

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDTP21-00076;
David Viggiano (Applicant) and USGL Land, LLC (Property Owner).**

I. FINDINGS

A. Growth Management Performance Standards

1. Traffic: The project is to construct a new single-family residence on a vacant lot. Policy 4-c under the Growth Management Program (GMP) requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The addition of a new single-family residence on Casa de Campo will not generate more than 100 hour traffic trips to and from the project site. Therefore, a traffic impact analysis is not required.
2. Water: The GMP requires new development to demonstrate that adequate water quantity and quality can be provided. New water service is required to accommodate the project. The property is located within the City of Martinez water service area. The City of Martinez must file an "out of service" application with the Local Agency Formation Commission (LAFCO) for the subject property to receive water service.
3. Sanitary Sewer: The GMP requires that new development demonstrate that adequate sanitary sewer quantity and quality can be provided. The subject property currently receives sanitary sewer service from the Central Contra Costa Sanitary District. The construction of one single-family residence in a legally recorded subdivision area is not anticipated to increase the demand for sanitary sewer service to an unmanageable level for the existing wastewater system. The project requires Central Sanitary review and approval to be able to connect to the public sewer system.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban and central business district areas, or requires that automatic fire sprinkler systems be installed to satisfy this standard. The project site is within the Contra Costa Fire Protection District jurisdiction. The project must be reviewed and approved by the Fire District to ensure proper emergency apparatus access roadways, adequate and reliable water supply, and that the new residence be equipped with automatic fire sprinklers.
5. Public Protection: Public protection standards under the GMP require that a Sheriff Facility standard of 155 square feet of station area and support facilities

per 1,000 in population shall be maintained within the unincorporated area of the County. The project is in fill development in an already established subdivision and populated area. The addition of one single-family residence to an already urbanized neighborhood will not increase the demand for police service facilities as the project will not significantly increase in population.

6. Parks & Recreation: Parks and recreation standards under the GMP require three acres of neighborhood park area per 1,000 in population. The project will not significantly increase the demand for parks or recreation facilities, as the project will not significantly increase the housing stock in the County. To mitigate the minor increase in demand for parks created by the project, the applicant will be required to pay a park dedication fee at the time of building permit issuance for the new single-family residence, as is required by Section 920-6 (Standards for Area and Fees) of the County ordinance.
7. Flood Control & Drainage: No portion of the subject property is located within a 100-year flood area as determined by the Federal Emergency Management Agency. In addition, the project does not involve the removal, construction, or alteration of any dams or levees within the County. Also, Grading Inspection will conduct drainage review to verify compliancy with Stormwater C.3 Standards.

B. Tree Permit Findings

Required Factors for Granting Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 (A) and (G) for granting a Tree Permit have been satisfied as follows:

1. 816-6.8010(A): The arborist report indicates that the tree is in poor health and cannot be saved.

Staff Response: The arborist report prepared by certified arborist Bob Peralta (#WE-7150) of Bob Peralta's Consulting Arborists dated November 3, 2021, indicates that 5 Coast Live Oaks (between 13-43 inches trunk diameter) are dead and cannot be saved.

2. 816-6.8010(G): 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.

Staff Response: New single-family residential development of a vacant lot that requires removal of 17 Coast Live Oaks (between 6.5-64 inches trunk diameter), 3 Valley Oaks (8, 14, and 14 inches trunk diameter), and 1 Bay Laurel (20 inches trunk diameter), and work within the dripline of 3 Coast Live

Oaks (8, 20, and 26 inches trunk diameter) and 2 Valley Oaks (14 and 16 inches trunk diameter), and could not be reasonably accommodated on another area of the lot.

The subdivision established this area to be the least impactful when constructing a residence with the recording of the Restricted Development Area. Also, the road and driveway were already constructed with the creation of the subdivision, so the house site is already predetermined. This development is outside the Restricted Development Area and at the end of the already constructed driveway, resulting in the least amount of grading and tree removal.

C. California Environmental Quality Act (CEQA) Findings

The project is categorically exempt under Class 3: CEQA Guidelines Section 15303(a), New Construction or Conversion of Small Structures: Construction of one single-family residence, or a second dwelling unit in a residential zone.

The project is to construct a single-family residence on a legal lot in an agriculturally zoned area where a single-family residence is a permitted use. There is tree removal and work within the dripline in order to construct the building, but this Tree Permit mitigates this potential impact with Best Management Practices to be executed during construction and protective fencing to be up along the trees' driplines throughout construction, as described in the approved arborist report prepared by certified arborist Bob Peralta (#WE-7150), and tree replanting during the landscaping phase of this project.

