

FINAL INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION

(State Clearinghouse #2022040027)

for the

DRAFT TOURIST CORE AREA PLAN/SPECIFIC PLAN AMENDMENT

Prepared for
City of South Lake Tahoe
1053 Tata Lane
South Lake Tahoe, CA 96150

Prepared by
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March 7, 2024

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1.0 SUMMARY AND FINDINGS

Project: TCAP Recreation Amendment and Multi-Family Housing Project
(SCH# 2022040027)

Lead Agency: City of South Lake Tahoe

Project Contact:

Questions or comments regarding this document may be addressed to:

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Project Description:

This Initial Study (IS) has been prepared to address the potential environmental effects of the Tourist Core Area Plan/Specific Plan (TCAP) Amendment and Multi-Family Housing Project, located in the City of South Lake Tahoe, California. An Initial Study is a preliminary environmental analysis that is used by the California Environmental Quality Act (CEQA) lead agency as a basis for determining whether an EIR, a Mitigated Negative Declaration, or a Negative Declaration is required for a project under CEQA guidelines. The IS has been prepared pursuant to the California Environmental Quality Act (CEQA) of 1970, Cal. Pub. Res. Code §21000 et seq. The City of South Lake Tahoe is the CEQA lead agency for this project. This IS evaluates the potential for the Area Plan/Specific Plan amendment and subsequent multi-family housing project to adversely affect the physical environment, and is an informational document that provides the City, other public agencies, interested parties and the public with an objective assessment of the potential environmental impacts that could result from project implementation.

The City is considering an applicant initiated amendment to the City of South Lake Tahoe TCAP, located in the City of South Lake Tahoe, California. The Project also includes a multi-family housing project, that is dependent on the adoption of the proposed TCAP amendment. The “amendment area” is defined as a 1.29 acre parcel, formerly Assessor’s Parcel Number (APN) 029-240-011 that is located adjacent to the former Colony Inn (formerly APN 029-441-004). The proposed amendment would rezone the amendment area from “Recreation” to “Tourist Center Mixed Use” and include policies that would limit future land uses on the combined parcels (former APN 029-240-011 and APN 029-441-004) to residential and other supporting land uses. The current Recreation district allows employee housing, and single family development as a special use, but does not allow multi-family development. If the amendment is approved, the applicant (HVR Acquisitions) wishes to expand a multi-family housing development previously approved on former APN 029-441-004 (2.5 acre) to the newly combined parcel. The two former parcels referenced above (APNs 029-240-011 and 029-441-004), were legally consolidated into a single parcel in June 2021 and are now designated as APN 029-441-024. As a result, the combined parcel of land is located in two different TCAP zoning districts with different permissible uses, height limits and density. The proposed rezone amendment, if adopted, would resolve this conflict.

Finding:

An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared to assess the project's potential effects on the environment and the significance of those effects. Based on the IS, it has been determined that the proposed project would not have significant effects on the natural environment after implementation of mitigation measures. This conclusion is supported by the following findings:

1. The proposed project would have no effects, no impact, or less-than-significant impacts related to aesthetics, biological resources, cultural/archaeological/historical/tribal resources, agricultural and forest resources, mineral and natural resources, energy, air quality, greenhouse gas emissions, geology and soils, hazards/ hazardous materials/risk of upset/human health, wildfire, hydrology and water quality, land use and planning, noise, population and housing, public services, recreation, utilities/service systems/energy resources and mandatory findings of significance.
2. Mitigation is required to avoid or reduce potentially significant impacts related to transportation/traffic and circulation (parking).

The following mitigation measure has been incorporated in the Project by the City of South Lake Tahoe to avoid or minimize environmental impacts. Implementation of this mitigation measure would avoid or reduce the environmental impacts of the proposed project to a less-than-significant level. This measure is included in the Mitigation Monitoring and Reporting Program (Attachment A).

TRAN-1 Parking Supply

Prior to construction of Phase 2 multi-family residential units, the applicant shall either enter into an agreement with an offsite land owner to utilize seven parking spaces, get agreement from the City for parking on nearby public roadway right of way, submit a parking analysis that supports a reduction in the parking demand ratio, or work with the City to amend TCAP parking standards for multi-family residential housing so that a parking deficit does not occur.

2.0 APPROVAL OF THE IS/MND

Certification by Those Responsible for Preparation of this Document. The City of South Lake Tahoe has been responsible for the preparation of this mitigated negative declaration and the incorporated initial study. I believe this document meets the requirements of the California Environmental Quality Act, is an accurate description of the proposed project, and that the lead agency has the means and commitment to implement the regulatory compliance measures/mitigation measures that will assure the project does not have any significant, adverse effects on the environment. I recommend approval of this document.

John Hitchcock, Planning Manager
City of South Lake Tahoe

Date

Approval of the Project by the Lead Agency. Pursuant to Section 21082.1 of the California Environmental Quality Act, the City of South Lake Tahoe City Council has independently reviewed and analyzed the initial study and mitigated negative declaration for the proposed project and finds that the initial study and mitigated negative declaration for the proposed project reflect the independent judgment of the City of South Lake Tahoe. The lead agency finds that the project design features will be implemented as stated in the mitigated negative declaration.

I hereby approve this project.

Natalia Wieczorke, Chair
City of South Lake Tahoe Planning Commission

Date

3.0 RESPONSE TO COMMENTS

The Draft IS was circulated for public review and comment between January 19, 2024 and February 26, 2024. A Notice of Intent to adopt a Negative Declaration was sent to state agencies and persons and organizations expressing interest in the project. Copies of the Draft IS and supporting documents were available online on the City of South Lake Tahoe’s website.

Comments in the form of a letter were received from the League to Save Lake Tahoe on the Draft IS. The following pages provide a formal response to the comments contained within each letter/email. A list of those who offered comments is provided below:

Comments Received by Date

1. Darcie Goodman Collins, PhD, CEO League to Save Lake Tahoe – 02/21/24

Comments and Responses

Each unique comment on the content of the IS/IEC is provided below, followed by a response to the full comment. Attachment B provides a copy of the comment letter as numbered.

1. Darcie Goodman Collins, League to Save Lake Tahoe, 02/21/24 Letter

Comment 1

“The parcel proposed for rezoning at the base of Van Sickle park is a restored site turned into open space and intended to be maintained as green space.”

Response 1

Please see Attachment B with copies of letters dated March 7, 2024 and June 5, 2023 from Feldman Thiel LLP that provides a response to many of the comments provided by the League to Save Lake Tahoe in its February 21, 2024 letter (and May 15, 2023 attachment). Applicable responses are also provided below, as supplemented.

This comment is incorrect. The parcel proposed for rezoning is the Back portion of the merged parcel (029-441-024) formerly known as APN 029-240-011. The Back is not a restored site as its SEZ has never been disturbed. While not subject to deed restrictions like the Front portion (formerly APN 029-441-004) of the merged parcel, the Back’s SEZ cannot be developed because new disturbance in an SEZ is prohibited under the TRPA Regional Plan. Accordingly, neither the proposed rezoning amendment nor the proposed MFD development on the Back will impact the SEZ.

Furthermore, the Back has never been designated open space to be maintained as green space. Instead, under the current REC zoning, the Back may be developed with single-family caretaker residence, employee housing, outdoor amusements, snowmobile courses, group facilities, etc.

The SEZ portion of the Front has been permanently retired through recorded deed restriction, while the Front’s high capability land is unrestricted and developable. To be sure, the City and TRPA approved a MFD Project on the Property’s high capability lands, construction of which commenced in 2023. In any event, the proposed amendment does not involve the Front.

