

NEVADA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
ERIC ROOD ADMINISTRATION BUILDING
950 Maidu Avenue, Suite 170
Nevada City, California 95959-8617
Phone: (530) 265-1222 FAX: (530) 265-9851

**APPLICATION PACKET for a
SETBACK EASEMENT**

A Setback Easement is a formal dedication of land, intended to provide adequate building setbacks for all effected parcels. Setback Easements will be recognized by the County of Nevada when their recording has been approved pursuant to the provisions of Section L-II 4.2.5.G.10 of the County Land Use and Development Code. Requests to record Setback Easements are considered by the Nevada County Planning Director upon receipt of this application and it's required attachments.

In order to authorize the recording of a Setback Easement, the Planning Director must be able to make findings that the recording of such easement will not jeopardize the integrity of the neighborhood nor will it conflict with any recorded Conditions, Covenant and Restrictions for all properties. If approved, the Setback Easement will be recorded, noting the purpose and intent of the setback easement and noting that building setbacks shall be measured from the setback easement. If your required setback is 30' from a side or rear property line (fire safe setbacks), a deed restriction will also be recorded, noting the beneficiary's responsibility to maintain the easement for fire safety.

This packet contains filing forms and instructions for submitting a complete application for a Setback Easement. You must complete all forms and submit all required supplemental documents or your application will not be accepted.

Applications must be filed in person in the Planning Department before 4:30 p.m., Monday through Friday. If all information is complete and no unusual issues arise that require additional time for reviewing your request, your project should be approved 30 days after filing the application. Following approval by the Planning Director, the applicant will be required to have documents prepared for the Setback Easement and Deed Restrictions, for both parcels. . The Planning Department will provide sample forms for preparing those documents, but those documents must be returned to the Planning Department for recordation. DO NOT RECORD ANY SAMPLE FORMS YOU MAY RECEIVE. Upon receipt of those documents for recording, any building permits that are pending this approval, can be issued.

**SUBMITTING A COMPLETE AND ACCURATE APPLICATION AND SITE PLAN WILL
HELP TO MAINTAIN YOUR DESIRED HEARING SCHEDULE.**

SETBACK EASEMENT FILING INSTRUCTIONS & CHECKLIST

This form must be filed with your application. Please check off (✓) each item to verify that the required information is attached. Your application will, not be accepted if any required item is missing.

- () 1. The signed and completed Application form, including a letter of authorization from the property owner(s) if forms are signed by a Representative. The Grantee (receiving benefit from the easement) should be listed as the applicant and the Grantor (person granting the easement) should be listed as the property owner.
- () 2. Filing fees pursuant to the most recently adopted Resolution of the Board of Supervisors (\$ _____).
- () 3. The signed and completed Agreement to Pay Form.
- () 4. The completed Justification form.
- () 5. Twp copies of a site plan drawn per instructions below. **Plans must be folded** to a maximum 8½" X 14" size. Unfolded plans will not be accepted.
- () 6. One copy 8½" X 11" reduction of the site plan.

FORMS/CONTENT OF SITE PLAN

The following information shall be provided on all site plans if applicable.

- () 1. The site plan shall be fully dimensioned and drawn to a commonly recognized architect's or engineer's scale. The legal lot size shall be shown.
- () 2. Provide a vicinity map showing the general project location (1"= 2000' scale) in relationship to the surrounding area with the mileage from the nearest County road shown.
- () 3. Provide a North arrow and the scale to which the plan is drawn.
- () 4. Provide a legend which includes:
 - a. The project proposal (Setback Easement forgrantor name)
 - b. Property owner/applicant names(s)
 - c. Applicant's representative, if any
 - d. Date of Site Plan preparation
 - e. Assessor's Parcel Number
 - f. The water source, method of disposal, the fire protection agency and public utilities.
- () 5. Show the location and names of all abutting roads, including rights-of-ways boundaries road centerlines, width of traveled way, type of surfacing and grades.
- () 6. Show location of sewage disposal systems and wells.
- () 7. Show all required setbacks for buildings, waterways, sewage disposal and well sites.
- () 8. Show the location and purpose of all existing public and private utility easements.
- () 9. Show location of all existing and proposed structures on the property; show their setbacks from property lines label their use and show their size (gross square footage by floor).

