



Date: March 12, 2024

Honorable Mayor and Council Members:

Author and title: Yumie Dahn, Principal Planner

Title: Village at Gray's Crossing Car Wash Appeal (Planning Application 2024-00000011/APL)

Jen Callaway, Town Manager

Recommended Action: That the Town Council adopt Resolution 2024-12 thereby taking the following actions:

1. Determine the project to be exempt from CEQA pursuant to Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning);
2. Uphold the decision of the Planning Commission approving the Village at Gray's Crossing Car Wash Development Permit Project Amendment application (Planning Application 2022-00000034/DP-AMD);
3. Deny the appeal of the Planning Commission's decision to approve the Village at Gray's Crossing Car Wash; and
4. Approve the Village at Gray's Crossing Car Wash Development Permit Amendment, based on the findings and subject to the conditions of approval.

Discussion

Summary of Appeal Request: On January 16, 2024, the Planning Commission approved the Village at Gray's Crossing Car Wash Development Permit Project Amendment application (Planning Application 2022-00000034/DP-AMD). On January 26, 2024, the appellants filed a timely appeal of the Commission's approval of the project. The appellants have challenged the adequacy of the environmental review and the processing of the application. The appellants are requesting that the Town Council overturn the Commission's approval of the project and require additional environmental review.

Project Summary: Gray's Crossing Investments, LLC, applicant, is requesting approval to construct the Village at Gray's Crossing Car Wash located at 10012 Edwin Way (APN 043-070-010). The applicant is proposing a 3,883 s.f., 100-foot-long automated car wash and 13 parking stalls with nine vacuum stations. The proposed building is approximately 122 feet long and approximately 24.5 feet in height. In addition to the car wash tunnel, the building includes a small customer service area with restroom, employee break room, manager's office, and vending area. The proposal also includes a 127.5 s.f. vacuum pump enclosure and a one-way loop access into the car wash proposed off Edwin Way.

The applicant is requesting a **Project Amendment to the Development Permit** for the Village at Gray's Crossing to allow construction of the car wash in the Gray's Crossing Specific Plan area and cumulative disturbance of more than 26,000 s.f. and cumulative square footage of more than 7,500 s.f. in the Village at Gray's Crossing. The Village at Gray's Crossing was originally approved in August 2019 and two-year time extensions were approved in November 2021 and December 2023.

Location/Setting: The project site is located in the Prosser area, east of State Route 89N between Prosser Dam Road and Henness Road along Edwin Way. The project is part of the Village at Gray's Crossing in the Gray's Crossing Specific Plan Area, which includes a fourplex, 129-unit hotel, 24 townhomes, five commercial buildings with 21 lofts above. (10012 Edwin Way; APN 043-070-010; see Figure 1)

Project Site Information:

General Plan Designation: Gray's Crossing Specific Plan Area

Zoning District: Neighborhood Commercial (CN)

Project Site Size: 0.99 acres

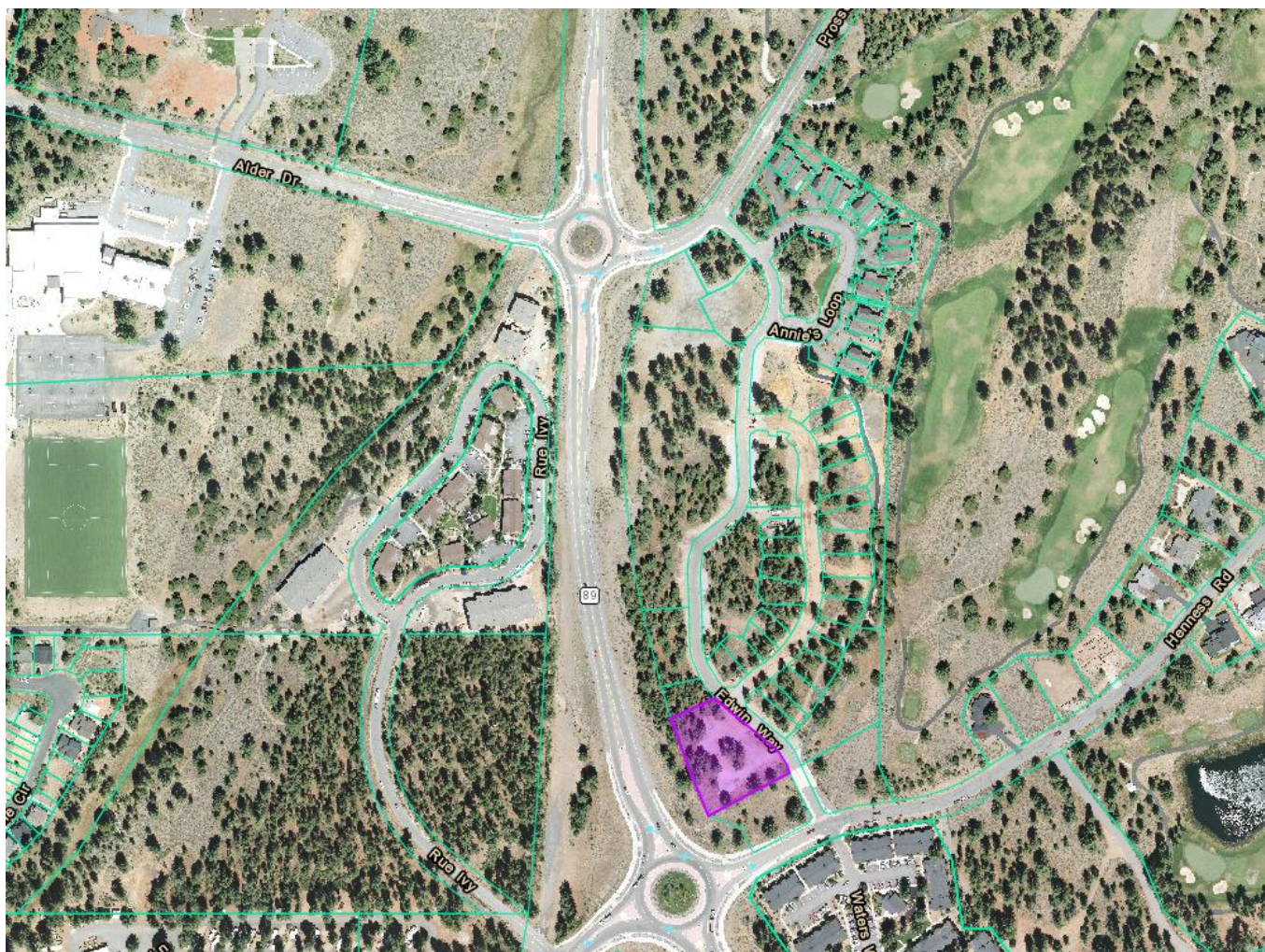


Figure 1: Vicinity Map

Background

In February 2004, the Town Council adopted the Gray's Crossing Specific Plan, certified the Environmental Impact Report (EIR), and approved Zoning Map Amendments, a Development Agreement, and Tentative Maps for future development of the Gray's Crossing area. The Gray's Crossing Specific Plan was adopted to create a comprehensive development that included a mix of uses such as a diversity of housing types, commercial uses, lodging, and recreational and open space components. The Gray's Crossing development is based around an 18-hole golf course and recreation amenities packages. East-West Partners, the developers, was envisioned to manage the implementation of the Specific Plan. For this reason, the Specific Plan was written assuming the continued oversight of a single

master developer. With the 2008 recession, portions of the plan area fell into foreclosure and were sold resulting in fragmented ownership. The market rate single-family lots, 92 affordable housing units (Henness Flats), golf course with clubhouse, restaurant, and fitness facility, and the church were constructed. The Truckee Donner Recreation and Park District Community Recreation Center and Aquatic Center and Frishman Hollow were also constructed on land provided by the original Gray's Crossing developers as part of a community benefits package and the prior Development Agreement.

