

**DIABLO COMMUNITY SERVICES DISTRICT & DIABLO MUNICIPAL ADVISORY COUNCIL
TOWN HALL¹
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO
TUESDAY, August 22, 2023, 6:00 P.M.**

CALL TO ORDER:

President: Kathy Urbelis

ROLL CALL:

Secretary: Christine Chartier

Directors: Urbelis, Cox, Chartier, Lorenz, Slavonia

PUBLIC COMMENTS: *Public comments will be taken on any subject including items on this agenda and are limited to 3 minutes per person when speaking in English, and 6 minutes per person when using a translator. Comments by the audience are not intended to result in a dialogue between members of the audience or between the audience and the Board. Please note that under Brown Act regulations, no member of the Board may engage in any discussion, other than a brief comment or request for clarification, of any item raised by any member of the audience unless that item is included as an agenda item.*

1. TOWN HALL DISCUSSION.

The DCSD/DMAC Directors, County Supervisor Andersen representative Cameron Collins, and County Principal Planner Stan Muraoka will hold a Q&A session on the County's draft 3-foot Setback Ordinance. The draft Ordinance and supporting FAQ and Decision Model are attached.

2. ADJOURNMENT.

The next DCSD/DMAC Regular Board meetings are scheduled for September 12, 2023, at 6:00 pm at the Diablo Country Club.

Diablo Community Services District by
Kathy Torru, General Manager

DCSD Board Meetings are accessible to people with disabilities and others who need assistance. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to observe and/or participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet, or other writings that may be distributed at the meeting should contact the General Manager at least one working day before the meeting at (925) 683-4956 or generalmanager@diablocsd.org. Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Public records that relate to any item on the open session agenda are available for public inspection by contacting the General Manager and on the District's website <http://diablocsd.org>.

¹ Agenda attachments are available on the DCSD's website (www.diablocsd.org) home page under Agenda.

ORDINANCE NO. 2023-XX

PRIVATE ROAD CLEARANCE COMBINING DISTRICT

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance adds Chapter 84-90 to the County Ordinance Code to establish the Private Road Clearance (-PC) Combining District. The ordinance prohibits the establishment of certain obstructions within three feet of a private road.

SECTION II. Chapter 84-90 is added to the County Ordinance Code, to read:

**Chapter 84-90
PRIVATE ROAD CLEARANCE (-PC) COMBINING DISTRICT**

84-90.002 Private road clearance (-PC) combining district. All land within a land use district combined with an private road clearance (-PC) combining district is subject to the additional regulations set forth in this chapter. (Ord. 2023-XX § 2).

84-90.004 Applicability. The -PC district may be combined with and made applicable to land in any residential land use district. (Ord. 2023-XX § 2).

84-90.006 Obstructions prohibited. A fence, retaining wall, or similar structure may not be established within three feet of any private road measured from the edge of the road. (Ord. 2023-XX § 2).

84-90.008 Priority. If there is any conflict between the regulations of this chapter and those of the underlying zoning district, the requirements of this chapter govern. (Ord. 2023-XX § 2).

///

///

///

///

///

///

SECTION III. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: MONICA NINO,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By:

Deputy

[SEAL]

KCK:

