

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03018;
EASON YUAN (APPLICANT), RONG MOU (OWNER)**

FINDINGS

A. Development Plan Findings

In approving a Development Plan in the HE-C District, findings are required that the proposed project is consistent with the intent and purpose of the HE-C District and is compatible with other uses in the vicinity, both inside and outside the district.

1. *The proposed project is consistent with the intent and purpose of the HE-C District.*

Project Finding: The intent and purpose of the HE-C District is to facilitate the orderly development and maintenance of residential development at densities outlined in the Housing Element Sites Inventory. The Housing and Community Improvement Division stated the proposed duplex will not result in a net loss in the site's inventory capacity and will not be required by state law to provide findings as a part of an entitlement approval. Therefore, the project is consistent with the HE-C District.

2. *The project is compatible with other uses in the vicinity, both inside and outside the district.*

Project Finding: The duplex is consistent with the development standards for lot coverage, building height, front yard setback, side yard setback, rear yard setback, and parking spaces. The duplex will be of contemporary architectural design with materials, colors, and details that blend in well in a neighborhood with no predominant architectural style. The varying architectural styles in the neighborhood add visual interest, and the project will enhance the overall positive residential character of the area. The project will be similar to existing residential development along Appian Way., and therefore, the project is compatible with other uses in the vicinity, both inside and outside of the district.

B. Findings for an Exception to County Code Title 9, Section 914-2.004

Three findings are required pursuant to County Code Section 92-6.002, in order to grant the request for an exception to the offsite collect and convey requirements of County Code Title 9, Section 914-2.004.

1. *There are unusual circumstances or conditions affecting the property.*

Project Finding: The project site is landlocked with an upward slope starting at 115 feet above sea level at the north end of the property, up to 155 feet above sea level at the south end of the property(rear). A drainage study was prepared for the subject property and the adjacent property to the east, outlining the combined drainage impacts from the proposed project and the development of the adjacent lot. The drainage study indicates the existing undeveloped condition for the subject parcels directs up to 0.84 cubic feet per second (cfs) (10-year peak flow) of stormwater runoff directly into Appian Creek. The study projects that post development the subject parcels will direct a 10-year peak flow of 1.80 cfs. The combined post development flows will be collected and conveyed in a new 12" storm drainpipe to Appian Way, connecting into an existing catch basin situated on the south curb of the Appian Way bridge above Appian Creek and out falling directly into Appian Creek through a concrete culvert. Therefore, allowing the property owner an exception to the collect and convey requirements is appropriate.

2. *The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

Project Finding: The exception is necessary for the preservation of the applicant's right to develop the underutilized parcel of land. To expand the capacity of Appian Creek to accommodate the drainage from the subject project, major drainage improvements would have to be made, that would be prohibitively costly given the scope of the proposed project. Given that the HE-C Zoning District allows for construction of residential buildings on a legally created lot, the exception request will allow the property owner an opportunity to execute a project that is consistent with the development outlined in and expected by the County's Housing Element.

3. *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: The project will develop the existing vacant lot with a duplex that will be consistent with both the General Plan and the HE-C Zoning District. The development of this property increases the 10-year peak storm water flows by a negligible amount relative to the 530 cfs the County has determined the 10-year

peak storm water flow to be at this location in Appian Creek. If the applicant is not allowed to add a negligible amount of surface water to the Appian Creek culvert, the lot will not be developed and will remain as a vacant residential lot.

The existing concrete box culvert under Appian Way is inadequate to convey the Contra Costa County Flood Control District's required 10-year peak flow of 530 cfs. The increase in the 10-year peak flow from existing conditions to proposed conditions with the project is 0.96 cfs. This increased flow could result in a negligible 0.002-foot increase of the base flood water surface elevation for 10-year peak flow from the combined two projects. Additionally, the lack of maintenance access downstream of the culvert inhibits the ability to clear some of the sediment out of the culvert to increase its capacity.

Typically, County Code Title 9, Section 914-2.004, requires constructing improvements to make the system adequate. However, a small increase in runoff from post-development conditions will not significantly alter the existing drainage patterns, which are already inadequate as explained above. Additionally, FEMA's hydraulic studies typically reflect existing conditions whereas the Flood Control District's studies take into account the ultimate buildout of a watershed, which results in higher peak flows than FEMA's values. The FEMA study finds that the existing system will be adequate to convey the peak flows from the development for a 10-year storm event. The proposed development is physically suitable for the type, density, and intensity for this site.

C. Environmental Findings

CEQA Guidelines Section 15303(b), New Construction or Conversions of Small Structures, provides a Class 3 exemption for construction and operation of a duplex unless the project is located in a particularly sensitive environment, as outlined in CEQA Guidelines Section 15300.2. Given that there is no substantial evidence that building the duplex will result in significant cumulative impacts, have a significant impact on the environment due to unusual circumstances, is not located near a scenic highway, is not a hazardous waste site, and the site does not contain any historical resources, the project is exempt. .

CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03018

Project Approval

1. Development Plan CDDP24-03018 to allow for the construction and operation of a new two-story duplex is APPROVED.
2. The Development Plan approval describe above is based on the application and project plans accepted by the Department of Conservation and Development, Community Development Division (CDD) on April 26, 2024.
3. Any change from the approved plans shall require review and approval by the CDD and may require the filing of an application to modify this Development Plan.

Application Costs

4. This application was subject to an initial application deposit of \$3,500.00, 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 from the date of approval, the application shall be charged interest at a rate of ten percent (10%). 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.

Building Permits

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

Separate ADU Permit

6. This approval is only for two residential dwelling units in a duplex configuration. Separate submittal of an ADU Permit application is required for any ADU on this parcel.

COA Compliance Review

7. At least 45 days prior to issuance of a grading or building permit, whichever occurs first, the applicant shall submit an application for COA Compliance Review and provide a report on compliance with the conditions of approval for the review and approval by the CDD. The fee for this application is a deposit of \$1,500.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

Except for those conditions administered by the Public Works Department, the report shall list each condition followed by a description of what the applicant has provided as evidence of compliance with that condition. A copy of the permit conditions of approval may be obtained from the CDD.

Recorded CC&Rs and Easement Maintenance Agreement

8. At the time of application for a building permit, the property owner shall submit a copy of the CC&Rs and Easement Maintenance Agreement recorded with the deed to the project site, for the access and utility easement providing access between the project site and Appian Way.

Tree Permit

9. Tree Permit CDTP17-00050 Conditions of Approval (COAs), as modified below shall apply to this Development Plan. The following measures are intended to provide restitution for the removal of protected trees on the subject property:
 - a. Planting and Irrigation Plan: At the time of application for a grading or building permit, whichever occurs first, the applicant or property owner shall submit a final landscaping and irrigation plan prepared by a licensed arborist or landscape architect for review and approval by the CDD. The plan shall provide for the replacement planting of up to two (2) trees of a drought-tolerant species, minimum 15-gallon size, along with other landscape plantings as appropriate. The replacement trees shall be planted prior to final building inspection. A hold will be placed on the final inspection until photos confirming that the trees have been planted have been received by the CDD.
 - b. Compliance with MWEL0: If the landscaping to be installed during construction of the approved project that equals 500 square-feet or more, the landscaping and

irrigation plan shall comply with the County's Model Water Efficient Landscape Ordinance (MWELo). Verification of compliance with the Water Efficient Landscape Ordinance shall accompany the plan.

- c. Required Security to Assure Completion of Plan Improvements: A security deposit shall be required to ensure that the approved planting and irrigation plan is implemented. The applicant or property owner shall submit an estimate prepared by a licensed landscape architect, arborist, or landscape contractor of the materials and labor costs for planting two (2) replacement trees, and related irrigation improvements that may be required. The security shall be the amount of the cost estimate plus a 20% inflation surcharge.

- d. Acceptance of Security: The security shall be subject to review and approval of CDD and shall be submitted to the CDD prior to issuance of the grading or building permit. The applicant or property owner shall pay an initial fee of \$200 for the processing of the security deposit at time of submittal of the security.

- e. Duration of Security: The security shall be retained by the County for a minimum of 12 months and up to 24 months following tree planting. A prerequisite of releasing the security shall be an inspection of the trees by a consulting arborist and submittal of a report on the trees' health for review and approval by the CDD. In the event that CDD determines that any of the planted trees are of poor or failing health, the CDD may require that all or part of the security be used to provide for replacement of the unhealthy tree(s).

- f. Arborist Expenses: The expenses associated with all required arborist services shall be borne by the applicant or property owner.

Park Impact Fee

- 10. Prior to the issuance of building permits, the applicant shall pay a fee of \$7,423.00 per residential unit for park and recreation improvements in the area as established by the Board of Supervisors; however, the actual fee amount collected shall be that which is applicable at the time of building permit issuance.

Park Dedication Fee

- 11. Prior to the issuance of building permits, the applicant shall pay a fee of \$3,571.00 per residential unit as in-lieu fees for dedication of parkland in the area as established by

the Board of Supervisors; however, the actual fee amount collected shall be that which is applicable at the time of building permit issuance.

The Park Dedication Fee paid may be applied as a credit towards the Park Impact Fee.

Child Care Fee

12. Prior to the issuance of building permits, the applicant shall pay a fee of \$200.00 per residential unit for childcare facility needs in the area as established by the Board of Supervisors.

Construction Restrictions

13. The following Bay Area Air Quality Management District, Basic Construction Measures shall be implemented during project construction and shall be included on all construction plans.

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - h. A publicly visible sign shall be posted on the property with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
14. All construction activity shall comply with the following restrictions, which shall and shall be included on all construction plans.
- a. 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.
 - b. 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.
 - c. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
 - d. 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.
 - e. 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 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)

- f. 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.

Cultural Resources

15. The following conditions of approval shall be implemented during project construction; these conditions shall be included on all construction plans.

