

To: Sean Tully, CCC Department of Conservation and Development 10/20/2017

From: Mary Dunne Rose, Owner of property; # MS060037 or CV14-0042; phone 925-286-8796

Re: Letter – Specific Requests: removal of governmental constraints, reasonable accommodations for seniors, disabled special needs family to build and reside in home built of our choice

Property: 78 Grandview Place, Walnut Creek, CA approved permit - lot split, new lot B
APN: 184-462-008, County File #MS 060037

Applicant: Property owner Mary Dunne (Rose) current residence 1020 Glasgow Pl. Danville Ca, 94526.

Introduction:

Applicant requests confidentiality laws be observed with regard to medical issues disclosed in all correspondence. See prior letter to CCC discussing disability and request for reasonable accommodation. Applicant is building a small, infill house near BART, bus lines, 2 major freeways, Kaiser hospital and downtown Walnut Creek so my husband and I can “age in place”. It is my understanding “the county will work with housing builders that provide housing for seniors, special needs and physically disabled persons” to help the project to completion and try to keep it affordable.

Also, “Governmental Constraints” are local policies and regulations can impact the price and availability of housing ... Land use controls, site improvement requirements, fees and exceptions, permit processing procedures, and other factors may constrain the development of housing. The applicant notes there are at least 58 Conditions of Approval (COA) plus many more Requirements under “Advisory Notes” at end of document, for ONE modest, 2001 sq. ft. home (one of the smallest building pads/ footprint at 1201 sq. ft. in the entire neighborhood) for a disabled person. Applicant requests relief from governmental constraints.

1. The CCC General Plan states... “ACCESSIBLE HOUSING Persons with disabilities represent a major special needs group in Contra Costa County. To maintain independent living, disabled persons are likely to require assistance, which may include special housing design features... for persons with mobility limitations. To facilitate the development of appropriate housing for persons with special needs, Contra Costa County works to remove development constraints and provide reasonable accommodations in the development of such housing as requests are made. General Plan, Housing programs (HP) (GP6-93). Granting the request will benefit the County by demonstrating compliance with the General Plan and CCC commitment to assessible housing to seniors.
2. Government Code Section 65583(c)(3) requires the housing element provide a program to “address and where appropriate and legally possible, remove governmental constraints to the...and development of housing for persons with disabilities. The program shall remove constraints to and provide reasonable accommodations for housing designed for, intended for occupancy...for, persons with disabilities.” Granting this request will document Contra Costa County is following the law, complying with their own General Plan requirements and adding to much needed housing stock near transportation and City of Walnut Creek downtown area. Hopefully help with ABAG regional needs.
3. Granting of the request for reasonable accommodations will not impose an undue financial or administrative burden on the County, would not require a fundamental alteration a County program or law, including but not limited to land use and zoning. Instead, it will demonstrate CCC local efforts and commitments to remove governmental constraints that hinder the locality from meeting housing needs for seniors with disability needs.

4. Applicant requests financial and regulatory incentives to offset or reduce costs of the building of this home as noted in CCC General Plan. Pleads for removal of governmental constraints that result in the very costly, burdensome, land use COA governmental constraints to prevent affordable special needs housing development

REQUESTS FOR REASONABLE ACCOMMODATION AND REQUEST FOR REMOVE GOVERNMENTAL CONSTRAINTS

Setback Rules: Request relief from the strict terms of the CCC zoning ordinances and other setback rules:

Front setback (south of lot) request a 10 feet setback from property line to new house (South side of lot) and...

Side yard setback of 5 feet setback from property line (West side of lot) and...

Allow Front Door Entry Porch & Portico with Brackets, Porch Area Front setback (south of lot) Porch Covering within the 10-foot setback; request a 2 to 4 feet deep and 5 to 6 feet wide porch and portico over hang with brackets above the front door to keep people dry, safe access to home.

