



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, tloyd@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@ntfpd.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 The 2008 Traffic Study is now so out of date that its conclusions are no longer applicable, or in any way relevant, to current conditions.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

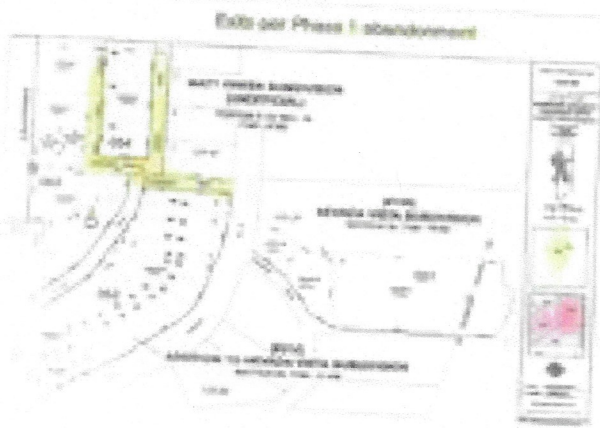
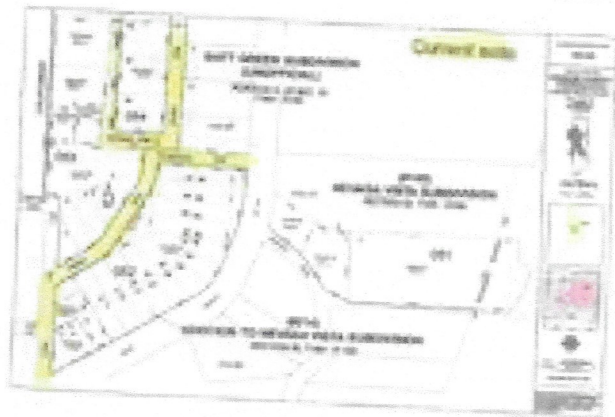
- a. The 2008 traffic study was based on a four-lane configuration of SR28 in Kings Beach which no longer exists. Today the two single-lane roundabouts significantly reduce roadway capacity creating a bottleneck with queues that impact and effect traffic flows at the project site. This requires study.
- b. 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.
- c. 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.
- d. 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.