ORDINANCE PROVISIONS

Sec. 4.2.G.10 Setback Easements.

In order to provide required side and rear building setbacks on properties that cannot otherwise provide those setbacks, a building setback easement may be recorded and recognized on adjacent properties, pursuant to the following standards:

- a. Applications for setback easements shall include the written consent of the grantor and grantee property owners.
- b. Applications shall include a site plan exhibit for all affected properties, pursuant to Section 5.1 of this Chapter, including a clear delineation of the proposed easement, reflecting the required setbacks for both grantor and grantee properties.
- c. Applications for setback easements shall provide clear justification for the need of the easement, providing supporting documentation that other alternatives, including a variance, are not feasible.
- d. Setback Easements shall be recognized only after review and approval by the Planning Director who shall make findings that the recording of such easement will not jeopardize the integrity of the neighborhood nor will it conflict with any recorded Conditions, Covenant and Restrictions for all properties.
- e. A deed restriction shall be recorded concurrently with said easement in the Nevada County Recorder's Office, noting the purpose and intent of the setback easement and noting that building setbacks shall be measured from the setback easement.
- f. Reconveyance or other abandonment of a setback easement without the express approval of the County of Nevada shall constitute grounds for revocation of any permit issued pursuant to this Section.

**SETBACK EASEMENT
JUSTIFICATION FORM**

Section L-II 4.2.5.G.10 of Zoning Regulations allows for the recognition of setback easement only when it can be demonstrated that alternatives, including a variance, a boundary line adjustment or a structure modification, are not feasible. The following information demonstrates the need for a setback easement:

1. **VARIANCE:**

A variance can only be granted if there are physical constraints on the site that preclude a reasonable use of the land. See Sec. L-II 5.7 for more detail. Describe the site, identifying any physical or topographic constraints that would justify a variance.

2. **BOUNDARY LINE ADJUSTMENT:**

Explain why a boundary line adjustment cannot be recorded to reflect the required setbacks.

3. **STRUCTURAL MODIFICATIONS:**

Explain why the structure (proposed or existing) cannot be modified or moved to provide the required setbacks.

4. **ADDITIONAL INFORMATION:** Provide any additional information pertinent to this project.

NEVADA COUNTY PLANNING DEPARTMENT LAND USE APPLICATION

Please print or type in black ink

Type of application(s) for which you are applying:

- | | | |
|---|---|--|
| <input type="checkbox"/> Tentative Map | <input type="checkbox"/> Ordinance Amendment | <input type="checkbox"/> Certificate of Compliance |
| <input type="checkbox"/> Use Permit | <input type="checkbox"/> Zone Change | <input type="checkbox"/> Voluntary Merger |
| <input type="checkbox"/> Development Permit | <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Home Business |
| <input type="checkbox"/> Administrative Dev. Permit | <input type="checkbox"/> Variance | <input type="checkbox"/> Temporary Commercial Permit |
| <input type="checkbox"/> Boundary Line Adjustment | <input type="checkbox"/> Setback Easement | <input type="checkbox"/> Management Plan |
| <input type="checkbox"/> Other (specify): _____ | | |

PROJECT DESCRIPTION: _____

Assessor's Parcel No(s): _____

Applicant Name(s): _____

Applicant Mailing Address: _____

Telephone #: () _____ E-Mail: _____ FAX#: _____

Property Owners Full Names: _____

Property Owner Mailing Address: _____

Telephone #: () _____ E-Mail: _____ FAX#: _____

Name of Representative (if applicable): _____

Address of Representative: _____

Telephone #: () _____ E-Mail: _____ FAX#: _____

Site address(es): _____ Acreage(s): _____

Water Source: _____ Method of Sewage Disposal: _____

I hereby acknowledge that I have read the instructions for filing this application and state under penalty of perjury that the information provided on all attached documents is correct.

Signature of () Property Owner(s) or () Authorized Representative*

_____ Date: _____

_____ Date: _____

***Representative may sign application if a Letter of Authorization from the owner(s) is provided.**