- The housing, subject to requested accommodation to setback rules request, is intended for occupancy by an individual with a disability and the granting of the setback requests will enhance accessibility for special needs persons. The home footprint was moved south, on the majority of the “flat” area of the lot, decreasing the building footprint, decreased the living space to 2001 sq. ft. (20% reduction, allowed 2500sq. ft.), allowing the building on the “flat” area so no stairs will be needed on the ground floor and allowing the Universal Design features and safe access to the home on the first floor, which requires extra space (benefit to senior, special needs, disabled persons) to accommodate 5 feet wheelchair turning requirement and reducing fall risk for seniors with ambulation problems in kitchen, downstairs bathroom, Flex room, wider halls and doorways.
- The front door entry porch and portico will keep the senior dry, sheltered and allow safe entry/access to home. The physical attributes of the property were considered for this request. These requests are necessary to make safe housing available to an individual protected under the disability acts.
- The CCC General Plan states... “ACCESSIBLE HOUSING Persons with disabilities represent a major special needs group in Contra Costa County. To maintain independent living, disabled persons are likely to require assistance, which may include special housing design features... for persons with mobility limitations. In order to facilitate the development of appropriate housing for persons with special needs, Contra Costa County works to remove development constraints and provide reasonable accommodations in the development of such housing as requests are made. General Plan, Housing programs (HP) (GP6-93). Granting the request will benefit the County by demonstrating compliance with the General Plan and commitment to assessible housing.

Applicant respectfully requests CCC allow a front yard setback, south side of lot, of 10 feet instead of 20 feet required and respectfully requests a side yard (west side of lot) setback of 5 feet, instead of 10 feet required (will be cumulative over 15 feet side yard setbacks) and respectfully requests allowance of a porch area and roof portico in front yard setback area.

Grading, cars, gardening issues: Relief requested and reasonable accommodations requested from the Conditions of Approval rules, policies, constraints to building:

Grading, no import or export of fill material allowed COA11:

Construction-related vehicle access to the site shall be limited to two vehicles COA 29:

Grading; during grading full time arborist on site COA 12:

Plant trees prior to building permit issued and construction starts COA 18:

Submit landscape plans to 9 neighbors COA 17

Construction Grading, Autos and Landscaping COA Change Request: Relief and flexibility in site development standard Conditions of Approval (COA) is requested. Applicant requests financial and regulatory incentives, along with reasonable accommodations, to offset or reduce costs of the building of this home as noted in CCC General Plan. Pleads for removal of governmental constraints that result in the very costly, burdensome, land use COA governmental constraints to prevent affordable special needs housing development; instead the oppressive COA's will block affordable housing building, driving up unnecessary costs, delay the timely completion and move in date of the project for housing for seniors with special needs and not allowing compliance with certain CCC General Plan goals. Also, important, indirectly there is nexus to overly burdensome, costly and material impediments to building and completing the project in an affordable, cost effective and timely manner. These requests are necessary to make housing available to an individual protect under the disability acts and allow quicker move in date so they can use their special home and be safer sooner than later. This home building project is intended for occupancy by an individual with a disability. See detail requests below.

COA11: The construction grading COA11 is requested to be modified and an exception allowed.

- A modification is requested as the disabled assessable home is to have no stairs at the front of home entry. A ramp type walkway, no stairs, from the driveway to the front door will be constructed to allow seniors safe access with wheelchair, walker and ambulation problems to front door and the foundation and related crawl space need to be created (dug out) to accommodate the needed lower level house for appropriate special needs access and to comply with the Universal Design concepts.
- Housing Element Policy 4.1 Expand affordable housing opportunities for households with special needs, including seniors, disabled persons... (GP HE pg.6-90)

Applicant respectfully request CCC modify COA11 to allow import or export of fill material and grading to allow the home to be lower for safer special needs access at front door and lower the walkway to front door for safe entry.

COA29: The construction car limit to two cars, COA 29 is requested to be modified or an exception allowed.

- Request remove entirely the limits on vehicles parking at job site or limit to 5 vehicles. COA 29 limits of two vehicles at a time during building to the property; this COA procrastinates, slows

and lengthens the building process, adding unnecessary delays and costs to hinder applicant's (discourages and delays) building, increase costs, is unreasonable and defers use of the home.

