

From: [Doug Flaherty](#)
To: [Washoe311](#); [Washoe311](#)
Cc: [Hill, Alexis](#); [Lloyd, Trevor](#); [Bronczyk, Christopher](#); [Katherine Hangeland](#); trpa@trpa.org
Subject: Written Public Comment - Re: Feb 3 2022 WC Board of Adjustment Mtng - WSUP21-0035
Date: Wednesday, February 2, 2022 3:55:22 PM
Attachments: [Exhibit B - From TRPA 1-31-22 .pdf](#)
[Exhibit C - RATR Hearing Submittal Ann Nichols.pdf](#)

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Re: Public Written Comment - Washoe County Board of Adjustment Meeting - February 3, 2022 Item WSUP21-0035 - The Resort at Tahoe and Residences - "Major Grading and associated variances" - Opposition

Dear Washoe County Board of Adjustment:

Please consider this my written public comment in opposition to the approval and issuance of proposed Special Use Permit Case Number WSUP21-0035 (The Resort at Lake Tahoe and Residences) i.e. Major Grading and Associated variances to create the base for development of the property.

I hereby incorporate into my written opposition, each and every comment and objection raised within the December 24, 2021 and February 1, 2022 letter from the North Tahoe Preservation Alliance - Ann Nichols to Washoe County Board of Adjustments, TRPA, NDOT, NLTFPD and Alexis Hill.

Ann Nichols' December 24, 2021 letter is referenced within Exhibit F of the related Staff report (link below) and Ann's February 1, 2022 letter was submitted to the Board of Adjustment on February 1, 2022 (Exhibit C - Attached for Board of Adjustment reference purposes (less drawings) due to file size).

[WSUP21-0035 THE RESORT AT TAHOE AND RESIDENCES Staff Report \(washoecounty.gov\)](#)

I agree with Ann Nichols that the **application is "materially flawed and must be denied"** for reasons listed within Ann Nichols **EXHIBIT F** letter and her **February 1, 2022 letter, as well as the following additional reasons:**

1. The Washoe County Board of Adjustment does not have the regulatory primacy/authority to approve the issuance of a Special Use Permit to approve the proposed far reaching "major grading and variances" of this previously approved TRPA project and EIS, of which ground and proposed project modifications and proposed plan changes are wholly located **WITHIN THE LAKE TAHOE BASIN**. In doing so, the Board of Adjustment actions would modify conditions connected with the original **LAKE TAHOE BASIN** TRPA project approvals as far back as 2011 as well as the associated EIS. Such process overreach would be considered, **arbitrary, capricious and lacking substantial evidentiary support, highly controversial and absent any environmental analysis**. This then, would represent, as

discussed in the TRPA Federal Bi-State

Compact, **prejudicial abuse of discretion on the part of Washoe**

County. Prejudicial abuse of discretion is established if the agency (in this case Washoe County operating as an apparent unilateral Area Plan regulator, impacting the TRPA Bi-State Compact and TRPA Regional Plan), has not proceeded in a manner **required by law** or if the act or a decision of the agency was not supported by "substantial evidence" in light of the whole record. There appears to be no current **Memorandum of Understanding (MOU)** between Washoe County and the TRPA giving Washoe County the authority to review projects and grant far reaching changes, variances and conditions adversely impacting the 2011 approved TRPA project which is entirely **WITHIN THE LAKE TAHOE BASIN**. According to an email received on 1/31/22 from the TRPA (**EXHIBIT B ATTACHED**), the MOU currently posted on the TRPA Website is inactive and according to the TRPA representative email on 1/31/22, the "TRPA currently reviews all project applications within the Washoe County portion of the Tahoe Basin". Therefore, in this case, since the Washoe County Area Plan is part of the TRPA Regional Plan, Washoe County is bound to follow all TRPA projects and review processes for projects **WITHIN THE LAKE TAHOE BASIN**.

2. There is no Environmental Impact Statement nor Environmental Impact assessment attached within the staff report, nor does it appear that such an environmental assessment process has been undertaken in connection with the proposed far-reaching project changes, variances and modifications described within the Special Use Permit process of which Special Use Permit deals with development matters entirely **WITHIN THE LAKE TAHOE BASIN**. This then violates Chapter 3 of the TRPA Code of Ordinances.
3. Washoe County, along with TRPA's acquiescence, would violate the TRPA Code of Ordinances and the Bi-State Compact by **unilaterally approving the proposed far-reaching changes, variances and conditions** for a conditional Special Use Permit **WITHIN THE LAKE TAHOE BASIN**. As but one example, providing the condition for Special Use Permit approval, that an updated traffic study be provided. Washoe County may not, absent an MOU with the TRPA, unilaterally apply Special Use Permit conditions for this previously approved TRPA project which is **WITHIN THE LAKE TAHOE BASIN**. An updated traffic study should be completed before any Special Use Permit is forthcoming and then only after the updated traffic study and far-reaching proposed plan changes and variances are considered as part of evidence before a TRPA hearing. There appears to be no current **Memorandum of Understanding (MOU)** between Washoe County and the TRPA giving Washoe County the authority to review previously approved TRPA projects and grant Special Use Permit far reaching project changes, modifications or requested variances.
4. **Chapter 12** of the Washoe County Area Plan - WCC Crystal Bay Tourist Design Guidelines and Standards states: Permit **Coordination**: "In order to streamline the project review process, a project which requires both Washoe County and TRPA action, joint design review may occur, or TRPA may delegate design review authority to Washoe County or vice versa **through a Memorandum of Understanding**"... **Note**: As mentioned, according to the attached email dated 1-31-22 from the TRPA (**Exhibit B**), there does not appear to currently exist an MOU between Washoe County and the TRPA granting Washoe County authority to approve Special Use Permit plan modifications, conditions and far reaching