The Gray's Crossing Specific Plan (see Attachment #5 for link) is the controlling regulatory document for establishing land uses, density and intensity of use, and the specific development standards identified in the plan for the Gray's Crossing Specific Plan area. The Gray's Crossing Specific Plan includes design guidelines and standards for off-street parking, lighting, grading and drainage, and signage. Where the Specific Plan does not address specific standards, the Town defers to the Development Code. The Gray's Crossing Specific Plan included the following development for a Village and Lodge:

- Office and Retail - 38,900 square feet of office and retail floor space. This area would also accommodate 21 live-work lofts above the retail floor.
- Lodge - 120 rooms with 5,000 square feet of conference facilities and limited food service. The Lodge would be constructed over a ten-year period. Each unit within the Lodge will be designated to allow for flexible use such as commercial condominiums, time-share or fractional ownership.
- Community Cultural Center - A 7,200 square foot multi-use building that can accommodate worship services, community gatherings, cultural events and theater.
- Gas Station - An 1,800 square foot service station and convenience store.
- Attached Housing
- Church Site - a one-acre site that could provide a future worship center and multi-use facility for the local Truckee Ecumenical Partnership.

Since 2004, the Town reviewed iterations of the Village at Gray's Crossing in 2004, 2006, and 2007. The history of these approvals can be found in Attachment #5 of the Planning Commission staff report. Seventeen townhomes in the Village at Gray's Crossing were constructed as part of the 2007 Village at Gray's Crossing approval. The 2007 approval expired in 2011.

In 2019, the Planning Commission reviewed a new iteration of the Village at Gray's Crossing, which included the following:

- An 83,371 s.f. 129-room hotel with 4,989 s.f. conference center, pool, and outdoor lounge area
- One eight-pump gas station with 2,788 s.f. convenience store (later modified to 1,800 s.f.) and 756 s.f. car wash
- Three Commercial buildings with five residential units above (Neighborhood Commercial or Studio Lofts)
 - o Commercial square footage (retail assumed) for each building: 2,460 s.f.
 - o Five residential units in each building: One building with two one-bedroom units and three one bedroom units and two buildings with four one-bedroom units and one two-bedroom unit.
- Two Commercial Buildings with three residential units above. (Live/Work Units)
 - o Commercial square footage (retail assumed) for each building: 4,906 s.f.
 - o Three residential units in each building: Three 1,569 s.f. two bedroom units
- 24 attached single-family residential units:
 - o Four Townhome A buildings (Two units within each building) – Two four-bedroom 2,738 s.f. attached units with 615 s.f. garages
 - o Four Townhome B buildings (Two units within each building) – One 2,738 s.f. four-bedroom attached unit with 575 s.f. garage and one four-bedroom 2,802 s.f. with 615 s.f. garage

- Five Townhome C buildings (Two units within each building) – Two three-bedroom 1,984 s.f. with 575 s.f. garages
- One fourplex:
 - Two two-bedroom 1,435 s.f. units
 - Two two-bedroom 1,461 s.f. units
- 250 parking spaces

Ultimately, the project was approved by the Planning Commission (Resolution 2019-17) with the removal of the eight-pump gas station with convenience store and car wash based on neighborhood concern. Neighbors were concerned about traffic generation as well as the impact to the character of the neighborhood. Thus far, building permits have been issued for the 24 townhomes and fourplex and building permits are in review and close to issuance for the mixed-use commercial buildings with lofts. Two two-year Time Extensions for the 2019 Village at Gray's Crossing were approved in November 2021 (Resolution 2021-12) and December 2023 (Resolution 2023-20). Additionally, a project amendment was unanimously approved on January 16, 2024 (Resolution 2024-02) for the Village at Gray's Crossing hotel for modifications to the architectural design. The recent modifications to the hotel were processed through a Project Amendment since the applicant was proposing changes to the originally approved hotel beyond the minor changes that can be approved by the Community Development Director. Development Code Section 18.84.070 (Changes to Approved Project) requires major changes to be reviewed by the original review authority.

Project Description: The applicant is requesting approval to construct the Village at Gray's Crossing Car Wash at the southwest corner of the Village at Gray's Crossing. This was the previously proposed location for the gas station/convenience store/car wash that was reviewed as part of the 2019 Village at Gray's Crossing application (Application #2017-00000160). The applicant withdrew the gas station/convenience store/car wash component of the Village at Gray's Crossing application in 2019. The remainder of the project, which included townhomes, a fourplex, a hotel, and mixed-use commercial buildings was approved.

The applicant is proposing a 3,883 s.f., 24.5-foot tall, 100-foot long automated car wash, and 13 parking stalls with eight vacuum stations. The applicant has stated that the car wash can service five cars at one time, on average. The applicant has submitted information that states that, on average, 45 cars (or one car every 90 seconds) can be serviced by the car wash per hour. The application also indicates that each car wash cycle can take approximately five minutes. In addition to the car wash tunnel, the building includes a small customer service area with restroom, employee break room, manager's office, and vending area. A vacuum building is located adjacent to the southeastern corner of the tunnel building with two digital payment kiosks proposed along the queuing lanes. Additionally, a landscape berm is proposed along the western property line of the project site. See Figure 2 to Figure 5 for renderings of the proposed building.

Proposed hours of operation are from 7 AM to sunset daily and could vary dependent upon daylight hours and upon the season and weather conditions. The applicant anticipates approximately three employees on site at one time with one employee guiding vehicles into the tunnel while another assists with the payment and the other is inside the customer service area.

A mapped floodplain and floodplain setback are located to the south of the project site, but all improvements are proposed outside of these areas.



Figure 2: Southeast perspective



Figure 3: Northeast perspective



Figure 4: Northwest perspective



Figure 5: Southwest perspective

Detailed analysis of the project can be found in the Planning Commission staff report. The Planning Commission staff report, Planning Commission Resolution 2023-11, minutes, and additional public comment can be found at the following links.

January 16, 2024 Planning Commission staff report:

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59688897&repo=r-6a91ddbc>

Resolution 2023-11:

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59694296&repo=r-6a91ddbc>

Minutes:

January 16, 2024 meeting minutes:

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59703274&repo=r-6a91ddbc>

Public comment:

<https://portal.laserfiche.com/Portal/Browse.aspx?id=59684606&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 car wash 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 grant 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 amend the existing findings in support of the appeal.

Appeal of the Planning Commission Approval

On January 26, 2024, the appellants submitted a timely appeal of the Planning Commission's action to approve the Village at Gray's Crossing Car Wash application. The primary issues are identified below under headings and subheadings, accompanied by numbered staff responses corresponding with each issue raised by appellants' comment. The appellants' application submittal can be found in the letter from Carstens, Black & Minter LLP and The Fairway Townhomes Association (Attachment #2).

Carstens, Black & Minter LLP Comments

INTRODUCTION

Appellants' Comment : *This appeal is submitted on behalf of Appellant Fairway Townhomes Association (Appellant) concerning the Planning Commission's approval of a Project Amendment to the Development Permit for the carwash at the Village at Gray's Crossing ("Project"). The Project permits construction of an automated car wash that can service one car every 90 seconds on the same parcel where a gas station, convenience store, and appurtenant car wash have previously been proposed and rejected in the past.*

Staff Response:

A response to this introductory comment can be found in the response to Comment No. 1.

Appellants' Comment: *Instead of filing an application for a new land use, the developer sought and obtained from the Town a Permit Amendment on the premise that the project being proposed is the same as was originally contemplated. However, the Project is substantially different from that contemplated – but notably not approved – in both 2004 and 2019. Instead of the 1,800-square-foot service station and convenience store proposed in 2004 or even the 756-square-foot car wash attached to a gas station and convenience store considered in 2019, the Project proposes a 100-foot-long car wash completely unrelated to a gas station. The Project's main building would be 3,883 square feet, and 122 feet long. A separate vacuum pump building would be constructed, as would 13 parking stalls and nine vacuum stations. This Project is 5x larger than the previously rejected car wash, with greater environmental and community impacts.*

Staff Response:

A response to this introductory comment can be found in the response to Comment No. 1.

