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APPEAL FORM

ool JUL -7 2014

Date Received: _____ Fee: \$452.00

City Clerk's Office/Rec'd by: CITY OF SANTA ROSA
CITY CLERK'S OFFICE

Name of Appellant: Paul Bussard and Lynn Denley-Bussard

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The above named appellant does hereby appeal to your Honorable Body the following:

The decision of the: (List Board/Commission/Dept.) Planning Commission

Decision date: June 26, 2014

Decision: (approval, denial, other) Approved an amendment to the General Plan, MNI report, and a tentative parcel map splitting the 0.99 acre parcel at 408 Calistoga Road into 4 lots.

Name of Applicant/Owner/Developer: Real Equity Partners LLC

Type of application: (Rezoning, Tentative Map, etc.) Rezoning, tentative parcel map, and MNI Report

Street address of subject property: 408 Calistoga Road, Santa Rosa, CA 95409

The grounds upon which this appeal is filed are: (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed.)

1. The deed restrictions (CC&Rs) for this neighborhood prohibit subdivision of the property at 408 Calistoga Road into a lot size of less than 1 acre and only allow one residential unit per acre.
 2. The city policy of ignoring CC&Rs discriminates against the other property owners in this subdivision, especially the elderly who are on fixed incomes.
- (Continued on page 2)

The specific action which the undersigned wants the City Council to take is: (Attach additional sheets if more space is needed.)

Deny the request to amend the General Plan and deny the tentative parcel map subdividing the 0.99 acre parcel at 408 Calistoga Road into 4 lots.

Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.

Paul E. Bussard 7 JULY 2014

Applicant's Signature	Date
<u>Paul E. Bussard</u>	<u>5232 Monte Verde Drive, Santa Rosa, CA 95409</u>
Applicant's Name (type or print)	Address
<u>707-696-4616</u>	<u>707-539-0325</u>
Daytime Phone Number	Home Phone Number

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(Continued from page one)

3. Development of 408 Calistoga Road would violate city ordinances protecting heritage Valley Oak trees.
4. Real Equity Partners LLC is no longer the owner of 408 Calistoga Road.

Synopsis of Attached Documents Supporting the Grounds for this Appeal

1. The deed restrictions (CC&Rs) for this neighborhood prohibit subdivision of the property into a lot size of less than 1 acre and only allow one residential unit per acre.
 - a. Copy of deed restrictions (CC&Rs)
 - b. Outline of subdivision on aerial map
 - c. Aerial close up showing 408 Calistoga Road and surrounding one-acre parcels
 - d. Parcel map indicating how the majority of homeowners in this subdivision have voted on the proposed subdivision of 408 Calistoga Road
2. The city policy of ignoring CC&Rs discriminates against the other property owners in the subdivision, especially the elderly who are on fixed incomes.
 - a. Letter dated July 7, 2014 from the Law Offices of Wesley J. Leckner
3. Development of 408 Calistoga Road would violate city ordinances protecting heritage Valley Oak trees. All the Valley Oak trees on the property are heritage oak size as defined in:
 - a. City Ordinance 17-24.020 (L)(2)

“Heritage tree” means... any of the following trees, native to the County, whether located on private or public property, which has a diameter or a circumferences equal to or greater than that listed below:
1(a) Quercus lobata – valley oak Diameter = 6” Circumference = 19”

City Ordinance 17-24.020 (N)
“Root zone” means the area of ground around the trunk of a tree which includes the drip line and an additional 10 foot wide circular strip of ground around the outside of the drip line.”

City Ordinance 17-24-050 (D)(5)
“No concrete or asphalt paving shall be placed over the root zones of protected trees.”
 - b. Photograph looking across 5220 Monte Verde with 408 Calistoga Road and Sequoia Elementary in the background

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- c. Photograph of the proposed entrance to the driveway with two heritage oaks on either side.
 - d. Map of tentative parcel map approved by the Planning Commission on June 26, 2014 superimposed on an aerial map of 408 Calistoga Road. The “Root Zone of the heritage Valley oak trees are outlined in yellow.
4. Real Equity Partners LLC is no longer the owner of 408 Calistoga Road. Title transferred to Real Equity Property Holdings LLC on April 30, 2014.
- a. Title transferred to Real Equity Property Holdings LLC on April 30, 2013
 - b. Fidelity National Title Insurance Company – Property Overview
408 Calistoga Road, Santa Rosa, CA 95409

BERNICE A. PETERSON, Recorder

By P. J. Laughlin Deputy

800- 810 PAGE 254

DECLARATION OF CONDITIONS AND RESTRICTIONS

1
2
3 WHEREAS, the undersigned are the owners or have an
4 interest in a certain tract of land situated in the County of
5 Sonoma, State of California, and particularly described as follows,
6 to-wit:

7 "Being a portion of the Rancho Los Guillicos, said
8 portion being more particularly described as follows;
9 Commencing at a point on the Rancho line between the
10 Rancho Los Guillicos and Rancho Cabeza de Santa Rosa, said point
11 being South 5° 45' East, a distance of 3463.02 feet from the
12 common Northerly corner of said Ranchos; thence North 84° 09' 30"
13 East and along the Southerly line of the 20.40 acre parcel of
14 land conveyed to C. L. Carlton and wife by Deed recorded November
15 28, 1942 in Book 565 of Official Records, page 163, Recorder's
16 Serial No. B-55312, Sonoma County Records, a distance of 30 feet
17 to a point, said point being the point of beginning of the parcel
18 of land to be herein described; thence from said point of begin-
19 ning North 84° 09' 30" East and continuing along the Southerly
20 line of said 20.40 acre parcel of land, 2147.96 feet; thence South
21 5° 58' 10" East, 305.20 feet; thence South 10° 39' 10" West 58.23
22 feet; thence South 31° 22' 30" West 361.07 feet; thence South 84°
23 15' 30" West 1914.42 feet; thence North 5° 45' West, 645 feet,
24 more or less, to the point of beginning.

