

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: DAN HENNESSEY, DIRECTOR & CITY ENGINEER,  
TRANSPORTATION AND PUBLIC WORKS  
SUBJECT: APPEAL OF CITY ENGINEER'S DENIAL OF VARIANCE  
ENGV25-018: RELIEF FROM PUBLIC IMPROVEMENT  
REQUIREMENTS

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

The Planning and Economic Development Department recommends that the Council, by resolution, deny the appeal and uphold the City Engineer's determination to deny a variance for relief from public improvement requirements for the Pham Assisted Living project. This item has no impact on current fiscal year budget.

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EXECUTIVE SUMMARY

Kim Pham (appellant) has submitted a Variance application for relief from public improvement requirements, including the construction of roadway pavement, curb and gutter, sidewalk, and a driveway apron as well as the undergrounding of overhead distribution lines. The application, submitted on June 19, 2025, was partially denied by the City Engineer on August 12, 2025 allowing overhead lines to remain, but requiring the construction of roadway pavement, curb and gutter, sidewalk, and a driveway apron. On August 25, 2025, the appellant submitted the subject appeal application, appealing the City Engineer's decision.

GOAL

This item relates to Council Goal #2 - Invest in the Development and Maintenance of the City's Infrastructure. This item ensures the installation of new City infrastructure that complies with current City Standards and the future buildout of Benjamins Road aligning with the current General Plan.

BACKGROUND/PRIOR COUNCIL REVIEW

The subject property, 635 Benjamins Road, was annexed to the City of Santa Rosa in 1995. Since 1953, the property has consisted of a single-family residence. In 2023, the appellant submitted a development proposal for a Senate Bill 9 Urban Lot Split, which

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divided the approximate one-acre lot into two lots. The original single-family residence was maintained on a 0.58 acre lot, and the remaining 0.41 acres was kept vacant for future development. As part of the lot split approval, the appellant was required to dedicate right-of-way, a public utility easement, and sidewalk easement for the future buildout of Benjamins Road once the newly created lot was developed.

The appellant submitted a Minor Conditional Use Permit for a 15-bed assisted living facility on the newly created vacant lot on June 9, 2025. On June 11, 2025, City staff alerted the project architect that the proposed development would trigger public improvement requirements including the construction of City standard curb and gutter, sidewalk, and driveway apron per City Code Chapter 18-12 as well as the undergrounding of overhead distribution lines and placement of vacant conduit for future undergrounding of main feeder lines per City Code Chapter 13-12.

On June 18, 2025, City staff met onsite with the appellant's design engineer to discuss the potential conflicts and concerns with constructing improvements along the subject property's frontage. City staff instructed the appellant to submit a Variance application. The appellant submitted a Variance application on June 19, 2025 requesting relief from these public improvement requirements.

On July 17, 2025, City staff met with the appellant and design engineer to further discuss the design issues, financial concerns, status of the variance review, and next steps. On July 28, 2025, City staff presented the Variance request to the City Engineer. The Variance request was partially denied by the City Engineer on August 12, 2025 allowing overhead lines to remain, but requiring the construction of pavement, curb and gutter, sidewalk, and a driveway apron. On August 25, 2025, the appellant submitted the subject appeal application, appealing the City Engineer's decision.

### ANALYSIS

#### A. Legal Standard

City Code Chapter 18-12 was enacted by the Council to ensure safe pedestrian and vehicular circulation and connectivity throughout the City. City Code Chapter 13-12 was enacted by Council to regulate and control overhead wires, poles, and other wire carrying structures within the City. City Code Chapter 18-12.040 gives the City Engineer the authority to grant a variance from public improvement requirements if one or more of the following findings can be made:

- 1) That there are special circumstances applicable to the subject property such as size, shape, topography, location, existing improvements, or surrounding structures, and that the strict application of the requirements under this chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this chapter;

- 2) That the nature and extent of the dedication, improvements or both, as required in this chapter, do not bear a reasonable relationship to the proposed use or uses or the property such that the exactions required would exceed the demands or burdens upon traffic, circulation and other factors justifying public improvements;
- 3) In addition, the City Engineer must find that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property in the same zone and vicinity in which the property is located.

**B. Staff Recommendation and Engineer's Action**

After receiving and reviewing the application for variance, staff provided a partial denial recommendation to the City Engineer with the findings that:

- 1) The improvements do not result in practical difficulties or unnecessary hardships. The design engineer has provided drawings proving that the roadway, curb and gutter, sidewalk, and driveway apron can be constructed.
- 2) The improvements bear a reasonable relationship to the proposed development as the assisted living facility maximizes the development potential of the lot. There will be no chance to acquire public improvements along this frontage again.
- 3) Granting the variance would be materially detrimental to the public welfare as future roadway and pedestrian connectivity will never be built to City Standards.

The City Engineer upheld staff's recommendation and partially denied the Variance request, allowing the overhead distribution lines to remain, but requiring the construction of roadway, curb and gutter, sidewalk, and a driveway apron along the project frontage.

**C. Appellant's Grounds for Appeal**

- 1) Lack of Connectivity & Public Benefit – There is no existing curb, gutter, and sidewalk for pedestrian access or drainage connectivity within 1,100 feet of the project. Construction of the required frontage improvements would not provide material benefit to the public nor would the improvements connect to any existing pedestrian circulation paths. Additionally, properties within the same vicinity, as well as the public, would not be materially affected by the omission of the requested public improvements along the subject parcel's frontage.