Appellants' Comment: *The Project has been relocated to within 200 feet of homes, in particular, near recently constructed affordable housing, even though the study prepared by the Applicant admits the carwash will generate sounds above 85 dBA.*

Staff Response:

It is unclear where the appellant believes the project is being relocated from. The gas station, convenience store, and car wash proposed in 2019 were located on the same parcel as the proposed car wash currently under review. The gas station was proposed at the north side of the Village at Gray's Crossing in 2004 and at the south side of the Village in 2006. Regardless of location, any proposal is inherently located in proximity to residential uses as the mixed-use Village Center zoning – by design – allows both residential and commercial uses near one another. However, it is unclear which project is being referenced. Further response to this introductory comment can be found in the response to Comment No. 4.

Appellants' Comment: *Placing the carwash nearest to affordable housing also presents environmental justice and equity issues that must be addressed.*

Staff Response:

The car wash and residential uses, whether affordable or market rate, are subject to the standard requirements of the Development Code. As indicated in the staff report, staff has evaluated the potential impacts of this use and location on nearby residential uses. The car wash dryer assembly, without a polycarbonate door, is estimated at 85 dB at 50 feet. No residential units are located within 50 feet of the project site. However, to address the potential impact from noise associated with the car wash use, staff has required installation of a polycarbonate door to and ensure consistency with the Town's noise ordinance.

Appellants' Comment: *Located a mere 20 feet from Prosser creek, a tributary to the Truckee River, the car wash and its users will discharge chemicals into the creek, including proprietary formulas that have never been analyzed by the Town or the Applicant's studies. These environmental and human health impacts have never been adequately analyzed, disclosed, or mitigated under the California Environmental Quality Act (CEQA).*

Staff Response:

A response to this introductory comment can be found in the response to Comment No. 4.

Appellants' comment: Accordingly, the Town's reliance on the 2004 Specific Plan or the EIR certified for that plan nearly 20 years ago violates CEQA.

Staff Response:

Regardless of age, the EIR for the Gray's Crossing Specific Plan has not been revoked by the Town and is considered in effect and applicable to the project site. Staff has determined that the proposed project is consistent with the Gray's Crossing Specific Plan and the certified EIR and use of Section 15183 of the CEQA Guidelines is appropriate. Further, subsequent environmental review is prohibited when a project is consistent with a prior Specific Plan and all criteria of Section 15183 are met.

Appellants' Comment: In approving the Project Amendment, Truckee has abruptly and arbitrarily reversed its 2019 decision, in violation of planning law and the California Environmental Quality Act (CEQA). Given the lack of changes to the underlying facts and conditions, the Planning Commission process seemed designed to evade public notice, review, and, most importantly, participation. Appellant acknowledges that the Town Council's review of this matter is de novo and respectfully requests that the Council reverse the Planning Commission's approval of this harmful Project and deny the Permit Amendment. If the Council wishes to consider the Project further, Appellants request that the Applicant submit a new application for what is a material change to the 2019 approval and perform a full and adequate review under CEQA.

Staff Response:

Responses to this introductory comment can be found in the response to Comment Nos. 1, 5, and 6.

COMMENT NO. 1: THE PLANNING COMMISSION'S REVERSAL ON THE CAR WASH IS ARBITRARY AND CAPRICIOUS.

Appellants' Comment No. 1(A): Twice, a gas station or car wash has been proposed at the Village at Gray's Crossing, and twice it has been removed from the Applicant's proposal before the Town granted entitlements. In 2019, the Planning Commission expressed concern about community opposition and the developer's failure to undertake CEQA review to analyze and mitigate potentially significant environmental and community impacts. Minutes from the August 20, 2019 Planning Commission hearing reflect that the Planning Commission only approved the Applicant's Development Permit on the condition that the gas station and car wash be removed. Once the Applicant removed the car wash from its proposal, the Planning Commission granted the Development Permit, and construction of began. At the time, the Applicant agreed to replace the gas station, convenience store, and car wash with "something that the neighborhood would want." (Planning Commission Minutes, August 20, 2019, pp. 21-22.)

Surely, the Town cannot justify granting the Permit Amendment to add in a larger car wash than the one that was expressly removed before the Town would grant the Development Permit. As Appellants characterized the Project to the Planning Commission, "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..."

Staff Response No. 1(A)

This comment provides Appellant's interpretation of CEQA, but does not allege the existence of a Town land use provision prohibiting resubmittal of the same project or submittal of a similar allowed use. The comment does, however, mischaracterize the record. As such, the response will focus on correcting misstatements about the procedural record as reflected in the minutes.

Correction to Appellants' Statement that the Gas Station/Car Wash was Removed Twice Before Approval

First, the appellant's contention that the gas station or car wash has been twice removed from the applicant's proposal is incorrect. A gas station was proposed and approved in 2004 and 2006, but was never constructed. In 2019, the applicants proposed a gas station with car wash and convenience store as part of a larger mixed-use project that also included 24 townhomes, five commercial mixed-use buildings with 21 residential lofts, a residential fourplex, and a 129-unit hotel. During the August 20, 2019 hearing, the applicants voluntarily removed the gas station with car wash and convenience store, which ultimately led to the Planning Commission's approval of the project. No action was taken on the gas station, car wash, or convenience store in 2019. The ultimate decision on the Village at Gray's Crossing with gas station, car wash, and convenience store by the Planning Commission, or a subsequent appeal by any party, was never made. The 2019 project was the only instance where a car wash was removed from the project before approval.

Correction to Appellants' Statement that Commission Approval Conditioned on Gas Station/Car Wash Removal

Second, the Planning Commission did not require that the gas station and car wash be removed from the project nor was it a condition of approval for the project. These components of the project were voluntarily removed from the Planning Commission's consideration by the applicant and it is unknown what the Planning Commission's ultimate decision would have been if these components were not removed.

Correction to Appellants' Statements related to the August 2019 Planning Commission Hearing

During the August 20, 2019 hearing, the Planning Commission inquired about the Environmental Impact Report, traffic, and the drainage. The minutes reflect the Commission voiced generalized community concerns about the project. However, minutes also reflect the Commission's focus was on land use matters, such as the Gray's Crossing Specific Plan, and project's consistency in terms of proposed design, location of the gas station, car wash, and convenience store. The minutes are devoid of Appellants' allegations – the Planning Commission did not question staff or the applicant about failure to undertake CEQA analysis. Rather, the opposite is true. The minutes include a Commissioner's statements that the EIR was adequate and that no further environmental review was required. Another Commissioner noted that the environmental assessment completed in 2003 satisfied their concerns. As reflected in the minutes, this line of questions occurred prior to the applicant's statements about potentially rethinking the project description or removing the gas station, car wash, and convenience store. Specifically, the minutes reflect the applicant committed to additional planning efforts to identify a more desirable community use: "it may be in the future that we come back and say that we think the gas station is the best option."

Appellants' Comment No. 1(B): On the contrary, a car wash was not analyzed in the Gray's Crossing Specific Plan EIR and one was specifically excluded from the Village's Development Permit. Accordingly, the Applicant's proposal for a car wash should be treated as an entirely new application, subject to all required discretion and environmental review. The Town's approval of a Project Amendment to add back in the portions of a project that were explicitly removed in order to obtain approval subverts the goals of predictability and community protection underlying planning.

Staff Response No. 1(B)

This comment provides Appellant's interpretation of CEQA, but fails to address Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183, which apply to the Project. It also mischaracterizes the CEQA analysis of the car wash in Gray's Crossing Specific Plan.

