



# *County of Yuba*

## Community Development & Services Agency

915 8<sup>th</sup> Street, Suite 123, Marysville, CA 95901

### Planning Department

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### PLANNING COMMISSION STAFF REPORT

**HEARING DATE:** August 21, 2019

**CASE NUMBER:** VAR2019-0001

**LOCATION:** North of Erle Road, Intersection of Sunhaven Street

**APPLICANT:** LGI Homes, LLC

**REQUEST:** The applicant is requesting approval of a minor variance to allow zoning standard deviations in the rear yard setback requirement for residential developments located in the Orchard subdivision located north of Erle Road at the intersection of Sunhaven Street, in Marysville (Attachment 2). The proposed project site has a General Plan designation of Valley Neighborhood and a zoning designation of Single Family Residential ("RS"). In the "RS" zoning designation, the minimum rear yard setback requirement is 20 feet. The applicant is requesting a variance to allow a rear yard setback of 15 feet.

**RECOMMENDATION:** Staff recommends that Planning Commission make a determination that the project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Section 15305 (Minor Alterations in Land Use Limitations) and approve Variance 2019-0001, subject to making the necessary findings and the conditions of approval contained herein (Attachment 3).

**BACKGROUND/DISCUSSION:** The project site is a part of TSTM2003-0016, for twenty-nine lots of "The Orchard Phase Six", of the conditionally approved Tentative Subdivision Tract Map 2003-0016, "The Orchard". The project site in question once belonged to the East Linda Specific Plan, the primary purpose of this Specific Plan was to facilitate the development of the East Linda area as a quality residential community to serve the growing demand for homes in Yuba County. The project site is located in an area of Linda that is currently undergoing development of new subdivision homes.

The applicant is requesting a variance to reduce the permitted rear yard minimum setback requirement to fifteen feet from the required twenty feet, pursuant to Yuba County Code Table 11.07.030 development standards. In the Single Family Residential zoning district, the minimum distance for a rear yard setback is 20 feet. The reduction in setback is necessary due to site constraints from small lots created in the previous Tract Map 2003-0016.

The previously approved Tract Map (TSTM2003-0016) was approved as part of the East Linda Specific Plan. The ELSP had its own unique zoning designations and setback requirements. The

subject property had an ELSP zoning designation of R-5 that allowed a 15-foot rear yard setback for residential structures. In 2015 as part of the Development Code Update and because the ELSP was nearly completely built, the Board of Supervisors rescinded the ELSP and applied Development Code standards to the former ELSP. The subject project was rezoned to “RS” Single-Family Residential. The “RS” zoning designation has a requirement for a 20-foot rear yard setback for residential structures. TSTM2003-0016, when designed, factored in 15-foot rear yard setbacks and the resulting designed lots are not as deep (long) to meet current “RS” 20-foot standards. The granting of this Variance would allow a reduction in the current rear yard setback to the setback standard that existed at the time TSTM2003-0016 was designed and approved.

GENERAL PLAN/ZONING: The project site has a General Plan designation of Valley Neighborhood and a zoning designation of Single Family Residential. The Single Family Residential zoning designation allows for the development of low-density single-family lots in an assortment of sizes. The General Plan Land Use Designation of Valley Neighborhood encompasses place types of the public realm such as Neighborhood Center, Mixed Use Corridor, and Residential districts.

#### SURROUNDING USES

	GENERAL PLAN LAND USE DESIGNATION	ZONING	EXISTING LAND USE
North	Valley Neighborhood	RM	Vacant
East	Valley Neighborhood	RS	Single Family Residential
South	Valley Neighborhood	PR	Single Family Residential
West	Valley Neighborhood	RS	Single Family Residential

Surrounding properties range in size from less than 1 acre to 10 acres. The immediate surrounding area, both east and west, is zoned “RS” Single Family Residential and is designated on the General Plan Land Use Diagram as Valley Neighborhood. North of the project site is a 10 acre parcel zoned as “RM” Medium Density Residential and is designated on the General Plan Land Use Diagram as Valley Neighborhood. To the south of the property is a 10 acre parcel zoned as “PR” Planning Reserve and is designated on the General Plan Land Use Diagram as Valley Neighborhood.

Consistent with the General Plan designation, the site is located in an “RS” Single Family Residential zoning district, which allows for a mixture of housing types in a low density setting. The reduction in required yard setbacks may be allowed if the necessary Variance findings can be made.

