



## Town of Mammoth Lakes

### Planning & Economic Development Commission Staff Report

**Meeting Date: May 11, 2022**

**AGENDA TITLE:** Public hearing and consideration of a Variance (VAR) 22-002 request to permit an 65% reduction of the required 20-foot front yard setback to allow for a 7-foot setback and an Adjustment (ADJ) 22-002 request a 9.3% building height increase to allow for a building height of 38 feet and 3 inches for the reconstruction of an attached garage and single-family residence located at 751 Majestic Pines Drive. The project is categorically exempt from CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures).

Applicant/ Property Owner: John L and Cheryl C Gabele

**REQUESTING DEPARTMENT:**

**Community & Economic Development**

Sandra Moberly, Director

Gina Montecallo, Assistant Planner

**OBJECTIVE:**

1. Hear Staff and Applicant presentations
2. Hold Public Hearing
3. Planning & Economic Development Commission (PEDC) discussion
4. PEDC action to either:
  - a. Adopt the attached Planning and Economic Development Commission Resolution (the Resolution), the required Variance and Adjustment findings with conditions as recommended by staff;
  - b. Adopt the Resolution with modifications; or
  - c. Deny the Resolution

**SUMMARY:**

**Proposal:**

The Applicant is requesting a 65% reduction of the required 20-foot front setback to allow a 7-foot setback for the reconstruction of an attached garage as part of a proposed single-family residence on a lot with an average downward slope of 27 percent.

In addition to the Variance, the applicant is requesting approval of an Adjustment (ADJ 22-002) to allow a 9.3% building height increase to allow for a building height of 38 feet and 3 inches for the reconstruction of a single-family residence.

**Location:**

751 Majestic Pines Drive

Size of Property:	0.19 acres (8,090 sq. ft.)
Zoning:	Residential Single-Family (RSF)
General Plan:	Low Density Residential (LDR-2)
Environmental Review:	The project is considered exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction or Conversion of Small Structures).

#### **KEY ISSUES:**

- 1. Can the findings be made for approval of a Variance pursuant to Municipal Code (MC) Chapter 17.72?**
- 2. Can the findings be made for approval of an Adjustment pursuant to MC Chapter 17.76?**
- 3. Is the proposed project consistent with the California Environmental Quality Act (CEQA)?**

### **I. INTRODUCTION AND BACKGROUND**

The subject property is located at 751 Majestic Pines Drive in the Residential Single-Family (RSF) zoning district. While there are no records for the construction and building permit approval of the original residence located at 751 Majestic Pines Drive, historic satellite imagery and various building permits, from as recent as 2017, for reconstruction and replacement of appurtenances indicate that a single-family residence was constructed between 1985 and 1993. No variances or other adjustments were associated with the original single-family residence.

In April 2017, the SFR was destroyed by a fire caused by a propane leak on the property and houses on both the subject property and the adjacent property were destroyed. While it cannot be confirmed, based on historic satellite imagery, the original SFR likely complied with the Town's development standards regarding setbacks for an SFR in the RSF zoning district, because at that time, steeply downsloping lots were provided the option for a five-foot setback for a garage. However, the Zoning Code was updated in 2014 and the ministerial allowance for a reduced five-foot setback for a garage on steep downsloping lots was removed. The Zoning Code allows for the restoration of a nonconforming structure that is destroyed to the extent of 50% of the replacement value or less (Municipal Code §17.100.050.A). Due to the damage from the fire, the structure was demolished and the destruction exceeded 50% of the replacement value. Therefore, the rebuild of the structure either requires full conformance with the regulations of the RSF zone or approval of a variance and adjustment since, as discussed above, the proposed reconstruction of the SFR does not conform to the current RSF development standards for setbacks or building height.

One additional exterior parking space is required in addition to the proposed garage parking, and that due to the size and topography of the site, any exterior spaces would likely need to be located in front of the garage within Town Right-of-Way. Public Works staff indicated that a "Hold Harmless" agreement would need to be signed in order to allow the two proposed exterior spaces to be located within the portion of the driveway that is in the Town Right-of-Way. A "Hold Harmless" agreement would allow the exterior parking spaces to be located on the lower portion of the existing driveway and would release the Town from any liability for damage to vehicles parked in the right of way as a result of snow removal operations or any other construction or maintenance of the ROW.