As an initial matter, the Town certified the Gray's Crossing Specific Plan Final Environmental Impact Report (SCH #2002072115) in February 2004. A "car wash" is identified as a permitted use within the Village Center District of the Gray's Crossing Specific Plan. After conducting comprehensive noise, traffic, and emissions technical analysis, as explained below, staff determined that the proposed project is similar to and no more intense than the gas station and convenience store use identified in the Gray's Crossing Specific Plan EIR. The comment further overlooks that the Specific Plan also includes a range of land uses beyond the specific project proposal that could be allowed instead of the proposed project specifics.

Community Outreach and Applicable Land Use Requirements for Standalone Projects

In addition, project review followed community outreach, as required of a typical standalone project. The neighborhood outreach directly from the Town and through the homeowners association was conducted. Additional outreach to property owners who requested additional information and outreach through email communication was also conducted.

Previous use of amendment process occurred within Specific Plan Area

Similar to the 2019 approval, the site is located within the Gray's Crossing Specific Plan area and subject to the Gray's Crossing Specific Plan requirements and environmental review. The proposed car wash is being reviewed for consistency with the Gray's Crossing Specific Plan and not with the 2019 land use entitlement. The project is considered a "Project Amendment" only that it is modifying the underlying approval of the Village at Gray's Crossing site. The car wash site was included in the 2019 approval even though development was ultimately not requested on the site.

Processing Changes to an Approved Plan under Town Code

Development Code Section 18.84.070 (Changes to an Approved Project) states that modifications to projects that involve a substantial change to the site plan or the building design requires approval by the review authority through a new land use permit application or modification of a land use permit. A Project Amendment only indicates that there was a previously approved project; in all cases, the Project Amendment requires approval of a new land use permit. In this case, a new Development Permit is required for the project amendment.

Alternatively, if the project was reviewed as a standalone project, as indicated in the appellants' request, the project would be reviewed through a Zoning Clearance process, which is a staff-level review. The Project Amendment allows the car wash to be reviewed as part of the larger comprehensive Village at Gray's Crossing project and reviewed by the original review authority, which was previously the Planning Commission.

The purpose of the Specific Plan is not only to provide predictability to the community but also to property owners and developers. The Specific Plan identifies a car wash as an allowed use within the Gray's Crossing Specific Plan area, which gives assurances to the applicant team that the compatibility of the use to the surrounding area is not in question. Additionally, the car wash use has been part of the allowed uses in the Specific Plan since adoption in 2004, which provides predictability to the surrounding neighborhood. The required environmental studies and review were conducted in 2004 and necessary mitigation measures were applied to the project through the EIR. Based on the review of the project, staff believes that the additional traffic, emissions,

and noise studies conducted for the car wash project, in conjunction with the 2004 Gray's Crossing Environmental Impact Report adequately address the potential environmental impacts of the project.

COMMENT NO. 2: APPROVAL OF THE PROJECT IS NOT BY-RIGHT.

Appellants' Comment No. 2(A): *Without support, the Planning Commission Staff Report asserts that the Project is "permitted by-right" within the Grays Crossing Specific Plan "so it is not the Commission's role to deliberate on the appropriateness of a car wash use at this location." (Planning Commission Staff Report, p. 37.) This is neither correct nor consistent with the Town's past actions on this very issue.*

First, the evidence that the Project is "by-right" appears to be that "gas stations/car washes" are listed as an allowable use in the Specific Plan. However, the Project proposed is not a gas station/car wash at all. It is a free-standing car wash, capable of servicing 45 cars per hour, with 13 parking spaces and nine vacuum bays. This is not the same type of use contemplated in the 2004 Specific Plan. This is demonstrated by the specific details of the project the Town considered when it approved the 2004 Specific Plan and certified the EIR. That Project called for an 1,800-square foot service station and convenience store. There was no car wash. (Planning Commission Staff Report, p. 39.) If a car wash was contemplated, the slash in the "gas station/car wash" label indicates that the car wash would be appurtenant to a gas station, such as in the 2019 proposal for an 1,800-square-foot gas station with 756-square foot car wash, which the Town rejected. Nothing in the Specific Plan discusses the type of Project proposed. Instead, the Project qualifies as a project where a "car wash" is the primary land use, which the current Development Code specifically defines as "Permanent, self-service and attended car washing establishments, including fully mechanized and automatic (drivethrough) facilities".

Staff Response No. 2(A)

The purpose of the Specific Plan is to set the framework for development and eventual buildout of the plan area, including allowed uses. The proposed car wash project is a new project, independent of the 2004 approved project. The 2004 approval was the developer's initial vision at the time of proposal; it does not bind the plan area in perpetuity to the specifics of that approval. The proposed project is only required to be reviewed for consistency with the Gray's Crossing Specific Plan, which allows for a range of uses beyond what was proposed in the 2004 approval. The proposed car wash is consistent with the Development Code definition, which is identified as a "Permanent, self-service and attended car washing establishments, including fully mechanized and automatic (drivethrough) facilities."

Further, if the Gray's Crossing Specific Plan allows only "gas stations/car washes" with the car wash only being allowed appurtenant to a gas station, as described by the appellant, then a gas station without a car wash would not have been permitted. However, in 2004 and 2006, the projects were approved with only a gas station and convenience store, without a car wash. The 2019 project proposal was the only instance where a car wash was proposed, prior to this current proposal.

PERMITTED USES – Village Center

1. Banks and financial services;
2. Bars and drinking establishments;
3. Bed and Breakfast Inns;
4. Business and professional offices;
5. Caretaker and employee housing;
6. Child day care centers;
7. Churches;
8. Community centers;
9. Convenience stores;
10. Cultural and performing arts facilities;
11. Gas stations/car washes;
12. Grocery stores;
13. Health and fitness center;
14. Hotels, motels and lodges;
15. Live/work quarters;
16. Membership organization facilities;
17. Outdoor commercial recreation;

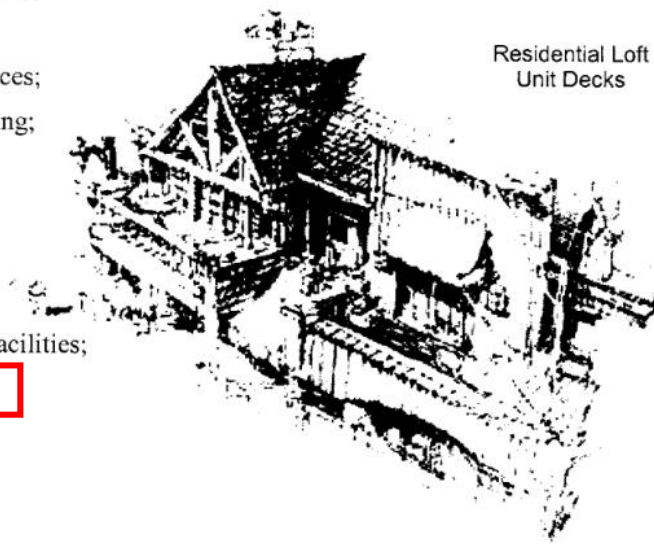


Figure 6: Page from the Gray's Crossing Specific Plan showing permitted uses

Appellants' Comment No. 2(B): *Second, “permitted” is not the same as “allowed.” On the contrary, car washes in Truckee require conditional use permits. While they are certainly allowed, they require the satisfaction of conditions. The Town must make findings about the propriety of the conditional use in the specific location requested. Here, the Project is proposed for a parcel zoned ‘CN’ (Neighborhood Commercial). Car washes are only allowed within the ‘CN’ zone with a Conditional Use Permit throughout the Town of Truckee. Conditional Use Permits are classic discretionary permits subject to CEQA compliance. (Public Resources Code s. 21080(a).) Thus, the Project also cannot be approved without CEQA review. Appellants request that the Project be required to apply for a conditional use permit, as required, and that the Town conduct the required discretionary CEQA review before continuing consideration of the Project.*

Staff Response No. 2(B)

The comment provides the Appellant’s interpretation of permitted uses under the Development Code, and disregards prior environmental review conducted pursuant to CEQA. Importantly, CEQA Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an EIR was certified. (See, *infra*, Staff Response to Comment 3(A).)

