

**Department of  
Conservation and  
Development**

30 Muir Road  
Martinez, CA 94553

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Business Operations Manager

November 2, 2018

Mary Dunne Rose  
1020 Glasgow Place  
Danville, CA 94526

**Re: Appeal of Reasonable Accommodation Denial – Revised Determination Based on  
New Documentation  
County Files: #MS06-0037, #CV14-0042  
APN: 184-462-008  
Address: 78 Grandview Place, Walnut Creek**

Dear Ms. Rose:

The purpose of this letter is to inform you that I have decided to grant, in part, your reasonable accommodation request for your proposed project at the above address. As described below, your request for reasonable accommodation from setback and yard requirements and certain conditions of approval is granted in part. This decision is based on additional information you recently submitted. This letter also describes how the granted reasonable accommodations will be implemented in the future development of your project. Finally, I am writing to inform you that your approved tentative map expires on December 26, 2020, rather than at the end of this year.

**Proposed Project:** County File #MS06-0037 was approved by the County Zoning Administrator on December 14, 2006, to allow for the subdivision of the subject property into two parcels. On May 5, 2014, your representative filed a compliance review application (County File #CV14-0042) to allow recordation of the parcel map and the construction of a residence on Parcel-B. To date, you have not yet recorded the parcel map, as there are remaining conditions that must be completed prior to the recordation.

**Status of Approved Tentative Map:** You asked DCD staff to clarify the status of your approved tentative map (County File #MS06-0037) and the map's expiration date. We have reviewed your previously granted extensions and applicable law, and have determined that your map's expiration date is December 26, 2020.

Your approved tentative map was originally set to expire on December 26, 2009. You were previously granted automatic extensions through December 25, 2012, under Government Code Sections 66452.21 and 66452.22. At your request, the County also previously granted you the

maximum six-year discretionary extension through December 25, 2018, under Government Code Section 66452.6(e). Under Government Code Section 66452.24, your map is also automatically extended an additional 24 months. Accordingly, your map will expire on December 26, 2020.

To record your parcel map, all conditions of approval must be completed and the required documentation must be submitted and accepted as complete by both DCD and Public Works on or before December 26, 2020. The filing period for the parcel map will expire if you do not meet this deadline.

**Request for Reasonable Accommodation:** On October 20, 2017, you requested reasonable accommodations to the conditions of approval and other standards applicable to #MS06-0037. In correspondence dated November 17, 2017, County staff advised you that a preliminary review of your request had been done and that additional information was needed before a final determination could be made. Despite attempts by DCD staff to meet with you, you declined to meet or provide additional information to staff.

On December 5, 2017, the Deputy Director denied your reasonable accommodation request. The Deputy Director determined that several of your requests for relief (those related to Condition Nos. 12, 17, 18, 29, and 54) were unrelated to your disability and denied your request for relief from those conditions. The Deputy Director also determined that your requests for relief from setback and yard requirements and the grading restrictions in Condition No. 11 were related to your disability, but that you had not provided sufficient information for the Deputy Director to determine that the requested relief was necessary to make housing available to you on Parcel-B. The Deputy Director determined that DCD staff had requested additional information from you, but that you had refused to provide the requested information. On December 12, 2017, you appealed the Deputy Director's determination.

On May 9, 2018, I denied your appeal and upheld the Deputy Director's determination to deny your reasonable accommodation request. I determined that your compliance with Condition Nos. 12, 17, 18, 29, and 54 was unrelated to your disability and denied your request for relief from those conditions. I also determined that your requests for relief from setback and yard requirements and the grading restrictions in Condition No. 11 were related to your disability, but that you had not provided sufficient information for me to determine that the requested relief was necessary to make housing available to you on Parcel-B. In my May 9, 2018 letter, I asked you, again, to provide additional information regarding your request for relief from setback and yard requirements and the grading restrictions in Condition No. 11.

On May 21, 2018, you appealed my determination. On June 5, 2018, you submitted an amended appeal. Your appeal of my determination was scheduled for hearing before the County Board of Supervisors on October 9, 2018. Due to your submittal of additional information and this resulting revised determination, and the extended expiration date of your approved tentative map, your appeal hearing has been postponed to provide you with this new information.

**Additional Information Submitted:** On September 11, 2018, you submitted additional information regarding your reasonable accommodation request, as requested by DCD staff and the

previous determination letters. The submitted documentation included site plans, residence plans, drawings, and additional information detailing the basis for several of your requests.

**Revised Determination:** Below summarizes your reasonable accommodation requests along with my revised determinations based on the additional information you submitted on September 11, 2018.