The SEZ restoration on the Front was the responsibility of the owner's predecessor in interest. While the owner is under a legal obligation not to disturb the SEZ, it is not required to maintain, modify or improve the SEZ. Nevertheless, the owner believes a functioning SEZ adds aesthetic and environmental value to the Property and, as documented in the IS/IEC project description, has applied to TRPA for a permit to again restore the functionality of the Front's SEZ. Fencing is also proposed to protect the SEZ from encroachment by the public and the MFD Project's residents.

Comment 2

"The rezoning is inconsistent with City and Tahoe Regional Planning Agency (TRPA) plans, goals, and policies. The League objects to the proposed rezoning of APN: 029-441-024 (Colony Inn parcel) from recreation to tourist center mixed use "to accommodate higher density housing opportunities." This rezoning is inconsistent with City and TRPA plans and the intended use of the parcel and incongruent with restoration goals."

Response 2

Please see response to comment 7.

Comment 3

"The Colony Inn parcel was intended to be restored and permanently retired; and the stream environment zone (SEZ) restored, monitored, and maintained (see our previous letter, attached)."

Response 3

Please see response to comment 1. Responses to the previous letter dated May 15, 2023 are provided below in responses 9-12.

Comment 4

"Rezoning the last area zoned for recreation/conservation land in the Tourist Core Area Plan (TCAP) area contradicts the goals and policies of the City's General Plan and TRPA's Regional Plan. High density workforce housing is currently allowed on the parcel under the Recreation zone, however the owner of the parcel plans to build short term rentals on the site if this rezoning goes through.

The developer would like to build 28 condominium-style short term rentals. The project enabled by this rezoning would also include two residential units that would be dedicated to the "achievable" income category, which does not have an income limit. The current Recreation District allows single family dwelling and employee housing but does not permit multi-family dwellings (that in this case will become short term rentals) as a permissible residential use."

Response 4

As mentioned above, the Back of the combined parcel is not zoned for conservation. Rather, Conservation land is located to the east of the Property and includes Van Sickle State Park. As explained in the IS/IEC, the City's General Plan designates the entire Property as Tourist. Within the Tourist land use category, the Recreation zoning allows some residential and a variety of commercial and developed recreation uses. As part of the approved MFD Project, a driveway with hammerhead turnaround will be constructed on the Back whether this amendment is approved or not. In other words, the Back Parcel will not remain undeveloped.

Please also see response to comment 2 regarding consistency with plan goals. The developer's objective for the proposed amendment is outlined in Section 1.5 (beginning on page 5) of the IS/IEC.

Comment 5

"The old "Colony Inn" site was intended to be fully restored and permanently protected from future development. The developer took advantage of a loophole to get four 3-story short term rental buildings, with a 4 unit per acre density, each 36 feet tall, permitted for the Colony Inn parcel. The developer

subsequently combined the Colony Inn parcel with the still-recreation zoned “back parcel,” hoping to change the zoning and build more short term rentals at 25 units per acre in buildings up to 56 feet high.

The developer’s justification for increasing the number of units in this rezoning points to the City’s recently adopted housing policy goal to increase density in Town Centers. The purpose of this policy is clearly to increase housing opportunities for residents, not to increase the use of valuable residential commodities to build short term rentals.”

Response 5

Please see response to comment 1 regarding protections for the former “Colony Inn” site. The objectives for the proposed amendment and subsequent multi-family development are outlined in Section 1.5 (beginning on page 5) of the IS/IEC. The housing units will be available for purchase and it will be the decision of individual owners as to whether the units are used as short term rentals. The existing MFD Project on the Front of the merged parcel was approved in accordance with both the City’s and TRPA’s ordinances and categorically exempt from CEQA.

Comment 6

“We have continually opposed this rezoning because it is in direct conflict with the intent of the carefully negotiated zoning in TRPA’s 2012 Regional Plan. The clear zoning decisions made during the Regional Plan Update were created holistically and must not be changed by one project or a singular interest. One-off, project-driven amendments and rezoning attempts undermine both local and regional visions for growth in Tahoe.”

Response 6

This amendment involves a 1.29-acre tract of land (the Back of merged parcel) located in the TCAP Town Center where urban development is encouraged, close to transit, shopping, restaurants and other services. Where residential caretaker and employee housing are permissible uses in the REC District, rezoning the Back from REC to TSC-MU to allow another residential use (i.e., multiple-family dwellings) to be developed thereon does not undermine the vision for growth in Tahoe.

Comment 7

“The environmental review for the proposed rezoning selected limited TRPA- specific and -referenced goals and policies that this project may support but did not include goals and policies where this project clearly conflicts. This rezoning proposal does not allow a fair assessment of the pros and cons of the proposed project. These include, but are not limited to ROS-2.9, ROS-2.10, ROS-2.11, Land Use Element Goal 1 Policies 2 and 3, Soils Goal 1 Policy 7, Open Space Goal 1, and Stream Environment Standard SC-2.”

Response 7

The City General Plan’s Recreation and Open Space (ROS) Policies the League references are reprinted below followed by a response.

ROS-2.9. Permanent Open Space Protection

The City shall permanently protect as open space areas of natural resource value, including forests, wetlands, stream and riparian corridors, and floodplains.

ROS-2.10. Sufficient Size Open Space and Natural Areas

The City shall maintain open space and natural areas that are interconnected and of sufficient size to protect biodiversity, accommodate wildlife movement, and provide more sustainable ecosystems.

ROS-2.11. Open Space Funding

The City should continue to seek and obtain local, State, and Federal funding for beach, meadow, and open space acquisition.

Response: The rezoning does not conflict with the foregoing policies. First, the Property is privately-owned. More importantly, however, the Property's SEZ is protected from development as a result of the recorded deed restrictions and TRPA's prohibition of new disturbance within SEZ lands. Finally, the rezoning does not preclude the City from seeking funding for beach, meadow and open space acquisition.

The TRPA Goals and Policies the League references are reprinted below followed by responses.

Land Use Element Goal 1 Policy 2. Redeveloping Existing Town Centers is a High Priority.

Land Use Element Goal 1 Policy 3. The Plan Shall Seek to Maintain a Balance Between Economic/Social Health and the Environment.

Response: Rezoning the Back to allow MFD development in the Town Center close to services, while maintaining the SEZ in a natural state, is consistent with Land Use Element Goal 1 Policies 2 and 3.

Soils Goal 1 Policy 7. All Existing Natural Functioning Stream Environment Zones Shall Be Retained as Such and Disturbed Stream Environment Zones Shall Be Restored Whenever Possible.

Response: The Back's undisturbed SEZ will remain in a natural state as it is protected from development under TRPA's Ordinance and Goals and Policies. The Front's SEZ is restricted from development through recorded deed restrictions, and the Property owner is seeking approval from TRPA to implement measures to restore the SEZ's functionality. Accordingly, the rezoning and the proposed MFD development on the Back is consistent with this Goal and Policy.

Open Space Goal 1. Manage Areas of Open Space to Promote Conservation of Vegetation and Protection of Watersheds.

Response: The Property is not zoned for conservation. Development of the high capability lands of the Property (including the access roadway for the Back portion) is already approved and under construction. The SEZ portions of the Property will be maintained as open space. Consequently, the amendment and further MFD development on the Back is consistent with this Goal and Policy.

Comment 8

"The League continues to oppose the rezoning consistent with the League's mission, with increasing intensity as the proposal increases the development potential on one of the only two recreation parcels in the entire Tourist Core.