A Conditional Use Permit and Additional CEQA Review is Redundant and Unnecessary

The Gray’s Crossing Specific Plan uses the term “permitted” in the “permitted uses” section of the plan. In particular, the Gray’s Crossing Village Center District identifies “permitted, conditionally permitted, and temporary permitted land uses.” The Gray’s Crossing Specific Plan identifies “gas stations/car washes” as a “Permitted Use” in the Village Center. Permitted uses are considered by-right, meaning they are allowed by right without discussion or consideration on the appropriateness of the use (as this has already occurred at the time the Specific Plan was developed and a decision was made which uses to allow as permitted uses vs. conditionally

allowed uses). Gas stations/car washes are not allowed as a conditionally permitted use. While the Development Code requires a “car wash” use to be approved through a Use Permit in the CN zoning district, the Gray’s Crossing Specific Plan is the governing document for land uses and supersedes the Development Code. Only when the Gray’s Crossing Specific Plan does not address a topic do the Development Code standards apply. Because the Specific Plan already has its own listed land uses, the land use tables in the Development Code do not apply to the Gray’s Crossing Specific Plan area. Within the Specific Plan, a car wash use is considered an outright permitted use (see Figure 6). Therefore, the review of the project focuses solely on the design of the project and consistency with the Specific Plan and Development Code standards and does not scrutinize the use as the car wash has already been identified as a compatible use within the Specific Plan area.

The Gray’s Crossing Specific Plan notes that “gas stations/car washes” are permitted uses. The Specific Plan uses the “/” symbol and does not define the meaning of the symbol. If the Specific Plan required the gas station as a primary use, staff believes that the language should have clearly indicated a “gas station with accessory car wash” or “gas station” and identified that an accessory car wash is allowed. If the “gas station/car wash” use was intended to mean a gas station with an accessory car wash, then that combination would be required and neither could be independent of the other. The “gas station/car wash” was not intended to require both uses together as previous iterations in 2004 and 2006 of the Village at Gray’s Crossing were approved with a gas station that did not include a car wash. Further, the Development Code primarily uses the “/” symbol to identify separate requirements or items in sequence unless it says “and/or” which means all items listed are required. Based on this information in the Development Code, staff determined that both uses are permitted uses under the Specific Plan, either independently or combined.

To process the proposed car wash through consideration of a Use Permit is inconsistent with the Gray’s Crossing Specific Plan and would be impermissible as the proposed use is a permitted use. Consistent with Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183 and as discussed below in this staff report, the Town has properly conducted its mandated CEQA review.

Appellants’ Comment No. 2(C): *Finally, the Town’s past practice indicates that, up until January 16, 2024, at no point in the last twenty years has the Town considered a car wash “by-right” in the Specific Plan.*

Staff Response No. 2(C)

This comment provides Appellant’s interpretation of CEQA, and past practices, but does not allege any issues with the Environmental Analysis performed for the Project.

Importantly, the comment overlooks that the proposed car wash is a permitted use (i.e. allowed “by-right”), not a conditionally permitted use in the Specific Plan. In 2019, the car wash designation was included in the Development Permit review. Development Code Chapter 18.74 (Development Permit), which outlines the review of Development Permits, notes that the “review process begins with the recognition that the proposed use/construction is allowed in the zoning district and focuses on issues related to site layout and design in order to arrive at the best utilization of the subject site and compatibility of design with surrounding properties.” In the Gray’s Crossing Specific Plan, car washes are considered allowed “by-right”, which has been the case since adoption in 2004.

COMMENT NO. 3: THE CEQA GUIDELINES SECTION 15183 DOES NOT EXEMPT THE PROJECT FROM ENVIRONMENTAL REVIEW.

Appellants' Comment No. 3(A): The CEQA Guidelines provide for 33 classes of projects that generally do not have a significant effect on the environment and therefore may be exempted from CEQA review. (Committee to Save Hollywoodland Specific Plan v. City of Los Angeles (2008) 161 Cal.App.4th 1168, 1186, citations omitted.) Truckee attempts to rely on Guidelines section 15183, which exempts "projects consistent with a community plan or zoning." It is the Town's burden to prove that the proposed Project fits within this class of categorical exemption. (California Farm Bureau Fed'n v. California Wildlife Conservation Bd. (2006) 143 Cal. App. 4th 173, 185-86; Save Our Big Trees v. City of Santa Cruz (2015) 241 Cal.App.4th 694, 697.) Truckee has failed to meet its burden.

Interpreting the language of a categorical exemption is a question of law reviewed de novo by the Court. (Great Oaks Water Co. v. Santa Clara Valley Water Dist. (2009) 170 Cal.App.4th 956, 967-968.) "Since a determination that a project falls within a categorical exemption excuses any further compliance with CEQA whatsoever, [courts] must construe the exemptions narrowly in order to afford the fullest possible environmental protection." (Save Our Carmel River v. Monterey Peninsula Water Management Dist. (2006) 141 Cal.App.4th 677, 697, citation to Azusa Land, supra, 52 Cal.App.4th 1165, 1193.)

The applicable CEQA exemption applies to projects that are "consistent with a community plan adopted as part of a general plan" and that have a certified EIR for that Specific Plan. (Guidelines section 15183(d).) The exemption does not exempt review of environmental effects that "are peculiar to the project or the parcel on which the project would be located," or "were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan," or "are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or [a]re previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR." (Id. at (b).) The exemption also "does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR." (Id. at (j).)

The car wash Project is not demonstrably consistent with an adopted community plan, and the Project will have environmental effects peculiar to the Project or parcel that were not analyzed in a previous certified EIR. Reliance on this exemption is improper.

Preliminarily, as discussed above, there is insufficient evidence that the Project is "consistent with" the 2004 Village at Gray's Crossing Specific Plan. Nothing in the Plan, or in its EIR, discuss free-standing car washes. This is evident when viewed in context of the 2004 proposal. The Project considered by the Town upon approval initially called for a gas station and convenience store that was never constructed. After expiration of the initial approvals, a 2019 "gas station/car wash" (gas station with co-located car wash) was proposed, but the permits were only granted after the Applicant removed the gas station and car wash. And, as discussed further below, the 2004 Specific Plan EIR did not consider the Project- or site-specific impacts of a high-capacity car wash on the edge of a creek tributary to the Truckee River, next to homes. It reviewed a gas station, but not a car wash. The term "car wash" does not appear in the Draft EIR, Draft EIR Technical Appendices, Final EIR, or Final EIR Technical Appendices.

Staff Response No. 3(A)

This comment provides Appellant's interpretation of CEQA and conflates CEQA exemptions – the CEQA exemption applicable to this project is not a categorical exemption, nor is it subject to the exceptions relevant to a categorical exemption. As established by the administrative record, numerous technical studies show that the car wash Project will have no specific environmental effects beyond those already assessed in the Specific Plan, which the Town certified previously. Appellants' Comment 3(A) fails to identify any significant project impacts that were not covered

by the specific plan or incapable of being mitigated by the imposition of uniformly applied policies and standards.

Here, extensive environmental review has been conducted on this site, which renders additional CEQA review repetitive and unnecessary. This is so because CEQA Section 15183 applies where, as here, the project is consistent with the development density established by existing zoning, community plan, or general plan policies and requires specific findings. In particular, the subject property is no different than other properties in the surrounding area, and there are no Project specific effects which are peculiar to the Project or its site. The Project site is located in an area developed with similarly sized lots and uses. The property does not support any peculiar environmental features, and the Project would not result in any peculiar effects.

