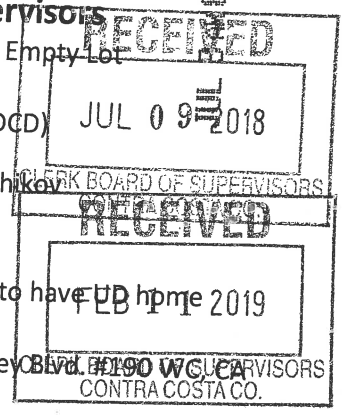


CCC Requested Nexus Analysis for Appeal to Board of Supervisors
Applicant to Build Universal Design Disabled Friendly Home to Age in Place on Empty Lot



July 8, 2018 Letter to Contra Costa County (CCC) Department of Community Development (DCD)

To: DCD Director John Kopchik, PW Division Manager Vyacheslav Slava Gospodchikov
From: Mary Dunne Rose, Owner of property; # MS060037 or CV14-0042; 87
Re: **Nexus – Attachment to Board of Supervisor Appeal filed on June 5, 2018**
Property: 78 Grandview Place, Walnut Creek, CA approved permit - lot split, new lot B to have UD home
APN: 184-462-008, County File #MS 060037, confidentially requested
Applicant: Property owner Mary Dunne (Rose), marydRose1@gmail.com; 1966 Tice Valley Blvd. #190 Walnut Creek, CA

This document addresses CCC's verbal request (staff S. Tully at 6/27/2018 meeting with Public Works) for "Nexus" analysis for upcoming Board of Supervisor Appeal hearing by applicant as to how her Reasonable Accommodation (RA) requests are related to applicant's disability.

Disability Physical Impairment 1. Applicant's physical impairment is as follows:

CCC Acknowledgement that Applicant is Qualified Person with Disability CCC has acknowledged they verified applicant suffers from a qualifying RA feet disability as defined by the ADA.

Use of Housing by Applicant & her Family Applicant intends to live and use the UD disabled friendly home to age in place safely with UD ground floor modifications.

RA is necessary to make specific housing of their choice available to disabled applicant Most important is the medical based accommodation requested: the lot is only about 6 to 8 minutes to Kaiser hospital, applicant's family medical offices, which is necessary for easy access given applicants mobility impairments which substantially limit major life activity of walking. Also, necessary quick access to the hospital given her partner's diabetic issues along with his ongoing cancer testing and hip issues. Moreover, applicant chooses to age in place. Chooses not to live in "assisted living, skilled nursing or board and care" (warehoused). Instead, we choose to age safely in place in our ground floor disability friendly home.

Discrimination is defined by various laws that includes "a refusal to make reasonable accommodations in rules, policies, practices, or services, when **such accommodations may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling of their choice,**" §3604(f)(1)(A) and (f)(3)(B) or otherwise deny or make unavailable. Building our UD, mobility friendly home will eliminate barriers to walking, entering our home safely, showering, cooking, walking to the street for socializing, performing daily activities that other non-disabled folks enjoy on a daily basis such as getting the newspaper and mail, taking out the garage, walking her land to performing maintenance checks on our home. Also, important, mobility impaired disabled person needs stable walking surface to prevent falls, missteps, staggering and resulting accidents; she doesn't need muddy puddles to hinder safe walking or unlevel ground causing falls due to balance and walking problems caused by her disabled feet.

No Undue Financial or administrative burden to CCC Every requested RA below and attached are just changes to 2006 erroneous and unfair conditions of approval imposed upon disabled applicant in a discriminatory

manner. Applicants proposed changes below are necessary to remove inequitable CofA that are prejudiced against disabled person and these type of CofA are not imposed on other similarly situated, non-disabled builders. CCC in 2018 fiscal year has a huge budget of approximately \$3.4 billion, including general fund and other special funds. The requested changes below will not cause undue financial or administrative burden.

No fundamental alteration in the nature of CCC programs or laws, including land use and zoning None of these changes will fundamentally alter the nature of CCC programs or laws, including land use and zoning. In fact, they will uphold many of CCC General (GP) Plan Housing Element policies and state and federal laws surrounding RA processing and disabilities and civil rights. CCC General Plan include many references to RA and committing to building for disabled, special needs persons. These RA requests below will allow CCC to comply with their own GP. Also, important, Cal code 65583 (c)(3) states, "Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities." There are many more laws applicant will refrain from listing.

Building Site of UD disability friendly home on ground floor There are special circumstances applicable to the subject property because of its hill top location, size, shape, topography, location and slope, grade and very important, views. Applicant's lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations, other changes to CofA. This is a very distinctive piece of property that has grand views; wild life such as deer, turkeys and squirrels that would allow this aging applicant to fully enjoy life as her mobility continues to decline over her remaining life. Most important is the medical accommodation requested: the lot is only about 6 to 8 minutes to Kaiser hospital, applicant's medical offices which is necessary for easy access given applicants mobility impairments which substantially limit major life activity of walking. Finally, very near to the bus stop, downtown Walnut Creek, 680 and 24 freeways, along with BART.

Nexus Analysis Staff S. Tully requested at 6/27/2018 Public Works meeting applicant prepare this "Nexus Analysis". See each point below for detail analysis of "Nexus". Noteworthy is applicant never received any RA policy from CCC (even though she and her hired consultant repeatedly requested as allowed by law) until after her application was filed with the County. Hence, applicant never knew this was required. Most important, the current CCC internal RA policy given to applicant does not mention anywhere applicant is required to prepare complex "Nexus Analysis." There are different types of Nexus analysis for reasonable accommodation. For example, see "THREE FORMULATIONS OF THE NEXUS REQUIREMENT IN REASONABLE ACCOMMODATIONS LAW." Also see different settled lawsuits for different theories. Applicant is really struggling to understand what "Nexus" even is.

RA is being requested for various Conditions of Approval (CofA) imposed by CCC to build on the empty lot.

September 2006 applicant met with CCC DCD staff Ms. Rose Marie Pietras to discuss the application. Applicant informed Ms. Pietras of my foot deformity, showed her the foot and told her that applicant needed to plan for her old age as the foot also had increasing rheumatoid arthritis. CCC staff Ms. Pietras was callously indifferent to my protected Civil Rights, disability status. Staff Ms. Pietras proceeded to intentionally create unequitable, discriminatory CofA. Some examples of the following RA requested changes to CofA were created by staff intentionally discriminating against applicant by imposing certain CofA that have excessive restrictions and certain unfair, unequitable and unjust, mistake conditions to satisfy to build the dwelling of our choice. It is discriminatory (see the Acts) and illegal to create unreasonable conditions approval in a manner that renders a project infeasible for development and penalizes disabled applicant when other non-disabled similarly situated people are not burdened with these excessive, disparate CofA, for very small project such as applicants'. These following examples of CoA show inequitable costs, adverse impacts and barriers imposed on the applicant by CCC's CofA that has not been required of other developers of like projects in the past.

Requirement to Build Impossible Road(s) Nexus Analysis:

CofA #25 Road Building Requirement Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice

under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant respectfully requests Condition of Approval (CofA) #25, second and third sentence be removed.

These are requirements that state, "...Prior to issuance of building permits, the proposed road(s) serving this development shall be constructed to provide access to each lot. This shall include provision to an on-site area to park earth moving equipment." **Applicant can't obtain the "building permit" until she builds the road(s).**

This is a governmental constraint and barrier of monumental proportions to disabled home development and imposes an adverse impact on applicant.

Applicant has feet physical impairments disability, that lead to significant impaired mobility, balance, walking issues which creates the need for this RA request. This impairment substantially limits major life activity of walking. The neighborhood already has a road to the site. CCC requiring applicant to build road(s) to her home from Grandview Place to Panoramic Way down the extreme steep slope is hazardous, financially exorbitant and discriminatory. It is illegal and unethical to put CofA's on a disabled person in a manner that renders the disabled friendly home building project infeasible (cost prohibitive and too dangerous). The road will be treacherous, unsafe and too perilous for disabled applicant to EVER use, walk on; even with my cane or walker or wheelchair. To require a mobility disabled person to build a road(s), at exorbitant costs, that will cause actual and imminent injury and risk of injury to the applicant if she were to use the roads(s), including the humiliation of applicant's inability to walk on or use and enjoy my own costly road is harassment, discriminatory and demeaning.

Most important point, **this CofA effectively prevents applicant from ever obtaining a building permit** by denying the equal opportunity to use and enjoy a dwelling -making housing unavailable (dangerous, high costs, tremendous red tape, extensive delays, required excessive actions and CofA to be performed by applicant). This inequitable cost imposed on the applicant has not been required of other developers of like projects in the past.

This "equal opportunity and equal access" nexus accommodation request by applicant is CCC's removal of CCC's requirement that applicant build a costly, dangerous road that applicant will be unable to use due to her feet disability and applicant's request that she needs to be treated equally as other non-disabled minor home builders who are required to build roads and then are able to use the roads without risk of actual or imminent injury to access their new dwelling to use and enjoy. The same "equal opportunity and equal access" nexus concept also applies to CCC requirement to build as part of the road, "...on-site area to park earth moving equipment."

The requested accommodation would not impose an undue financial or administrative burden on the County. Deleting CofA #25 is not costly and will stop CCC from forcing applicant to build a "neighborhood safety hazard" and then CCC could not force applicant to walk on her dangerous road with her feet impairment that substantially limits major life activity of walking; applicant will fall and die or end up in the hospital if she uses the road CCC insists she builds. Removal of CofA#25 is necessary to ensure CCC applicant stays alive so the property will continue to be used and accessible to applicant; if I am dead, I cannot use and enjoy housing of our choice.

The requested accommodation would not require a fundamental alteration the County's land use and zoning program. In fact, CCC is currently imposing different requirements on this residential development than those imposed upon non-disabled developments. CCC is forcing applicant to build a very dangerous road when other developers don't have to build dangerous roads.

There are special circumstances applicable to the subject property because of its size, shape, topography, location and slope, grade; building an unwalkable road for a mobility impaired person and scarring the hillside deprives the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific CCC services and build Universal Design wheelchair friendly ground floor housing of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Landscaping Nexus Analysis:

CofA #17 and CofA #18 Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, landscaping timing requirements, development and use of housing that

would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice and receive equal CCC services under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant respectfully requests CCC change one word (underlined) in CofA #17 and CofA #18 from "building permit" to "occupancy permit".

