

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE
#VR031032, HAL REILAND (Applicant) and HAL REILAND & ROUND HILL
ENTERPRISES (Owners) AS APPROVED BY THE ZONING
ADMINISTRATOR ON MARCH 8, 2004.**

A. FINDINGS

Variance Findings: The following findings in accordance with section 26-2.2006 of the County Ordinance are made:

1. **Required Finding:** 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.

Staff Finding-The request to allow a 0-foot front setback, a 0-foot sideyard and a 4-foot sideyard for the construction of a retaining wall over 3-feet in height will 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. Numerous setback and sideyard variances have been approved in the Roundhill area for various structures. According to the County Ordinance, a retaining wall under three feet in height is not considered a structure and is allowed within the required yard area. The proposed wall exceeds three feet in height for a small portion of its total length, most of which is outside of the required yard area.

2. **Required Finding:** 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.

Staff Finding- Strict application of the R-15 zoning regulations would deprive the property owner of the right to develop their property in a manner that is consistent with other properties in the area. The minimum grade requirements of the San Ramon Valley Fire Protection District and the topography of the property require that the driveway and associated retaining walls be located within the required setback and sideyard. Development of the property without variances for the road and retaining walls would not be possible.

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

Staff Finding-The application to allow the construction of an access driveway, related retaining walls and new single-family residence on a vacant parcel located within the R-15 zoning district will substantially meet the intent and purpose of that district.

Tree Permit Findings:

The following factor for approval of a permit to allow the removal of six oak trees as well as to work within the dripline of twelve oak trees applies to the subject property.

Factor: (G) Reasonable development of the property would require the alteration or removal of the trees and this development could not be reasonably accommodated on another portion of the lot.

Staff Response: Staff has determined that the location of the proposed driveway and new single-family residence is reasonable in relation to the topography of the lot and to the requirements of the San Ramon Valley Fire Protection District. The proposed location of the new single-family residence is the only reasonably flat part of the entire property. Construction of the residence on any other portion of the property would require significant grading and could possibly result in the loss or damage of additional trees. Staff had identified a minimum of 55 oak trees on the subject property and hundreds of additional oak trees on adjacent properties.

CONDITIONS OF APPROVAL FOR COUNTY FILE #VR031032

1. _____ Approval is granted to allow the construction of two retaining walls with variances to the required front and sideyard standards, on two adjacent properties, subject to the plans submitted with the application and dated received April 10, 2003 by the Community Development Department and subject to the following Conditions of Approval.

2. _____ Approval is granted to allow the removal of six (6) oak trees and work within the dripline of twelve (12) oak trees, per the recommendation outlined in the June 9, 2003, Revised, Tree Survey and Preservation Report prepared by Stephen Batchelder.

3. _____ Variance approval is granted to allow for a variance that meets the requirements of Section 26-2.2006 of the County Ordinance Code as follows:

#76 St. Andrews Lane

15-foot secondary front setback required
0-foot setback approved for access driveway retaining wall (south).
10-foot setback approved for access driveway retaining wall (north).

10-foot minimum sideyard required
4-foot sideyard approved for access driveway retaining wall (south).

7th Fairway

10-foot minimum sideyard required
0-foot sideyard approved for access driveway retaining wall.

4. _____ At least 30 days prior to the approval of a grading or building permit, the applicant is required to submit for review and approval of the Zoning Administrator, a color pallet for the proposed retaining walls. The retaining walls shall be a dull earth tone color.

5. _____ Prior to the issuance of a grading or building permit the applicant shall provide evidence that the Round Hill North Property Owners Association has had the opportunity to review and comment on the proposed landscaping and irrigation plan.

6. _____ A landscaping and irrigation plan for all areas shown on the plan 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 the County Water Conservation Ordinance.

7. _____ Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on site with trees to be preserved, the Applicant shall install fencing at or beyond the dripline of all areas adjacent to or in the area to be altered and remain in place for the duration of construction activity in the vicinity of the trees. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate County staff. *Construction plans shall stipulate on their face where temporary fencing intended to trees to be protected is to be placed, and that the required fencing shall be installed prior to the commencement of any construction activity.*
8. _____ No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline of any existing mature tree other than the trees approved for removal unless indicated on the improvement plans approved by the county and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline of a tree to be saved, 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 the completion of grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant unless otherwise provided by the conditions of approval.
9. _____ No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the drip line of any tree to be saved.
10. _____ The property owner or developer shall notify the Community Development Department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist designated by the Director of Community Development.

Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the Director of Community Development to be reasonably appropriate for the particular situation.

