

# North Tahoe Citizen Action Alliance

PO Box 289, Tahoe Vista, CA 96148

Office: 530-546-8125

[www.ntcaa.org](http://www.ntcaa.org)

*Jerry Wotel, Newsletter Editor*

## NTCAA Newsletter – November, 2009

### **Mitigation**

Mitigation is defined as "sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects". The most common use of mitigation at Lake Tahoe is to diminish or eliminate the potential environmental damage of land use developments. Mitigation is the final effort of four phases of Environmental Management: Preparedness, Response, Recovery, and Mitigation. The overall end goal of mitigation is to reduce or eliminate risk of the environmental damage identified. The success of the mitigation efforts will decrease the requirements, the impact, and the expense of environmental impact recovery. Since a land-use development occurs locally, Environmental Mitigation should start locally, and also should have its primary effect locally.

The Tahoe Regional Planning Agency (TRPA) has established a Mitigation Monitoring and Reporting Program (MMRP). A draft MMRP is prepared pursuant to Section 21081.6 of the California Public Resources Code and California Environmental Quality Act (CEQA) Guidelines Section 15097, which require public agencies to adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted to mitigate or avoid significant effects on the environment. A MMRP is required for proposed projects and project development alternatives because the Draft Environmental Impact Statement (DEIS) / Environmental Impact Report (DEIR) has identified significant adverse impacts and measures that must be addressed to alleviate those impacts.

Too often these mitigations are the payment of fees and no reduction or elimination of risks in the community involved ever occurs. For example, for the Sandy Beach Timeshare/Fractional Ownership development in Tahoe Vista (per the Draft Environmental Impact Study), *"the total estimated fee based on the proposed land uses and summer daily increase in vehicle trips is \$80,730. TRPA requires that the air quality impact mitigation fee be paid for any project that results in an increase of daily vehicle trips in the Tahoe Basin. Per TRPA Code of Ordinance Section 93.3.C, the Air Quality Mitigation Fund **provides for regional and cumulative mitigation measures** that may include, but are not limited to: a) transit facility construction, b) Transportation Systems Management measures, including, but not limited to bicycle facilities, pedestrian facilities, and use of alternative fuels in fleet vehicles, or c) transfer and retirement of off-site development rights."* Will these offset the air pollution and traffic imposed on the residents of Tahoe Vista from this proposed project?



And let's not forget Placer County. *"The project applicant would be required to pay the following traffic mitigation fee(s) to the Placer County Department of Public Works (DPW) prior to issuance of any Building Permits for the project (County Wide Traffic Limitation Zone: Article 15.28.0140, Placer*

County Code).” Also: “The total combined estimated fee is \$201,770. The Traffic Fee Program pays for improved transportation facilities that Placer County DPW deems necessary, such as roadway improvements, traffic signals, sidewalks, etc. Because of the location of the project, in Tahoe Vista, the traffic impacts fees would be utilized by the County **for transportation facility improvements within the Tahoe Region.**” Rather than having governing agencies consume the mitigation money in regional studies, cannot Placer County identify any “improved transportation facilities” in the affected community?

In March, 2008, NTCAA surveyed Tahoe Vista residents for their suggestions on community improvements (the results are shown on the NTCAA web site, *ntcaa.org*, under Position Papers), and submitted this to the Placer County Executive Office and DPW. Placer County denied all improvements stating a lack of funds. When funds become available through mitigation fees from local project developments within Tahoe Vista, the county can draw upon these improvements for the Tahoe Vista community, that have been documented by those directly affected, the residents. Therefore, Tahoe Vista residents should not be asked to breathe an increase in automotive air pollution so a new transportation facility can be constructed for Tahoe City local use. As stated above, Mitigation starts locally, and should have its primary effect locally.

### **Sandy Beach Timeshare/Fractional Ownership Development Update**

The Tahoe Regional Planning Agency (TRPA) approved the Sandy Beach Timeshare/Fractional Ownership project on July 23, 2008. It is configured for thirty-nine timeshares, and six employee units, having 61% site coverage, 95% site grading, and 61% tree removal; over 100,000 square feet of mass on an approximately six acre site. This was identified as Alternate E. The next month the Governing Board Chairperson told the developer and the community that she was hesitant about her vote for approval, and hoped that the developer would work with the community on a compromise project.



