

**Findings**

**1.0 CEQA FINDINGS**

The activity is covered by Section 15305(a) exemption (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act (CEQA). Class 5 exemptions apply to minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use density. The slope at the location of the project is approximately nine (9) percent. Slope on the overall parcel is nine (9) percent. This exemption applies to minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcel. No further environmental analysis is necessary. The activity is not a project subject to CEQA. No exceptions listed under CEQA Section 15300.2 apply, including the “unusual circumstances” exception because the evidence in the record supports the conclusion that there is no reasonable possibility the size and location of the project will have a significant effect on the environment due to unusual circumstances.

- 1.1 The documents, and other materials which constitute the record of proceedings upon which this decision is based, are in the custody of the El Dorado County Planning and Building Department, at 2850 Fairlane Court, Placerville, CA.

**2.0 GENERAL PLAN FINDINGS**

- 2.1 **The project is consistent with General Plan Policy 2.2.5.2.**

**All applications for discretionary projects or permits including, but not limited to, General Plan Amendments, zoning boundary amendments, Tentative Maps for major and minor land divisions, and Special Use Permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan Amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.**

Rationale: The subject parcel is in the Tahoe Regional Plan, Plan Area Statement Tahoe Paradise – Meadowvale, and residential structures are a permissible use. Tahoe Regional Planning Agency (TRPA) Code of Ordinances Chapter 21.3.1.A lists garages as an allowed accessory use. This use also complies with the General Plan. Staff finds the project is consistent with the General Plan and Adopted Plan.

### **3.0 ZONING FINDINGS**

**The project is consistent with Title 130.**

**3.1 There are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the vicinity and the same zone, and have not resulted from any act of the owner or applicant.**

Rationale: Several exceptional or extraordinary circumstances limit the location of new buildings on this property. Land coverage amount and location are limited by the TRPA Code of Ordinances.

The land coverage was verified by TRPA staff in 2023 as high capability land Class 5. Further, the amount of land that can be covered is limited to 2,000 square feet. As shown in Exhibit G, the proposed project uses 1,998 square feet of the 2,000 square feet of land coverage available. Staff has determined that the Variance is the minimum necessary for the reasonable use of the land consistent with the TRPA land coverage requirements.

Staff finds that there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in this application due to significant constraints on the property as it relates to land coverage and land capability. These circumstances have not resulted from any act of the owner or applicant. Accordingly, Finding 3.1 is made.

**3.2 The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other properties in the vicinity and the same zone (California Government Code Section 65906).**

Rationale: The strict application of the building setbacks of the Single-unit Residential (R1) zone district would deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone. Developed parcels in the immediate vicinity include no garage or carport, just a carport, or an attached two-car garage. The single-family dwelling to the south of the subject property is developed with a carport. The house to the west is developed with an attached two-car garage. The house to the north does not have a garage or carport. No other location exists on-site that meets the requirements for setbacks, land coverage, and land capability.

Staff finds that the strict application of the zoning regulations would deprive this property of privileges enjoyed by neighboring properties in the same vicinity and zone. Allowing the reduced front and side yard setbacks for the addition of a garage would not affect adjoining properties or the right-of-way of Tionontati Street. Therefore, Finding 3.2 is made.

**3.3 The Variance granted 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 (California Government Code Section 65906).**

Rationale: Covered parking in the Tahoe Basin is not a grant of special privileges. The development of a two-car garage is to provide on-site covered parking for two (2) vehicles in compliance with the Parking and Loading Standards found in the Zoning Ordinance. Other properties on Tionontati Street are developed with garages or carports.

Staff finds that the Variance request would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. Therefore, Finding 3.3 is made.

**3.4 The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.**

Rationale: The proposed Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan. It will not affect public health, safety, and welfare, nor will it be injurious to the other residential uses in the project area.

The General Plan in the Tahoe Basin is the Regional Plan of the TRPA. In this area, TRPA Plan Area Statement Tahoe Paradise – Meadowvale lists the allowed uses. Residential structures are listed as a use allowed by right. TRPA Code of Ordinances, Chapter 21 lists garages as an accessory use when the parcel is developed with a residence.

An Abandonment of Easement application with the County Surveyor's Office is required to reduce the 25-foot setback listed in the subdivision map. Condition of Approval No. 10 for this application specifies that both the Variance and the Abandonment of Easement are required to issue the building permits.

Condition of Approval No. 8 requires a hold harmless and indemnification agreement protecting the County from liability arising from snow removal activity because of the approval of this setback Variance.

Staff finds that the project is compatible with maps, objectives, policies, programs, and general land uses. Therefore, Finding 3.4 is made.

## **Conditions of Approval**

### **Planning Services**

1. This Variance approval is based upon and limited to compliance with the project description and following exhibits:

Exhibit G.....Proposed Plans

Any deviations from the project description, exhibits, or Conditions of Approval set forth below shall be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

The project description is as follows:

Variance to allow a reduction of the front setback from 20 feet to 6 feet 3 inches to allow for the construction of a two-car garage with dwelling space above.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and Conditions of Approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and Conditions of Approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. **Project Modifications:** Building design and building placement shall be completed in conformance with the plans submitted and in conformance with the Conditions of Approval herein. Minor variations are allowed, however, any major changes in the location of buildings shall require Planning Division review and approval.
3. **Condition Compliance:** Prior to issuance of certificate of occupancy of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each Condition imposed as part of the project approval.
4. **Notice of Exemption Fee:** A \$50.00 administration fee is required by the County Recorder to file the Notice of Exemption. This fee shall be made payable to El Dorado County and shall be submitted to Planning Division upon project approval.
5. **Permit Implementation:** Pursuant to Zoning Ordinance Section 130.54.060 (Time Limits, Extensions, and Permit Expiration), implementation of the project must occur within 24 months of approval of this Variance, otherwise this permit shall become null and void. The

applicant may request a time extension with the Department at least 30 days prior to permit expiration. If a timely request is filed, the County may, at its discretion, extend this time limit by not more than 36 months. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.

6. **Legal Indemnity/Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County.

7. The shed located in the rear setback will be relocated to the minimum setbacks of 5 feet from the western property line and 15 feet from the southern property line.

#### **Department of Transportation**

8. Prior to issuance of building permits, the applicant shall execute a hold harmless and indemnification agreement protecting the County from liability arising as a result of the approval of this setback Variance. The form of said document shall be reviewed and approved by the County Counsel, and once approved, shall be recorded with the County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe Office.

#### **County Surveyor's Office**

9. All boundary monuments that may be disturbed or destroyed during project construction shall be identified and referenced and/or reset by a Professional Land Surveyor or Qualified Engineer as defined by Section 8771 of the California Business and Professions Code (Land Surveyors Act).
10. An Abandonment of Easement application with the County Surveyor's Office must be completed to reduce the 25-foot setback required by the subdivision map prior to approval of the building permit for the garage structure.