of the facility are prohibited from storing personal vehicles on the property.
6. Visitation hours shall be restricted to 8:00 A.M through 7:00 P.M daily.
7. Any signage for the project shall be submitted for review and approval by CDD. Any signage for the project shall comply with the Contra Costa County Sign Ordinance.
8. A maximum of eighteen (18) residents shall be allowed to reside in the residential care facility for the elderly with this permit.
9. No out-patient services shall be provided at this facility.
10. No amplified speakers shall be permitted outside the enclosed building. Outdoor music shall be allowed during daytime as long as it does not cause a nuisance to the neighbors.
11. The maximum height of the residential care facility building shall be 27'-6" at any roofline. This is to ensure that the project will not cast shadows onto neighboring properties.

Off-Street Parking

12. The residential care facility shall have a minimum of six (6) off-street parking spaces provided at all times.
13. **Prior to CDD stamp of approval of plans for the issuance of a building or grading permit, whichever occurs first,** the applicant shall submit an updated site plan showing the location of the two required long-term bicycle parking and two required short-term bicycle parking for the site.

Exterior Lighting

14. **Prior to CDD stamp of approval of plans for the issuance of a building or grading permit, whichever occurs first**, the applicant shall submit an exterior lighting plan for review and approval of CDD to ensure glare does not create an impact on adjoining residential properties.
15. Exterior lighting shall be turned off from sunrise to sundown and during the daytime hours.

Landscaping

16. **Prior to requesting a final building inspection**, the applicant shall provide CDD photos showing that ample cypress trees are planted along the eastern property line and that the cypress trees will provide ample screening along the eastern property line. The cypress trees are to be maintained throughout the operation of this use. Should any required cypress trees die, a replacement shall be replanted.
17. The final landscaping plan shall comply with the County Model Water Efficient Landscape Ordinance.

Delivery Vehicles

18. Any non-medical or essential delivery vehicle that is owned or operated by the facility shall not deliver to the residential care facility between 7:00-9:00 AM and 4:00-6:00 PM Monday through Friday, to provide relief from traffic congestion on Warren Road.

Licenses

19. **Prior to operation of the facility**, the applicant shall provide CDD copies of all federal, state, and county permits, licenses, and certificates required to operate a residential care facility for the elderly. The applicant shall maintain as current and valid all such permits, license, and certificates while the facility is in operation. The applicant shall submit to CDD annually any annual renewals of such permits, license, and certificates. The applicant shall report to CDD any citation or notice of violation issued in connection with such permits, license, and certificates within 48 hours of the issuance of the citation or notice of violation.
20. **Prior to operation of the facility for eighteen (18) residents**, the property owner/applicant shall apply for and obtain a Property use Verification (PUV) from the Department of Conservation and Development, (if one is not currently on file) prior to

applying for any business license associated with this approval. A copy of this permit shall accompany the PUV application.

Construction Period Restrictions and Requirements

All construction activity shall comply with the following restrictions.

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. 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.
23. 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.
24. Construction equipment and materials shall be stored onsite.
25. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
26. Large trucks and heavy equipment shall be 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.
27. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows.
28. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 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 day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov/policy-data-oversight/holidays-leave/)

California Holidays: <http://www.ftb.ca.gov/aboutftb/holidays.shtml>

PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT CDLP23-02046

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 submitted to the Department of Conservation and Development on October 2, 2023 and subsequent submittals through January 23, 2024.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT AND/OR PRIOR TO INITIATION OF THE USE PROPOSED UNDER THIS PERMIT.

General Requirements:

29. For Public Works review for compliance relative to this Land Use 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.

30. The Applicant shall submit improvement plans prepared by a registered civil engineer to the Public Works Department and pay appropriate fees in accordance with the County Ordinance and these conditions of approval. The below conditions of approval are subject to the review and approval of the Public Works Department.
31. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this subdivision. Any necessary traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Warren Road):

32. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Warren Road. Concrete shall be saw cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.
33. The Applicant shall obtain an encroachment permit from the Public Works Department, if necessary, for construction of driveways or other improvements within the right-of-way of Warren Road.
34. Curb ramps and driveways shall be designed and constructed in accordance with current County standards. A detectable warning surface (e.g. truncated domes) shall be installed on all curb ramps. Adequate right-of-way shall be dedicated at the curb returns to accommodate the returns and curb ramps; accommodate a minimum 4-foot landing on top of any curb ramp proposed.
35. The Applicant shall design all public and private pedestrian facilities for accessibility in accordance with Title 24 and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Countywide Street Light Financing:

36. The Property owner(s) shall annex to the Community Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service

area does not include the transfer of ownership and maintenance of street lighting on private roads.

Utilities/Undergrounding:

37. The Applicant shall underground all new and existing utility distribution facilities, including those along the frontage of Warren Road.

Drainage Improvements:

38. The Applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to a natural watercourse, in accordance with Division 914 of the Ordinance Code. Applicant shall verify the adequacy at any downstream drainage facility accepting stormwater from this project prior to discharging runoff. If the downstream system(s) is inadequate to handle the existing and project condition for the required design storm event, applicant shall construct improvements to make the system adequate. Applicant shall obtain access rights to make any necessary improvements to off-site facilities.
39. The nearest public drainage facility is a storm drain line located on Warren Road. The Applicant shall verify its adequacy prior to discharging runoff.

Miscellaneous Drainage Requirements:

40. The Applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
41. The Applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

Stormwater Management and Discharge Control Ordinance:

42. Based on the proposed new and/or redeveloped impervious surface area totaling less than 5,000 square feet, this project does not require submittal of a final Stormwater Control Plan. Applicant shall incorporate stormwater quality elements to the Maximum Extent Practicable (MEP), in accordance with all other provisions of the County Stormwater Management and Discharge Control Ordinance. This must include efforts to limit new impervious surface area, limit directly connected

impervious areas, provide for self-retaining areas and include other Best Management Practices to the MEP.

National Pollutant Discharge Elimination System (NPDES)

43. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (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.

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of stormwater pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's stormwater drainage.

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention area) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES Permit.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Offer pavers for household driveways and/or walkways as an option to buyers.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Other alternatives comparable to the above as approved by the Public Works Department.

ADVISORY NOTES

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

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

PERMIT.

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

- B. Additional requirements may be imposed by the following agencies and departments; the applicant is strongly encouraged to review these agencies' requirements prior to continuing with the project:
- Health Services, Environmental Health Division
 - Central Contra Costa Sanitary District.
 - Contra Costa County Fire Protection District
 - East Bay Municipal Utility District
 - Contra Costa County Public Works Department Engineering Services Division
- C. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central County Area of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.
- E. It is unlawful to engage in business in the unincorporated area of the County without first procuring a business license from the Tax Collector following CDD approval of this application.