The Variance application (VAR 22-002) was submitted on February 2, 2022. On March 15, 2022, the application was brought to the Town's Development Review Committee (DRC) to present a concept of a seven-foot front setback to allow for a proposed garage and receive feedback from Town staff regarding potential issues and application requirements. Staff provided comments for the proposed attached garage and single-family residence.

The property features an average downward slope of 27%. Staff has determined that locating the garage farther back on the property would be cost prohibitive, would increase the overall height of the structure and is not

practical given the scope of the proposed project. By proposing the placement of the garage within the front setback, the proposed single-family residence will utilize the most level portion of the site and minimize the height of the structure. **Figures 1, 2 and 3** show the proposed site plan and elevations.

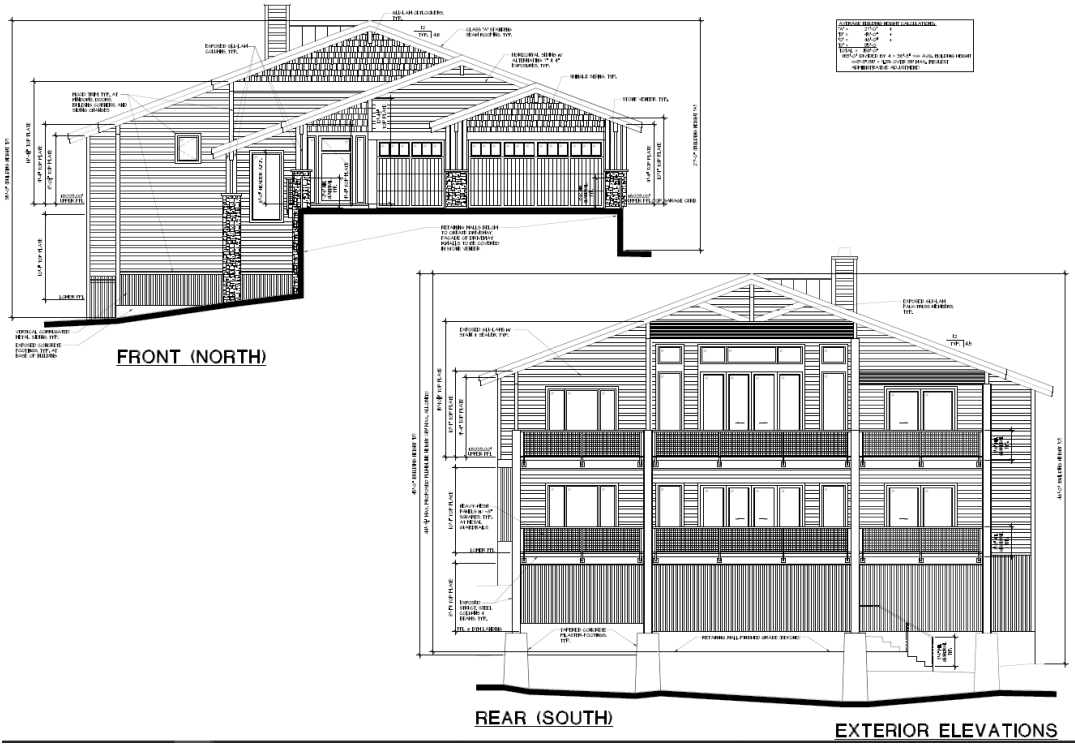


Figure 2: Front and Rear Elevations

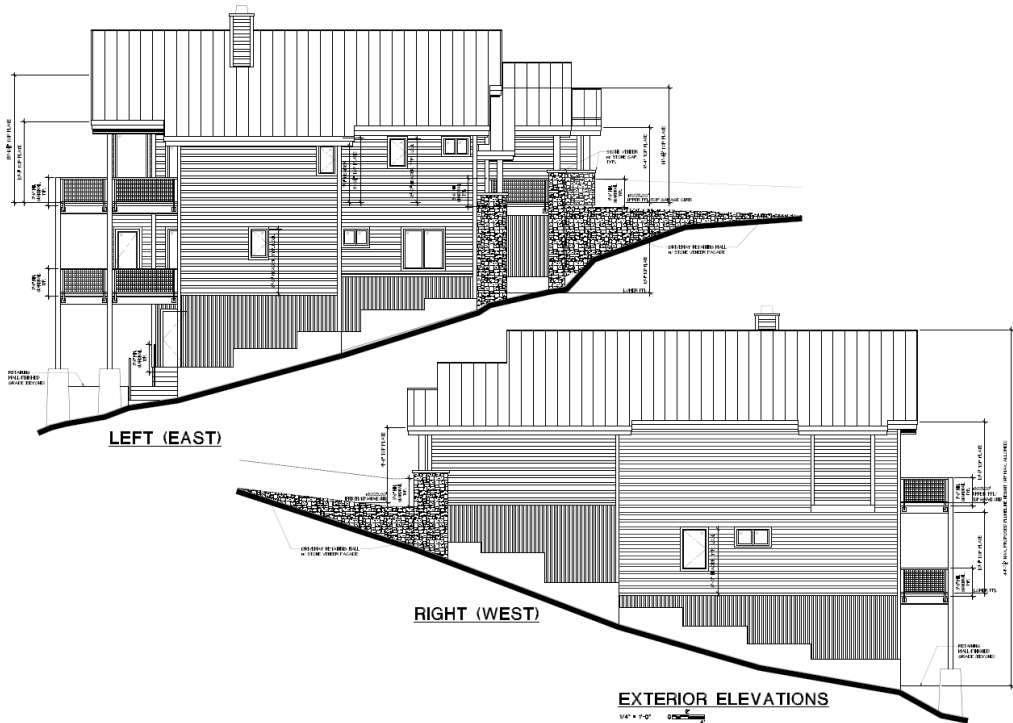


Figure 3: East and West Elevations

**Existing Site and Surrounding Land Uses**

The subject property is zoned Residential Single Family (RSF). The subject property and the majority of the surrounding properties are all developed with single-family residences. The property to the south is open space that is part of the Aspen Creek condominiums and associated with the Mammoth Creek open space corridor. See **Figure 4** above for a map showing the site location and surrounding context. **Table 1** further describes the surrounding land uses and zoning.



**Figure 4: Site Context Map**

**Table 1: Surrounding Land Uses and Zoning.**

Location	Zoning*	Land Use	Adjacent Street
North	RSF	Single-family residence	Majestic Pines Drive
South	R	Open Space (Aspen Creek Condominiums and Mammoth Creek Open Space/Stream Corridor)	N/A
East	RSF	Single-family residence	N/A
West	RSF	Single-family residence	N/A