The rezoning process for this parcel has been fraught with delays and hangups because of the controversial nature of the project that would result from the rezoning. We have no business turning greenspace into development in Tahoe and the developer knew the limitation of the properties when they were purchased.

We urge the Planning Commission to recommend that City Council reject the proposed amendments because they conflict with the intent to permanently restore and protect the site from development, do not help achieve City or TRPA land use and open space goals and policies, and do not address the housing crisis in Tahoe."

Response 8

Please see responses to comments 1 through 7.

Comment 9

“The League does not support the proposed rezoning of APN: 029-441-024 from recreation to tourist center mixed use “to accommodate higher density housing opportunities.” This rezoning would be inconsistent with City and TRPA plans and intent. The Colony Inn parcel was intended to be permanently retired and the stream environment zone (SEZ) restored. The SEZ restoration attempt failed. Rezoning the last recreation/conservation land in the TCAP area does not align with the goals and policies of the City’s General Plan or TRPA’s Regional Plan. High density workforce housing is currently allowed on the parcel under the Recreation zone. The owner of the parcel plans to build high-end short term rentals on the site if the rezoning goes through, and has attempted to achieve this rezoning through other efforts that the City did not support.

This seems to be under the guise of creating more housing, but we know that short term rentals are planned for the site. This rezoning was not included in the February 2022 Planning Commission TCAP amendment presentation and materials. This addition to the TCAP amendments appears to be a move by the land owner to go around the Planning Commission and City Council. City planning staff was going to recommend against this zoning change at the September 15, 2022 Planning Commission meeting and the applicant pulled the proposal.

We want the SEZ restored and corner parcel permanently protected.”

Response 9

Please see response to comment 5. The restored SEZ is located on the Front which is already zoned TSC-MU and not a part of this amendment. Likewise, the “corner parcel” referred to in the comment is not a part of the amendment. This amendment is limited to a rezoning of the 1.29-acre Back which is only accessible via the Front. The SEZ restoration on the Front was the responsibility of the Predecessor. While the owner is under a legal obligation not to disturb the SEZ, it is not required to maintain, modify or improve the SEZ. Nevertheless, the Owner believes a functioning SEZ adds aesthetic and environmental value to the Property and has engaged consultants and TRPA staff to develop a plan.

Comment 10

“On March 18, 2008, the City passed a Resolution to permanently retire the Colony Inn site from future development as a condition of transferring the associated tourist accommodation units (TAUs) out of the City limits: “WHEREAS, the Colony Inn located partially Within an area identified for SEZ restoration, Once the Colony Inn is demolished, existing development will be transferred out of the SEZ and the site will be restored and permanently retired, thereby furthering the goals of the Stateline/Ski Run Community Plan and attainment of TRPA’s thresholds.”

The City included a Policy in the TCAP that aligns with its Resolution and approval of TAU transfers from the Colony Inn site: “Onsite land coverage reduction will occur primarily through environmental redevelopment by providing development incentives in centers that promote the relocation and transfer of land coverage. The City will endeavor, where feasible, to reduce and avoid creating new coverage in order to benefit the objectives of the TCAP and other areas of South Tahoe.” This language was discussed at the November 2013 TRPA Governing Board meeting, including whether or not to specifically include the Colony Inn site as a target restoration site. In the end, though a specific site was not targeted for restoration and the Colony Inn site was intended for restoration and permanent retirement as stipulated above.

The City needs to decide whether this amendment meets the intent of the General Plan and TCAP including the goals and policies contained within it. The City’s Attorney will also need to determine whether or not a new Resolution is required to allow this Area Plan amendment.

Between 2009 and 2013 the Colony Inn was demolished and the SEZ should have been restored, but the restoration failed. According to TRPA’s 2020 SEZ Baseline Report, the Colony Inn site (Colony Inn

Meadows) restoration failed.³ The SEZ only ranked a “C,” indicating an unhealthy SEZ due to a ditch running through the entire project, dewatering the meadow and leading to loss of vegetation vigor. With the proposed amendments, the coverage limit would increase from 30 percent to 70 percent, with coverage transfer on applicable lands with capability 4-7. Additional development around the SEZ where headcuts and ditches are present, significantly and irreversibly impact the SEZ which expressly violates the 2008 City Resolution and the intent of SEZ restoration. Regardless of the success of the SEZ restoration efforts, the site was to be permanently retired, in line with the City’s 2008 Resolution and enforced by TRPA’s approval of the Boulder Bay Community Enhancement Program Project EIS in 2009.⁴

In September, October, and November of 2013, the TRPA Regional Plan Implementation Committee (RPIC) and Governing Board had lengthy discussions internally and with the City and the public. One of the results of the discussion was the City reinforcing that it “wanted to identify [Colony Inn] as a priority site for getting the stream environment zone restoration completed.” Other outcomes relevant to these proposed amendments are enshrined in the TCAP itself:

- “The Colony Inn which was located in SEZ lands by the intersection of Montreal Road and Heavenly Village Way was demolished and 64,800 square feet of land coverage was removed and banked, and the site stabilized. The existing tourist accommodation units removed from the site are proposed for transfer to the Boulder Bay Project in North Stateline. A condition of the Boulder Bay permit requires that the property be restored to a functioning SEZ prior to the units being transferred.” Page 3-4.
- “The Tourist Core Area Plan responds to the needed SEZ improvements: Restore the disturbed SEZ on the Colony Inn parcel located along Montreal Road.” Page 7-5.

In July of 2013, the League submitted comments on the TCAP in its early stages of development, including a clarifying question about the Colony Inn site. The November 2013 TRPA Governing Board meeting included responses to comments and #8 directly addresses the Colony Inn site.⁶ While the Boulder Bay project has been long-delayed and is currently changing with new ownership of that site, TRPA’s transfer rules may still apply and the intent to permanently retire the site is clear.

TRPA Counsel will need to provide an analysis of the SEZ Restoration Credits and requirement to permanently retire and “stabilize” the site based on TRPA Code and TCAP approvals in 2013, and the final intent captured in TCAP.”

Response 10

The owner believes it is clear from the referenced Resolution’s language that the restoration and retirement applied only to the SEZ: WHEREAS, the Colony Inn is located partially within an area identified as a Stream Environment Zone (SEZ), and once the Colony Inn is demolished, existing development will be transferred out of the SEZ and the site will be restored and permanently retired....” The “site” is the SEZ, not the entire property.

City staff agree. Per an email from the City’s Planning Manager, John Hitchcock, dated July 26, 2022:

I have discussed this issue with Hilary, and we do not think the resolution is enforceable. I also could not find any information in our project files that the City required the parcel to be retired as part of our approval to allow [the Predecessor] to transfer the TAUs to another jurisdiction.

The actual transfer itself is a TRPA approval process. When [the Predecessor] applied to TRPA to transfer the TAUs, they were required to transfer the units pursuant to the TRPA Code, which only required SEZ site restoration and for the site to be deed restricted and kept in its natural state.

The City's approval of the Approved Project on the Property evidences the City's position that the Resolution does not stand for what the League argues. Once again, the proposed zoning amendment does not involve the Front. Only the Back is affected, and it was not the subject of the City's Resolution or the SEZ restoration effort on the Front.

Regarding land coverage, properties within Town Centers are eligible for up to 70 percent land coverage. The Back is already located within the Town Center and therefore eligible for up to 70 percent coverage. Thus, the amendment has no impact on allowable land coverage.

