



Zoning Administrator Agenda Report Meeting Date 9/12/23

DATE: August 8, 2023

File: VAR 23-04

TO: ZONING ADMINISTRATOR

FROM: Molly Marcussen, Associate Planner, molly.marcussen@chicoca.gov,
(530) 879-6808

RE: Variance 23-01 (Summersky Commons) – 4 Summersky Commons APN 018-060-030

RECOMMENDATION

Planning staff recommends that the Zoning Administrator find the project categorically exempt from environmental review and approve Variance 23-01 (Summersky Commons), based on the findings and subject to the recommended conditions of approval.

BACKGROUND

The applicant is seeking a variance to deviate from the RS-2 setback requirements to allow for the construction of a new single-family residence on a 3.72 acre residential lot. The project site is located at 4 Summersky Commons (see Location Map, **Attachment A**). The subject parcel is designated Very Low Density on the General Plan Land Use Diagram and zoned RS-2 (Suburban Residential 2 acre minimum) Surrounding land uses in the vicinity include single residential and open space uses.

The property contains an easement adjacent to the 250 building setback line from the Canyon edge, the easement prohibits the building on any structure or residence within the footprint of the easement. The easement was legally established by the previous owner who sold the lot and now lives next door. The property is located in the Canyon Oaks Homeowners Association which has Covenants Conditions and Restrictions (CC&Rs) that sets minimum standards for the size of the residence. Due to the easement, and the 20ft setback requirements set forth in CMC section 19.42.030, the property owner will not be able to build a single family residence.

Chapter 19.26 (Variances) of the Chico Municipal Code (CMC), states that property location, shape, size and surroundings are among the special circumstances which would allow for adjustments from the development standards, if those circumstances deny the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts. Specifically, pursuant to CMC Section 19.26.020, the Zoning Administrator may grant a variance from the requirements for the following development standards:

1. Distance between structures;
2. Parcel dimensions (not area);
3. Setbacks;
4. Structure height;
5. On-site parking, loading, lighting, and landscaping; or
6. Sign regulations (other than prohibited signs).

ANALYSIS

Setback Requirements

Main buildings in the RS-2 zoning district are required to have a minimum front, side and rear yard setback of 20 feet. Pursuant to CMC 19.60.090 (Setback regulations and exceptions) "required setbacks shall be measured from the property lines behind the adjoining edge of the public right-of-way or private street easement and related improvements, including adjacent pedestrian facilities."

The applicant requests a reduced setback of 10ft, on all setback requirements. If approved, the front, side and rear yard setbacks would be 10ft opposed to 20ft. Relief from this RS-2 setback standard is necessary for the development of this property for its intended use, and for the preservation of and enjoyment of property rights.

The property contains an easement adjacent to the 250 building setback line from the Canyon edge, the easement prohibits the building on any structure or residence within the footprint of the easement. This is an exceptional and extraordinary circumstance which does apply generally to property in the same zoning district, and strict application of the development regulations would effectively deny the property owner privileges enjoyed by other property owners in the vicinity and within the RS-2 zoning district since most of those properties have adequate size and shape to accommodate similar residential development as proposed on the subject property. Granting the variance is necessary for the preservation and enjoyment of substantial property rights in that the property's area limitations make it near impossible to develop the property with a residential use that meets all applicable development standards and the existing CC&R's that are present. Granting the variance does not allow a use or activity which is not otherwise expressly authorized by the RS-2 zoning regulations which permit single-family residential uses.

ENVIRONMENTAL REVIEW

The proposed variance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 (Minor Alterations in Land Use Limitations) and 15303 (New Construction or Conversion of Small Structures). Consistent with Section 15305(a), the proposal involves a minor setback variance not resulting in any new parcels. Consistent with Section 15303(a), the proposal involves construction of one single-family residence and junior accessory dwelling unit.