Following rigorous technical studies, as noted below, staff determined that the project is consistent with the allowed development density established by the Gray's Crossing Specific Plan. The Village Center District of the Gray's Crossing Specific Plan was originally approved for 38,900 s.f. of office and retail space, 120-room lodge with 5,000 s.f. conference facilities, a 7,200 s.f. community cultural center, a 1,800 s.f. four station eight-pump service station and convenience store, 48 attached housing units, and 21 residential lofts.

The Village at Gray's Crossing is currently approved for 17,192 s.f. of retail, a 129-room hotel with 5,000 s.f. conference center, and 45 attached housing units, and 21 residential lofts. The community cultural center, service station, convenience store, and 21,708 s.f. of retail or office are remaining (unapproved and developed) for the site. The 3,883 s.f. car wash is well within the remaining density identified for the Village District, either as a replacement for the service station and convenience center or as a replacement for the retail or office density.

One metric in determining capacity for a site is traffic. The EIR's traffic generation analysis estimated that the gas station would generate approximately 214 vehicle trips during the PM peak hour. LSC's traffic analysis for the car wash indicates that the car wash would generate approximately 45-120 trips. With the reduced amount of retail approved, even with the increase of nine lodging units, the traffic generation during the PM peak hour for the approved Village at Gray's Crossing nonresidential development (129-unit hotel with conference center and 17,192 s.f. of retail) and the proposed car wash is equal to 58.8% of the of the land use densities identified in the Gray's Crossing Specific Plan (38,900 s.f. of office and retail space, 120-room lodge with conference facility, a community cultural center, and gas station), even assuming the "worst-case scenario" identified by LSC.

As explained further in Staff Responses to Comment 4, all Project impacts were adequately analyzed by the EIR. The Project could result in potentially significant impacts to Water Quality, Noise, Transportation and Traffic. However, applicable mitigation measures specified within the EIR have been made conditions of approval for this Project.

COMMENT NO. 4: THE PROJECT WILL HAVE SIGNIFICANT AND ADVERSE ENVIRONMENTAL IMPACTS THAT HAVE NOT BEEN DISCLOSED, ANALYZED, OR MITIGATED.

Appellants' Comments No. 4(A): As raised by members of the community during public comment before the Planning Commission, the car wash Project will have environmental impacts that "are peculiar to the project or the parcel on which the project would be located," or "were not analyzed as significant effects in" the 2004 EIR certified for the Specific Plan. Moreover, the EIR fails to address "potentially significant off-site impacts and cumulative impacts" and "substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR."

The failure to disclose, analyze and mitigate these impacts renders inapplicable the CEQA exemption contained in CEQA Guidelines section 15183. Furthermore, even if applicable, CEQA exemptions are

subject to exceptions. CEQA contains an exception to categorical exemptions when a project would cause cumulative impacts. (CEQA Guidelines §15300.2.) CEQA Guidelines section 15300.2 subd. (b) prohibits use of a categorical exemption “when the cumulative impact of successive projects of the same type in the same place, over time is significant.” (CEQA Guidelines § 15300.2(b).)

As Appellants admit in their January 11, 2024 letter, a gas station, not a car wash, was analyzed in the EIR. However, even this gas station was proposed for a different location. Thus, neither site-specific nor Project-specific impacts have been addressed. The EIR’s analyzed gas station location was the southwest corner of the Village Area, accessible from Henness Road, and immediately east of the roundabout exit from SR 89. This location would have avoided community impacts on residential areas.

Insufficiently studied or omitted Project impacts include, but are not limited to Traffic, Pedestrian Safety, and Air Quality, Noise, Water Quality, Hydrology, and Biological Resources, and Environmental Justice and Community Equity (see below).

Staff Response No. 4(A)

See, *infra*, Staff Response 3(A). The project will not result in any significant and peculiar environmental effects that were not already evaluated by the specific plan and program EIR for the GPU.

The appellants have not provided any additional information that identifies the peculiar environmental effects associated with the project or parcel. A “car wash” was an identified allowed use in the Gray’s Crossing Specific Plan when the environmental review was conducted and the EIR evaluated the impacts of all permitted, conditionally allowed, and temporary uses. Additional traffic, noise, and emissions studies were conducted as part of the car wash project to ensure that the project did not create a greater environmental impact than what was previously reviewed or to identify that existing development standards would be applied to mitigate the effects of the project. The purpose of tying environmental review to a specific plan is to streamline projects that are consistent with the plan by reducing the need for repetitive environmental studies and review. Staff has not found that there are environmental effects that are peculiar to the project or the parcel and further site-specific environmental review beyond the studies already completed is not warranted. As a result of this analysis, staff has determined that the proposed project is similar to and no more intense than the gas station/convenience store use identified in the Gray’s Crossing Specific Plan EIR.

Previously, the gas station was proposed at the south end of the Village (2004) along Henness Road and at the north end of the Village (2006), accessed off Edwin Way via Prosser Dam Road, and no environmental effects were identified as part of those approvals. The location of the southern gas station was along Henness Road, directly south of the currently proposed car wash site, adjacent to the unnamed drainage. Traffic circulation patterns would have been slightly different from the currently proposed location since vehicles would have to enter Edwin Way to access the car wash. However, Edwin Way is a lower volume street than Henness Road and no conflict has been identified. Both intersections into each site of the Village site also have roundabouts and no traffic impacts have been identified as a result of these configurations.

A traffic analysis of the project was completed to determine if the proposed car wash would impact intersection level of service at Henness Road/Edwin Way or Prosser Dam Road/Edwin Way. LSC Transportation Consultants used the estimated traffic volumes and the worst-case scenario trip generation and determined that all resulting intersection LOS were acceptable with LOS B or better for the worst movement on both Henness Road/Edwin Way and Prosser Dam Road/Edwin Way. LSC expects that there will be no LOS issues at either Henness Road/Edwin Way and Prosser Dam Road/Edwin Way with the addition of the proposed car wash.

Based on the Bollard Acoustical Consultant's noise comparison completed in 2023, while the noise generated from a car wash would be greater than the noise generated from the convenience store/gas station use that was contemplated in the Gray's Crossing Specific Plan EIR, the noise would still be in compliance with the requirements of the Town's Noise Ordinance. Additionally, as with all uses in Truckee, the project would be required to comply with the Town's Noise Ordinance.

Additionally, the applicant has completed an emissions comparison based on average daily trips for the proposed car wash. The applicant found that a full-service car wash has some additional attributed idling time as compared to a gas station/convenience store; however, the volume of overall emissions/air quality impact is approximately 14.3% of a gas station which is the use that was evaluated with the EIR.