DEPARTMENTAL & AGENCY REVIEW: The project was circulated to various agencies and County departments for review and comments during the early consultation phase and the environmental review stages of the project. The following is a summary of comments:

- County Staff – The Public Works Department, Environmental Health Department, and Building Department have reviewed the project and provided comments and/or conditions of approval that are incorporated into the attached Conditions of Approval.
- Linda Fire Protection District – No objection.

**FINDINGS AND EVALUATION:** Chapter 11.59 of the Yuba County Development Code includes provisions for variances. The approving authority shall make the following findings in order to approve a Variance: (Each finding is listed below and is followed by a discussion/evaluation.)

**A. Because of special circumstances applicable to subject property, including size, shape, topography, location, or surroundings, the strict application of this Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

The proposed reduction in the rear yard setback will not deprive the subject property of privileges enjoyed by surrounding nearby properties. Surrounding properties will not be impacted by a reduced rear yard setback. Variances may be granted to vary or modify dimensional and performance standards, the variation in the rear yard that has been requested is in conformance with section 11.59.020 of the Yuba County Development Code. The approval of this variance will ensure all development regulations meet Yuba County development standards. There is nothing proposed that the zoning and general plan does not allow.

**B. The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which subject property is situated;**

The proposed variance does not constitute any grant of special privilege inconsistent with limitations upon properties within the vicinity or zone for which the project site is located. The project site was once zoned ELSP-R5, which allowed a fifteen-foot rear yard setback. Once the East Linda Specific Plan was removed new Single Family Residential zoning required a twenty-foot setback for residential structures. The granting of this variance would only allow the project site to return to setback standards that applied when the map was initially designed and approved.

**C. The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated;**

The approval of this Variance will not be detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in which the project location is situated. The proposed Variance and associated development would not

adversely affect adjacent properties or persons. The proposed variance adheres to County of Yuba development requirements within the Single Family Residential zoning district.

**D. The granting of the variance will be consistent with the general purposes and objectives of this Code, any applicable specific plans or adopted community plans, and the General Plan.**

The granting of this Variance shall assist to maintain the parcels in conformance with Yuba County Development Code and General Plan. The location of the proposed Variance does not fall within an area containing a specific plan or community plan. All required findings such as lot size, project density, neighborhood characteristics, as well as a variety of lot widths and setbacks shall be provided to standards stated within the Code for the Single Family Residential zoning district.

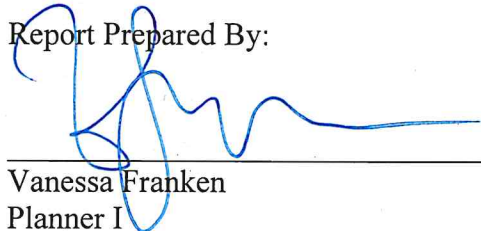
**E. The Variance does not authorize a use that is not otherwise permitted in the zone.**

The proposed variance does not authorize a use that is not permitted in the zone. The proposed variance is to reduce the rear yard setback from twenty to fifteen feet, which adheres to section 11.59.020, stating a Variance applies to standards that exceed the thresholds to qualify for a Waiver. Lot size and lot density of parcels to receive the Variance are consistent with the General Plan and meet all requirements of the zone district.

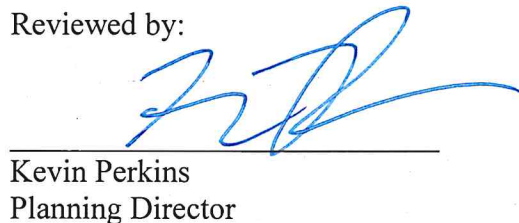
ENVIRONMENTAL REVIEW: Staff has determined that the project is categorically exempt from environmental review per the California Environmental Quality Act (CEQA) Section 15305, (Minor Alterations in Land Use Limitations). This exemption covers minor alterations in land use such as minor lot line adjustments, and side yard and setback variances that do not result in the creation of any new parcel.

FINDINGS: The necessary environmental review and Variance findings are contained in (Attachment 3) of this report.

