Date: November 14, 2023

Honorable Mayor and Council Members:

Author and title: Yumie Dahn, Senior Planner

Title: Tahoe Donner Downhill Ski Lodge Appeal (Planning Application 2023-00000158/APL)

Jen Callaway, Town Manager

Recommended Action: That the Town Council adopt Resolution 2023-62 thereby taking the following actions: 1) Adopt an Initial Study/Mitigated Negative Declaration with associated Mitigation Monitoring and Reporting Program (SCH# 2023050519) for the Tahoe Donner Downhill Ski Lodge Project; 2) Uphold the decision of the Planning Commission in approving the Tahoe Donner Downhill Ski Lodge; 3) Deny the appeal of the Planning Commission's decision to approve the Tahoe Donner Downhill Ski Lodge; and 4) Approve the Tahoe Donner Downhill Ski Lodge Replacement Development Permit, Minor Use Permit and Sign Plan, based on the findings and subject to the conditions of approval.

Discussion:

Summary of Appeal Request: On September 27, 2023, the Planning Commission approved the Tahoe Donner Ski Lodge Development Permit, Minor Use Permit and Sign Plan application (Planning Application 2022-00000071/DP-MUP-SP). On October 5, 2023, the appellants filed a timely appeal of the Commission's approval of the project. The appellants have challenged the adequacy of the Mitigated Negative Declaration (MND) and its associated mitigation. The appellants are requesting that the Town Council overturn the Commission's approval of the project and require preparation of an Environmental Impact Report.

Project Summary: The Tahoe Donner Association (TDA) is proposing a new downhill ski lodge at the Downhill ski area located at 11585 Snowpeak Way (also addressed as 11603 Snowpeak Way; APN 046-250-009). TDA is proposing to demolish the existing two-story 15,838 s.f. downhill ski lodge and construct a new three-story 24,490 s.f. structure that would serve the existing needs of the facility.

The following land use permits are required: 1) **Development Permit** for new non-residential structures that contain 7,500 s.f. or more of total gross floor area and disturbance of 26,000 s.f. or more of the site (disturbance includes graded areas, landscaped areas, parking and access areas, and structures); 2) **Minor Use Permit** for disturbance of land or for development located within 200 feet of any wetland area; and 3) **Sign Plan** for one wall sign.

Location/Setting: The project site is located in the Tahoe Donner Subdivision on Slalom Way and Snowpeak Way, at the bottom of the Downhill Ski Hill. The ski hill is located to the south, and the Tahoe Donner Condominiums are located to the west, north, and east.

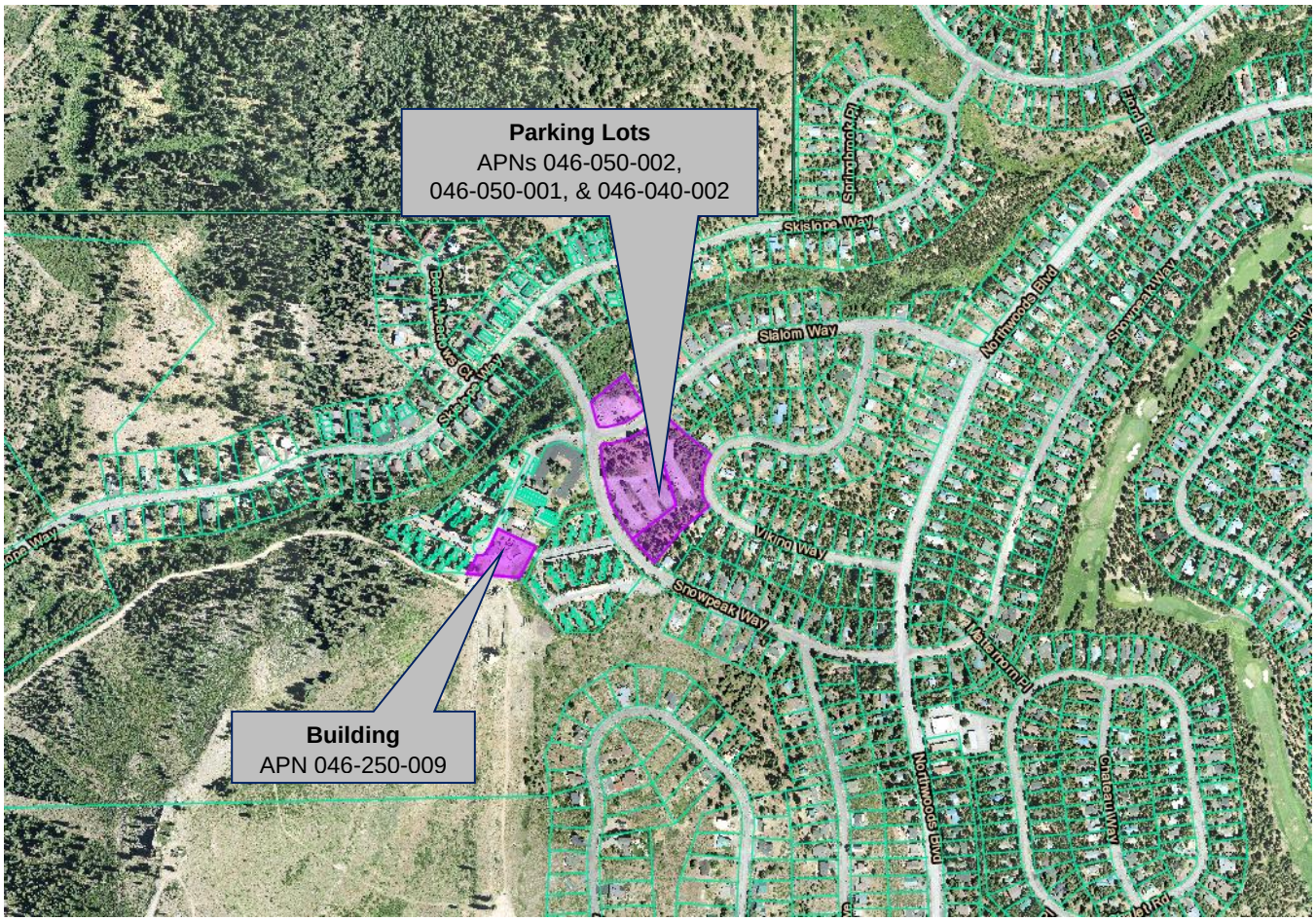

Figure 1: Vicinity Map

Background: For a more detailed history and description of the project including links to the past staff reports, draft MND and hearing minutes, please see Attachment #3. The Downhill Ski Area was developed in the early 1970s when the Tahoe Donner Subdivision was initially developed and serves as the only downhill ski area within the town of Truckee. Currently, the Tahoe Donner Downhill Ski Area has 17 runs, one quad chair lift, one triple chair lift, and three conveyor lifts to serve 120 skiable acres. The Tahoe Donner Association (TDA) offers a number of learn-to-ski programs for children, ski and snowboard race teams and group and private lessons for patrons. There is an existing lodge at the base of the ski hill which serves as the main operations base. The lodge includes a rental and repair shop, dining facilities, and a sun deck. Additionally, in the summer, the lodge serves as a children's summer camp.

The existing operations for the Tahoe Donner Downhill Ski Area include the following:

- Winter (November through April). Operates daily 8:00 a.m. to 5:00 p.m.

  - Services include equipment rental, retail sales, ski school, ticket sales, shuttle service, bar and food and beverage.
  - Community ski-related events happen throughout the season that occur during normal operating hours of the downhill ski resort.

  - Two annual community ski-related events which might fall out of normal operating hours:

    - New Year's Eve celebration, 5:00 PM to 8:00 PM – Light parade and fireworks show (5:00 PM to 8:30 PM)

- The Saturday of the President's Day Holiday Weekend, 5:00 PM to 7:30 PM – Glow parade on Snowbird Lift

- Approximately three event dinners and ceremonies for ski-related clubs that are wholly indoors and end by 10:00 PM. No other restaurant activities occur outside the normal operating hours.

- Ski operations include chair lifts, conveyor lifts, snowmaking, snow removal and grooming operations (which occur throughout the day and night).