variances **WITHIN THE LAKE TAHOE BASIN**, that would result in varying or changing the 2011 TRPA Project approvals without a hearing on the part of the TRPA. Therefore, I believe the TRPA must provide a hearing and approve the proposed far reaching development changes, modifications and variances rather than Washoe County.

5. **Chapter 12** of the Washoe County Area Plan also states: **Approval Process:** If there is a conflict with **other adopted standards of TRPA**, or Article VI of the Compact, such as those regarding land coverage, height, project definition, etc., **the standards of those ordinances shall apply.**
6. TRPA Code of Ordinances, Section 2.2.2 A2 requires the Special Use Permit in question to be heard and approved by the TRPA Hearing Officer as follows: **Hearings Officer Review:** The following projects or matters require review and approval by the TRPA Hearings Officer: **a. Special uses, including changes, expansions or intensifications of existing uses** (Chapter 21: Permissible Uses); **Note:** The proposed "changes" and "intensifications" in connection with the proposed far-reaching project variances and modifications including expanded major grading and excavation of an additional 34,000 cubic yards of material **WITHIN THE LAKE TAHOE BASIN** represent a significant impact on the environment and require, at minimum, a hearing by the TRPA to approve such changes and intensifications and requires an updated EIS.
7. Section 12 of the Washoe County Area Plan also states: **Approval Process:** If there is a conflict with **other adopted standards of TRPA**, or Article VI of the Compact, such as those regarding land coverage, height, project definition, etc., **the standards of those ordinances shall apply.**
8. The **Bi-State Compact Article VII (f) (2)(3)(4)(5), (b)** requires the agency to adopt by ordinance a list of classes of projects which the agency has determined **will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement** under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects **will not have a significant effect on the environment. The proposed far reaching conditional Special Use Permit changes and variances to the pre-existing TRPA permit and EIS WITHIN THE LAKE TAHOE BASIN, including the approximate increase of 34,000 yards of excavation, does not appear within a list of classes of projects that the TRPA has determined will not have a significant effect on the environment** (TRPA Code of Ordinances 3.2.2 A). Therefore, the proposed Special Use Permit far reaching project modifications would not be exempted from the Bi-State Compact requirement to prepare an EIS. Neither the Bi-State Compact nor the TRPA Code of Ordinances, give Washoe County the statutory authority to simply utilize its own standards and authority to review and modify the previously approved TRPA permit or EIS **WITHIN THE LAKE TAHOE BASIN** without a TRPA hearing and without an updated EIS.
9. And lastly as demonstrated across the Western U.S., TRPA must include an adverse environmental impact assessment in connection with this project that will result in the attraction of significantly increased human capacity **individually and cumulatively.** This in connection with the myriad of other growth projects since 2011, as well as those projects currently under consideration by Tahoe Basin Agencies. This based on the reality that the US Forest Service cannot or will not be able to provide aggressive immediate fire control that may otherwise prevent immediate public panic, injury or

loss of life, and thereby cause mass, unordered and panicked evacuation of residents and visitors during a wildfire in and around the **North and East Shore**. The Tahoe Fire and Fuels Team continues to echo the dire message of "not if" "but when". The Caldor fire represented a slightly advanced window of time to facilitate evacuation, conversely a fast-moving slope and wind wildfire in the immediate area would most likely create dangerous panic. The hundreds of additional vehicles and dramatically increased human capacity as a result of this project, will cause direct competition with residents and other visitors in the area for evacuation access to narrow State Route 28 **thereby endangering public safety**. Thousands of exit competitors will prevent or slow the movement of much needed access and travel of emergency vehicles as well as evacuation of Incline Village and Crystal Bay residents and visitors. During these fire, smoke and panic events it is common for vehicles to almost immediately collide with each other in dense smoke situations due to limited sight and during rushed competition to access major arterials (i.e., State Route 28). This then causing roadway evacuation to come to a complete standstill. Anyone who resides in the area knows that the daily bumper-to-bumper traffic is a witnessed reality during the summer months, even without a wildfire/panic component. The Basin is simply over capacity as far as the ability to facilitate safe and meaningful evacuation. It is reckless for our government regulators and officials to continue to add to that now beyond capacity and endanger our Incline Village and Crystal Bay residents and visitors.

Reference Material in Support of the above objections:

Article II - Definition's item (h) of the Bi-State Compact:

“**Project**” means an "activity" undertaken by any person, including any public agency, if the activity **may substantially** affect the land, water, air, space or any other natural resources of the region.

