

Exhibit #2

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #VR14-1021; AHMAD RASSAI (APPLICANT & OWNER)**

**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.***

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 is 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.***

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 the 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.***

Finding: The intent and purpose of the R-20 land use district is to facilitate orderly development and maintenance of single-family residential neighborhoods. The district allows one detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it. Approval of this variance will allow the construction of an entry path from the street to the front entry door on the main level of the proposed house – a normal auxiliary use for a single-family dwelling. The steepness of the topography at the front of the property necessitates that the entry path be raised significantly above the natural grade to serve its purpose. Thus, the variance approval will substantially meet 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. ☒ None of the above factors apply.

## **CONDITIONS OF APPROVAL**

### **Project Approval**

1. \_\_\_\_ A **Variance Permit is approved** as generally shown in the revised plans received by the Department of Conservation and Development, Community Development Division (CDD) on December 29, 2014, to allow a front yard setback of 3 feet, where 25 feet is required, to construct a raised entry pathway for a new residence.

A **Tree Permit is approved** to allow the removal of (1) Valley Oak - 27 inches in diameter (#1), (2) Coast Live Oaks - 25 inches (#5) and 21 inches (#6) in diameter; and work within the drip lines of (3) Coast Live Oaks - 10 inches (#2), 12 inches (#3), 6 inches (#4) in diameter, and (3) Coast Redwoods - 14 inches (#11), 16.5 inches (#12), 17 inches (#13) in diameter. The approval is based on the following documents submitted to the Department of Conservation and Development, Community Development Division (CDD):

- Revised Tree Plan, received by CDD on March 26, 2015
- Revised Arborist's Report, prepared by Chris Llata, Certified Arborist #WE504, received by CDD on August 13, 2014
- Arborist's Report Addendum, prepared by Chris Llata, Certified Arborist #WE504, received by CDD on March 26, 2015

Except as otherwise specified, development shall be in accord with the recommendations of the arborist report. Code-protected trees that are not included under this permit shall not be removed or altered. All grading, site and development plans shall clearly indicate trees approved for removal, alteration or otherwise affected by construction. The tree information on the plans (grading and development) shall indicate the number, size, species, and location of the drip line of all trees on the property that will be impacted by development.

This permit shall be valid for a period of one (1) year and may be renewed for an additional year by CDD upon written request by the applicant and submittal of a fee.

2. \_\_\_\_ This application is subject to an initial application deposit of \$1000.00, 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 costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first.** The applicant may obtain current costs by contacting the project planner. If the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

### Required Restitution for Approved Tree Removal

3. \_\_\_\_ The following measures are intended to provide restitution for the removal of (3) three trees:
- a. Planting and Irrigation Plan: **Prior to issuance of a grading or building permit, whichever occurs first**, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Department of Conservation and Development, Community Development Division (CDD). The plan shall provide for the planting of **(9) NINE** trees, minimum 15 gallons in size. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Water Efficient Landscape Ordinance, if the County's ordinance has been adopted, and verification of such shall accompany the plan. The plan shall also include an estimate prepared by a licensed landscape architect, arborist, or landscape contractor for the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation).
  - b. Required Security to Assure Completion of Plan Improvements: A security shall be provided to ensure that the approved planting and irrigation plan is implemented. **Prior to issuance of a grading or building permit, whichever occurs first**, the applicant shall submit a security that is acceptable to the CDD. The security shall be the amount of the approved cost estimate described in Section 3.a above, *plus* a 20% inflation surcharge.
  - c. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$100.00.
  - d. Duration of Security: When the replacement trees and irrigation have been installed, the applicant shall submit a letter to the CDD, composed by a licensed landscape architect, landscape contractor, or arborist, verifying that the installation has been done in accordance with the approved planting and irrigation plan. The CDD will retain the security for a minimum of 12 months up to 24 months beyond the date of receipt of this letter. As a prerequisite of releasing the bond between 12 and 24 months, following completion of the installation, the applicant shall arrange for the consulting arborist to inspect the replacement trees and to prepare a report on the trees' health. The report shall be submitted for the review of the CDD and shall include any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant.

Any replacement tree that dies within the first year of being planted shall be replaced by another tree of the same species and size. If the CDD determines

that the applicant has not been diligent in ensuring the replacement trees' health, then all or part of the security may be used by the County to ensure that the approved restitution plan is successfully implemented.

#### **Tree Preservation Requirements**

4. \_\_\_\_\_ Security for Possible Damage to Trees Intended for Preservation: Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages trees that are to be preserved, the applicant shall provide the County with a security to allow for replacement of trees that are significantly damaged or destroyed by construction activity. **Prior to issuance of grading permits or building permits, whichever occurs first**, the applicant shall provide a security that is acceptable to the Department of Conservation and Development, Community Development Division (CDD).
- a. Amount of Security: The security shall be an amount sufficient to cover:
- i. Preparation of a tree planting and irrigation plan by a licensed landscape architect, arborist, or landscape contractor. The plan shall provide for the planting and irrigation of **(11) ELEVEN** trees, minimum 15 gallons in size, or an equivalent planting contribution as determined appropriate by the CDD. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Water Efficient Landscape Ordinance, if the County's ordinance has been adopted, and verification of such shall accompany the plan. **If deemed necessary by the CDD, the plan shall be implemented prior to final building inspection.**
  - ii. The estimated materials and labor costs to complete the improvements shown on the approved planting and irrigation plan (accounting for supply, delivery, and installation of trees and irrigation).
  - iii. An *additional* 20% above the costs described in Sections 4.a.i and 4.a.ii above to account for inflation potential.
- b. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$100.
- c. Duration of Security: After the final building inspection has been completed, the applicant shall submit a letter to the CDD, composed by a consulting arborist, describing any construction impacts to trees intended for preservation. The security shall be retained by the County for a minimum of 12 months up to 24 months beyond the date of receipt of this letter. As a prerequisite of releasing the bond between 12 and 24 months, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a



report on the trees' health. The report shall be submitted to the CDD for review, and it shall include any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant. In the event that the CDD determines that trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then the CDD may require that all or part of the security be used to provide for mitigation of the trees damaged, including replacement of any trees that have died.