\*RSF = Residential Single Family; R = Resort

**Municipal Code Consistency**

The project site is zoned Residential Single-family (RSF). *“This zone is intended as an area for single-family residential development. Transient Occupancy or rental, hotels and motels, bed and breakfast, and group living quarters uses are not permitted in this zone. Only those uses are permitted that are complementary to, and can exist in harmony with a residential neighborhood.”* The proposed project is classified as a new single-family residential home, which is a permitted use in the RSF zone.

The proposed project complies with all applicable development standards considered together with the proposed Variance, which are summarized in the following **Table 2**.

**Table 2: Zoning Consistency.**

General Information			
General Plan: Low-Density Residential 2 (LDR-2)		Specific Plan: N/A	
Zoning: Residential Single-Family (RSF)		Overlay Zone/District: N/A	
Existing Land Use: Vacant; Disturbed		Permits Required: VAR, ADJ	
Development Standards			
Standard	Required/Allowed	Proposed/Provided	Complies?
Setbacks			
Front yard (feet)	20 feet	3-Feet 4-Inches	Variance Requested
East side yard (feet)	10 feet	10 feet	Yes
West side yard (feet)	10 feet	10 feet	Yes
Rear yard (feet)	10 feet	28 feet	Yes
Lot Coverage	40%	36.3%	Yes
Building Height	35 feet	38 ft 3 in	Adjustment Requested
Snow Storage	75% (286 sq ft)	86% (330 sq ft)	Yes
Parking Spaces	2 enclosed 2 exterior	3 enclosed 1 exterior	Yes

### General Plan

The General Plan land use designation for the site is Low-Density Residential 2 (LDR-2) which “*allows single-family detached residential development of up to four (4) dwelling units per gross acre... This designation protects the low-density character of existing neighborhoods. Development standards are intended to provide for privacy through building separation, useable yards, and limited shading by structures of adjoining parcels.*” (General Plan, Pg. L-4).