- This COA29 is overly punitive; indirectly provides nexus to the impediment and overly burdensome governmental constraints to prevent the affordable building and timely completion of the project.
- Housing Element GOAL 7 states, "Mitigate potential governmental constraints to housing development and affordability."

Applicant respectfully requests CCC modify or better, remove, COA29 constraints of this barrier to affordable housing and instead, encourage, enhance the timely housing production of special needs housing. The results will benefit the future use and enjoyment of our home, allowing us to move in ASAP and enjoy a safer home much sooner so we can live a safer life. The applicants home will be built quicker, allowing (instead of preventing and delaying) timely occupancy of special needs person to a home with disability modifications of their choice if this governmental constraint is removed.

COA 12: Full time arborist on site during grading is requested to be modified or an exception allowed.

- Applicant requests the removal of the COA 12... "during all grading operations a qualified arborist shall be on site..." as documented in the COA12.
- This COA12 is overly punitive; indirectly provides nexus to the impediment and overly burdensome governmental constraints to prevent the affordable building and timely completion of the project.
- An arborist on site all the time during grading is an unnecessary restriction to slow down the process of building affordable special needs housing, it will drive up the housing costs and delay **the project** (arborist has a car too), preventing the special needs family from timely move in to a home with disability modifications of their choice. Four trees were approved for removal, the trees not approved for removal are far from the building pad, at least 20 feet. The topo map attached shows the steep grade change, no builders, their equipment will be allowed by applicant in that unsafe, steep area as they could roll down the hill and be crushed dead. It will be fenced totally for safety first concept and to protect the trees. Applicant is willing to be the assigned person to sit all day, every day to guard the trees during all grading, if the County insists.
- Applicant requests CCC consider affordability, minimizing project holding costs as stated in the General Plan, and flexibility in site development standards to offset or reduce costs and speed up building process as outlined in the CCC General Plan.
- CCC General Plan does commit to...Policy 7.2 Provide financial and/or regulatory incentives where feasible and appropriate to offset or reduce the costs.... of housing development, including ... flexibility in site development standards. (GP6-91).

Applicant respectfully requests CCC modify COA12 to not require an arborist full time on site during all grading nor require a substitute expensive, unreasonable COA, please.

COA 18: Applicant requests adjustment to COA18 that requires the planting of trees before building of home, before obtaining building permit.

- Applicant requests revise COA18 to say at least 60 days after the completion and acceptance of the building of the house, the applicant shall provide evidence that the planting of trees has occurred.
- The current COA18 is overly punitive, unreasonable, unsafe; indirectly provides nexus to the impediment and overly burdensome governmental constraints to prevent the affordable and safe building along with timely completion of the project.
- Difficulties with mobility is a well know issue with some senior persons. Requiring them to drive up to the job site, walk around, oversee plant selection, stand at the site to observe digging, planting, installation of drip system. Then, if the plants are required to be planted before water is on site (before issuance of a building permit) or the drip lines are damaged by construction process (and drip system is in place) the plants die, forcing applicant to again visit site and repeat mobility problems, increasing fall risks required to walk the site again outside the building envelope, near the steep part of the slope- to hire gardener again, oversee removal of dead plants, applicant going out shopping again with mobility issues to buy new plants, pay labor to install new plants, have County bill applicant (or other person) to come out, and verify plants replaced and confirm they are living; in short this would subject the applicant to unreasonable and unnecessary walking and fall risks over and over again at the job site.
- Also, this could increase the costs of infill and special needs housing development due to unnecessary governmental constraints, reducing affordability, and could be construed as wasteful, expensive and a very punitive government constraint to building an affordable disabled family home, showing indirect nexus to the building project completion. The number of times the county will require the senior to travel, walking, risking a fall and redoing everything again is not promoting safe, affordable, equal opportunity housing.
- The General Plan states...GOAL 4 Increase the supply of appropriate and supportive housing for special needs populations. Policy 4.1 Expand affordable housing opportunities for households with special needs, including seniors, disabled persons... (GP6-90). Promotion of Equal Housing Opportunity GOAL 8 Promote equal opportunity for all residents to reside in the housing of their choice. Policy 8.3 Enhance the opportunity for seniors, persons with disabilities...(GP6-92). These goals are to be commended and put in place for all special needs folks to help them build a great home that fits their needs.