Article III (g) (3) of the Bi-State Compact states:

WHEREAS, under the provisions of this compact **or any ordinance, rule, regulation or policy adopted pursuant thereto**, the agency **is required to review or approve any project**, public or private, **the agency shall take final action by vote**, where to approve, **to require modification** or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit.

Note: I interpret this to mean that the Special Use Permit in question represents a "project" due to its proposed far-reaching variances and modifications and that the TRPA must review and approve this project.

TRPA Code of Ordinances Sections 13.7.1 and 13.7.2 states:

"After TRPA finds that an Area Plan is in conformance with the Regional Plan, TRPA and the lead agency **shall enter into a Memorandum of Understanding (MOU)** that clearly specifies the extent to which the activities within the Area Plan are delegated or exempt from TRPA review and approval **and describes all procedures and responsibilities to ensure effective implementation of the Area Plan**".

13.7.2. Contents of MOU states:

An MOU for an Area Plan shall contain, at minimum, the following elements:

- A. A comprehensive statement of the type and size of all activities within the Area Plan that are delegated or exempt from TRPA review and approval.
- B. A clear statement defining the projects over which TRPA will retain development review responsibility;
- C. An agreement to make all findings required by the Compact, Regional Plan, Area Plan and Code for project approval and inclusion of special conditions not inconsistent with the Area Plan.
- D. Identification of the types of proposed activities for which TRPA will receive notification pursuant to subsection 13.8.1;
- E. Identification of the type and extent of procedures the lead agency government will use to notify TRPA of proposed local development activities and include TRPA in development review proceedings.
- F. A description of how the Area Plan will be modified to reflect amendments by TRPA to the Regional Plan, as well as assurances to enforce and maintain conformance with the Regional Plan amendments prior to amendment of the Area Plan;
- G. Statement of how the MOU for the Area Plan will relate to any existing MOUs that the lead agency government has with TRPA; and
- H. If necessary, additional clarification of any requirements of this chapter, provided that all such clarifications are consistent with the intent and substance of this chapter and the Regional Plan.

Washoe County Code:

Section 110.220.435 Appeals. An “aggrieved person” as defined in Article VI(j)(3) of the Tahoe Regional Planning Compact may appeal a final determination **on a development permit by the County to TRPA pursuant to Section 13.9, Appeals of the TRPA Code of Ordinances. Appellants shall exhaust all administrative remedies provided by Washoe County prior to appealing the decision to TRPA.**

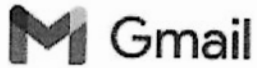
WCC Code Section 110.220.440 Variances. The provisions of Article 804, Variances of this chapter **shall not apply to any regulations established by the TRPA Code of Ordinances.**

Exhibit A - Link to Washoe County Board of Adjustment Special Use Permit Staff Report - The Resort at Tahoe and Residences

[WSUP21-0035 THE RESORT AT TAHOE AND RESIDENCES Staff Report \(washoecounty.gov\)](#)

Exhibit B - attached MOU letter from TRPA.

Exhibit C - February 1, 2022 Letter from Ann Nichols - North Lake Tahoe Preservation Alliance (less attachments due to file size).



Doug Flaherty <tahoeblue365@gmail.com>

Washoe County MOU - Public Records Request

1 message

Brandy McMahon <bmcMahon@trpa.gov>

Mon, Jan 31, 2022 at 11:15 AM

To: "TahoeBlue365@gmail.com" <TahoeBlue365@gmail.com>

Dear Mr. Flaherty,

The Washoe County MOU is available at: https://www.trpa.gov/wp-content/uploads/documents/archive/Appendix_EE_Washoe_1995.pdf. It is currently inactive. TRPA currently reviews all project applications within the Washoe County portion of the Tahoe Basin.

If you have any questions, please contact me at (775) 589-5274 or bmcMahon@trpa.gov.

Sincerely,

Brandy McMahon, AICP

Local Government Coordinator

Current Planning Division

Tahoe Regional Planning Agency

P.O. Box 5310, Stateline, NV 89449

(775) 589-5274

bmcMahon@trpa.gov



NTPAC.org | preserve@ntpac.org
P. O. Box 4, Crystal Bay, NV 89402 | 775-831-0625

Date: February 1, 2022

To: Board of Adjustments

Kristina Hill, Clay Thomas, Brad Stanley, Don Christensen, Rob Pierce

Trevor Lloyd, Washoe County Planning, tlloyd@washoecounty.gov

Paul Nielsen, Tahoe Regional Planning Agency, pnielsen@trpa.gov

Alex Wolfson, Nevada Department of Highways, awolfson@dot.nv.gov

Jennifer Donohue, NLTFPD, jdonohue@nltfpd.net

Alexis Hill, Washoe County Commissioner, ahill@washoecounty.gov

From: North Tahoe Preservation Alliance

Re: The Resort at Tahoe & Residences (formerly Boulder Bay) Application for Grading Special Use Permit Comments

Thank you for allowing the North Tahoe Preservation Alliance (NTPA) to comment on the Resort at Tahoe & Residences (RATR) application for a discretionary approval of a Grading Special Use Permit. The NTPA has been helping preserve the natural beauty and rural character of North Lake Tahoe since 2008. NTPA has been following the RATR (formerly Boulder Bay) project since 2007.