25 RESERVING over said 31.19 acre tract of land an easement
26 for an open and unobstructed right of way for all general road
27 purposes and for the joint use and benefit of all parties hereto
28 and their successors in interest, over and along a strip of land
29 40 feet in width, said strip of land being described as:

30 COMMENCING at a point in the center of the County Road
31 leading from Santa Rosa to Calistoga, said point being the North-
32 westerly corner of the hereinabove described 31.19 acre tract of
33 land; thence from said point of commencement, South 5° 45' East,
34 327.50 feet, to the center of a 40 foot road, as now constructed,
35 said point being the point of beginning of the strip of land to
36 be herein described; thence from said point of beginning, North
37 84° 09' 30" East, and along the center of said 40 foot right of
38 way, a distance of 2176 feet, more or less, to the Easterly line
39 of the hereinabove described 31.19 acre tract of land, as reserved
40 in the Quitclaim Deed dated July 6, 1948 and made by Reynolds Bu-
41 zard and Dorothy M. Buzard, his wife, to Peter J. Wegesser and
42 Max M. Wegesser, his wife, and thereafter recorded in the office
43 of the County Recorder of Sonoma County, California.

44 WHEREAS, the undersigned are about to sell property
45 hereinabove described which they desire to subject to certain
46 restrictions, conditions, covenants and agreements between it and
47 the purchasers of said property as hereinafter set forth.

48 NOW, THEREFORE, the undersigned do hereby declare that
49 the above described property is held and shall be conveyed and
50 hereafter owned subject to the restrictions, conditions, covenants
51 and agreements between it and the purchasers of said property and
52 their heirs, executors, administrators, successors and assigns

1 as hereinafter set forth:

2 1. Said real property is declared to be residential in
3 character and no building shall be erected upon any part thereof
4 except single family dwellings of not more than two stories, to-
5 gether with appropriate out-houses and garages for private use.

6 2. The main dwelling on any parcel of said real prop-
7 erty shall be originally constructed thereon and no building or
8 structure shall be moved onto any parcel of said real property
9 to be used or occupied as a main dwelling.

10 3. No trade whatsoever, of any type, nature or descrip-
11 tion, craft, commercial or manufacturing enterprise shall be
12 conducted upon any of said real property nor within any building
13 thereon, nor shall anything be done which may be or become an
14 annoyance or nuisance to the neighborhood.

15 4. No part of said property, nor any building erected
16 thereon shall be occupied or resided/or used in any instance
17 by any person not of the white Caucasian race, domestic servants
18 of a reasonable number being an exception hereunder.

19 5. No more than one residential unit shall be construc-
20 ted on any one acre parcel of said property within the subdivision
21 and no parcel of land within the subdivision shall be resubdivided
22 into building plots having less than one acre of area. Nothing
23 herein, however, shall prevent the owner of any parcel in said
24 subdivision from constructing guest cottages or similar struc-
25 tures in connection with his principal dwelling.

26 6. No hogs, cattle, cows or any other livestock shall
27 be kept or maintained upon said property except the following:
28 Chickens, pigeons, rabbits and other similar small livestock not
29 exceeding 50 of each kind for each acre provided that such live-
30 stock must be properly enclosed upon the owners property; saddle
31 horses not exceeding two for each acre. Said restriction will
32 not prohibit the keeping of individual household pets such as dogs
and cats.

7. The principal dwelling house to be constructed upon
any parcel of said real property shall be not less than 750 Sq.ft.
in area.

8. No trailer, other than the permanent interim dwelling,
tent, shack, garage, barn, or other outbuilding erected within
the subdivision for longer than a period of three years beginning
from the date such premises are first occupied, shall at any time
be used or occupied as a residence for longer than a period of
three years beginning from the date such premises are first occu-
pied.

9. No cesspool, privy or privy vault or receptacle of
any kind for the purpose of storage of liquid waste, except septic
tanks of a type approved by the Sonoma County Health Officer, shall
be built or maintained upon any part of said property, excepting
that temporary privies may be permitted during the course of the
construction of a building. Septic tanks shall be constructed not
closer than thirty (30) feet to any property line. All septic tanks
and drains shall be maintained so that no offensive odors reach
the surface of the ground. However, septic tanks of the type
herein designated must be constructed, maintained, and used in

1 cases where said property is continually used, occupied and re-
2 sided upon, even though the main dwelling may not be completed.

3 10. The main building or structure on any parcel of
4 land shall be not less than fifty (50) feet from the front line of
5 each building parcel.

6 11. No commercial or advertising signs or placards of
7 any description shall be constructed, maintained, placed upon
8 or suffered to be maintained or placed upon any of the property
9 within said subdivision.

10 12. All of the restrictions, conditions, covenants and
11 agreements contained herein shall be and are made and imposed
12 upon the property within the subdivision for the direct mutual
13 and reciprocal benefit of each and every parcel of said subdivi-
14 sion and shall bind the grantees of each of said parcels, their
15 heirs, successors and assigns.

16 13. The undersigned do hereby covenant and promise
17 themselves, their heirs, and assigns that all of and each part
18 of the above described property shall be held, sold, leased, used
19 alienated, or encumbered subject to the restrictions, conditions,
20 covenants, and agreements contained herein, and that the benefit
21 of the undersigned's covenants shall extend to all of or each
22 part or parcel of the above described property. It is further
23 understood and agreed that each and every person who may pur-
24 chase, take, receive, or is granted any or all of the above de-
25 scribed property does take subject to and with knowledge of the
26 conditions, restrictions, covenants, and agreements contained
27 herein and does hereby covenant and promise for themselves,
28 their heirs, and assigns that all of and each part of the above
29 described property shall be held, used, sold, leased, alienated,
30 or encumbered subject to the restrictions, conditions, covenants,
31 and agreements contained herein, and that the benefit of such
32 covenants shall extend to all of or each part or parcel of the
above described property.

14. If the parties hereto, or any of them or their
heirs or assigns shall violate or attempt to violate any of the
covenants or restrictions herein, it shall be lawful for any
other person or persons owning any other lots in said tract of
land to prosecute any proceedings at law or equity against the
person or persons violating or attempting to violate any such
covenant or restriction and either to prevent him or them from
so doing, or to recover damages or other dues for such violations.