Appellants' Comment No. 4(B): *While the Applicant purported to study the traffic generation of the Project, traffic safety has not yet been addressed. The Specific Plan EIR also could not have addressed the site-specific or Project-specific impacts of a different type of project in a different location. The Project would be located in a residential area of Truckee where more than 100 children live, walk to and from school, and play outside, very near to a well-used bus stop. This is particularly important, given that the Project would require drivers to make a dangerous 90-degree turn into the intersection with Edwin Road and exit through the Annie's Loop cul-de-sac. As noted at the Planning Commission, a child has already been hit in an area roundabout. The Project would exacerbate this safety risk, which requires analysis in an EIR. In further analysis of the Project, the community requests that the Applicant reach out to the school district to ensure the safety of Truckee's youngest residents.*

Staff Response No. 4(B)

The specific Plan EIR evaluated traffic impacts of a mixed-use development within the Specific Plan area. The project area is bordered by two local roadways that are in close proximity to improved intersections (SR 89 North/Prosser Dam Road and SR 89 North/Henness Way), which both provide appropriate traffic circulation routes to the project site. Further discussion is provided below regarding traffic near the residential units of Henness Flats Apartments. On November 1, 2022, LSC Transportation Consultants prepared a transportation analysis for the Town that was specific to the proposed car wash site and found the surrounding intersections' level of service (LOS) to operate at an acceptable LOS of B or better with the proposed car wash, indicating a relatively low traffic volume compared to the capacity of the intersections. The appellant does not provide an explanation as to why they believe the 90-degree turn intersection would be dangerous or what specific hazard the proximity to a bus stop would create. The driveway encroachment into Edwin Way proposed for the car wash meets Town Engineering standards. The 90-degree intersection configuration is a standard design typical throughout Truckee and allows vehicles to enter or exit from either direction on Edwin Way. A driver can choose to exit the car wash driveway headed north on Edwin Way to exit the area via Prosser Dam Road or exit south on Edwin Way to leave the area via Henness Road. No driver is forced to exit through or drive on Annie's Loop, or any other road besides Edwin Way, to leave the car wash and travel towards other parts of Truckee.

Coordination with the Truckee Tahoe Unified School District (TTUSD) occurred as part of the Village at Gray's Crossing infrastructure project, which constructed a bus stop located on the south side of Henness Road directly adjacent to the Henness Flats apartments where most of the children that the appellant mentioned reside. Therefore, children coming from Henness Flats Apartments do not need to cross Henness Road, or walk across the frontage of the car wash property, to access the bus stop. Children walking or riding bicycles to Alder Creek Middle School (ACMS) can utilize the existing Class 1 trail on the east side of Henness Flats Apartments that leads to a Class 1 crossing across Henness Road. The route then continues on the Class 1 trail around the east side of the Village at Gray's Crossing development, directly through the Annie's

Loop subdivision, to Prosser Dam Road's Class 1 trails on the south and north sides that lead to ACMS. No portion of the above-described pedestrian/bicycle route travel along the frontage of the car wash property or across Henness Road at a location where traffic will increase from existing conditions with the car wash project.

In addition, if a pedestrian does travel along the west side of Edwin Way and passes the car wash property, they would be located on a 6-foot-wide ADA compliant concrete sidewalk that is separated from the Edwin Way roadway. This is the Town's current Engineering standard for new sidewalks along property frontages in Truckee. To address the comment regarding a traffic incident involving a pedestrian at a nearby roundabout, a single non-fatal incident does not indicate a safety issue for an intersection or require restriction of traffic generation in the area.

Noise Impacts

Appellants' Comments No. 4(C) - Noise Impacts: While the Applicant's noise study admitted that the facility's blowers could reach noise levels of 85 decibels at a distance of 50 feet, a car wash also uses water pumps, hydraulics, vacuums, 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. As even the Applicant admits, this use is materially different than the gas station studied in the 2004 EIR. Given the heavy reliance on a door and other measures and the close proximity of sensitive residential uses, it has not been confirmed that the car wash will avoid exceeding federal and local noise limits.

Staff Response No. 4(C) – Noise Impacts

This comment provides Appellant's interpretation of Occupational Health and Safety Administration regulations and the Town of Truckee's noise limits, but does not allege any issues with the Environmental Analysis performed for the Project.

The noise study conducted by Bollard Acoustical Consultants reviewed the potential noise from the blower assembly, vacuum enclosure, vacuum hoses, and HVAC equipment, both independently and combined. The noise study indicated that the combination of these systems would generate noise less than the maximum allowed noise threshold of 55 dB of the Development Code. In addition, the study also notes that the 2017 ambient noise from State Route 89 and other nearby roadways was calculated to be much higher than the proposed noise from the car wash, which was estimated between 57-63 dB. With the proposed polycarbonate doors on the car wash exit, the noise generation from the project meets the Town's Noise Ordinance. The purpose of the Occupational Safety and Health Administration (OSHA) is to "ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education and assistance." OSHA regulations permit only noise exposure levels up to 85 decibels for an eight-hour workday. The Town's Noise Ordinance is stricter than OSHA's regulations and requires a maximum 55 dB as a baseline and up to the existing ambient noise when louder than 55 dB. With the proposed door, which is included as a condition of approval, the noise study indicates that the project would be in compliance with both the Town's and OSHA's requirements. The project will be required to comply with OSHA standards once it is in operation. It is unclear if or when the applicant stated that the car wash use was materially different than the gas station studied in the EIR, as the appellant notes in their comment.

Appellants' Comments No 4(D) - Noise Impacts: Furthermore, the noise analysis admits the Project would come close to exceeding the Town's noise limit of 55 dBA for many, many residents. (See, Table 2, Planning Commission Staff Report, p. 51.) Thus, any malfunctions of the proposed door are likely result in the Project exceeding the noise standard. An EIR is needed to analyze whether the proposed condition of approval will, in fact, truly mitigate the Project's noise impacts on sensitive receptors. CEQA requires that environmental review analyze the efficacy of proposed mitigation. Environmental documents must

evaluate the efficacy of mitigation measures. (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645.)

Staff Response No. 4(D) – Noise Impacts

This comment provides Appellant's interpretation of Occupational Health and Safety Administration regulations and the Town of Truckee's noise limits, but does not allege any issues with the Environmental Analysis performed for the Project.

The environmental checklist form of the CEQA guidelines requires lead agencies to review whether the project would result in "a generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies." Review of the noise impacts of a project relies primarily on Development Code Chapter 18.44 (Noise) which establishes the thresholds of significance to determine if there is an impact.

In the above comments, the appellants cite an incorrect noise limit of 55 dBA. The allowable limit is 60 dBA due to allowed ambient noise levels adjustments. Development Code Chapter 18.44 (Noise) allows for ambient noise level adjustments where "[i]n the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the applicable standards shall be adjusted to equal the ambient noise level. For example, if the applicable noise level standard is 60 dB(A) and the ambient noise level is 63 dB(A), the applicable noise level standard would be adjusted to 63 dB(A). In these cases, a use would not exceed the applicable noise level standard if it did not increase the ambient noise level by more than 3.0 dB(A) when the ambient noise level is between 60 and 65 dB(A) or by more than 1.5 dB(A) when the ambient noise level is greater than 65 dB(A)." Based on the Bollard Acoustical Consultant's noise study assessment, the ambient noise for the site in 2017 ranged from 57 dB to 63 dB.. For a site that has an ambient noise level of 57 dB, the allowed dB would be 57 dB even though the baseline identified in the Town's Noise Ordinance (and referenced in the Bollard Acoustical Consultants' noise assessment) may be lower.

Further, the Development Code identifies that for sensitive uses such as residential uses, the noise level may not exceed 60 dB(A) during the day (7:00 AM to 10:00 PM) for more than 15 minutes, but less than 30 minutes. The proposed car wash, including dryers, vacuums, and HVAC system, would generate sounds up to 52 dB, possibly between the hours of 7:00 AM to sunset. The loudest noise source, the dryers, are anticipated to have a noise measurement of up to 52 dB at the closest residential use and are anticipated to run for up to 22 minutes in any hour during peak times. The anticipated 52 dB, is less than the 60 dB maximum allowed by the Development Code.

The appellants' comment also speculates about imaginary "malfunctions of the proposed door," which Appellants contend would exceed the noise standard. Under CEQA, speculation does not constitute substantial evidence and cannot be used to support a finding that a significant impact may occur. (See e.g., *Dunning v. Clews* (2021) 64 Cal.App.5th 156, 174.) The Guidelines caution that only reasonably foreseeable physical impacts need to be analyzed. (Guidelines, § 15064(d)(3).) "A change which is speculative . . . is not reasonably foreseeable." (Guidelines, § 15064(d)(3).) Further, "[s]ubstantial evidence is not argument, speculation, unsubstantiated opinion or narrative." (Pub. Resources Code, §21080(2).)