Specific General Plan Vision Statements with which the proposed project is consistent are described in **Table 3**:

**Table 3: General Plan Vision Statement Conformance**

General Plan Vision Statement	Explanation of Project Conformance
<i>“Sustainability and continuity of our unique relationship with the natural environment”</i>	The rebuild of the residence will utilize the existing disturbed area where the previous residence had been built thereby minimizing the impact on the natural environment located to the rear of the property and adjacent to the Mammoth Creek open space corridor.
<i>“Protecting the surrounding natural environment and supporting our small-town atmosphere by limiting the urbanized area.”</i>	The project is located within the Urban Growth Boundary and the density is consistent with that allowed by the LDR-2 land use designation.

The project is consistent with the following General Plan goals, policies, and actions as described in **Table 4**:

**Table 4: General Plan Conformance with Goals, Policies, and Actions**

Goal, Policy, or Action	Explanation of Project Conformance with Goal, Policy, or Action
Policy C.2.L: Create visually interesting and aesthetically pleasing built environment by requiring all development to incorporate the highest quality of architecture and thoughtful site design and planning.	The project incorporates design features and architectural detail that provides a high-quality appearance. Additionally, the residence is set forward on the lot which minimizes visual impacts from the adjacent multi-use path and Mammoth Creek open space corridor.
Policy C.2.V: Building height, massing and scale shall complement neighboring land uses and preserve views to the surrounding mountains.	The design of the residence steps down the steep hillside and only extends above the elevation of the street approximately 27 feet, thereby minimizing impacts to views. Additionally, the four (4) houses to the west of the subject site are all located on similar steep downward sloping lots and were approved with reduced front yard setbacks for garages and have similar building heights and size as the proposed residence.
Policy L.2.C. Rehabilitate existing housing.	Although the existing residence was destroyed by a fire, construction will largely be contained to the disturbed area of the site and will thereby be able to utilize previous site grading.

## II. ANALYSIS OF KEY ISSUES

### KEY ISSUE #1: Can the findings be made for approval of a Variance pursuant to MC Section 17.72.040?

Variances are intended to allow modifications to the development standards of the Zoning Code only when, because of special circumstances applicable to the property, including size, shape, topography, location, or

surroundings, the strict application of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning district. The following represents staff's analysis of the required findings pursuant to MC §17.72.040:

**Variance Findings:**

- A. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Zoning Code deprives the property of privileges enjoyed by other property in the vicinity and under the identical zoning district;**

The steep topography of the property makes the strict application of the Zoning Code impractical in this situation because the average slope of the site is 27% which approaches the 30% maximum slope permitted for single family lots in Residential Zoning Districts.

The steepness of the lot qualifies as a special circumstance. A standard 20-foot setback would push the structure further back beyond the existing foundation and would require additional grading and site disturbance in the rear of the property, which is adjacent to the Mammoth Creek open space corridor and would not be consistent with the General Plan policies regarding preservation of natural features. Additionally, a shift of the structure back on the property would increase the overall height of the structure since the vertical distance from the street to the ground increases as the slope drops down.

- B. The approval of the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zone;**

The Variance is necessary to provide the property with land use privileges enjoyed by other properties in the vicinity and under identical zoning classification, because the steep slope of the property makes the building design and engineering for a typical single-family residence impractical within the sloped area of the site. Several other single-family homes built on the same street have reduced front setbacks and properties that feature similar topography. These properties include the four (4) properties directly to the west of the subject site. 763, 779, 797, and 809 Majestic Pines Drive were granted reduced front yard setbacks for garages prior and the reduced setbacks ranged from 5 to 10 feet. Therefore, this approval would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zone.

- C. Granting the variance would not authorize a use or activity which is not otherwise expressly authorized by the zone governing the property for which the application is made;**

The construction activity authorized by this variance consists of the reconstruction of a single-family residence and pursuant to the specified purpose of the Residential Single-Family (RSF) zone in Municipal Code Chapter 17.20 (Residential Zoning Districts), the proposed use is the intended development use and is consistent with uses found elsewhere in the vicinity that are located in the RSF zone.

