



CITY OF ORLAND Staff Report

TO: **City of Orland Planning Commission**
FROM: Scott Friend, AICP – City Planner
MEETING DATE: June 20, 2024; 5:30 p.m., Carnegie Center, 912 Third Street, Orland, CA 95963

SUBJECT: **VAR#2024-01 – 33 E. Walker Street, Quezada, R.**: A request to approve a Variance pursuant to Orland Municipal Code Chapter 17.84 for a reduction in the required rear yard setback (OMC Section 17.40.135.B) on an existing developed lot identified as 33 E. Walker Street and further identified as APN 041-072-002:

The subject parcel/property is located on the south side of Walker Street / SR32, east of an existing tri-plex development identified as 20 E. Walker Street and west of an existing single family dwelling identified as 40 E. Walker Street. The parcel is designated as Commercial (C) on the Orland General Plan land use diagram and zoned C-2, Community Commercial Pursuant to Orland Municipal Code (OMC) Chapter 17.40.

Environmental Review: The proposed action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, *Existing Facilities*, as the project involves a rear-yard setback Variance on an existing fully developed lot, located within an urbanized area having existing utilities and involving only a minor addition on an existing structure.

APPLICANT/LANDOWNER: Ricky Quezada and Maria Mojica S/S J/T
7135 CO RD 20
Orland, CA 95963

GENERAL PLAN: C, Commercial

ZONING: C-2, Community Commercial

Summary:

The applicant is requesting approval of a Variance to reduce the required rear-yard setback (OMC 17.40.135.B) for an existing structure (formerly Hidden Treasures Animal Rescue). The subject parcel/property is located on the south side of Walker Street/SR32 and north of an existing developed single-family neighborhood fronting onto E. Colusa Street (see **Attachments A1 and A2**). The parcel is designated as Commercial (C) on the Orland General Plan land use diagram and zoned C-2, Community Commercial.

The Orland Municipal Code [OMC] Section 17.40.135.B, requires that structures located in the C-2, Community Commercial zoning district have zero (0) setback in the rear-yard area except

where a rear yard abuts a residential zone. In such situations, the minimum rear-yard setback is identified as being fifteen (15) feet.

Discussion and Analysis:

A Variance is a request to modify development standards applicable to a use/building. Variances may be granted for site development standards such as setback requirements, building heights and other lot development standards to include requests such as the proposed action. Variances to allow a use not otherwise allowed within a particular zoning district (i.e. “land use variance”) cannot be considered pursuant to State law.

The reduction in the required rear-yard setback is being requested to align a proposed expansion of the existing structure with the existing developed structure on the site. The existing structure has a rear-yard setback of approximately ten (10) feet. As proposed, the expansion would be required to have a minimum rear-yard setback of fifteen (15) feet. The applicant is requesting the Variance to permit the reduction of the required rear-yard setback from fifteen (15) to ten (10) feet to “align” the proposed expansion with the existing structure. The requested Variance would have the effect of reducing the required rear yard setback by approximately five (5) feet.

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 Commercial.

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;

Staff cannot identify any exceptional or extraordinary circumstances applicable to the property. However, the strict adherence to the setback provisions of the Orland Municipal Code would not permit the modification of the facility (addition) as proposed due to the non-conforming configuration of the existing building/structure and would not allow the expansion to “align” with the existing rear wall of the existing building.

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 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.

While staff cannot identify any significant degradation of the property rights of the property owner that would limit the use of the site, the strict application of the zoning ordinance would prevent the owner/applicant from constructing an expansion of the existing building on the same setback as the existing structure. A review of the request by city staff suggests that the granting of the 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 as sufficient setback distance remains to permit access to the rear-yard of the site.

Environmental determination:

Staff recommends that the Planning Commission determine that the proposed Variance is categorically exempt from further CEQA analysis pursuant to CEQA Guidelines Section 15301 (*Existing Facilities*) as the project involves only the slight reduction of the required rear yard setback. A Notice of Exemption has been 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 15301 (*Existing Facilities*) and take action on the matter (Variance 2024-01), subject to making the necessary findings (**Attachment B**).