15. Invalidation of any one of these covenants by judg-
ment or court order shall in no wise affect any of the other
provisions which shall remain in full force and effect.

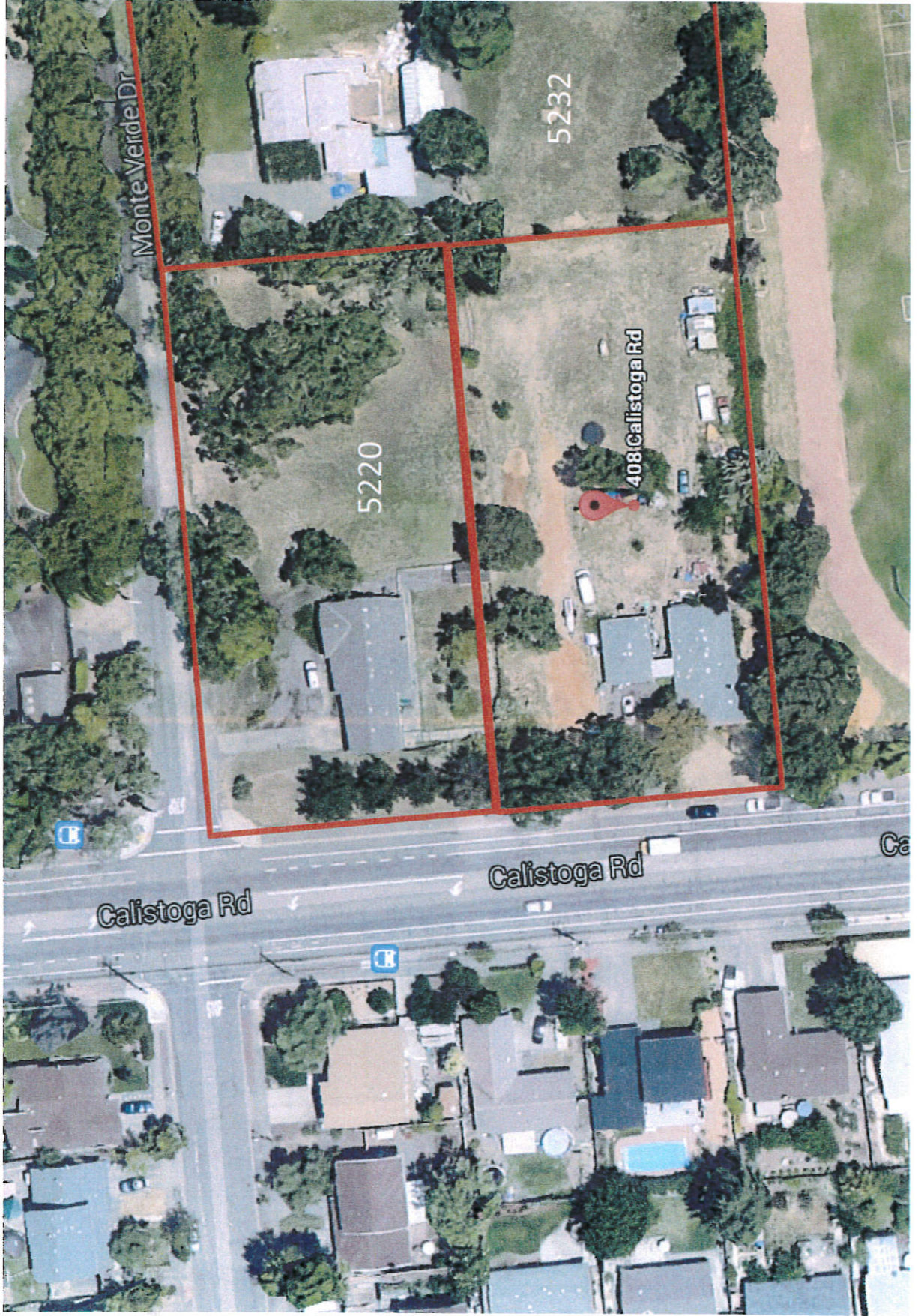
Peter J. Wegener
Inez M. Wegener

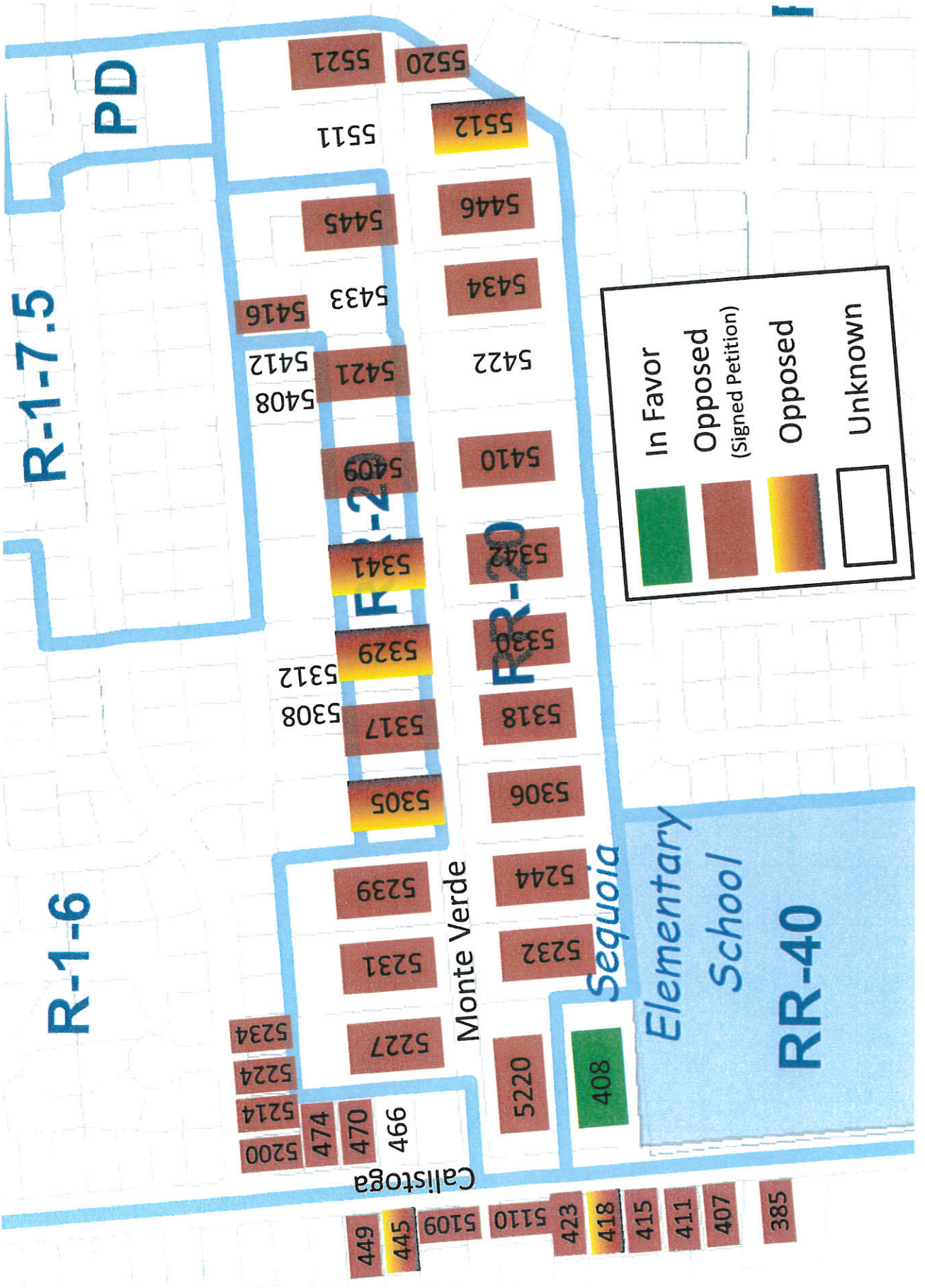
GEARY & TAUBER
ATTORNEYS
SAN JOSE, CALIF. 95113
TELEPHONE 442-1111

Properties Governed by the Accompanying Declaration of Conditions and Restrictions (CC&Rs)



Corner of Monte Verde and Calistoga Road; Adjacent Properties are One-Acre Lots





Law Offices of Wesley J. Leckner
2777 Cleveland Avenue, Suite 101
Santa Rosa, CA 95403

Phone (707) 566-9600
Facsimile (707) 528-6267

Real Estate Department

July 7, 2014

City Council
City of Santa Rosa
100 Santa Rosa Avenue
Santa Rosa, CA 95401

To the Honorable Mayor and Members of the City Council,

This letter is a written on behalf of our clients, Paul Bussard and Lynn Denley-Bussard, who live at 5232 Monte Verde Drive, Santa Rosa, CA 95409. Their property is located just to the east of 408 Calistoga Road.

They are appealing the decision of the Planning Commission made on June 26, 2014. We ask you to reverse the decision of the Planning Commission and deny the Mitigated Negative Declaration, General Plan Amendment, Rezoning, and Tentative Parcel Map to subdivide a 0.99-acre parcel into four individual lots, retaining the existing home, for the property located at 408 Calistoga Road. File No. MJP13-007

Since the first neighborhood meeting, held in October 2013, the City Planner was aware that the property at 408 Calistoga Road is subject to deed restrictions that require one house per acre. These deed restrictions also expressly forbid any subdivision of the property into lot sizes of less than one acre.

The City Planner received a copy of the three-page deed restrictions and they were given to the Planning Commissioners to review prior to the meeting. In her presentation at the Planning Commission meeting our client, Lynn Denley-Bussard, mentioned that there were deed restrictions that applied to 408 Calistoga Road that limit building on this parcel to one residential unit per acre.

The deed restrictions for this subdivision, written in 1951, have been in effect for the last 63 years and apply to all homeowners in the subdivision, regardless of when they purchased their parcel.