Applicant has feet physical impairments disability that negatively and significant impairs her safe mobility, balance, walking. This impairment substantially limits major life activity of walking. This impairment creates the need for the RA request to change one word in the CofA #17 and #18, from "building" to "occupancy" to remove the possibility of duplicate need for walking and supervising the landscaping of the disabled home site relating to CofA #17 and #18. Planting prior to starting any construction, will more likely than not result in the landscaping being destroyed by the ongoing construction process by the time the project is completed. For example, construction activities will destroy front and side yard plants, ruin front yard drip system and require landscaping all over again at great cost and hazards to walking due to applicant feet disability .

Requiring applicant to drive up to the job site, walk around, oversee plant selection, stand at the site with feet hurting to observe digging, planting, installation of drip system so she can obtain her building permit. Then, if the plants are required to be planted before building permit is issued and there is no water is on site or the drip lines or plants are damaged by construction process 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, walk site again with fall risks 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.

These connections demonstrate nexus, the identifiable relationship of the applicant's disability mobility needs to the needed and necessary request for RA change of one word in CofA #17 and change of one word in CofA #18 that is necessary for applicant (with feet physical impairments disability) in eliminating walking and mobility difficulties to successfully complete CofA #17 and #18, build their home and afford equal opportunity use and enjoyment in normal activities in a disabled persons' life such as landscaping their home.

For example, CCC CofA #22 allows landscaping to be installed prior to "occupancy permit" for project File #MS13-0007 Dyer/Allen, a non-disabled applicant. #MS13-0007 is allowed to pay a bond and "...the plan shall be implemented prior to final building inspection." In other words, plant after the building is constructed.

Most important point, this CofA effectively increases applicant's fall risks while denying the equal opportunity to landscape safely by disabled applicant, to use and enjoy a dwelling like non-disabled persons (safety hazards, red tape, extensive delays to obtain building permit, required duplicate actions and unsafe CofA's to be performed by applicant).

Further, other non-disabled persons, similarly situated, are granted this relief through properly, non-discriminatory written CofA. For example, non-disabled project that does not have this (plant before construction starts) requirement, for example, is County File #ms13-0007 Dyer, Allen (plant prior to final "building" inspection (see CofA #8(a)(i)). This inequitable cost imposed on the applicant has not been required of other developers of like projects in the past.

The "change one word in CofA #17 and #18 from building to occupancy" accommodation is necessary to put disabled applicant in the same position as someone without a disability and therefore afford equal opportunity to properly and safely landscape and to build our Universal Design ground floor housing of our choice and to accommodate my mobility handicap needs.

The requested accommodation would not impose an undue financial or administrative burden on the County as the action is only a RA request to change of one word in CofA #17 and change of one word in CofA #18. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, as the RA request to change of one word in CofA #17 and change of one word in CofA #18. In fact, the changes will uphold and promote the CCC Housing Element Goals and other General Plan (GP) Goals such as GP 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).

Side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations, other changes. The requested accommodation is reasonable, the cost is materially null, this type landscaping approval after the building is complete has been granted by CCC in the past and would not be an undue hardship or substantial burden to CCC. Whereas, the benefits to applicant who faces daily mobility barriers are huge and life changing, instrumental to living as close to a normal life as possible.

There are special circumstances applicable to the subject property because of its size, shape, topography, location and surrounding; denying the one-word change deprives the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific housing services of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

No Allowed Import or Export of Fill-Grading Nexus Analysis:

Grading Condition of Approval (COA) 11: Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant is requesting RA elimination of this barrier to disabled mobility friendly safe and level graded terrain of lot and related grading process; **removal of the discriminatory CofA #11 that “requires no import or export of fill material is allowed” throughout the entire building process as part of the projects grading plan.**

Applicant respectfully requests a change in the current grading plan CofA#11. Similarly, situated non-disabled people do not usually have this CofA that doesn't allow for sufficient import and export fill material on-site necessary to correctly grade and build a home of this small project size. Applicant needs her home lot graded properly. Proper and correct grading will lessen the mobility walking difficulties caused by applicants walking (caused by her feet disability/handicap) by reducing the hazards of improperly graded terrain, reducing the possibility of improperly built entry ramp to front door, crookedly built home and not level foundation and improper drainage grading. Improper grading due to insufficient fill and or excess fill negatively impacts safe, easier mobility afforded a handicap person with walking problems, due to feet disability, who has a right to equal opportunity and equal treatment to use and enjoy a safe, code compliant, properly built home. CofA#11 penalizes, burdens, does not afford applicant equal opportunity and creates unsafe building conditions for a mobility impaired applicant.

Applicant has feet physical impairments disability that negatively and significant impairs her safe mobility, balance, walking which creates the need for the RA request of allowing import and or export of fill for building home of our choice to ensure needed of level, safe, code compliant grading of all terrain on the lot to prevent improperly graded and unleveled ground that has excess piles of dirt or “low spots” (dangerous trip and fall hazards) for mobility impaired person when leaving house to go the street (to interact and communicate with neighbors) and slippery, muddy spots in winter due to improper drainage grading (walking endangerments for mobility impaired person going to the mail box or taking out garbage or picking up paper) and wrongly built wheelchair ramp with no stairs (risks and likelihood the mobility disabled person will lose her balance and hurt self). Details for RA needs for disabled mobility impaired applicant as follows All these reasons for accommodations are underlined; grading issues that are necessary for mobility impaired disabled person to ambulate successfully and safely at her dwelling:

- appropriately graded and leveled lot (using correct amount of dirt fill for grading to acceptable level – mobility impaired disabled person needs stable walking surface to prevent falls, missteps, staggering and resulting accidents);
- for properly built cement wheelchair ramp (accurate, appropriate changing elevation of ramp is necessary, a mobility impaired disabled person needs correctly angled ramp to prevent stumbling, missteps, accidents going from driveway to front door entry way and to safely enter UD disability assessable home, hereby reducing physical barriers to home for a mobility impaired person);

- for house floors inside to be level per code (floors need to be level for safe walking of mobility impaired person and lessen walking difficulties of such persons);
- building of level foundation of home properly and to approved codes (again, floors need to be level for safe walking of mobility impaired person in the house to prevent falls);
- appropriate grading of level lot "grounds" (accommodation is need in for proper grading in the garden, terrain to mail box and terrain encompassing the entire front yard to afford handicap person safe walking (no stumbling, tripping, falling) leading to equal opportunity to use and enjoy their entire home and grounds);
- code compliant graded lot for drainage (using correct amount of dirt fill for grading to acceptable level to reduce slippery, muddy puddles that are hazardous for stable walking).

The effects of this nexus identifiable relationship will be necessary to lessening or eliminating "living disabled life difficulties"; including properly building and grading the property for safe disability walking use and access to home type of housing of our choice (correctly built front yard ramp for safe entry of person with mobility problems due to feet disability) and increases equal opportunity use and enjoyment and safety in enjoying typical human activities (such as entering home safely and walking the property safely) in a disabled persons' daily life.

Most important point, this CofA effectively prevents applicant from safely, timely, correctly and cost effectively grading her lot by making the equal opportunity to use and enjoy a dwelling unavailable (walking hazards, costs, tremendous red tape, extensive delays, required extreme actions and excessive CofA to be performed by applicant).

Further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process or even properly, non-discriminatory written CofA.

For example, non-disabled project that does not have this "no import or export of fill grading" requirement, is County File #ms13-0007 Dyer, Allen (not forced to have balanced cut and fill grading). This inequitable cost imposed on the applicant has not been required of other developers of like projects in the past.

The change to the "CofA #11 grading plan to allow import and export of fill material" will help put applicant in the same position as someone without a disability building a safe and cost-effective home, grounds with level terrain and proper drainage and to be able to walk outside in the graded area without tripping and falling and therefore provide equal opportunity to housing of their choice. CCC housing element goal, in General Plan, # 7 says, "Mitigate potential governmental constraints to housing development and affordability."

The requested accommodation would not impose an undue financial or administrative burden on the County, just delete the CofA, not a costly action. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, just delete the CofA, only then can applicant be treated as other similarly situated non-disabled builders. In fact, the accommodation will uphold and promote the CCC Housing Element Goals and other General Plan Goals.

Additional side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations and further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process. The requested accommodation is reasonable, the cost is materially null, this type of reduced setback has been granted by CCC in the past and would not be an undue hardship or substantial burden to CCC. Whereas, the benefits to applicant who faces daily mobility barriers are huge and life changing, instrumental to living as close to a normal life as possible.

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific housing services of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Limited to Two Construction Vehicles at Any time at the Job Site Nexus Analysis:

CofA #29: The construction vehicles limited to two only, COA 29 is requested to be modified or an exception allowed. CofA #29 states, "Construction-related vehicle access to the site shall be limited to two vehicles.

Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow

persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant requests accommodation by removing entirely (deleting) the limits on parking only two vehicles at job site. This COA discriminates, slows and lengthens the building process, adding unnecessary delays (adds barriers to hinder applicant's disabled home building for safe walking, living, due to feet mobility issues), throughout the entire grading, landscaping and then construction process.

This CofA for no more than two construction vehicles at one is discriminatory because it is so burdensomely impossible to comply with, there are times more than 2 construction vehicles are need on site to comply with CCC CofA and programs.

For example, applicant needs more than 2 construction vehicles on site to comply with CCC various CofA;

1. The grading vehicles (CofA #11 with no import or export of fill CofA will take an inordinate amount of time), 2. the required (CofA#12(A)) arborist vehicle who needs extra time observing the grading and 3. the litter (CofA #24) vehicle & 4. dust control vehicle (CofA #28 taking extra time while "conserving water") all are on site. Therefore, this CofA, "vehicles limited to two only," will ensure costly barriers are in place and the job will be continually shut down with CCC work stoppage orders.

Also, important, CofA #24 and CofA#28 require "A dust control requirement of the Grading Ordinance including provisions pertaining to water conservation" and CofA #24 states ...**"Any violation...shall require an immediate work stoppage."** **"Construction work will NOT be allowed to resume..."** Applicant needs to have more construction vehicles than 2 at a time to comply with CofA #24 and CofA#28 so the job will not be shut down and she will be treat the same a non-disabled folks similarly situated.