- Administrative (office) activities occur throughout the winter.

- Summer (May through October).

  - Day camps operate daily 9:00 a.m. to 4:00 p.m.

  - Administrative (office) activities occur throughout the summer.

  - Maintenance of buildings, ski lifts, equipment, and trails occurs throughout the summer.

- Other private or community events are prohibited.

When the Town incorporated in 1993, Nevada County forwarded all land use permits to the Town of Truckee. Based on staff's understanding of Nevada County's permitting requirements, a ski hill was a conditionally allowed use and a discretionary conditional use permit would have been required. Unfortunately, in reviewing the permit history for the Downhill Ski Area for past projects and again for this project application, Town staff was unable to locate land use permits dating back prior to the Town's incorporation. This would include the original permits which would have been required by Nevada County. However, staff was able to locate building permit documents which authorized the construction and installation of ski lifts at the facility. There are also a series of subsequent building permits related to grading for ski lift facilities, improvements to the lodge building cafeteria, construction of a new office building and a new yurt for the ski school. Some of these permits date back to 1972. Additionally, a Conditional Use Permit was approved in 1998 to allow a summer camp in the ski lodge for the Tahoe Donner Ski Hill.

In 2015, as part of a land use permit review to allow snowmaking to occur on the ski hill (Planning Application 2015-00000045), the Town determined that while the original Use Permit for the lodge could not be located, the Downhill Ski Area is a legal use and has operated on an ongoing, seasonal basis since the early 1970s. Further, a number of ancillary uses are allowed, including the operation of the commercial uses within the lodge, commercial ski lessons, racing teams and ski programs. The land use permit for the snowmaking at the ski hill was approved as a Use Permit Amendment.

At this time, Tahoe Donner is not requesting to change the use of the downhill ski area and is only proposing to demolish the existing lodge and construct a new lodge. The Use Permit remains in effect in perpetuity unless the Town revokes the Use Permit through a public process. The applicant is proposing to build a new structure to replace an existing structure that serves an already approved use.

Project Description: The applicant is proposing to demolish the existing 15,838 s.f. downhill ski lodge and construct a new three-story 24,490 s.f. structure with the following uses:

Table 1: Square Footages of Proposed Building Uses

Level 1	
Staff Support and Prep Kitchen	1,600 s.f.
Storage, Utility, Restrooms	1,650 s.f.
Circulation and Walls	1,015 s.f.
Level 2	
Rentals and Guest Services	5,135 s.f.
Ski School Training and Offices	1,969 s.f.
Storage and Restrooms	1,400 s.f.
Circulation and Walls	1,621 s.f.
Level 3	
Dining and Kitchen	7,880 s.f.
Storage and Restrooms	1,075 s.f.
Circulation and Walls	1,145 s.f.

No changes to the existing parking lots, which include 236 parking spaces, located at 14943 Slalom Way, 12250 Viking Way, and 14942 Slalom Way (APNs 046-050-002, 046-050-001, and 046-040-002) are proposed. Tahoe Donner also has an agreement with the Town of Truckee to allow on-street parking at specific locations on Snowpeak Way and Slalom Way, which total 85 parking spaces in the right-of-way for a total of 321 parking spaces available for the downhill ski area. Driveway improvements are also proposed within an easement on 11507 Snowpeak Way (APN 046-250-013), a parcel owned by the Tahoe Donner Condominium Association. No changes are proposed for the ski runs or ski lift facilities; the ski runs or ski lift facilities are not part of this application. The project plans can be found in Exhibit A of the draft Resolution 2023-62 (Attachment #1) and the applicant justification can be found attached to the June 20, 2023 Planning Commission staff report.

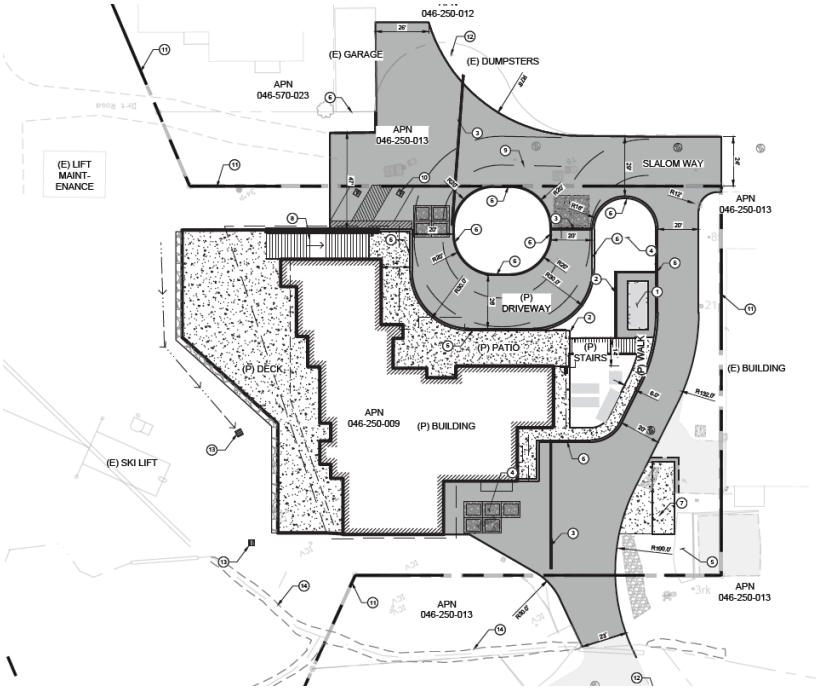

Figure 2: Site Plan

During construction, the applicant is proposing temporary operations of the ski hill, which will include either portables or a sprung structure to house a point of sale, ski rentals, ski patrol, and employee rest

area, located on the existing parking lot at 14942 Slalom Way (APN 046-040-002). Separate bathroom trailers or portable toilets would be located at the same parking lot and on the ski hill.

The applicant has submitted a Lot Line Adjustment application separately (Planning Application 2022-00000078) that would increase the size of the lot the building is on from one acre to 2.64 acres to accommodate a larger deck on the site.

Figure 3: View of building at entry (West)


Figure 4: Northeast side

Figure 5: View of building from ski hill (South)

The Planning Commission staff reports, Planning Commission Resolution 2023-10, minutes, and additional public comment can be found at the following links.

June 20, 2023 Planning Commission staff report:
This meeting was continued, but the bulk of the project analysis was provided in this staff report.
https://portal.laserfiche.com/Portal/DocView.aspx?id=59656298&repo=r-6a91ddbc

September 27, 2023 Planning Commission staff report:
The Planning Commission took action at this meeting.
https://portal.laserfiche.com/Portal/DocView.aspx?id=59666511&repo=r-6a91ddbc

Resolution 2023-10:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59669066&repo=r-6a91ddbc

Minutes:
June 20, 2023 meeting minutes:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59661193&repo=r-6a91ddbc

September 27, 2023 draft meeting minutes:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59671535&repo=r-6a91ddbc

Public comment:
- https://portal.laserfiche.com/Portal/Browse.aspx?id=59656953&repo=r-6a91ddbc
- https://portal.laserfiche.com/Portal/Browse.aspx?id=59662714&repo=r-6a91ddbc

Overview of Appeal Process

In accordance with Development Code Chapter 18.140 (Appeals), any determination or action by a Town decision maker can be appealed and Planning Commission decisions are appealable to the Town Council. The decision of the Council shall be final on all matters unless an appeal is filed with the Superior Court of the County of Nevada within 30 days after the decision of the Council. At the hearing, the appeal body may consider any issue involving the matter being appealed, in addition to the specific grounds for appeal. In accordance with Section 18.140.030.E (Filing and Processing of Appeals, Action), the appeal body may, by resolution, affirm, affirm in part, or reverse the action, the decision, or determination of the original review authority. When reviewing the appeal, the appeal body may:

(a) Deny the permit or entitlement, even though the appeal only requested relaxation or elimination of one or more of the conditions imposed on the permit or entitlement; or

(b) Impose additional conditions that may address other issues or concerns than the original subject of the appeal.

The appellants and other interested parties shall not present new evidence or testimony at the appeal hearing unless the party can demonstrate, to the satisfaction of the appeal body, that new information:

(a) Was not previously available to the party; or

(b) The party could not have participated in the review process because they could not have known about the review process.