Review of the application reveals material flaws, which necessitate denial of the requested permit. RATR has changed the 2011 project as originally approved in important and material ways, invalidating the more than decade old TRPA permit. The project has been substantially altered and these significant, substantive changes warrant evaluation with a new Environmental Impact study. The 2008 Traffic Study is now so out of date that its conclusions are no longer applicable, or in any way relevant, to current conditions.

The application fails in the following respects:

1. CONDITIONS ARE NOT SATISFIED FOR APPROVAL OF THE PROJECT VARIANCE/ABANDONMENT APPLICATION

Abandonment of the Crystal Bay roads has always been conditioned upon TRPA's approval of the project. The developer cannot comply with the conditions of abandonment because it has not

demonstrated substantial conformance with the plans approved in 2011 as required by the conditions. See attached email from Paul Nielsen of TRPA stating the new owners have been advised a new TRPA approval and review is required for changes to the Boulder Bay project.

According to Exhibit 1, the site will need to undergo substantial grading. In fact, 9.7 acres (422,000 SF) will be disturbed. All the trees will be removed, along with approximately 35 feet of soil from much of the site.

There is no way to determine the extent of grading required or the scope of the grading permit until the full project modifications/changes have been approved by TRPA and the County. The County is assuming a new modified project will require the same abandonment/utilization of land as the original project. This assumption is not necessarily true. What isn't known is whether a new project approval will require the same realignment of Wassou/Wellness Way/Lakeview. The issuance of a grading SUP is premature at this time.

Until abandonment is final, the land underneath the road does not belong to the developer, so use of the road for displaced dirt/detritus is premature.

What happens if the developer abandons the project? What happens if the project (whatever it is upon final approval) gets delayed another ten years? If the developer's utilization of Wassou takes longer than its projection of two years, will the County require the reopening of Wassou? How is the County going to guarantee residents that Wassou will only be eliminated for two years? Will the County keep title to Wassou until the road has been realigned and the project completed? These considerations should be addressed as part of the SUP – at least by way of conditions to be met before an actual grading permit is issued.

2. THE 12/13/2021 MASS GRADING APPLICATION SHOWS DIFFERENT PROJECT FEATURES THAN THE ORIGINALLY APPROVED PROJECT

The Mass Grading application 12/13/21 submittal (attached Exhibit B) is substantially changed from the TRPA approved project in the following ways:

1. There is a new structure north of the new Wassou/Lakeview Connector. Notated in red.
2. Subterranean parking has moved from the center of the project to along Stateline Rd and the Wassou/Lakeview connector. Notated in red.
3. The shapes and locations of the building pads are all different.
4. The circulation patterns have changed
5. The entrance off Stateline Rd has moved north of Cove Ave. The rest of the traffic circulation is undisclosed.

3. 02/2022 ABANDONMENT CONDITIONS ARE DIFFERENT THAN THE 06/2021 ABANDONMENT CONDITIONS

June 2021 Abandonment Conditions	February 2022 Abandonment Conditions
Pg 3 of 7 Substantial Conformance to the Plans approved	A phased abandonment of Wassou will be permitted prior to meeting all stipulated conditions of approval providing that preliminary construction drawings (30%) shall be prepared for the replacement roadways (Wassou to Lakeview and Lakeview to Stateline)
	i.A financial assurance shall be provided to Washoe County CSD in an amount estimated for full engineering design, construction, testing and inspection, as approved by the County Engineer.
Pg 3 of 7 e This abandonment will be effective upon recordation of the Resolution and Order	Pg 3 Of 8 1 ii Irrevocable Offers of Dedication of the new road right-of-way shall be recorded.
	F Pg 3 of 8 A grading bond of \$2,000/acre of disturbed area shall be provided to the Engineering Division prior to any grading.

A phased abandonment scheme is now proposed. Wassou Rd. west of Reservoir will be taken in February 2022, thereby removing one of only four exits from Crystal Bay. This was originally requested for two years, now the applicant claims one year, although the grading application is for 5 years. Instead of requiring a complete set of drawings as in 2021, now only 30% of preliminary drawings are being required with financial assurance acceptable to the County Engineer.

4. CONSTRUCTION TRUCK TRIPS ARE DRAMATICALLY UNDERESTIMATED

- The 2008 traffic study was based on a four-lane configuration of SR28 in Kings Beach which no longer exists. Today the two single-lane roundabouts significantly reduce roadway capacity creating a bottleneck with queues that impact and effect traffic flows at the project site. This requires study.
- A roundabout at Crystal Bay may better enable traffic from the project site to access SR28 going east rather than crossing the already congested westbound lane. The current stoplight at Crystal Bay does not coordinate well with the queues from Kings Beach, and a roundabout with creative pedestrian control may help traffic move more consistently.
- The 2008 traffic study did not accurately reflect the level of service F, which is experienced today for about four months of the year, oftentimes for 6 hours per day.
- The 2008 traffic study and the Final EIS Traffic element failed to adequately account for redevelopment of the Cal Neva property, the Tahoe Inn (110 affordable housing units), Kings Beach CEP project, Ferrari's project and redevelopment of several other vacated and

underutilized commercial properties in Kings Beach. Study of the cumulative impact of North Shore traffic is warranted.