FINDINGS

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

Variance Findings

- A. *There are exceptional or extraordinary circumstances or conditions applicable to the property, structure, or use referred to in the application, including location, shape, size, surroundings, or topography, which do not apply generally to property, structures, or uses in the same zoning district, so that the strict application of these Regulations denies the property owner privileges enjoyed by other property owners in the vicinity and under an identical zoning district;*

The property contains an easement adjacent to the 250 building setback line from the Canyon edge, the easement prohibits the building on any structure or residence within the footprint of the easement. This is an exceptional and extraordinary circumstance which does apply generally to property in the same zoning district, and strict application of the development regulations would effectively deny the property owner privileges enjoyed by other property owners in the vicinity and within the RS-2 zoning district since most of those properties have adequate size and shape to accommodate similar residential development as proposed on the subject property.

- B. *Granting the variance is necessary for the preservation and enjoyment of substantial property rights;*

Granting the variance is necessary for the preservation and enjoyment of substantial property rights in that the property's area limitations make it near impossible to develop the property with a residential use that meets all applicable development standards and the existing CC&R's that are present.

- C. *Granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel;*

Granting the variance does not allow a use or activity which is not otherwise expressly authorized by the RS-2 zoning regulations which permit single-family residential uses.

- D. *Granting the variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located;*

Granting the variance will allow for the construction of a single-family residential use, which is allowed on other properties zoned RS-2 in the vicinity (consistent with density requirements) and does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located.

- E. *Granting the variance will not, under the circumstances of the particular case, be materially detrimental to the public interest, health, safety, convenience, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.*

The subject property has sub-standard area buildable area constraints due to an existing easement that precludes the development of any residential use from meeting typical setback and parking standards. Granting the variance will not, under these circumstances, be materially detrimental to the public interest, health, safety, convenience, or welfare of the City, or injurious to the property or improvements in the vicinity and zoning district in which the property is located. Also, development of the site will require building permits to ensure project consistency with City zoning, building and fire codes.

CONDITIONS OF PROJECT APPROVAL

1. Variance 23-01 (Summersky Commons) authorizes deviation from standard setback

requirements to allow for the construction of a new single-family residence at 4 Summersky Commons, in general accord with the "Site Plan to Accompany Variance 23-01 (Summersky Commons)" 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 Department, Fire Department, and Butte County Environmental Health. The permittee is responsible for contacting these offices to verify the need for permits.
3. The applicant shall defend, indemnify, and hold harmless the City of Chico, its boards and commissions, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to or claim regarding the legality, validity, processing or adequacy associated with: (i) this requested entitlement; (ii) the proceedings undertaken in connection with the adoption or approval of this entitlement; (iii) any subsequent approvals or permits relating to this entitlement; (iv) the processing of occupancy permits and (v) any amendments to the approvals for this entitlement. The City of Chico shall promptly notify the applicant of any claim, action or proceeding which may be filed and shall cooperate fully in the defense, as provided for in Government code section 66474.9.

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.

