

# RECEIVED

APR 04 2018

## APPEAL FORM

CITY OF SANTA ROSA  
CITY CLERK'S OFFICE

Fee: \_\_\_\_\_

City Clerk's Office/Rec'd by: \_\_\_\_\_

Name of Appellant:  
Business Address and  
Telephone Number:

TONY CABRERA

CABRERA AND ASSOCIATES

E-mail Address:

TONY @ CABRERAASSOC.COM

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The above named appellant does hereby appeal the following to the City Council:

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

DIRECTOR OF WATER

Decision date:

MARCH 21, 2018

Decision: (contract award  
recommendation; nonresponsive bid,  
denial, other)

DENIAL OF VARIANCE REQUEST

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.)

- AS STATED IN THE CITY CODE, SPECIAL CIRCUMSTANCES  
APPLY DUE TO LOCATION, EXISTING IMPROVEMENTS, PRACTICABLE  
DIFFICULTIES & UNNECESSARY HARDSHIP
- PLEASE SEE ATTACHED PACKET OF INFORMATION

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

OVERTURN DENIAL OF VARIANCE AND ALLOW USE OF A PRIVATE  
SEWER EASEMENT TO CONNECT TO THE PUBLIC SEWER

Except where an appeal procedure is otherwise provided in the City Code, any person dissatisfied with any final decision of any City commission, board or official may appeal such final decision to the City Council. Only final decisions may be appealed to the City Council. All appeals shall be initiated by filing with the City Clerk a written notice of appeal on a form provided by the City Clerk within 15 days of the date of decision, together with any applicable fees as determined by Council resolution. (Santa Rosa City Code §§ 1-20.010; 1-20.020.)

Tony Cabrera  
Appellant's Signature

April 3, 2018  
Date

Name and title (type or print)

## 1800 Brush Creek Road – Justification

Rod and Lynne Wallace suffered the loss of their home from the Tubbs fire this past October. They own the property at 1800 Brush Creek Road and are proposing to build their new home, with a second unit, on their 1-acre property.

According to the Sewer Design Standards and as implemented by Staff, Rod and Lynne must extend the existing sewer mainline to the mid-point of their property frontage within Brush Creek Road.

They are requesting a variance from this Design Standard and would rather connect a private lateral through a private sewer easement at the rear portion of their property to an existing wye connection to a public sewer mainline.

1800 Brush Creek Road is located south of Montecito Boulevard just west of Rivera Drive. As noted on Exhibit A, there is not an existing sewer mainline along the property frontage. The entire sewer system along Brush Creek Road flows east to the trunk line in Rivera Drive.

All the properties east of Brush Creek Road and adjacent to the Wallace property are connected to the City public sewer. This is noted on Exhibit B, where all the properties shown in grey, are connected to City sewer and the properties shown in white, are not connected. 1800 Brush Creek Road is not connected to the public sewer system because it is currently vacant.

Exhibit C, is a more detailed view of the area surrounding 1800 Brush Creek Road. Addresses 1700, 1910, and 2000 are all connected to City public sewer. Their lateral sewer connections run across property lines through private easements to the public sewer.

Rod and Lynne are requesting to be allowed to do what their entire neighborhood and neighboring properties have been allowed to do. They would like to connect to the public sewer through a private sewer easement

The City Code states that the City Engineer must make one or more findings that certain circumstances apply.

One of those findings is that special circumstances apply such as size, shape, location or existing improvements, and that strict application of requirements would result in practicable difficulties or unnecessary hardships.

LOCATION: The property is located above and adjacent to a tremendous amount of large boulders and rock. Trenching in the rock and boulders, at the necessary depths of 9' to 11', is prohibitive and is most likely the reason sewer has not been installed in this stretch of Brush Creek Road for several decades.

EXISTING IMPROVEMENTS: The existing City public sewer system does not exist in Brush Creek Road along this property frontage. The existing public system flows east and runs through several private properties. The City made a conscious decision to build the public system in this fashion.

PRACTICABLE DIFFICULTIES: Construction requiring deep depth trenching in boulders and rock is inherently dangerous to the workers, the motoring public and ultimately the maintenance crews. The length of construction, the time it takes to complete the work would be lengthen due to the difficulty and uncertainty of trenching through boulders and rock.

Brush Creek Road would most likely be closed during the day, while under construction. Traffic would be delayed, and traffic control would be difficult. The trenching would be plated nightly, providing a dangerous situation for as long as the road was under construction.

Any future maintenance of this sewer, at these depths, would put the City maintenance crews into a dangerous situation.