Comment 11

"In the TCAP, the parcels in question are zoned as recreation. While this questionably aligns with the intent in the General Plan, Recreation districts in the TCAP are "intended to allow a variety of recreation uses such as dispersed recreation and parks. Permissible uses include day use areas and group facilities." The dispersed recreation use most closely aligns with the intent of the Conservation designation in the General Plan. When the TCAP was developed, the Conservation designation arguably should have translated to the Open Space designation which "is intended to preserve land in its present use that would: 1) conserve and enhance natural or scenic resources; 2) protect streams environment zones, sensitive lands, water quality or water supply; 3) promote soil and habitat conservation; 4) enhance recreation opportunities; and/or 5) preserve visual quality along highways, roads, and street corridors or scenic vistas. The land is predominantly open, undeveloped, or in a lightly developed and is suitable for any of the following: natural areas, wildlife and native plant habitat; erosion control facilities, stream environment zones, stream corridors; passive parks; and/or trails for non-motorized activities." This Open Space designation also aligns with TCAP policies NCR-2.3 and R-2.3,9 which would be very difficult or impossible to implement or achieve if the proposed amendments are approved.

TRPA's Regional Plan (RPU) was updated in 2012, between the adoption of the City's General Plan and the TCAP. The IS/MND, in section 1.8, selected a few TRPA- specific and -referenced goals and policies that this project may support but the ones it may conflict with are not included which does not allow a fair assessment of the pros and cons of the proposed project. These include, but are not limited to ROS-2.9, ROS-2.10, ROS-2.11, Land Use Element Goal 1 Policies 2 and 3, Soils Goal 1 Policy 7, Open Space Goal 1, and Stream Environment Standard SC-2."

Response 11

The comment infers that the Back portion of the parcel subject of the proposed amendment is located within the GP conservation land use designation. The subject parcel of the amendment (currently recreation) is located within the GP Tourist land use category. Conservation land use is located to the east of the subject parcel.

Further, the Back is not located in the Open Space District of the TCAP which is more restrictive than REC zoning. The Back is zoned REC, not Open Space. Today, the Back has been approved for a driveway with hammerhead turnaround.

Please see response to comment 7 regarding consistency with plan goals and policies.

Comment 12

"To comply with the City's and TRPA's land use designations and goals and policies related to open space and recreation, the "corner parcel" at 3828 Montreal Road (APN 029-441-003) needs to be permanently retired as Recreation or Open Space through a deed restriction on the parcel. This would include the access easement associated with the Colony Inn to the Van Sickle access road."

Response 12

The corner parcel referenced in the comment is not part of the proposed amendment or subsequent multi-family development application.

4.0 TEXT MODIFICATIONS TO THE INITIAL STUDY

The following changes to the IS dated January 2024 have been made based on agency input and public comment on the IS. text is new text that has been added to the IS. Text that is shown in ~~strikeout~~ has been removed from the IS.

There are no changes to the IS text required.

ATTACHMENT A MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (MMRP) for the TCAP Rec Amendment and Multi-Family Housing Project is provided in Table A-1 and prepared in compliance with requirements of California Public Resources Code Section 21081.6 and Section 15097 of the California Environmental Quality Act Guidelines. In general, the City of South Lake Tahoe shall be responsible for implementing and monitoring the measure identified below. Table A-1 describes each mitigation measure and identifies the responsible agency, timing, and monitoring requirements.

Table A-1

Mitigation Monitoring and Reporting Program Checklist for TCAP Rec Amendment and Multi-Family Housing Project

Mitigation Measure Description	Monitoring Responsibility	Timing	Monitoring Requirement
TRAN-1 Parking Supply Prior to construction of Phase 2 multi-family residential units, the applicant shall either enter into an agreement with an offsite land owner to utilize seven parking spaces, get agreement from the City for parking on nearby public roadway right of way, submit a parking analysis that supports a reduction in the parking demand ratio, or work with the City to amend TCAP parking standards for multi-family residential housing so that a parking deficit does not occur.	City of South Lake Tahoe	Prior to Phase 2 multi-family residential development	Provide adequate parking supply to meet parking demand standards for Phase 2 housing

ATTACHMENT B COMMENT LETTERS

February 21, 2024

City of South Lake Tahoe
Planning Commission
1901 Lisa Maloff Way, South Lake Tahoe, CA 96150
Submitted via email

Re: Agenda Item #2: Tourist Core Area Plan Amendments

Dear Planning Commission Members and Staff,

1 For a multitude of compelling reasons, the League urges the City of South Lake Tahoe Planning Commission to reject the rezoning of the Colony Inn parcel. [The parcel proposed for rezoning at the base of Van Sickle park is a restored site turned into open space and intended to be maintained as green space.]

2 [The rezoning is inconsistent with City and Tahoe Regional Planning Agency (TRPA) plans, goals, and policies. The League objects to the proposed rezoning of APN: 029-441-024 (Colony Inn parcel) from recreation to tourist center mixed use “to accommodate higher density housing opportunities.” This rezoning is inconsistent with City and TRPA plans and the intended use of
3 the parcel and incongruent with restoration goals.] [The Colony Inn parcel was intended to be
4 restored and permanently retired; and the stream environment zone (SEZ) restored, monitored, and maintained (see our previous letter, attached).] [Rezoning the last area zoned for recreation/conservation land in the Tourist Core Area Plan (TCAP) area contradicts the goals and policies of the City’s General Plan and TRPA’s Regional Plan. High density workforce housing is currently allowed on the parcel under the Recreation zone, however the owner of the parcel plans to build short term rentals on the site if this rezoning goes through.

The developer would like to build 28 condominium-style short term rentals. The project enabled by this rezoning would also include two residential units that would be dedicated to the “achievable” income category, which does not have an income limit. The current Recreation District allows single family dwelling and employee housing but does not permit multi-family dwellings (that in this case will become short term rentals) as a permissible residential use.]

5 [The old “Colony Inn” site was intended to be fully restored and permanently protected from future development. The developer took advantage of a loophole to get four 3-story short term rental buildings, with a 4 unit per acre density, each 36 feet tall, permitted for the Colony Inn parcel. The developer subsequently combined the Colony Inn parcel with the still-recreation zoned “back parcel,” hoping to change the zoning and build more short term rentals at 25 units per acre in buildings up to 56 feet high.

The developer’s justification for increasing the number of units in this rezoning points to the City’s recently adopted housing policy goal to increase density in Town Centers. The purpose of this policy is clearly to increase housing opportunities for residents, not to increase the use of valuable residential commodities to build short term rentals.]

- 6 [We have continually opposed this rezoning because it is in direct conflict with the intent of the carefully negotiated zoning in TRPA's 2012 Regional Plan. The clear zoning decisions made during the Regional Plan Update were created holistically and must not be changed by one project or a singular interest. One-off, project-driven amendments and rezoning attempts
- 7 undermine both local and regional visions for growth in Tahoe.] [The environmental review for the proposed rezoning selected limited TRPA- specific and -referenced goals and policies that this project *may* support but did not include goals and policies where this project clearly conflicts. This rezoning proposal does not allow a fair assessment of the pros and cons of the proposed project. These include, but are not limited to ROS-2.9, ROS-2.10, ROS-2.11, Land Use Element Goal 1 Policies 2 and 3, Soils Goal 1 Policy 7, Open Space Goal 1, and Stream Environment Standard SC-2.]
- 8 [The League continues to oppose the rezoning consistent with the League's mission, with increasing intensity as the proposal increases the development potential on one of the only two recreation parcels in the entire Tourist Core.

The rezoning process for this parcel has been fraught with delays and hangups because of the controversial nature of the project that would result from the rezoning. We have no business turning greenspace into development in Tahoe and the developer knew the limitation of the properties when they were purchased.