II. CONDITIONS OF APPROVAL FOR COUNTY FILE #CDTP21-00076:

Project Approval

1. This application for a Tree Permit and Alhambra Valley Design Review to allow removal of 17 Coast Live Oaks (between 6.5-64 inches trunk diameter), 3 Valley Oaks (8, 14, and 14 inches trunk diameter), and 1 Bay Laurel (20 inches trunk diameter), and work within the dripline of 3 Coast Live Oaks (8, 20, and 26 inches trunk diameter) and 2 Valley Oaks (14 and 16 inches trunk diameter) to develop a single-family residence on a vacant lot, and to remove 5 Coast Live Oaks (between 13-43 inches trunk diameter) because they are dead, is APPROVED by the Department of Conservation and Development, Community Development Division (CDD).

2. This application for a Tree Permit is approved based on the following documents:
 - Application materials and project plans submitted on November 30, 2021;
 - Additional materials submitted on January 25, 2022; and
 - Arborist report prepared by certified arborist Bob Peralta (#WE-7150) of Bob Peralta's Consulting Arborists dated November 3, 2021.

Payment of Fees

3. This Tree Permit application was subject to an initial deposit of \$3,000.00. The application is subject to time and material costs if the application review expenses exceed the initial deposit. **Any additional fee due must be paid prior to submittal of a building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner.

Tree Protection

4. Storage or parking vehicles, building materials, refuse, excavated spoils, or dumping of paint or poisonous materials on or around trees and roots is prohibited.
5. **Prior to issuance of a building permit**, the tree protective fencing as described in the approved arborist report shall be installed onsite. Color photographs of the installed fencing shall be submitted to CDD staff as evidence that this condition has been satisfied.
6. If the tree protective fencing needs to be temporarily moved for construction purposes, once the work is complete, the tree protective fencing shall be put back to its original state.
7. The applicant shall immediately notify CDD staff of any damage that occurs to any tree during construction. Any tree not approved for destruction or removal that dies or is significantly damaged as a result of this project shall be replaced with a tree or trees of equivalent size and of a species as approved by the CDD to be reasonably appropriate for the situation.

8. If project site grading, construction, tree removal, or site clearance will take place during the nesting season (February 1 through August 31), a nesting survey shall be conducted on the project site and within a zone of influence around the project site within 5 days of the initiation of the activities listed above. The zone of influence includes those areas off the project site where birds could be disturbed by earth-moving vibrations or noise.

If nesting birds are found, then no work shall be initiated until nest-specific buffers have been established by the qualified biologist. The buffer area(s) shall be fenced off from work activities and avoided until the young have fledged, as determined by the qualified biologist. Active nests within or adjacent to the project site shall be monitored by the qualified biologist daily throughout the duration of project activities for changes in bird behavior or signs of distress related to project activities. If nesting birds are showing signs of distress or disruptions to nesting, then that nest shall have the buffer immediately increased by the qualified biologist until no further interruptions to breeding behavior are detectable.

Related Tree Activities/Removal Best Management Practices (BMPs)

9. The following tree related BMPs shall be implemented during project construction and **shall be present on the site plan for building permit(s) as construction notes:**
 - If needed, pruning shall adhere to ISA and American National Standards Institute (ANSI) Standards and Best Management Practices.
 - Should tree dripline encroachment be necessary, the contractor shall contact the project arborist for consultation and recommendations.
 - Should any damage to the trees occur, the contractor shall promptly notify the project arborist to appropriately address the damage.
 - If roots > 2" in diameter are encountered during trenching, grading and/or excavation, consult the project arborist for recommendations. If appropriate, roots shall be cleanly pruned with a handsaw or sawzall, immediately covered, and kept moist till backfilled.

Restitution for Tree Removal

10. The following measures are intended to provide restitution for the removal of 26 code-protected trees:

- A. Tree Replacement Plan: Prior to submittal of a building permit, the applicant shall submit a Tree Replacement Plan prepared by a licensed arborist or landscape architect for the review and approval of CDD. The Plan shall provide for the planting of at least 10 indigenous oak trees, minimum 15-gallons in size. The Plan shall assist in screening the new residence from Alhambra Valley Road and 130 Oak Bridge Lane. The Plan shall be implemented prior to requesting a final inspection.
- B. Required Security to Assure Completion of Plan Improvements: Prior to issuance of a building permit, the applicant shall submit a security (e.g., bond, cash deposit) that is acceptable to CDD to ensure that the Tree Replacement Plan is implemented.

Determination of Security Amount: The security shall provide for a breakdown of all of the following costs:

- A labor and materials estimate for planting the 10 indigenous oak trees, minimum 15-gallons in size, and related irrigation improvements that may be required, prepared by a licensed landscape architect or landscape contractor.
 - An additional 20% of the total of the above amounts to address inflation costs.
- C. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs of staff for processing the landscape improvement security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.
- D. Duration of Security: The security bond for each lot shall be retained by the County for a minimum of 12 months up to 24 months following final building inspection. A prerequisite of releasing the bond between 12 and 24 months shall be to have the applicant arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. In the event that CDD determines that the tree(s) intended to be protected has been damaged, and CDD determines that the applicant has not been diligent in providing reasonable restitution, then CDD may require that all part of the security be used depending on the extent of the damage to the tree(s).