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

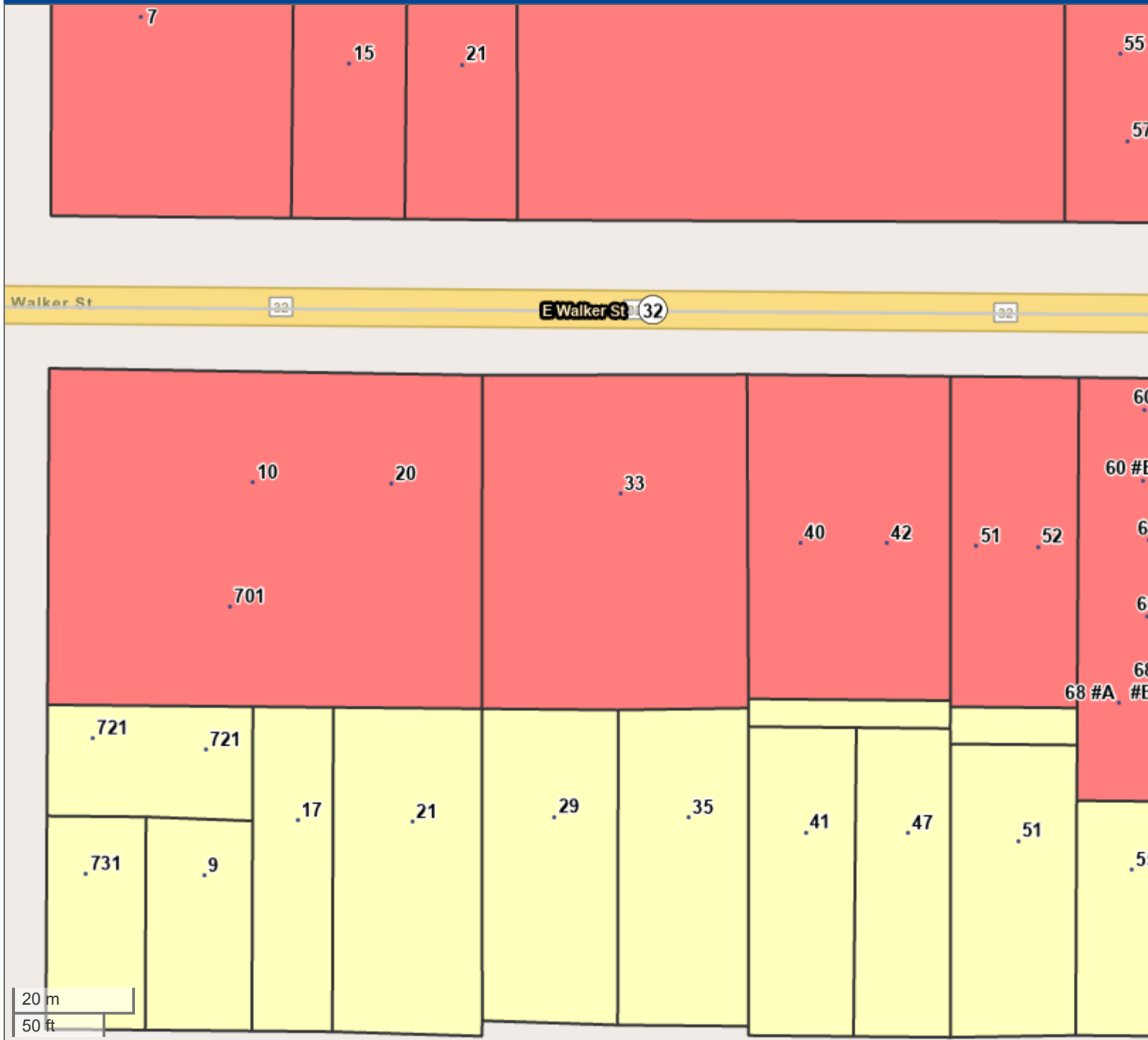
1. Accept a presentation of the project by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project by the Planning Commission; and
4. Motion and vote by the Planning Commission.