The nexus, the identifiable relationship between the applicant's disability and the necessary accommodation, relates to applicant need to be allowed to build her disability friendly, Universal Design ground floor home. Work stoppages do not permit the home from being completed. CCC will continually shut down the job (CofA #24) if applicant has proper number of contractors on site to complete the job appropriately, working together, complying with other CCC CofA, as there are times more than 2 vehicles are needed simultaneously to comply with other CCC CofA. A "Catch 22" CCC created problem.

Applicant needs CCC to delete CofA #29, that limits parking only 2 vehicles at job site. Only then will the ongoing, necessary grading and construction work comply with CCC CofAs and work stoppages will cease to be a threat. Then our special home in our neighborhood can be completed and our family afford equal opportunity use and enjoy our home.

In summary, limit of two vehicles only on job site equals work stoppages which equals no Universal Design home which leads to denial of equal opportunity of right to live in housing of our choice. CCC CofA #29 policy imposes adverse impacts on building and disabled persons rights, leading to discrimination.

This inequitable CofA #29 imposed on the applicant has not been required of other non-disabled developers of like projects in the past.

For example, a non-disabled project that does not have this "construction vehicles limited to two only" requirement, is County File #ms13-0007 Dyer, Allen (no mention of limiting ANY construction vehicles).

The deleting of CofA #29 "only two construction vehicles requirement" is necessary to put disabled applicant in the same position as someone without a disability and therefore afford equal opportunity to obtain final maps and building permits timely, to build our UD housing of our choice without work stoppages and to accommodate my mobility handicap needs.

The requested accommodation would not impose an undue financial or administrative burden on the County, deleting the CofA is not costly nor difficult for CCC. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, in fact the accommodations will comply with and promote the CCC Housing Element Goals and other General Plan Goals. CCC Housing Element GOAL 7 states, "Mitigate potential governmental constraints to housing development and affordability."

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific housing services of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Setback Nexus Analysis:

Front setback (south of lot) Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant respectfully requests front of lot setback of 10 feet from property line to new house (instead of 20 feet required) (near west side of lot) and 8 feet set back to new garage. The edge of road will still be approximately 20 feet away if 8-foot setback is granted as edge of pavement to lot line is approx. 12 feet.

Applicant has feet physical impairments disability, that lead to significant impaired mobility, balance, walking issues which create the need for the RA request to create shorter walking distance from the house to the street. Requested needed reduction in setback rules that is needed will allow the home to be built closer to the neighborhood street and applicant's mailbox to reduce barriers of walking created by my impaired mobility disability. Applicant needs the home closer to the street (reduced distance from home) to lessen the distance and difficulties in performing manual tasks such as walking, increasing safe, easier mobility to the mail box and back each day to collect mail and put in outgoing mail. The same nexus connection "reduced walking distance" relationship applies to weekly taking out the garbage cans to the edge of street for pickup and proper sanitation disposal and putting these 3 separate empty cans away. Finally, applicant receives 2 newspapers daily, and needs to pick these up also. Also, important, the home built closer to the street with reduced setbacks due to RA granted reduction in governmental setback constraints and eliminating regulatory barriers, is needed to lessen the mobility difficulties caused by my particular handicap and reduce the distance from the home to walking to the street, increasing safe, easier mobility to get to the street to talk with, communicate, connect and interact with neighbors, (reducing disability caused issues such as; isolation, living like a house bound prisoner, inaccessibility and segregation of neighbors to disabled applicant), affirmatively enhancing the use of my home so as to positively impact my quality of life. This is a unique need based on mobility issues and the need to reduce isolation as applicant ages. My family will then have an equal opportunity to use and enjoy our dwelling like other similarly situated non-disabled people.

These connections demonstrate nexus, the identifiable relationship of the applicant's disability mobility needs to the needed and necessary request for RA set back change that is necessary to applicant (with feet physical impairments disability) in eliminating walking and mobility difficulties to positively experiencing the use of our home in our neighborhood and afford equal opportunity use and enjoyment in normal activities in a disabled persons' daily life at their home.

The "reduced setback nexus accommodation" is necessary to put disabled applicant in the same position as someone without a disability and therefore afford equal opportunity to obtain maps and building permits timely, to build our UD housing of our choice and to accommodate my mobility handicap needs. The requested accommodation would not impose an undue financial or administrative burden on the County. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, in fact the accommodations will comply with and promote the CCC Housing Element Goals and other General Plan Goals.

Note the neighbor directly east of lot has a significantly less than an 8-foot set back from lot line to edge of structure, which is common in this neighborhood.

Additional side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations and further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process. The requested accommodation is reasonable, the cost is materially null, this type of reduced setback has been granted by CCC in the past and would not be an undue hardship or substantial burden to CCC. Whereas, the benefits to applicant who faces daily mobility barriers are huge and life changing, instrumental to living as close to a normal life as possible.

There are special circumstances applicable to the subject property because of its size, shape, topography, location and surrounding; the strict application of the respective zoning regulations deprives the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Note the neighbor directly east of lot has a significantly less than an 8-foot set back from lot line, which is common in this neighborhood.

Additional side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations. Further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process.

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific housing services of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Setback Nexus Analysis:

Side yard setback (west side) Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws. **Applicant is requesting 5 feet set back on entire side yard, west side (instead of 10 feet required). This results in an extra 180 square feet to build a safer, disabled friendly modification home which requires more square footage on the ground floor.**

Applicant has feet physical impairments disability, that results in significant mobility, balance, walking issues. Requested needed accommodation is a reduction in one side yard setback rules that will allow the home to be built with mobility friendly, disabled, "Universal Design" (UD) on the first-floor ground level, which requires extra space to accommodate disabled folks with wheelchairs, canes, walkers safe access, movement and walking in the home, such as extra space in the entryway, large kitchen area (safer to prevent falls and burns due to mobility issues), much larger downstairs handicap assessable bathroom for proper hygiene of disabled person who need more space to prevent falls due to balance and mobility problems, wider halls and doorways for safe passage. All these handicap assessable changes increase the size of the footprint on the ground floor (larger footprint) and will require necessary variance in setback limits to allow the Universal Design building requirements (design takes extra square footage space compared to standard non-disabled home) for disabled persons, seniors with special needs. The allowance of a larger ground floor area, by reduced west side yard setbacks and gaining extra 180 sq. feet, due to RA granted reduction in governmental set back constraints, is necessary to build a "Universal Design handicap friendly home." This special home will increase mobility safety for applicant with a feet disability, allowing protected and disabled individual secure current and future aging in place in home of our choice, hereby increasing use and enjoyment of our home, establishing equal opportunity to housing of our choice, while lessening mobility problems created by applicant's handicap difficulties in getting around a standard home and will help put applicant in the same position as someone without this disability. This demonstrating nexus, the identifiable relationship of the disability to request for RA set back reduction, allowing for the increase in sq. footage to build UD, disabled accessible home of our choice for our safety. My family will then have an equal opportunity to use and enjoy our dwelling.

In addition, the nexus of applicants home of her choice includes choice to keep the steeper area (unique physical attributes of the property) of the hillside natural and place the home on the flat area, nearer to the Grandview Place street of the lot as this will allow safer mobility by applicant to access to outside of home, including being able to perform standard year round homeowner upkeep & maintenance tasks: such as visual checking of outside of home, the paint and window status, roof, foundation, drainage, gutters and safely physically directing hired help where and how to preform maintenance and upkeep of the home on an ongoing basis, without applicant falling or walking on steep area which is hazardous with applicant's mobility, disability issues. My family will then have an equal opportunity to housing of our choice and allowing the home to be built on the flat area, with reduced setback request granting, applicant will then be put in the same position as someone without this disability.

These connections demonstrate nexus, the identifiable relationship of the disability to the request for RA set back change that will assist applicant (with feet physical impairments disability) in eliminating regulatory barriers to building UD housing of our choice. The effects of this nexus identifiable relationship will result in lessening or eliminating "living disabled life difficulties"; including in properly building and living in a Universal Design, handicap safe home type housing of our choice and increases equal opportunity enjoyment and safety in

enjoying typical human activities (such as performing safe home maintenance checks) in a disabled persons' daily life.

The "reduced setback accommodation" will help put applicant in the same position as someone without a disability and therefor provide equal opportunity to housing of our choice. The requested accommodation would not impose an undue financial or administrative burden on the County, this type of setback reduction has been granted by CCC to non-disabled persons. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, this type of setback reduction has been granted by CCC to non-disabled persons. In fact, it will uphold and promote the Housing Element Goals and other General Plan Goals.

Note the neighbor directly east of lot has a significantly less than an 8-foot set back from lot line, which is common in this neighborhood.

Additional side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations. Further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process.

There are special circumstances applicable to the subject property because of its size, shape, topography, location and surrounding; the strict application of the respective zoning regulations deprives the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Applicant requests CCC apply the RA process to reduce governmental constraints and eliminate regulatory barriers, which is allowed by law to disabled folks, (instead of CCC continuing telling applicant to use the standard variance process), to afford persons with disability equal opportunity and equal access to use needed specific housing services of our choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Site Distance Nexus Analysis:

Delete First Sentence of CofA #48 Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

Applicant respectfully requests removal of the sentence "... Applicant shall provide adequate sight distance at all driveway intersections with Grandview Place for a through traffic design speed of 35 miles per hour." This CofA could require additional setbacks and hence more, additional barriers to disabled individual!

First, California DMV (the law) states the speed zoning for non-arterial residential neighborhood roads is 25 miles per hour, not 35. Main arterial roads, such as Olympic Blvd, have 35 miles posted. A lower speed is safer and more reasonable. Alder Ave has the law compliant 25 miles posted speed limit as it connects to other smaller streets. Grandview Place (no through traffic), should be designed for 15 miles per hour speed.

Next, applicant has feet physical impairments disability that negatively and significant impairs her safe mobility, balance, walking which creates the need (nexus) for the RA as applicant needs the home closer to the street (reduced distance from home to street) to lessen the distance and difficulties in performing manual tasks such as walking, increasing safe, easier mobility to the mail box and back to home each day to collect mail and put in outgoing mail. Applicant requests CCC to delete the first sentence of CofA #48 that "...applicant shall provide adequate sight distance at ALL driveway intersection(s) (plural-more then one driveway-in fact ALL driveways) with Grandview Place , at ALL driveway intersections, for "...a traffic design speed of 35 miles an hour as" this could increase setbacks and is discriminatory to require applicant to design for ALL driveways a traffic design speed of 35 miles an hour.

