

**THE FAIRWAY TOWNHOMES ASSOCIATION**  
**P.O. Box 838**  
**Truckee, CA 96160**



**DATE:** January 11, 2023

**TO:**

Mitch Clarin, Chair  
Planning Commission, Town of Truckee  
10183 Truckee Airport Road, Truckee, CA

Dave Gove, Vice Chair  
Planning Commission, Town of Truckee  
10183 Truckee Airport Road, Truckee, CA

Daniel Fraiman, Commissioner  
Planning Commission, Town of Truckee  
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**CC:**

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**SUBJECT:**

Gray's Crossing Car Wash Application (2022-00000034/DP)

Dear Chair Clarin & Commission Members,

We are writing to express our opposition to the car wash being proposed for construction by the developer of the Village at Gray's Crossing (the "Village"). We note also our concern that the developer of the Village appears to be circumventing the safeguards put in place by the State of California to protect its communities, natural resources, and tribal cultural resources.

We attach to this letter the minutes from August 20, 2019 where the Planning Commission reviewed the developer's modified plans for the Village at Gray's Crossing. We acknowledge,

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with gratitude, that the Truckee Planning Commission has a legacy of acting in the best interest of the residents and natural resources of the Lake Tahoe region, which we all cherish. The attached minutes show that the Planning Commission approved the developer's proposal for the Village at Gray's Crossing **on the condition that the gas station/car wash be removed**. The reasons for the conditional approval included extensive community opposition and concern and the developer's failure to obtain a CEQA review to evaluate and mitigate (as necessary) for potential environmental impacts to the surrounding community and natural resources.

We remain confident that the Planning Commission will continue to act in the best interest of the community. However, we feel compelled to write this letter to ensure that appropriate attention is paid to the specific circumstances of the developer's strategy to seek approval for the car wash project.

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### **Regulatory Concerns with the Developer's Car Wash Proposal**

At the Planning Commission hearing on August 20, 2019, the developer indicated that they would replace the gas station, convenience store, and car wash, which they had agreed to remove from consideration to secure approval of the Development Permit, with "something that the neighborhood would want". See pages 21 and 22 of the August 20, 2019 meeting minutes.

Instead of doing as they promised, the developer now seeks approval from the Planning Commission for a car wash on the same parcel where a gas station, convenience store, and car wash had been proposed in the 2019 Development Permit Application, notwithstanding that the Development Permit was only approved by the Commission after the applicant removed these facilities from consideration. It is incomprehensible why the developer would ask the Planning Commission to approve a car wash when the Planning Commission only approved the Development Permit after the applicant agreed to remove it.

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The developer claims that a car wash project should be exempt from CEQA review using arguments unlikely to withstand scrutiny in an administrative proceeding. Explained in more detail below are our key points of concern:

1. The developer and its consultant claim that the proposed car wash "conforms to the adopted Gray's Crossing Specific Plan" because "[t]hat plan evaluated the site's physical capabilities and was validated by a certified Environmental Impact Report", which "concluded the site was physically suitable for the density and intensity being proposed." However, focusing only on development densities ignores potential impacts associated with specific land uses. For example, adult-oriented businesses or cannabis dispensaries could very well be designed in conformance with the density thresholds contemplated in the Gray's Crossing Specific Plan if the Planning Commission accepted the argument that these facilities are consistent with "performing arts facilities" or "membership organization facilities" – both of which are permitted uses in the Village Center in the Gray's Crossing Specific Plan. However, such an interpretation would circumvent the intent of CEQA and rob stakeholders of their ability to raise legitimate concerns in the process. Like a standalone car wash approved in a residential community without first being subjected to CEQA analysis, such an interpretation would

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not withstand a legal challenge (and a legal challenge would be inevitable if the Planning Commission were to adopt such an interpretation).