H:\Client Matters\2023\DCD\Private Road Clearance Ord - draft2.wpd

ORDINANCE NO. 2023-
(Re-Zoning Land in the

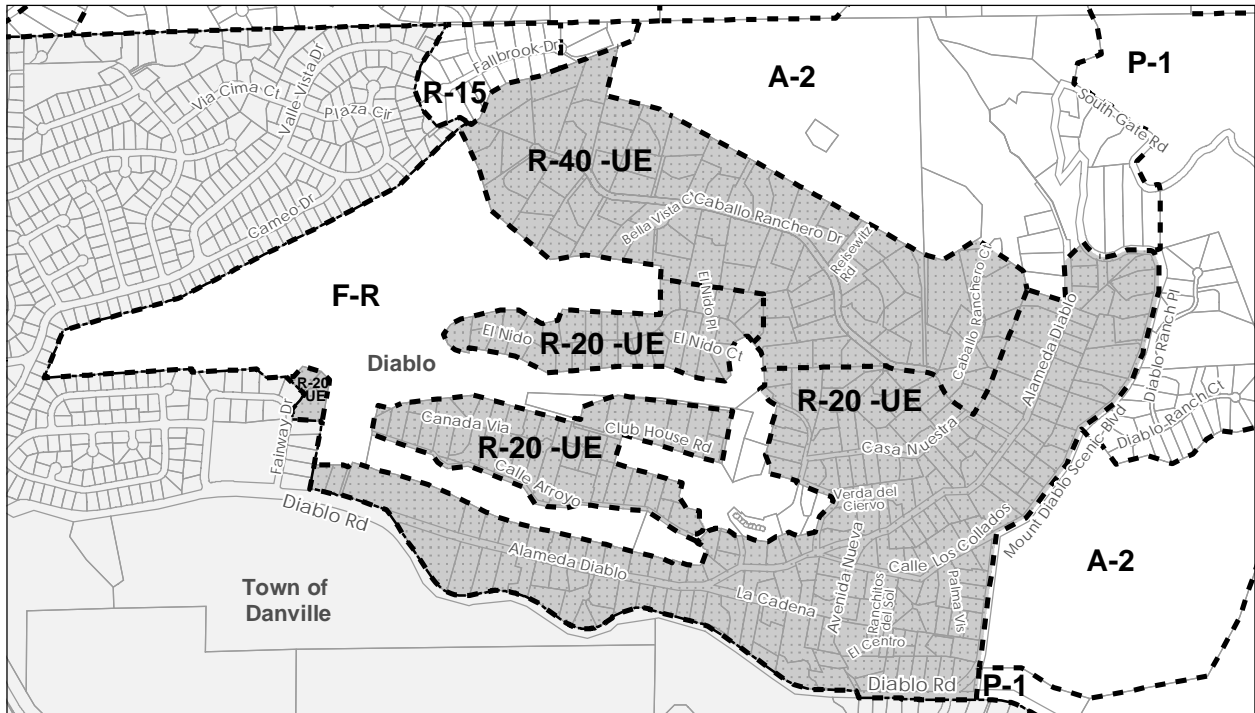
Diablo Area)

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I: Pages R-17, S-17 of the County's 2005 Zoning Map (Ord. No. 2005-03) is amended by re-zoning the land in the above area shown shaded on the map(s) attached hereto and incorporated herein (see also Department of Conservation and Development File No. RZ23-3269.)

R-20 -UE Single Family Residential -Urban Farm
FROM: Land Use District **R-40 -UE (Animal Exclusion Combining District)**

R-20 -PC -UE Single Family Residential -Private Road Clearance
TO: Land Use District **R-40 -PC -UE (and Urban Farm Animal Exclusion Combining District)**
and the Department of Conservation and Development Director shall change the Zoning Map accordingly, pursuant to Ordinance Code Sec. 84.2.002.



SECTION II. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once with the names of supervisors voting for and against it in the _____, a newspaper published in this County.

PASSED on _____ by the following vote:

Supervisor	Aye	No	Absent	Abstain
1. J. Gioia	()	()	()	()
2. C. Andersen	()	()	()	()
3. D. Burgis	()	()	()	()
4. K. Carlson	()	()	()	()
5. F.D. Glover	()	()	()	()

ATTEST: Monica Nino, County Administrator
and Clerk of the Board of Supervisors _____

By _____, Dep. _____
Chair of the Board
(SEAL)

ORDINANCE NO. 2023-

Candace Andersen, Supervisor

Contra Costa County, District 2

309 Diablo Road

Danville, CA 94526

925.655.2300

supervisorandersen@bos.cccounty.us



Lamorinda Office
Lafayette Fire Station
3338 Mt. Diablo Blvd.
Lafayette, CA 94549
925.646.6067

Proposed Diablo Three Foot Setback Ordinance

What is the Private Road Clearance Combining District?

The Private Road Clearance Combining District is an overlay district that can apply to any residential land use district but does not automatically apply to any parcel. Thus, the CDZT22-00004 Ordinance, by itself, will not apply to Diablo. The Ordinance by itself, is not mapped to any parcel. The Ordinance is County-initiated Zoning Text Amendment CDZT22-00004.