- e. The 2008 traffic study and the Final EIS failed to address the number of trips from the importation of manufactured road base, structural aggregate base, bedding material, drain rock, backfilling of retaining walls, etc. The Application for this grading permit also fails to produce any numbers for imported material and the associated truck trips occurring simultaneously with the export of excavated materials.
- f. The Final EIS assumes 121,000 cubic yards (CY) of excavated native soil that would be exported from the site during grading requiring about 200 truck trips per day. The new number in the Application is now 155,000 CY while keeping another 42,000 CY of excavated material on the site. In addition, there will be an additional 30,300 CY of demolition of buildings and acres of asphalt. 13,000 CY of material have already been removed for the Granite Place Condos. The Mass Grading SUP omits CY calculation of road base, drain rock, backfill of retaining walls, and manufactured road base. This 64% increase in material is a conservative estimate from Gary Davis, PE, Consulting Civil Engineer. (see attached letter). Where would this material be stored, how would it be processed and utilized on site? What are the new traffic impacts, and where is the soil going? This information is incomplete.
- g. The new owner, EKN, has purchased Beasley's Cottages, a lakefront property in Tahoe Vista, CA (Placer County) as an additional destination for its guests. The 2008 traffic study maintained that since the original project was a "destination resort" guests would never have to leave, and traffic would be reduced. Now, that is clearly not the case. New traffic impacts must be considered because Tahoe Vista is west of the Kings Beach bottleneck. The RATR site is projected to have a population of 2,448. Resort traffic between Crystal Bay and Tahoe Vista will further contribute to the traffic congestion that already often exists through Kings Beach.

5. EMERGENCY EVACUATION IS COMPROMISED

This SUP request is detrimental to public safety because it will limit the ability of Crystal Bay and Incline Village residents to evacuate by reducing the number of evacuation routes for a total of at least two fire seasons, and possibly for as long as 5 years.

- a. The proposal will cut off Wassou Rd behind the Biltmore casino in February 2022 and not provide a temporary substitute road for up to 5 years. Currently the community has Stateline, Reservoir, Beowawie and Amagosa as exits. The SUP scheme will provide only Reservoir, Beowawie and Amagosa. This is an outrageous health and safety gamble. Unfortunately, the application is silent with regard to analyzing traffic and evacuation alternatives in advance of cutting off Wassou Rd.
- b. This is the fourth time a project developer has tried to remove an exit from the Crystal Bay neighborhood. The community takes this issue very seriously and has fought hard to keep the exit routes, because having a way out is truly a matter of life and death in these days of widespread wildfires.
- c. A minimum of 2 years interruption should not be considered "temporary," and it may take much longer. Dismissal of community safety and welfare concerns is alarming. In recent years, courts have come to consider evacuation to be a critical planning element.

6. CIRCUMSTANCES UPON WHICH PRIOR APPROVALS WERE BASED HAVE CHANGED

The community has sent their concerns that the original Boulder Bay EIS is no longer timely and that changed conditions which affect the environment, public safety and public well-being necessitate a new submission. Traffic, fire conditions, overtaxed infrastructure and capacities are areas of concern expressed by the public.

If this project, which was supposed to have been completed years ago, is allowed to move forward as originally approved, then consistent with that thinking, the EKN project must be held to the original conditions, plans, performance requirements that led to the findings and approvals. Since Boulder Bay is no longer the developer, evidence must be established that the new developer commits to follow and conform to the plans, stipulations and conditions of the original findings and approvals before they enjoy any rights or benefits through their acquisition of the original project. So far that evidence has not been demonstrated or offered. To the contrary, evidence exists that the project going forward is materially different (Tahoe Vista lakefront connection, revised project drawings and expansion of proposed cubic yards of earthwork).

The new project must be either submitted to the approval process or brought into conformity with the original conditions of approval. A materially different project going forward under prior approvals for the original project would be inappropriate and contrary to legal requirements.

7. FINDINGS THAT CANNOT BE MADE

1. Consistency - that the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Tahoe Area Plan. EKN has not provided its plan, so we do not know what the plan is.
2. Improvements - that adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and adequate public facilities. We do not know if the roadway improvements are adequate without knowing the details of the project. Certainly, the loss of an egress route from the community for an extended period of time is an example of grossly overlooked details.
3. Site Suitability - that the site is physically suitable for major grading, and for the intensity of such a development. If the site was suitable for major grading and this intensity of development, it would not need multiple variances and the phased abandonment of ROW before project approval.
4. Issuance Not Detrimental - that issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area. The multiple factors discussed above demonstrate potential and actual detrimental effects on the community.

In light of shortcomings and flaws in this application, NTPA respectfully requests that the application be DENIED.