2. The potential environmental impacts of a car wash were never studied. The 20-year-old CEQA documentation for the Gray's Crossing Specific Plan did not include any description or analysis related to a car wash as a land use. In fact, the term "car wash" does not appear in the Draft EIR, Draft EIR Technical Appendices, Final EIR, nor Final EIR Technical Appendices.
3. The *only* reference to a "car wash" appears on page 32 of the Gray's Crossing Specific Plan under "Permitted Uses – Village Center", wherein item 11 lists "Gas stations/car washes". While a gas station was analyzed in the EIR used to inform the discretionary approval of the Gray's Crossing Specific Plan, a car wash was not described nor were the potential environmental impacts of a car wash analyzed (e.g., hydrology and water quality including potential impacts the Truckee River and other impaired Waters of the United States, hazards and hazardous materials, traffic, noise, public health and safety)<sup>i</sup>. Moreover, "gas station/car wash" implies a gas station as a primary land use with a small, attached car wash as an appurtenant use (e.g., the gas station and car wash removed from consideration in the Village at Gray's Crossing Development Permit were proposed as an 1,800 s.f. gas station with an additional 500-700 s.f. car wash – see August 20, 2019 Planning Commission Meeting Minutes, page 5). The applicant's current proposal is for a 3,883 s.f. standalone automated car wash, which is more in line with a "car wash" as a primary land use – defined in the October 12, 2023, Development Code as "Permanent, self-service and attended car washing establishments, including fully mechanized and automatic (drive-through) facilities".
4. A gas station was analyzed in the EIR. However, as the Planning Commission pointed out multiple times during the 2019 hearings, the proposed gas station analyzed in the EIR was to be located in the SW corner of the Village Area, accessible from Henness Road and immediately east of the roundabout exit from SR 89. This location would have been away from residential areas, and passersby on SR 89 using the gas station would have been far less of a nuisance, or even hazard, to residents in the vicinity. The developer later determined that the proposed location was undesirable due to floodplain and permitting issues, which led to a revised proposal to relocate the gas station (along with a convenience store and car wash) into a residential area of the Village (west side of Edwin Way). The newly proposed location, and lack of existing environmental analysis regarding potential impacts associated with the specific land uses proposed at this location<sup>ii</sup>, resulted in heavy opposition by nearby residents and community members. Due to neighborhood concern, and likely because the 2019 Development Permit would have been denied by the Planning Commission if the gas station, convenience store, and car wash remained part of the proposal, the applicants removed these items from the application request.

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<sup>i</sup> The October 12, 2023 Development Code specifically states that "...car washes are intensives uses that are characterized by large areas of paving which permit vehicles to maneuver freely and have the potential to create significant adverse impacts for adjoining streets and properties" (pp II-112).

<sup>ii</sup> Please see p.17 of the July 16, 2019 minutes, where Commissioner Riley indicated "overarching environmental review issues", including that "it has been at least sixteen years [in 2019] since anything was done from an environmental standpoint." She cited "traffic, parking, public health and safety, jobs, and housing all related to CEQA" and pointed to the traffic at the roundabout as an already existing issue. She noted that "a student was hit in the roundabout and a trucked flipped over as well." Several other Commissioners generally agreed with these concerns.

5. The Gray's Crossing Specific Plan, Development Permit, and Development Agreement were approved about 20 years ago (early 2004). However, the Village was not constructed, and both the Development Permit and Development Agreement expired. A new application for the Village was submitted almost 14 years later (November 28, 2017), resubmitted again on October 11, 2018, and resubmitted a third time on April 19, 2019. The Development Permit was finally approved on August 20, 2019 (again, only after the applicant agreed to remove the gas station, convenience store, and car wash from consideration). Since that time, the applicant has been granted two 24-month time extensions (the first on November 16, 2021, and the second in December 2023). The applicant is now requesting a Project Amendment to the Development Permit for the Village to allow construction of a car wash within the Gray's Crossing Specific Plan Area, *which is wholly inappropriate*. In other words, a Development Permit that was only approved after the car wash was removed, which has been granted 4 additional years of time, is now seeking to add a land use that is not part of the Development Permit and that would have likely precluded approval of the 2019 Development Permit in the first place, with no additional CEQA analysis. Furthermore, because the Development Agreement was allowed to expire, each time the Commission approves a time extension for the Development Permit it must be reviewed for consistency with the General Plan and Development Code, both of which were updated in 2023. A gas station/car wash would directly conflict Land Use Goal 1.7: "**Inefficient Uses**. Prohibit the development of **new gas stations**, mini-storage, and golf courses in Truckee. Proposed major modifications or improvements to existing facilities shall be considered on a case-by-case basis in the context of broader General Plan and community goals".
6. Finally, the parcel that the car wash is being proposed on is zoned 'CN' (Neighborhood Commercial), and car washes are only allowed within the 'CN' zone with a Conditional Use Permit. In fact, all zones within the Town of Truckee that allow car washes require a Conditional Use Permit. Conditional Use Permits are discretionary, and therefore subject to CEQA. Given that a car wash was not analyzed in the Gray's Crossing Specific Plan EIR and *specifically excluded* from the Village's Development Permit, a proposal for a car wash should be treated as an entirely new application. How could the Commission in good faith allow a car wash in this location when there is no public record, project description, or evidence to alleviate our concerns? The proposed car wash (despite not being appropriate under any circumstance in the location proposed) has not been described, studied, analyzed, or subjected to comment from the residents of properties in the immediate vicinity (>500 feet) because no CEQA analysis regarding the proposed land use has ever been conducted.<sup>iii</sup>