Report Prepared By:

  
\_\_\_\_\_  
Vanessa Franken  
Planner I

Reviewed by:

  
\_\_\_\_\_  
Kevin Perkins  
Planning Director

**ATTACHMENTS**

1. Resolution
2. Site Map
3. Findings/Conditions of Approval

**BEFORE THE COUNTY OF YUBA  
PLANNING COMMISSION**

<b>RESOLUTION FINDING THE PROJECT EXEMPT FROM ENVIRONMENTAL REVIEW AND APPROVING VARIANCE 2019-0001; SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL</b>	) ) ) ) ) )	<b>RESOLUTION NO.: _____</b>
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**WHEREAS**, LGI Homes LLC, filed an application for a Variance 2019-0001; a request to reduce the rear yard setback from twenty feet to fifteen feet on twenty-nine parcels in the Single Family Residential (RS) zoning district. The twenty-nine subject parcels are located north of Erle Road within the Orchards Phase 7 (TSTM2004-0053) subdivision in the community of East Linda.

**WHEREAS**, the Community Development & Services Agency, Planning Department of the County of Yuba has conducted a review of the proposed project, provided due notice of a public hearing, concluded that the project is consistent with both the 2030 General Plan and Development Code and is exempt from environmental review per the California Environmental Quality Act (CEQA) Section 15305, (Minor Alterations in Land Use Limitations); and

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The foregoing recitals are true and correct.
2. Because of special circumstances applicable to subject property, including size, shape, topography, location, or surroundings, the strict application of this Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
3. The Variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which subject property is situated.
4. The granting of the Variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.
5. The granting of the Variance will be consistent with the general purposes and

objectives of this Code, any applicable specific plans or adopted community plans, and the General Plan.

6. The Variance does not authorize a use that is not otherwise permitted in the zone..

The Planning Commission hereby finds the project exempt from further environmental review pursuant to Section 15305 of the California Environmental Quality Act adopts, incorporated herein by reference, and approves Variance 2019-001 subject to the Conditions of Approval incorporated by reference.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the County of Yuba, State of California, on the \_\_\_\_\_, by the following vote.

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
**Yuba County Planning Commission  
Chairman**

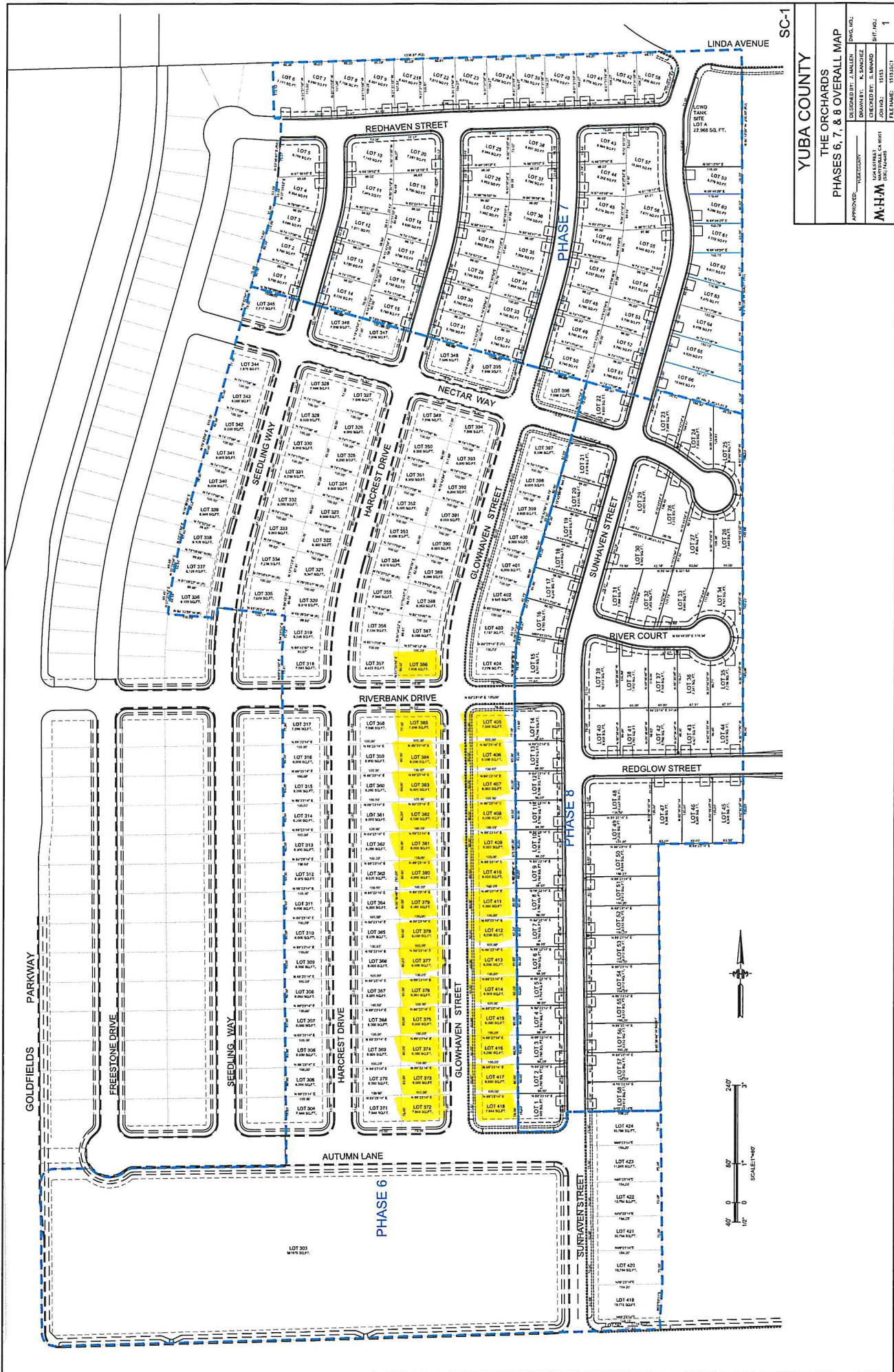
**ATTEST:**  
**Planning Commission Secretary**