Finally, non-disabled, similarly situated builders do not have to provide adequate sight distance at ALL driveway intersection(s) on the entire road they construct their home on.

The nexus, the identifiable relationship of the applicant's disability mobility needs, to the needed and necessary request for RA concerns the need for "street closer to home" (see many examples discussed above) for accommodation of mobility disability caused by feet disability to achieve the equal opportunity goals in the Acts regarding CCC fair services in granting CofA' s, including removal of excessive barriers so applicant can build her disabled Universal Design ground floor home of choice like other non-disabled persons.

Additional side note, applicants lot exhibits unique physical characteristics that exist to justify relief from zoning, set back regulations and further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process.

The neighborhood street is built-out, has little traffic, low volume and low-speed, the probability for future development of the surrounding area, which would lead to the eventual widening of the street to accommodate construction of "...a traffic design speed of 35 miles per hour" along the chain of adjacent properties is very low. Applicants requested accommodation is reasonable, the cost is materially null, this type of reduced setback has been granted by CCC in the past and would not be an undue hardship or substantial burden to CCC. Whereas, the benefits to applicant who faces daily mobility barriers are huge and life changing, instrumental to living as close to a normal life as possible.

The "removal of the sentence "... Applicant shall provide adequate sight distance at all driveway intersections with Grandview Place for a through traffic design speed of 35 miles per hour" is necessary to put disabled applicant in the same position as a builder without a disability and therefore afford equal opportunity to obtain maps and building permits timely, to build our UD housing of our choice and to accommodate my feet disability and related mobility handicap needs. The requested accommodation would not impose an undue financial or administrative burden on the County. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, in fact the accommodations will reduce barriers and comply with and promote the CCC Housing Element Goals and other General Plan Goals.

******* CCC DRAINAGE REQUIREMENTS*******

DRAINAGE Finding for Approval of a Tentative Map #2 item Nexus Analysis page 3:

Drainage Project Finding

Applicant respectfully requests removal of ... "**#2 Required Finding**" This finding states ... "The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements. "**Project Finding:**" In lieu of constructing on-site drainage facilities to meet collect and convey requirements, the County will require that development."

Applicant understands she is not allowed to construct any on-site drainage facilities as discussed in the sentence above.

However, what is CCC requiring?

Applicant needs clear directions and complete, well-defined sentences that allow a disabled small homebuilder to be treated as other non-disabled home builders with fair, well-defined findings and CofA for the tentative map. Applicant has feet physical impairments disability, that lead to significant impaired mobility, balance, walking issues and needs to understand what CCC requires to build her project.

The nexus, the identifiable relationship of the applicant's disability mobility needs, to the needed and necessary request for RA that concerns the need for clear directions and "equal even handed fair treatment" to achieve the equal opportunity goals of the Acts.

Removal of unclear sentences will help "level the playing field" for disabled applicant and understand CCC requirements to fair building of home for disabled person.

SUMMARY, OVERVIEW OF ENTIRE DRAINAGE CofAs:

1. **Finding for Tentative Map #2 (page 2) see above:** Unclear, unfinished written requirements. Applicant believes not allowed to construct any on-site drainage facilities.
2. **Growth Management Performance Standards (GMPS) (page 1) #2 Drainage and Flood Control:** Requirement is "the parcel map may not be filed until the collect and convey requirements and improvements have been met."
3. **Frontage Improvements Grandview and Panoramic CofA 40 and 41 (page 12):** Quote, "Applicant is permitted an exception from installing frontage improvements and road widening that are not characteristic of the area and existing right of way constraints. No...necessary longitudinal and transverse drainage along project frontage of Panoramic Way or Grandview Place." This means applicant does not have to put in drainage down Panoramic.
4. **Frontage Improvements Panoramic CofA 42 (page 12):** Applicant is excepted from constructing...necessary longitudinal and transverse drainage along Panoramic Way at this time. Must provide a deferred improvement agreement...for the following improvements: See CofA 43.

5. **Frontage Improvements Panoramic CofA 43 (page 12):** (Applicant shall)...See CofA 42 above, construct 8 feet of pavement widening and transitions, necessary retaining wall, and necessary longitudinal and transverse drainage along frontage of panoramic Way; AND see CofA 44. for additional requirements.
6. **Frontage Improvements Panoramic CofA 44 (page 13):** At the time the deferred improvement agreement is called up, submit improvement plans, prepared by registered civil engineer, to Public Works and pay appropriate fees in accordance with the County Ordinance...
7. **Collect and Convey COA 53 (page 14):** states...standard collect and convey requirements to adequate storm drainage facility, adequate natural watercourse or to existing adequate public storm drainage facility.
8. **Collect and Convey COA 54 (page 14):** 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."
9. **APEX Memo: See attached memo** dated 3/26/2014 from consulting firm hired by applicant to solve drainage barriers, APEX Engineering Jon Vizcay, stating he spoke with CCC staff Jocelyn LaRocque in March 2014 and he reported Ms. LaRocque said, "even if applicant proved that the runoff from the site was reduced to be equal or below the existing condition by constructing an onsite detention facility that this condition would still not be met because applicant still has to prove that ANY RUNOFF (guarantee) is conveyed to an adequate storm drain facility. CofA #54 effectively shuts down my project.
10. **Deferred Improvement Agreement:** See attached detail verbiage of the "Deferred Improvement Agreement" and the fact CCC PW staff told applicant it must be signed for both lot A and B. If it was recorded, CCC could have called it up anytime to require applicant, to force her to build all the downstream improvements, (estimated cost enormous as Panoramic is a very long street), even though she would never be granted a building permit.
11. **Advisory Notes, Drainage Fee Required (page 17) #J** Applicant shall comply with the drainage fee requirement for Drainage Area 15A.

Conclusion to above summary:

CCC states in CofA #40 and 41 applicant is exempt from installing frontage improvements and road widening that are not characteristic of the area and existing right of way constraints. AND exempt from "No...necessary longitudinal and transverse drainage along project frontage of Panoramic Way or Grandview Place." An aside, why didn't CCC use these CofA, instead choosing to apply the discriminatory CofA?

Then CCC creates CofA #42, #43, #44, #54 that contradict the exceptions granted in CofA #40 and 41. Additionally CCC tells applicant's consultant, APEX, that is impossible to meet CofA #54, "guarantee adequacy" and even building on-site detention facility still meet "guarantee adequacy" would not allow her project to be built.

Then CCC PW staff told applicant to sign a "Deferred Improvement Agreement" (DIA) which she and her partner did. If it was recorded, CCC could have called it up anytime to require applicant, to force her to build all the downstream improvements, (estimated cost enormous as Panoramic is a very long street), even though she would never be granted a building permit. And what are the implications if the doc was recorded and if applicant had sold the other house, lot A with that DIA in place?

To summarize, the above CCC written CofA (certain reckless, malicious premeditated errors) and the continued, long time, ongoing manner in which CCC deliberately and intentionally used them to discriminate, bully, harass and prevent disabled "protected class" applicant from building the dwelling of her choice is appalling. Applicant has spent over \$50,000.00 to date on this project. CCC has continually abused its police powers, causing very substantial physical, emotional, financial and mental harm and distress to applicant due to their actions.

Finally, applicant's partner believes CCC has definitely committed Federal Elder Emotional Abuse and attempted to commit large scale fraud and Elder Financial Abuse. Federal Elder Financial Abuse includes having applicant and her partner sign contracted deferred improvement agreement for all extremely costly downstream construction. The DIA requirements contain...constriction includes eight feet of pavement widening, retaining walls and all drainage requirements that would have left us with no retirement assets and in debt.

To conclude, applicant requests the following CofA are deleted from her project:

Finding for Tentative Map #2 (page 2)
Growth Management Performance Standards (GMPS) (page 1) #2
Frontage Improvements Panoramic CofA 42 (page 12)
Frontage Improvements Panoramic CofA 43 (page 12)
Frontage Improvements Panoramic CofA 44 (page 13)
Collect and Convey COA 53 (page 14)
Collect and Convey COA 54 (page 14) and any other punitive, discriminatory drainage requirement.

DRAINAGE Growth Management Performance Standards (GMPS) #2

Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

This condition requires all collect and convey requirements and improvements to be met prior to parcel map being filed.

Drainage Improvements Nexus Analysis:

Drainage Project CofA#54 Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

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."

Applicant finds the "**guarantee adequacy**" requirement discriminatory against a disabled person, a barrier to disabled person building rights and constraint to her civil rights, inequitable, illegal and unfair.

Applicant requests CCC delete COA 54. 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 RA as she needs 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. Further, the General Plan states the 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.

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."

CofA #54 requirement of "...applicant shall construct road improvements to Guaranteeing Adequacy" needs to be deleted. This is a barrier of monumental scope. A 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.

Further, applicant hired consultants (see attached memo dated 3/26/2014 from APEX Engineering Jon Vizcay), stating he spoke with CCC staff Jocelyn LaRocque in March 2014 and he reported Ms. LaRocque said "even if applicant proved that the runoff from the site was reduced to be equal or below the existing condition

by constructing an onsite detention facility that this condition would still not be met because applicant still has to prove that ANY RUNOFF (guarantee) is conveyed to an adequate storm drain facility. CofA #54 effectively shuts down my project.

This "guarantee adequacy" requirement denies mobility impaired applicant the right to build a Universal Design ground floor home of our choice. To construct new downstream drainage facilities all the way down Panoramic is too costly and effectively an overburdensome CofA that is not applicant's responsibility. The responsibility is CCC to maintain and update the storm drains as they have not properly maintained them in the last 70 years.

See attached CCC "Deferred Improvement Agreement" that applicant is forced to sign prior in order to obtain her final map. Note the requirement that applicant 's required improvements include "1600 square feet of street paving, retaining walls, expensive and extensive drainage, temporary conforms for paving and drainage, pay for engineering to create plans and submit improvement plans and pay fess to CCC for review and pay for entire neighborhood new drainage system." *Whenever CCC determines that there is no further reason to defer, owner will be notified construction is to commence...*" This is Elder Financial Abuse.

The law specifies "a reasonable proportion of costs, the fair allocation of impacts generated by the project's users should be considered in relation to requiring costly, extensive drainage improvements."