UNNECESSARY HARDSHIP: The cost to trench at these depths through rock and boulder cannot be determined, only estimated. An estimate received from Oakgrove Construction, Exhibit D arrived with a cost of over \$500,000. This presents an unnecessary hardship as an existing private sewer easement is available and its use would avoid all sewer construction within Brush Creek Road.

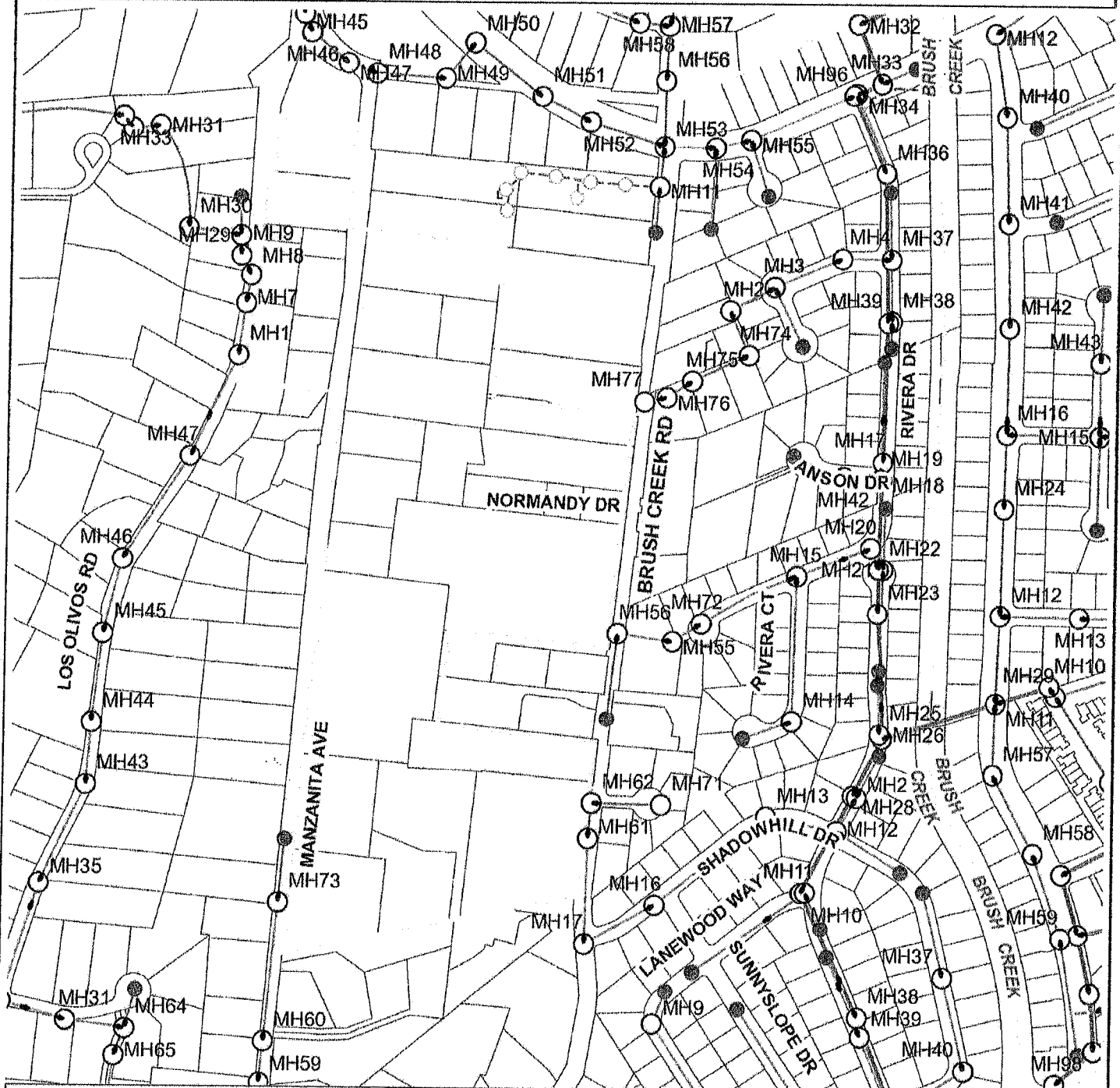
Additionally, the City Code states that the City Engineer must also find that the granting of this variance will not be materially detrimental to the public welfare or injurious to properties in the same zone and vicinity.

Allowing the sewer connection through a private sewer easement will not be detrimental to the public welfare or injurious to properties in the same zone and vicinity in that most of the adjacent properties are currently connected to the public sewer on private property. Several properties currently connect through private easements that cross property lines. 1700 Brush Creek Road, just south of the Wallace property was just recently allowed to connect through a private easement.