11. Tree removal associated with development shall occur only with an approved grading or building permit.

Contingency Restitution for Work within the Dripline

12. Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity nevertheless damages the tree(s) where work is within their dripline, the applicant shall provide the County with a security (e.g., bond, cash deposit) to be submitted **prior to issuance of a building permit**, to allow for replacement of the tree(s) intended to be preserved that are significantly damaged by construction activity. The security shall be based on:

- A. Extent of Possible Restitution Improvements: The planting of up to 5 indigenous oak trees, 15-gallons in size, in the vicinity of the affected tree(s), or equivalent planting contribution, subject to prior review and approval of CDD.
- B. Determination of Security Amount: The security shall provide for a breakdown of all of the following costs:
 - Preparation of a landscape/irrigation plan by a licensed landscape architect or arborist.
 - A labor and materials estimate for planting 5 indigenous oak trees, 15-gallons in size, and related irrigation improvements that may be required, prepared by a licensed landscape architect or landscape contractor.
 - An additional 20% of the total of the above amounts to address inflation costs.
- C. Acceptance of Security: The security shall be subject to review and approval of CDD. The County ordinance requires that the applicant pay fees for all staff time and material costs associated with processing a tree protection security. The applicant shall pay an initial fee deposit of \$200 at time of submittal of a security.
- D. Duration of Security: The security shall be retained by the County for a minimum of 12 months and up to 24 months following completion of work within the trees' dripline. A prerequisite of releasing the bond prior to 24 months shall be to have the applicant arrange for a consulting arborist to inspect the tree(s) and prepare a report on the trees' health. In the event that CDD determines that any of the trees intended to be preserved have been damaged by development activity, and CDD determines that the applicant has not been diligent in providing restitution of the

damaged tree(s), then CDD may require that all or part of the security be used depending on the extent of the damage to the tree(s).

Alhambra Valley Specific Plan

13. The approved color and material board shall remain the same and be present on the elevation plans for building permit(s). If any color or material choices are changed after this approval, the applicant/property owner must first obtain approval from CDD staff. **Prior to final building inspection**, as-built color photographs of the residence shall be submitted to CDD staff as evidence that this condition has been satisfied.
14. Fences – Fences shall be designed and located so that they do not block vehicle and pedestrian sightlines and so that they are compatible with the design of the residential building and are aesthetically attractive.
 - a. New fencing up to 4-feet in height is allowed at the front property boundary and within the front yard setback. Fencing shall be open-rail or wire.
 - b. Solid board fencing along side and rear property boundaries are to be discouraged in cases where an agricultural use is adjacent to proposed development; fencing on slopes greater than 15% shall be open-rail or wire. Barbed wire may be used to keep grazing animals contained.
15. Exterior Lighting – Both construction and permanent exterior lighting should be designed to eliminate glare. Lighting shall be shielded and directed downward. Lamps shall be low wattage and have an incandescent light color.
16. Drought-Tolerant Landscaping – Landscaping shall comply with the State’s Model Water Efficient Landscape Ordinance. Turf areas shall be restricted to a maximum of 25% of the total planting area.
17. Public Utilities – all new utilities shall be placed underground.

Water Efficient Landscape Ordinance (WELO)

18. **Prior to issuance of a building permit**, a completed WELO Part I shall be submitted to CDD staff for review and approval. The approved Landscaping Plans under WELO Part I shall be present in the construction plan set for a building permit.
19. **Prior to final building inspection**, a completed WELO Part II – Certificate of Completion (attached) shall be submitted to CDD staff for review and approval.

20. The landscaping plan shall be compliant with the State Model Water Efficient Landscape Ordinance or County Model Water Efficient Landscape Ordinance, whichever ordinance applies.

Construction Period Restrictions and Requirements Best Management Practices (BMPs)

The following construction related BMPs shall be implemented during the tree related activities and during project construction and **shall be present on the site plan for building permit(s) as construction notes:**

21. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 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)
- Cesar Chavez Day (State)
- Memorial Day (State and Federal)
- Juneteenth National Independence Holiday (Federal)
- Independence Day (State and Federal)
- Labor Day (State and Federal)
- Columbus Day (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: <http://www.federalreserve.gov/aboutthefed/k8.htm>

State: <http://www.sos.ca.gov/holidays.htm>

- a. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
- b. 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 and concrete pumps as far away from sensitive receptors as possible.
- c. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows.
 - d. Transporting of heavy equipment and trucks shall be limited to the hours of 9:00 A.M. to 4:00 P.M., Monday through Friday, and is prohibited on state and federal holidays.
 - e. Unnecessary idling of internal combustion engines is prohibited.

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 90th 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. Additional requirements may be imposed by the following agencies:
 - Contra Costa County Building Inspection Division
 - Contra Costa County Public Works Department
 - Contra Costa Fire Protection District
 - Central Contra Costa Sanitary District
 - Local Agency Formation Commission (LAFCO)

Prior to applying for a building permit, the applicant is strongly encouraged to contact these agencies.