On October 20, 2008 the Placer County Board of Supervisors approved the project despite letters and a petition from 379 community members (two-thirds of the community) that advocated for:

- Reduced density and massing for the Sandy Beach project - for 25 timeshares instead of the 39 developer-planned timeshares. (25 units is three times the density of the Vista Pines subdivision located four doors down from Sandy Beach on the same size property and with relatively the same size units).
- Placer County to address the environmental impacts of increasing traffic by 500 trips/day, allowing 95% site grading, 61% tree removal, and Tourist Accommodation Unit (TAU) morphing from small one-room motel rooms to three and four bedroom residences, a tenfold increase. Since the intent of TAUs is to limit environmental impact of new developments, it is not reasonable to allow a tenfold increase and assume equivalency in environmental impact.

The majority of support for the Sandy Beach project in the public hearings was stakeholders, those who would benefit financially by this project, family members of the developer, and those living outside the community. The developers touted the economic benefits this project would bring to Placer County and TRPA and were approved unanimously.

Because of the destructive precedent this timeshare project poses to Lake Tahoe, the League to Save Lake Tahoe joined the community who organized as Friends of Tahoe Vista (FOTV), and together they filed lawsuits in Federal court in Sacramento against TRPA and Placer County. There were seven complaints filed including flaws in the environmental document, the morphing of TAUs, baseline issues, the level of environmental review proposed by TRPA- an Environmental Assessment (EA) instead of an EIS, and land coverage concerns. This litigation has been ongoing for over a year. Repeated attempts to mediate and settle the lawsuit have failed to reach final agreement at this time.

The FOTV have consistently advocated for:

- A reduction in number of timeshare units/massing consistent for a smaller project more consistent with the community plan scale and character for Tahoe Vista;
- Land Coverage to be re-delineated by the TRPA as per historical documents including permits and surveys of the property by licensed individuals. Mitigation measures that have nexus for the impacts on the community.

The mitigation measures for this project are only payment of fees. Fees do not reduce the increases in traffic, a reduction in level of service at street intersections, increasing the population of a small community, and overcrowding at a beach without proper restroom facilities.

During the course of discovery on this project triggered by the lawsuit, the TRPA recently located misplaced files for the property that contained the site's historical information on land coverage as well as permits to open the campground. These files have been in TRPA's possession since 1979 (for 29 years).

In 1980 permits from the TRPA and from Placer County were obtained for re-opening the Sandy Beach Campground that had been closed for an indeterminate period of time. The permit states "that proper use permits have never been received for the campground use". The permit also states that the site's historical land coverage as 30%; less than half of what the developers are currently claiming exists on this site. The TRPA permit has conditions under which the campground was to be re-opened including planting of native vegetation in cleared areas, parking barriers to confine parking to one space per campsite, 25 total campsites, location of roads, and fire pits required by the fire department. The use of the site had been discontinued for over a year, thus requiring permits that take precedence over historical use according to the permits themselves.

Over the years, the campground has been used for more spaces than allowed on stated permits, increased parking, increased internal roads, and use of the cleared areas that were required to be planted with native vegetation as Recreational Vehicle (RV) campsites. Over the years RVs got larger and thus have been responsible for creating more land disturbance. Surveys of the site done in both 1984 and updated in 2000 show increases in land coverage based on additional campsites and more roads.

The community should be aware of the discovered permits and the duty of the TRPA, as an enforcement agency, to enforce their own permits based on the conditions as stated in the permits. It is reasonable to believe that land coverage is not allowed to be more than 30% coverage based on the permits as accepted by the previous owner.

The FOTV and League to Save Lake Tahoe have consistently, tried to work with the developers on a compromise. The project as approved is too large for the site. The land coverage calculation is wrong. Thousands of dollars have been spent. FOTV asks, will TRPA do the right thing?