- D. Granting the variance would not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;**

Granting the requested variance would not be detrimental to public health, safety, or welfare because the proposed SFR does not include any hazardous uses or activities and the proposed rebuild of the residence is consistent with what was previously permitted on similar lots. It can be reasonably



determined that there would not be detrimental impacts from the project because the original residence, which had the same footprint and appearance as the proposed residence, had been in existence for at least 24 years prior to burning down and there is no record of any issues that were the result of the reduced front-yard setback. Furthermore, impacts to Town snow storage and circulation would not be impacted because Majestic Pines Drive has a standard right-of-way dimension of 60 feet and there is approximately 15 feet of right-of-way between the street edge and the property line that will remain available for Town snow storage. Lastly, the project would be required to comply with all applicable Building Codes and Fire Codes during construction and operation. The conditions of approval for the project that ensure the variance will not be detrimental to the public include: (1) snow restraint devices (snow rails) be installed on the garage above the required parking areas and pedestrian areas (Condition of Approval #18); (2) that all snow removed from the driveway and parking area is stored on the subject property and outside of the right-of-way (Condition of Approval #21); (3) a hold harmless agreement be recorded indemnifying the Town against damages or losses to property or vehicles within the setback or right-of-way (Condition of Approval #25); and (4) adherence with the parking requirements of the Town regarding parking within the right-of-way, including the winter parking prohibition (Condition of Approval #26).

**E. The variance is consistent with the General Plan and any applicable Specific Plan;**

The variance is consistent with the Town's General Plan, as the land use designation for the subject property is Low-Density Residential 2 (LDR-2). This land use designation allows for single-family detached residential development, and therefore the use is consistent since it is a detached single-family residence.

Additionally, the variance is consistent with the applicable General Plan policies because the project will minimize impacts to the Mammoth Creek open space area that is adjacent to the site and protects the natural resources of the site (Policy C.4.A) and rehabilitates an existing residential site (Policy L.2.C).

There is no specific plan applicable to the property.

**F. The variance is the minimum departure from the requirements of this Zoning Code necessary to grant relief to the applicant, consistent with Subsections A and B, above; and**

The requested variance is the minimum departure from the requirements of the Zoning Code necessary to rebuild the residence in a similar manner as it was prior to being destroyed and will allow for the reuse of the existing disturbed area, which will minimize additional grading and site disturbance in the undisturbed natural area adjacent to the Mammoth Creek open space area. The proposed seven-foot setback is consistent with the previously allowed five-foot front setback for steep downsloping lots. The variance asks for reasonable relief from the Zoning Code for reasons that are directly related to the topography and preservation of the open space area of the lot that connects with the Mammoth Creek open space area.

**G. The approval of the variance is in compliance with the requirements of the California Environmental Quality Act.**

The project complies with the requirements of the California Environmental Quality Act because the project was determined to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. Additional details are provided under Key Issue #3 below.

**KEY ISSUE #2: Can the findings be made for approval of an Adjustment pursuant to MC Section 17.76.040?**

Adjustments are intended to allow minor modifications to the development standards of the Zoning Code when such requests constitute a reasonable use of property but are not permissible under the strict application of the Zoning Code. The following represents staff's analysis of the required adjustment findings pursuant to MC §17.76.040.

**Adjustment Findings:**

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Zoning Code deprives the property of privileges enjoyed by other property in the vicinity and under the identical zoning district.**

The topography of the subject property is steeply sloped at a 27% downslope and qualifies as a special circumstance, with the steepest portions of the lot being in the front and the rear. Additionally, because of the desire to preserve the rear portion of the property that is adjacent to the Mammoth Creek open space corridor and is undisturbed from the previously built single-family residence, the position of the proposed single-family residence is pushed toward the front of the property where topography is at its steepest. While the design of the single-family residence consists only of two (2) habitable floors, because the topography drops off dramatically from the front of the house to the back of the house, the building depth would need to be significantly shorter than neighboring structures in order to meet the 35-foot maximum building height, thus decreasing the overall habitable square footage that would otherwise be permitted on the property.

- b. The approval of the adjustment does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zone.**

The adjustment request would not grant special privileges to the subject property, inconsistent with the limitation upon other properties in the vicinity and zone in which such property is situated. The project conforms to all standards other than height and front setback, that apply to other properties in the vicinity and RSF zone. The conditions of approval require that all applicable standards be met prior to issuance of a building permit. In addition, the proposed residence is consistent in size and design with residences in the same vicinity and zone. The proposed single-family residence is 4,042 square feet with a 3-car two habitable floors and an 8-foot storage area at the bottom level. The adjacent properties at 763, 779 and 797 Majestic Pines have between 2 and 3 habitable floors and are similar in height to the proposed residence.