These deed restrictions clearly describe this subdivision as starting in the center of Calistoga Road and running eastward toward St. Francis. A map of the subdivision outlined in red, was presented during the Planning Commission Meeting and it clearly showed that 408 Calistoga Road was a part of this subdivision.

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2777 Cleveland Avenue, Suite 101
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The applicant has never denied that there are deed restrictions that prohibit the subdivision of this property. His civil engineer simply said the CC&Rs were old and they weren't valid. That is not true. Three attorneys have reviewed the deed restrictions and they all concur: these CC&R's, with the exception of the clause about race, are valid and they are defensible in court.

During the meeting, several Planning Commissioners asked for clarification on the deed restrictions. They were told by the City Planner and the Assistant City Attorney that this was a civil matter between property owners and the Commissioners should not consider them when making their decision.

While the City Council is under no obligation to enforce CC&Rs, they should not take any action that would encourage or enable an individual property owner to violate the rights of other property owners in the neighborhood. And, by approving the tentative parcel map to subdivide the property, the City is forcing the other homeowners in the neighborhood to go to court to protect their rights.

This policy of the City to ignore the CC&Rs of well-established neighborhoods discriminates against the other homeowners, especially the elderly who live on a fixed income and do not have the financial resources to defend themselves in court. Several of the homeowners in this neighborhood range in age from their early sixties to over one hundred years of age.

The Planning Commissioners asked why some of the other properties in this subdivision were allowed to subdivide. The City Planner did not know the history of the neighborhood, so she could not answer the question. Several residents, who were at the meeting, raised their hands to answer the question, but they were never called upon.

Since the deed restrictions do not include any method or process for adapting to changing needs, the property owners use a simple majority vote of the homeowners to approve or deny requests. This "majority vote" rule has only been used four times during the last 63 years.

The first time was in 1960 when our clients got permission from the other homeowners in the neighborhood to install a mobile home on their property.

