

variance V23-0001/Atkins Thursday February 22, 2024

02/22/24
Item #3
6 Pages

Ingeborg Oswald <kmkion@icloud.com>

Sun 2/18/2024 11:17 AM

To: Planning Department <planning@edcgov.us>

Dear Planning Committee Board Members:

My name is Dr. Ingeborg Oswald and I reside, part time, at 1633 Player Court, South Lake Tahoe. My home is next door, east of the property that is requesting the variance (V23-0001) 1627 Player Court. As I am unable to attend

the public meeting scheduled for February 22 in person or via Zoom, I am submitting this letter so it can be included in the public comment forum. As I can appreciate Mr. Atkins desire for a garage, he did purchase that property in April of 2021 knowing it lacked a garage. On our cul de sac (Player Ct) only 2 of the 5 homes have garages and the 2 directly adjacent properties on Player Drive also lack garages. I have no objection to the addition of a garage so long as it

does not detract from the ambience of the neighborhood and is not injurious to any of the neighbors or myself. Whether or not any new construction "fits" into the local environment is obviously subjective; however, when you have 30 neighbors objecting one must take that into account and search for a compromise if possible.

I have two specific reasons as to why I personally object to the granting of this variance. The first is the sheer size of this proposed two story structure. It would loom over the cul de sac and is situated much too close to the Lee property located next door at 1625 Player Court. Part of the appeal of this neighborhood is the "open" feel of properties surrounded by forest service land. The proposed size and location of this structure most certainly would detract from

the appeal of the neighborhood and especially so from our cul de sac and more specifically from my property. The front of my house has windows directly looking out onto the cul de sac. If this towering 2 story structure were to be erected

the view from my front windows would look directly into this edifice and visa versa. I originally purchased this property because of its private location and this structure would impact the sense of privacy that I currently enjoy.

My other objection, and more importantly, is how this new structure would impact snow removal issues. During the winter of 2023 the snowfall was extraordinary. Massive amounts of snow accumulated on the streets. My property is located dead center of this U shaped cul de sac. The snow plows curve around this U shaped bend, plowing all the snow directly in front of 1625 and 1627 Player Court, the Lee and Atkins properties respectively, and dumps it in front of my home.

The wall of snow in front of my house was almost 12 feet high, substantially higher than all my neighbors. I subsequently lost cable and internet service for 9 weeks. Spectrum was unable to repair the equipment because the snow and ice impacted their access. Not only was there no cable and wi-fi capability to my home for 9 whole weeks, the snow crushed my mail box so there was also no USPO service. My home was the only home in the neighborhood whose service was impacted. Unfortunately in this day and age it is impossible to conduct business and stay in touch without a wifi connection.

The phone is also not an alternative as there is only one reliable carrier in this area and even that can be spotty, especially during severe weather situations. I had to cancel several family get togethers due to this, including my 70th birthday celebration. I am retired and plan on moving to this home full time within the next year and consequently cannot

be without any reliable USPO or connectivity service. My fear is that with the excess land coverage from

the proposed structural site at 1627 Player Court, the snow will accumulate on Mr. Atkins driveway or the street and eventually be plowed and dumped in front of my house. This is injurious, if not downright dangerous to my welfare and property.

I strongly urge this board to deny the variance and search for a compromise. In reviewing the video of the 1/11/24 board meeting there was a discussion of the applicant eliminating the 2 story in-law or granny unit and just constructing a single story garage. This idea was rebuffed by the applicant. It is curious as to why the additional living space is so crucial to Mr. Atkins when his current living space is over 1500 sq ft with 4 bedrooms and 2 full baths, all for just 2 individuals. Mr. Atkins has in the past applied for a VHR permit but has subsequently withdrawn that request.

In searching for a compromise I did not see any discussion in the 1/11/24 board meeting video of the possibility of building the proposed structure, or modified structure, where the current fenced in yard is. Beyond the fenced in yard there exists a non-permitted shed that extends mostly outside the setback limits. Coverage issues could be ameliorated by eliminating that shed. There would still be ample room for a fenced in yard along side the east and north sides of the property.

Thank you for allowing my input and hopefully all parties concerned can come up with a viable solution. I have also attached pictures of the snow wall in front of my property that winter and pictures of the damaged equipment.