The nexus, the identifiable relationship between the applicant's disability and the necessary requested accommodation (delete CofA #54 and other discriminatory drainage CofA), relates to applicants need to be allowed to build her disability friendly, Universal Design ground floor home. CCC will not allow constructing on-site drainage facilities to meet collect and convey requirements (Finding for Approval of a Tentative Map #2). The "guarantee adequacy" is a discriminatory CofA, not required by similarly situation non-disabled persons. **Applicant will not be allowed to build her home unless this CofA and other discriminatory CofA are deleted.**

Further, other non-disabled persons, similarly situated, are granted this relief through the regular variance process or even properly, non-discriminatory written CofA. Instead, CCC staff created this specially for a disabled applicant with malicious intent.

This inequitable cost imposed on the applicant has not been required of other developers of like projects in the past. For example, non-disabled developer project that does not have this "guarantee adequacy" requirement, is County File #MS16-0015 Mr. Arfa. Mr. Arfa WAS ALLOWED TO SELECT THE DRAINAGE FEE OF .25 CENTS PER SQUARE FOOT OF IMPERVIOUS SURFACE OR MAKING CREEK IMPROVEMENT. Nowhere in MS16-0015 Mr. Arfa's project is he required to guarantee adequacy.

The "Delete CofA #54 accommodation request" will help put applicant in the same position as someone without a disability and therefor provide equal opportunity to housing of our choice. The requested accommodation would not impose an undue financial or administrative burden on the County. The requested accommodation would not require a fundamental alteration the County's land use and zoning program, in fact will uphold and promote the Housing Element Goals and other General Plan Goals.

Further, 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.

- 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 (General Plan (GP) Housing Element 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."

Scenic Easement Nexus Analysis:

CofA#37 Applicant is requesting a RA exception to the Conditions of Approval for her empty lot, the rules, standards and practices for the siting, development and use of housing that would eliminate regulatory barriers and allow persons with disability equal opportunity to build specific housing of their choice under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) and other applicable laws.

CCC included a "Scenic Easement" CofA requirement that appears to be illegal, taking 40% of her land without just compensation, U.S. Const. 5th Amend. See Nollan, 483 U.S. at 834-835.

Most important, cities must prove that such CofA have a "rough proportionality" to the development's impact and that they use a fair and impartial process. See Dollan, 512 U.S. at 391.

Please remove this illegal CofA #37.

Please extend my project another year (to 12/31/2019) given CCC continued delays in processing.

I, Mary Dunne Rose, applicant and appellant, have read the forgoing document and understand its contents. With the contents that I have personal knowledge, I know and believe them to be true of my knowledge. I verify my belief that the above statements are true. Regarding the contents that I do not have personal knowledge of, I believe them to be true based on specified information, documents or both. I assert the truth and my belief in the truth of those matters under penalty of perjury.

Date 7/8/2018

Name Mary Dunne Rose
Mary Dunne Rose

Mary Dunne Rose

From CCC RA internal policy:

Appeal of Determination.

A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to Director of the Department of Conservation and Development, or designee. Upon review of the case a final decision will be rendered by the Director, **subject to appeal to the Board of Supervisors, under the appeal procedures in Title 1, Chapter 14-4 in the County Ordinance Code.** (see below)

Chapter 14-4 in the County Ordinance Code. 14-4.004 - Notice filed by appellant.

The appellant shall, within **thirty days** of the action appealed from, file with the **Clerk of the Board** a verified written notice of appeal concisely stating the facts of the case and the grounds for his appeal including his special interest and injury. (Ord. 70-36 § 1, 1970: prior code § 1207).

Attachments:

APEX memo dated 3/26/2014

Email to Ken Dahl including Signed Deferred Improvement Agreement

Original Conditions of Approved 12/14/2006, effective 12/25/2006

CCC Reasonable Accommodation Policy County of Contra Costa (internal policy)



March 26, 2014

Mary Dunn Rose
735 Winterside Circle
San Ramon, CA 94583
(925) 286-8796
marydunnerose@fiduciaryus.com

Re: Conditions of Approval #53-55 for 78 Grandview Drive, Walnut Creek, Ca

I'm writing this memo to further explain and address three specific conditions of approval you are being asked to satisfy. They are:

- #53: The owner has to show how any water/runoff from your site will be collected and conveyed to an adequate storm drainage facility.
- #54: The owner has to verify that the existing downstream drainage facilities are adequate.
- #55: Incorporate storm water quality elements and best management practices to the maximum extent possible.

I spoke to Jocelyn LaRocque at the county around 3/11/14 about condition #53 and she said that even if we proved that the runoff from the site was reduced to be equal or be below the existing condition (by constructing a onsite detention facility for example), that this condition would still not be met because you still have to prove that any runoff is conveyed to an adequate storm drain facility.

After speaking with Larry Gossett (a hydrologist at the county) on 3/17/14, he mentioned that the difficulty with satisfying these conditions (#53 & #54) and doing this analysis for older developed areas, is that the existing facilities may not be adequate downstream for quite a ways because these older neighborhoods were built little by little and not master planned (for storm drainage routing). So this analysis can sometimes become quite extensive.

If the analysis done determines that the downstream system is indeed not adequate, the owner may have to construct new drainage facilities to the satisfaction of the county in order to meet these conditions.

Satisfaction of condition #55 would have to be done at the time of a building/grading permit because this cannot be done without knowing the proposed design for the site. Best management practices, such as discharging roof leaders to splash blocks and directing runoff to landscape areas, would have to be incorporated into the construction design.

APEX Civil Engineering & Land Surveying
817 Arnold Drive, Ste. 50 Martinez, Ca. 94553
info@apexce.net 925.476.8499

16/

I most recently spoke to Jocelyn LaRocque at the county on 3/25/14 about an alternative to satisfying conditions of approval #53 & #54. She said we can possibly avoid satisfying these conditions by granting development rights for the storm drainage over this minor subdivision. This would in turn push these conditions on to whomever decides to build on that property.

You would have to fill out a form/application requesting to grant deed the development rights as mentioned. From there, a council would have to approve. This process, worst case, can take up to 1 year.

I understand your concerns with passing on this burden to the future developer due to the effect it would have on your property's potential value. Therefore you should engage in further discussion with the county to discuss your options and try to remove/eliminate these requirements.

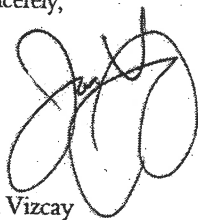
Below is the county ordinance for deferral of drainage facilities for your reference.

Refer to county Ordinance 94-4.409:

94-4.409 Deferral of drainage facilities.

In lieu of complying with Sections 94-4.404 through 94-4.408, the subdivider of a minor subdivision may defer the installation of drainage facilities by granting to the county a deed of development rights in a form satisfactory to the public works director. The deed of development rights shall prohibit any development, construction or major surface alteration within the minor subdivision and shall prohibit any development, construction or major surface alteration within the minor subdivision and shall relinquish any rights to obtain building, mobile home or grading permits until the required drainage facilities have been installed or assured pursuant to Section 94-4.404. Before any deferral shall be granted under this section, the advisory agency shall make all of the findings set forth in Section 92-6.002.

Sincerely,



Jon Vizcay
Principal Engineer
jvizcay@apexce.net

Mary Rose

From: Mary Dunne Rose <marydunnerose@fiduciaryus.com>
Sent: Friday, November 21, 2014 8:58 AM
To: 'Ken Dahl'
Cc: 'Jocelyn LaRocque'
Subject: RE: MS 06-00037 78 Grandview Lot Split DIA Signed Notarized
Attachments: 11-2014 Notarized DIA.PDF

Happy Friday Ken!

Trust you are staying dry with the rainy day.

Attached notarized and signed DIA as you requested. Will drop of 2 originals and 1 copy for you this afternoon.

Did not fill in the date on the DIA as that should be the date of the lot split finalized and approved? Wasn't sure.

Thanks again for your help with this process.

Have a great weekend and Thanksgiving holiday!

Take Care,
Mary Dunne Rose
925-286-8796

From: Ken Dahl [mailto:kdahl@pw.cccounty.us]
Sent: Wednesday, November 12, 2014 2:14 PM
To: 'marydunnerose@fiduciaryus.com'
Cc: Jocelyn LaRocque
Subject: MS 06-00037

Hi Mary,

Here is the Deferred Improvement Agreement that must be signed and notarized. Feel free to call me with any questions.

Thank you,

Ken

Kenneth Dahl

Senior Engineering Technician
Contra Costa County Public Works Department
Engineering Services
255 Glacier Drive
Martinez, CA 94553
Phone: (925) 313-2351
e-mail: kdahl@pw.cccounty.us

Recorded at the request of:
Contra Costa County
Public Works Department
Engineering Services Division
Return to:
Public Works Department
Engineering Services Division
Records Section

Area: Walnut Creek
Road: Panoramic Way
Co. Road No: 3845BE
Project: MS 06-00037
APN: 184-462-008

DEFERRED IMPROVEMENT AGREEMENT
(Project: Minor Subdivision MS 06-00037)

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT HERETO:

CONTRA COSTA COUNTY
Julia R. Bueren, Public Works Director

OWNER: (See note below)
Harold C. Burkert, Jr. and Mary Dunne Rose, as
Trustees of The Burkett Dunne Rose Revocable Trust
dated August 19, 2013

By: _____

(signature) Mary Dunne Rose, Trustee
Mary Dunne Rose, Trustee

RECOMMENDED FOR APPROVAL:

By: _____
Engineering Services Division

(signature) Harold C. Burkert Jr., Trustee
Harold C. Burkert Jr., Trustee

FORM APPROVED: Victor J. Westman, County Counsel

See Attached
Notary Certificate

11/21/2014

(see attached notary)

1. PARTIES. Effective on _____, the County of Contra Costa, hereinafter referred to as "County" and Harold C. Burkert, Jr. and Mary Dunne Rose, as Trustees of The Burkett Dunne Rose Revocable Trust dated August 19, 2013 hereinafter referred to as "Owner" mutually agree and promise as follows:

2. PURPOSE. Owner desires to develop the property described in Exhibit "A" attached hereto and wishes to defer construction of permanent improvements, and County agrees to such deferment if Owner constructs improvements as herein promised.