Applicant respectfully requests CCC modify COA18 to require all the planting after the house is built for a more reasonable, General Plan compliant COA, please.

COA 17 Applicant requests revision to COA 17 that requires submission of landscape plans for review to the neighbors three (3) directly to the east, to the south and to the southwest (nine 9 neighbors).

- It is common understanding (NIMBY) that neighbors will slow down, prevent, stop, add to costs of building and protest allowing new housing in their neighborhood. They will stall, disagree, fight to stop any building and delay the processing and approval of the landscape plan, final permit, building permits, etc. and create barriers, adding another layer of processing constraints to timely building of senior and disabled friendly housing.
- As the landscape plan will be very, very minimal planting except for the 12 replacement trees required by CCC, the applicant request modification of submission COA17 to change to notice is to be given only to 1 neighbor house (certified mail) to east of proposed building, 1 to the west (78 Grandview owners) and the neighbor directly across the street from the empty lot to be built on, for a total of 3 homes. Applicant will post a picture of the landscape plan on the lot, within 3

feet of the pavement, 10 days prior to review and approval by Zoning Administer with notice of upcoming hearing for ALL neighbors to see.

- This COA17 is punitive; indirectly provides nexus to the impediment and overly burdensome governmental constraints to prevent the affordable building and timely completion of the project (applicant already agreed to donate material, huge portion of land to open space which can be considered a governmental constraint to building). Nine is too many, three neighbors directly affected is more reasonable as the minimal landscaping will encourage preserving the natural characteristics of the lot.
- Please see attachment of draft design of landscaping and footprint of home on topo map; shows most of the building will be South, on the majority of the “flat” area of the lot, decreasing the building footprint, decreased the living space to 2001 sq. ft. (20% reduction, allowed 2500sq. ft.), trying to keep the steeper, material portion of the lot of the hillside natural. Landscaping will only be in the front of the house. The 5-foot setback side (west) will be the dog run, using only mulch to allow natural drainage. The back yard (north) will be all natural except for a small deck. The side yard to the east will be mulch as the across neighbor has request applicant build an extra parking area so a guest will have parking off the street. This extra parting area is needed as wheelchair access might take up a good part of the garage. Also outside the building envelope applicant only plans to plant the 12 trees and leave everything else natural.
- The general plan, housing element Policy 7.4 says, “Expand efforts to provide for timely and coordinated processing of residential development projects in order to minimize project holding costs and encourage housing production. (GP, HE pg.6-92)”
- The applicant has already agreed to donate a material portion of her land, both lots, as “Open Space” using a “Scenic Easement” as required by the County to obtain the final map.

Applicant respectfully requests CCC modify COA17 change to notice is to be given only to 1 neighbor house (certified mail as the current tenants are renters and applicant has tried twice to get landlord address, tenant refuses to give) to east of proposed building, 1 notice to neighbor to the west (78 Grandview owners) and the neighbor directly across the street from the empty lot to be built on, for a total of 3 homes.

Drainage Improvements: Relief requested and reasonable accommodations requested from the Conditions of Approval rules, policies, constraints to building:

Current COA 54 states Applicant shall verify that the existing downstream drainage facilities that receive storm water runoff from this project are adequate to convey the required design storm (based on the size and ultimate development within the contributing watershed). If the applicant intends to direct project runoff to the existing roadside ditch along Panoramic Way and it is found to be inadequate, the applicant shall construct improvements to guarantee adequacy. No concentrated flow of storm waters shall be discharged into this roadside ditch. The applicant shall obtain access rights to make any necessary improvements to off-site drainage facilities, including an encroachment permit to do any work within public road right of way.

Request revised COA 54. Modify the requirement (please note Flood Control Policies) and other related requirements in COA, by removing government constraints that require applicant construct on site -site

drainage facilities to meet collect and convey requirements and guarantee adequacy and obtain access rights for all off-site drainage facilities with encroachment permits for work on public road right of way. Insert applicant shall pay the 2017 Flood Control Drainage Fee 35 cents per square feet for drainage area 15A instead.

