



CITY OF ORLAND Staff Report

TO: **City of Orland Planning Commission**
 FROM: Scott Friend, AICP – City Planner
 MEETING DATE: February 17, 2022; 5:30 p.m., Carnegie Center, 912 Third Street, Orland, CA 95963

SUBJECT: **V#2022-01 – DR Horton / Linwood Builders:** A request to approve a Variance pursuant to Orland Municipal Code Chapter 17.84 for building setback variances for existing lots within the Orland Park Estates Project (Phase I) as follows:

Address	APN	Lot
700 Jackson Street	045-370-003	173
701 Moraga Street	046-370-002	172
703 Moraga Street	046-370-011	171
802 Ellis Street	046-370-061	151
804 Ellis Street	046-370-060	152
769 Oakwood Drive	046-370-059	153

The subject parcels/properties are located in Phase I of the Orland Park Estates project in east Orland. The project site is designated as Low Density Residential (LDR) on the Orland General Plan land use diagram and zoned R-1, Residential One-Family Pursuant to Orland Municipal Code (OMC) Chapter 17.20. A final subdivision map was approved by the City by a prior action.

Environmental Review: The proposed action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 as the project involves a setback variance that does not result in the creation of additional parcels, and therefore the proposed revision is not subject to CEQA.

APPLICANT: D.R. Horton
 Attn.: Bonnie Chiu
 2260 Douglas Blvd, Ste #110
 Roseville, CA 95661

LANDOWNER: Orland Linwood Development Inc.
 260 Lockheed Ave
 Chico, CA 95973

GENERAL PLAN: R-L, Low Density Residential

ZONING: R-1, Residential One-Family

The applicant is requesting approval of a Variance(s) to allow zoning standard deviations in the rear yard setback requirement for residential developments in Phase I of the Orland Park Estates project generally located south of E. Walker Street and west of Hambright Avenue in Orland (**Attachment A – Lot Exhibit**). The proposed project site has a General Plan designation of R-L, Low Density Residential and a zoning designation of R-1, Residential One-Family. In the R-1 zoning designation, the minimum rear yard setback requirement is 20 feet (Orland Municipal Code [OMC] Section 17.20.070). The applicant is requesting a variance to allow an exception to the minimum standard of 20 feet for six (6) lots due to their unique configurations.

Discussion and Analysis:

A Variance is a request to modify zoning standards applicable to construction of a building or structure on a lot. Variances may be granted for standards such as setback requirements, building heights and other lot development standards. Variances to allow a use not otherwise allowed within a particular zoning district (i.e. “use variance”) cannot be considered.

The project site is a part of Phase I of the Orland Park Estates project and contains 64 approved final lots. The applicant is requesting a variance to reduce the rear yard minimum setback requirements from 20 feet, pursuant to OMC Section 17.20.070, to specific setbacks for six individual lots. The reduction in setback is necessary due to site constraints from irregular shaped lots created in the previously approved Subdivision Map (TSM 2004-04).

The previously approved and recorded Subdivision Map (TSM 2004-04) approved 64 final lots. Six of the 64 lots do not share the typical rectangular lot configuration of the remaining 58 lots. Instead, the six subject lots are "pie-shaped", similar to lots at the end of a cul-de-sac. Due to this atypical configuration, the proposed floor plans proposed by the applicant encroach slightly into the rear setback on each of the six subject lots.

The applicant proposes to offer for construction, three floor plan options within the Orland Park project which are described as follows:

- Plan 1501: 1,501 s.f., 1-story, 3 bedrooms, 2 baths, 2-car garage
- Plan 1611: 1,611 s.f., 1-story, 3 bedrooms, 2 baths, 2-car garage
- Plan 1825: 1,825 s.f., 1-story, 4 bedrooms, 2 baths, 2-car garage

The applicant completed a fit analysis to conform the proposed plans fit on each lot (See **Attachment A – Lot Exhibit**). The analysis concluded that six of the lots would not conform with OMC’s rear yard setback standard of 20 feet. The applicants proposed rear setbacks are as follows:

- Lot 173 (APN 045-370-003) – rear setback 20’ minimum, 9.9’ proposed
- Lot 172 (APN 046-370-002) – rear setback 20’ minimum, 13.5’ proposed
- Lot 171 (APN 046-370-011) – rear setback 20’ minimum, 14.2’ proposed
- Lot 151 (APN 046-370-061) – rear setback 20’ minimum, 5.5’ proposed
- Lot 152 (APN 046-370-060) – rear setback 20’ minimum, 9.8’ proposed
- Lot 153 (APN 046-370-059) – rear setback 20’ minimum, 14.5’ proposed

With the exception of Lot 151, only a minor corner and portion of the home encroaches within the rear setback area. On Lot 151, the encroachment into the rear setback spans the entire width of the home (**Attachment A – Lot Exhibit**).

The applicant is requesting the variance(s) due to the atypical lot configurations. Approval of a variance(s) would result in the ability to utilize the same floor plans that would otherwise fit on one of the traditional lots in the subdivision.

Findings and Evaluation:

Evaluation of the request to grant a Variance is governed by California Government Code Section 65906 and Section 17.84.020 of the Orland Municipal Code (OMC).

In accordance with California Government Code Section 65906:

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits.

A Variance may be approved in situations where physical characteristics of the property exist that limit the enjoyment of development rights experienced by other properties within the same zoning designation, resulting in unnecessary hardships, from the strict application of provisions of the Zoning Ordinance. In order to grant a variance, the Planning Commission must make the following findings pursuant to OMC Section 17.84.020:

1. The variance is in conformance with the city of Orland general plan;

The variance is in conformance with the city of Orland general plan, which designates the project site as Low Density Residential.

2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone;

The lot configuration of each of the six subject lots are generally triangular (or “pie-shaped”) as compared to the typical rectangular lot configuration found throughout the remainder of the subdivision. Therefore, with strict adherence to the setback standards in

the R-1, the applicants proposed home floor plans will not be in compliance with the City's standards unless the variance is granted.

3. A variance is necessary for the applicant to preserve and enjoy a substantial property right equal to that right possessed by other property owners under like conditions in the same vicinity and zone. The granting of the requested major variance will not be materially detrimental to the public health, safety, convenience and welfare or injurious to the property improvements in the same vicinity and zone in which the property affected is located and will not be contrary to the intent of the city of Orland general plan.

The strict application of the zoning ordinance would deprive the subject properties of privileges enjoyed by other property owners in the vicinity and under identical zoning classification because there are 58 other lots in the immediate vicinity having lot widths adequate to support the applicants 3 proposed floor plans while conforming to the City's zoning ordinance. Granting of the variance(s) will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to the property improvements in the same vicinity and zone in which the property affected is located and will not be contrary to the intent of the city of Orland general plan.

Environmental determination:

Staff recommends that the Planning Commission determine that the proposed Variance(s) are categorically exempt from further CEQA analysis pursuant to CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations) as the project involves only minor setback variances not resulting in the creation of any new parcel, or physical impact on the environment that has not already been evaluated, and therefore the proposed action is not subject to CEQA. A Notice of Exemption was prepared for this project and has been included with this staff report as **Attachment C - Notice of Exemption**.

Recommendation:

Staff recommends that the Planning Commission make a determination that the project is exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Section 15305 (Minor Alterations in Land Use Limitations) and approve Variance 2022-01, subject to making the necessary findings (**Attachment B**).

Staff recommends that the Planning Commission utilize the following process for consideration of this matter:

1. Accept a presentation of the project by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

If the Planning Commission determines that it intends to recommend for approval the Variance(s), staff presents the following motion for consideration:

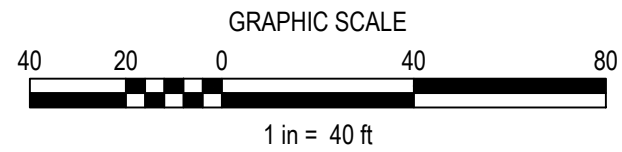
Move that the Planning Commission determine that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section

§15305, Minor Alterations in Land Use Limitations, and make the required findings for the action, and approve the requested Variance (V#2022-01).

