

**EL DORADO COUNTY DEVELOPMENT SERVICES  
ZONING ADMINISTRATOR AND  
BOARD OF SUPERVISORS  
STAFF REPORT**

**Agenda of:** Zoning Administrator - September 5, 2007  
(Board of Supervisors – August 28, 2007)

**Item No.:** 6.b.

**Staff:** Tom Dougherty

**VARIANCE / SUBDIVISION MAP CORRECTION**

**FILE NUMBER:** V07-0006 (TM59-0012C2)

**APPLICANT:** Thomas and Barbara Geraghty

**REQUEST:** Variance to allow an existing 12 foot by 20 foot (12' x 20') carport to encroach 9 feet into the 20 foot front yard setback.

Request to amend Subdivision Map C-30 for Lot 70 only to abandon the 20 foot front yard setback.

**LOCATION:** On the west side of Glen Eagles Road approximately 1,000 feet west of the intersection with Pioneer Trail in the South Lake Tahoe area, Supervisorial District V. (Exhibit A).

**APN:** 081-152-03

**ACREAGE:** 12,120 square feet

**GENERAL PLAN:** Adopted Plan (AP) (Exhibit C)

**ZONING:** Tahoe One-family Residential (TR1) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** The map correction/amendment is Statutorily Exempt pursuant to Section 15268 (b) (3) of the CEQA Guidelines. The variance project is Categorically Exempt from the requirements of CEQA pursuant to Section 15305 (a).

## RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Certify that V07-0006 is Categorically Exempt from the requirements of CEQA pursuant to Section 15305 (a).
2. Approve V07-0006 based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

Staff recommends the Board of Supervisors take the following actions:

1. Certify that TM59-0012C2 is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
2. Approve TM59-0012C2 based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 3.

**BACKGROUND:** Rolling Wood Heights Subdivision Map C-30 was recorded on September 28, 1979. There is 20 foot front yard setback line that was recorded on the map for all lots. The 20 foot front yard setback on the final map appears to have been implemented in order to be consistent with the development standards of zoning designation at the time. The carport was built in the late summer of 2005. The majority of the asphalted surface that is located under the carport existed in 1987 when the applicants purchased the parcel. The resultant Building Code and Zoning Ordinance violations came to light from a complaint filed with Building Services during that construction. That complaint led to the applicants filing for a County building permit in September of 2006. During the review of that Permit #176964, it was determined the applicants would need to file a map correction/amendment for a parcel map and variance application to attempt to rectify the situation.

Sierra Pacific Power Company (SPPC), South Tahoe Public Utility District (STPUD), American Telephone and Telegraph (AT&T, formerly SBC) have had the project proposal distributed to their staff and none have responded with any concerns with the reduction of the front yard setback line from 20 feet to 10 feet.

The map correction/amendment and variance applications are included together for background informational purposes as the variance cannot be approved unless the map correction/amendment is approved.

**STAFF ANALYSIS**

**Project Description:** Request to amend the recorded final map for Rolling Wood Heights subdivision to abandon the 20 foot front setback line required by Subdivision Map C-30 and replacing it with a 10 foot front yard setback line for Lot 70 only. An approved map correction/amendment will then potentially allow for the variance to permit an existing 12 foot by 20 foot (12' x 20') carport to encroach 9 feet into the 20 foot front yard setback required by the TR1 Zone District.

**Amending of Final Maps:** Chapter 16.72 of the El Dorado County Code and Section 66472.1 of the Subdivision Map Act allows the amending of final maps by either filing a certificate of correction or amending the map. Should the Board of Supervisors approve the amendment, a certificate of correction is recommended to affect the relocation of the road and public utility easement.

Section 16.72.040 of the County Code requires the approving authority make specific findings as set forth in Attachment 3.

**Site Description:** The 12,120 square foot parcel is located at approximately 6,400 feet above sea level. The parcel is covered with random aged conifers spaced apart with very little understory.

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	TR1, PAS 117*	AP (TRPA Regional Plan)	Single-family residence
<b>North</b>	TR1, PAS 117	AP	Vacant
<b>South</b>	TR1, PAS 117	AP	Vacant
<b>East</b>	TR1, PAS 117	AP	Glen Eagles Road/CA Tahoe Conservancy Lot
<b>West</b>	TR1, PAS 117	AP	Vacant CA Tahoe Conservancy lot southwest 3/4 Vacant private residential lot northwest 1/4

\*Plan Area Statement 117, Tahoe Paradise, Washoan, Land Use Capability District 4.

**Discussion:** Covered structures of some sort for cars are typical on the parcels in the surrounding subdivision because of the snowy conditions of the winters. It is typical that they encroach into the setback as many were built either prior to building permits or with building permits but with less regard for encroachment into front setbacks and more emphasis on wintertime access with close proximity to the access road to reduce snow plowing needed.

**General Plan:** The General Plan designates the subject site as an Adopted Plan, within the Tahoe Regional Planning Agency's Regional Plan. All projects within the Tahoe Basin must be consistent with the Regional Plan which includes TRPA's Code of Ordinances, Plan Area Statements and other TRPA regulations as well as El Dorado County's General Plan Policies and Zoning Code. The parcel is located within TRPA Plan Area Statement (PAS) 117, which is a residential PAS. The deck and carport are permitted structures for this PAS.

The El Dorado County South Lake Tahoe office performed a TRPA Site Assessment (SA) for this property which was summarized in a letter dated June 30, 2006. TRPA site assessments require the verification of legally permitted land coverage, and the verification of the unpermitted land coverage. The total allowable coverage was determined to be 2,424 square feet and the existing coverage was determined to be 2,072 square feet. By granting the variance for the existing carport, additional land coverage will not be created that has not already been assessed. The granting of this variance, therefore, conforms to the Adopted Plan land use designation.