**APPROVED AS TO FORM:**  
**County Counsel**

**BY:** \_\_\_\_\_

**BY:**  \_\_\_\_\_





**DRAFT CONDITIONS OF APPROVAL  
YUBA COUNTY**

**Applicant: LGI Homes, LLC**

**Case Number: VAR 2019-0001**

**Owner: LGI Homes, LLC**

**Planning Commission Approval Date:**

**APN: The Orchard Phase 6 -29 lots. See Attachment 2**

**August 21, 2019**

**STANDARD CONDITIONS:**

1. Unless specifically provided otherwise herein or by law, each condition of these Conditions of Approval shall be completed to the satisfaction of the County. Failure to comply with this provision may be used as grounds for revocation of this permit.
2. As a condition of approval, Owner or an agent of Owner acceptable to County shall defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding, against the County or its agents, officers, and employees; including all costs, attorneys' fees, expenses, and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, void or annul an approval by the County, Staff Development Committee, or other County advisory agency, appeal board, or legislative body concerning the conditional use permit. County shall promptly notify owner of any such claim, action, or proceeding and shall cooperate fully in the defense of said claim, action, or proceeding.
3. Owner(s), Owner's agent(s) or Applicant shall comply with all applicable federal, state, and local laws, ordinances, and regulations, and the Yuba County Ordinance Code.
4. The variance may be effectuated at the end of the ten (10) day appeal period which is September 4, 2019. The variance, VAR2019-0001, shall be designed and operated in substantial conformance with the approved variance as outlined in the approved site plan filed with the Community Development & Services Agency and as conditioned or modified below. No other expansion of uses are authorized or permitted by this use permit.
5. This variance approval shall be effectuated within a period of twenty-four (24) months from this approval date and if not effectuated shall expire on August 21, 2021. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than ninety (90) days from August 21<sup>st</sup>, 2021.
6. Minor modifications to final configuration of the variance may be approved by the Community Development and Services Agency Director.

**PUBLIC WORKS DEPARTMENT:**

No Conditions of Approval



**DRAFT CONDITIONS OF APPROVAL  
YUBA COUNTY**

**Applicant: LGI Homes, LLC**

**Case Number: VAR 2019-0001**

**Owner: LGI Homes, LLC**

**Planning Commission Approval Date:**

**APN: The Orchard Phase 6 -29 lots. See Attachment 2**

**August 21, 2019**

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**ENVIRONMENTAL HEALTH DEPARTMENT:**

No Conditions of Approval

**BUILDING DEPARTMENT:**

No Conditions of Approval

**PLANNING DEPARTMENT:**

7. The Variance shall be effective at the end of the ten (10) appeal period which begins on the day following the day of approval. Said approval period ends August 22, 2019 at 5:00pm.
8. Minor modifications to the final site configuration may be approved by the Planning Director.

Kevin Perkins,  
Planning Director

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Vanessa Franken, Planner I