1. *Reduced Structure Setbacks/Yards: You request approval of a 10-foot front setback (20 feet is required), a 5-foot side yard (10 feet is required) along the western boundary, and to allow a covered front porch to be closer than 10 feet to the front property line. You assert that constructing the proposed residence further south on the property within the “flat” area of the lot would reduce the need for interior stairs and provide more space for wheelchair turning.*

**Revised Determination:** DCD staff and the previous determination letters requested that you provide additional information related to this request including plans such as a site plan, building floor plan, or building elevations that illustrate why your desired design elements (e.g., wheelchair accessible hallways, limited amounts of stairs, ADA-compliant rooms) could not be accommodated without waiving the applicable structure setback and yard requirements of the zoning code, and a statement describing why retaining walls or other means could not be utilized to create additional “flat” developable area.

Your September 11, 2018 submittal included a site plan and floor plan with to-scale dimensions supporting the proposed residence size and configuration, and information regarding the necessity of the design elements. Your submittal also stated that the reduced setback and side yard will reduce the distance from the residence to the street, making access to the residence and street easier, and facilitate access around the perimeter of the residence.

Based on the information you provided, I find that the requested accommodation from applicable setback and yard requirements is necessary to make housing on Parcel-B available to you. Accordingly, your request is granted. Subject to all other required conditions and approvals, you may construct the proposed residence with a 10-foot front setback (southern boundary), a 5-foot side yard (western boundary), and a covered front porch within the 10-foot front setback.

2. *Grading (Condition No. 11): You request to be allowed to import and export fill material on-site. Condition No. 11 states that cut and fill on the site needs to be balanced (i.e., no import or export of fill material). You assert that the use of fill material is necessary for the construction of a wheelchair ramp at the entry of the residence.*

**Revised Determination:** DCD staff and the previous determination letters requested that you provide additional information related to this request including plans indicating the location and manner of construction of the proposed wheelchair ramp, and a statement describing why the importing or exporting of fill material from the site is necessary for the construction of the proposed wheelchair ramp.

Your September 11, 2018 submittal included detailed drawings and plans for construction of the proposed wheelchair ramp. You also provided information related to the need to limit the height of the ramp to six inches or less.

Based on the information you provided, I find that the requested accommodation from the grading restrictions in Condition No. 11, to the extent necessary to construct a wheelchair ramp not to exceed 6 inches in height at the entrance of the residence, is necessary to make housing on Parcel-B available to you. Accordingly, your request is granted. Subject to all other required conditions and approvals, you may import and export enough fill material to and from the site to construct a wheelchair ramp not to exceed 6 inches in height at the entrance of the residence.

Your remaining requests seek relief from certain conditions of approval related to your subdivision. Compliance with Condition Nos. 12 (arborist monitoring during grading activities), 17 (opportunity for neighbors to review landscaping plans), 18 (restitution trees to be planted prior to issuance of building permit), 29 (limit on construction-related vehicles access to site) and 54 (drainage requirements) is unrelated to your disability. Reasonable accommodation from these conditions is not necessary to make housing available to you on Parcel-B. Accordingly, my previous determinations are unchanged and each of your remaining requests are denied.

The reasonable accommodations granted above relate to the construction of a residence on the subject property and will be implemented during a future development plan and grading plan approval process. A parcel map must be recorded prior to or concurrent with DCD's review of a development plan. The reasonable accommodations granted above are specific to your project and expire if the need for which the accommodation was granted no longer exists.

**Pending Appeal:** Your appeal of my original determination was scheduled for hearing before the County Board of Supervisors on October 9, 2018. Due to your submittal of additional information and this resulting revised determination, and the extended expiration date of your approved tentative map, your appeal hearing has been postponed to provide you with this new information. You have the following options with respect to the pending appeal.

1. **Withdrawal of Appeal:** You may withdraw your appeal, and this revised determination will be the final decision on the matter and no hearing before the Board of Supervisors will be scheduled. Upon completion of the applicable conditions of approval and recording of the parcel map, and filing of a development plan and grading plan, DCD will implement the reasonable accommodations granted above.
2. **Schedule Pending Appeal for Hearing:** You may maintain your current appeal and request that DCD staff schedule an appeal hearing before the Board of Supervisors. DCD staff will coordinate with you to schedule the appeal hearing to suit your availability. DCD staff plans to recommend that the County Board of Supervisors grant the reasonable accommodations granted above and deny each of your remaining requests, consistent with this revised determination.

Please provide a written response (email or letter) indicating how you would like to proceed in this matter. County staff is available to meet with you to discuss the information contained in this letter, your project, and the outstanding conditions of approval. Please contact Sean Tully, Senior Planner, at (925) 674-7800 or via email at [sean.tully@dcd.cccounty.us](mailto:sean.tully@dcd.cccounty.us) with any questions.

Sincerely,



John Kopchik  
Director

cc: Slava Gospodchikov (Public Works)  
County Files #MS06-0037 and #CV14-0042