3. AGREEMENT BINDING ON SUCCESSORS IN INTEREST. This agreement is an instrument affecting the title or possession of the real property described in Exhibit "A." All the terms, covenants and conditions herein imposed are for the benefit of County and the real property or interest therein which constitutes the County road and highway system and shall be binding upon and inure to the benefit of the land described in Exhibit "A" and the successors in interest of Owner. Upon sale or division of the property described in Exhibit "A", the terms of this agreement shall apply separately to each parcel, and the owner of each parcel shall succeed to the obligations imposed on Owner by this agreement. Upon annexation to any city, Owner, or those who succeed him as owner of the property described in Exhibit "A," shall fulfill all the terms of this agreement upon demand by such city as though Owner had contract with such city originally. Any annexing city shall have all rights of a third party beneficiary.

ACKNOWLEDGMENT

State of California

County of Contra Costa

On November 21st, 2014 before me, Seana Star FitzPatrick, Notary Public, personally appeared Mary Dunne Rose & Harold C. Burkert, Jr.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/they executed the same in ~~his~~/~~her~~/their authorized capacity(ies), and that by ~~his~~/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Handwritten Signature]
Signature _____



4. STREET AND DRAINAGE IMPROVEMENTS:

A. The improvements set forth in this section may be deferred by Owner and shall be constructed when required in the manner set forth in this agreement. The deferred improvements required by County Department of Public Works are generally described on Exhibit "B" attached hereto. Each of said improvements relate to the use, repair, maintenance or improvement of, or payment of taxes, special assessments or fees on, the property described in Exhibit "A."

B. When County Public Works Director determines that there is no further reason to defer construction of the improvements because their construction is necessary for the public health, welfare and safety and/or is necessary to the orderly development of the surrounding area, he shall notify Owner in writing to commence their installation and construction. The notice shall be mailed to the current owner or owners of the property as shown on the latest adopted County assessment roll. The notice shall describe the work to be done by Owner, the time within which the work shall commence and the time within which the work shall be completed. All or any portion of said improvements may be required at a specified time. Each Owner shall participate on a pro rata basis in the cost of the improvements to be installed. If Owner is obligated to pay a pro rata share of a cost of a facility provided by others, the notice shall include the amount to be paid and the time when payments must be made.

5. PERFORMANCE OF THE WORK. Owner shall perform the work and make the payments required by County as set forth herein or as modified by the Board of Supervisors. Owner shall cause plans and specifications for the improvements to be prepared by competent persons legally qualified to do the work and shall submit said improvement plans and specifications for approval prior to commencement of the work described in the notice and to pay County inspection fees. The work shall be done in accordance with County standards in effect at the time improvement plans are submitted for approval. Owner agrees to commence and complete the work within the time specified in the notice given by the Director of Public Works and to notify the County at least 48 hours prior to start of work. In the event Owner or his successor(s) in interest fails to construct any of the improvements required under this agreement, County may, at its option, do the work. A lien is hereby created on all property described in Exhibit "A" for the cost of such work. If County sues to compel performance of this agreement, to recover the cost of completing the improvements or to enforce the aforementioned lien, Owner shall pay all reasonable attorney's fees, costs of suit and all other expenses of litigation incurred by County in connection therewith, and said attorney's fees, costs and other expenses shall also become a lien on the property described in Exhibit "A". If the property described in Exhibit "A" is subdivided at the time said liens are imposed, the amount of said liens shall be divided proportionately among the various parcels. Permission to enter onto the property of Owner is granted to County or its contractor as may be necessary to construct the improvements covered by this agreement.

6. JOINT COOPERATIVE PLAN. Upon notice by County, Owner agrees to cooperate with other property owners, the County, and other public agencies to provide the improvements set forth herein under a joint cooperative plan including the formation of a local improvement district, if this method is feasible to secure the installation and construction of the improvements.

7. REVIEW OF REQUIREMENTS. If Owner disagrees with the requirements set forth in any notice to commence installation of improvements, he shall, within 30 days of the date the notice was mailed, request a review of the requirements by the Board of Supervisors of County. The decision of this Board shall be binding upon both County and Owner.

8. ACCEPTANCE OF IMPROVEMENTS. County agrees to accept those improvements specified in Exhibit "B" which are constructed and completed in accordance with County standards and requirements and are installed within rights of way or easements dedicated and accepted by resolution of the Board of Supervisors. Owner agrees to provide any necessary temporary drainage facilities, access road or other required improvements, to assume responsibility for the proper functioning thereof, to submit plans to the appropriate County agency for review, if required, and to maintain said improvements and facilities in a manner which will preclude any hazard to life or health or damage to adjoining property.

9. BONDS. Prior to County approval of improvement plans, Owner may be required to execute and deliver to the County a faithful performance bond and a payment bond in an amount and form acceptable to County to be released by the Board of Supervisors in whole or in part upon completion of the work required and payment of all persons furnishing labor and materials in the performance of the work.

10. INSURANCE. Owner shall maintain, or shall require any contractor engaged to perform the work to maintain, at all times during the performance of the work called for herein a separate policy of insurance in a form and amount acceptable to County.

11. INDEMNITY. Owner shall defend, indemnify and save harmless the County, its officers, agents and employees, from every expense, liability or payment by reason of injury (including death) to persons or damage to property suffered through any act or omission, including passive negligence or act of negligence, or both, of Owner, his developer, contractors, subcontractors, employees, agents, or anyone directly or indirectly employed by any of them, or arising in any way from work called for by this agreement, on any part of the premises, including those matters arising out of the deferment of permanent drainage facilities or the adequacy, safety, use or non-use of temporary drainage facilities, or the performance or nonperformance of the work. This provision shall not be deemed to require the Owner to indemnify the County against the liability for damage arising from the sole negligence or willful misconduct of the County or its agents, servants, or independent contractors who are directly responsible to the County.

MS 06-00037

EXHIBIT "A"

All that real property situated in the County of Contra Costa, State of California, described as follows:

All of Parcels A and B as shown on the Parcel Map of Minor Subdivision MS 06-00037, on file at the County Recorder's Office as follows:

Date: _____
Book: _____
Page: _____

EXHIBIT "B"

IMPROVEMENTS

Improvements required by Contra Costa County Community Development Department and the County Ordinance Code as a condition of approval for the above-referenced development are located along Panoramic Way for Parcels 184-462-008, described in Exhibit "A":

3. Approximately 1,600 square feet of street paving to pave between the existing pavement and the new edge of pavement.
4. Necessary retaining walls, longitudinal and transverse drainage.
6. Temporary conforms for paving and drainage as may be necessary at the time of construction.
7. Submit improvement plans to the Public Works Department, Engineering Services Division, for review; pay an inspection and plan review fee and applicable lighting fee.

CONSTRUCTION

Any necessary relocation of utility facilities shall be the responsibility of the owner or his agent.

The construction of the above deferred improvements shall begin as outlined in Item 4B of the agreement or when either of the following occurs:

1. Panoramic Way is constructed to its ultimate planned width by the County or by an assessment district.
2. Frontage improvements are constructed adjacent to the subject property.

It is the intent at this time that the "pro rata basis" of costs, as specified in Item 4B of the agreement, shall mean that the owners of each parcel shall pay an equal share of the costs.

**CONTRA COSTA COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT
APPROVED PERMIT**

APPLICANT: Mary Dunne
78 Grandview Place
Walnut Creek, CA 94595

APPLICATION NO. MS060037

ASSESSOR'S PARCEL NO. 184-462-008

ZONING DISTRICT: R-10

OWNER: Same as above

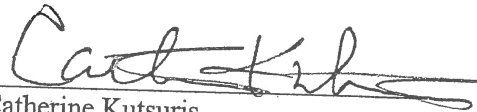
APPROVED DATE: December 14, 2006

EFFECTIVE DATE: December 25, 2006

This matter not having been appealed within the time prescribed by law, A PERMIT TO SUBDIVIDE .48 ACRES INTO TWO LOTS in the WALNUT CREEK area is hereby GRANTED, subject to the attached conditions.

DENNIS M. BARRY, AICP
Community Development Director

By:



Catherine Kutsuris
Deputy Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE THREE (3) YEARS from the effective date if the use allowed by this permit is not established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

FINDINGS AND CONDITIONS OF APPROVAL FOR TENTATIVE MAP
COUNTY FILE #MS060037 IN THE SARANAP AREA OF WALNUT CREEK AS
APPROVED BY THE ZONING ADMINISTRATOR ON DECEMBER 14, 2006

A. Growth Management Performance Standards

1. Traffic: The project will generate an estimated one additional AM and one PM peak hour trips. Therefore, the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
2. Drainage and Flood Control: Condition #53 requires that the applicant collect and convey all storm waters entering or originating within the project to an adequate natural water course having definable bed and banks, or to an existing adequate public storm drainage facility which conveys to storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance. The parcel map may not be filed until the collect and convey requirements and improvements have been met.
3. Water and Waste Disposal: According to Russell Leavitt, Engineering Assistant III, of Contra Costa County Central Sanitary, per phone conversation on October 31, 2006, the project site is within service area and will serve the new parcel. The property is in the EBMUD service area and will serve the new parcel.
4. Fire Protection: Prior to the approval of a Parcel Map, the applicant is required to demonstrate that all of the proposed development is located within one and one-half miles of a fire station, or that development within the project that is more than one and one-half miles from a fire station shall be required to provide automatic fire sprinkler systems. The nearest station is Station 3 located at 1520 Rossmore Parkway, Walnut Creek.
5. Public Protection: The Growth Management Element Standard is 155 square feet of Sheriff facility station per 1,000 population. The small population increase associated with this project is not significant. Prior to approval of the Parcel Map, the applicant is required to establish a police service tax district to mitigate the impacts of the development on police services.
6. Parks and Recreation: The proposed project will have a minor cumulative effect on demand for park and recreation facilities, and is subject to payment of park dedication fees in the amount of \$2,000.00 per residential parcel to mitigate impacts.

B. Variance Findings

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.

Project Finding: The shape of the parcel is almost triangle, narrow at the east end and wide at the west end. The location of the residence is towards the middle of the property. Therefore, in order for the applicant to create a 10,000 square foot lot, the configuration of proposed Parcel B is in the shape of an L causing a 74 foot average width variance (80 feet required) on proposed Parcel A.

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 rights enjoyed by other properties in the vicinity and within the identical land use district.

Project Finding: As stated above, the shape of the original parcel is almost triangle. The extreme steepness of the lot and location of the existing house dictates the location of a second homesite.

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

Project Finding: The approval of this variance of an average width for Lot A of 74 feet (80 feet required) shall substantially meet the intent and purpose of the respective land use district by providing one additional residence compatible and consistent with the surrounding neighborhood..

