



Zoning Administrator Agenda Report

Meeting Date 2/28/17

DATE: February 1, 2017

File: UP 16-16

TO: ZONING ADMINISTRATOR

FROM: Kelly Murphy, Assistant Planner, 879-6535, kelly.murphy@chicoca.gov

RE: Use Permit 16-16 (Dorenzo) – APN 015-070-007 – 966 Kovak Court

RECOMMENDATION

Planning staff recommends that the Zoning Administrator find the project categorically exempt from environmental review and approve Use Permit 16-16 (Dorenzo), based on the findings and subject to the recommended conditions of approval.

BACKGROUND

The applicant is requesting a use permit for an existing assisted living facility, “Country House”, located on a 1.8-acre parcel at the eastern terminus of Kovak Court (see **Attachment A**, Location/Notification Map). The project site is designated Medium Density Residential on the General Plan diagram and zoned R2-AOB2, Medium Density Residential with Aircraft Operations Compatibility Zone B2 overlay. Pursuant to Chico Municipal Code (CMC) Section 19.42.020, *Residential zone land uses and permit requirements – Table 4-2*, a use permit is required for assisted living facilities for the elderly in the R2, Medium Density Residential, zoning district.

At the time the facility was constructed in 1985, the property was located outside the city limits. As such, the use was originally permitted by a County use permit, which authorized a total of 16 beds for elderly residents affected by early stages of dementia. Upon annexation into the City in June of 2005, the existing use was allowed to remain and continue operating under the conditions set by County, which permitted a total of 16 beds at the facility.

DISCUSSION

The current proposal is a request for a City-issued use permit for the existing facility, allowing for an increase in the total number of beds from 16 to 20. No new construction, landscaping, or site reconfiguration is proposed (see **Attachment B**, Plat / Site Plan). The facility currently employs 20 persons and operates 24 hours a day, 7 days a week. Exterior lighting consists of three parking lot pole lights and four motion sensor lights along the pedestrian walkway. The parking requirement for an assisted living facility is based on one parking space for every three (4) beds the facility is licensed to accommodate. The proposed 20-bed facility would therefore require a minimum of 5 vehicle parking spaces. There are currently 15 off-street parking spaces provided onsite, which satisfies current and proposed parking needs.

The Country House facility has been in operation at this location for 30 years. Surrounding land uses include a separate care facility (also owned by the applicant) and multi-family residential uses (tri-plexes) to the west, a single family residential subdivision immediately south of the site, and an office use to the north.

The project site is located within the Butte County Airport Land Use Compatibility Plan (ALUCP) Zone B2 where nursing homes are prohibited uses. As defined in Title 19 of the CMC, an assisted living facility for the elderly is “a residential facility, licensed by the State Department of Social Services, which provides care for seven or more elderly persons having limited ability for self-care, and where medical care is not a major element of the use”. The applicant has indicated that no medical care is provided, which distinguishes an assisted living facility from a nursing home. The determination that the existing facility is not considered a nursing home was confirmed by Airport Land Use Commission staff on January 27th, 2017 (see **Attachment C**, ALUC Determination). Based on the current BCALUCP, the AOB2 overlay zone allows for up to 100 people per acre onsite. Therefore, the 1.8-acre site is limited to a total of 180 people onsite at any given time. A condition of approval has been added to ensure compliance with the AOB2 zoning overlay standards contained in the BCALUCP.

The applicant is requesting a City-issued use permit to coincide with the license currently on file with the State Department of Social Services Community Care Licensing, which permits a total of 20 beds at the facility (see **Attachment D**, State license). Approval of this request would not result in any adverse impacts to the surrounding neighborhood. The existing facility is located on a fully developed parcel, provides adequate off-street parking, and all utilities are available to the site. Full public improvements exist along the Kovak Court street frontage. The use is residential in nature and has operated compatibly at this location for 30 years.

ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 (Existing Facilities). Consistent with this exemption, the project consists of the permitting of an existing facility involving negligible expansion of use.

FINDINGS

Following a public hearing, the Zoning Administrator may approve a use permit application, with or without conditions, only if all of the following findings can be made:

Use Permit Findings

- A. *The proposed use is allowed within the subject zoning district and complies with all of the applicable provisions of Chapter 19.24 (Use Permits).*

Chico Municipal Code Section 19.42.020, Table 4-2, provides for assisted living facilities for the elderly in the R2 zoning district, subject to use permit approval. This use permit has been processed in accordance with the requirements of Chapter 19.24.