Applicant is in an Establish Drainage Area 15A, requests to be treated as other applicants in the same drainage area with very small building footprint and wants to follow the rules in General Plan that allows charging a fee of .35 cents a sq. ft. of impervious surface instead of the areas not yet established as adopted drainage areas that do not pay standardized drainage fees but must meet the collect and convey requirements of the subdivision ordinance.

- Public Facilities/Services Element of the General Plan on page 7 states, “flood control drainage areas with established fees...Approved development projects in these drainage areas are assessed a fee based upon the impervious surface.”
- This is a costly, overly burdensome requirement and governmental constraint that impedes the overall building of the project. The costs of...“proving downstream drainage is adequate, guarantying adequacy for drainage, paying for designing plans of the improvements, having CCC review and approve, then having the applicant obtaining access rights to make any necessary improvements to off-site drainage facilities, getting encroachment permits to do any work within public road right of way, building the complex drainage facilities, obtaining approval as building progresses” are just overly burdensome governmental constraints and will indirectly slow down or even halt the project due to excessive requirements and extreme mandates for a very small project. Instead, a reasonable proportion of costs, the fair allocation of impacts generated by the small project’s users should be considered in relation to requiring costly, extensive drainage improvements. In summary, indirectly there is nexus to overly burdensome, costly and material impediments to building and completing the project in an affordable, cost effective and timely manner.
- The Drainage Area Plan and Fees documents states, “Following the adoption of a *drainage plan*, drainage fees can be assessed against new development within the *drainage area*. Because drainage fees can only be assessed on new developments occurring within *adopted drainage areas*, *developments built within areas not yet established as adopted drainage areas* ***do not pay standardized drainage fees but must meet the collect and convey requirements of the subdivision ordinance.*** In most cases, larger development projects are required to make ... mitigation payments, ***although the requirement may not be consistently applied to smaller projects.*** (GP pg. 7-18) Applicant requests the favorable treatment above, as a smaller project, to ensure no discrimination and removal of expensive, burdensome barriers to building the small project.
- Not requiring collect and convey improvements will not significantly imperil the drainage of downstream.
- Applicant requests CCC consider reasonable accommodations, affordability, minimizing project holding costs as stated in the General Plan, and flexibility in site development standards to offset or reduce costs and speed up building process as outlined in the CCC General Plan as a reasonable accommodation request.
- The Housing Element states (pg.6-90)” *GOAL 7 Mitigate potential governmental constraints to housing development and affordability.*

- General Plan provision 4-O says, “All new development shall contribute to, or participate in, the improvement of the ...and flood control systems in **reasonable proportion to the demand impacts and burdens generated by project occupants and users.** (GP4-11)
- **Housing Production** NEW CONSTRUCTION OF AFFORDABLE HOUSING Non-profit and for-profit housing developers play an important role in providing affordable housing in Contra Costa County. Over the years, the County has provided direct financial assistance, regulatory incentives, to...and special needs households. (GP HE pg. 6-96) AND **SPECIAL NEEDS HOUSING** In addition to the development of affordable housing in general, the County will work with housing developers to provide housing appropriate to the County’s special needs populations, including ... physically disabled persons, seniors. Provide financial incentives for the development of housing targeted to special needs populations. (GP HE pg. 6-99) AND 2009 GP goal, and policy **7.3 “Continue to provide planning and development fee reductions, deferral and/or waivers for developments that meet the affordable and special housing needs of the community.”**

Applicant respectfully requests CCC modify COA54, understanding this is a small project and changes the COA to say Applicant is in Establish Drainage Area15A, requests to be treated as other applicants in the same drainage area with very small building footprints and will follow the rules in General Plan that allows charging a fee of .35 cents a sq. ft. of impervious surface instead of the areas with not yet established as adopted drainage areas that do not pay standardized drainage fees but must instead meet the collect and convey requirements of the subdivision ordinance. This change recognizes flood control systems costs can be fairly allocated to the applicant in a *reasonable proportion* to the demand impacts and burdens generated by project occupants, while removing costly, overly burdensome governmental impediments to a small building project.

Thank You,

Mary Dunne Rose