If new or different evidence is presented on appeal, the Town Council, may, but shall not be required to, refer the matter to the original review authority for further consideration.

What information is provided during consideration of an appeal?

In addition to the appellants' submittal requesting the Town Council overturn the Planning Commission's decision, the Town Council will receive a copy of the original application submittal and the Planning Commission staff report reviewed during consideration of the project. The Town Council will be reviewing the TDA Downhill Ski Lodge project without consideration of the Commission's previous action—as if the project is being heard for the first time; this process is called a de novo review (Latin for "from the new"). Accordingly, the Council will need to make a required series of findings in order to approve or deny the project, in addition to making a decision to approve or deny the appeal.

In order to approve the application on the same terms as the Planning Commission, thereby denying the appeal, the Council will need to make the findings set forth in draft Resolution 2023-62 (Attachment #1) and outlined below. Should the Council wish to grant the appeal, the Council may need to or amend the existing findings in support of the appeal.

Specifics of the Appeal

On October 5, 2023, the appellants submitted a timely appeal of the Planning Commission's action to approve the TDA Downhill Ski Lodge application. Below, the primary issues of the appeal application have been identified with staff responses. The applicant team also provided technical responses where applicable; the applicant team's response is provided verbatim where an "Applicant Team Response" is indicated. The appellants' application submittal can be found in the combined letter from the Law Office of Rachel Mansfield-Howlett and Greg Kamman, Ecohydrologist (Attachment #2).

Law Office of Rachel Mansfield-Howlett Comments

Comment #1: The conceptual plan proposes to mitigate the project's hydrological impacts to the "extent feasible" yet as expert Kamman points out, the basic threshold questions-what quantity of groundwater will be released and will the plan accommodate this amount of water without resulting in impacts - have not been answered.

> The plan has not attempted to quantify the volume of groundwater that will be captured and sprayed in dispersal area. It is my opinion that if groundwater levels are high, the dewatering and dispersal plan described may not be able to sufficiently achieve the desired outcome. Without knowing groundwater conditions and the volumes of water to be captured and sprayed, the plan has not demonstrated it is feasible if elevated groundwater levels are encountered. (Page 1, CBEC report.)

Staff Response: Staff assumes that this comment is referring to the dewatering plan that is required per Mitigation Measure HYD-1, its feasibility, and its ability to mitigate impacts. In particular, the comment suggests that without knowing the exact amount of groundwater that will be encountered, the feasibility and effectiveness of the final construction dewatering plan cannot the verified. However, the mitigation measure requires preparation of a plan that not only requires approval by the Town of Truckee and Lahontan Regional Water Quality Control Board, but is required to be consistent with the most recent California Stormwater Quality Association Construction BMP Handbook for Dewatering Activities, which is a widely used industry standard with detailed requirements. The mitigation measure itself calls out some potentially appropriate BMPs, such as "setbacks from surface waters and use of low flow rates for discharges, sediment basins or holding tanks, energy dissipators, and/or sediment traps". To demonstrate the fact that an effective dewatering plan is feasible, the applicant team provided an analysis of a theoretical worst-case scenario, as provided below.

Applicant Team Response – Dewatering:

Appropriate subsurface exploration has been conducted for this project and the Geotechnical Engineer is very familiar with the subsurface conditions at the project site. Based on the soil types and groundwater encountered during the geotechnical exploration, anticipated low and max ranges of spring groundwater elevations, and local professional experience, we have extensively evaluated the groundwater conditions at the site and designed the project and its drainage and dewatering plans to address those existing conditions.

Based on the groundwater levels encountered during the geotechnical investigation, the presence of existing foundation drains (all of which establish baseline conditions) and the geotechnical engineers' understanding of the site, we have estimated the flow rate of water into the dewatering system trench. This estimate could be as low as 2 gallons per minute (GPM) or as high 17 GPM. This range reflects the expected rate of collection and discharge of groundwater from the excavation based on *varying seasonal groundwater levels*. As the record reflects, it is impossible to estimate a precise expected flow rate at this point because seasonal groundwater levels vary from year to year.

Soil permeability values and corresponding infiltration rates were obtained by infiltrometer tests during the geotechnical investigation. Permeability of subsurface soils was estimated to be 4 inches per hour for design of stormwater facilities, and this value was used as a conservative estimate of surface-level infiltration rates.

The dewatering plan calls for spray distribution of the collected water onsite. The distribution area available for water dispersion as depicted in the Draft Dewatering Plan is approximately 5 acres of vegetated soil with mature trees and dense bushes. This site sits upslope and to the southwest of the lodge site, on a ridgeline that begins to slope northwest, away from the lodge, and above Alder Creek which is located some 500 feet to the north and west.

To further demonstrate that the dewatering plan is feasible and will be effective, we analyzed an extreme worst-case scenario where the high range of groundwater flow to be collected during dewatering was 34 GPM (again, there is no evidence that rates will be anywhere near 34 GPM but we assessed this rate to determine what factor-of-safety we might anticipate in our calculations. Under such an extreme hypothetical condition, if the dewatering system was collecting 34 GPM (i.e., twice the highest estimated flow rate), we could distribute the collected water with 3 impact sprinklers over a distribution area of only ½ acre (out of the available 5-acre distribution area) that would result in infiltration of about 0.15 inches per hour, well below the calculated soil infiltration rate of 4 inches per hour. If the distribution area were to become saturated potentially leading to runoff, additional sprinklers and another 4.5 acres are available within the distribution area and could be used to safely distribute and infiltrate the water without any runoff or sedimentation. This analysis does not account for the fact that some of the sprayed

water (according to research sources, up to 10%) will naturally evaporate during application, prior to contact with the ground.

To store and pump the water from the dewatering collection area, one or more Baker Tanks would be used. These tanks would also provide settling time for the collected water to help reduce turbidity if any is present in the collected water. A single roll-off 10,000-GAL Baker Tank would take approximately 5 hours to fill completely at the theoretical rate of 34 GPM. If flows were to be that high, it would be advisable to have two Baker Tanks available to collect and dispose of the water, especially overnight. Alternatively, manning the operation overnight will ensure that water is transferred continuously to the disposal area without requiring additional tank storage.

Despite the fact that TDA has attempted to estimate flow rates and has calculated a "worst case scenario" flow and the effects therefrom, the Draft Dewatering Plan does not require a specific understanding of the quantity of groundwater flow at this point. It is flexible and is designed to be scalable and can adequately handle and easily accommodate whatever groundwater flow conditions are encountered based on seasonal variability.

The flexibility and scalability of both the collection and pumping end, and the disposal end allows for a design that can be easily matched to the groundwater flow rate, once that is known and measured in the actual excavation.

In sum, Tahoe Donner will comply with the required mitigation measure MM-HYD-1, provide a dewatering plan to be approved by the Town of Truckee and the Lahonton Regional Water Quality Control Board prior to construction and effectively implement that plan during construction. Additionally, because the project will disturb an area greater than 1-acre TDA is also required to comply with the National Pollutant Discharge Elimination System (NDPES) general permit, which requires the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) which must include specific guidelines for implementation, monitoring and reporting of construction site dewatering. The commentor's assumption that there could be more water that could be dispersed in the distribution area or more water than could be captured in the baker storage tank system is unfounded and entirely speculative. The dewatering system will require to be monitored per MM-HYD-1 and the NDPES permit to ensure that the SWPPP is implemented, and operations are conducted in accordance with the project conditions. Furthermore, as required by the permits, contingency plans will be in place to adjust the system as necessary based on the actual conditions encountered during construction.

The dewatering program will be limited to the earthwork and foundation installation activities during the construction phase. After completion of those activities the system will be removed. Any disturbance associated with the dewatering system will be restored to the current existing condition in accordance with standard restoration requirements applicable to this as well as any other project in the region.

Comment #2: The Conceptual Drainage Plan is subject to CEQA's admonition not to defer study or mitigation of a project's potentially significant environmental impacts to a future time unless certain conditions are· met. None of the conditions that would allow this deferral are currently met.