Sincerely,

Dr. Ingeborg Oswald

variance. V23-0001

Ingeborg Oswald <kmkion@icloud.com>

Sun 2/18/2024 1:05 PM

To:Planning Department <planning@edcgov.us>

Here are the fotos of the destroyed equipment and the mountain of snow if front of my house that I inadvertently failed to send with my original objection letter

Dr. Ingeborg Oswald









Sent from my iPhone

Re: PETITIONS AGAINST Atkins (Variance Application V23-0001)

02/22/24
Item # 3
4. Pages

Peter <peter_sw_lee@yahoo.com>

Mon 2/19/2024 3:11 PM

To: Planning Department <planning@edcgov.us>; Brandon Reinhardt <Brandon.Reinhardt@edcgov.us>; Kris X. Payne <KPayne@edcgov.us>; Daniel Harkin <Daniel.Harkin@edcgov.us>; Lexi Boeger <Lexi.Boeger@edcgov.us>; BOS-Clerk of the Board <edc.cob@edcgov.us>; Jefferson. billingsly@edcgov.us <Jefferson.billingsly@edcgov.us>; Andy Nevis <Andy.Nevis@edcgov.us>; BOS-District V <bosfive@edcgov.us>; Melanie V. Shasha <Melanie.Shasha@edcgov.us>; Surveyor Department <surveyor@edcgov.us>; wjepson@trpa.gov <wjepson@trpa.gov>; jmarshall@trpa.gov <jmarshall@trpa.gov>; Brendan Ferry <brendan.ferry@edcgov.us>
Cc: Barnett Lyn <lyn@wbaplanning.com>; Peter Lee <picalabesas@gmail.com>; Lee Cheryl <cheryl2010@yahoo.com>; Susan Cochran <sbcochran334@aol.com>; Michael Durkee <m.durkee21@gmail.com>

📎 1 attachments (1,023 KB)

020524 Lee Letter Stamped.pdf;

Dear Chair and Planning Commission,

Please find the attachment from a licensed architect in South Lake Tahoe that contains viable alternatives that the Atkins could consider. Note that this includes compromises on a shorter garage in the front setback to options that are not within the setback.

Thank you.

Peter Lee

BFD/KEY ARCHITECTURE

Architect: Natalia Wiczorek (NV 8503, CA 39332)

Mailing Address:

PO Box 6093
Stateline, NV 89449

Office Address:

225 Kingsbury Grade, Suite B
Stateline, NV 89449
(775) 580-6288
architect@bfdkey.com

DATE: February 5, 2024

To the El Dorado Planning Commissioners:

I was asked to review the proposed detached garage/living addition at 1627 Player Ct. and to provide a professional opinion regarding the overall site layout, proposed encroachments, and overall height of the structure. It appears that the proposed project will require a major variance at the front setback and a minor variance at the side setback as part of the project. The current proposal involves a two-story structure, where the bottom floor is the garage and the top story is additional living space. It is not clear why the proposed structure includes a living space since the requested variances are for garage encroachment only. In my professional opinion, the proposed garage could be placed and built where it would not impair the views and privacy of the neighboring Lee property at 1625 Player Ct.

The proposed height is a major subject of contention, since if the structure encroaches into the setbacks as proposed, and is as tall as proposed, it will significantly affect the adjacent property at 1625 Player Ct. Per the TRPA Code of Ordinances, Ch. 37, Table 37.4.1, maximum allowed height for any structure is determined by both the slope of the parcel and the slope of the roof. TRPA **does not** have a minimum height requirement; in theory, a structure that is under 8' tall is permissible, and a single-story garage would have no issues being approved at the building department.