The second was when the City of Santa Rosa wanted to build a water-pumping station on the north-east corner of Monte Verde Drive and Calistoga Road. As compensation for losing his corner lot to the city, the other homeowners approved the subdivision of the remaining property.

The third time was when the property owners wanted to annex to the City of Santa Rosa. The neighborhood discussions on this issue took 13 years. In the end, the neighborhood agreed by majority vote to allow the homeowners whose properties border Spain Avenue to subdivide the back portion of their lots.

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The fourth time was to approve a zoning change from RR-40 to RR-20. Our clients invited the previous owner of 408 Calistoga Road to participate in the storm drain and rezoning project, but he wasn't interested. At the neighborhood meeting, the homeowners offered to allow the current owners of 408 Calistoga Road to change the zoning of their parcel from RR-40 to RR-20, but they weren't interested.

A parcel map, supported by signed petitions of homeowners in the neighborhood, was presented at the Planning Commission meeting by our client, Lynn Denley-Bussard. This map clearly indicates how all of the CC&R members have voted on the proposed subdivision of the parcel at 408 Calistoga Road. And virtually all of the property owners are opposed to it.

In the United States majority rule is a long and well-established legal principle. In this case, the majority of homeowners who have a vote in this subdivision are opposed to a change in zoning and subdivision of the parcel at 408 Calistoga Road.

So, we request that you retain the status quo in this neighborhood and reverse the decision of the Planning Commission and deny the Mitigated Negative Declaration, General Plan Amendment, Rezoning, and Tentative Parcel Map to subdivide a 0.99-acre parcel into four individual lots, retaining the existing home, for the property located at 408 Calistoga Road. File No. MJP13-007.

Otherwise, the City will clearly encourage and enable this property owner to violate the CC&Rs that apply to all of the property owners in this subdivision. If our clients are forced to go to court to defend their property rights, we will ask the court to grant them punitive damages against the City for intentional and willful misuse of power.

Very truly yours,

Wesley J. Leckner

Wesley J. Leckner

Santa Rosa City Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 17 ENVIRONMENTAL PROTECTION](#)[Chapter 17-24 TREES](#)[Article II Definitions](#)**17-24.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings set forth in this section.

(A) “Accepted arboricultural standards” means those pruning standards approved in the publication “Pruning Standards” published by the International Society of Arboriculture, as the same now exists and may be revised from time to time.

(B) “Accepted arboricultural practices” means practices set forth as acceptable or better in current generally accepted textbooks on arboriculture and tree care and in current professional journals on arboriculture or university level publications on tree care.

(C) “Alter” means to take an action that could foreseeably diminish the health or vigor of a tree. “Alter” includes, but is not limited to, excessive or improper pruning of a tree, grade changes around or near a tree, excessive irrigation of a tree, and trenching in the root zone of a tree. “Alter” does not include: periodic trimming, shaping, thinning or pruning of a tree to preserve or protect its health, growth or appearance, in accordance with accepted arboricultural standards and practices; provided, however, that any, including root pruning of a heritage tree shall be done only by a certified tree worker, certified arborist, or with a certified arborist in attendance and supervising the entire process.

(D) “Certified arborist” means a person who has been tested by and is currently certified as an “arborist” by the International Society of Arboriculture or a person who, as determined by the director, is equally qualified in the field of arboriculture.

(E) “Certified tree worker” means a person who has been tested by and is currently certified as “tree worker” by the International Society of Arboriculture or a person who, as determined by the Director, is equally qualified in the field of arboriculture.

(F) “Circumference” means the circumference of a tree measured around the tree’s outside bark four and one-half feet above the average natural ground level immediately surrounding the trunk of the tree.

(G) “Developed property in a R-1, R-1-6, R-1-7.5, R-1-9, PRD, or a R-1-PD zoning district” means a lot within one of these zones which is improved with a single-family dwelling and the lot, due to its size, is incapable of being further subdivided under the zoning regulations which are applicable to it. “Developed property in a R-1, R-1-6, R-1-7.5, R-1-9, PRD, or a R-1-PD zoning district” also means a lot within one of these zones which is improved with a single-family dwelling and which, due to its size, is technically capable of being further subdivided under the zoning regulations applicable to it, but which, due to the location of the dwelling on the lot, the size and condition of the dwelling, and the comparable size of the other developed lots within the neighborhood or other circumstances, such as the topography or shape of the lot, is unlikely, as determined by the director in writing, to be approved for further subdivision.

(H) “Director” means the director of the City’s Department of Community Development or a person or persons within that Department designated by the Director to perform any of the discretionary duties or responsibilities of the Director and are set forth in this chapter.

(I) “Director of Recreation and Parks” means the Director of the Recreation and Parks Department of the City or a person or persons within that department designated by the department’s director to perform any of the discretionary duties or responsibilities of the Director which are set forth in this chapter.

(J) "Diameter." In each instance where the diameter of a tree is listed in this chapter, the listed diameter is a tree's diameter measured four and one-half feet above the average natural ground level immediately surrounding the trunk of the tree and has been determined by dividing the tree's listed circumference, as "circumference" is defined in this chapter, by the number 3.14. In any instance where the diameter of a tree is needed to interpret or implement any provision of this chapter, it shall be determined by dividing the tree's actual "circumference," as defined in this chapter, by the number 3.14.

(K) "Drip line" means an area of the ground delineated by the vertical projection of the outside periphery of the crown area of a tree down to the ground surface.

(L) "Heritage tree" means any of the following:

(1) A tree or grove of trees so designated by a resolution of the Planning Commission, upon nomination by the Director of Community Development or the Planning Commission and after the holding of a noticed public hearing, having a specific historical or cultural association or value due to its age, species, character, location, height and/or the circumstances of its planting or origin.