5. \_\_\_\_ \_\_\_\_ Preservation of Trees #2, #3, and #4: The applicant shall consult with the arborist to obtain tree protection recommendations for these trees.
6. \_\_\_\_ \_\_\_\_ Compliance with Arborist Recommendations: The applicant shall implement all measures recommended by the consulting arborist that are intended to mitigate the impacts of construction activities.
7. \_\_\_\_ \_\_\_\_ Arborist Expenses: The applicant shall be responsible for all arborist expenses related to the work authorized by this permit.

#### **Geology**

8. \_\_\_\_ \_\_\_\_ **At least 30 days prior to submittal for the building/grading permit** for the residence the Applicant must submit a geotechnical report and grading/drainage plans for review by the Peer Review Geologist, and review/ approval of the Zoning Administrator. (A \$750 fee will be collected for the County Geologist Peer Review.) The geotechnical report shall (a) provide performance criteria for assessment of the stability of engineered slopes, (b) identify the methods to be used to evaluate stability, and provide justification for their selection, (c) evaluate the stability based on the engineering properties of rock and soil on the site and on the level of anticipated earthquake shaking that is forecasted, (d) evaluate the consistency of the grading and drainage plans with the recommendations in the geotechnical report, and (e) identify any slopes that are proposed for corrective grading and indicate the type of corrective grading that is proposed. The evaluation of slope stability of the site shall follow the guidelines that have been issued by the State of properties in the official Seismic Hazard Zone.
  - a. **At least 30 days prior to submittal for the building/grading permit** for the residence the Applicant must submit an updated, wet-stamped survey, prepared by a licensed surveyor or civil engineer to be used as the basis for the geotechnical report.
9. \_\_\_\_ \_\_\_\_ Improvement, grading, and building plans shall carry out the recommendations of the approved geotechnical report. To ensure that recommendations are properly interpreted and implemented by the contractor, the geotechnical report shall outline the monitoring and testing services recommended by the geotechnical engineer during construction. It is anticipated that the geotechnical engineer will provide observation and testing services during clearing, site preparation, grading,

drainage, and foundation-related work. Prior to requesting the final inspection of grading, submit a grading and completion report, to the Building Inspection Division and include in that report of the results of fill testing, along with evidence of monitoring any retaining wall construction. The Grading Completion Report shall include an Original Geologic Map that shows the details of observed features and conditions (e.g. map showing the distribution of fill on the site, and characterizing the fill and bedrock), along with the location of boreholes and the line-of-section for the slope stability analysis). The Grading Completion Report shall also include a map based on either field survey or GPS measurements that show the location and depth of any subdrains, and location of cleanouts.

10. \_\_\_ \_\_\_ Gradient criteria for engineered slopes in the project shall comply with provisions of the County Grading Ordinance. Any conflicts between the future grading plans and those criteria shall be interpreted as evidence that the grading plan is inconsistent with grading criteria for the project. All construction activities shall be limited to the hours of 7:30 A.M. to 5:00 P.M

#### **Construction Restrictions**

11. \_\_\_ \_\_\_ **Upon the completion of the framing for each floor of the building and prior to final inspection of the residential framing**, the Applicant's licensed engineer must provide a roof plan and survey to verify that the building height does not exceed the height shown on the approved plans.
12. \_\_\_ \_\_\_ The area beneath the lower floor of the house that is shown as "open" in the drawings shall not be enclosed by solid walls, nor be graded, nor be finished.
13. \_\_\_ \_\_\_ In the event that the house is required to be redesigned in order to comply with state or county regulations, revised drawings shall be submitted for review and approval by CDD. Any new non-compliance created by the revision will be subject to the appropriate permit approval requirements.
14. \_\_\_ \_\_\_ The applicant shall comply with the following restrictions and requirements, which shall be stated on the face of all construction drawings:
- a. All construction activities shall be limited to the hours of 7:30 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 and Federal)
    - Cesar Chavez Day (State)
    - Memorial Day (State and Federal)

Independence Day (State and Federal)  
Labor Day (State and Federal)  
Columbus Day (State and Federal)  
Veterans Day (State and Federal)  
Thanksgiving Day (State and Federal)  
Day after Thanksgiving (State)  
Christmas Day (State and Federal)

For information on the actual days and dates that these holidays occur, please visit the following websites:

Federal: [www.federalreserve.gov/aboutthefed/k8.htm](http://www.federalreserve.gov/aboutthefed/k8.htm)

State: [www.sos.ca.gov/holidays.htm](http://www.sos.ca.gov/holidays.htm)

- b. 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.
- c. The project sponsor 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.
- d. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

#### **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 90<sup>th</sup> 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. Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are necessary as part of the proposed project:

- Contra Costa County Building Inspection Division
- Contra Costa County Grading Inspection Section
- Contra Costa County Geologist
- Contra Costa County Fire Protection District
- East Bay Municipal Utility District
- Central Contra Costa Sanitary District