C. Finding for Approval of a Tentative Map

1. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law.

Project Finding: The project is consistent with the various elements of the General Plan. The land use designation is SFR-SM, which allows for single-family medium density development for one lot with a remainder

based on net area minus roadway (3.0-4.9 units per net acre) on a .48 acre parcel, which complies with the density requirement.

2. Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: In lieu of constructing on-site drainage facilities to meet collect and convey requirement, the County will require that development.

CONDITIONS OF APPROVAL

General:

1. _____ This approval is based upon the exhibits received by the Community Development Department listed as follows:
 - A. Approved per plans as generally shown on the Vesting Tentative Map:

Indemnification:

2. _____ Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the County its agents, officers, and employees any claim, action, or proceeding against the Agency (the County) or its agents, officers, or employees to attack, set aside, void, or annul, the Agency's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The County will promptly notify the subdivider of any claim, action, or proceeding and cooperate fully in the defense.

Variance:

3. _____ Approval is granted to allow for an average lot variance for Parcel A of 74 feet (80 feet required)

Compliance Report:

4. _____ At least 45 days prior to filing a final map or issuance of grading permit, which ever occurs first, the applicant shall submit a report on compliance with the conditions of approval with this permit for the review and approval of the Zoning Administrator. The fee for this application is a deposit of \$500.00 that is subject to time and materials

costs. Should staff costs exceed the deposit, additional fees will be required.

- A. Except for those conditions administered by the Public Works Department, the report shall list each condition followed by a description of what the applicant has provided as evidence of compliance with that condition. The report shall also indicate whether the applicant believes that he has done all the applicant is in a position to do to comply with the applicable condition. (A copy of the computer file containing the conditions of approval may be available; to try to obtain a copy, contact the project planner at 335-1216.)

Design and Size Restriction on Parcel B:

5. _____ At least 30 days prior to the issuance of the building permit for Parcel B, the applicant shall submit building elevations with colors and material samples for the review and approval of the Zoning Administrator. The materials shall be compatible with the surrounding area and with general wooded environment. The residence shall be limited to 2500 square feet and 28 feet high. In addition, the applicant shall provide fencing or other appropriate screening plan for the eastern lot boundary, excluding the portion outside the scenic easement area. The purpose of the fence is to provide privacy to the surrounding neighbors as agreed upon by the applicant.
6. _____ The applicant shall record a statement to run with the deeds to the property that ensures that the future property owners of proposed parcel "B" are aware of all the conditions that may apply for the life of the project, including design, size of the residence, fencing, tree protection, and landscaping.

Archaeology:

7. _____ Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.
8. _____ If any significant cultural materials such as artifacts, human burials, or the like are encountered during construction operations, such operations shall cease within 10 feet of the find, the Community Development Department shall be notified within 24-hours and a qualified archaeologist contacted and retained for further recommendations.

Significant cultural materials include, but are not limited to, aboriginal human remains, chipped stone, groundstone, shell and bone artifacts, concentrations of fire cracked rock, ash, charcoal, shell, bone, and historic features such as privies or building foundations.

9. _____ In the event of discovery or recognition of any human remains on the site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of Contra Costa County has been contacted, per Section 7050.5 of the California Health and Safety Code.

Child Care Conditions:

10. _____ The developer shall pay a fee of \$400.00 per lot/unit toward child care facility needs in the area as established by the Board of Supervisors.

Grading:

11. _____ The grading plan shall provide for balanced cut and fill on-site (i.e., no import or export of fill material).

Trees and Tree Preservation:

12. _____ The applicant is limited to the removal of four (4) trees on proposed parcel "B" as identified on the vesting tentative map. If grading is proposed to be in close proximity to the protected trees on the site the applicant shall submit at least 30 days prior to issuance of a grading permit, a grading/tree preservation plan for the review and approval of the Zoning Administrator. The plan shall identify all trees with a trunk circumference of 10 inches or more, 4 ½ feet above the ground. The trunk size, species and approximate drip line of each qualifying tree shall be identified on the plan, and whether the tree is proposed to be removed or preserved. The plan shall be accompanied by a report from a qualified arborist on the proposed development recommending measures to protect trees as appropriate during the construction and post-construction stages. The recommended measures from the arborist shall be integrated into or otherwise attached to the proposed grading plan.

- A. Prior to grading applicant shall provide fencing or other appropriate barriers at least five (5) feet outside of the drip line of all trees to be retained on the site in order to give grading contractors proper visual notification to keep equipment out of the area surrounding these trees. (During grading operations a qualified arborist shall be on site to approve any needed exceptions to these requirements).

13. _____ To assure protection and/or reasonable replacement of existing trees to be preserved which are in proximity to project improvements, the applicant shall post a bond (or cash deposit or other surety) for the required work with the Community Development Department. The term of the bond shall extend at least 24 months beyond the completion of construction. Prior to posting the bond or deposit, a licensed arborist shall assess the value of the trees and reasonable compensatory terms in the event that a tree to be preserved is destroyed or otherwise damaged by construction-related activity. The tree-bonding program shall be subject to the review and approval of the Zoning Administrator.
14. _____ This permit authorizes the removal of the four (4) trees as identified on the vesting tentative map. No additional trees shall be removed prior to approval of the grading/tree preservation plan without the prior approval of the Zoning Administrator.
15. _____ The developer and applicant shall adhere to the following tree preservation standards required by Section 816-6.1202 of the County Code:
- A. Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate County staff.
 - B. No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the County and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be required to be present during grading operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, an involved arborist shall prepare a report outlining further methods for tree protection if any are required. All arborist expense shall be borne by the developer and applicant.
 - C. No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be saved.

16. _____ If no trees are located within 40 feet of the proposed development, the construction plans shall be noted.

Landscaping:

17. _____ Prior to the submittal of the landscape plan to the Zoning Administrator, the applicant shall submit to those contiguous neighbors, the three (3) directly to the east, to the south and to the southwest. The landscape plans shall be submitted to the neighbors at least ten (10) days prior to the review and approval of the Zoning Administrator. All comments received from the contiguous neighbors shall be submitted to the Zoning Administrator with the landscape plans. A landscaping plan and irrigation plan for Parcel B shall be submitted for review and approval of the Zoning Administrator at least 30 days prior to issuance of building permits. A cost estimate shall be submitted with the landscaping program plan. Landscaping shall conform to the County Water Conservation Landscape Ordinance 82-26 and shall be installed prior to approval of final building permit. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with County Water Conservation Ordinance.
18. _____ California native drought tolerant plants or trees shall be used as much as possible. All trees shall be a minimum five-gallon size planted throughout the project site.
- A. Extent of Possible Restitution Improvements- At least 30 days prior to the issuance of a building permit, the applicant shall provide evidence that the planting of up to 12 trees, minimum 5-gallons in size outside the building envelope on both parcels has been completed, or equivalent planting contribution, subject to the review and approval of the Zoning Administrator.

Lighting:

19. _____ Exterior lights shall be deflected so that lights shine onto applicant's property and not toward adjacent properties.

Construction Conditions:

20. _____ Contractor and/or developer shall comply with the following construction, noise, dust and litter control requirements.
21. _____ All construction activities shall be limited to the hours of 7:30 A.M. to 5:00 P.M., Monday through Friday, and shall be 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)
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 specific details on the actual day the state and federal holidays occur, please visit the following websites:

Federal Holidays <http://www.opm.gov/fedhol/2006.asp>

California Holidays <http://www.edd.ca.gov/eddsthoh.htm>

22. _____ The project sponsor shall require their contractor 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 pumpers as far away from existing residences as possible.

23. _____ At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and areas of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of individuals responsible for noise and litter control, tree protection, construction traffic and vehicles, erosion control, and the 24-hour emergency number, shall be expressly identified in the notice. The notice shall be re-issued with each phase of major grading and construction activity.

A. A copy of the notice shall be concurrently transmitted to the Community Development Department. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.

24. _____ A dust and litter control program shall be submitted for the review and approval of the Zoning Administrator. Any violation of the approved program or applicable ordinances shall require an immediate work stoppage. Construction work shall not be allowed to resume until, if necessary, an appropriate construction bond has been posted.
25. _____ The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows. Prior to issuance of building permits, the proposed roads serving this development shall be constructed to provide access to each lot. This shall include provision for an on-site area in which to park earth moving equipment.
26. _____ Transporting of heavy equipment and trucks shall be limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on Federal and State holidays.
27. _____ The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
28. _____ The project shall comply with the dust control requirements of the Grading Ordinance including provisions pertaining to water conservation.
29. _____ Construction-related vehicle access to the site shall be limited to two vehicles.
30. _____ Haul routes shall be generally limited to those areas of the site which are proposed to be graded to avoid unnecessary scarring of the hillside. Hauling of material through an approved scenic easement shall be precluded.

Sanitary Sewer:

31. _____ At least 30 days prior to recording the parcel map, the applicant shall provide proof that adequate sanitary sewer quantity and quality can be provided.

Water:

32. _____ At least 30 days prior to recording the Parcel Map, the applicant shall provide proof that adequate water facilities can be provided.
33. _____ The applicant shall comply with the Contra Costa County Ordinance pertaining to water conservation. Compliance with the Water

Conservation Ordinance shall be designed to encourage low-flow water devices and other interior and exterior water conservation techniques.

34. _____ All toilets shall be low-flow units in accordance with Section 17921.3 of the Health and Safety Code; sinks and showers shall be water conserving units, in accordance with the California Energy Commission Standards for new residential buildings.

Police Service / Crime Prevention:

35. _____ Police Service District to Augment Police Services – The following requirements shall be met prior to filing a Parcel Map or issuance of a building permit as specified below:

A. Prior to filing a Parcel Map, the applicant shall submit two copies of a proposed disclosure statement for the review and approval of the Zoning Administrator. The approved statement shall be used to notify prospective buyers of parcels which are not occupied by existing legally-established residences at time of filing the tentative map application. The disclosure statement shall advise prospective buyers of affected parcels that prior to issuance of a building permit, they will be required to contribute to the County \$1,000.00 for police services mitigation. The fee may be paid to the Contra Costa County Application & Permit Center.

B. Prior to issuance of a building permit on any parcel that is not occupied by a legal residence, the applicant shall contribute \$1,000.00 to the County for police services mitigation. The fee shall be paid to the Contra Costa County Application & Permit Center.