(2) Any of the following trees, native to the County, whether located on private or public property, which has a diameter or a circumference equal to or greater than that listed below:

Species/Common Name	Diameter	Circumference
1. Oak Family		
(a) <i>Quercus lobata</i> —valley oak	6"	19"
(b) <i>Q. agrifolia</i> —live oak	18	57
(c) <i>Q. kelloggii</i> —black oak	18	57
(d) <i>Q. garryana</i> —Oregon or white oak	18	57
(e) <i>Q. chrysolepis</i> —canyon oak	18	57
(f) <i>Q. douglasii</i> —blue oak	6	19
(g) <i>Q. wislizenii</i> —interior live oak	18	57
2. <i>Sequoia sempervirens</i> —redwood	24	75
3. <i>Umbellularia californica</i> —bay	24	75
4. <i>Arbutus menziesii</i> —madrone	12	38
5. <i>Aesculus californica</i> —buckeye	6	19
6. <i>Pseudotsuga menziesii</i> —douglas fir	24	75
7. <i>Alnus oregona</i> —red alder	18	57
8. <i>Alnus rhombifolia</i> —white alder	18	57
9. <i>Acer macrophyllum</i> —big leaf maple	24	75

(M) "Protected tree" means any tree, including a heritage tree, designated to be preserved on an approved development plan or as a condition of approval of a tentative map, a tentative parcel map, or other development approval issued by the City.

(1) When property is situated within the R-1, R-1-6, R-1-7.5, R-1-9, PRD, or R-1-PD zoning districts, a tree designated as a “protected tree” in connection with the approval of the property’s development shall lose that designation when the property has been improved or developed as described in subsection G of Section 17-24.020 and the dwelling on the property has been occupied as a residence.

(2) For all other properties, any tree situated thereon which has been designated as a “protected tree” shall retain that designation until the tree reaches a stage of growth to come within the definition of tree as set forth in subsection P of Section 17-24.020.

(N) “Root zone” means the area of ground around the trunk of a tree which includes the drip line and an additional 10 foot wide circular strip of ground around the outside of the drip line.

(O) “Street tree” means any tree having a single trunk circumference greater than six and one-quarter inches or a diameter greater than two inches, a height of more than six feet, and one half or more of its trunk is within a

public right of way or within five feet of the paved portion of a City street or a public sidewalk.

(P) “Tree” means any woody plant having a single trunk circumference of twelve and one-half inches or more, or a diameter of four inches or more or a combination of multiple trunks having a total circumference of 25¼ inches or more, or a total diameter of eight inches or more.

(Q) “Person” means any individual, or group of individuals, any partnership or corporation, or any unincorporated association. “Person” includes the City.

(R) “Remove” means the cutting down of a tree or the relocation of a tree in a manner not in accordance with accepted arboricultural practices.

(S) “Relocate” means to relocate a tree from the place where it is growing and replanting it in another location in accordance with accepted arboricultural practices and with the intent and a reasonable expectation that it will survive and grow in the new location. (Ord. 2858 § 1, 1990)

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Santa Rosa City Code

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[Title 17 ENVIRONMENTAL PROTECTION](#)
[Chapter 17-24 TREES](#)
[Article IV. Permits](#)

17-24.050 Permit category II—Tree alteration, removal or relocation on property proposed for development—Requirements.

(A) All development proposals and subdivision applications shall clearly designate all trees and heritage trees on the property by trunk location and an accurate outline of each tree's drip line and shall indicate those trees which are proposed to be altered, removed, or relocated and those trees proposed to be designated protected trees. The reasons for the proposed removal of any tree shall be stated in writing. The development plan or tentative subdivision map shall indicate the genus and species, the shape, the drip line and the trunk circumference of each tree and heritage tree. These tree delineations must also be shown on every page of the development and improvement plans where any work is proposed within the root zone of any tree. The owner of the property and the person in control of the proposed development shall protect and preserve each tree and heritage tree situated within the site of the proposed development during the period the application(s) for the proposed development is being considered by the City. The proposed development shall be designed so that:

(1) The proposed lots and/or improvements preserve and protect any heritage trees to the greatest extent possible.

(2) The road and lot grades protect heritage trees to the greatest extent possible and the existing grade shall be maintained within each such tree's root zone.

(B) If the proposed project is approved, the recordation of the final map or issuance of a grading permit or building permit for the project shall constitute a permit to alter, remove, or relocate any trees designated for alteration, removal, or relocation upon the project's approved plans. Any change in the trees to be altered, removed, or relocated as designated on the approved development plan or tentative map shall only be permitted upon the written approval of the Director or, when the Director determines that the proposed change may be substantial, by the Planning Commission.

(C) Tree Replacement Program. A person owning or controlling a development project shall be required to replace trees and heritage trees approved for removal as part of the approval of the project in accordance with subdivision 1; each protected tree removed or damaged shall be replaced in accordance with subdivision 2.

(1) For each six inches or fraction thereof of the diameter of a tree which was approved for removal, two trees of the same genus and species as the removed tree (or another species, if approved by the Director), each of a minimum 15-gallon container size, shall be planted on the project site, provided however, that an increased number of smaller size trees of the same genus and species may be planted if approved by the Director, or a fewer number of such trees of a larger size if approved by the Director.

(2) For each six inches or fraction thereof of the diameter of a tree which was not approved for removal, four trees of the same genus and species as the removed tree (or another species, if approved by the Director), each of a minimum 15-gallon container size, shall be planted on the project site, provided however, that an increased number of smaller size trees of the same genus and species may be planted if approved by the Director, or a fewer number of such trees of a larger size if approved by the Director.

(3) If the development site is inadequate in size to accommodate the replacement trees, the trees shall be planted on public property with the approval of the Director of the City's Recreation and Parks Department. Upon the request of the developer and the approval of the Director, the City may accept an in-lieu payment of \$100.00 per 15-gallon replacement tree on condition that all such payments shall be used for tree-related

educational projects and/or planting programs of the City.

(D) Protected Trees. The following requirements shall apply to every person who develops any property upon which a protected tree is located:

(1) Before the start of any clearing, excavation, construction or other work on the site, every protected tree shall be securely fenced off at the “protected perimeter,” which shall be either the root zone or other limit as may be established by the City. Such fences shall remain continuously in place for the duration of all work undertaken in connection with the development. The area so fenced off shall not be used as a storage area or altered or disturbed except as may be permitted under this subsection.