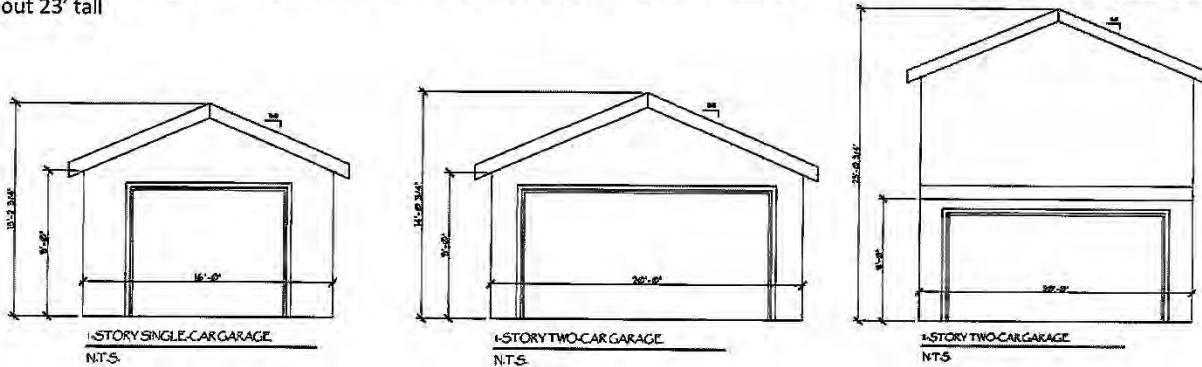
A typical floor to ceiling height, for either homes or garages, is anywhere between 8'-10'. Although El Dorado County encourages a roof pitch of 5:12 for snow shed, this is not mandatory and multiple examples exist of structures with a roof-pitches lower than that throughout the Tahoe Basin.

Local examples of 1-story, 2-car garages with flat or pitched roofs:



Potential height differences for 1 & 2 story garages:

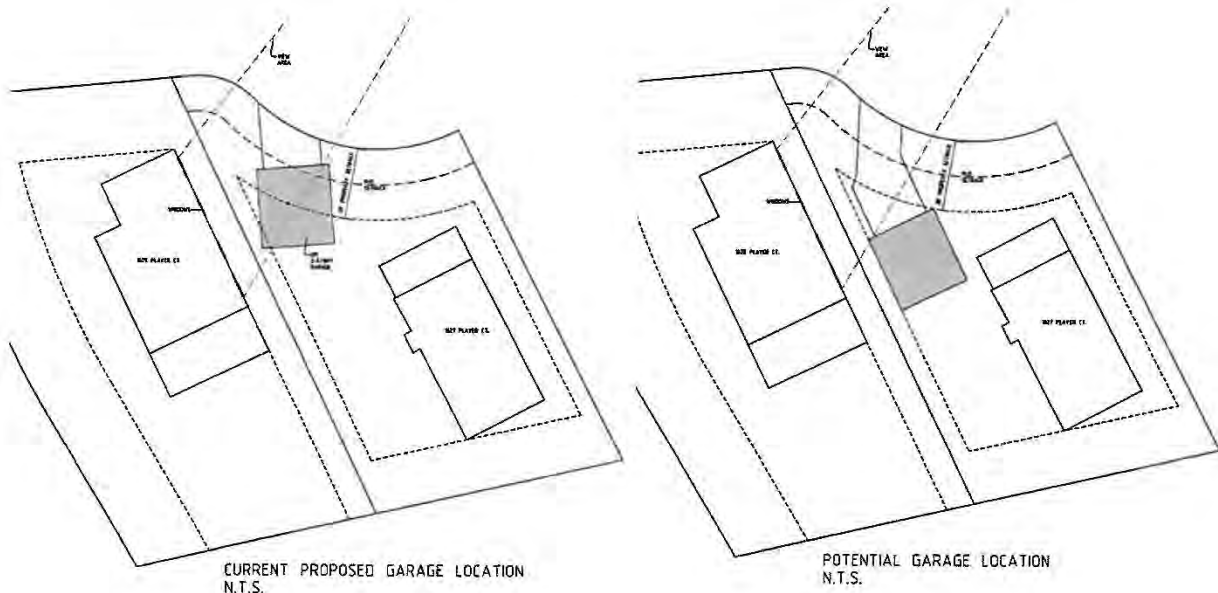
1. A single-story garage with a flat roof would be feasible on this lot, and would likely be 10' tall
2. With a steeper pitch, such as a 5:12, a single car garage would be feasible and about 13' tall
3. With a steeper pitch, such as a 5:12, a two-car garage would be feasible and about 14' tall
4. A double car garage, with a full second floor and a 5:12 pitch roof, would be almost 10 feet higher than the previous options, or about 23' tall



In other words, it is the addition of the second-floor area which creates the massive 23' barrier to views and affecting the privacy of the adjacent residence. If the space above the garage becomes a living area, as currently proposed, it will further affect the privacy of the neighboring property since its windows will be directly in the view line of the existing house. Again, it is not clear why a variance for a garage must include living space above, when it is the additional living space that creates the problem. The requested variances are for a garage, not living area.