**Staff Response:** There is development potential along this entire corridor. Future development of neighboring parcels would trigger the same frontage improvement requirements. If these improvements are not constructed now, then there will be a lack of connectivity along this frontage in the future.

- 2) Existing Pedestrian Infrastructure – Pedestrian facilities are established on the opposite (east) side of Benjamins Rd. A pedestrian circulation map of the general area is included with this appeal which show existing pedestrian circulation improvements would be a safety concern for pedestrians looking to use the required frontage as there is no way to safely cross or traverse the west side of Benjamins Road near the subject parcel.

**Staff Response:** An asphalt concrete (AC) path with AC berms exists along the eastern side of Benjamins Rd. This is a temporary improvement, not a permanent improvement up to City Standards. The subject parcel frontage would be used for pedestrian connectivity as development occurs.

- 3) Storm Drain Conflict – There is an existing storm drain along the project frontage that is too shallow to allow for a new paving section and/or curb and gutter. Construction of the required improvements would present a hardship due to the unnecessary increase in scope and cost of engineering, demolition, and construction of storm drain replacement.

**Staff Response:** There are other design options that can be explored by the design engineer, including a concrete cap over the shallow storm drain, connecting directly into the public system across the street or installing catch basins.

- 4) Utility Pole Safety Hazard – There is an existing power pole that is currently located behind the edge of the traveled way. The required road section would place the existing joint pole in the middle of the 8' parking area, unprotected from traffic. This is likely to create a safety concern for vehicles traversing Benjamins Road. Relocation and/or undergrounding of the pole's utilities would place an impractical and unnecessary burden on the owner of this project.

**Staff Response:** The power pole within the parking lane is protected by a curb from traffic and is out of the traveled way. The improvement would not be moving the pole closer to the travel lane or increasing the chances of it being hit. This pole has existed in the same location for over 50 years. Constructing a curb around it with over 4.5' of buffer from the travel lane reduces any safety concerns.

- 5) Provision for Future Improvements – None of the proposed improvements will prevent construction of the curb, gutter and sidewalk improvements in the future.

**Staff Response:** The construction of this 15-bed assisted living care facility maximizes the development potential of the parcel. If frontage improvements are not constructed with this project then the likelihood they will be constructed through future private development is low. These improvements would have to be

constructed as a Capital Improvement Project when neighboring development occurs and there is a lack of connectivity.

Upholding the City Engineer's partial denial of the variance request will ensure there is not a gap in public improvements along this section of Benjamins Road in the future. Of the 34 lots along this north-south stretch of Benjamins Road, 6 lots have public improvements along their frontages, 9 are in County islands with development potential, and 6 have potential to subdivide. The remaining 13 lots have been subdivided into smaller single-family lots. A redevelopment or addition could trigger public improvements along these frontages, similar to this property.

Overturning the City Engineer's decision would leave this portion of Benjamins Road in an unimproved state. Any future improvement to this section of Benjamins Road would need to be managed by the City through the Capital Improvement Program. The likelihood of this improvement in the future being added to the Capital Improvement Projects (CIP) list is low as the City would need to acquire adequate right-of-way along each frontage and make a finding that the roadway widening, curb and gutter, and sidewalk is a priority out of the entire roadway network within the City. The highest probability of the future buildout of Benjamins Road is through private development.

#### FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

#### ENVIRONMENTAL IMPACT

The recommended action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15268 because the portion of the Project located within the public right-of-way involves ministerial approvals by the City Engineer.

The recommended action is also exempt pursuant to CEQA Guidelines Sections 15303 (New Construction or Conversion of Small Structures) and 15332 (In-Fill Development Projects). Section 15303 applies because the Project consists of the construction of one single-family residence on a vacant lot within a developed urban area, which is specifically identified as an example of the exemption.

In addition, the Project qualifies for the in-fill exemption under Section 15332, as it meets all of the required findings:

1. Consistency with Planning and Zoning: The Project site has a General Plan designation and zoning that allow for residential development. The proposed single-family residence/community care facility is consistent with the General Plan land use designation and applicable zoning standards.

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2. Location: The Project site is located within the City's urban service boundary on a vacant infill lot surrounded by existing urban uses, including residential and public services.
3. No Habitat Value: The site has been previously disturbed and does not contain habitat for special-status species.
4. No Significant Effects: Development of a single residence on the site would not result in significant effects related to traffic, noise, air quality, or water quality. Any potential effects are minor and typical of residential uses and would be addressed through existing standards and conditions of approval, including frontage improvements.
5. Adequate Utilities and Services: The Project site is served by existing utilities and public services, and no extension of infrastructure is required beyond standard connections.

Accordingly, the Project qualifies for exemptions under CEQA Guidelines Sections 15268, 15303, and 15332.

### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

### NOTIFICATION

Not applicable.

### ATTACHMENTS

- Attachment 1 – Variance Application
- Attachment 2 – Staff Recommendation to City Engineer
- Attachment 3 – Variance Partial Denial by City Engineer
- Attachment 4 – Public Improvement Exhibit
- Attachment 5 - Appeal
- Draft Resolution of Approval
- Draft Resolution of Denial

### PRESENTER(S)

Dan Hennessey, Director & City Engineer, Transportation & Public Works  
Cleve Gurney, Deputy Director-Development Services, Planning & Economic Development