ATTACHMENTS

- **Attachment A** – Lot Exhibit
- **Attachment B** – Planning Commission Findings
- **Attachment C** – Notice of Exemption
- **Attachment D** – Planning Commission Resolution 2022-XX

PLOT PLAN EXHIBIT - ENCROACHMENT OFFSET AREAS

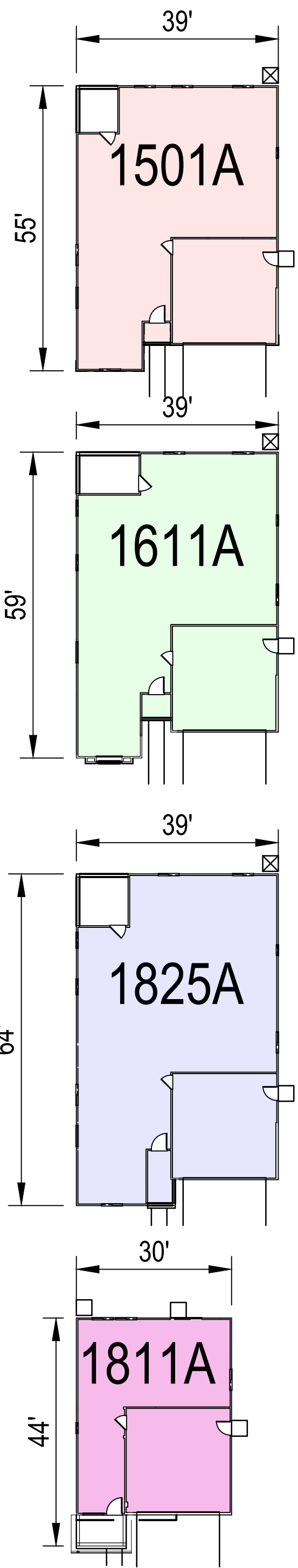


TYPICAL SETBACK ENVELOPE DIMENSIONS:
(R-1 ZONING)

FRONT: 20'
SIDES (INTERIOR): 5'
SIDES (CORNER LOT): 20'
REAR: 20'

ENCROACHMENT AREAS

	ENCROACHMENT AREA	OFFSET AREA
LOT 151	563 SF	563 SF
LOT 152	102 SF	102 SF
LOT 153	84 SF	84 SF
LOT 171	115 SF	115 SF
LOT 172	42 SF	42 SF
LOT 173	108 SF	108 SF



PRELIMINARY PRE-PLOT EXHIBIT (ORLAND)

CITY OF ORLAND, CA
JANUARY 2022
SCALE 1"=40' (@ 36x24)



MORTON & PITALO, INC.
CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING
LANDSCAPE ARCHITECTURE • TRAFFIC ENGINEERING
400 COOLIDGE DRIVE, Suite 140 • Folsom, CA 95630
phone: 916.927.2400 • fax: 916.984.9617 • survey fax: 916.563.6770
survey email: staking@mpengr.com • web: www.mpengr.com

**PLANNING COMMISSION FINDINGS FOR APPROVAL OF VARIANCE #2022-01
PURSUANT TO SECTION 17.84.020 OF THE ORLAND MUNICIPAL CODE**

In order to approve a variance from the minimum 20-foot front yard requirement of the Orland Municipal Code, the Planning Commission must make all three findings required in Section 1784.020. The following are the required findings and facts in support of each finding:

1. The variance is in conformance with the city of Orland general plan;

The variance is in conformance with the city of Orland general plan, which designates the project site as Low Density Residential.

2. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the same vicinity and zone;

The lot configuration of each of the six subject lots are generally triangular (or "pie-shaped") as compared to the typical rectangular lot configuration found throughout the remainder of the subdivision. Therefore, with strict adherence to the setback standards in the R-1, the applicants proposed home floor plans will not be in compliance with the City's standards unless the variance is granted.

3. A variance is necessary for the applicant to preserve and enjoy a substantial property right equal to that right possessed by other property owners under like conditions in the same vicinity and zone. The granting of the requested major variance will not be materially detrimental to the public health, safety, convenience and welfare or injurious to the property improvements in the same vicinity and zone in which the property affected is located and will not be contrary to the intent of the city of Orland general plan.

