

**FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE CDVR25-01012;
MICHAEL MILANI (APPELLANT) / CHERYL GREEN (APPLICANT AND OWNER)**

FINDINGS

A. Variance Findings:

County Code Section 26-2.2006 states that all of the following findings must be made to approve the Variance permit application.

1. *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 legalize two previously constructed 8-foot tall columns supporting an entry gate within the 25-foot minimum front yard setback and work conducted within the dripline of one code-protected Valley Oak tree for installation of the mechanical equipment for the entry gate. Approval of the requested variance will allow a 6-foot front yard setback (where 25 feet is the minimum required) for the two existing 8-foot tall columns. Placement of entry gate support columns within the front yard setback is common along this portion of Morgan Territory Road as other properties along Morgan Territory Road in the project vicinity have such columns. The subject property and the parcel immediately to the north on the southwest side of Morgan Territory Road have identical stone fences with integrated stone columns supporting entry gates of the same design. Both the entry gate on the subject property and the adjacent Storybook Lane entry gate are supported by similar tall stone columns. Accordingly, granting of a variance to allow the columns on the subject property within the required front yard setback is not a grant of special privilege.

2. *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 the rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: The subject property is a 14.55-acre lot in the A-40 Exclusive Agricultural District that has been developed with a single-family residence and second single-family residence along the northwest property line that was legalized under Land Use Permit CDLP23-02055, an agricultural building in the

northern corner near the entry gate, and an stone fence with an entry gate and support columns along the northeastern Morgan Territory Road frontage. The property increases in elevation from the entry gate and agricultural building to the location of the two residences. Because the property is several acres in size and there is a significant slope leading onto the property from Morgan Territory Road, the 8-foot tall columns are appropriately in scale with the setting. Moreover, due to the remoteness of properties in the area from higher-density urban uses, the location of the entry gate within the front yard setback allows entry into the property to be readily accessible from the road, thereby reducing potential personal safety hazards. Given these special circumstances, strict application of the applicable zoning regulations of the A-40 District will to deprive the subject property of the rights enjoyed by other properties in the vicinity and within the identical land use district.

3. *That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the property is located.*

Project Finding: The purpose of the A-40 District is to provide for and maintain agricultural uses and low-density single-family residences. Properties in the A-40 District are subject to the allowed uses set forth in County Code Section 84-80.402, which include detached single-family residences and accessory structures and uses normally auxiliary to residences. The columns that support the entry gate are accessory structures that are auxiliary to the single-family residence on the property. Pursuant to County Code Section 84-80.1003, a front yard setback of 25 feet is required for any building or structure. The intent of the setback requirement is to maintain a certain scale of buildings and structures that are visible from the road to maintain the primarily agricultural and low density residential character of the zoning district. As described in the preceding finding, the 8-foot tall columns maintain the scale of the property in relation to its surroundings given the proximity of the agricultural building and the increase in elevation on the property from the road. Thus, placement of the two 8-foot tall columns within the front yard setback substantially meets the intent and purpose of the A-40 district.

B. 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 application.

1. Location: The two 8-foot tall columns and entry gate are located near the entrance to the property from Morgan Territory Road. Given that the entry gate columns are located at the entry onto the property, as is typical of entry gates on other properties in the vicinity, the location of the columns is compatible with the surrounding neighborhood.
2. Size: The footprints of the columns are approximately 3 feet by 3 feet, which is within the size range for entry gate columns. Therefore, the size of the columns is compatible with the surrounding neighborhood.
3. Height: Many properties in the vicinity have entry-gate support columns, and the support columns for the adjacent entry gate for Storybook Lane is of a similar height to the columns on the subject property. Therefore, the height of the columns is consistent with the surrounding neighborhood.
4. Design: The neighborhood has columns on multiple properties that encompass a variety of architectural designs. Taller columns for entry gates that are in scale with the size of the agricultural properties and the local terrain are common throughout the area. In particular, the subject property and the parcel immediately to the north on the southwest side of Morgan Territory Road have stone fences with stone columns supporting entry gates that are of the same architectural design. Thus, the design is compatible with the surrounding neighborhood.

C. Tree Permit Findings:

1. Required Factors for Granting a 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:
 - *Reasonable development of the property will require the alteration or removal of code-protected trees, and this development could not be reasonably accommodated in another area of the lot.*

Installation of the mechanical equipment for the entry gate necessitates work within the drip line of one code-protected Valley Oak tree. Given the construction has occurred, work within the drip line was unavoidable and therefore cannot be reasonably accommodated on another area of the lot.

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

D. Environmental Findings:

County File CDVR25-01012 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303(e), New Construction of Small Structures, which provides a Class 3 exemption for construction of accessory structures such as columns supporting entry gates. There is no substantial evidence that the project involves unusual circumstances, including future activities, resulting in, or which might reasonably result in, significant impacts which threaten the environment. None of the exceptions in CEQA Guidelines Section 15300.2 apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDVR25-01012

Project Approvals

1. A Variance Permit 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 is APPROVED.
2. Small Lot Design Review of the two, 8-foot tall columns is APPROVED.
3. A Tree Permit to allow work under the dripline of one code-protected Valley Oak tree for installation of the mechanical equipment for the entry gate is APPROVED..
4. The approvals described above are based on the following documents:
 - Application materials accepted by the Department of Conservation and Development, Community Development Division (CDD) on February 12, 2025.
5. Any deviation from the approved plans stated above shall require review and approval by the CDD and may require the filing of a new application.

Required Building Permit

6. Within 90 days of the effective date of this permit, the property owner shall apply for a building permit for the two existing, 8-foot tall columns, as shown on the February 12, 2025 project plans. The applicant is responsible for payment of all fees associated

with the issuance of the building permit. The applicant may obtain current costs by contacting the Building Inspection Division. A final inspection for the building permit is required to complete this condition.

Application Costs

7. The Variance Permit application is subject to an initial application deposit of \$3,250.00, 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.

Construction Restrictions

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

8. 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.
9. 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.
10. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
11. 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.

12. 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)

13. 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 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 NINETY (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. This project may be subject to the requirements of the following agencies:

- Contra Costa County Public Works Department
- Department of Conservation and Development, Building Inspection Division
- Contra Costa Health, Environmental Health Division
- San Ramon Valley Fire Protection District

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