We urge the Planning Commission to recommend that City Council reject the proposed amendments because they conflict with the intent to permanently restore and protect the site from development, do not help achieve City or TRPA land use and open space goals and policies, and do not address the housing crisis in Tahoe.]

Sincerely,



Darcie Goodman Collins, PhD
CEO League to Save Lake Tahoe

May 15, 2023

City of South Lake Tahoe
City Council Members
Hilary Roverud, Planning Director
1901 Lisa Maloff Way, South Lake Tahoe, CA 96150
Submitted via email

Re: Agenda Item #15: Tourist Core Area Plan: 2023 Amendments, Montreal Parcel Rezoning

Dear City Council Members and Staff,

As a member of the 2012 Regional Plan Update (RPU) Bi-State Working Group, the League to Save Lake Tahoe (League) appreciates the opportunity to continue to work with the Tahoe Regional Planning Agency (TRPA) and the City of South Lake Tahoe (City) to implement the RPU. Effective implementation of Area Plans is critical to this ongoing effort. The League thanks the City for the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Tourist Core Area Plan (TCAP) amendments.

The League has commented to both the City and TRPA during the Scoping period and on the CEQA documents for the standalone Montreal amendment. We are strongly opposed to the rezoning of APN: 029-441-024 on Montreal Avenue and request it be removed from the proposed TCAP amendment package.

Overview

9 [The League does not support the proposed rezoning of APN: 029-441-024 from recreation to tourist center mixed use “to accommodate higher density housing opportunities.” This rezoning would be inconsistent with City and TRPA plans and intent. The Colony Inn parcel was intended to be permanently retired and the stream environment zone (SEZ) restored. The SEZ restoration attempt failed. Rezoning the last recreation/conservation land in the TCAP area does not align with the goals and policies of the City’s General Plan or TRPA’s Regional Plan. High density workforce housing is currently allowed on the parcel under the Recreation zone. The owner of the parcel plans to build high-end short term rentals on the site if the rezoning goes through, and has attempted to achieve this rezoning through other efforts that the City did not support.

This seems to be under the guise of creating more housing, but we know that short term rentals are planned for the site. This rezoning was not included in the February 2022 Planning Commission TCAP amendment presentation and materials. This addition to the TCAP amendments appears to be a move by the land owner to go around the Planning Commission and City Council. City planning staff was going to recommend against this zoning change at the September 15, 2022 Planning Commission meeting and the applicant pulled the proposal.

We want the SEZ restored and corner parcel permanently protected.]

10 **SEZ Impacts and Site Suitability for Development**

[On March 18, 2008, the City passed a Resolution to permanently retire the Colony Inn site from future development as a condition of transferring the associated tourist accommodation units (TAUs) out of the City limits: “WHEREAS, the Colony Inn located partially Within an area identified for SEZ restoration, Once the Colony Inn is demolished, existing development will be transferred out of the SEZ and the site will be restored and permanently retired, thereby furthering the goals of the Stateline/Ski Run Community Plan and attainment of TRPA’s thresholds.”¹

The City included a Policy in the TCAP that aligns with its Resolution and approval of TAU transfers from the Colony Inn site: “Onsite land coverage reduction will occur primarily through environmental redevelopment by providing development incentives in centers that promote the relocation and transfer of land coverage. The City will endeavor, where feasible, to reduce and avoid creating new coverage in order to benefit the objectives of the TCAP and other areas of South Tahoe.”² This language was discussed at the November 2013 TRPA Governing Board meeting, including whether or not to specifically include the Colony Inn site as a target restoration site. In the end, though a specific site was not targeted for restoration and the Colony Inn site was intended for restoration and permanent retirement as stipulated above.

The City needs to decide whether this amendment meets the intent of the General Plan and TCAP including the goals and policies contained within it. The City’s Attorney will also need to determine whether or not a new Resolution is required to allow this Area Plan amendment.

Between 2009 and 2013 the Colony Inn was demolished and the SEZ should have been restored, but the restoration failed. According to TRPA’s 2020 SEZ Baseline Report, the Colony Inn site (Colony Inn Meadows) restoration failed.³ The SEZ only ranked a “C,” indicating an unhealthy SEZ due to a ditch running through the entire project, dewatering the meadow and leading to loss of vegetation vigor. With the proposed amendments, the coverage limit would increase from 30 percent to 70 percent, with coverage transfer on applicable lands with capability 4-7. Additional development around the SEZ where headcuts and ditches are present, significantly and irreversibly impact the SEZ which expressly violates the 2008 City Resolution and the intent of SEZ restoration. Regardless of the success of the SEZ restoration efforts, the site was to be permanently retired, in line with the City’s 2008 Resolution and enforced by TRPA’s approval of the Boulder Bay Community Enhancement Program Project EIS in 2009.⁴

In September, October, and November of 2013, the TRPA Regional Plan Implementation Committee (RPIC) and Governing Board had lengthy discussions internally and with the City and the public. One of the results of the discussion was the City reinforcing that it “wanted to identify [Colony Inn] as a priority site

¹ March 18, 2008 City of South Lake Tahoe Staff Report and Resolution. https://slt.granicus.com/MetaViewer.php?view_id=4&clip_id=181&meta_id=15886

² October 15, 2013 TCAP. Policy NCR-4.1, page 7-3. <https://www.cityofslt.us/DocumentCenter/View/3508/Final-Tourist-Core-Area-Plan?bidId=>

³ December 2020 Lake Tahoe Basin SEZ Baseline Condition Assessment. Report: https://gis.trpa.org/TahoeSEZViewer/SEZ%20baseline%20condition%20assessment_v8.pdf; StoryMap: <https://www.google.com/url?q=https://storymaps.arcgis.com/stories/815a21db82944f7f95ce94d76c73a19b&sa=D&source=docs&ust=1652741001866899&usg=AOvVaw2791Wlh0aSr9wKajKr5gZW>

⁴ November 4, 2009 Boulder Bay CEP Project EIS. https://www.trpa.gov/wp-content/uploads/documents/archive/4_01_Land_Use.pdf

for getting the stream environment zone restoration completed.”⁵ Other outcomes relevant to these proposed amendments are enshrined in the TCAP itself:

- “The Colony Inn which was located in SEZ lands by the intersection of Montreal Road and Heavenly Village Way was demolished and 64,800 square feet of land coverage was removed and banked, and the site stabilized. The existing tourist accommodation units removed from the site are proposed for transfer to the Boulder Bay Project in North Stateline. A condition of the Boulder Bay permit requires that the property be restored to a functioning SEZ prior to the units being transferred.” Page 3-4.
- “The Tourist Core Area Plan responds to the needed SEZ improvements: Restore the disturbed SEZ on the Colony Inn parcel located along Montreal Road.” Page 7-5.

In July of 2013, the League submitted comments on the TCAP in its early stages of development, including a clarifying question about the Colony Inn site. The November 2013 TRPA Governing Board meeting included responses to comments and #8 directly addresses the Colony Inn site.⁶ While the Boulder Bay project has been long-delayed and is currently changing with new ownership of that site, TRPA’s transfer rules may still apply and the intent to permanently retire the site is clear.

TRPA Counsel will need to provide an analysis of the SEZ Restoration Credits and requirement to permanently retire and “stabilize” the site based on TRPA Code and TCAP approvals in 2013, and the final intent captured in TCAP.]