- B. *The proposed use would not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use.*

The proposal expands the capacity of an existing living facility that has operated compatibility at the site for approximately the past 30 years and an identical use (owned by the applicant) is adjacent to the west. The project is residential in nature,

consistent with existing uses to the east and south, and compatible with an office use immediately north of the site.

- C. *The proposed use will not be detrimental and/or injurious to property and improvements in the neighborhood of the proposed use, as well as the general welfare of the City.*

The Country House facility is on a fully developed site and has been in operation for 30 years. Sufficient off-street parking is provided, full public improvements exist along the Kovak Court street frontage, and all utilities are available to the site. No new construction, site reconfiguration, or structural changes are proposed. No impacts to property or improvements have been identified.

- D. *The proposed use will be consistent with the policies, standards, and land use designations established by the General Plan.*

The proposed use is residential in nature consistent with the site's Medium Density Residential designation on the General Plan diagram, and is supported by numerous General Plan policies from the Housing Element and Parks, Public Facilities, and Services Element as a use that expands community social services and assists in the provision of housing for people with special needs.

- E. *The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.*

The proposed use will not result in any structural or aesthetic changes to the building's exterior. The use is residential in nature and has existed at this location for approximately 30 years. An identical use (owned by the applicant) is adjacent to the west.

CONDITIONS OF PROJECT APPROVAL

1. Use Permit 16-16 authorizes an assisted living facility for the elderly in the R2 (Medium Density Residential) zoning district, in substantial accord with the "Plat to Accompany Use Permit 16-16 (Dorenzo)," and in compliance with all other conditions of approval.
2. The permittee shall comply with all other State and local Code provisions, including those of the Building Division, Public Works, and Fire Department. The permittee is responsible for contacting these offices to verify the need for permits.
3. Prior to commencement of the expanded use, record as a separate instrument an Avigation Easement granting the right of continued use of the airspace above the proposed parcel by the Chico Municipal Airport and acknowledging any and all existing or potential airport operational impacts.
4. Per the standards set forth in the BCALUCP for the AOB2 overlay zone, no more than 180 persons shall be present onsite at any given time.

PUBLIC CONTACT

A notice was published in the Chico Enterprise Record 10 days prior to the meeting date, and notices were mailed out to all property owners and tenants within 500 feet of the project site. As of this report's publication, staff has not received any public comments.

DISTRIBUTION:

Internal (2)

