FINDINGS

Variance V23-0001/Atkins
Planning Commission/February 22, 2024

1.0 CEQA FINDINGS

The activity is covered by the New Construction or Conversion of Small Structures exemption 15303(a) and (e) of the California Environmental Quality Act (CEQA). Class three exemptions apply to limited numbers of new, small facilities or structures. This exemption applies to projects developing a residential accessory structure. 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 – Mandan, 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 2022 as both high capability land and as Stream Environment Zone (SEZ) with an associated 10-foot non-buildable setback. Any new land coverage must be developed within the high capability area outside of the SEZ setback. That area is on the western portion of the parcel. Further, the amount of land that can be covered is limited to 1,800 square feet. As shown in Exhibit E, the proposed project stays out of the SEZ and SEZ setback and uses 1,790 square feet of the 1,800 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. Houses on either side of this parcel are developed with garages. 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 Player Court. 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 Player Court are developed with garages.

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 – Mandan, 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 development with a residence. The Site Plan map shows the location of the garage in relation to the SEZ. It does not encroach in the SEZ or its setback.

An Abandonment of Easement application (AOE23-0003) with the County Surveyor's office has been submitted to reduce the 20-foot setback required by the subdivision map.

Condition of Approval eight (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.