Staff Response: There is no Conceptual Drainage Plan that is proposed as part of this project so it is unclear what aspect of the project this comment is referring to. However, based on prior comments from this commenter, there have been concerns expressed regarding deferred mitigation with respect to the dewatering plan. Mitigation Measure HYD-1 requires preparation of a Dewatering Contingency Plan prior to issuance of a building permit. The plan is required to be prepared by a California licensed Geotechnical Engineer or Engineering Geologist. This mitigation measure commits the applicant to performance standards (e.g., timeline, qualifications of who can prepare the Dewatering Contingency Plan, technical guidance, and regulatory approval requirements) consistent with the California Stormwater Quality Association Construction BMP

Handbook for Dewatering Activities (NS-2). The plan will also need to comply with the requirements of the Construction Stormwater General Permit, with BMPs that must be incorporated into the Stormwater Pollution Prevention Plan (SWPPP) and dewatering plan, prior to being able to obtain a building permit. Mitigation Measure HYD-1 does not improperly defer mitigation as the commenter asserts. Deferred mitigation is permissible within the context of an MND provided specific performance standards are established and the agency or applicant commits itself to the mitigation. Both of these criteria have been met through imposition of the required mitigation measure on the applicant and the performance standards required within the California Stormwater Quality Association Construction BMP Handbook for Dewatering Activities (NS-2). Further, Town oversight will occur throughout project construction to ensure the performance standards are achieved. The following is what is required within Mitigation Measure HYD-1:

> Dewatering Plan. Prior to issuance of a building permit, a California licensed Geotechnical Engineer or Engineering Geologist shall prepare a Dewatering Contingency Plan (Plan) for any dewatering activities that may be required during construction activities. The Plan shall minimize impacts to water quality, including Alder Creek, by incorporation of water quality best management practices (BMPs), e.g. the use of sediment basins or holding tanks, energy dissipators, and/or sediment traps, that are designed and proven to protect water quality of receiving waters, The Dewatering Contingency Plan shall prioritize gravity flow techniques, where feasible, prior to use of pumping techniques and include best management practices (BMPs) for the management of any discharge water. The required BMPs shall be consistent with the most recent California Stormwater Quality Association Construction BMP Handbook for Dewatering Activities (NS-2) and include appropriate BMPs such as setbacks from surface waters and use of low flow rates for discharges sediment basins or holding tanks, energy dissipators, and/or sediment traps. The plan shall be submitted to the Town of Truckee, Lahontan Regional Water Quality Control Board, and any other applicable State agencies, for review and approval prior to issuance of a grading permit.

The applicant team has submitted a conceptual dewatering plan to Lahontan for review. Lahontan has reviewed the draft and has not identified any concerns although a revised dewatering plan will be required closer to the time of construction when the contract is awarded and a contractor is selected.

Comment #3: The Conceptual Drainage Plan is not a ministerial action. Its association with the discretionary project approvals convert it to a discretionary action. As explained in my previous June 2023 comment letter, CEQA requires the impacts of all the various elements of a project to be considered prior to project approval. This is referenced as the requirement for the Town to consider the "whole of the action." In disallowing segmentation, CEQA considers the CDP together with the environmental review and project approval, all of which are considered as part of the discretionary actions associated with this project.

Staff Response: As noted above, there is no Conceptual Drainage Plan. The Grading and Drainage Plan of the civil drawings and the Preliminary Drainage Report are part of the land use entitlement and reviewed as part of the MND. Because these documents are part of the land use entitlement package, they are reviewed through a discretionary decision-making process and are included within the scope of the MND. Accordingly, these documents are not being reviewed in a segmented fashion. The review of the final permit application, including finalized civil drawings and Final Drainage Report, will be completed by the Engineering Division as a part of the building permit process to ensure compliance with the Town standards. Additionally, the Dewatering Contingency Plan will be reviewed by both the Town of Truckee Engineering Division and Lahontan as outlined in Comment #2 above and Comment #4 below. Issuance of a building permit is a ministerial action and no discretion is being exercised to ensure the final project design complies with existing Town standards.

Comment #4: The plan involves impermissible future study. Deferring identification of mitigation measures to future study cannot support a finding that a significant impact is mitigated to a less than significant level, because the mitigation remains uncertain. In Sundstrom v. County of Mendocino (1 988) 202 Cal.App.3d 296, 312-314, a county required future hydrological studies as conditions of a use permit, specifying that any mitigation measures suggested by the studies would become requirements of the permit. The Court held that unspecified future mitigation based on a future study was improper.

Staff Response: There is no future study proposed as part of the project or MND. The Dewatering Contingency Plan (Plan) will be prepared based on the groundwater levels discovered in the project site prior to construction. According to the geotechnical report, groundwater in the area fluctuates seasonally and with the amount of precipitation with the highest amount of groundwater observed during the spring snowmelt. The Plan will outline the approach to construction dewatering for the project and the BMPs that will be required. Per the requirements of the mitigation measure, the Plan will include detailed information regarding dewatering collection and distribution, visual monitoring and mapping which depicts the dewatering plan and offsite dewatering areas. No future study is needed to develop the Plan itself. The mitigation measure stipulates what is required to be included in the Plan, what performance standards need to be met (as articulated in the California Stormwater Quality Association Construction BMP Handbook for Dewatering Activities (NS-2) and within the text of the measure itself), and how any discharged water will be managed.

Comment #5: The Town has not even required the project to operate under a conditional use permit, therefore there is very little ability for the Town to be able to enforce any aspect of the use of this large development project and mitigation remains uncertain. The Town's refusal to require the project to go through the usual CUP approval process is indeed mystifying.

Staff Response: The Town has searched for the original Nevada County Use Permit for the ski hill and lodge as part of this project and previous projects but staff has not been able to locate the original records. However, there is adequate documentation including subsequent Use Permits and Use Permit Amendments for the site and building permits on file for the structure that confirm that the lodge and ski hill were approved. The Town made a determination as part of the Tahoe Donner Ski Area Snowmaking project (Application 2015-00000045) that it has an existing Use Permit and can continue to function as a ski hill with lodge. As stated in the staff report and MND, the existing operations of the ski hill are considered the baseline for review of the project and for environmental review and the applicant team has confirmed this as part of their project description, which is as follows:

- Winter (November through April). Operates daily 8:00 a.m. to 5:00 p.m.
  - Services include equipment rental, retail sales, ski school, ticket sales, shuttle service, bar and food and beverage.
  - Community ski-related events happen throughout the season that occur during normal operating hours of the downhill ski resort.
  - Two annual community ski-related events which might fall out of normal operating hours:
    - New Year’s Eve celebration, 5:00 PM to 8:00 PM – Light parade and fireworks show (5:00 PM to 8:30 PM)
    - The Saturday of the President’s Day Holiday Weekend, 5:00 PM to 7:30 PM – Glow parade on Snowbird Lift
  - Approximately three event dinners and ceremonies for ski-related clubs that are wholly indoors and end by 10:00 PM. No other restaurant activities occur outside the normal operating hours.

- Ski operations include chair lifts, conveyor lifts, snowmaking, snow removal and grooming operations (which occur throughout the day and night).

- Administrative (office) activities occur throughout the winter.

- Summer (May through October).

  - Day camps operate daily 9:00 a.m. to 4:00 p.m.

  - Administrative (office) activities occur throughout the summer.

  - Maintenance of buildings, ski lifts, equipment, and trails occurs throughout the summer.

- Other private or community events are prohibited.

Additionally, in September 2014, Tahoe Donner Association submitted an application for a Temporary Use Permit for wedding and special events at the Tahoe Donner Association Downhill Ski Area. After reviewing the submittal, in November 2014, the Community Development Director determined that a Temporary Use Permit (Application 14-032) cannot be approved for the proposed events and required an amendment to the underlying Use Permit for the ski hill (See Attachment #5). The letter notes that "weddings and special events at this facility are not allowed uses under the current approval and a more thorough process would need to occur to allow Town decision makers and the surrounding property owners an opportunity to fully understand the impacts to the neighborhood from non-ski related events." The Town has consistently identified that a Use Permit is in effect, Use Permit Amendments have been approved, and the Town has previously identified special events as an unpermitted activity on this site. Further, staff notes that an event space use in the Recreation (REC) zoning district where the project is located, is not a permitted use and a Development Code Amendment would be required to allow such as use. This would require a legislative action that would ultimately be reviewed by the Town Council.