If the Planning Commission determines that it intends to approve the Variance as requested, 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 §15301, Existing Facilities, and (approve/deny) the request making the required findings for the action and approve the requested Variance as requested (V#2024-01).

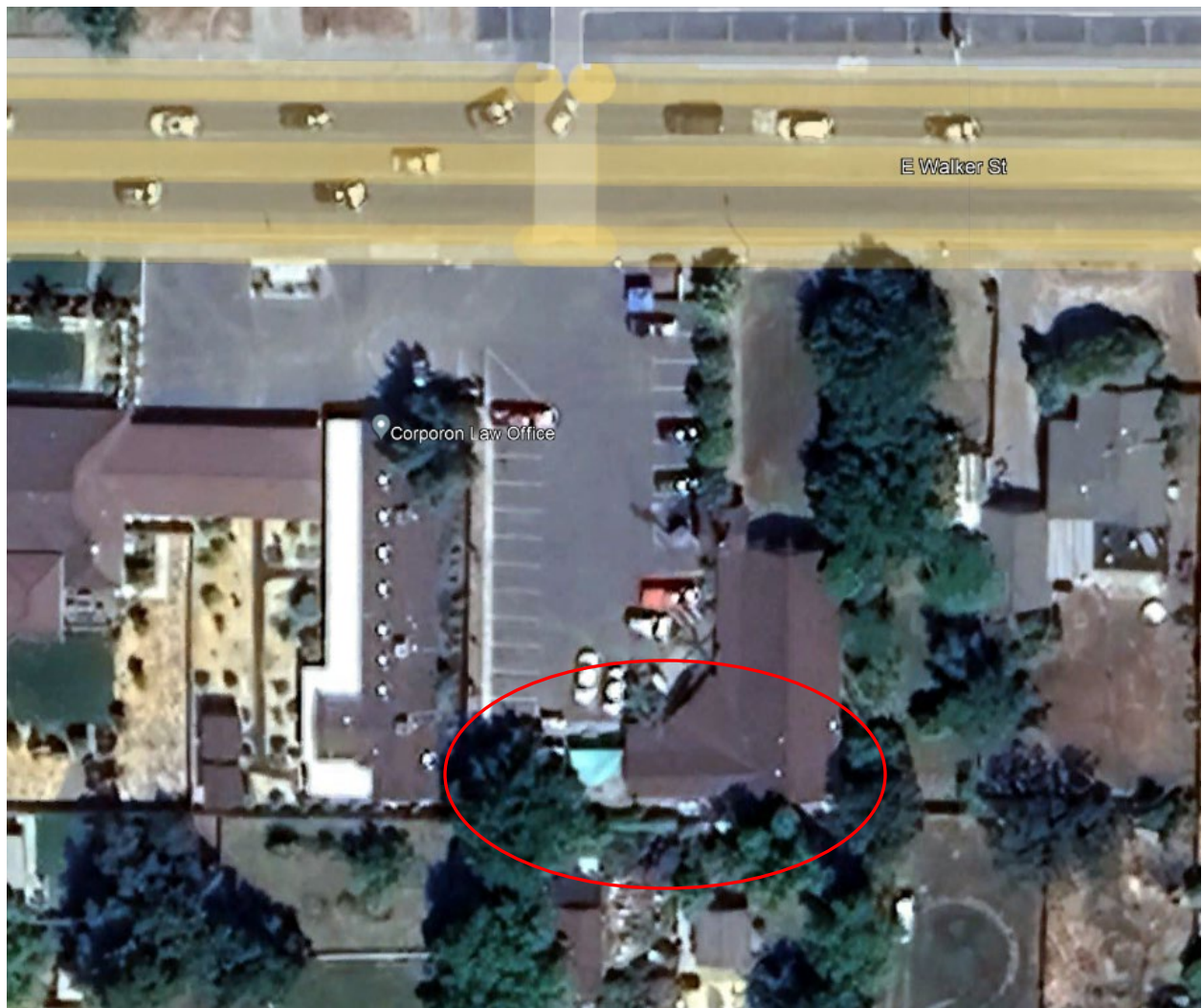
ATTACHMENTS

- **Attachments A1 and A2** – Site Location Maps
- **Attachment B** – Planning Commission Findings
- **Attachment C** – Notice of Exemption
- **Attachment D** – Planning Commission Resolution 2024-____
- **Attachment E** – Variance Application
- **Attachment F** – OMC Section 17.40.135.B (excerpt)



LEGEND

- Address
- City Limits
- Downtown Area/Special Parking
- Roads
- Railroad
- Places
- Pavement Survey Data
- Parcels
- Full Zoning Designation
 - C-1 - Neighborhood Commercial
 - C-2 - Community Commercial
 - C-H - Highway Service Commercial
 - M-H - Heavy Industrial
 - M-L - Light Industrial
 - MU - Mixed Use
 - O-S - Open Space
 - P-D - Planned Development
 - P-F - Public Facilities
 - R-1 - Residential One-Family
 - R-1/C-2
 - R-2 - Residential Two-Family
 - R-3 - Residential Multiple Family
 - R-E - Residential Estates



Attachment A2 – Site Location Map

**PLANNING COMMISSION FINDINGS FOR APPROVAL OF VARIANCE #2024-01 (Quezada)
PURSUANT TO SECTION 17.84.020 OF THE ORLAND MUNICIPAL CODE**

In order to approve a Variance from the requirements of the Orland Municipal Code, the Planning Commission must make all three findings required in Section 17.84.020. 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 Commercial.

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;

Staff cannot identify any exceptional or extraordinary circumstances applicable to the property. However, the strict adherence to the setback provisions of the Orland Municipal Code would not permit the modification of the facility (addition) as proposed due to the non-conforming configuration of the existing building/structure and would not allow the expansion to "align" with the existing rear wall of the existing building.

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 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.

