



## Legislation Details (With Text)

**File #:** 21-1765      **Version:** 1

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

**File created:** 10/29/2021      **In control:** Board of Supervisors

**On agenda:** 1/4/2022      **Final action:** 1/4/2022

**Title:** Department of Transportation recommending the Board adopt Resolution 002-2022, delegating to the Director of Transportation the authority to sign Notices of Deed Restriction and Covenants to Indemnify the County of El Dorado for Variances.

**FUNDING:** Fees paid by applicants.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Counsel Approval, 2. B - Resolution, 3. Executed Resolution 002-2022, 4. Notice of Deed Restriction and Covenant 22-55042, 5. Notice of Deed Restriction & Covenant to Indemnify the County of El Dorado 24-55075

Date	Ver.	Action By	Action	Result
1/4/2022	1	Board of Supervisors	Approved	Pass

Department of Transportation recommending the Board adopt Resolution **002-2022**, delegating to the Director of Transportation the authority to sign Notices of Deed Restriction and Covenants to Indemnify the County of El Dorado for Variances.

**FUNDING:** Fees paid by applicants.

### DISCUSSION / BACKGROUND

Zoning within El Dorado County establishes development standards for building height, setbacks, lot area, building coverage, etc., but in some cases the shape of the parcel, topography, or other natural features constrain the development of the site so that one or more of these standards cannot be met. In these special circumstances, property owners may apply for a Variance from the standards, which must be found to be consistent with the policies of the General Plan and the Zoning Code. The Planning and Building Department Director (or a designee) serves as the Zoning Administrator, per County Code 130.60.030, and is assigned the review authority of original jurisdiction to consider and approve or deny applications at publicly noticed hearings.

When property owners are granted a setback variance for a parcel at an elevation of over 3,000 feet along a County maintained road, the County requires the execution of a hold harmless and indemnification agreement to ensure that the County is protected if any structures constructed in the area are damaged. Transportation has worked with Counsel to develop a template for a Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado to fulfill this condition. The Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado requires the approval of the Board of Supervisors, and the County cannot issue a building permit for a project that was granted a variance as described above until the indemnity covenant is executed.

In order to process such agreements more efficiently and to minimize delays in issuing building

permits, Transportation is requesting that the Board delegate signature authority for Notices of Deed Restriction and Covenant to Indemnify the County of El Dorado to the Director of Transportation, per the resolution presented here.

The Director of Transportation will notify all Board members in writing each time he/she signs a Notice of Deed Restriction and Covenants in the event any questions arise.

### **ALTERNATIVES**

The Board could decide not to delegate signature authority for Notices of Deed Restriction and Covenants to Indemnify the County of El Dorado, in which case the Board would maintain the exclusive authority to approve and execute these indemnity covenants. All such instruments would be brought to the Board for approval as needed.

### **PRIOR BOARD ACTION**

N/A

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Planning and Building, County Counsel

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

There is no fiscal impact or Net County Cost associated with this item.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain the Chair's signature on the resolution.
- 2) The Clerk of the Board will forward a fully executed copy of the resolution to Transportation, attn.: Lindsay Tallman.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

Rafael Martinez, Director  
Department of Transportation