

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



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Julie Patterson Hunter,  
Clerk of the Board

NEVADA COUNTY BOARD OF SUPERVISORS  
Board Agenda Memo

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**MEETING DATE:** October 22, 2019  
**TO:** Board of Supervisors  
**FROM:** Julie Patterson Hunter  
**SUBJECT:** Resolution making findings, accepting the appeal filed by Scott Merritt from the decision of the Building and Accessibility Standards Board of Appeals to deny issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088); and scheduling the appeal for a public hearing.

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**RECOMMENDATION:** Adopt Resolution making findings as recommended by staff, accepting the appeal and setting the hearing on the appeal for November 12, 2019, at 10:30 a.m.

**FUNDING:** Filing fee of \$1,546.40 collected from Appellant for costs.

**BACKGROUND:**

On August 20, 2019, the Building & Accessibility Standards Board of Appeals ("BASBA") considered and unanimously denied an appeal issuing a Certificate of Occupancy (Permit 181444) for the residential property located at 16887 Champion Road, Nevada City, CA 95959 (APN 004-151-088). At the meeting, the Appellant Scott Merritt, articulated his intent to appeal the decision of BASBA. On August 29, 2019, a formal letter was sent to the Appellant regarding the determination to deny issuing a Certificate of Occupancy to the Appellant. However, an explanation on how to appeal the decision was not included in the letter sent to the Appellant on August 29, 2019. The Land Use and Development Code as it relates to BASBA appeals is silent on the issue of appealing BASBA rulings. However, it was determined Sec. L-II 5.12 applies to other land use matters and should apply here. A Notice to Appeal was then sent via certified mail to the Appellant on September 5, 2019.

The notice explained that the Appellant had 10 days to file an appeal with the Clerk of the Board from the date of September 5, 2019. However, the notice was sent by certified mail to a post office box and was not received by Appellant until September 23, 2019.

Section L-II 5.12.B of the Nevada County Land Use and Development Code provides the Board of Supervisors may use the provisions of such article in conducting public hearings on land use matters.

Section L-II 5.12.G of the Nevada County Land Use and Development Code requires the Clerk to present the appeal to the Board of Supervisors at a regular meeting, so the Board can consider whether to accept this appeal and, if accepted, schedule it for a public hearing. County staff have reviewed the appeal and recommend:

- Appellant is an interested party who has standing to file the appeal; and
- Appellant expressed interest to the BASBA board in appealing their decision, yet he was not given instruction on how to do so until the Notice of Appeal was sent to him on September 5; and
- The notice to appeal was served by certified mail to a post office box and, therefore, Appellant did not receive the Notice to Appeal letter until September 23, filing the instant appeal on September 30; and
- The BASBA section of the Land Use Code is unclear regarding the rights of appealing those decisions; and
- Due Process would be afforded in this unique situation by allowing the appeal to be heard; and
- The content of the appeal satisfies the minimum requirements set forth in Section 5.12.F of the County's Land Use and Development Code which include identification of the project and decision being appealed, statement of the reason for the appeal, statement of the specific provisions being appealed, statement of the action being requested, summation of the arguments being raised and identification of the appellant.

Staff further recommends that the Board accept the appeal and schedule a Public Hearing on this appeal on November 12, 2019 at 10:30 a.m. at the Nevada County Board Chambers at 950 Maidu Avenue, Nevada City, CA 95959.

Respectfully submitted,

**Item Initiated by:** Jeffrey Thorsby, Senior Administrative Analyst

**Approved by:** Julie Patterson Hunter, Clerk of the Board