- a. A program of on-site education to instruct all construction personnel in the identification of prehistoric and historic deposits shall be conducted by a certified archaeologist prior to the start of any grading or construction activities.
- b. If archaeological materials are uncovered during grading, trenching, or other onsite excavation, all work within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American tribe that has requested consultation and/or demonstrated

interest in the project site, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary.

- c. Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the property owner for treatment and disposition of the ancestor's remains. The property owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.

CONDITIONS OF APPROVAL ADMINISTARTED BY PUBLIC WORKS DEPARTMENT FOR PERMIT CDDP24-03018

The applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the County 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 April 26, 2024.

The applicant shall comply with the following conditions of approval prior to issuance of a building permit and/or prior to initiation of the use approved under this permit.

General Requirements

16. 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. 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.

Access To Adjoining Property

Proof of Access

17. The applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights-of-way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.
18. The applicant shall furnish proof to the Public Works Department that legal access to the property is available from Appian Way.

Encroachment Permit

19. The applicant shall obtain an encroachment permit from the Application and Permit Center, if necessary, for construction of driveways or other improvements within the right-of-way of Appian Way.

Site Access

20. The applicant shall only be permitted access at the locations shown on the approved site/development plan.

Road Alignment/Intersection Design/Sight Distance

21. The applicant shall provide sight distance at the existing driveway and Appian Way for a design speed of 40 miles per hour. The applicant shall trim vegetation, as necessary, to provide sight distance at these driveways. Any new landscaping, signs, fencing, retaining walls, or other obstructions proposed at the driveways shall be setback to ensure that the sight lines are clear.

Private Roads

22. The applicant shall construct the on-site roadways and the internal road network (serving the residential development) to current County private road standards, subject to the review of the Fire District.
23. The applicant shall create a 20-foot access easement through 4426 Appian Way (APN 425-210-017) in favor of the subject property for ingress and egress upon sale of either

4426 Appian Way or the subject property.

Bicycle - Pedestrian Facilities

24. The applicant shall design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Utilities/Undergrounding

25. The applicant shall underground all new utility distribution facilities. The applicant shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.

Maintenance of Facilities

26. The property owner shall develop and enter into a maintenance agreement that will insure that the private road, street lights and landscape improvements will be maintained, and that each property that will use the proposed private road and street lights will share in its maintenance.

Drainage Improvements

Collect and Convey

27. 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. The 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, the applicant shall construct improvements to make the system adequate. The applicant shall obtain access rights to make any necessary improvements to off-site facilities.

Exception (Subject to Advisory Agency findings and approval)

The applicant shall be permitted an exception from the collect and convey requirements of the County Ordinance Code to discharge to an existing inadequate system with no additional offsite improvements required, provided that runoff from the site does not exceed values calculated by Kister, Savio and Rei, Inc., dated December 2021, and concentrated storm drainage is not discharged onto adjacent properties.

28. The nearest public drainage facility is located north of the site in Appian Way. The applicant shall verify its adequacy prior to discharging run off.
29. The applicant shall construct drainage improvements to satisfy the collect and convey provisions of the Ordinance prior to issuance of a Building Permit.

Miscellaneous Drainage Requirements

30. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
31. The applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.
32. The applicant shall construct creek capacity improvements as called for in the "San Pablo Creek Watershed Study" and as directed by the Public Works Department or Flood Control and Water Conservation District.

OR

The applicant shall contribute \$0.25 per square foot of additional impervious surface area to the San Pablo Creek watershed mitigation fund, to be used for creek capacity improvements within the San Pablo Creek Drainage Area.

National Pollutant Discharge Elimination System (NPDES)

33. 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.

Drainage Area Fee Ordinance

34. The applicant shall comply with the drainage fee requirements of the Contra Costa County Flood Control and Water Conservation District (FC District) Drainage Area 73 Fee Ordinance, as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of a building permit.

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 90-DAY OPPORTUNITY TO PROTEST FEES, 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. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.
- C. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- D. The applicant must submit building plans to the Contra Costa Consolidated Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.
- E. The applicant is required to submit plans to the West County Wastewater District for approval. Plans submitted for a building permit must receive prior approval and be stamped by the Sanitary District.
- F. The applicant is required to comply with the requirements of the East Bay Municipal Utility District.
- G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.

- H. The applicant shall be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Richmond/ El Sobrante, West Contra Costa Transportation Advisory Committee (WCCTAC) Bridges/Road, and WCCTAC Transit/ Pedestrian Areas of Benefit, as adopted by the Board of Supervisors. These fees shall be paid prior to issuance of the building permit.

- I. The 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 Wildlife Code.

- J. This project may be subject to the requirements of the Army Corps of Engineers, It is the applicants responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and it can be obtained.

- K. Further development of the parcel may need to comply with the latest Stormwater Management and Discharge Control Ordinance (§1014) and Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. This compliance may require a Stormwater Control Plan and an Operations and Maintenance Plan prepared in accordance with the latest edition of the Stormwater C.3 Guidebook. Compliance may also require annexation of the subject property into the Community Facilities District 2007-1 (Stormwater Management Facilities) and entering into a standard Stormwater Management Facilities Operation and Maintenance Agreement with Contra Costa County.