Comment #6: Evaluating the impacts of a post project approval is also disallowed under CEQA for the simple reason that the Town must be able to assure the public that in adopting the MND, no segment of the project will result in any impacts at any time. Moreover, the ability to impose mitigation to bring all impacts to insignificance after the project is approved will have been lost. The MND's assurance that the project will not result in any impacts must include certainty about future actions and include objective performance criteria for any proposed future mitigation measure in order to be able to ensure the project is without remaining impacts at any stage of its development.

Staff Response: The Guidelines for California Environmental Quality Act Section 15070 (Decision to Prepare a Negative or Mitigated Negative Declaration) states that "a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

a) The initial shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect to the environment, or
b) The initial study identified potentially significant effects, but:
    1. Revisions in the project plans or proposals made by or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
    2. There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment."

The MND is required to identify mitigation measures that will reduce potential impacts to less-than-significant. Further, the impacts of the project have been disclosed prior to approval of the project and there is no post-project approval occurring, nor are there impacts that would be disclosed post approval. As stated above, the Plan will be prepared once the groundwater levels are known and will be developed consistent with established performance standards.

Comment #7: The staff report for the upcoming Planning Commission regarding the amendment to mitigation measure MM HYD-1 that includes the CDP states:

> The Plan shall minimize impacts to water quality, including Alder Creek, by incorporation of water quality best management practices (BMPs), e.g. the use of sediment basins or holding tanks, energy dissipators, and / or sediment traps, that are designed and proven to protect water quality of receiving waters, The Dewatering Contingency Plan shall prioritize gravity flow techniques, where feasible ...

The amended mitigation measure will become a part of the mitigation monitoring program. It's very unusual for an agency to adopt a mitigation monitoring program when an MND is proposed. It is much more common to see a mitigation monitoring program when an EIR has been prepared because with an EIR, it is permissible for some impacts to remain, therefore, it's appropriate for an EIR to minimize impacts to the extent feasible. Conversely, in order for an MND to be considered valid, all impacts must be reduced to insignificance, therefore minimizing impacts is the incorrect standard to utilize in determines a mitigation measure's adequacy. With an MND every single impact must be reduced to insignificance, otherwise the fair argument applies and an EIR must be prepared.

Staff Response: The use of a mitigation monitoring and reporting program as part of a mitigated negative declaration is standard procedure and required by the Guidelines for California Environmental Quality Act. By its nature, a mitigated negative declaration requires adoption of mitigation measures to ensure any potential project environmental impacts are reduced to a less-than-significant level. Section 15074(d) (Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration) of the California Environmental Quality Act Guidelines notes that "When adopting a mitigated negative declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental impacts." Additionally, Section 15097(a) (Mitigation Monitoring or Reporting) notes that "In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required the project and the measures it has imposed to mitigate or avoid significant environmental effects."

As shown in the draft MND, other than those impacts that have been shown to be analyzed in the prior Environmental Impact Report or substantially mitigated by uniformly applicable development policies, each environmental impact has been shown to be either less than insignificant or no impact, or mitigated to a level of less-than-significant. This is the legal standard for adoption of an MND.

Comment #8: The 240-page document that includes the Town's Master Responses to comments received on the MND was just released this last Thursday and is littered with comments opining how mitigation will be imposed for various project impacts according to best management practices and other means in order to minimize impacts. This is not a valid standard for permitting the adoption of a mitigated negative declaration. The Master Response states:

> As described in the MND, implementation of the Dewatering Plan and the included BMPs, consistent with the most recent California Stormwater Quality Association Construction BMP Handbook, would ensure that any construction activities involving dewatering is conducted

in accordance with proven effective measures that minimize the potential impacts to groundwater and any receiving waters ...

Staff Response: The comment is not specific about what mitigation or analysis is not "valid." However, implementation of BMPs that are consistent with the California Stormwater Quality Association Construction BMP Handbook is a very specific requirement. Best Management Practices (BMPs) is an industry term used to include the "scheduling of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage" (Caltrans Construction Site Best Management Practices BMP Manual). The MND has concluded that impacts will be reduced to less-than-significant levels or to insignificant levels. This is the legal standard for adoption of an MND.

Comment #9: The plan also involves an impermissible deferral of mitigation to a future time. CEQA disallows deferral of future mitigation when a mitigation plan does not include objective criteria to reduce all impacts to insignificance. Here, if impacts remain after mitigation is imposed, the Town will have given false assurance that the project will not result in any impacts, and importantly, any future condition placed on the project will not be subject to public review or comment. The purpose of CEQA's disclosure requirements is so that the public is put on public notice of any potentially significant impact prior to the project's approval. Here, the plan merely includes minimization of impacts to the degree feasible, with no definitive objective standards.

Staff Response: As stated above, the MND has properly disclosed impacts associated with the project and, where applicable, mitigation is required to reduce impacts to less-than-significant levels which is the legal standard for adoption of an MND. CEQA does not require that a project not result in any impacts at any time. Further, there are no future conditions that are proposed to be placed on the project. All conditions of approval and all mitigation measures are articulated in Resolution 2023-62 and the MND Mitigation Monitoring and Reporting Program, respectively. Minimization of impacts when they are determined to be to a less-than-significant level is permissible within the context of an MND. Lastly, the proposed MND includes a number of definitive objective standards which the project must comply with including air quality and water quality.

Greg Kamman Comments

Comment #10: It is my professional opinion that there is nothing in the Master Response 1 that alters my conclusions and comments contained in my June 16, 2023 comment letter. The basis of this opinion is as follows.

The last sentence on page 2 and first sentence of page 3 of the Response to Comments speculate about the possible state of vertical connectivity (perched vs. fully saturated) and horizontal connectivity of the water table beneath the site. The uncertainty of groundwater conditions implied by these statements suggests the baseline groundwater conditions have not been adequately evaluated and described in the MND.

Staff Response: See response related to dewatering in Comment #1.

Comment #11: The second sentence on page 3 states that all soils are saturated during spring snowmelt and other rainfall events and are not necessarily a barrier to design and feasibility of infiltration facilities. While I agree that saturated soil does not impede design, it certainly has a bearing on the infiltration feasibility. If soil is saturated, there are no unfilled voids in which water can be absorbed and stored, thus precluding infiltration.

Staff Response: Since the existing building was constructed before State and local requirements for stormwater treatment were put into effect, the existing building has no permanent infiltration facilities located on-site. The project proposes to provide stormwater treatment facilities for all existing, new, and/or replaced impervious surfaces on the project site. Since the baseline for the project is the square footage of existing impervious surface area, and the Town's stormwater requirements take into account seasonally high groundwater that is not uncommon throughout Truckee, the proposed project's stormwater treatment will provide a substantial improvement over existing conditions.

Applicant Team Response - Permanent Infiltration Facilities:

Appellant appears to be misreading the preliminary improvement plans that were submitted for the project and environmental review. The infiltration facilities have been strategically placed on the site to meet code requirements of a minimum of 10 feet of separation between the infiltration facilities and the structure, sloping away from the foundation.

Water quality treatment facilities will be designed and located in compliance with the Town's stormwater management ordinance. There is sufficient information available about the site to design systems that comply with the Town's stormwater management requirements. The infiltration facilities are designed to flow downhill providing adequate gravity flow to properly infiltrate water, filtering the stormwater, and reducing the discharge from the site.

It should be noted that there is currently no meaningful stormwater treatment for the runoff from impervious surfaces associated with the existing development. All runoff from the property simply runs off into onto surrounding lands and into existing drainage swales that ultimately discharge to Alder Creek. As a result of the new water quality treatment facilities post project water quality conditions will be a vast improvement to existing conditions which have no stormwater treatment facilities.

