

**NOTICE OF ACTION/SUMMARY/SUMMARY MINUTES OF  
PLANNING COMMISSION OF NOVEMBER 10, 2016**

**ITEM I: ROLL CALL**

Commissioners Present: Judy Brown, Chair  
Dale Rise, Vice-Chair  
Scott Blumenthal  
Shannon Eckmeyer  
Craig Woodward

Staff Present: Kevin Fabino, Director of Development Services  
John Hitchcock, Planning Manager  
Courtney Weiche, Assistant Planner  
Robin Sanders, Recording Secretary

The decision of the Planning Commission may be appealed to the City Council by an applicant or anyone adversely affected by such decision. This appeal shall be filed with the City Clerk within fifteen business days from the date of the decision and requires payment of applicable fees.

**ITEM II: COMMUNICATION FROM THE AUDIENCE ON BRIEF NON-AGENDA ITEMS:**

Lou Perini thanked Kevin Fabino for his help.

**ITEM III: ADOPTION OF THE AGENDA**

Vice-Chair Rise moved to adopt the agenda and it was seconded by Commissioner Blumenthal. The motion unanimously carried.

**ITEM IV: APPROVAL OF THE MINUTES OF SEPTEMBER 8, 2016**

Commissioner Woodward moved to approve the minutes of September 8, 2016 and Commissioner Blumenthal seconded. The motion unanimously carried.

**ITEM V: NEW BUSINESS**

Semi-Annual Report, last report was in May 2016. PC meetings were held in May, June, July and September. Permits were approved, and adopted city design guidelines which are a useful tool for staff and builders. Attachment A is a list of PC accomplishments, Attachment B are the monthly staff reports of activities in the Planning Department and Building Department. Monthly stats are posted on the website. Commissioner Blumenthal moved to approve the Semi Annual Report and Chair Brown seconded. The motion unanimously carried.

**ITEM VI: PUBLIC HEARING**

- a. Blue Granite Climbing Gym Major Design Review, 1259 Emerald Bay Road, Project #16-237.  
Courtney Weiche, Assistant Planner, gave a presentation for the proposed project. Ms. Weiche and Mr. Hitchcock answered questions from the Commission.  
Chair Brown opened the public hearing.  
Jamie Orr supports the project because of the community it will create for visitors and residents.  
Giana and Brad Levers, owners of Blue Granite Climbing Gym, excited to bring this sense of community to the city and hope to be a catalyst for other recreational facilities. Answered

questions about signage and would like to see wood elements, but haven't yet decided. They plan to start construction in May 2017 and hope to open in Fall 2017.

Jenna Pallacio – supports the project and is happy to see young business owners see their dream realized.

Larry Szabo – former owner of the previous climbing gym in this town that closed 8 years ago – believes there is a big need for this type of adventure and supports it.

Nick Exline – Very supportive of this project. This is the right place to use CFA.

Melissa Wong – owns vacation rentals and supports this business as it will be a great place for her guests to enjoy without having to drive to Incline Village.

Harry Siegel – Very supportive of this project. Discussed TAUs being stripped and transferred with Mr. Hitchcock.

Chair Brown closed the public hearing.

Commissioner Blumenthal feels it is a great project. Concerning CFAs, doesn't have a problem with that. He feels they hinder projects around the lake.

Vice-Chair Rise is excited that this beautiful project will be at the gateway to the City.

Commissioner Woodward feels that young entrepreneurs are desperately needed and hopes they do well. He would like to see the community make a contribution to this project. He normally asks that projects pay for the CFA. Recommends that this be allocated without a fee.

Chair Brown said the City Council is in the process of setting that policy.

Commissioner Eckmeyer asked how much the cost would be and Mr. Hitchcock responded that Mr. Haen was charged \$15 per sf.

Commissioner Woodward thinks this is a different group of people and project. He believes the Commission should vote to support these people.

Commissioner Eckmeyer wants to make sure there are no legal ramifications to use community tax funding for this.

Mr. Fabino noted that the Commission could make the recommendation and it would be fleshed out at the Council at the appropriate time.

Commissioner Eckmeyer is in full support of this project, but urges the Commission to be careful making recommendations.

Vice-Chair Rise asked to possibly change the wording to "little or no cost" so they aren't gifting government funds.

Commissioner Woodward makes a motion that the Commission finds proposed project categorically exempt from CEQA under Section 15332, Class 32 In-fill Development Projects. Chair Brown seconded and the motion passed unanimously.

