



# County of El Dorado

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## Legislation Details (With Text)

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**Type:** Agenda Item      **Status:** Approved

**File created:** 5/4/2018      **In control:** Board of Supervisors

**On agenda:** 5/22/2018      **Final action:** 5/22/2018

**Title:** HEARING - To consider a request submitted by Dean Getz appealing the Planning Commission's April 26, 2018, approval of Tentative Subdivision Map TM14-1524/Planned Development PD14-0008/Serrano Village J, Lot H on property identified by Assessor's Parcel Numbers 123-370-01, 123-370-03, and 123-280-10, consisting of 25.27 acres, in the El Dorado Hills area; and staff recommending the Board take the following actions:  
 1) Find the project Statutorily Exempt under California Environmental Quality Act Guidelines Section 15182; and  
 2) Deny the appeal, thereby upholding the Planning Commission's April 26, 2018, approval of Tentative Subdivision Map TM14-1524/Planned Development PD14-0008 based on the Findings (Attachment B) and subject to the Conditions of Approval (Attachment C). (Supervisorial District 1) (Est. Time: 30 Min.)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Appeal Form, 2. B - Findings, 3. C - Conditions of Approval, 4. D - Planning Commission Minute Order 04-26-18, 5. E - Planning Commission Minute Order 04-12-18, 6. F - Supplemental Appeal Form, 7. G - Proof of Publication-Mountain Democrat, 8. Public Comment Rcvd 5-22-18 BOS 5-22-18, 9. Public Comment Rcvd 5-21-18 BOS 5-22-18, 10. FINAL Findings, 11. FINAL Conditions of Approval, 12. APPROVED STAMPED Exhibits, 13. APPROVED STAMPED Map, 14. RECEIPT-Notice of Exemption

Date	Ver.	Action By	Action	Result
5/22/2018	1	Board of Supervisors	Approved	Pass

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### DISCUSSION / BACKGROUND

This is a request submitted by Dean Getz appealing the Planning Commission's April 26, 2018 approval of Tentative Subdivision Map TM14-1524/Planned Development PD14-0008/Serrano Village J, Lot H ("Project"). The property, identified by Assessor's Parcel Numbers 123-370-01, 123-370-03, and 123-280-10, consisting of 25.27 acres, is located approximately 1.5 miles north of Highway 50 along Bass Lake Road, at the intersection with Serrano Parkway, in the El Dorado Hills area, Supervisorial District 1. (County Planner: Mel Pabalinas) (Statutory Exemption pursuant to Section

15182 of the California Environmental Quality Act Guidelines)

Following the unanimous approval (5-0 vote) by the Planning Commission on the Project at its scheduled public hearing on April 26, 2018 (Legistar #18-0480), Dean Getz, the appellant, filed a timely appeal of the Commission's action on April 30, 2018. The appellant's reasons for the appeal is based upon similar comments submitted to the Planning Commission in which the appellant asserts the County's obligation to first obtain Serrano Homeowner's Association (HOA) actions prior to the County taking formal actions on the Project. In the appeal, the appellant cites an excerpt of the provisions under Sections 130.10.040.E (Applicability of Zoning Ordinance-Private Agreements) and 130.10.070.A (Indemnification and Hold Harmless Agreement-Applicant's Agreement to Indemnify and Hold Harmless).

#### Response to Appeal

Staff has reviewed the appeal and provides the following responses. With regards to the appellant's comment on the County violating the private agreement, staff reiterates the related responses provided in the April 23, 2018 memorandum (Legistar #18-0480, Item 2A, memorandum response No. 8) that the County's actions on the Project is not subordinate to any agreed upon Covenants, Conditions and Restrictions (CC&R) privately enforced by Serrano HOA. The County is not a party to the CC&Rs and is not required to seek HOA's approval prior to the County exercising its land use authority. Section 130.10.040.E further supports this premise where it states, "Where conflict occurs between the Zoning Ordinance and a private agreement, the County shall apply the Zoning Ordinance. The County shall not be responsible for monitoring or enforcing private agreements."

With regards to the appellant's citation of the indemnification provisions under Section 130.10.070.A of the Zoning Ordinance, this provision is a standard indemnity clause that is typically applied as a Condition of Approval on development projects. In the event of a lawsuit filed against the Project, this standard would be executed.

#### Staff Recommendation

Staff recommends that the Board deny the appeal, thereby upholding the Planning Commission's April 26, 2018, approval of Planned Development PD14-0008/Tentative Subdivision Map TM14-1524.

#### **ALTERNATIVES**

The Board may elect to approve the appeal and reverse the action by the Planning Commission resulting in the denial of Planned Development PD14-0008/Tentative Subdivision Map TM14-1524.

#### **CONTACT**

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