The proposed project will comply with all current codes and requirements for management and treatment of storm water runoff including the following:

> The Town of Truckee Stormwater Quality Ordinance requires that projects that increase impervious surface area over the pre-project condition, the post-project runoff shall not exceed the estimated pre-project flow rate for the 2-year, 24-hour design storm.
>
> Town of Truckee Standards require on site retention of runoff from the 85th percentile, 24-hour storm (1.1-inch storm depth) and the quantity or rate of runoff for such a storm shall not increase above the pre-development condition. Stormwater conveyance systems must be sized to attenuate the 10-year storm without system surcharge and a 100-year event without damage (i.e. within conveyance measures to a designed safe release).[1]

The project has been designed to comply with these standards, and the plans will be required to depict that upon building permit approval from the Town.

Comment #12: The final sentence of the first paragraph on page 3 states that seasonally shallow groundwater levels would not preclude the construction of the proposed infiltration facilities. The ability to construct the infiltration facilities is not in question; there is no argument that they can be constructed in saturated soil. The concern is that the infiltration facilities will not function as intended if they are underlain by saturated soil or intersect the groundwater table. The occurrence of saturated conditions

[1] The Town relevant standard was incorrectly cited by the applicant in their response. Staff has corrected the code reference in this staff report. The project would be subject to the corrected standard.

calls into question the feasibility of infiltrating water into already saturated soil with no void pore space available to accept and store infiltration water.

Staff Response: See response related to permanent infiltration facilities in Comment #11. In addition, the Town's BMP standards, which will be applied to the project design prior to building permit issuance, include consideration of seasonally high groundwater.

Comment #13: The second and fourth paragraphs on page 3 present an argument that reducing the length of the proposed project retaining wall foundation drain versus existing conditions would result in a reduced volume of water requiring drainage. This may be the case if the base of the foundation drains were located at the same elevation or depth below groundwater. However, Master Response 1 presents an invalid comparison as it does not account for the different base elevations of the existing and future foundation drains. The foundation elevation associated with the proposed Level 1 building will be at 6762 feet resulting in an associated foundation drain elevation around 5-feet lower (or 5 feet deeper) than the existing conditions drain elevation. This will lead to the proposed project foundation drain being submerged 5 feet deeper under groundwater, resulting in a longer period of being submerged and a greater volume of water discharge to the drainage swale versus a drain constructed at the existing condition elevation. The MND has not adequately quantified the discharge volume of either existing or future project condition foundation drains needed to evaluate the potential impact to the environment and should be considered incomplete. It is my professional opinion that such calculations are reasonably feasible using standard industry accepted methods but are lacking from the MND.

Staff Response:

Although the cut of the proposed project foundation is approximately five feet greater in depth than the existing building (see the blue line compared to the red line in Figure 6), the footprint of the proposed building (4,420 s.f.) on the site is 47.5% (or less than half) of the size of the existing footprint (9,300 s.f.) (see Figure 7).

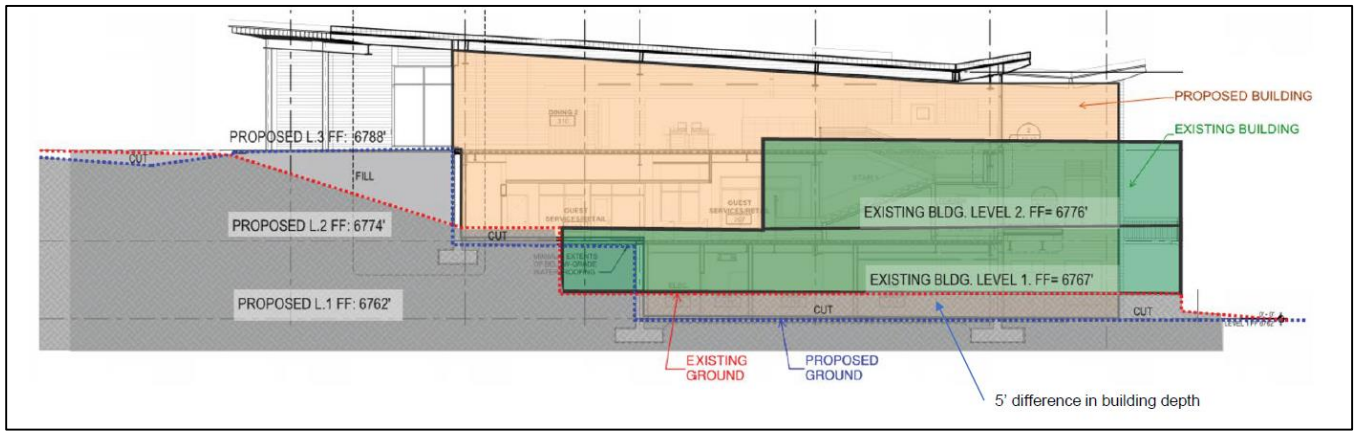

Figure 6: Grading Section A-A, existing and proposed

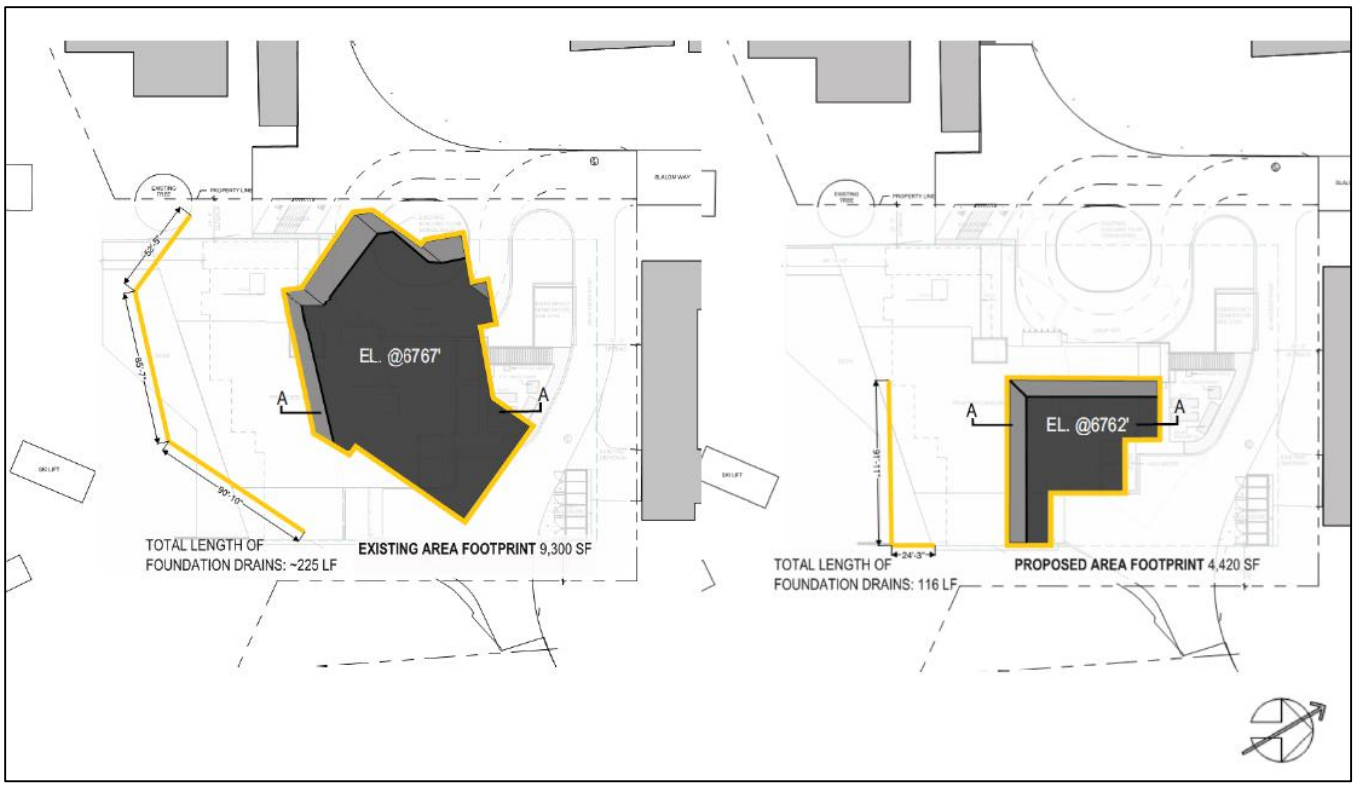

Figure 7: Footprint, existing and proposed

Regardless, conveyance of groundwater with foundation drains to appropriately designed safe release locations on a permanently developed site are allowed, and an exempt activity, under the State's stormwater requirements. So long as the safe release outlet locations of the foundation drains are designed to accommodate the maximum flow rate of the size of the foundation drainpipes, and that the foundation drains and outlet have appropriate sediment control methods, this proposed scenario would meet State and local requirements.