What is the Diablo Rezoning?

The CDR223-03269 Diablo Rezoning will apply the Ordinance to residential land use districts in Diablo (i.e., specific residential parcels in Diablo as shown on a Rezoning map). There are two residential land use districts in Diablo, including the R-20 District north of Diablo Road and along Alameda Diablo to the south and east of the golf course, and the R-40 District along Caballo Ranchero Drive).

Which parcels will the ordinance apply to?

The Ordinance will apply to parcels in both R-20 and R-40 residential zoning.

Why is this Private Clearance Combining District and Rezoning in Diablo being proposed?

Members of the Diablo community became concerned as property owners built walls and fences right up to the edge of paved roads. It created safety and line of sight issues. In September 2022, the Diablo Municipal Advisory Council requested that the County draft and pass an ordinance to prevent this from continuing to happen.

Would the new ordinance require homeowners to obtain a variance permit to change, repair, or rebuild any existing walls or fences within three feet of the edge or pavement. (i.e., If a tree falls on a wall and it must be repaired or replaced, will a variance permit be needed?)

If the Private Road Clearance Combining District Ordinance moves forward, any new fence or retaining wall is not allowed within three feet of the edge of pavement, regardless of its height.

Ordinary maintenance and repair would be allowed. Also, the nonconforming fence/obstruction could be repaired or rebuilt in the event of damage if the damage does not exceed 50% of the reasonable market value of the fence /obstruction.

Without the Ordinance, a Permit is needed for a fence over seven feet in height, or a retaining wall over three feet in height, or any combination of fences and/or retaining walls over seven feet in height that are permanently attached to the land. If the fence is under seven feet tall or the retaining wall is under three feet tall, a Permit is not needed.

Will the new ordinance subject property owners to investigations by County Code enforcement should a complaint about a wall or a fence be filed?

Code Enforcement complaints about a fence or retaining wall constructed within three feet of the edge of pavement of a private road will be referred to the Diablo Municipal Advisory Council (DMAC) for resolution. Code Enforcement will only get directly involved if the DMAC cannot resolve the violation with

Questions? Please reach out to the Stanley Muraoka at the Department of Conservation and Development at 925.655.2700 or Cameron Collins with Supervisor Andersen's Office at 925.655.2300.

Candace Andersen, Supervisor

Contra Costa County, District 2

309 Diablo Road

Danville, CA 94526

925.655.2300

supervisorandersen@bos.cccounty.us



Lamorinda Office

Lafayette Fire Station

3338 Mt. Diablo Blvd.

Lafayette, CA 94549

925.646.6067

the property owner.

Regarding grandfathered fences and retaining walls, these would be the fences and retaining walls that exist at the time of the effective date of the Private Road Clearance Combining District Ordinance.

Why can't the Diablo CSD enforce the three-foot setback without involving the County?

The Diablo CSD does not have the power to enforce any planning or building matters. The CSD is responsible for the maintenance of roads, bridges and culverts that lie under the district maintained roads. The CSD also provides security.

Will the three-foot setback be limited to DCSD-maintained roads and streets? Will the ordinance apply to private cul-de-sacs?

The Private Road Clearance Combining District is a Countywide Combining District that only applies if a Rezoning Ordinance is adopted to add the Combining District to the underlying zoning district. The Diablo Rezoning would add the Combining District to the R-20 and R-40 residential zoning districts in Diablo. A private road does not include a driveway that provides access to one or two parcels. Adding the Combining District requires fences and retaining walls to be set back three feet from the edge of pavement of a private road, regardless of whether the private road is maintained by the DCSD. However, this is the only requirement in the Combining District. Therefore, the ability of property owners to gate off private roads is not affected. Notably, a fence is designed to enclose an area, whereas a gate is not a fence and is a point of entry that can be open or closed to block the point of entry.