- c. Granting the adjustment would not authorize a use or activity which is not otherwise expressly authorized by the zone governing the property for which the application is made.**

This approval would allow for a two-floor residence that is 4,042 square feet. The proposed use of the property (i.e., single-family residence) is consistent with uses found elsewhere in the vicinity and the same zone and are permitted uses in the Residential Single-Family (RSF) zoning district under MC Section 17.20.020.

- d. Granting the adjustment would not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.**

Granting the requested adjustment will not be detrimental to the public health, safety, or welfare because the building height and massing would be similar to surrounding structures and would be well below the maximum height from street level. The building height increase would provide a desirable roof pitch and design that would allow for snow shedding and would also be consistent with the General Plan and Town's Design Guidelines. Additionally, the project would be required to comply with all applicable Building Code, Fire Code, and Public Works standards.

- e. The adjustment is consistent with the General Plan and any applicable specific plan.**

The General Plan land use designation for the subject property is Low-Density Residential 2 (LDR-2), which is intended to protect existing densities and character and allows for single-family detached residential development at a maximum density of four (4) dwelling units per gross acre. The requested Adjustment will not affect the existing density.

There is no specific plan for this area.

**f. The adjustment is the minimum departure from the requirements of this Zoning Code necessary to grant relief to the applicant, consistent with Subsections A and B, above.**

The requested Adjustment is the minimum departure from the requirements of the Zoning Code necessary to grant relief to the applicant since the building heights requested pursuant to this Adjustment range from 27-feet to 36-feet for an average of 38-feet and 3-inches, which results in a height increase that is below the maximum height increase for an adjustment. The building height increase allows for a 4.5:12 roof pitch, which is more functional in snow conditions compared to a lower pitched roof and would provide a desirable roof pitch that is consistent with the General Plan and Town's Design Guidelines. Considering the steep slope and rear portion of the lot that would remain undisturbed, the request is the minimum departure necessary to grant relief.

**g. The approval of the adjustment is in compliance with the requirements of the California Environmental Quality Act.**

The project complies with the requirements of the California Environmental Quality Act because the project was determined to be categorically exempt from the provisions of the California Environmental Quality Act pursuant CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures.

**KEY ISSUE #3: Is the proposed project consistent with the California Environmental Quality Act (CEQA)?**

Staff has determined that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures. The project is categorically exempt pursuant to CEQA Guidelines Section 15303(a), New Construction or Conversion of Small Structures, because the request involves the construction of a new single-family residential home on a residentially zoned parcel, which has been determined by the State to not have a significant effect on the environment pursuant to CEQA Guidelines Section 15303(e), and none of the exceptions set forth in CEQA Guidelines Section 15300.2, which would disqualify the project from using a categorical exemption, are present.

Therefore, since the project meets all of the criteria to qualify for the 'New Construction or Conversion of Small Structures' categorical exemption pursuant to the CEQA Guidelines, no additional environmental review is warranted or necessary and the CEQA exemption is appropriate.

**Agency/Public Comments**

Staff routed the application to the following local agencies for review: Mammoth Lakes Fire Protection District (MLFPD) and the Mammoth Community Water District (MCWD). Comments were incorporated into the conditions of approval in the attached resolution or revisions were made to the project plans in response to the comments received.

The public was notified of the public hearing through the publishing of a public hearing notice in The Sheet newspaper on April 30<sup>th</sup> and notices were mailed on April 26<sup>th</sup> to all property owners within 300 feet of the subject property. A total of 108 property owners were notified of the public hearing by mail. No public comments have been received as of the writing of this staff report.

### **III. STAFF FINDINGS AND RECOMMENDATION**

Staff finds that the proposed project meets the applicable requirements and recommends that the Planning and Economic Development Commission adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and approving Variance 22-002 and Adjustment 22-002 with conditions as recommended by staff or with modifications.

#### **Attachments**

Attachment A: Planning and Economic Development Commission Resolution

Attachment B: Project Plans