**Conclusion:** Staff finds that the proposed project, as conditioned, is consistent with the above requirements of the 2004 General Plan and Section 66472.1 of the California Government Code, (Subdivision Map Act) because the abandonment of the recorded 20 foot subdivision setback line and replacement with a 10 foot front setback line, nor the granting the variance for the existing carport, would not adversely impact any public agency or any party with interest in this easement.

**Zoning:** The project site is zoned Tahoe One-family Residential (TR1). The setbacks required by Zoning Code Section 17.56.040 are 20 feet in the front, 5 feet on the sides and 15 feet in the rear. Approval of the variance would allow the existing front carport to remain within the required setbacks as they exist as shown in Exhibit F. Outside of the setback infringements, a carport would be permitted by right in the TR1 Zone District. Staff finds the proposed variance and map correction requests, as conditioned, consistent with all applicable provisions of County Zoning Ordinance Title 17

**2004 Subdivision Map Act** Section 66474, a legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(g) "That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision. (Amended by Stats. 1982, Ch. 518.)"

Discussion: In order to approve the map correction/amendment, the County must find that the corrected map complies with the Government Code. Accordingly, based on comments received from public agencies, and the analysis contained within this report, staff finds that the project would not be detrimental to the public health, safety and welfare and nor be injurious to the neighborhood.

Tahoe Regional Planning Agency also requires a subdivision modification application for review and approval that is separate from the El Dorado County Map Amendment application process.

The recommendations for Board of Supervisor approval, Findings, Conditions of Approval for TM59-0012C2 specifically, as well as Exhibits A thru F from this Staff Report, are included within and attached to the Agenda Transmittal, Memo to the Board of Supervisors for TM59-0012C2.

## **ENVIRONMENTAL REVIEW**

The variance project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 (a) of the CEQA Guidelines which states that minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel are exempt. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

## **SUPPORT INFORMATION**

### **Attachments to Staff Report:**

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibits B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E1	Subdivision Map C-30, cover sheet
Exhibit E2	Subdivision Map C-30A, plat map
Exhibit F	Site plan dated October 25, 2005
Exhibits G1, G2	Site photos
Exhibits H1 and H2	Aerial Photos

**ATTACHMENT 1**  
**CONDITIONS OF APPROVAL**

**File Number V07-0006 – Geraghty Variance**  
**Zoning Administrator Hearing September 5, 2007**

**Planning Services Site Specific and Standard Conditions**

1. The subject variance is based upon and limited to compliance with the project description, the Zoning Administrator Hearing exhibits marked Exhibits A-H2 dated September 5, 2007, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Variance to allow to allow an existing 12 foot by 20 foot (12' x 20') carport to encroach 9 feet into the 20 foot front yard setback as shown on Exhibit F.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. In no way shall any construction activities necessary for the expansion of the single-family residence and/or accessory structures encroach, impede, block or otherwise negatively impact the existing utilities infrastructure, both located in the protected Public Utility Easements, and on the project parcel as deemed necessary by the applicable utility companies, now or in the future. The subject carport shall not be expanded within the setback as shown in Exhibit F.
3. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action, as provided in *Section 66474.9(b)* of the *California Government Code*.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or processing against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a subdivision, which action is brought within the time period provided for in *Section 66499.37*.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

4. All Planning Services fees shall be paid in full prior to recording of the Certificate of Correction.
5. Variance is subject to the approval of map amendment/correction File TM59-0012C by the Board of Supervisors. The Certificate of Correction for TM59-0012C shall be recorded prior to issuance of Building Permit 176964 for the carport.

## **ATTACHMENT 2** **FINDINGS**

### **File Number V07-0006 – Geraghty Variance Zoning Administrator Hearing September 5, 2007**

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made pursuant to *Section 66472.1* of the *California Government Code*:

#### **FINDINGS FOR APPROVAL**

##### **1.0 CEQA Findings**

- 1.1 The variance project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 (a).
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services-Planning Services at 2850 Fairlane Court, Placerville, CA.

##### **2.0 VARIANCE FINDINGS**

- 2.1 *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.* The changes in circumstances are resultant of the Rolling Wood Heights subdivision being developed prior to the existence and requirements of the Tahoe Regional Planning Agency (TRPA). The inherent conflict between potential structures located at the 20 foot front building setback line as well as other setback lines, and the later evolving coverage and driveway requirements of TRPA, as well as access problems during snow season, make the parcel difficult to develop as is allowed by right under the current zone district (TR1) and the 2004 General Plan designation of Adopted Plan (AP). Given the circumstances discussed above, staff finds that Finding 1 can reasonably be made.
- 2.2 *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.* The location of the existing carport is the most reasonable and appropriate location for the use of a carport and driveway. It was constructed in an area previously almost entirely asphalted. If this variance were not approved, the applicant would be deprived the use of the carport, and arguably the reasonable use of the property allowed for other land in the vicinity and in the same Zone District. The overhead coverage of vehicles is arguably a necessity in the Tahoe Basin,

to protect vehicles from snow and other extreme weather events and the encroachment of such structures into the 20 foot setback is common in the rest of the subdivision.

- 2.3 *The variance is the minimum necessary for the reasonable use of the land or building.* This variance request would validate the existing carport and rear deck in its current location, which has been conditioned to prevent any further structural encroachment within the front yard setback (see Attachment 1). Therefore, the requested variance is the minimum necessary for the reasonable use of the land.
- 2.4 *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 project was distributed to all applicable responsible agencies, and no comments were received to prevent approval of the variance. The carport is conditioned not to be allowed to expand into required setbacks any more than they do as they exist at the time of approval of the subject variance. The variance, as conditioned, is not anticipated to be detrimental to the public health, safety, and welfare of the neighborhood.