For the front setback encroachment: this appears more intrusive as it proposes to place a portion of the garage not only within the front setback, but also within a 10' Public Utility Easement. Per my professional opinion, the structure could easily be shifted further back on the parcel and fit within the existing 20' front setback while meeting coverage requirements. This would require a design change, but as this is a preliminary planning proposal, it is at the Commission's discretion whether or not to enforce the setbacks before the project is fully completed and engineered for construction. The larger encroachment would likely necessitate a Major Variance, for which there has to be sound reasoning outside "just because."

From an architectural perspective, it appears that the proposed side encroachment is not necessary – the building could be modified or rotated without affecting the existing home or any defensible space requirements.



Per the El Dorado County Planning Services, variances require the following findings:

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.

This parcel does not have any exceptional conditions or circumstances that would prevent the owner from enjoying residential uses within the existing setbacks

2. The strict application of the provisions of the ordinance requested to be varied would deprive the applicant of the reasonable use of the land or building, allowed for other land in the vicinity and the same zone.

Enforcing the setbacks would not deprive the applicant from enjoying residential uses on their property

3. The variance is the minimum necessary for the reasonable use of the land or building.

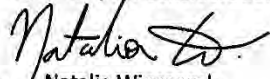
The variances are not necessary to build residential space as a primary house already exist, and may not be necessary for a garage either.

4. The variance is in conformity with the intent of this article and not detrimental to the public health, safety and welfare, or injurious to the neighborhood.

The proposed location of the additional residential space is injurious to the neighborhood in that it is unnecessarily tall, blocks views, and invades privacy.

It is my professional opinion that the overall site layout for the structure could be modified in a way where the encroachments are reduced, or eliminated, and for which there is still enough coverage to make it a viable garage-only build. Alternatively, the second floor living quarters could be eliminated, thereby reducing the height of the proposed garage and removing the injurious impacts on 1625 Player Court.

Thank you for your consideration,


- Natalia Wiczorek



Additional Legal Arguments Regarding Variance Application V23-0001; Potential Compromise

02/22/2024
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4 pages

Michael Durkee <mdurkee21@gmail.com>

Mon 2/19/2024 6:29 PM

To: Planning Department <planning@edcgov.us>; Brandon Reinhardt <Brandon.Reinhardt@edcgov.us>; Kris X. Payne <KPayne@edcgov.us>; Lexi Boeger <Lexi.Boeger@edcgov.us>; Andy Nevis <Andy.Nevis@edcgov.us>; Daniel Harkin <Daniel.Harkin@edcgov.us>
Cc: Melanie V. Shasha <Melanie.Shasha@edcgov.us>; BOS-District V <bosfive@edcgov.us>; BOS-Clerk of the Board <edc.cob@edcgov.us>; Jefferson B. Billingsley <Jefferson.Billingsley@edcgov.us>; Surveyor Department <surveyor@edcgov.us>; Brendan Ferry <brendan.ferry@edcgov.us>; wjepson@trpa.gov <wjepson@trpa.gov>; jmarshall@trpa.gov <jmarshall@trpa.gov>; Barnett Lyn <lyn@wbaplanning.com>; Peter <peter_sw_lee@yahoo.com>; Cheryl Lee <cheryl2010@yahoo.com>; Peter google <plcalabasas@gmail.com>; Michael Durkee <mdurkee21@gmail.com>

1 attachments (52 KB)

(X) Lee Peter.Cheryl Variance-Additional Arguments.Proposed Compromise (2.19.24)(X).docx;

Dear Chair and Planning Commissioners:

As previously announced, I represent Mr. Peter Lee and Mrs. Cheryl Lee regarding their property located at 1625 Player Court, South Lake Tahoe, California 96150 (the "Lee Property"). I previously submitted letters on January 4, 2024, and January 9, 2024, outlining my clients' legal and factual objections relating to El Dorado County Variance Application V23-0001 ("Variance Application") regarding the neighboring property, 1627 Player Court (the "Atkins Property"), and why approval of the Variance Application would violate controlling law.

I write separately today to provide additional legal arguments as to why the Variance Application should be denied, but, as an accommodation and compromise, I offer what my clients are willing to agree to in order to allow the Atkins Property to have a garage.

Thank you for this opportunity to provide this information and for your attention to this matter. I will be present at your hearing (via Zoom) to provide additional evidence and to answer any questions you may have.