Commissioner Woodward makes a motion that the Commission finds, based on information in the initial environmental checklist, to make a finding of no significant effect pursuant to Section 3.2.2 of the TRPA Code of Ordinances. Commissioner Blumenthal seconded and the motion passed unanimously.

Commissioner Blumenthal states the supplement is not included in the major design review and it needs to add that into number 3.

Commissioner Woodward moved the Commission approve the major design review based on findings in the staff report subject to conditions listed in the permit, Attachment 2 and including the supplemental document provided by the owner. Vice-Chair Rise seconded the motion and the motion passed unanimously.

Commissioner Woodward moved the Commission adopt the Planning Commission Resolution 2016-13 Attachment 1 recommending the City Council approve an allocation of 4,873 of Commercial Floor Area (CFA) from the Tahoe Valley Area Plan and the City's EIP pool to El Dorado County APN 032-201-13 at 1255 and 1259 Emerald Bay Road at little or no cost. Commissioner Blumenthal seconded the motion and the motion passed unanimously.

b. McDonald's Major Design Review, 1035 Emerald Bay Road, Project #16-251.

Jay Kniep gave his presentation. Two corrections under City Council Work Plan at the very end of the Staff Report, this is not the Gondola Vista Project and it should be changed to McDonald's, and the following page 12, backside, under Financial Policy Implications. Recommendations from staff are to find the proposed project to be categorically exempt from CEQA under Class 2. Also, make a finding of no significant effect pursuant to TRPA Code of Ordinances. Thirdly, approve the project based on the staff summary and subject to the conditions listed in the attached City and TRPA permit.

Commissioner Woodward had a question regarding snow storage.

Vice-Chair Rise spoke about the green belt.

Mr. Hitchcock responded that staff and Hilary Roverud have met with the applicant and representatives of McDonald's and they are willing to coordinate with the City on implementing the green belt.

Mr. Kniep spoke about the area wide drainage plan.

Chair Brown brought up that there are existing BMPS that would remain.

Chair Brown opened the public hearing.

Nick Exline of Midkiff and Associates gave a presentation.

Chair Brown asked if they are going to continue with the play area.

Mr. Exline said no, they will not continue the play area.

Chair Brown closed the public hearing.

Commissioner Eckmeyer is excited to hear about the green belt bringing in pedestrians and people on bikes.

Commissioner Woodward said that we are doing well regarding the right side of town, now the left side needs some improvement. This is a great design and a nice addition.

Commissioner Eckmeyer made the motion that the proposed project is categorically exempt from CEQA under Section 15302, Class 2, which consists of projects characterized as reconstruction of an existing structure consistent with the criteria of replacement of reconstruction listed in Section 15302 and notice of exemption will be filed. Commissioner Woodward seconded the motion and the motion passed unanimously.

Commissioner Eckmeyer made a motion to make a finding of no significant effect pursuant to Section 3.3.2 of the TRPA Code of Ordinance. Commissioner Woodward seconded the motion and the motion passed unanimously.

Commissioner Eckmeyer moved to approve the project based on the staff summary subject to the conditions listed in the attached City and TRPA permit. Vice-Chair Rise seconded the motion and the motion passed unanimously.

c. Zalanta Phase 2, Major Design Review, 4101 Lake Tahoe Blvd., Project #16-177

John Hitchcock made his presentation to the Commission. Staff requests the Commission find that the proposed project is consistent with the 2007 approval and no additional CEQA review is required; find that the proposed project is substantially consistent with the 2007 and 2013 approvals; and approve the project based on the staff report subject to the conditions listed in the City permit.

Mr. Hitchcock answered a series of questions.

Chair Brown opened the public hearing.

Jan McCarthy with the Stardust Lodge. She loves the project. Is there enough parking for everyone to spend the night and the retail spaces also? She's had to have people towed away, mainly the people who work at the ski lift. Also mentioned that vacationing trends change. It used to be that carloads of families would come, now half the people bring two cars.

Ted Long – Glad to see the fence is down and the hole is filled. He feels a convention facility is the major solution to their shoulder season regarding bringing a steady flow of people to the city. It would support the hotels, restaurants and shops in the area. If there is anything that can help facilitate the convention facility happening, now's the time to do it to help support our economy.

Lou Feldman also believes that a convention facility would be a spectacular addition. Meeting space should be inspired, but what resources are available? The original parking anticipated there would be 80,000 feet of meeting space. Feels the parking demand anticipated is greater than what will be realized.