(2) If the proposed development, including any site work for the development, will encroach upon the protected perimeter of a protected tree, special measures shall be utilized, as approved by the Director or the Planning Commission, to allow the roots to obtain oxygen, water, and nutrients as needed. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter, if authorized at all by the Director, shall be minimized and subject to such conditions as may be imposed by the Director. No significant change in existing ground level shall be made within the drip line of a protected tree. No burning or use of equipment with an open flame shall occur near or within the protected perimeter. All brush, earth and other debris shall be removed in a manner which prevents injury to the protected tree.

(3) No oil, gas, chemicals or other substances that may be harmful to trees shall be stored or dumped within the protected perimeter of any protected tree, or at any other location on the site from which such substances might enter the perimeter of a protected tree. No construction materials shall be stored within the protected perimeter of a protected tree.

(4) Underground trenching for utilities shall avoid major support and absorbing tree roots of protected trees. If avoidance is impractical, tunnels shall be made below the roots. Trenches shall be consolidated to service as many units as possible. Trenching within the drip line of protected trees shall be avoided to the greatest extent possible and shall only be done under the at-site directions of a certified arborist.

(5) No concrete or asphalt paving shall be placed over the root zones of protected trees. No artificial irrigation shall occur within the root zone of oaks.

(6) No compaction of the soil within the root zone of protected trees shall occur.

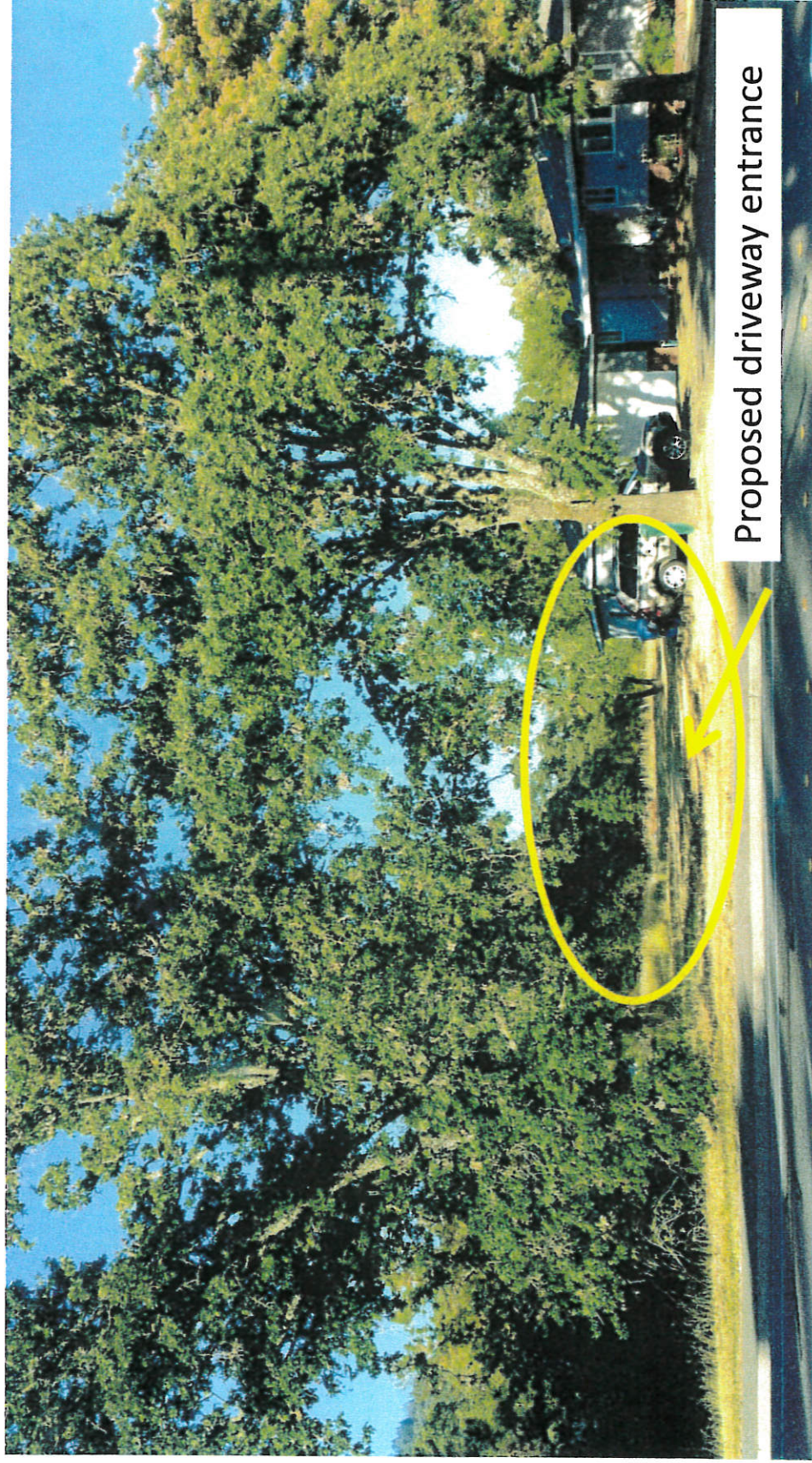
(7) If the trees proposed to be removed can be economically relocated, the developer shall move the trees to a suitable location on the site shown on the approved plans. (Ord. 2858 § 1, 1990)

View the [mobile version](#).