Respectfully submitted,

Michael Patrick Durkee
Attorney at Law
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www.michaelpatrickdurkee.com
www.landusenavigators.com

February 19, 2024

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El Dorado County Planning Commission
2850 Fairlane Ct. #C
Placerville, CA 95667

*Re: Additional Legal Arguments Regarding Variance Application V23-0001;
Potential Compromise*

Dear Chair and Planning Commissioners:

As previously announced, I represent Mr. Peter Lee and Mrs. Cheryl Lee regarding their property located at 1625 Player Court, South Lake Tahoe, California 96150 (the "Lee Property"). I previously submitted letters on January 4, 2024, and January 9, 2024, outlining my clients' legal and factual objections relating to El Dorado County Variance Application V23-0001 ("Variance Application") regarding the neighboring property, 1627 Player Court (the "Atkins Property"), and why approval of the Variance Application would violate controlling law.

I write separately today to provide additional legal arguments as to why the Variance Application should be denied, but, as an accommodation and compromise, I offer what my clients are willing to agree to in order to allow the Atkins Property to have a garage.

I. BACKGROUND

The Variance Application was previously considered at the January 11, 2024, Planning Commission meeting; at that time, the matter was continued to February 22, 2024. As filed, the Variance Application proposes to build a two-story structure that would include both a garage and a living space over the garage. This proposed structure would encroach into various setbacks on the property, including one created by the subdivision map that created both the Atkins and Lee Properties. My January 4, 2024, letter and January 9, 2024, letter, outline how approval of the Variance Application will violate the California Environmental Quality Act (CEQA), state Planning and Zoning laws, and the Subdivision Map Act. I incorporate those prior arguments by this reference as if set forth in this place in full.

February 19, 2024

II. DISCUSSION

A. Any Variance Granted Should be Limited to a Garage Use; Residential Uses Should Not be Granted a Variance.

As outlined in my prior correspondence, a variance is used to address conditions on a property that would prevent a property owner from enjoying the use and benefit that other property owners in the same area enjoy. In this case, the purported basis for granting the Variance Application is that various setbacks preclude the location of a *garage* in any place other than within the setback. Thus, the staff report concludes that the Variance Application for a *garage use* should be granted.

However, the plans submitted with the Variance Application are not simply for a garage – they are also for a second floor living space. But the Atkins Property *already* enjoys a residential use of the property that does not require a variance to intrude into the setbacks. It is this second use – a second story residential use – that cannot support the required Variance findings, that makes the structure ten feet higher than it needs to be, and that results in the direct detriment to my client.

Concerns about the height of the structure were raised by the Planning Commission during the discussion on January 11, 2024 meeting. One Planning Commissioner suggested that a smaller garage could be approved instead of the two-story structure proposed in the Variance Application for the Atkins Property.

While my clients continue to oppose the approval of the Variance Application on the basis of the factual and legal arguments we have raised (including in this letter), as an accommodation and compromise, they would accept the approval of a variance that limited the structure to be constructed within the setbacks to be a single-story garage, with a pitched roof no higher than 14 feet, and the elimination of any windows providing lines of sight into their property. As the February 5, 2024 letter from Licensed Architect Natalia Wieczorek (BFD/KEY ARCHITECTURE) makes clear, “With a steeper pitch, such as 5:12, a two-car garage would be feasible and about 14’ tall.” (*Id.* at p. 2.)

Because the underlying subdivision map (Final Map) will need to be revised (the 20-foot set back is on the recorded Final Map), this limitation could be set forth in the needed amendment to that recorded Final Map.

In sum, this accommodation and compromise would allow the approval of a variance for a single-story garage intruding into the relevant setbacks as proposed, but disallowing a second story residential use for which the required Variance findings cannot be legally made.

B. Due Process/Equal Protection Dictates That the Lees be Provided Sufficient/Equal Time to Address the Factual and Legal Issues Involved.

During the Planning Commission’s consideration of the Variance Application, the Applicant, Mr. Atkins, was allowed unlimited time to make his presentation, to respond to Commissioner comments and questions, to address potential solutions, and to freely converse with the Commission without a seeming time limit for this dialogue. In contrast, my clients –

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who are directly impacted by the potential approval of the Variance Application – were limited to three minutes to present our concerns. With respect, this is neither fair nor legal.

Please allow equal time for both the Applicant and my client to speak at your next meeting of February 22, 2024 – with that extra time, we may be able to negotiate a compromise and avoid an appeal and potential litigation.