While staff cannot identify any significant degradation of the property rights of the property owner that would limit the use of the site, the strict application of the zoning ordinance would prevent the owner/applicant from constructing an expansion of the existing building on the same setback as the existing structure. A review of the request by city staff suggests that the granting of the 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 as sufficient setback distance remains to permit access to the rear-yard of the site.

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 VAR#2024-01 – A request to approve a Variance pursuant to Orland Municipal Code Chapter 17.84 to reduce the required rear-yard setback at an existing lot identified as 33 E. Walker Street/SR32 from 15’ to 11’ on Glenn County Assessor’s parcel number 041-072-002.

Project Location - Specific:

1002 Sixth Street in Orland, Glenn County, CA 95963. APN 040-243-001

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

Description of Nature, Purpose, and Beneficiaries of Project: The City of Orland received a request for a rear-yard setback Variance pursuant to Orland Municipal Code Chapter 17.84 to reduce the rear-yard setback at an existing lot identified as 33 E. Walker Street/SR32 and Glenn County Assessor’s parcel number 041-072-002. The applicant is requesting a Variance to allow an exception to the minimum setback standard. The Variance request is to reduce the required rear-yard setback from 15’ to 11’ to align with the existing built structure. Pursuant to sections 17.84.020 of the OMC, the Planning Commission may issue a variance upon making findings consistent with those found in the OMC. The primary beneficiary of the project will be the project applicant.

Name of Public Agency Approving Project:

City of Orland

Name of Person or Agency Carrying Out Project:

Martin Galvan, Applicant/Owner

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: §15301 Existing Facilities Exemption
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The City of Orland has determined that the project is *exempt* from further CEQA analysis as the proposed request would have a negligible impact to the surrounding properties, no new lot(s) are being created, the lot is in an urbanized areas and served by existing public utilities, and, adequate movement space exists on the parcel currently. Therefore, the project is exempt pursuant to CEQA Guidelines Section 15301.