EXHIBIT C

From: Paul Nielsen <pnielsen@trpa.gov>
Sent: Wednesday, January 12, 2022 1:21 PM
To: Ann Nichols <preserve@ntpac.org>
Cc: John Marshall <jmarshall@trpa.gov>; Joanne Marchetta <jMarchetta@trpa.gov>; 'Bronczyk, Christopher' <CBronczyk@washoecounty.us>; 'Hill, Alexis' <AHill@washoecounty.gov>; 'Lloyd, Trevor' <TLloyd@washoecounty.us>; wwest@washoecounty.us; Tone, Sarah <STone@washoecounty.gov>
Subject: RE: Boulder Bay AKA Resort At Tahoe SUP Grading Application

Hi Ann,

Thanks for reaching with your question. TRPA has advised the new owners that TRPA approval is needed for changes to the approved Boulder Bay project. The level of environmental review will be determined within 30 days after submittal of a project application for revisions to the approved project. To date, an application has not been submitted to TRPA.

I am happy to meet with you and I have time this Friday if you are available. Does 12:30 work for you?

Paul

February 1, 2022

TO: Mr. Walt West
Washoe County Engineering
Reno, Nevada

RE: REVIEW OF THE RESORT AT TAHOE AND RESIDENCES (formerly BOULDER BAY)

I have recently been engaged to review certain items of engineering significance on this project with respect to design and all of the associated Variances to Code.

By way of introduction I, and my former company (Gary Davis Group) of Tahoe City have been designing and leading Land Development projects in the Tahoe Basin for over 30 years. We have been involved in all the counties around the lake and extensively with TRPA. The company is still involved with the Cal Neva across the street from this proposed project. I am recently retired and have sold the company.

My understanding is that an EIS was conducted some years ago for a somewhat similar project, Boulder Bay. That project obtained development approvals from both Washoe county and TRPA. No further Construction Documents were approved with the exception of the now existing condo development on the former Mariner site.

Many of the concerns relate to the differences between the Boulder Bay project and what is currently proposed, as well as differences in the time gap between then and now. Circumstances have changed and with the new project certain environmental aspects have changed and were most likely not reviewed back then.

As well there are specific items in the staff report and in the Conditions of Approval that need clarifications. In no special order I am listing some thoughts.

TRAFFIC IMPACTS

I have read through the Project Conditions of Approval and to a certain extent reviewed the plans. I have performed some rough calculations to try to determine if the off haul of material and import of material for truck trips has been studied from a traffic and environmental aspect. I apologize if that information is in the Staff report and I missed it. I did see that a disposal site has not yet been identified so we don't know if the route is going to be through Nevada or California at this time. My rough calcs as follows:

155,000 CY of exported soil @ 10-16 CY per truck would be approximately 15,000 to 9700 trips.

The removed asphalt with a coverage of 124,000 SF would be 2300 CY of export, which would be another 230 to 144 trips.

The building would be approximately 27,000 CY of material (that will not pack as neatly as soil), or in the neighborhood of 2700 trips.

The import of base rock, asphalt, rock for retaining walls and such would be 450 trips (very roughly). So in the neighborhood of 15,000 to 18,000 trips. These are of course one-way trips, conservatively you can double that number for round trips. I believe that this has a significant impact on traffic in the communities, air quality, and noise. Has this been analyzed? If it was in the prior approval are the results in substantial conformance?

ROAD GRADES

On the subject of road grades, I see allowance for grades up to 12%. We know that in snow country grades greater than 6% are not ideal. However both the County and TRPA allow grades up to 10%. Grades 12% or greater are problematic in snow country. Safety and practical considerations are serious concerns with such a design. It is not clear to me how the county can approve grades steeper, even with a Variance, since it is a public right of way? It would seem to be in the public interest for roadways that are primary access to SR 28 from the uphill neighborhoods in Crystal Bay to have the safe transport and accommodation for all new roads.

REMOVAL OF PUBLIC ROADWAYS

This may be an overall improvement to an existing condition, however the length of time to construct the new roadways could easily take over two seasons. This adds public safety issues with regard to evacuation in case of fire or other emergency. Fire trucks and ambulances may have more difficulty gaining access in a timely manner. I understand that the Planning Commission has spoken strongly on elimination any egress paths to this Crystal Bay neighborhood.

RETAINING WALLS

Retaining walls are quite tall. There seems to be a discrepancy in the discussion of exceptions with Variance to height and the plans which indicate taller walls than are notated on the plans. While it is understood that the taller walls will be mostly buried and not a visual disturbance. Some of the other mid height walls are not identified as to heights. It is likely that some of these walls may be looked at from a TRPA scenic perspective as being inappropriate, and not meeting the scenic threshold objectives. It would be helpful to have more detail on those walls and their location notated on the plans.

FINANCIAL ASSURANCES

I find it interesting that the bond for revegetation is only \$2000 per acre. That is essentially only hydroseeding for one season. Seems unrealistic that it would only be needed for one season and then, what about the other erosion control measures, or the next seasons? Bonding should be more robust considering the possible economic consequences should the developer not be able to perform

during some phase of partially constructed, or only demo and excavation, of the project. Unfortunately, I have seen that at Cal Neva with our 3 previous developer clients of mine.

CONSTRUCTION DOCUMENTS

A requirement for only 30% complete Construction Documents is as we all know only an outline level of plans. This is basically a schematic concept level of design. Seems a bit risky to me to be able to start excavation and construction of new roadways with this level of plans.

