

Exhibit #1

RESOLUTION NO. 7-2015

RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DENYING AN APPEAL OF THE COUNTY ZONING ADMINISTRATOR'S DECISION TO APPROVE, AND INCORPORATING FINDINGS AND CONDITIONS OF APPROVAL OF COUNTY FILE #VR14-1021 IN THE ALAMO AREA OF SAID COUNTY.

WHEREAS, Ahmad Rassai (Applicant and Owner) proposes a variance to allow a front yard setback of 3 feet, where 25 feet is required, to construct a raised entry pathway for a new residence, and a tree permit to allow the removal of (3) three code-protected trees, and work within the drip lines of (3) three code-protected trees, to construct a new residence, at 200 Sydney Drive, in the Alamo area in Contra Costa County, for which an application was received by the Department of Conservation and Development, Community Development Division, on April 11, 2014; and

WHEREAS, for the purpose of compliance with the provisions of the California Environmental Quality Act (CEQA), and State and County CEQA Guidelines, Staff has determined that the proposed action is Categorically Exempt under Government Code Section 15303(a), for new construction and conversion of small structures; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Zoning Administrator on Monday, October 6, 2014, during which hearing the Zoning Administrator fully reviewed, considered and evaluated all testimony and evidence submitted in this matter, and after modifying the conditions of approval, approved the project; and

WHEREAS, on October 14, 2014, within the time allotted by law, the Department of Conservation and Development received an appeal by the law offices of Gagen, McCoy, McMahon, Koss, Markowitz and Raines of the Zoning Administrator's decision; and

WHEREAS, on October 15, 2014, within the time allotted by law, the Department of Conservation and Development received an appeal by Giyan Senaratne of the Zoning Administrator's decision; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Planning Commission on Tuesday, February 24, 2015, during which hearing the County Planning Commission fully reviewed, considered and evaluated all testimony and evidence submitted in this matter.

NOW, THEREFORE, BE IT RESOLVED, that the County Planning Commission takes the following actions:

1. FIND that for the purpose of compliance with California Environmental Quality Act (CEQA), the proposed action is Categorically Exempt under Government Code Section 15303(a), for new construction and conversion of small structures; and

2. DENY the appeal of the County Zoning Administrator's decision on October 6, 2014 by law offices of Gagen, McCoy, McMahon, Koss, Markowitz and Raines, and by Giyan Senaratne; and
3. UPHOLD County Zoning Administrator's approval on October 6, 2014; and
4. APPROVE County File #VR14-1021, based on the Variance and Tree Permit Findings, subject to the conditions of approval.

BE IT FURTHER RESOLVED that the reason for these recommendations are as follows, and as described in the County Planning Commission staff report:

- A. **VARIANCE FINDINGS** – to allow a front yard setback of 3 feet, where 25 feet is required, to construct a raised entry pathway for a residence.

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.***

Staff Finding: Sydney Drive runs along the crest of a mountain ridge, and ends with the ridge topography in a cul-de-sac. Lots on either side slope down from the road steeply, especially on the west side of the ridge, where the subject lot is located. By contrast, lots on the eastern side of Sydney Drive have a flat or gradual slope at the front of the lot, allowing homes to be located toward the front of the lots. Some of the lots along the western side also have a wide flat area at the front, mostly on those toward the southern part of Sydney, but the flat area narrows as we go north, so that it is significantly narrower at 218 Sydney Drive, and disappears at 206 and 200 Sydney, where there is little or no area to build at the front of the lot, and the building pads are located further down the slope.

The lots at 218, 212, 206, and 200 Sydney (the subject lot) are the most similar in topography, where a steep slope occurs at the front of the property, down to the building pad(s) below. The vacant lot at 212 Sydney has two graded building pads, with the slope down to the first, and then another significant slope down to the second, suggesting "stepped" development of the lot. The stepped configuration of the house that was built on 218 Sydney indicates that it also had two building pads. The lots at 206 Sydney and 200 Sydney (the subject lot) slope significantly down from the road to one building pad, and from the building pad, slopes steeply down again to the back of the lot. County records show that front yard variances were requested and granted on 218 and 206 Sydney in order to reasonably develop these lots that have similar peculiarities in topography.

Two variances were approved for 218 Sydney Drive (APN #188-412-003), where the garage is in front yard - on the upper building pad - and the main house is on the lower building

pad below. County File #VR73-0141 was a variance that allowed a 15-foot front setback (where 25 feet is required), for the garage in the front setback. County File #VR75-1009 was a variance allowing a 15-foot front setback (where 25 feet is required) *again*, to rebuild the garage in the same location, two years later.

A variance was approved and granted for 206 Sydney Drive (APN #188-412-015). County File #VR75-1061, allowed a 0-foot front setback (where 25 feet is required) and a 11-foot side yard setback (where 15 feet is required), for retaining walls to "protect the residence". On the site visit, Staff noted that these retaining walls make possible a long driveway that leads to a garage at the lower level of the house further down the slope. The proposal for 200 Sydney, the subject of this staff report, also proposes a long driveway down to the lower level of the home.