Lead Agency

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

Signature: _____ Date: _____ Title: City Clerk

■ Signed by Lead Agency

Date received for filing at OPR: N/A

Attachment C

**CITY OF ORLAND
PLANNING COMMISSION
RESOLUTION PC 2024-__**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORLAND
APPROVING A VARIANCE THE REQUIREMENTS OF THE ORLAND MUNICIPAL CODE
SECTION 17.40.135.B CONCERNING REAR-YARD SETBACKS FROM 15' TO 11' ON APN:
041-072-002 LOCATED AT 33 E. WALKER STREET**

WHEREAS, Mr. RICKY QUEZADA (applicant/landowner) has requested a Variance from requirements of Section 17.40.135.B of the Orland Municipal Code to reduce the required building setback on an existing lot from 15' to 11'; and

WHEREAS, the Planning Commission held a duly noticed public hearing to accept public comments and to review and consider the application on June 20th, 2024; and

WHEREAS, the Planning Commission has determined that the use of the lot is consistent with the Land Use diagram of the Orland General Plan (*Commercial*) and that the pre-existing conditions of the lot make the strict adherence to the standards of the Orland Zoning Code incongruous with the circumstances of the situation; and

WHEREAS, the Planning Commission has determined the project is Categorically Exempt from review under the California Environmental Quality Act (CEQA) pursuant to Class 1, Section 15301 (*Existing Facilities*) 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 on an existing developed lot located at 33 E. Walker Street to reduce the required rear-yard building setback from 15' to 11'.

The foregoing Resolution of the Planning Commission was adopted by the Planning Commission on the 20th day of June 2024, by the following vote:

AYES: Commission Members:

NOES: Commission Members:

ABSENT: Commission Members:

ABSTAIN: Commission Members:

Stephen Norbye (Chairperson)

ATTEST:

Jennifer T. Schmitke, City Clerk



City of Orland

Planning Division

815 Fourth Street
Orland, CA 95963
(530) 865-1600 FAX (530) 865-1632
www.cityoforland.com

CITY OF ORLAND
05/09/2024
RECEIVED

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VARIANCE APPLICATION

APPLICANT INFORMATION		
Applicant Name: <i>Ricky Querada</i>	Phone Number: <i>530 433-3312</i>	
Street Address: <i>33 E Walker St</i>	Email: <i>rickyquerada12@gmail.com</i>	
City: <i>Orland</i>	State: <i>CA</i>	Zip: <i>95963</i>
Agent/Representative (If any):	Phone Number:	
Street Address:	Email:	
City:	State:	Zip:
Property Owner: <i>Ricky Querada</i>	Phone Number: <i>530 433-3312</i>	
Street Address:	Email:	
City:	State:	Zip:
PROJECT INFORMATION		
Property Address: <i>33 Walker St</i>		
City: <i>Orland</i>	State: <i>CA</i>	Zip: <i>95963</i>
Existing Zoning District:	Existing Property Use:	
Request: <i>to obtain variance from 15ft wall ft</i>		

Orland Municipal Code: (excerpt)

Chapter 17.40 – C-2, Community Commercial Zone

- **17.40.135 - Setbacks.**

Minimum yards in the C-2 zone are as follows:

- A. Front: none, except when the front yard is across the street from a residential zone, then a ten (10) foot setback is required;
- B. Rear: none, except where a rear yard abuts a residential zone the minimum setback shall be fifteen (15) feet. If the rear yard abuts an alley, such rear yard shall not be less than five feet;
- C. Side: none, except that a side yard of an interior lot abutting a residential zone shall be not less than the front yard required in such residential zone;
- D. Adjacent buildings shall have compatible front setbacks to maintain visual continuity of the streetscape. Setback in fill projects in areas with different front setbacks at a distance equal to the average setbacks of buildings on either side not to exceed fifty (50) percent of the minimum setback requirements of the zoning code.

(Ord. 2007-05 § 3 (part))