III. CONCLUSION.

For the factual and legal reasons provided above, we respectfully submit that proposed Variance Application V23-0001 is legally flawed for several reasons, including without limitation, violating CEQA and violating the variance rules of California Planning and Zoning law and El Dorado County Code section 17.52.070, violating the Subdivision Map Act, and violating the Tahoe Regional Planning Agency's Regional Plan and Code of Ordinances. Nonetheless, in the spirit of neighborly cooperation, accommodation, and compromise, my clients would accept the construction of a garage only structure within the setback that meets the description above: a single-story garage, with a pitched roof no higher than 14 feet and which does not have windows providing lines of sight into their property.

Thank you for this opportunity to provide this information and for your attention to this matter. I will be present at your hearing to provide additional evidence and to answer any questions you may have.

Respectfully submitted,



Michael Patrick Durkee, Esq.

cc: Brooke Laine, District V Supervisor; bosfive@edcgov.us;
Kim Dawson, Clerk of the Board; edc.cob@edcgov.us;
Jefferson B. Billingsley, Deputy County Counsel; Jefferson.billingsley@edcgov.us;
Brian Frazier, County Surveyor; surveyor@edcgov.us;
Melanie Shasha, Senior Planner; Melanie.Shasha@edcgov.us;
Brendan Ferry, Deputy Director; Brendan.ferry@edcgov.us;
Wendy Jepson, Permitting and Compliance Department Manager; wjepson@trpa.gov;
John Marshall, General Counsel, TRPA; jmarshall@trpa.gov;
Lyn Barnett; lyn@wbaplaning.com;
Peter and Cheryl Lee

Comments on V23-0001; Atkins Garage

Joshua Atkins <josh@ascendantcom.com>

Mon 2/19/2024 7:56 PM

To: Planning Department <planning@edcgov.us>

 1 attachments (461 KB)

Comments on V23-0001.pdf;

Hi all,

I am submitting the attached comments to be distributed to the Planning Commission for Item V23-0001 at the 1/11/2024 hearing.

Please confirm receipt and distribution.

Cheers,

Josh

02/22/24
Item #3
3 pages

Dear Chair and Planning Commissioners,

I am including a survey prepared by InSite Land Surveys that demonstrates the proposed structure at 1627 Player Court, relative to the house neighboring on the west side at 1625 Player Court. I have annotated that survey with my best approximation of the locations of the windows on the structure at 1625 Player Court which I believe demonstrates that the impact to the viewshed is not complete.

In addition, after a discussion with the Lee's, they have indicated that the only way a structure in the proposed location would not impact their view is if the structure is shorter than 13 feet. I do not feel as though this is reasonably achievable. In order to meet a 13 foot height limit, the structure would require either a shorter garage door, which would limit the usefulness of the structure, or a flat roof.

While a flat roof may be allowable by code, I have been advised by multiple architects, structural engineers and general contractors that they would consider a flat roof in this location to be a liability.

Thanks,
Josh



Comments on V23-0001; Atkins Garage

Joshua Atkins <josh@ascendantcom.com>

Tue 2/20/2024 4:09 PM

To: Planning Department <planning@edcgov.us>

02/22/24
Item #3
4 Pages

 1 attachments (2 MB)

Comments on Variance.pdf;

Hi all,

I am submitting the attached comments to be distributed to the Planning Commission for Item V23-0001 at the 2/22/2024 hearing.

Please confirm receipt and distribution.

Cheers,

Josh

Dear Chair and Planning Commission,

I am writing as the owner of 1627 Player Court with a response to the Public Comment Rcvd 02-16-24 PC 02-22-24 submitted by the owners at 1625 Player Court.

There are a few things I would like to draw the commission's attention to regarding these responses:

- Of the 30 responses, 2 sets are duplicate, leaving 28 remaining.
- Only 3 of the responses are within the 1000ft county notification window (appendix A).
- Of the 28 unique responses, 27 have a garage.
- In several cases, respondents have 3 car garages with houses twice the size of mine (appendix B).
- Half of the responses are over 3 miles away with one as far away as 6 miles.