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### Substantive Community Concerns About the Car Wash Project

The developer is rushing this process through the holiday season, resubmitting the car wash proposal at the very end of the year (days before the Christmas holiday), and requesting a

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<sup>iii</sup> It would also be impossible to determine if the project complies with the Development Code without a Project Description and resource area studies at this specific location for the proposed land use. For example, the Development Code states that "car wash facilities should include appropriate noise control measures to reduce machinery and blower noise levels" (October 12, 2023 Development Code, pp II-112). How can the noise control measures be deemed "appropriate" if there is no record or technical reports showing what the noise levels would be absent of controls at sensitive receptors in the immediate vicinity?

hearing in the first half of January. This timing risks the resubmission going entirely unnoticed and could prevent the hard -working and honest community members who are spending time with their family members during the holiday season from becoming aware of what is going on and adequately analyzing the risks it presents to them. Some members of the community may even be out of town, visiting family elsewhere and not physically present to learn about this unexpected development. It is not appropriate to approve a project that could have material negative impacts on the community without giving the community the opportunity to voice their concerns. It is not appropriate to deny the community the right to ensure that their interests and safety of the broader community and Lake Tahoe natural resources are adequately being represented in the Planning Commission's decision-making processes. Summarized below are some concerns already raised by community members:

### **Traffic**

Increased car traffic comes with an increased risk of accidents. This is particularly problematic for the communities in the immediate vicinity of the car wash project, which have many small children and animals that use the common areas to play outside and for transportation. A bus stop where young children frequently get on and off is just down the road from the car wash project. Directly across the street is an existing affordable housing community with many young children. A new affordable housing building with even more families with young children was recently completed, which will increase the concentration of young children across that intersection. The housing units at Annies Loop also have multiple children and animals who will use the common space. A middle school is less than half a mile from the car wash location.

With Waze and Google GPS directing drivers to the car wash, significantly more car traffic should be expected to make the dangerous 90-degree turn into the Edwin Road intersection and exit out through the Annies Loop cul-de-sac. As congestion increases (which is certain to happen with a 6-station car wash), so will car-related injuries. Car-related injuries and deaths are on the rise already in Lake Tahoe. Please see page 8 of the attached minutes from August 20, 2019, where the Commission was reminded that a child was hit at one of the roundabouts in the area. Exposing such a small residential community to such a traffic congestion risk is unjust and unreasonable and could be a proximate cause of harm to our residents. Further, it needs to be confirmed whether the school district will have concerns, given the proximity of the bus stop to the car wash. Please see attached minutes where the developer indicates that the school district was not reached out to in connection with the project and that the limited analysis that was performed happened while school was not in session. (Please see p8 of minutes from August 20, 2019 meeting.) As far as we know, this status has not changed. It seems to be in the best interest of the developer and Planning Commission to avoid these issues. At a minimum, this risk needs to be subjected to CEQA analysis.

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### **Noise**

A car wash facility holds water pumps, hydraulics, vac motors, air dryers, blowers and other equipment that can reach noise exposure levels beyond what is permitted by the Occupational Health and Safety Administration and the Town of Truckee's noise limits. This use is materially different than the gas station studied in the developer's EIR and it has not been confirmed that the car wash will actually avoid exceeding federal and local noise limits. The project must be assessed in a new EIR in the context of the Gray's Crossing Community, Fairway Townhomes, the middle school nearby, and the affordable housing community on two sides of the car wash and who may be negatively impacted by the disturbance.