Rod and Lynne Wallace are requesting this variance to be allowed to enjoy the same benefit as all the surrounding properties enjoy, of connecting to the public sewer, not in Brush Creek Road, through a private easement.

Exhibit A – Brush Creek Road Sewer Map; Exhibit B - City Sewer Connections;

Exhibit C – Detailed Sewer Map; Exhibit D – Cost Estimate;



# EXHIBIT A



1/24/2018

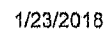
Scale 1: 4,800

0 Miles 0.08

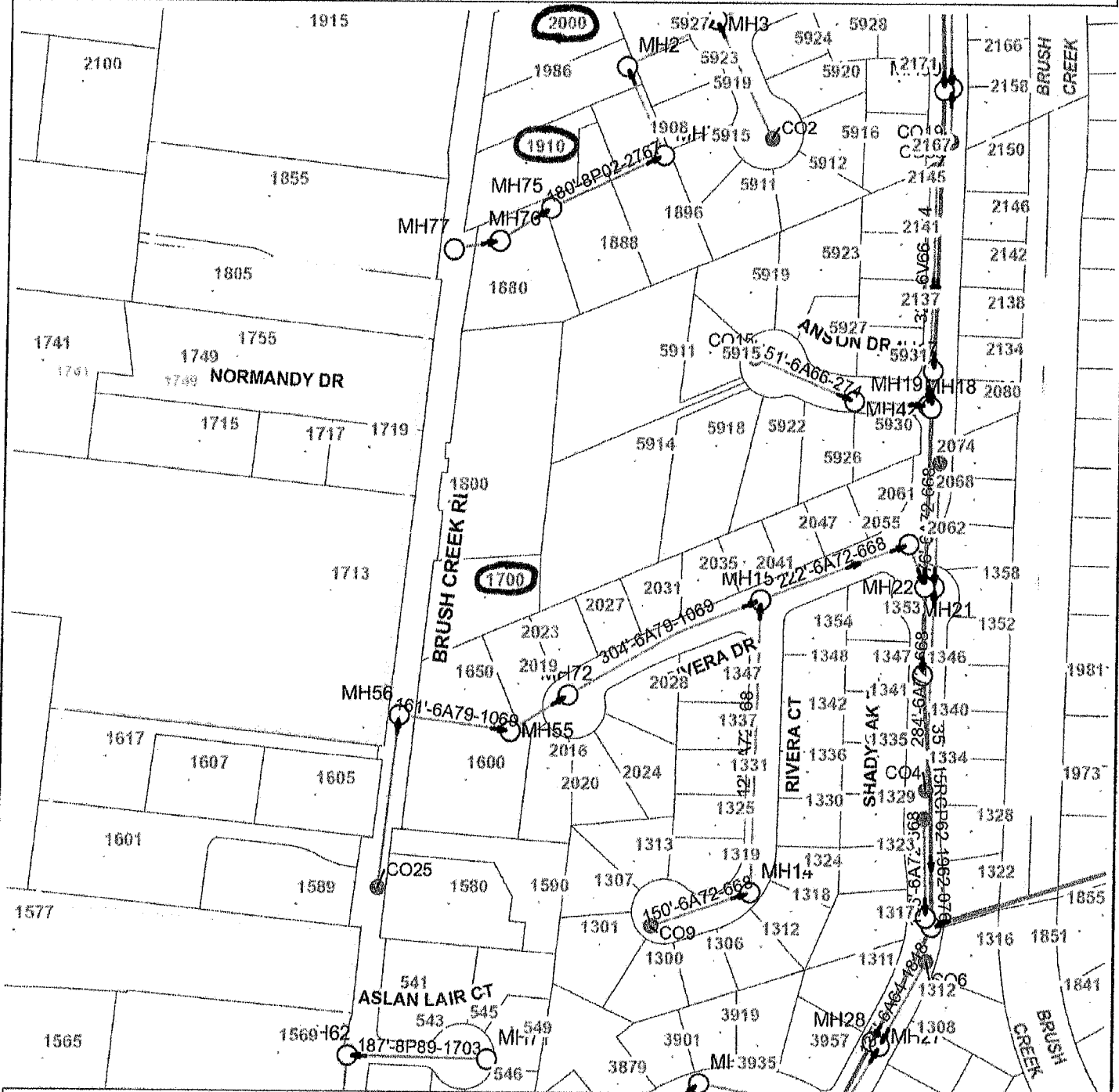


12

101



0 Miles 0.08



### Sewer Mains & Manholes

EXHIBIT C



2/9/2018

Scale 1:2,400

0 Miles 0.04

**From:** Mark Neumann

**Sent:** Thursday, February 8, 2018 3:23 PM

**To:** 'Rod Wallace' (rod@rodericwallace.com); bill@bcengineeringgroup.com; Lynne Wallace (lwallace@ndoi.com); tb@bcengineeringgroup.com; 'tacabrera@yahoo.com'

**Cc:** Doug Hamilton

**Subject:** RE: 1800 Brush Creek Road

Hi Tony,

Here is a copy of the estimate Oak Grove provided Lynne for the sewer.