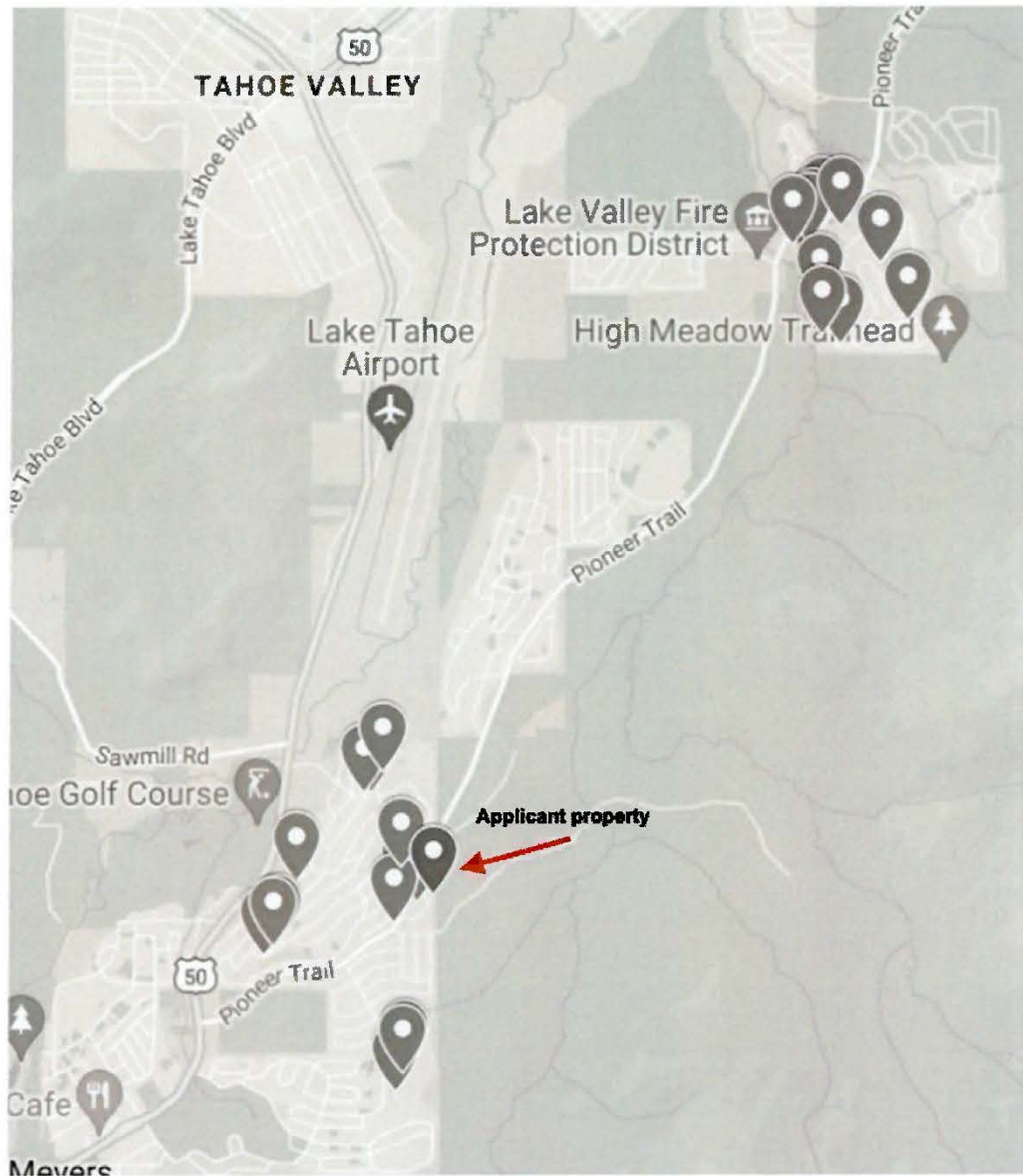
In addition to the statistics above, I called and spoke to several of the respondents to better try to understand their concerns. While I believe the Lee's had good intentions, and did make resources regarding this variance available, the majority of the people I spoke to didn't read them and weren't fully informed on the issue, responding purely from an anti-development standpoint rather than on the facts of the application. When I asked one person to walk me through their concerns, they said "I don't know much about it all I know is I've lived here for 50 years and don't want it to change".

I would also like to draw attention to what isn't in the data. These petitions were collected by canvassing the surrounding neighborhoods, as far as 4 miles away in High Meadow/Cold Creek, and there is only a single response within the Player subdivision.

The document these respondents signed in many cases also includes reference to the side setback, which is no longer part of the application, nor does it express any injury to their property or provide evidence that the County's findings are not met.

Cheers,
Josh

Appendix A



Appendix B