Fire Protection District:

36. _____ Prior to the approval of a parcel map, the applicant is required to demonstrate that all of the proposed development is located within one and one-half miles of a fire station, or that development within the project that is more than one and one-half miles from a fire station shall be required to provide automatic fire sprinkler systems.

A. IF the project requires fire sprinkler systems then a deed disclosure for each new residential lot shall be recorded with the Final Map. This disclosure shall indicate that the proposed structure has been designed with automatic interior fire-suppression sprinkler system that meets the design standards of the Consolidated Fire Protection District. This provision is required at least in part so as to allow a plan consistency determination associated with the approval of County File # MS060037.

Scenic Easement:

37. _____ A recorded scenic easement shall be granted to the County from the 92 contour line as shown on the tentative map titled Staff Study dated November 21, 2006 . The erection of structures, including but not limited to buildings, obscure fences, swimming pools, tennis courts, and sports courts, is prohibited in scenic easement areas. Scenic easements shall be dedicated to the County using the scenic easement instrument approved by the Zoning Administrator. The easement instrument shall provide that no grading, other development activity or removal of trees may occur in that area without the prior approval of the Zoning Administrator.

Payment of Any Supplemental Application Fees that are Due:

38. _____ This application is subject to an initial application fee of \$5,513.00 which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial fee. Any additional fee due must be paid within 60 days of the permit effective date or prior to use of the permit whichever occurs first. The fees include costs through permit issuance plus five working days for file preparation. The applicant may obtain current costs by contacting the project planner. If additional fees are owed, a bill will be sent to the applicant shortly after permit issuance.

CONDITIONS OF APPROVAL ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT FOR SUBDIVISION MS 06-0037

Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the County Ordinance Code. Any exceptions must be stipulated in these conditions of approval. Conditions of Approval are based on the Vesting Tentative Map received by the Community Development Department on August 23, 2006.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO RECORDATION OF THE PARCEL MAP:

In accordance with Section 92-2.006 of the Ordinance Code, this subdivision shall conform to all applicable provisions of the Subdivision Ordinance (Title 9). Any exceptions therefrom must be specifically listed in this conditional approval statement. The drainage, road and utility improvements outlined below shall require the review and approval of the Public Works Department and are based on the Revised Vesting Tentative Map received by the Community Development Department on August 23, 2006.

39. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the County Ordinance Code for the conditions of approval of this Subdivision. These plans shall include any necessary traffic signage and striping plans for review by the Transportation Engineering Division.

Frontage Improvements (Grandview Place & Panoramic Way):

40. Applicant shall construct curb, sidewalk, necessary longitudinal and transverse drainage, street lighting, and pavement widening and transitions along the frontage of Grandview Place.

Exception:

Applicant is permitted an exception from installation of frontage improvements and road widening along the project frontage of Grandview Place considering that these features are not characteristic of the area and existing right of way constraints, respectively.

41. Applicant shall construct curb, sidewalk, necessary longitudinal and transverse drainage, and street lighting along the frontage of Panoramic Way.

Exception:

Applicant is permitted an exception from installation of curb, sidewalk, necessary longitudinal and transverse drainage, and street lighting along the project frontage of Panoramic Way considering that these improvements are not characteristic of the area.

42. Applicant shall construct eight feet of pavement widening and transitions, necessary retaining walls, and necessary longitudinal and transverse drainage along the project frontage of Panoramic Way.

Exception:

Applicant is permitted an exception from constructing eight feet of pavement widening and transitions, necessary retaining walls, and longitudinal and transverse drainage along the project frontage of Panoramic Way at this time, provided that a deferred improvement agreement is executed for the following improvements:

43. Construction of eight feet of pavement widening and transitions, necessary retaining walls, and necessary longitudinal and transverse drainage along the frontage of Panoramic Way; and

44. At the time the deferred improvement agreement is called up, submit improvement plans, prepared by a registered civil engineer, to Public Works and pay appropriate fees in accordance with the County Ordinance Code and this deferred improvement agreement.

Access to Adjoining Property:

Proof of Access

45. Applicant shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

Encroachment Permit

46. Applicant shall obtain an encroachment permit, if necessary, from the Application and Permit Center for any work done within the right of way of Grandview Place and Panoramic Way.

Abutter's Rights:

47. Applicant shall relinquish abutter's rights of access along the project frontage of Panoramic Way.

Sight Distance:

48. Applicant shall provide adequate sight distance at all driveway intersections with Grandview Place for a through traffic design speed of 35 miles per hour. Landscaping, walls, fences, signs, or any other obstructions shall be placed to maintain adequate sight distance.

Road Dedications:

49. Applicant shall convey to the County, by Offer of Dedication, the right of way necessary for the planned future width of 52 feet along the project frontage of Grandview Place.

Exception

The applicant shall be permitted an exception from the County Ordinance Code requirement to dedicate additional right of way along the project frontage of

Grandview Place due to right of way constraints and considering that other minor streets in the vicinity of the project feature 40-foot right of way corridors.

50. Applicant shall convey to the County, by Offer of Dedication, five feet of right of way necessary for the planned future width of 50 feet along the project frontage of Panoramic Way.

Street Lights:

51. Property owner shall apply for annexation to County Service Area L-100 Lighting District by submitting: a letter of request; a metes and bounds description; and, pay the current LAFCO fees, or apply for annexation to another street light financing mechanism approved by the Public Works Department. Annexation shall occur prior to filing of the Parcel Map. The applicant shall be aware that the annexation process to CSA L-100 must comply with State Proposition 218 requirements, which state that the property owner must hold a special election to approve the annexation. This process may take approximately 4-6 months to complete. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Utilities/Undergrounding:

52. All new utility distribution facilities shall be installed underground.

Drainage Improvements:

Collect and Convey

53. Applicant shall collect and convey all storm water entering and/or originating on this property, without diversion and within an adequate storm drainage facility, to an adequate natural watercourse having a definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.
54. 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.

Provision "C.3" of the NPDES Permit

55. In compliance with the County's Stormwater Management and Discharge Control Ordinance, it has been determined that this project does not require submittal of a Stormwater Control Plan (SWCP). The application proposes less than 10,000 square feet of impervious surface area, which is the threshold for submittal of a SWCP. However, the applicant shall incorporate storm water quality elements to the Maximum Extent Practicable (MEP). This must include efforts to limit new impervious surface area, limit directly connected impervious areas, provide for self retaining areas and include other Best Management Practices to the MEP.

National Pollutant Discharge Elimination System (NPDES):

56. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay Region or Central Valley Region).
57. Compliance will include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate, where feasible, some or all of the following long term BMP's in accordance with the Contra Costa County Clean Water Program for the site's storm water drainage:
- A. Minimize the amount of directly connected impervious surface area.
 - B. Stencil advisory warnings on all catch basins.
 - C. Slope pavements to direct runoff to landscaped/pervious areas, where feasible.
 - D. Shallow roadside and on-site swales
 - E. Distribute public information items regarding the Clean Water Program to buyers.
58. Other alternatives as approved by the Public Works Department.

ADVISORY NOTES

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

A. NOTIFY OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this part of this project approval. The opportunity to protest is limited to ad 90-day period after the project is approved.

The ninety (90) day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Community Development Department within 90 days of the approval date of this permit.

- B. Comply with the requirements of the County Building Inspection Department
- C. Comply with the requirements of the Health Services Department – Environmental health .
- D. Comply with the requirements of the EBMUD.
- E. Comply with the requirements of the Contra Costa County Fire Protection District.
- F. Comply with the requirements of the Sheriff's Department.
- G. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) permit for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board or any of its Regional Water Quality Control Boards (San Francisco Bay – Regional II or Central Valley – Region V).
- H. The project is subject to the development fees in effect under County Ordinance as of May 31, 2006, the date the tentative map application was accepted as complete by the Community Development Department. These fees are in

addition to any other development fees which may be specified in the conditions of approval.

The fees include but are not limited to the following:

Park Dedication \$2,000.00 per residence

Child Care \$ 400.00 per residence

An estimate of the fee charges for each approved lot may be contacting the Building Inspection Department at 335-1196.

- I. Comply with the Bridge/Thoroughfare Fee Ordinance requirements for the South Walnut Creek Area of Benefit as adopted by the Board of Supervisors. This fee must be paid prior to issuance of a building permit.
- J. Applicant shall comply with the drainage fee requirements for Drainage Area 15A as adopted by the Board of Supervisors. This fee must be paid prior to filing the Parcel Map.

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Reasonable Accommodation Policy County of Contra Costa

This policy statement provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

Applicability.

A request for reasonable accommodation may be made by any person with a disability, or their representative, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This policy is intended to apply to those persons who are defined as disabled under the Acts.

A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner below in Application Requirements.

Application Requirements.

(A) Application. Requests for reasonable accommodation shall be submitted with a land use application (if applicable) or in the form of a letter to the Department of Conservation and Development Deputy Director (Deputy Director) and shall contain the following information:

- (1) The applicant's, or applicant's representative's name, mail and email addresses and telephone number.
- (2) Address of the property for which the request is being made.
- (3) The current actual use of the property.
- (4) The basis for the claim that the individual is considered disabled under the Acts.
- (5) The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
- (6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(B) Review with other land use applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including but not limited to; conditional use permit, design review, etc.), then the applicant shall file the information required by Subsection A together for concurrent review with the application for discretionary approval.

Review Authority.

(A) Deputy Director. Requests for reasonable accommodation shall be reviewed by the Deputy Director, or her designee if no approval is sought other than the request for reasonable accommodation.

(B) Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing for the discretionary land use application.

Review Procedure.

(A) Deputy Director Review.

The Deputy Director, or her designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Findings and Decision below.

(B) Other Reviewing Authority.

The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Findings and Decision below.

Findings and Decision.

(A) Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

- (1) Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts.
- (2) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
- (3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the County.
- (4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a County program or law, including but not limited to land use and zoning.
- (5) Potential impact on surrounding uses.
- (6) Physical attributes of the property and structures.
- (7) Alternative reasonable accommodations which may provide an equivalent level of benefit.

(B) Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection A above.

Appeal of Determination.

A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to Director of the Department of Conservation and Development, or designee. Upon review of the case a final decision will be rendered by the Director, subject to appeal to the Board of Supervisors, under the appeal procedures in Title 1, Chapter 14-4 in the County Ordinance Code.