PREVIOUS EIS

Significant differences in original EIS and the current circumstances may need an update to certain sections to bring it into substantial conformance. Projections from the previous Boulder Bay project indicate that perhaps the original did not foresee such large changes to the concept.

SUMMARY

While much of the new project fits what has been explored with the old Boulder Bay project there are significant differences. Approval based, on old studies (like the traffic study), designs that now call for more design Variances than before due to more excessive designs to fit a different project, seems risky from an EIS basis that could make the project vulnerable. My understanding is that TRPA may take a different look based on much of the above.

Respectively

Gary Davis PE
Consulting Civil Engineer

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775 742 8465



MAT Engineering, Inc.

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Irvine, CA 92623
Ph: 949.344.1828

February 1, 2022

Ms. Ann Nichols
NORTH TAHOE PRESERVATION ALLIANCE
P.O. Box 4
Crystal Bay, Nevada 89402

Subject: Boulder Bay Project Construction Traffic Review

Dear Ms. Nichols,

MAT Engineering, Inc. has conducted a review of the construction traffic evaluation and truck trip estimations for the proposed Boulder Bay Project and provides the following comments:

1. Since trucks need to be staged for loading as they arrive, a discussion of truck staging locations and proposed areas to be utilized by trucks should be included as part of the study. Similarly, the points of access for the trucks and travel routes should be disclosed and evaluated.
2. Similar to truck staging areas, the study should discuss how the worker trips are planned and where the workers will park as well as the number of worker trips. The traffic estimations should include not just truck trips, but, also work trip estimations, routes of travel, and location where workers are expected to park.
3. The analysis assumes 20 cubic feet of material per truck, resulting in approximately 6,050 truckloads (equivalent to 96 to 192 truck trips per day) as documented in the project EIS. The assumption of 20 cubic feet per truck might be considered an overestimation. Hence, the number of truck trips might be higher than what is estimated in the EIS.
4. The EIS and related analysis does not account for the impact of heavy trucks which move slower and occupy more space than passenger vehicles. Typically, per traffic industry standards, truck trips are converted into Passenger Car Equivalent (PCE) by multiplying each truck trip by a factor of 3.0 (one truck being equivalent to 3 passenger car trips). Hence, the truck trips estimated in the EIS can be expected to be three times what is estimated in the EIS. Based on this, the argument that the project construction generates less trips than the existing uses, might no longer be valid.

5. The analysis appears to focus on the daily trip generation of the construction trips. Since traffic generally fluctuates during the day, an evaluation of peak traffic conditions might be appropriate instead of a daily trip evaluation. Typically, traffic impacts are evaluated for the peak hour (rush hour), when the roadway system is the most constrained with potentially minimum capacity to spare for additional traffic.
6. It is recommended an estimation of the trips for each project construction phase be provided. Even though some construction phase might not generate a substantial number of overall trips, the expected traffic generation should be disclosed for peak hour of the roadway network. The construction phase that generates the most number of trips during the peak traffic conditions/hours of the day on the surrounding roadways might be the one with the most potential impact and should be evaluated.

Based on data provided by the County, the construction hours are expected to be 7:00 AM to 7:00 PM which might coincide with the peak hour traffic conditions of the roadway system.

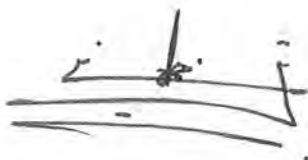
7. Per discussion with Mr. Gary Davis (civil engineer), an additional 33,300 cubic yard of material (relating to building demolition and asphalt) might have not been accounted for in the trip calculations. Conservatively, assuming 20 cubic yards per truck, this is equivalent to approximately 1,665 additional truck trips (3,330 round trips).

In addition, the analysis does not appear to account for material brought in such as roadway base, drain rock, backfill required for retaining walls might not have been accounted for.

MAT Engineering Inc., appreciates the opportunity to provide this review letter. If you have any questions, please contact us at 949-344-1828 or at@matengineering.com.

Respectfully submitted,

MAT ENGINEERING, INC.



Alex Tabrizi, PE, TE
President



MARK & CYNTHIA HIGGINS

1 Big Water Drive, Unit A205
Crystal Bay, Nevada 89402
805-231-1178

January 27th, 2022

Washoe County Board of Adjustment
1001 East Ninth Street, Building A
Reno, Nevada 89512
Washoe311@washoecounty.gov

Re: Special Use Permit Case Number WSUP21-0035 (Resort at Tahoe and Residences)

Dear Sirs/Madams:

Revised grading plans for the completion of the project adjacent to our 18 unit condominium complex, known as “Granite Place”, have recently come to our attention. We were surprised by a number of proposed changes that were not what was once described to my us by Roger Wittenberg, the original developer of our condominiums and the adjacent mixed-use Boulder Bay development. It should be noted that our condominiums were once considered the first phase of the Boulder Bay development, at least that was the case when we bought our unit in December, 2019.