Harry Siegel spoke about the parking issue. He also talked about an underpass from the Marriott to the convention center site. Then it was suggested to be an overpass. Now the overpass is gone and the signals will cause traffic backup and safety issues. The original permit included all 29 parcels. He fully supported a convention center but thinks the City released the developer from doing the convention center.

Chair Brown closed the public hearing.

Commissioner Blumenthal made the motion to find the proposed Project B, Phase 2 of the Zalanta Resort at the Village project is consistent with the 2007 project approval analyzed in the previous environmental document and does not require additional CEQA review. The completed project EIR/EIS includes the 1998 draft and final EIR/EIS, the 2006 Addendum and 2007 Second Addendum. All previous mitigation measures from the 2007 approval are to remain in effect and are to be applied to the project as appropriate to maintain consistency with the original approval. Commissioner Woodward seconded the motion and the motion passed unanimously.

Commission Blumenthal made the motion to find the proposed Project B, Phase 2 is substantially consistent with the 2007 and 2013 approved projects and conditions of approval and approves the Major Design Review subject to conditions of approval. Commissioner Woodward seconded the motion and the motion passed unanimously.

Commissioner Blumenthal made the motion to approve the project based on the staff summary subject to the conditions listed in the attached city permit. Commissioner Woodward seconded the motion and the motion passed unanimously.

Chair Brown requested there be a couple minute break, to reassemble at 4:35 pm.

Reconvened at 4:37 pm.

d. Gondola Vista Estates, Major Design Review, 20, 30 & 40 Lake Parkway, Project #16-024

John Hitchcock made his presentation to the Commission. Staff is requesting to first add the construction of a visually permeable fence on the property line, find that there is not substantial evidence that the project will have a significant effect and find that the negative declaration addendum reflects the City's independent judgment and analysis, adopt Resolution 2016-12 certifying the addendum, approve the design review and variance based on the finding in the staff report subject to the conditions of approval contained in the permit. Also one other condition we would like to request, in the project itself, one of my conditions required the construction of a sidewalk from the driveway all the way to the intersection of heavenly way. However they only have control of the two parcels, they don't have control of the third parcel, so the construction of the sidewalk would be the length from the driveway through the length of their parcel that's in their ownership. Mr. Hitchcock wants to clarify that the applicant is currently in the process of acquiring residential units of use from other sources that would be transferred to the site prior to the issuance of a building permit.

Mr. Hitchcock answered a series of questions.

Chair Brown opened the public hearing.

Jan McCarthy passed out a letter. She is representing Edward McCarthy and his estate. She understands that if the TAUs are not coming from the Colony, then there is no problem.

Lou Feldman, spoke on behalf of the applicant. He read a 11/3/16 letter from STPUD and discussed residential condos to address the current market.

Harry Siegel spoke about the need for affordable housing. Suggests the Commission not approve this until the Commission knows where the TAUs are coming from. Said that TAUs can be transferred to RUUs, that motel units can be changed over.

Chair Brown closed the public hearing.

Chair Brown likes the changes being made.

Commissioner Woodward makes the motion that there is not substantial evidence that the project will have a significant effect on the environment. Commissioner Blumenthal seconded the motion and the motion passed unanimously.

Commissioner Woodward makes the motion that they find that the negative declaration addendum reflects the City's independent judgment and analysis. Commissioner Blumenthal seconded and the motion passed unanimously.

Commissioner Woodward makes the motion that they adopt Resolution 2016-12 certifying that addendum as presented, that there is not substantial evidence in the record that this project may have additional direct, indirect or cumulative effects on the environment that are significant and that were not identified and analyzed in the initial study and negative declaration dated October 2005. Therefore this analysis concludes that the project will not have a significant effect on the environment. Commissioner Blumenthal seconded and the motion passed unanimously.

Commissioner Woodward makes the motion that they approve the design review and variances based on findings in the staff report and subject to conditions of approval contained in the attached draft permit, dependent on the installation of a visually permeable fence on the Van Sickle side of the property and will limit sidewalks just to the portion of the street that is owned by the property owner. Commissioner Blumenthal seconded and the motion passed unanimously.

e. Consideration of an appeal of VHR-01210 Application, 3758 Overlook Court

Commissioner Blumenthal expressed his view. He upholds the Zoning Administrator's decision. He highly recommends the City council adopt a resolution that puts the specifics of what the density is in various neighborhoods. It needs to be defined.

Commissioner Woodward put a letter into the record, which is a Letter of Advice from the Fair Political Practices Commission that he is okay to sit on this commission.

Zoning Administrator Kevin Fabino gave his presentation.