Mark Wolfe, Zoning Administrator

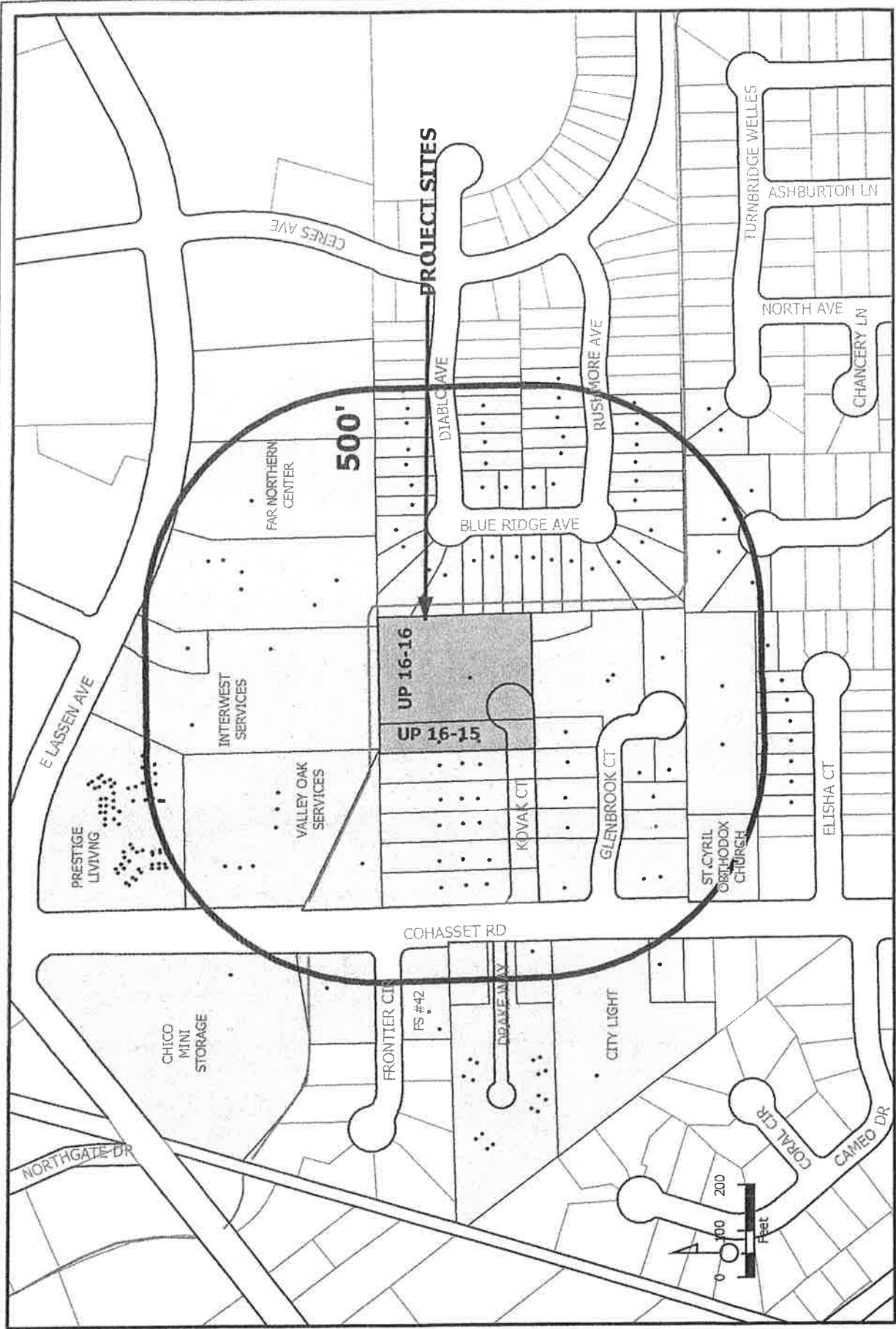
Kelly Murphy, Assistant Planner

External (1)

Lynette N. Dorenzo, 14126 Hereford Drive, Chico, CA 95973

ATTACHMENTS:

- A. Location/Notification Map
- B. Plat to Accompany Use Permit 16-16
- C. ALUC Determination letter
- D. State License



- Notified Addresses
- Notified Parcels

UP 16-16 (Dorengo)
 966 Kovak Court
 APNs 015-070-007-000

UP 16-15 (Dorengo)
 962 Kovak Court
 APNs 015-070-006-000

Kelly Murphy

From: Michelena, Mark <MMichelena@buttecounty.net>
Sent: Friday, January 27, 2017 11:17 AM
To: Kelly Murphy
Subject: RE: Assisted living facility in the AOB2 overlay zone

Hello Kelly,

Thank you for your inquiry (and history of the two lots). I remember these two. The determination that these are no "nursing homes" was confirmed by ALUC staff.

Based on the current BCALUCP, the B2 allows for up to 100 people per acre on site, but no more than 50 in any given acre. Based on what you describe below, neither of the proposed expansions would make them inconsistent with the BCALUCP.

962 Kovak Court is approximately 0.49 acres. Based on the 100 per acre, 49 people could be on site. I don't believe this site would have close to that number on site at any given time.

966 Kovak Court is approximately 1.75 acres. Based on 100 per acre, 175 people could be on site with no more than 50 in any given acre. I don't believe this site would exceed those numbers on site at any given time.

Please let me know if you think the intensity would exceed what I described above. If not, the proposed expansions are consistent with the BCALUCP and would not require review by the BCALUC.

Let me know if you need anything else.

Have a great day!

Mark Michelena, Senior Planner
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From: Kelly Murphy [mailto:Kelly.murphy@Chicoca.gov]
Sent: Thursday, January 26, 2017 12:30 PM
To: Michelena, Mark <MMichelena@buttecounty.net>
Subject: Assisted living facility in the AOB2 overlay zone

Hi Mark,

Good morning! I am currently processing two use permit applications for two existing assisted living facilities located at 962 and 966 Kovak Court. The current zoning on these parcels is R2-AOB2, Medium Density Residential with Aircraft Operations Compatibility Zone B2 overlay.