Recreation/Open Space

- 11 [In the TCAP, the parcels in question are zoned as recreation. While this questionably aligns with the intent in the General Plan, Recreation districts in the TCAP are “intended to allow a variety of recreation uses such as dispersed recreation and parks. Permissible uses include day use areas and group facilities.”⁷ The dispersed recreation use most closely aligns with the intent of the Conservation designation in the General Plan. When the TCAP was developed, the Conservation designation arguably should have translated to the Open Space designation which “is intended to preserve land in its present use that would: 1) conserve and enhance natural or scenic resources; 2) protect streams environment zones, sensitive lands, water quality or water supply; 3) promote soil and habitat conservation; 4) enhance recreation opportunities; and/or 5) preserve visual quality along highways, roads, and street corridors or scenic vistas. The land is predominantly open, undeveloped, or in a lightly developed and is suitable for any of the following: natural areas, wildlife and native plant habitat; erosion control facilities, stream environment zones, stream corridors; passive parks; and/or trails for non-motorized activities.”⁸ This Open Space designation also aligns with TCAP policies NCR-2.3 and R-2.3,⁹ which would be very difficult or impossible to implement or achieve if the proposed amendments are approved.

⁵ October 24, 2013 Meeting Minutes from TRPA RPIC meeting. Page 19. <https://www.trpa.gov/wp-content/uploads/documents/archive/January-29-2014-Governing-Board-Packet.pdf>

⁶ November 20, 2013 Response to Comments on the TCAP. Response #8, Page 4. https://www.trpa.gov/wp-content/uploads/documents/archive/6_FINAL_Attachment-E_Responses-to-Comments.pdf

⁷ October 15, 2013 TCAP. Page 5-6.

⁸ *Ibid.*

⁹ TCAP Policy NCR-2.3: Encourage the use and access to designated open space for passive recreation uses when they conform to resource restrictions

TCAP Policy R-2.3: Encourage landscaped, small passive parks in and around the Tourist Core

TRPA's Regional Plan (RPU) was updated in 2012, between the adoption of the City's General Plan and the TCAP. The IS/MND, in section 1.8, selected a few TRPA- specific and -referenced goals and policies that this project *may* support but the ones it may conflict with are not included which does not allow a fair assessment of the pros and cons of the proposed project. These include, but are not limited to ROS-2.9, ROS-2.10, ROS-2.11, Land Use Element Goal 1 Policies 2 and 3, Soils Goal 1 Policy 7, Open Space Goal 1, and Stream Environment Standard SC-2.]

- 12 [To comply with the City's and TRPA's land use designations and goals and policies related to open space and recreation, the "corner parcel" at 3828 Montreal Road (APN 029-441-003) needs to be permanently retired as Recreation or Open Space through a deed restriction on the parcel. This would include the access easement associated with the Colony Inn to the Van Sickle access road.]

Summary and Recommendations

The proposed rezoning is not consistent with the land use designations or the majority of the relevant goals and policies in the RPU, TCAP, or General Plan. This proposed rezoning should be removed from the proposed TCAP amendments.

Thank you for the opportunity to provide these comments. Please do not hesitate to contact me with questions.

Sincerely,



Darcie Goodman Collins, PhD
CEO League to Save Lake Tahoe

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March 7, 2024

Planning Commission
City of South Lake Tahoe
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Via Email

nwieczorek@cityofslt.us
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Re: Tourist Core Area Plan Amendment (TCAP)
Rezone Portion of APN 029-441-024 from Recreation (REC) to Tourist Center
Mixed-Use (TSC-MU)

Honorable Planning Commission Members:

We submit this letter to correct the record with respect to comments the League to Save Lake Tahoe (the “League”) submitted to you on February 21, 2024, objecting to the proposed rezoning of a portion of the above-referenced property (the “Property”). Before addressing the League’s comments, we offer the following information to frame the issues raised.

The privately-owned Property is comprised of approximately 3.79 acres of land. The front 2.5 acres abutting Montreal Road (the “Front”) are zoned TSC-MU while the back 1.29 acres of the Property (the “Back”) are zoned REC. To be clear, **both** the Front and Back are already within the TCAP boundaries and the Town Center Overlay where urban development is encouraged, and the City’s General Plan designates the entire Property as Tourist. The Back is bounded by the Front to the west, an existing power plant to the south, a privately-owned undeveloped parcel immediately to the north and Van Sickle Bi-State Park beyond that, and CTC property to the east.

Under the current REC zoning, employee housing and a variety of commercial and recreation uses could be developed on the Back.¹ Rezoning the Back to TSC-MU will allow additional residential uses at higher densities to be developed on the Back. Both the City and TRPA have approved a multiple-family dwelling (MFD) project on the Front with the driveway serving the residences extending onto the Back (the “MFD Project”). (See enclosed rendering.) The public has no access to Van Sickle Park or the adjacent CTC property to the south through the Property – neither the Front nor the Back.

¹ Outdoor amusements, privately-owned assembly and entertainment, group facilities and snowmobile courses are permissible uses in the REC District.

The amendment is only to change the TCAP's zoning of the 1.29-acre Back from REC to TSC-MU so the Property is uniformly zoned. While the Back is 1.29 acres in size, only 0.6 acre consists of developable high capability land. Thus, the amendment affects a mere 0.6 acre of land.

BACKGROUND

The Front is the site of the former Colony Inn and is comprised of both high capability Class 5 and low capability Class 1b, or SEZ, lands. The current owner's predecessor in interest demolished the Colony Inn in or around 2009 and TRPA banked 104 tourist accommodation units (TAUs), one residential unit of use (RUU) and 64,810 sf of land coverage on the Front. Of the 104 TAUs, 84 were banked in the SEZ and 20 were banked in Class 5 lands. The Predecessor subsequently restored the SEZ portion of the Front pursuant to a plan approved by both TRPA and the Lahontan Regional Water Quality Control Board. Several years of monitoring occurred, the restoration passed final TRPA inspection on October 16, 2015, and TRPA released the restoration security on November 20, 2015. (TRPA File No. ERSP2009-3560.)

The 84 SEZ TAUs have been transferred off the Property, and ten of the 20 remaining TAUs in Class 5 lands have been converted to RUUs to support the MFD Project which is limited to the Property's high capability lands. Pursuant to the TRPA Code, when development rights are transferred out of SEZ lands, a deed restriction permanently restricting the SEZ from future development must be recorded against the sending parcel. The appropriate deed restrictions were recorded against the Front in connection with the transfer of the 84 SEZ TAUs. *The high capability lands of the Property are unaffected by the deed restrictions.*

Erosion, homeless camps, unpermitted campfires, vandalism and other activities have occurred on the Property since the successful SEZ restoration. These activities have caused an incision in the SEZ such that water is no longer retained onsite, and the functioning of the restored SEZ has suffered as a result.

LEAGUE COMMENTS

“The parcel proposed for rezoning at the base of Van Sickle park is a restored site turned into open space and intended to be maintained as green space.” “The Colony Inn parcel was intended to be restored and permanently retired.”

Response: This comment is false. The parcel proposed for rezoning is the Back. The Back is not a restored site as its SEZ has never been disturbed. While not subject to deed restrictions like the Front, the Back's SEZ cannot be developed because new disturbance in an SEZ is prohibited under the TRPA Regional Plan. Accordingly, neither the proposed amendment nor the proposed MFD development on the Back will impact the SEZ.

Furthermore, the Back has never been designated open space to be maintained as green space. Instead, under the current REC zoning, the Back may be developed with employee housing, outdoor amusements, snowmobile courses, group facilities, etc.

