



Legislation Text

File #: 21-1320, **Version:** 1

Department of Transportation recommending the Board approve and authorize the Chair to sign the Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado for Variance 20-0004 for APN 033-565-007, which is located in the Mountain View Estates Subdivision and adjoins Forest Mountain Drive, a County maintained road.

FUNDING: Fees paid by applicant.

DISCUSSION / BACKGROUND

On May 5, 2021, the Zoning Administrator approved Variance 20-0004 (Variance) for APN 033-565-007 at a publicly noticed hearing. 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 for development applications, including but not limited to variances from development standards due to special circumstances.

The Variance was requested by Larry T Tomer and Trish F Tomer (Owners) in order to develop a two-car garage, providing covered parking for two vehicles. The Variance reduces the front yard setback on the property from the standard 20 feet to 0 feet; there is no reduction in the side and rear setbacks. The Variance does not grant new allowable or verified land coverage, and the parcel's land coverage remains consistent with the Tahoe Regional Planning Agency (TRPA) Compact land coverage requirements. This site is limited in locations on which to place a structure to provide covered parking due to excessively steep slopes, and feasible alternative locations for the garage do not exist. Covered parking is a reasonable use of the land due to winter snowstorms. The Variance was found consistent with the policies of the General Plan and the Zoning Code, and Planning staff recommended approval of the Variance.

The Conditions for Approval for the Variance include the following Condition 7: "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 County requires property owners who are granted a setback variance above 3000 feet elevation (snow removal areas) to execute a hold harmless and indemnification agreement to ensure that the County is protected if any structures constructed in the area are damaged due to County snow removal operations. Transportation worked with Counsel to develop a Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado template, which is similar to the documents the County has required property owners to record in the past. The Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado requires the approval of the Board of Supervisors. However, Transportation intends to return to the Board at a later date to request the Board delegate to Transportation the authority to sign future Notice of Deed Restrictions and Covenants to Indemnify the County of El Dorado in order to make this process more efficient.

Transportation recommends the Board approve the attached Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado, which will be recorded by the property owners and

will satisfy the Condition of Approval.

ALTERNATIVES

The Board could decide not to approve the requested Notice of Deed Restriction, in which case the Condition of Approval would not be satisfied and the Owners would not be able to obtain their building permit.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Planning and Building, County Counsel

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

The cost of this action is covered by the fees collected upon application for the Variance. 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 two (2) originals of the Notice of Deed Restriction.
- 2) The Clerk of the Board will return the two (2) originals of the unrecorded Notice of Deed Restriction to the Department of Transportation, attn: Lindsay Tallman, for further processing.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

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Department of Transportation