Keep in mind this estimate is for the force main option connecting through the easement. This does not assume the cost of upsizing the Brush Creek Road Sewer Main, which we assume to be over half a million dollars or more and cannot provide a firm price for due to the extent of rock under the road.

Thanks,

Mark Neumann

**Estimator/Project Manager**

**Oak Grove Construction**

431 Payran Street

Suite A

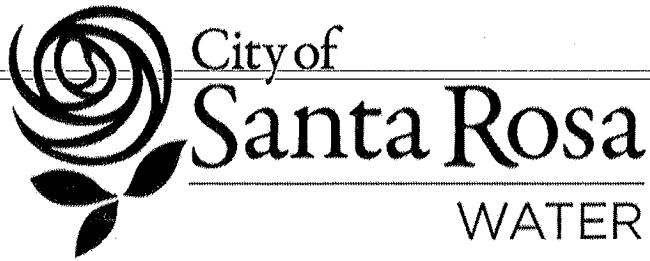
Petaluma, CA 94952

Mo: 707-292-6710

Ph: 707-283-0093

Fx: 707-283-0157

EXHIBIT D-1



March 21, 2018

Tony Cabrera  
252 Pheasant Drive  
Healdsburg, CA 95448

Re: 1800 Brush Creek Rd – Sewer Main Extension Appeal  
ENG18-003

Dear Mr. Cabrera,

I have reviewed your Variance Application dated February 12, 2018, regarding 1800 Brush Creek Road. The variance requests the City waive the requirement to extend a public sanitary sewer main in Brush Creek Road to serve a proposed single family dwelling and accessory dwelling unit at 1800 Brush Creek and instead allow a private sewer lateral be extended across two private properties through private easements to the existing sewer main in Riviera Drive.

Your request for a variance has been denied because it would negatively impact neighboring properties. When contemplating waiving the requirement to extend the public sewer main in Brush Creek Road as requested, we had to consider if this would negatively impact and place undue financial burden to neighboring properties along Brush Creek Road and Normandy Drive that are not currently connect to City sewer. It is common for a project on one property to be dependent on the construction of a sewer by another project.

Please note, if a developer extends a public sewer main, the City offers Reimbursement Agreements to developers who construct public improvements which the Director of Santa Rosa Water determines will also provide a benefit to other properties. A formula to establish the equitable fee to be charged to benefitting parcels is determined and a public hearing is conducted regarding the proposed agreement. Once executed, Santa Rosa Water would collect from any properties connecting during the term of the agreement (currently 10 years with the ability to renew it twice for a total of 30 years) and reimburse the developer.

Please contact Caryn Lozada, Development Review Coordinator, at (707) 543-3959 if you have any further questions or concerns.

Sincerely,

Bennett Horenstein  
Director of Santa Rosa Water



**IMPROVEMENT VARIANCE APPLICATION**  
**CITY OF SANTA ROSA**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

No. **ENG18-003**

Proposed Project Name <b>1800 Brush Creek Road</b>		A.P.N.	File No.  (For Department Use Only)
Project Address <b>Creek Road</b>		Business Phone <b>( 707 ) 321-9951</b>	Date of Application <b>2/12/2018</b>
Applicant Name <b>Tony Cabrera</b>		Applicant Address <b>252 Pheasant Drive</b>	Home Phone <b>(     )</b>
City <b>Hbg</b>	State <b>Ca</b>	Zip <b>95448</b>	

**DESCRIPTION OF VARIANCE REQUESTED:**

Waive the requirement to install a public sanitary sewer main along the property frontage within Brush Creek Road.  
Be allowed to install a private sewer lateral within an existing private sewer easement to a public sewer main.

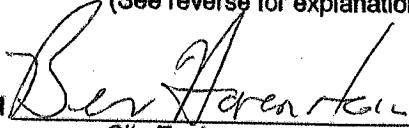
**JUSTIFICATION FOR VARIANCE REQUESTED:**

See the attached packet of information.

  
Applicant's Signature

**City's Response to Request:**

- ☐ Conditionally Approved - See Attached Exhibit "A"
- ☐ Approved
- ☒ Denied
- ☐ Special Circumstances or,
- ☐ Inadequate relationships and
- ☐ Not materially detrimental
- (See reverse for explanation of findings)

Signed  Date 3/26/18  
City Engineer