The strict application of the zoning ordinance would deprive the subject properties of privileges enjoyed by other property owners in the vicinity and under identical zoning classification because there are 58 other lots in the immediate vicinity having lot widths adequate to support the applicants 3 proposed floor plans while conforming to the City's zoning ordinance. Granting of the variance(s) will not be materially detrimental to the public health, safety, convenience, and welfare or injurious to the property improvements in the same vicinity and zone in which the property affected is located and will not be contrary to the intent of the city of Orland general plan

Notice of Exemption**Form D**

To: ■ Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 212
Sacramento, CA 95812-3044

From: (Public Agency) City of Orland
815 Fourth Street
Orland, CA 95963
(Address)

■ County Clerk
County of Glenn
526 West Sycamore Street
Willows, CA 95988

Project Title: Variance to grant an exception to the City's rear setback requirement of 20 feet in the R-1 zone district.

Project Location - Specific:

City of Orland – 700 Jackson Street; 701 Moraga Street; 703 Moraga Street; 802 Ellis Street; 804 Ellis Street; 769 Oakwood Drive.

Project Location – City: Orland **Project Location – County:** Glenn

Description of Nature, Purpose, and Beneficiaries of Project: A request to approve a Variance pursuant to Orland Municipal Code Chapter 17.84 for building setback Variances for six lots in Phase I of the Orland Park Estates Project. The beneficiaries of the Project will be the future occupants of the subject lots.

Name of Public Agency Approving Project:

City of Orland

Name of Person or Agency Carrying Out Project:

City of Orland

Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Class 5, §15305 Minor Alterations in Land use Limitations
☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The proposed project is exempt from CEQA, based on its conformity with Section 15305 (Class 5) of the CEQA Guidelines. This exemption consists of minor alterations in land use limitations, in areas with an average slope of less than 20%, not resulting in changes in land use or density. This includes but is not limited to minor lot line adjustments, issuance of encroachment permits, and reversions to acreage. The City of Orland Planning Commission has determined that this project is exempt from CEQA as the project involves a setback variance that does not result in the creation of additional parcels or changes in land use or density and takes place in an area with an average slope of less than 20%. Therefore, the project is exempt pursuant to CEQA Guidelines Section 15305.

Lead Agency

Contact Person: Scott Friend, AICP Area Code/Telephone/Extension: (530) 865-1608

Signature: _____ Date: _____ Title: City Planner

■ Signed by Lead Agency

Date received for filing at OPR: _____

**CITY OF ORLAND
PLANNING COMMISSION
RESOLUTION PC 2022-XX**

**A RESOLUTION TO APPROVE A VARIANCE APPLICATION ALLOWING A REDUCED
REAR YARD SETBACK ON SIX PROPERTIES (APNS: 045-370-003, 046-370-002, -011, -
061, -060, AND -059) LOCATED IN PHASE I OF THE ORLAND PARK SUBDIVISION**

WHEREAS, D.R. Horton (applicant) has requested a variance from requirements of Section 17.20.070 of the Orland Municipal Code requiring a rear yard setback of 20 feet; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on February 17, 2022; and

WHEREAS, the Planning Commission has determined that, subject to approval of the variance, the request is consistent with the Orland General Plan and the standards of the Orland Zoning Code; and

WHEREAS, the Planning Commission has determined the project is Categorically Exempt from review under the California Environmental Quality Act (CEQA) pursuant to Class 5, Section 15305 (Minor Alterations in Land Use Limitations) of the state CEQA Guidelines; and

WHEREAS, the Planning Commission has made the following findings with respect to the requested variance:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.
- B. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located.
- C. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity.
- D. That the granting of such variance will not adversely affect the City of Orland General Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission does hereby approve the requested Variance(s) for six lots in Phase 1 of the Orland Park Subdivision project.

The foregoing Resolution of the Planning Commission was adopted by the Planning Commission on the 17th day of February 2022, by the following vote:

AYES: Commission Members:

NOES: Commission Members:

ABSENT: Commission Members:

ABSTAIN: Commission Members:

Wade Elliot, Chair

ATTEST:

Jennifer Schmitke, City Clerk