

**FORMAL APPEAL**

**County File #CDVR22-01062**

**58 Canyon Lake Drive, Port Costa (APN 368-145-024)**

CONTRA COSTA COUNTY

2026 MAY 27 P 4: 30

APPLICATION & PERMIT  
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To: Contra Costa County Planning Commission / Department of Conservation and Development

Dear Planning Commissioners,

I am submitting this appeal about the approval of County File #CDVR22-01062. The approval is not supported by substantial evidence in the administrative record with respect to the CEQA categorical exemption determination, the variance findings, and the Small Lot Design Review findings.

This appeal is based not only on disagreement with the County's conclusions, but on the absence of a clearly integrated final analysis showing that the County evaluated the same final project configuration consistently across CEQA, variance, and Small Lot Design Review standards. Where the project evolved materially in scale and configuration, the County was required to base its approvals on a complete and internally consistent final project description supported by substantial evidence.

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**1. CEQA CATEGORICAL EXEMPTION – UNUSUAL CIRCUMSTANCES NOT ADEQUATELY ADDRESSED**

The project relies on categorical exemptions under CEQA Guidelines Sections 15301 and 15303. However, CEQA Guidelines Section 15300.2(c) provides that categorical exemptions do not apply where unusual circumstances create a reasonable possibility of significant environmental effects.

This site presents multiple overlapping conditions that are not typical of standard single-family residential development, including:

- a narrow, substandard 33-foot-wide lot with dual frontage constraints
- a subsurface Bull Valley Creek drainage culvert traversing the site
- location within a FEMA-designated Special Flood Hazard Area
- Wildland-Urban Interface fire risk conditions
- a materially expanded 2.5-story, ~3,100+ square-foot residence with associated variances

Neither the staff report nor the revised findings appears to analyze these site constraints in combination for purposes of the unusual-circumstances exception to the claimed categorical exemptions, nor do they clearly address whether those conditions create a reasonable possibility of environmental effects beyond those normally anticipated under the exemption classes.

These combined conditions create at least a reasonable possibility of environmental effects not typical of exempt residential projects, including drainage or flooding impacts, excavation-related effects on the subsurface culvert, potential impacts to any historical or archaeological resources, emergency access and fire-safety concerns associated with site constraints, and parcel-scale visual or massing effects arising from the scale of development on an unusually narrow lot.

For these reasons, reliance on a categorical exemption is not supported by substantial evidence.

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## **2. SUBSURFACE CULVERT – POTENTIAL HISTORICAL OR ARCHAEOLOGICAL RESOURCE NOT RESOLVED**

The project site contains a subsurface drainage culvert associated with Bull Valley Creek. Available information in the record indicates this structure may date to the late 19th century and may be associated with infrastructure development in Port Costa.

Under CEQA Guidelines §15064.5, a resource does not need to be formally listed to qualify as a historical resource. Where the record contains information indicating potential historical or archaeological significance, the County should address that issue before relying on a categorical exemption.

Here, the administrative record does not contain:

- a formal historical resource determination for the culvert
- evaluation of archaeological or engineered heritage significance
- analysis of potential project-related impacts (vibration, excavation, or structural interference)

In addition, cultural resource screening information in the record indicates potential for unrecorded archaeological resources in the project area. Even if the County ultimately concludes the culvert is not a historical resource, the record should show that the County made an adequate threshold inquiry into whether the structure has historical, engineering, or archaeological significance before relying on a categorical exemption.

Absent a threshold determination regarding significance, the record does not clearly demonstrate that reliance on a categorical exemption is supported with respect to potential cultural resource impacts.

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## **3. VARIANCE FINDINGS – MINIMUM NECESSARY STANDARD NOT DEMONSTRATED**

Variance approval requires findings that strict application of zoning standards creates a hardship due to unique site conditions, and that the requested deviation is the minimum necessary.

A variance may not be used simply to accommodate a preferred project size, floor area, or design program; the required findings must show that the relief granted is the minimum necessary to address hardship arising from the property itself.

While the parcel is substandard in width, similar conditions are common in Port Costa and do not alone establish entitlement to the full extent of relief granted.

The record does not clearly demonstrate that:

- reduced-impact or code-compliant design alternatives were meaningfully evaluated
- the requested side yard reductions, zero-foot deck setback, and reduced garage dimensions are the minimum necessary deviation

- the variances are driven exclusively by physical constraints rather than discretionary maximization of building envelope

The progressive increase in project scale over time further raises unresolved questions as to whether the requested variances reflect unavoidable hardship or design optimization within regulatory constraints.

Accordingly, the required variance findings are not supported by substantial evidence.

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#### **4. SMALL LOT DESIGN REVIEW – MASSING AND COMPATIBILITY**

The Small Lot Design Review concludes that the project is compatible with surrounding development.

However, compatibility must be evaluated relative to the subject parcel's constraints, not only general neighborhood character.

On this 33-foot-wide lot, the proposed structure with reduced setbacks and increased height results in:

- significantly reduced lateral separation from adjacent properties
- increased vertical and horizontal massing relative to lot width
- intensified proximity and enclosure effects at the parcel scale

While neighborhood character alone is not determinative, most residential structures in Port Costa are under 2,000 square feet. This context is relevant to evaluating Small Lot Design Review compatibility and whether the proposed 3,000+ square-foot, 2.5-story structure on a 33-foot-wide parcel reflects design necessity driven by site constraints or a discretionary maximization of buildable envelope facilitated through multiple variances.

The record does not clearly demonstrate that these site-specific impacts were adequately analyzed in determining compatibility under Small Lot Design Review standards.

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#### **5. PROJECT CONSISTENCY AND COMPLETENESS OF THE RECORD**

The administrative record reflects that the project has evolved over time in scale and configuration. The staff report dated 04-17-2023 appears to evaluate an earlier project configuration, while revised findings and updated plans titled Attachment A in the record reflect a materially expanded proposal.

Revised findings and updated plans were submitted; however, the record does not clearly demonstrate that all prior analytical components (including the staff report and underlying evaluation materials) were fully updated or expressly superseded by a single integrated final analysis.

Where project scope and intensity change materially, CEQA and zoning findings must be based on a complete, internally consistent final project description that is consistently evaluated across all discretionary approvals.

That level of clear integration is not evident in the current record.

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## 6. CONCLUSION

For the reasons above, the administrative record does not contain substantial evidence supporting:

- reliance on categorical CEQA exemptions in light of unusual site circumstances
- failure to evaluate potential historical or archaeological significance of the subsurface culvert under CEQA §15064.5
- variance findings demonstrating minimum necessary deviation and true site-driven hardship
- Small Lot Design Review findings adequately addressing massing impacts on a constrained parcel
- a fully consistent and integrated final project evaluation across all approvals

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## REQUEST FOR ACTION

I respectfully request that the Planning Commission:

1. Grant this appeal
2. Set aside the CEQA categorical exemption determination and project approvals
3. Require reconsideration of the project based on a complete and integrated administrative record reflecting the final project configuration, including reevaluation of whether any categorical CEQA exemption applies
4. Reevaluate variance and design review findings under the substantial evidence standard, including analysis of feasible alternatives, parcel-scale compatibility impacts, and whether the relief granted is truly the minimum necessary

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Sincerely,

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