Given these precedents of similar variances granted to these lots of similar topography for reasonable development, approval of the current variance request would not be a special privilege. The house is proposed to be constructed on the existing building pad, which is located approximately 25 feet down the slope from the front property line of the lot. The house entry is proposed on the upper level, which the main floor of the home. Because there is a steep slope down from the street, a path to the front entry door from the street must be raised up from the natural grade, and is therefore a reasonable entry configuration for the home.

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.***

Staff Finding: As discussed above, because of the ridge topography along Sydney Drive, the lots on the northeasterly side of the road have characteristics which cause reasonable development on the lots to be difficult without the granting of some relief from the strict application of the zoning regulations. Owners of 206 and 218 Sydney, whose lots are similar to the subject lot in topography, have previously been granted variances for accessory structures in the front yard so that the main home could be located on the building pad further down the slope. One variance request, for 218 Sydney, was granted twice, for rebuilding a structure in the same location in the front setback.

Moreover, the proposed locations for the residence, driveway and entry path are appropriate for the existing topography of the subject site. The subject lot is vacant, and has never been developed. The existing topography is the result of initial grading presumed to be performed by the first developer upon approval of the Crest View subdivision. The lot slopes significantly down in the first 25 feet from the road to the building pad, and from the building pad, the topography slopes steeply down again to the

back of the lot. A graded slope on the left side (south) appears to be the intended driveway down to the building pad.

The project proposes locating the residence on the existing building pad, and the driveway on the existing graded slope down to the building pad (to the proposed lower level of the home). (As previously noted, 206 Sydney also has a long driveway sloping down to the lower level of the home.) Additionally, the project proposes a raised entry pathway over the steep natural grade at the front of the lot, directly from the road to the house entry. Thus, the proposed project places the new residence and auxiliary structures where the existing topography suggests to be the most appropriate and intended locations for these structures. Upon the suggestion by Staff, the Applicant has already revised the initial project proposal, which requested a 0-foot side yard variance in addition to the 3-foot front yard variance. By shifting the house, driveway and entry path as far north as possible, the side yard variance request was eliminated. Alternately, relocating the driveway to be at the front of the house, leading from the street to the upper level, would have required another front yard variance because of the steepness in that terrain at the front, though it would have eliminated the side variance.

Thus, granting approval of this variance would allow the property owner to build a house on an appropriate location on a site that is difficult to develop because of its steepness and because of the peculiarities of the existing terrain - a right enjoyed by the two lots nearby which have already been granted variances, as well as the other homeowners who have properties on ridge at Sydney Drive.

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

Staff Finding: The intent of the R-20 zoning district is to allow detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it. Since the variance approval is to allow a new single-family dwelling, and its accessory structures, it meets the intent and purpose of the zoning district.

B. TREE PERMIT FINDINGS

Criteria for Review of the Tree Permit

- a. Required Factors for Granting 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 as marked:
 1. _____ The arborist report indicates that the subject tree is in poor health and cannot be saved.

2. ☐ The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers etc.).
 3. ☐ The tree is in danger of falling and cannot be saved by some other means (such as pruning).
 4. ☐ The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.
 5. ☐ The tree is a species known to be highly combustible and is determined to be a fire hazard.
 6. ☐ The tree species or the form of the tree does not merit saving (i.e. a tree stunted in growth, poorly formed, etc.).
 7. ☒ Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.
 8. ☐ The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short-lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
 9. ☒ Where the arborist or forester report has been required, and the Deputy Director, Community Development Division is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
 10. ☐ None of the above factors apply.
- b. Required Factors for Denying a Tree Permit: The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:
1. ☐ The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits).
 2. ☐ It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.

3. _____ The tree to be removed is a member of a group of trees in which each tree is dependent upon the other for survival.
4. _____ The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner.
5. _____ If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.
6. _____ Any other reasonable and relevant factors specified by the Deputy Director, Community Development Division.
7. X None of the above factors apply.

WHEREAS, in a letter dated March 5, 2015, the law offices of Gagen, McCoy, McMahon, Koss, Markowitz and Raines filed an appeal of the Commission's decision to approve the Variance and Tree Permits; and

WHEREAS, in a letter dated March 6, 2015, Giyan Senaratne filed an appeal of the Commission's decision to approve the Variance and Tree Permits; and

WHEREAS, in a letter dated March 6, 2015, Ruth Cranston filed an appeal of the Commission's decision to approve the Variance and Tree Permits; and

NOW BE IT RESOLVED that the secretary of this Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.

This Resolution was approved upon motion of the County Planning Commission on Tuesday, February 24, 2015 by the following vote:

AYES: Swenson, Terrell, Wright

NOES: Clark, Stewart

ABSENT: Snyder, Steele

ABSTAIN: None

Don Snyder, Chair
County Planning Commission
County of Contra Costa, State of California

A handwritten signature in cursive script, reading "Aruna Bhat", is written over a horizontal line.

ATTEST:

ARUNA BHAT, Secretary
County Planning Commission,
County of Contra Costa,
State of California