### **Boulder Bay EIR Release**

The first Boulder Bay public hearing on the Draft EIR was held Nov 18, 2009. Many local community members expressed their support for the project, mentioning more jobs, cleaning up blight, and a much needed economic boost. Those that took issue with the project said that it was too large, and had no "real" services, like a grocery store, bank, etc. Traffic was another issue mentioned several times. Both the League to Save Lake Tahoe and the Sierra Club made comments but stated they were reserving their right to further study before supporting or opposing the project.

There were several high-level executive types in attendance from the Tahoe Truckee Community Trust, the Tahoe Truckee Hospital Board as well Northstar Executives, who exuberantly showed their support for the Boulder Bay project. Is this another example of "stakeholders" who will profit from the project without detailed examination of all the effects on the community?

Mrs. Ellie Waller, resident of Tahoe Vista, commented that "the EIR was released to the general public on Nov 12, 2009. It is 1,589 pages with appendices of approx 600 pages. She stated: "I find it difficult to swallow that anyone in the public could have possibly read the entire document and commented in support or opposition in just a week's time." The North Tahoe Bonanza reporter agreed and commented her statement was probably the most important of the day, and published it in their newspaper. Mrs. Waller was surprised that when the Sierra Sun printed the same article in the same week they removed her comment.

### **Open Public Discourse**

The right of citizens to scrutinize how public agencies conduct their administrative affairs is guaranteed by law. In California these are: The Ralph M. Brown Act, The Bagley-Keen Open Meeting Act, The California Public Records Act, and the parallel Federal Freedom of Information Act. The preamble of the Brown Act defines this:

**"In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.**

**The people in delegating authority do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created."**

**Upcoming Events/Key Dates**

Agendas for TRPA Governing Board and APC, and also Placer County BOS are not available until a few days before the meeting. Therefore, it is difficult to provide a meaningful emphasis to the meetings. Other meetings/events not shown here, or changes, will be announced by email.

December 2, Wednesday	NLTRA Board Meeting	8:30 am, TCPUD Board Room
December 8, Tuesday	Placer County BOS Mtg.	8:30 am, Auburn
December 8, Tuesday	NTPUD Board Meeting	10 am, NTEC, Kings Beach
December 9, Wednesday	TRPA APC Meeting	9:30 am, TRPA Stateline Office
December 10, Thursday	NTRAC Meeting	6 pm, NTEC, Kings Beach
December 16, Wednesday	NTPUD Board Meeting	6 pm, TCPUD Board Room
December 16, Wednesday	TRPA Governing Board	9:30 am, TRPA Stateline Office
December 18, Friday	TCPUD Board Meeting	8:30 am, TCPUD Board Room
January 5, Tuesday	Placer County BOS Mtg.	8:30 am, Auburn
January 6, Wednesday	NLTRA Board Meeting	8:30 am, TCPUD Board Room
January 12, Tuesday	NTPUD Board Meeting	10 am, NTEC, Kings Beach
January 13, Wednesday	TRPA APC Meeting	9:30 am, TRPA Stateline Office
January 14, Thursday	NTRAC Meeting	6 pm, TCPUD Board Room
January 15, Friday	TCPUD Board Meeting	8:30 am, TCPUD Board Room
January 19, Tuesday	Placer County BOS Mtg.	8:30 am, Auburn
January 20, Wednesday	NTPUD Board Meeting	6 pm, TCPUD Board Room
January 27, Wednesday	TRPA Governing Board	9:30 am, TRPA Stateline Office

TRPA – Tahoe Regional Planning Agency  
 NLTRA – North Lake Tahoe Resort Association  
 TCPUD – Tahoe City Public Utility District  
 NTEC – North Tahoe Event Center (NTCC)  
 BOS – Placer County Board of Supervisors

APC – Advisory Planning Commission  
 NTPUD – North Tahoe Public Utility District  
 NTPFD – North Tahoe Fire Protection District  
 NTRAC- North Tahoe Regional Advisory Council

***“The jaws of power are always open to devour, and her arm is always stretched out, if possible, to destroy the freedom of thinking, speaking, and writing.” .....John Adams, Second President of the United States***