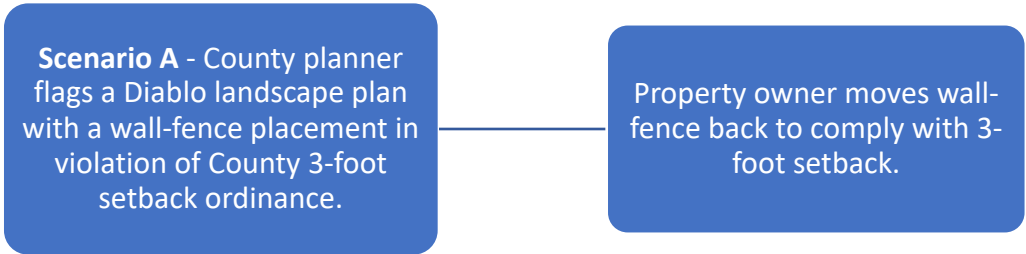
Will the proposed ordinance prevent DCSD from ever closing off any roads with a gate or barricade? (i.e., The DCSD recently chose to shut off Avenida Nueva for three weeks and did not need approval from the County).

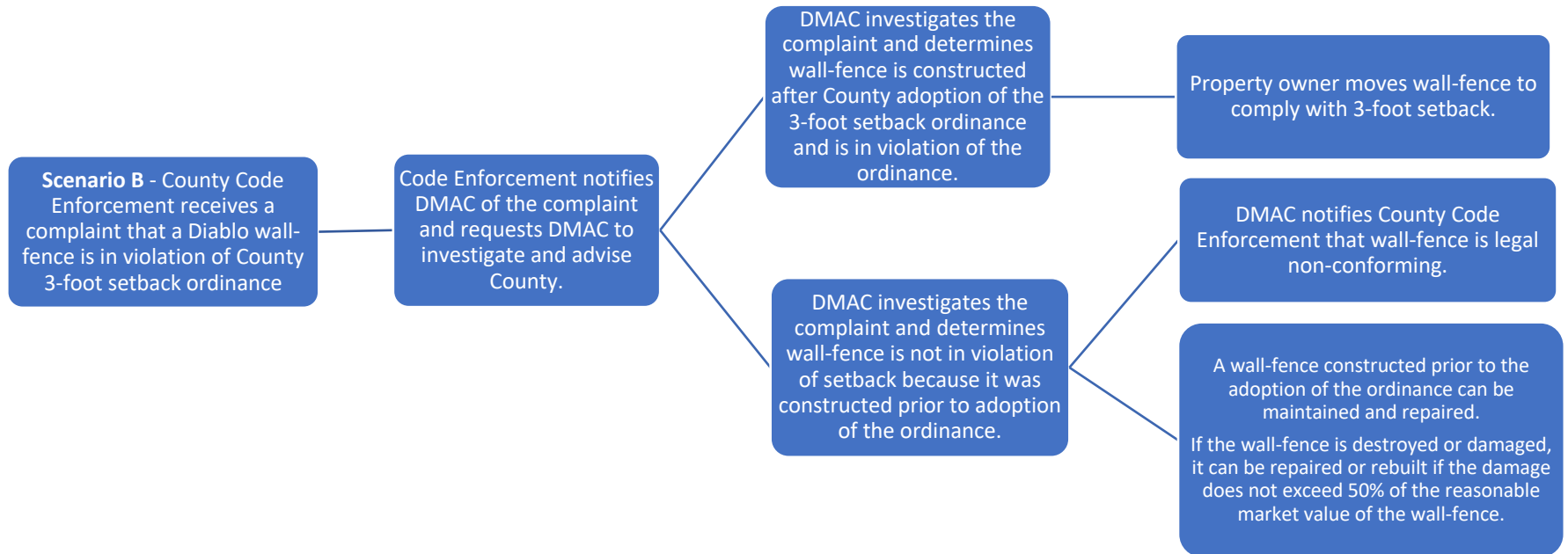
The DCSD retains the ability to close off any road with a gate or barricade. Adding the Combining District to the R-20 and R-40 residential zoning districts in Diablo does not change this, but only requires a three-foot set back from the edge of pavement of a private road. This is the only requirement in the Combining District.

How will the ordinance be approved?

The Planning Commission will make a recommendation to the Board of Supervisors. The Contra Costa County Board of Supervisors will make the final decision.

County 3-foot Setback Decision Tree





Questions? Please contact Stanley Muraoka with the Department of Conservation and Development 925.655.2700 or Cameron Collins with Supervisor Andersen's office at 925.655.2300.