11. _____ Except as otherwise specified, development shall be in accord with the recommendations of the arborist report. All grading, site and development plans shall clearly indicate trees proposed for removal, altered or otherwise affected by development construction. The tree information on grading and development plans shall indicate the number, size, species, *assigned tree number corresponding to the arborist report discussion*, and location of the dripline of all trees on the property.
12. _____ Required Restitution for Approved Tree Removal- The following measures are intended to provide restitution for the trees that have been approved for removal.
- A. Tree Restitution Planting/Irrigation Plan - Prior to issuance of a grading permit or building permit, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Zoning Administrator. The plan shall provide for the planting of at least SEVENTEEN (17) trees, minimum 15-gallons in size. (Also, note below requirement that plans include a provision for other tree plantings for purposes of contingency restitution in the event that trees to be saved are nonetheless damaged.) The plan shall be accompanied by an estimate prepared by a licensed landscape architect or arborist of the materials and labor costs to complete the improvements on the plan.
- B. Required Security to Assure the Completion of Plan Improvements Prior to issuance of a grading permit or building permit, the applicant shall submit a security (e.g., bond, cash deposit) that is acceptable to the Zoning Administrator. The bond shall include the amount of the approved cost estimate, *plus* a 20% inflation surcharge. Until evidence is submitted that the applicant has satisfactorily installed the required improvements, the County may hold the security for up to a year following the exercise of this permit.
- C. Initial Fee Deposit for Processing a Security - The County ordinance requires that the applicant pay fees for all time and material costs of staff for processing a landscape improvement security (Code S-060B). At time of submittal of the security, the applicant shall pay an initial deposit of \$100.
13. _____ Prior to seeking finalization of the building permit, the applicant's arborist shall verify if the replacement trees have been properly planted and when verified notify the Community Development Department in writing.

14. _____ Contingency Restitution Should Altered Trees Be Damaged

Trees to be Preserved but Altered - Pursuant to the conclusions of the arborist report, proposed improvements within the root zone of trees noted on the site plan to be preserved have been determined to be feasible and still allow for preservation provided that the recommendations of the arborist are followed.

Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity nevertheless damages these trees, the applicant shall provide the County with a security (e.g., bond, cash deposit) to allow for replacement of trees intended to be preserved that are significantly damaged by construction activity. The security shall be based on:

- A. Extent of Possible Restitution Improvements - The planting of up to twenty five (25) trees, minimum 15-gallons in size, in the vicinity of the affected trees, or equivalent planting contribution, subject to prior review and approval of the Zoning Administrator;
- B. Determination of Security Amount - The security shall provide for all of the following costs:
 1. preparation of a landscape/irrigation plan by a licensed landscape architect or arborist;
 2. a labor and materials estimate for planting the potential number of trees and related irrigation improvements that may be required *prepared by a licensed landscape contractor*; and
 3. an additional 20% of the total of the above amounts to address inflation costs.
- C. Acceptance of a Security - The security shall be subject to the review and approval of the Zoning Administrator.
- D. Initial Deposit for Processing of Security - The County ordinance requires that the applicant cover all time and material costs of staff for processing a tree protection security (Code S-060B). The Applicant shall pay an initial fee deposit of \$100 at time of submittal of a security.

The security shall be retained by the County up to 24 months following the completion of the tree alteration improvements. In the event that the Zoning Administrator determines that trees intended to be protected have

been damaged by development activity, and the Zoning Administrator determines that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then the Zoning Administrator may require that all or part of the security be used to provide for mitigation of the damaged trees.

15. _____ At least 18 months following the completion of work within the dripline of trees, the applicant's arborist shall inspect the trees for any significant damage from construction activity, and submit a report on his/her conclusions on the health of the trees and, if appropriate, any recommendations including further methods required for tree protection to the Community Development Department.
16. _____ Contractor and/or developer shall comply with the following construction, noise, dust and litter control requirements:
- A. 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.
 - B. The project sponsor shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors and concrete pumpers as far away from existing residences as possible.
 - C. At least one week prior to commencement of grading or any construction on the site, 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 area 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 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.

- D. 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.
- E. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows. This shall include provision for an on-site area in which to park construction equipment.
- F. Transporting of heavy equipment and trucks shall be limited to week days between the hours of 9:00 AM and 4:00 PM. and prohibited on Federal and State holidays.
- G. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

17. _____ This application is subject to an initial application fee of \$550, 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. Current costs may be obtained by contacting the project planner. If the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH THE DEVELOPMENT.

- A. Additional requirements may be imposed by the Building Inspection Department, Fire Protection District, and Health Services Department. It is advisable to check

with these departments prior to requesting a building permit or, proceeding with the project.

B. NOTICE 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., and the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90 day period after the project is approved.

The 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 dated of this permit.