As mentioned above, the SEZ portion of the Front has been permanently retired through recorded deed restriction, while the Front's high capability land is unrestricted and developable. To be sure, the City and TRPA approved the MFD Project on the Property's high capability lands, construction of which commenced in 2023. In any event, the proposed amendment does not involve the Front.

The SEZ restoration on the Front was the responsibility of the owner's predecessor in interest. While the owner is under a legal obligation not to disturb the SEZ, it is not required to maintain, modify or improve the SEZ. Nevertheless, the owner believes a functioning SEZ adds aesthetic and environmental value to the Property and, as documented in the IS/IEC project description, has applied to TRPA for a permit to, again, restore the functionality of the Front's SEZ. Fencing is also proposed to protect the SEZ from encroachment by the public and the MFD Project's residents.

“Rezoning the last area zoned for recreation/conservation land in the Tourist Core Area Plan (TCAP) area contradicts the goals and policies of the City’s General Plan and TRPA’s Regional Plan.”

Response: This comment is misleading. The Back is not zoned for conservation. Rather, Conservation land is located to the east of the Property and includes Van Sickle State Park. As explained above, the City's General Plan designates the entire Property as Tourist. Within the Tourist land use category, the Recreation zoning allows some residential and a variety of commercial and developed recreation uses. As part of the MFD Project, a driveway with hammerhead turnaround will be constructed on the Back whether this amendment is approved or not. In other words, the Back Parcel will not remain undeveloped.

“The clear zoning decisions made during the Regional Plan Update were created holistically and must not be changed by one project or a singular interest. One-off, project-driven amendments and rezoning attempts undermine both local and regional visions for growth in Tahoe.”

Response: This amendment involves a 1.29-acre tract of land located in the TCAP Town Center where urban development is encouraged, close to transit, shopping, restaurants and other services. Where residential caretaker and employee housing are permissible uses in the REC District, rezoning the Back from REC to TSC-MU to allow another residential use (i.e., multiple-family dwellings) to be developed thereon hardly undermines the vision for growth in Tahoe.

“The developer took advantage of a loophole to get four 3-story short term rental buildings, with a 4 unit per acre density, each 36 feet tall, permitted for the Colony Inn parcel.”

Response: The MFD Project was approved in accordance with both the City’s and TRPA’s ordinances and categorically exempt from CEQA.

“The environmental review for the proposed rezoning selected limited TRPA- specific and -referenced goals and policies that this project *may* support but did not include goals and policies where this project clearly conflicts. This rezoning proposal does not allow a fair assessment of the pros and cons of the proposed project. These include, but are not limited to ROS-2.9, ROS-2.10, ROS-2.11, Land Use Element Goal 1 Policies 2 and 3, Soils Goal 1 Policy 7, Open Space Goal 1, and Stream Environment Standard SC-2.”

The City General Plan’s Recreation and Open Space (ROS) Policies the League references are reprinted below followed by a response.

ROS-2.9. Permanent Open Space Protection

The City shall permanently protect as open space areas of natural resource value, including forests, wetlands, stream and riparian corridors, and floodplains.

ROS-2.10. Sufficient Size Open Space and Natural Areas

The City shall maintain open space and natural areas that are interconnected and of sufficient size to protect biodiversity, accommodate wildlife movement, and provide more sustainable ecosystems.

ROS-2.11. Open Space Funding

The City should continue to seek and obtain local, State, and Federal funding for beach, meadow, and open space acquisition.

Response: The rezoning does not conflict with the foregoing policies. First, the Property is privately-owned. More importantly, however, the Property’s SEZ is protected from development as a result of the recorded deed restrictions and TRPA’s prohibition of new disturbance within SEZ lands. Finally, the rezoning does not preclude the City from seeking funding for beach, meadow and open space acquisition.

The TRPA Goals and Policies the League references are reprinted below followed by responses.

Land Use Element Goal 1 Policy 2. Redeveloping Existing Town Centers is a High Priority.

Land Use Element Goal 1 Policy 3. The Plan Shall Seek to Maintain a Balance Between Economic/Social Health and the Environment.

Response: Rezoning the Back to allow MFD development in the Town Center close to services, while maintaining the SEZ in a natural state, is consistent with Land Use Element Goal 1 Policies 2 and 3.

Soils Goal 1 Policy. All Existing Natural Functioning Stream Environment Zones Shall Be Retained as Such and Disturbed Stream Environment Zones Shall Be Restored Whenever Possible.

Response: The Back's undisturbed SEZ will remain in a natural state as it is protected from development under TRPA's Ordinance and Goals and Policies. The Front's SEZ is restricted from development through recorded deed restrictions, and the Property owner is seeking approval from TRPA to implement measures to restore the SEZ's functionality. Accordingly, the rezoning and the proposed MFD development on the Back is consistent with this Goal and Policy.

Open Space Goal 1. Manage Areas of Open Space to Promote Conservation of Vegetation and Protection of Watersheds.

Response: The Property is not zoned for conservation. Development of the high capability lands of the Property is already approved and under construction. The SEZ portions of the Property will be maintained as open space. Consequently, the amendment and further MFD development on the Back is consistent with this Goal and Policy.

CONSISTENCY WITH THE GENERAL PLAN

The amendment and the project are consistent with the following General Plan Goals and Policies:

Land Use and Community Design Goal LU-3

To encourage the creation of more complete and well-designed neighborhoods that promote livability, safety, and sustainability.

Policy 3.3. Diverse Housing Choices

The City shall promote a wide range of housing opportunities, both ownership and rental, for all income levels.

Policy 3.6. Residential Variety in Existing Neighborhoods

The City shall encourage development of a variety of new housing types that provide housing choices for consumers in terms of types of units, location, unit, sizes, and costs, design, amount of privacy, and neighborhood environment, while preserving neighborhood character.

Housing Element Goal HE-7

To provide for a variety of housing types, sizes, price ranges, and densities compatible with the existing character and integrity of residential neighborhoods.

Policy 7-2. The City shall encourage compatibility of physical design, building structure, and lot layout relationships between existing and new construction to help the new developments complement the surrounding neighborhoods.

CONCLUSION

We respectfully submit the League's comments are without merit, and rezoning the Back is consistent with the City's General Plan and adopted TCAP. Rezoning the Back from REC to TSC-MU is consistent with the General Plan designation of Tourist. The Back is located within the Town Center where urban development is encouraged. The amendment does not involve the Front and will not allow development to occur in the Back's SEZ lands. ***Development is already approved on the Back*** in the form of a driveway with hammerhead turnaround. Further development of the Back with MFD residences will screen the power plant as viewed from the CTC property and Van Sickle B-State Park. Residential development of the Back will utilize TAUs (converted to RUUs) and land coverage banked on the Property, minimizing environmental impacts.

Thank you for your consideration of the foregoing.

Sincerely,

FELDMAN THIEL LLP



By:

Kara L. Thiel

KLT/lid

Enclosure

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June 5, 2023

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Re: Tourist Core Area Plan Amendment (TCAP)
Rezone Portion of APN 029-441-024 from Recreation (REC) to Tourist Center
Mixed-Use (TSC-MU)

Honorable Council Members:

We submit this letter to correct the record with respect to comments the League to Save Lake Tahoe (the “League”) submitted to you on May 15, 2023, objecting to the proposed rezoning of the above-referenced property (the “Property”). Before addressing the League’s specific comments, we offer the following information to frame the issues raised.