For the record, we are not opposed to the adjacent development, at least not as it was described to us in 2019. We continue to hope the development is completed and believe it will bring vitality to an area that has clearly become “run down”, for lack of a better term. Our issue is with a number of the proposed changes, that were illustrated in EKN Tahoe LLC’s (“EKN”) Grading SUP Submittal originally dated December 8th, 2021 and updated December 13th, 2021; that was submitted to Washoe County by the EKN, the new developers of the project. These changes will directly, significantly, and negatively impact our existing residential property.

First and foremost is the proposed new road that will connect Wassou Road to Route 28. It would appear that it is being proposed to call this new road “Wellness Way” and it will change the address of our building from our current address of “Big Water Drive”. This name makes absolutely NO sense to us relative to our Lake Tahoe location, and it will greatly affect our existing building and mail & package delivery systems that have only recently stabilized. Why a new name, that has no relation to anything in the area, is being proposed is beyond us. I’m sure that our condominium ownership as whole will strongly object to this random name change. IF the name of our entrance road was to change, and we sincerely hope it doesn’t, we do not know why anything other than Wassou Road would even be considered.

This ill-conceived new road will separate our project from the rest of the development and it is now proposed to run behind, and next to, our homes. In fact, to our surprise, this new road is proposed to run more than the entire length of our condominium building and require the use and disruption of a significant hillside directly adjacent to our property. The proposed road will move closer to our building, require the removal of numerous mature pine trees, and absorb a landscaped buffer area that we were once told was permanently part of the first phase of the development. Additionally, if permitted, automobile headlights will strafe two entire sides of our building as cars twice turn 90 degrees to use it. It also appears this new road, that was not part of the original plan, is being pushed behind our complex to allow for more developable land for the remaining project. We don't see the need for this road, or certainly its proposed placement, unless the developer is significantly altering Roger Wittenberg's original development plan. It makes us wonder what else is changing.

Regardless of this proposed new road's exact location someday, if added to the existing plan, the road itself will compound what is already a difficult and dangerous problem for those trying to make a left turn out of Big Water Drive on to Route 28; as well as those turning left from Route 28 on to Big Water Drive. More traffic from the neighborhood above us, that already has better alternatives to head North and South on Route 28, will also be compounded by the additional traffic on Big Water Drive from the additional mixed-use development. Unless a traffic light is installed at what is now Big Water Drive and Route 28, we think linking the existing road to Wassou Road above us is a mistake, no matter where it might be located.

An additional major concern to us is that the grading plan calls for the existing park to the North of our condominiums to serve as a "stock pile area" during the construction of the mixed-use part of Boulder Bay / Tahoe Resort development. We can't imagine Washoe County, TRPA or our neighbors would allow this community amenity, installed only a few years ago by Roger Wittenberg, to be destroyed even if temporarily. If this staging area is permitted, it will effectively envelope our property in construction activity for at least two years and exacerbate what will already be nightmarish traffic and construction adjacent to our property. As with the placement of the new road, this appears to just be a way to save the new developer land, time, and/or money at the community's expense. We obviously hope this will not be allowed.

Thank you for your consideration of this letter. We hope that by addressing our concerns, and what we are sure are our neighbors' as well, the proposed development and its impact on its immediate neighborhood and the community as a whole, is greatly improved.

Mark S. & Cynthia T. Higgins

Mark S. & Cynthia T. Higgins
Granite Place Homeowners

To: Board of Equalization

From: Margaret Martini, Incline Village resident

Please add to the minutes of this meeting.

1. The studies done are over 10 years old. Parameters have changed. It would be unconscionable to assume that in 10 years environmental impact studies would be significantly different. ^{not} Now.
2. IN FACT. ALL OF THE STUDIES ARE OBSOLETE after 10 years. Nothing should be considered until up to date studies are completed.
3. Traffic impact studies were questionable at best even 10 years ago. This was pointed out in several of the early meetings for this project.
4. Please review the videos and news coverage of the evacuation of South Lake Tahoe during the most recent Caldor fire. There were 4 + lanes being used for evacuation and even then it was hours and hours to perfect the evacuation. I am sure that you are aware that Kings Beach and Crystal Bay highway 28 are only 2 narrow lanes. Mt. Rose Highway and hwy 267 are the only 2 evacuation routes out of that area.
5. Fact: full time population has increased in the last few years and the tourist population has MORE than exploded. It is a traffic issue even on a good day in the middle of the week.
6. There are other developments that are already approved to be completed that will also add more traffic impact on the Crystal Bay area.
7. Don't try and use the same old tired rhetoric about creating jobs. It is not relevant unless you can provide affordable housing...a LOT of affordable housing ...and roads to accommodate the increased traffic for the workers.
8. The street that the developer is asking for is a PUBLIC STREET. It is not up for grabs. It is a used public street especially in the winter when it is a little dangerous coming down the two access streets that are on the north end of Crystal Bay. As is the reservoir road that the previous developer wanted to grab for a private driveway.
9. Your job is to determine if the traffic impact and the people impact to that small area is in the best interest of the entire population of the north side of Lake Tahoe. It only would be common sense to determine that the magnitude of this project is not a good fit for this area.

IT IS UP TO YOU TO DO THE RIGHT THING FOR THE SAFETY OF THE RESIDENTS OF INCLINE VILLAGE AND CRYSTAL BAYand even to the tourists who come here.