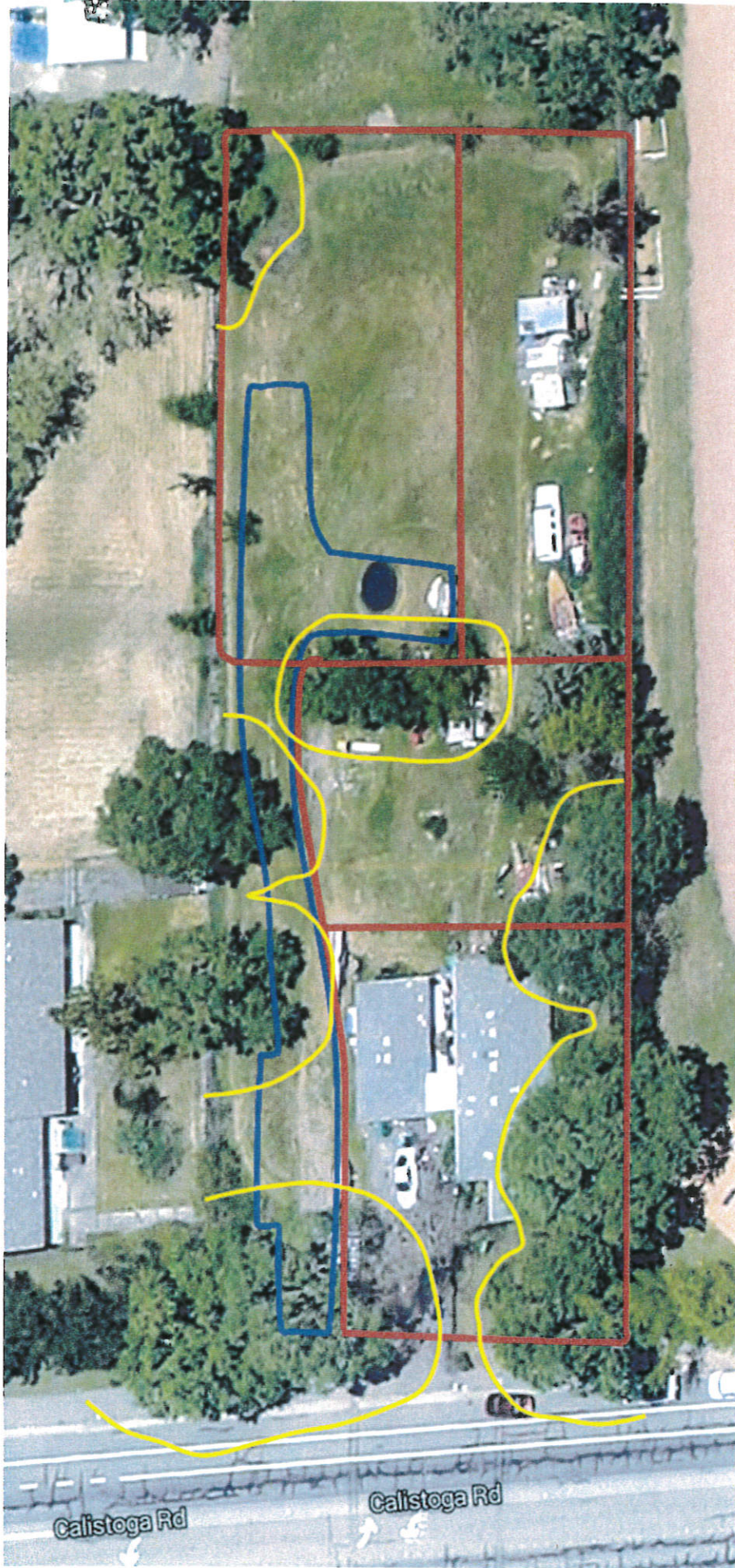
This is a side view across 5220 Monte Verde Drive with 408 Calistoga Road and Sequoia Elementary in the background. This is a rare natural grove of heritage Valley Oak trees protected by City Ordinances. For example, City Ordinance 17-24.020 (N) defines the "Root zone" as the drip line plus 10 feet.



The proposed driveway would violate City Ordinances because the drip lines of these protected heritage Valley Oak trees overlap. City Ordinance 17-24-050 (D)(5) says “No concrete or asphalt paving shall be placed over the root zones of protected trees.” The entire “Root Zone” area between these two trees should not be disturbed or covered with asphalt. The proposed driveway would violate City Ordinances at four additional trees.



- Root zones of protected heritage oak trees
- Common driveway proposed
- Property lines proposed



408 Calistoga Road with tentative parcel map of subdivision outlined in red



Property Overview

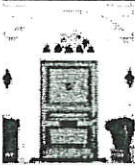
408 CALISTOGA RD, SANTA ROSA, CA 95409-3707

Owner and Geographic Information



Primary Owner:	REAL EQUITY PROPERTY HOLDINGS LLC,		Secondary Owner:	
Mail Address:	1301 FARMERS LN STE 302 , SANTA ROSA, CA 95405-6745			
Site Address:	408 CALISTOGA RD , SANTA ROSA, CA 95409-3707			
APN:	153-430-032	Lot Number:		Page / Grid:
Housing Tract Number:				
Legal Description:	Subdivision: RANCHO LOS GUILICOS Legal Brief Description: SUBD:RANCHO LOS GUILICOS REMAP FROM 030-160-057-000 - 08/11/98			

Property Details



Bedrooms:	3	Year Built:	1952	Square Feet:	1,630
Bathrooms:	1	Garage:	Garage 2	Lot Size:	42,688 SF
Total Rooms:	6	Fireplace:	1	Number of Units:	1
Zoning:		Pool:		Use Code:	Single Family Residential

Sale Information



Transfer Date:	04/30/2014	Seller:	REAL EQUITY PARTNERS LLC,
Transfer Value:	\$0.00	Document#:	2014028822
Cost/Sq Feet:			

Assessment and Taxes



Assessed Value:	\$324,640.00	Percent Improvement:	41.18%	Homeowner Exemption:	
Land Value:	\$190,966.00	Tax Amount:	\$374,440.00	Tax Rate Area:	4-093
Improvement Value:	\$133,674.00	Tax Status:	Current	Tax Account ID:	
Market Improvement Value:		Market Land Value:		Market Value:	

Courtesy of Fidelity National Title
Offered by Fidelity National Title

All Information produced is deemed reliable but is not guaranteed.

This property profile is being provided as a general service to the community at large without the condition of the referral of title insurance business.