The privately-owned¹ Property is comprised of approximately 3.79 acres of land. The front 2.5 acres abutting Montreal Road (the “Front”) are zoned TSC-MU while the back 1.29 acres of the Property (the “Back”) are zoned REC. To be clear, **both** the Front and Back are already within the TCAP boundaries and the Town Center Overlay where urban development is encouraged, and the City’s General Plan designates the entire Property as Tourist. The Back is bounded by the Front to the north, an existing power plant to the west, a privately-owned undeveloped parcel immediately to the east and Van Sickle Bi-State Park beyond that, and CTC property to the south.

Under the current REC zoning, employee housing and a variety of recreation uses could be developed on the Back. Rezoning the Back to TSC-MU will allow additional residential uses at higher densities to be developed on the Back. Both the City and TRPA have approved a multiple-family dwelling (MFD) project on the Front with the driveway serving the residences extending onto the Back (the “Approved Project”). The public has no access to Van Sickle Park or the adjacent CTC property to the south through the Property – neither the Front nor Back.

¹ The Property is owned by HVR Acquisitions, LLC (the “Owner”).

The amendment is only to change the TCAP's zoning of the 1.29-acre Back from REC to TSC-MU so the Property is uniformly zoned. While the Back is 1.29 acres in size, only 0.6 acre consists of developable high capability land. Thus, this component of the amendment affects a mere 0.6 acre of land.

BACKGROUND

The Front is the site of the former Colony Inn and is comprised of both high capability Class 5 and low capability Class 1b, or SEZ, lands. The Owner's predecessor in interest (the "Predecessor") demolished the Colony Inn in or around 2009 and TRPA banked 104 tourist accommodation units (TAUs), one residential unit of use (RUU) and 64,810 sf of land coverage on the Front. Of the 104 TAUs, 84 were banked in the SEZ and 20 were banked in Class 5 lands. The Predecessor subsequently restored the SEZ portion of the Front pursuant to a plan approved by both TRPA and the Lahontan Regional Water Quality Control Board. Several years of monitoring occurred, and the restoration passed final TRPA inspection on October 16, 2015, and TRPA released the restoration security on November 20, 2015. (TRPA File No. ERSP2009-3560.)

The 84 SEZ TAUs have been transferred off the Property, and ten of the 20 remaining TAUs in Class 5 lands have been converted to RUUs and will support the Approved Project which is limited to the Property's high capability lands. Pursuant to the TRPA Code, when development rights are transferred out of SEZ lands, a deed restriction permanently restricting the SEZ from future development must be recorded against the sending parcel. The appropriate deed restrictions were recorded against the Front in connection with the transfer of the 84 SEZ TAUs. ***The high capability lands of the Property are unaffected by the deed restrictions.***

Erosion, homeless camps, unpermitted campfires, vandalism and other activities have occurred on the Property since the successful SEZ restoration. These activities have caused an incision in the SEZ such that water is no longer retained onsite, and the functioning of the restored SEZ has suffered as a result.

LEAGUE COMMENTS

"The Colony Inn parcel was intended to be permanently retired and the stream environment zone (SEZ) restored."

Response: As mentioned above, the SEZ portion of the Front has been permanently retired through recorded deed restrictions. This amendment does not involve the Front. The SEZ portion of the Back has never been disturbed, was not part of the prior restoration effort on the Front and will not be developed whether this amendment is approved or not. New disturbance in an SEZ is prohibited. The Approved Project does not involve SEZ on the Front or Back.

“This rezoning was not included in the February 2022 Planning Commission TCAP amendment presentation and materials. This addition to the TCAP amendments appears to be a move by the land owner to go around the Planning Commission and City Council.”

Response: The proposed rezoning of the Back has been contemplated since 2019. Initially, the Owner applied to the City for the amendment, a scoping notice was published and a public meeting was held on the amendment. The League participated in the public meeting and submitted comments to the City and TRPA on multiple occasions. After years of back and forth between the Owner, the City and TRPA, the City ultimately decided to include and support the rezoning in a broader TCAP amendment package, albeit following the initial presentation to the Planning Commission meeting in February 2023. The League knows the Owner is not attempting a workaround and has spent years and hundreds of thousands of dollars in an effort to rezone 1.29 acres of land.

“We want the SEZ restored and corner parcel permanently retired.”

Response: The restored SEZ is located on the Front which is already zoned TSC-MU and *not* a part of this amendment. Likewise, the “corner” parcel is *not* a part of the amendment. This amendment is limited to a rezoning of the 1.29-acre Back which is only accessible via the Front.

The SEZ restoration on the Front was the responsibility of the Predecessor. While the owner is under a legal obligation not to disturb the SEZ, it is not required to maintain, modify or improve the SEZ. Nevertheless, the Owner believes a functioning SEZ adds aesthetic and environmental value to the Property and has engaged consultants and TRPA staff to develop a plan. The Owner even met with the League onsite last year to discuss further restoration efforts. The CTC declined to participate in funding SEZ restoration.

“On March 18, 2008, The City passed a Resolution to permanently retire the Colony Inn site from future development as a condition of transferring the associated tourist accommodation units (TAUs) out of the City limits.”

Response: It is clear from the Resolution’s language that the restoration and retirement applied only to the SEZ: WHEREAS, the Colony Inn is located *partially within an area identified as a Stream Environment Zone (SEZ)*, and once the Colony Inn is demolished, existing development will be transferred *out of the SEZ and the site will be restored and permanently retired....*” The “site” is the SEZ, not the entire property.

City staff agree. Per an email from the City's Planning Manager, John Hitchcock, dated July 26, 2022:

I have discussed this issue with Hilary, and we do not think the resolution is enforceable. I also could not find any information in our project files that the City required the parcel to be retired as part of our approval to allow [the Predecessor] to transfer the TAUs to another jurisdiction.

The actual transfer itself is a TRPA approval process. When [the Predecessor] applied to TRPA to transfer the TAUs, they were required to transfer the units pursuant to the TRPA Code, which only required SEZ site restoration and for the site to be deed restricted and kept in its natural state.

The City's approval of the Approved Project on the Property evidences the City's position that the Resolution does not stand for what the League argues. Once again, this amendment does not involve the Front. Only the Back is affected, and it was not the subject of the City's Resolution or the SEZ restoration effort on the Front.

“With the proposed amendments, the coverage limit would increase from 30 percent to 70 percent....”

Response: Properties within Town Centers are eligible for up to 70 percent land coverage. *The Back is already located within the Town Center* and therefore eligible for up to 70 percent coverage. Thus, the amendment has no impact on allowable land coverage.

“When the TCAP was developed, the Conservation designation [in the General Plan] arguably should have translated to the Open Space designation....”

Response: This comment is misleading. The Back is *not* located in the Open Space District of the TCAP which is more restrictive than REC zoning. The Back is zoned REC, not Open Space. Today, the Back has been approved for a driveway with hammerhead turnaround.

CONCLUSION

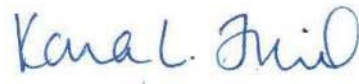
We respectfully submit the League's comments are without merit, and the rezoning of the Back is consistent with the City's General Plan and adopted TCAP. Rezoning the Back from REC to TSC-MU is consistent with the General Plan designation of Tourist. The Back is located within the Town Center where urban development is encouraged. The amendment does not involve the Front and will not allow development to occur in the Back's SEZ lands. ***Development is already approved on the Back.*** Development of the Back with residential development will screen the power plant as viewed from the CTC property and Van Sickle B-State Park. Residential

development of the Back will utilize TAUs and land coverage banked on the Property minimizing environmental impacts.

Thank you for your consideration of the foregoing.

Sincerely,

FELDMAN THIEL LLP



By:

Kara L. Thiel

KLT/ld

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