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## **Hazardous Wastewater Release**

Though car washes are mandated by law to build facilities and equip them with tools and equipment that will facilitate the safe passage of wastewater, the infrastructure frequently leaks and release hazardous materials for long periods of time before they are detected. These may come from cracked pipes from both private and public wastewater treatment facilities – a fact that even the Environmental Protection Agency is aware of. The seepage that comes from these leaks may contaminate storm drains, beaches, and groundwater, which can be very alarming considering that children and elderly drink tap water without filtration systems on account of Lake Tahoe is considered the best groundwater for drinking in the country.

The risk of hazardous leakage is exacerbated in an environment like Lake Tahoe, which is located at high elevation, and subject to high winds, snowstorms, rain, and wildfires. Cold locations are particularly vulnerable to cracked pipes and explosions. Furthermore, the remote location of Lake Tahoe from major urban centers – especially in times of inclement weather such as snow storms that create avalanches or otherwise create roadblocks – could delay repairs and extend the time that residential community members are exposed to the hazardous waste that is being released on accounting of leaks or other infrastructure damage. The consequence of exposure to such toxins is devastating and permanent. The risk needs to be analyzed in an EIR.

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## **Exposure to Harsh Chemicals**

Car wash businesses use auto detailing products that contain harsh chemicals which can threaten anyone's health and safety. For example, it is well known that car wash employees are at risk of contracting lung and respiratory diseases, skin diseases, heart ailments, burns, and infections from toxic fumes and spills. Automatic car washes provide detailing services. When these businesses are located in industrial areas, residential communities are protected from these same risks by being far enough away to be removed from the exposure.

Locating such a facility less than 500 feet from a community with young children, babies, and elderly exposes the most vulnerable members of the community to the health and safety risks from the residue left behind each time a car is detailed. These individuals are the least capable of protecting themselves. Children play outside all day and will be inhaling these toxins. The elderly – who have relocated to Tahoe to find a place to breathe clean air – will be unable to do so. It could accelerate the onset of terminal health issues, and violates the spirit of Lake Tahoe, whose residents have relocated to Lake Tahoe from busy urban environments in search of clean air and peace.

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## **Community Equity**

The car wash project is being proposed less than 500 feet from existing affordable housing and less than 200 feet from new affordable housing that was recently completed. The Town of Truckee considers it a priority to provide housing to all members of its community, with a focus on the workers that power the local economy and enable residents and tourists to enjoy their lifestyles. This project would undermine those priorities by forcing these residents to noise nuisances at time when they are sleeping (after having worked night shifts) or spending time

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with family; by exposing them to potential environmental hazards through contamination of their water pipes and drainage systems; and increasing their risk for car-related injury as their children commute to school or use the common spaces. This is not an equitable use of the land.

## Conclusion

As noted by Commissioner Tarnay on page 18 of the August 20, 2019 meeting minutes, the Village at Gray's Crossing was intended to be provide a "range of retail, office, and lodging services and business activity relating to the needs of recreational activities and surrounding neighborhoods." A developer should not be able to use invalid arguments to convert the "Village" at Gray's Crossing into a transient travel plaza off the interstate, complete with a proposed hotel and car wash so out-of-towners can clean and detail their rental cars to avoid surcharges when they drop them off in the Bay Area before boarding a flight back home to another state. This is a proposal not in compliance with the Specific Plan that called for a development that would provide neighborhood services to the surrounding community.

The developer claims that it has acted in good faith and invested millions of dollars in this development over the last 20+ years. However, what appears to have happened is the developer assumed it would be able to include in its development plans a gas station and convenience store that would improve its investors' return profile. The gas station/car wash location ultimately became infeasible, first, after technical reports determined that the origination location had floodplain and wetland issues and, ultimately, because the Planning Commission was not comfortable with the community opposition and failure to adequately perform a CEQA review on the new location. The car wash is the developer's attempt to salvage the investors' return profile and is being forced through the Planning Commission on an invalid basis and flies in the face of extensive historical community opposition, without giving the community the opportunity to voice their concerns.

We hope you will take these comments under advisement as you assess the developer's car wash proposal. We also request that you consider postponing the hearing until February to give the rest of the community an opportunity to adequately assess the proposal and share their concerns with the Planning Commission.

Sincerely,

Fairway Townhomes Association

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