Chair Brown asked if the last two arcs were spun at the time of the Zoning Administration hearing or is this supplementing the record?

Mr. Fabino said they were done prior to the hearing.

Chair Brown asked if this was part of the evidence presented at the hearing.

Mr. Fabino said he would have to look at the minutes but doesn't think it was specifically talked about. He then continued the presentation.

Vice-Chair Rise remarked that this was a great presentation and this clarified things for him.

Chair Brown opened the public hearing and asked that comments be limited to two minutes and to try not to duplicate what another speaker says.

Noel Farmer gave a letter to the Commissioners. Gave statistics on the amount of vacation home rentals in the neighborhood and how many were what he termed as megahomes with indoor pools and elevators. These are businesses not residential homes. Need to stop somewhere.

Mike Johnson, spoke on behalf of Mr. Meyer, the applicant. Requested that Jerry Goodman speak first and he could then respond. Mr. Johnson states that he does not know the actual reason for the appeal.

Jerry Goodman wishes to speak last because of the amount of inaccuracies that he would like to respond to.

Discussion from the audience.

Chair Brown offers Mr. Goodman the chance to speak for three minutes, and then at the end he can speak again for three minutes.

Jerry Goodman – Has an issue with Commissioner Woodward sitting on the panel because he works for Deb Howard Real Estate. He is selling a house a few houses up from the subject property. He asked Commissioner Woodward to recuse himself and instead Commissioner Woodward wrote to the FPPC. Mr. Goodman wrote to the Attorney General. Mr. Goodman doesn't believe he should be able to make a decision on this. There are too many houses on a dead end street. Mr. Goodman provided statistics on the VHRs in this neighborhood. The reason the permit was allowed is because the Zoning Administrator had reasons – four residents who live on Overlook testified and sent letters. Three of the people who sent the letters own VHRs next door to this vacation rental. How can that be a change from why the permit was allowed? John Hitchcock, the previous Zoning Administrator, didn't allow the permit because there were too many VHRs in the neighborhood. John Hitchcock is not the ZA anymore, and now Kevin Fabino says it's okay. Mr. Goodman wants this to go to the City Council. Make them make a decision on this. How many is too many?

Chair Brown asked if Mr. Goodman agrees there are two issues here – deny or appeal? Mr. Goodman is discussing policy and the future and they can't be mixed here. We're here for this specific review and decision.

Jerry Goodman feels there is no reason for a Zoning Administrator since he passes them all and doesn't deny any. What is the recourse for a citizen? Wants the City Council to come up with a number of how many is too many.

Mike Johnson, attorney for the applicant, Edward Meyer, says the City Council should set policy. He wants this matter resolved today and the Zoning Administrator's decision affirmed. Parking enforcement should ensure compliance. If the house is made into a ski lease, which no approval would be needed for that, what does that do to the neighborhood also? Mr. Meyer wasn't a party to the previous denial. That's not relevant to today. Owner plans to stay in the house himself, he just wants to rent it to supplement the cost of the house. There is no reason to reverse the findings of the Zoning Administrator and he asks that it be affirmed. Commissioner Blumenthal voted to affirm this in advance. Also, Commissioner Eckmeyer has some ties to the appellant.

Commissioner Eckmeyer stated she was going to disclose this after deliberation. Mr. Goodman's daughter is her boss, however she has never discussed this matter with Mr. Goodman or his daughter and has no financial interest in this action.

Mike Johnson read a letter from Mr. Meyer.

Jerry Williams said this home meets all the criteria so it needs to be upheld.

Laurie Bruning said that we're all here because of Mr. Goodman's complaint. The property meets all the criteria. This matter needs to be concluded, that it sets a dangerous precedent to allow these to be re-argued over and over again.

Melissa Wong, represents the sellers and builders of the home. Handed Chair Brown letters from the neighbors in support of the VHR. She spoke about how before vacation home rentals, the neighborhood was empty. Owners used these homes as a second home which left the houses empty most of the time. Now middle income families need to have renters to be able to own the home. They are being denied because they are not wealthy enough to leave them empty. This feels like an attack. It's a modest home compared to others. They can't afford for this matter to go to the City Council.

Jeannette Riva, partial owner of 3758 Overlook Court – Asks that as the Zoning Administrator did, that the Commission only look at 3758 Overlook Court. If that had happened long ago, it

would have then passed. This property should not be made the example. We need to move forward with this and move on.