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

Exhibit A

Circulation Alt C



Exhibit B

NOT FOR CONSTRUCTION

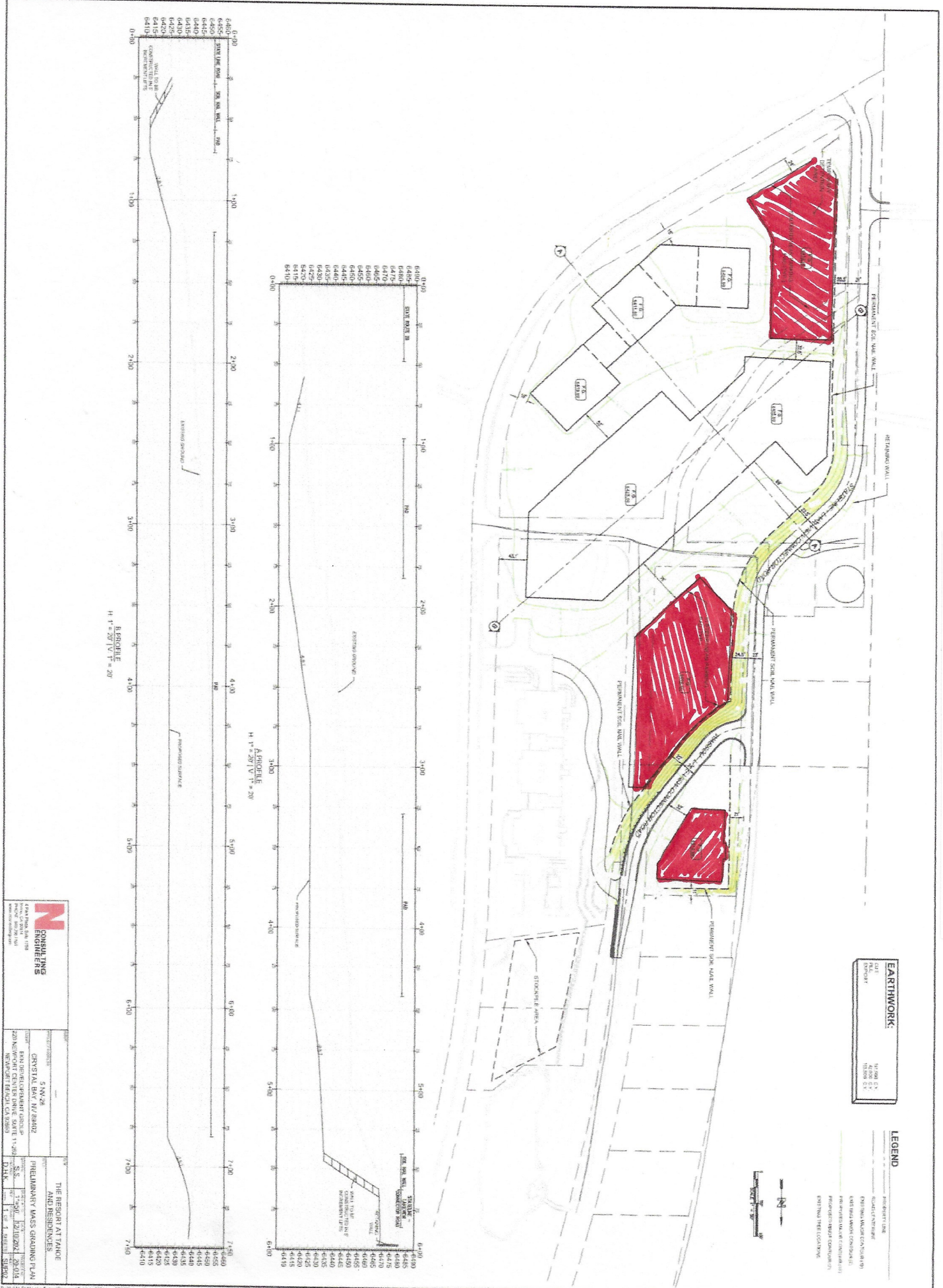


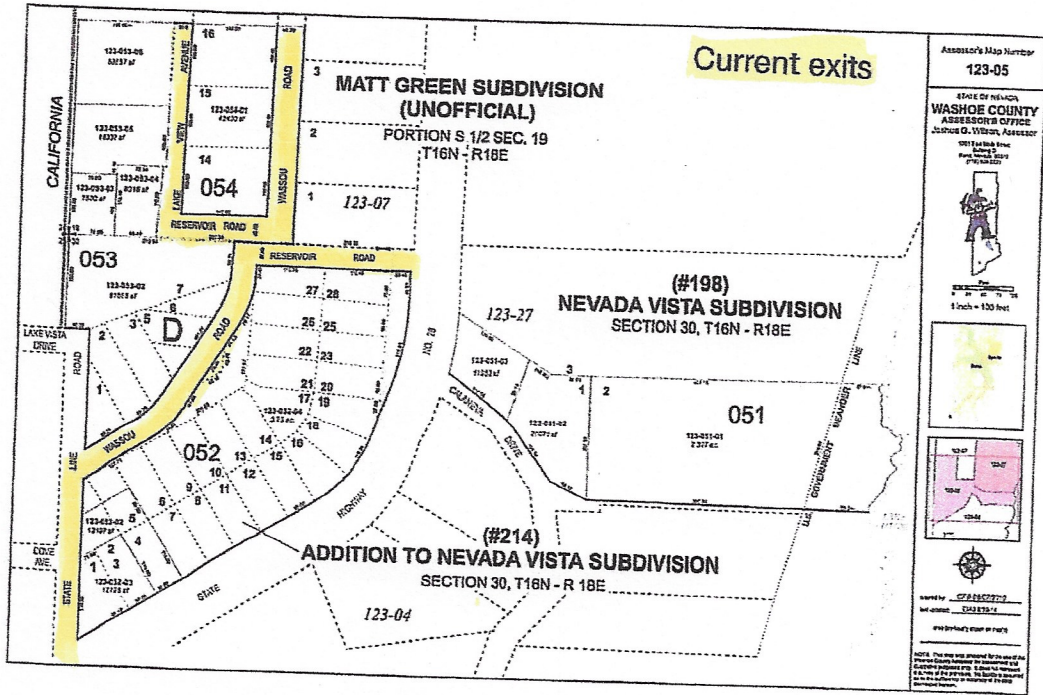
EXHIBIT 1

Between February and May 2022, the applicant is intending to conduct asbestos testing and abatement, construct all fencing and BMP's, selected building demo and site cleanup.

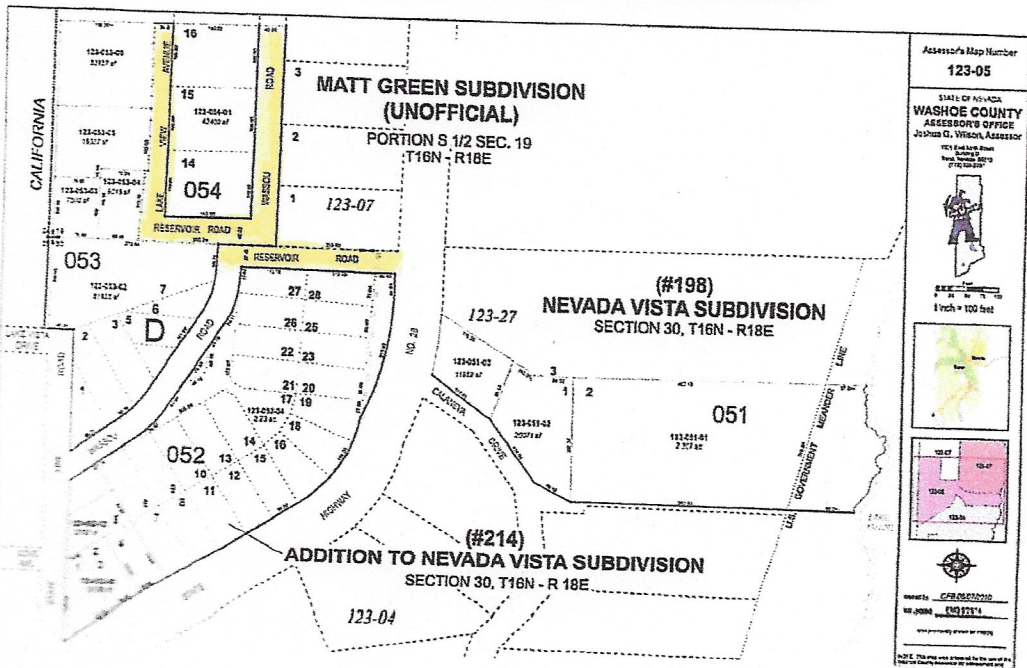


May – June 2022

Between May and June 2022, the applicant is proposing in this phase to complete demolition of building footings, to abandon and cap underground utilities to their source, and to begin excavation and development of road connectors; specifically, Stateline to Reservoir, Wassou to Lakeview and Wassou to Lakeshore.



Exits per Phase 1 abandonment



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

PO Box 7392
Tahoe City, CA 96145
775 742 8465



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