Applicant Team Response – Foundation Drainage:

Given the perched nature of the groundwater regime it is speculative to assume that TDA can calculate how much of the foundation drains is going to be exposed to groundwater under all potential groundwater conditions. Foundation drain discharge currently occurs on this site and will continue to occur under the proposed conditions.

During seasonal high groundwater conditions, the existing condition foundation drain discharge and the proposed foundation drain discharge will be substantially similar and will be on the order of 2 gallons per minute (GPM) to 20 GPM. As the groundwater table stabilizes throughout the dry season it is possible that the proposed foundation drain system may discharge more than the existing conditions on the order of .4 to 4.2 GPM. However, this minor increased foundation drain discharge does not pose a hydrology or water quality impact as described on page 52 of the MND. In other words, an increase in discharge rate is not a per se water quality impact without evidence of sedimentation, pollution or flooding.

The Town's response to comments in the ISMND makes it clear that there is no potential for the proposed foundation drains to cause sedimentation, pollution or flooding. The discharge point for the foundation drain is designed to intersect an existing culvert in the driveway to prevent erosion and avoid impact to the aquatic resource nearby.

Appellants challenge the Response to MND Comments' statement that background water quality, prior to capture by subsurface drains, is typically quite high, and claim that there is no basis or

documentation for the statement.1 This is misguided. The background water quality of the groundwater is high due to the absence of upstream pollution sources. In addition, groundwater in the region is typically of high enough quality to use as drinking water, in fact, many local water districts use groundwater with no treatment other than chlorination as their primary source of drinking water supply. The Truckee Donner Public Utility District has a historical drinking water well on the ski area property. Although the well is not currently in use it is our understanding that there are no reports of contaminated groundwater from that well when it was in service. The Truckee Donner Public Utility District is not aware of any contaminated groundwater in Tahoe Donner.

Whatever constituents may exist in such groundwater are there naturally because they are contained within the soils and rock through which the groundwater flows. The same constituents would be found in the creeks and streams in the area because those creeks and streams also collect surface and groundwater from the surrounding lands which have passed through or over the same soils and rock. There is no evidence that the existing streams and creeks have any constituent levels that are harmful to biota or wildlife.

Comment #14: The second sentence of the fifth paragraph on page 3 states that the geotechnical engineer has indicated the volume of groundwater intercepted by the foundation drain would be on the order of a few gallons per hour. This sentence cites the AEC Technical Information in support of Responses to Comments (July 18, 2023) as the source of the NV5 estimate. However, there is no context of groundwater conditions associated with this estimate (i.e., season of year, timing of rainfall, groundwater levels, etc.). Nor is documentation of the AEC Technical Information provided in the MND to verify or evaluate the foundation drain discharge estimate. It is also my experience and professional opinion that discharge rates from the proposed project foundation drain as designed and fully submerged by groundwater would result is a significantly higher flow rate than a few gallons per hour.

Staff Response: See response related to foundation drainage in Comment #13. Note, however, that NV5 has subsequently indicated that the previous response incorrectly stated the units as gallons per hour and should be “gallons per minute.” (See Attachment #4 for memo from Auerbach Engineering Corporation).

Comment #15: The last sentence of the first paragraph on page 4 states that the background groundwater quality prior to capture by the drain is "typically quite high". What is the basis and/or documentation for this statement? What assurances are there that this applies to the project site?

Staff Response: See response related to foundation drainage in Comment #13. In addition, note that the foundation drain construction (perforated pipe backfilled with gravel and wrapped with filter fabric) provides additional filtration of the groundwater.

Comment #16: The final sentence of the second paragraph on page 4 states that the proposed infiltration facilities have been located downslope and setback sufficiently1 from the foundation to prevent migration of infiltrated water into the foundation drainage system. I'm perplexed by this statement as Sheet CS (Grading and Drainage Plan) of the proposed Civil Improvement Plans contained in Appendix D to the Preliminary Drainage Report prepared by Auerbach Engineering, Corporation (dated December 2, 2022) indicates the infiltration trench is located 0 to 20 feet upgradient of the proposed foundation drain depicted on Figure 1 of Master Response 1. Unless the project design has changed since release of the initial IS/MND, Master Response 1 is incorrect and the last sentence on page 5 (see footnote 1) corroborates my original comment and concern about the high probability of infiltration water capture by foundation drains.

Staff Response: See response related to permanent infiltration facilities in Comment #11.

Comment #17: The dewatering plan provides no indication on what time of year (spring, summer, or fall) when construction and dewatering will occur. Groundwater levels beneath the site vary throughout the

year, ranging from near or at the ground surface during spring snowmelt season to deeper during drier periods of the year.

Staff Response: See response related to dewatering in Comment #1. The stormwater and groundwater requirements take into account the seasonal variability.

Comment #18: The plan has not attempted to quantify the volume of groundwater that will be captured and sprayed in dispersal area. It is my opinion that if groundwater levels are high, the dewatering and dispersal plan described may not be able to sufficiently achieve the desired outcome. Without knowing groundwater conditions and the volumes of water to be captured and sprayed, the plan has not demonstrated it is feasible if elevated groundwater levels are encountered.

Staff Response: See response related to dewatering in Comment #1.

Comment #19: If excessive volumes of water are encountered during construction, there could be more water captured than the baker storage tank can handle when spray dispersal is not occurring (i.e., during non-construction periods such as night-time and/or weekends). If spray dispersal is not run on a continuous basis, excavated areas will fill and need to be pumped down to resume excavation. Dewatering per the plan operations will also lower the local groundwater table beyond the excavation area, which will recover to static levels when pumping ceases. The dewatering system will then require handling and disposing of this added volume when operations resume, and outlying groundwater levels draw down again.

Staff Response: See response related to dewatering in Comment #1.

Comment #20: If spray dispersal operations are required around the clock for extended periods, dispersal area soils may become overly saturated leading to undesirable runoff from the dispersal area to downslope receiving lands and waters.

Staff Response: See response related to dewatering in Comment #1.

Comment #21: If elevated water table conditions are experienced at the construction site, it is possible that the groundwater table elevations will be elevated close to the ground surface beneath the spray dispersal area. If shallow groundwater occurs under the spray dispersal area, there is limited unsaturated soil available to absorb the dewatered effluent. Once the unsaturated zone becomes saturated, there is no capacity to absorb the spray water and surface runoff will result.

Staff Response: See response related to dewatering in Comment #1.

Comment #22: The dewatering plan does not indicate if or how the dewatering system trenches and piping will be decommissioned/removed after construction.

Staff Response: See response related to dewatering in Comment #1. This will be detailed in the final Dewatering Plan and will be required as a part of the Construction Stormwater General Permit Notice of Termination.

Findings

Due to the appeal, the Council is now the final decisionmaker on the Tahoe Donner Downhill Ski Lodge project. While the Planning Commission made findings to approve the project in September, the Council will need to make its own findings to approve or deny the project. The enclosed Resolution includes findings in support of approval of the project and denial of the appeal. Should the Council find merit in the appeal and wish to modify or deny the project, Town staff will prepare a revised Resolution and/or revised findings and will return at a future Council meeting with the modified documents.

The Town Council may approve or conditionally approve the requested entitlements only if all of all of the following findings can be made:

1. The proposed development is allowed by Article II (Zoning Districts and Allowable Land Uses) within the applicable zoning district with the approval of the applicable land use permit and complies with all applicable provisions of this Development Code, the Municipal Code and the Public Improvement and Engineering Standards.

2. The proposed development is consistent with the General Plan, any applicable Specific Plan and/or Master Plan, the Trails Master Plan, the Truckee Tahoe Airport Land Use Compatibility Plan and the Particulate Matter Air Quality Management Plan.