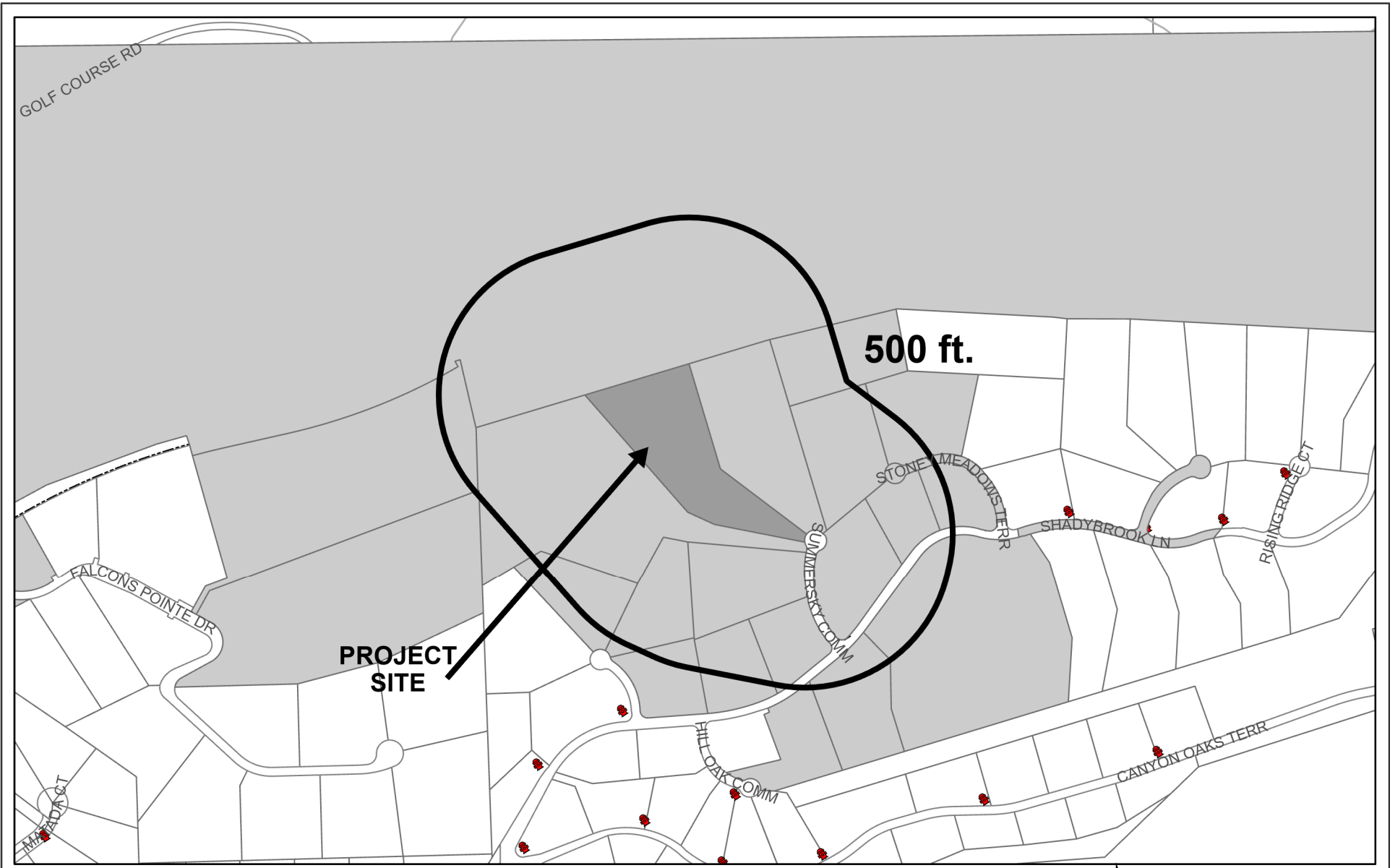
DISTRIBUTION:

Internal (2)
Mike Sawley, Zoning Administrator
Molly Marcussen, Associate Planner

External (1)
Mathew Murray, matthewdeanmurray@gmail.com

ATTACHMENTS:

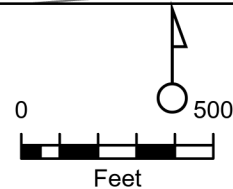
- A. Location Map
- B. Site Plan
- C. Letters of Support from Neighbors



VAR 23-01 (Summersky Commons)
4 Summersky Commons
018-060-030-000

Date Saved: 8/28/2023 12:16 PM

Noticed Parcels





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DATE: 6/25/2023

SCALE: SHOWN

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PROPOSED BUILDING SETBACKS for:

MATT & KELLY MURRAY

4 SUMMERSKY COMMONS, CHICO, CA. 95928
ASSESSORS PARCEL NUMBER 018 - 060 - 030

DRAFTING BY:

LYNN SMITH

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Dinesh & Punnu Bajaj

Contact

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530-89-9145

Email: naturalca@hotmail.com

City of Chico

411 Main St

Chico CA 95926

I am writing to support the variance application for the 10-foot building setback for the neighboring property, 4 Summer sky Commons, Chico, CA 95928. I, Dinesh Bajaj, and my wife, Punnu Chopra, own the 3 Summer sky Commons. I have gotten to know Matt Murray over the last few years and would like to help build their family home and be our neighbors.

I will greatly appreciate your time and consideration.

Feel free to contact me with any questions.

Sincerely,


Dinesh Bajaj