Larry Szabo, represents Edward Meyer. Read a letter from the Meyers. Owners have agreed to maximum occupancy limits, security, trash disposal, surveillance cameras. Not every VHR will be filled to capacity at any one time. Why do homeowners get more rights than VHR owners? Neighborhoods never stay the same. We need to adjust to those changes.

Eric Barstad, owner and builder of 3758 Overlook Court. Buyer needs to supplement income by renting it out. This was not put into effect until they were finished with the house. It was not their intent when building the house that it would be a VHR, but the potential buyers wanted it as a VHR. They didn't know the process before this issue came up. Requests the Zoning Administrator's decision be upheld.

Ashley Matilla, citizen. Disagrees with what Commissioner Blumenthal said. The Council has defined what needs to be done to get a permit. There is a Code, there is a list of items to do to get a permit. It's not fair to use this home as an example. There are local families behind this example. There was money and an investment behind this home. She understands that not one person within the 300 feet radius has disagreed, but many people have agreed with this permit being approved.

Jerry Goodman said he didn't pick this house as the one, it just happened because there are too many in town. Trying to get the City Council to say how many is a cluster. Something needs to be done because the neighborhood character is changing. He's just following the rules to stop too many VHRs. Not one has been refused. He requested the address of the woman Mike Johnson spoke of, named Jacqueline, who they were told lives there. He believes she may own the house, but doesn't actually live there. It's been rented to someone else for a year. He just wants to know the number of VHRs in a neighborhood, how many is too many.

Carol Beller – what about the people who buy into the neighborhood and then find out about the VHRs and what their neighborhood really is like. It's all subjective and the character of a neighborhood is subjective. We don't have specifics on how many is too many. She wants the Commission to deny this permit because it is too dense in this neighborhood.

Discussion from the audience.

Jeanette Riva – Mr. Goodman is partially correct and partially not correct. Jacqueline has temporarily moved out because her mother is ailing. She plans to move back into her home. That's why Chad Downey was enlisted to help out.

Kevin Fabino asked if the Commission had any questions. From staff's perspective, if Mr. Goodman and Mr. Farmer are clear about the character of the neighborhood, then the question becomes does this application create any further hardship?

Chair Brown closed the public hearing.

Vice Chair Rise said there is only one action – to uphold the Zoning Administrator's action. The applicant has the chance to go before the City Council.

Commissioner Woodward stated that other issues are important. The City has agreed they will deal with the VHR issue after getting the economic report back. He agrees though that this is about this particular house and agrees that the Commission uphold the decision.

Commissioner Eckmeyer expressed her reason behind being against the popular opinion. She didn't know ahead of time that this issue had to do with Mr. Goodman. She didn't know it was him appealing this decision and she has no personal or professional relationship with Mr. Goodman. There is no need to recuse herself. She believes the VHR permit system allows loopholes to use residential properties as tourist uses. If this VHR was within Town Center or near commercial uses, she wouldn't have a problem with it. But it's a residential zoned area. She does think this one is being targeted. If the Commission sees future permits, and they are outside of tourist uses, she will vote the same way. She cannot uphold the findings and say that 1) the site

complies with the Plan Area Statement Uses because it does not, it is a residential area; or 2) that it upholds the residential character of the neighborhood because it does not. She's basing it on these facts. She does not support upholding the Zoning Administrator approval today.

Chair Brown said they are here to uphold or not uphold the Zoning Administrator decision in this specific case at this specific address at this specific time. Or they have the option of punting it up to the Council. She feels in this particular case, she is going to vote to uphold the Zoning Administrator decision because she sees how he came about it, sees the evidence. If Mr. Goodman lived right next door, his weight would carry more say. But he doesn't, so that is her primary reason in this case. She feels we are reaching critical mass with our VHRs. Due to her quasi-judicial role in this case, she can't let outside influences affect her decision. She makes the motion to uphold the Zoning Administrator's decision in this case.

Commissioner Woodward seconded the motion. All were in favor except Commissioner Eckmeyer who opposed. The motion passed 3 to 1.

**ITEM VII: Old Business – None**

Discussion ensued about having a December meeting and it was decided there would be a Planning Commissioner meeting on December 8, 2016 to hear action items and another VHR appeal.

**ITEM VIII: Planning Commissioner's Reports - None**

**ITEM IX: Staff Reports**

TRPA has convened a Commodities Working Group that will be looking at making changes to the commodity system to accelerate and incentivize redevelopment in the basin.

**ITEM X: Adjournment**

6:50 p.m.

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Robin Sanders  
Recording Clerk

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Judy Brown  
Planning Commission Chair