3. The proposed development is consistent with the design guidelines, achieves the overall design objectives of the design guidelines and would not impair the design and architectural integrity and character of the surrounding neighborhood.

4. The proposed development would not be detrimental to the public health, safety, or welfare of the Town, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.

5. The size and operating characteristics of the proposed development would be compatible with the existing and future land uses in the vicinity.

6. The land use permit approval is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potential significant adverse effects upon environmental quality and natural resources that would not be properly mitigated and monitored, unless a Statement of Overriding Considerations is adopted.

7. There are adequate provisions for public and emergency vehicle access, fire protection, sanitation, water and public utilities and services to ensure that the proposed development would not be detrimental to public health and safety. Adequate provisions shall mean that distribution and collection facilities and other infrastructure are installed at the time of development and in operation prior to occupancy of buildings and the land and all development fees have been paid prior to occupancy of buildings and the land.

8. The subject site is physically suitable for the type and density/intensity of development being proposed, adequate in size and shape to accommodate the use and all fences and walls, landscaping, loading, parking, yards and other features required by this Development Code, and served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed development.

9. The proposed development is consistent with all applicable regulations of the Nevada County Environmental Health Department and the Truckee Fire Protection District for the transport, use and disposal of hazardous materials.

10. The proposed sign is for a use that is allowed by Article II (Zoning Districts) and complies with all applicable provisions of this Chapter, the Development Code, the Municipal Code, the Public Improvements and Engineering Standards, any applicable Specific Plan or Master Plan, and any applicable Comprehensive Sign Program.

11. The proposed sign is consistent with the design guidelines and historic design guidelines (for signs in the -HP district), achieves the overall design objectives of the guidelines, and would not impair the design and architectural integrity and character of the surrounding neighborhood.

12. Deviations. The review authority will approve deviations to the sign standards of this Chapter, including sign area, number of signs, location, height, and/or material, only if all of the following findings below are made in addition to the two findings above:

    a. The Sign Plan application is for a single sign or single business.
    b. The requested deviation is based on site-specific conditions or design features, including business entry location, site visibility, architectural style, building mass and/or historic resource compatibility, that are unique to the applicable property.
    c. The requested deviation is the minimum necessary to create a superior Sign Plan with the highest quality signs that are well-integrated with the overall building/project and are compatible with existing and future land uses in the vicinity; and
    d. If the property is located within the Historic Preservation (-HP) overlay district, deviations to the sign standards of this Chapter shall be subject to Historic Design Review in accordance with Chapter 18.77.

Environmental Review: An Initial Study/Mitigated Negative Declaration (Exhibit B of Town Council Resolution No. 2023-62) has been prepared for the project (SCH #2023050519). The Initial Study concludes the project is consistent with the development density established by the existing zoning and 2025 General Plan policies and will not have a significant effect on the environment upon incorporation of project-specific mitigation measures. The Mitigated Negative Declaration was routed to State agencies through the State of California's Office of Planning and Research State Clearinghouse. Identified potential significant environmental impacts include air quality, biological resources, and hydrology and water quality. However, the Town has incorporated mitigation measures to reduce or eliminate the potential impacts. Mitigation measures have been developed for inclusion within the project as conditions of approval to mitigate all potentially significant impacts to less than significant levels. A mitigation monitoring reporting program has also been created to help in the implementation of these mitigation measures. It is staff's opinion that the mitigation measures developed for the project are adequate in meeting the requirements of the California Environmental Quality Act (CEQA) as well as the goals and policies of the 2025 General Plan. Responses to comments are provided in Exhibit B (Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Responses to Comments).

Staff Recommendation: The applicant believes that the existing lodge building, constructed in the 1970s, no longer meets the needs of the Tahoe Donner Association membership and the users of the ski hill. The applicant is proposing to replace an existing building with a modern building that functions more effectively for the needs of its users and will be required to address modern code requirements for accessibility, energy efficiency, and stormwater treatment. No changes to the proposed use of the ski hill, lodge, or parking areas are proposed. Overall, the project is consistent with the 2025 General Plan and the development standards associated with the REC (Recreation) zoning district and mitigation measures are recommended to reduce any potential impacts of the project. Replacement of the existing building will ensure that Tahoe Donner can continue to provide the Tahoe Donner and Truckee community with a locally based amenity for residents and visitors, as envisioned and supported by the 2025 General Plan. With incorporation of the recommended conditions of approval, including the proposed mitigation measures, staff recommends that the Town Council adopt Resolution 2023-62, upholding the Planning Commission's decision, denying the appeal of the Tahoe Donner Downhill Ski Lodge Replacement, approving the Tahoe Donner Downhill Ski Lodge Development Permit, Minor Use Permit, and Sign Plan, and adopting a Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program. Staff believes that the Mitigated Negative Declaration adequately addresses the potential environmental impacts associated with the project as supported by the Responses to Comment and this staff report and that an EIR is not required.

Priority:

☐ Enhanced Communication ☐ Climate and Greenhouse Gas Reduction ☐ Housing

☐ Infrastructure Investment ☐ Emergency and Wildfire Preparedness ☒ Core Service

Fiscal Impact: The cost of submitting this appeal is paid for by the appellants through a fixed-fee application. However, the cost of processing the appeal has surpassed the amount of the fixed fee, which includes preparation of the staff report, public noticing for the hearing and staff's attendance at the hearing. Because the fixed-fee application has not been adequate to cover the Town's expense to process the appeal, the remaining costs are borne by the Town's General Fund, through the Planning Division. If the appeal is granted, the Town Council may authorize the refund of the appeal fees.

Public Communication: The public hearing notice was published in the *Sierra Sun* on November 3, 2023 and mailed on November 2, 2023 to all property owners within the 500 feet of the project site, as shown on the latest current tax roll of Nevada County. Staff also sent an email notice of this hearing on November 1, 2023 to community members that have specifically requested updates on the project. The Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration was mailed out to all property owners within 500 feet of the project site and e-notified on May 19, 2023. The following public comments have been submitted for this appeal:

- Amanda Mackay: Supports the project.
- Andrea Forker: Supports the project.
- Julie Stewart: Does not support the project. Believes that the project needs an update and improved but does not support the current design.
- Kimberly Johanson: Supports the project.
- Meg Kammerud: Supports the project.
- Scott Garrison: Supports the project and the design.

Attachments:

Attachment 1: Draft Resolution 2023-62 – Upholding the Planning Commission decision and denying the appeal on the Tahoe Donner Downhill Ski Lodge Development Permit, Minor Use Permit, and Sign Plan

- Exhibit A: Plans
- Exhibit B: Initial Study/Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program and Responses to Comments
- Exhibit C: Conditions of Approval
- Exhibit D: Findings

Attachment 2: Appellant appeal submittal

Attachment 3: Planning Commission staff reports, Resolution 2023-02, minutes, and additional public comment can be found at the following links.

June 20, 2023 Planning Commission staff report:
This meeting was continued, but the bulk of the project analysis was provided in this staff report.
https://portal.laserfiche.com/Portal/DocView.aspx?id=59656298&repo=r-6a91ddbc

September 27, 2023 Planning Commission staff report:
The Planning Commission took action at this meeting.
https://portal.laserfiche.com/Portal/DocView.aspx?id=59666511&repo=r-6a91ddbc

Resolution 2023-02:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59669066&repo=r-6a91ddbc

Minutes:
June 20, 2023 meeting minutes:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59661193&repo=r-6a91ddbc

September 27, 2023 draft meeting minutes:
https://portal.laserfiche.com/Portal/DocView.aspx?id=59671535&repo=r-6a91ddbc

Public comment:
- https://portal.laserfiche.com/Portal/Browse.aspx?id=59656953&repo=r-6a91ddbc
- https://portal.laserfiche.com/Portal/Browse.aspx?id=59662714&repo=r-6a91ddbc

Attachment 4: Memo from Auerbach Engineering Corporation regarding the discrepancy between "gallons per hour" and "gallons per minute"

Attachment 5: November 10, 2014 letter from the Town to TDA regarding a special events Temporary Use Permit