UP 16-15 (Dorenzo): 962 Kovak Court; APN 015-070-006

The assisted living facility at 962 Kovak Court was constructed in 1997 and has existed at this location ever since (20 years). In 2004, the City approved a use permit to increase the bed capacity from 12 to 16 beds and expand the facility with a 500-foot building addition. In order to accommodate the expansion, the facility was required to connect to city

sewer. This initiated an application for annexation into the City in 2005. The current request is to modify the conditions of approval for the use permit from 2004 (UP 04-56), to allow for an increase in the number of beds from 15 to 16. No new construction, site reconfiguration, or structural changes are proposed. The applicant (Ms. Lynette Dorenzo) simply wants the modification so that the bed count shown on her use permit matches the total bed count shown on her license from the State Department of Social Services (which currently shows 16 total beds).

UP 16-16 (Dorenzo): 966 Kovak Court; APN 015-070-007

The assisted living facility at 966 Kovak Court was constructed in 1987 and has existed at this location ever since (30 years). The use was originally permitted by the County, which specified a total bed count of 16 beds. Though this site was also annexed into the City in 2005, an expansion was never needed or requested, thus a City use permit has never been issued. The applicant is now requesting a City-issued permit, allowing for a total of 20 beds. Again, this request is so that the bed count shown on her use permit matches the total bed count shown on her State license (which permits a total of 20 beds). No new construction, site reconfiguration, or structural changes are proposed.

I was reviewing Bob Summerville's staff report for Use Permit 04-56, approved by the Zoning Administrator on January 24th, 2004. In the report, he discusses how "nursing homes" are a prohibited use in the AOB2 overlay zone, but that "assisted living facilities for the elderly" are distinguished from "nursing homes" in that they do not provide any medical care onsite. This distinction was confirmed by the State Department of Social Services Community Care Licensing staff. Also discussed in the report, Bob mentions that he consulted with ALUC staff, but no formal recommendation was given at the time of the report. The permit was conditioned to require that "*the permittee shall resolve all issues of the project's consistency with the ALUCP prior to the issuance of building permits*". As the building permits for the expansion were issued, I am taking this to mean that ALUC staff resolved any incompatibility issues back in 2004.

I have attached the report from 2004 with the applicable text highlighted, for your reference, as well as a copy of Use Permit 04-56. At this time, I wanted to know if you would require a formal application to be reviewed by the ALUC, or if you are comfortable with me proceeding per the precedent established back in 2004. Again, per the definitions provided by the State Department, these are not nursing homes, and they have existed at their respective locations for 20-30 years. No structural changes or new building additions are proposed, and the request is strictly for the permits to reflect the increased bed count.

If you need additional information pertaining to these projects, feel free to review the draft staff reports I have written for both Use Permit 16-15 and 16-16 (also attached). Please don't hesitate to contact me with any questions or to discuss. My number is 879-6535.

Thank you,

Kelly Murphy

On behalf of the City of Chico

kelly.murphy@chicoca.gov



RECEIVED

NOV 08 2016

CITY OF CHICO
PLANNING SERVICES

State of California

Department of Social Services

Facility Number: 041370643

Effective Date: 10/16/1993

Total Capacity: 20

In accordance with applicable provisions of the Health and Safety Code of California, and its rules and regulations; the Department of Social Services hereby issues

this License to

BIDWELL SENIOR CARE SERVICES

to operate and maintain a

RESIDENTIAL CARE ELDERLY

Name of Facility

COUNTRY HOUSE
966 KOVAK COURT
CHICO, CA 95973

This License is not transferable and is granted solely upon the following:

20 NON-AMBULATORY. HOSPICE WAIVER FOR 3.

Client Groups Served:

RCFE / DEMENTIA

Complaints regarding services provided in this facility should be directed to:

CCLD Regional Office

(530) 895-5033

Jeffrey Hiratsuka
Deputy Director,
Community Care Licensing Division

Julie Tesconi
Authorized Representative of Licensing Agency