For one thing, Appellants' interpretation would necessarily require the Town to speculate as to whether future project users would create noise due to an imaginary temporary equipment malfunction. Appellants offer no clear methodology for analyzing temporary noise created by malfunctioning equipment that does not exist, and it is difficult to imagine what substantial evidence the Town could produce to support a determination about just how noisy a particular

temporary malfunction might be. Public agencies will bear the burden of conjuring a methodology for analyzing imaginary malfunctioning equipment noise and developing supporting evidence.

The polycarbonate doors are proposed by the applicant to ensure that the project meets the requirements of the Town's Noise Ordinance. Condition of Approval No. 40 is applied to the project that requires the operation of the doors at all times. For example, if the doors malfunction, the car wash is not allowed to operate. If a door malfunctions, immediately after it malfunctions, before operations are shut down, the noise from the dryers may not be reduced by 14 dB, which may result in a short period of time where the noise may reach 65 dB at the multi-family residential apartments or 66 dB at the fourplex. The Development Code allows up to five minutes of noise at 65 dB and up to one minute at 70 dB. The applicants would be required to shut off operations immediately when the door malfunctions in order to ensure compliance with the Development Code. The noise study completed by Bollard Acoustical Consultants has analyzed the potential noise impacts of the project and has determined that the project is in compliance with the Town's Noise Ordinance.

Appellants' Comment No. 4(E) – Noise Impacts: *The noise study and the Town noise standard are also notably based on the L50, essentially an average noise level. This means that noise levels at affected homes may exceed 55 decibels with great frequency. Existing studies also fail to account for shorter bursts of impulsive noise, which may have greater adverse impacts on blood pressure, mental state, concentration and learning, and human speech.*

Staff Response No. 4(E) – Noise Impacts

This comment provides Appellant's interpretation of the Town of Truckee's noise limits, but does not specify the basis to set aside the existing study performed for the Project. The unspecified reference to "affected homes" fails to provide an adequate foundation for further analysis of this comment. The noise study was based on the Town's noise standards, as required by the CEQA Guidelines, which are based on dB(A). Additionally, the shortest and most impactful noise was identified by the noise study as the dryer assembly which was analyzed and shown to be below the allowable noise limit.

Appellants' Comment No. 4(F) - Noise: *The Applicant's study also failed to address the cumulative effect of car wash noise on sensitive uses, given that homes in this area are already by noise from Interstate 80, SR 89, and the Truckee Airport.*

According to the U.S. Environmental Protection Agency, exposure to high noise levels presents a "health risk in that noise may contribute to the development and aggravation of stress related conditions such as high blood pressure, coronary disease, ulcers, colitis, and migraine headaches...Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies. There are also some indications that noise exposure can increase susceptibility to viral infection and toxic substances."

Potentially deadly cardiovascular impacts can be triggered by long-term average exposure to noise levels as low as 55 decibels. Exposure to even moderately high levels of noise during a single 8-hour period triggers the body's stress response. In turn, the body increases cortisol production, which stimulates vasoconstriction of blood vessels that results in a five to ten point increase in blood pressure. Over time, this noise-induced stress can result in hypertension and coronary artery disease, both of which increase the risk of heart attack death. 3 Studies on the use of tranquilizers, sleeping pills, psychotropic drugs, and mental hospital admission rates suggest that high noise levels cause adverse impacts on mental health.

High noise levels also have dramatic developmental impacts on small children, many of which reside near the Project. Children who are exposed to higher average noise levels have heightened sympathetic arousal, expressed by increased stress hormone levels, and elevated resting blood pressure. As

proposed, the Project would expose community members to levels of noise that are unsafe for cardiovascular health, mental health, societal well being, and child development.

An EIR is required to disclose, analyze, and carefully mitigate the Project's impacts on sensitive receptors. CEQA does not tolerate attempts to sweep important public safety issues "under the rug." (Concerned Citizens of Costa Mesa v 32nd Dist. Ag. Ass'n. (1986) 42 Cal. 3d 929, 935.)

Staff Response No. 4(F) – Noise Impacts

In accordance with State CEQA Guidelines Section 15183, the Town prepared a site-specific CEQA analysis for the Project ("Environmental Analysis"). The Environmental Analysis, which is supported by numerous Project-specific technical studies, demonstrates that there are no site-specific or peculiar impacts associated with the Project, and identifies uniformly applied standards and policies that would be applied to the Project. Noise impacts from the Project, including cumulative impacts associated with development and buildout of the Project site, as proposed, were fully addressed, as further explained below. Accordingly, the Town has satisfied the requirements of State CEQA Guidelines Section 15183 and no further CEQA review is required.

The noise study identifies traffic on State Route 89 as the primary source of noise in the vicinity of the project and traffic on Prosser Dam Road, Henness Road, and Interstate 80 as secondary noise sources. Additionally, as noted previously, the Town's Development Code Chapter 18.44 (Noise) allows for ambient noise level adjustments where "[i]n the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the applicable standards shall be adjusted to equal the ambient noise level. For example, if the applicable noise level standard is 60 dB(A) and the ambient noise level is 63 dB(A), the applicable noise level standard would be adjusted to 63 dB(A). In these cases, a use would not exceed the applicable noise level standard if it did not increase the ambient noise level by more than 3.0 dB(A) when the ambient noise level is between 60 and 65 dB(A) or by more than 1.5 dB(A) when the ambient noise level is greater than 65 dB(A)." Based on the Bollard Acoustical Consultant's noise study, the ambient noise for the site in 2017 ranged from 57 dB to 63 dB. For a site that has an ambient noise level of 57 dB, the allowed dB would be 57 dB even though the baseline identified in the Town's Noise Ordinance may be lower.

Additionally, the Gray's Crossing Specific Plan Environmental Impact Report reviewed cumulative impacts from the Gray's Crossing Specific Plan as a whole. The EIR evaluated impacts from a variety of commercial uses anticipated in the Village along with any impacts associated with Interstate 80, State Route 89, and the airport, which were all shown to comply with the Town's noise standards in effect at the time. As noted previously, the project was shown to comply with the Town's exterior noise thresholds at the time of adoption.

Water Quality, Hydrology, and Biological Resources

Appellants' Comment no. 4(G) – Water Quality, Biological Resources: *The Project will be located within 20 feet of Prosser Creek, a tributary to the Truckee River. The Truckee River not only provides critical water supplies, including drinking water, but it is listed as an impaired water pursuant to the United States Clean Water Act. The Truckee River already has plans in place to prevent additional siltation, phosphorus, iron, nitrate, and bacterial pollution.*

Car washes employ a multitude of chemicals. Soaps and detergents are often high in phosphorus. The proprietary formulations used for non-soap application (waxes, polishes, tire cleaners, etc.) contain additional toxins and other chemicals unsuitable for runoff into natural water bodies. Importantly, chemicals will not only be applied within the car wash building itself. Chemicals will drip from cars as and after they exit the building. Users will also bring additional substances to use in the parking spaces and vacuum bays, such as tire black.

The proposal assumes that the Project's berms, best management practices and SWPPP compliance will prevent impacts to water quality, but it ignores several important factors. Even the best-constructed car wash systems leak. Cracked pipes develop over time and seepage may go unnoticed. Truckee's freeze-thaw cycles will exacerbate the likelihood of such events. The site will also experience runoff as snow melts, resulting in runoff that may enter the creek instead of intended drainage.

Runoff of chemicals at the site may further exacerbate pollution in the Truckee River, with cumulative impacts on water quality that may cascade into impacts on listed biological resources. Neither the 2004 EIR nor the Applicant's studies address the potential for hazardous or cumulative chemical releases into Prosser Creek. An EIR is required.

Staff Response No. 4(G) – Water Quality and Biological Resources

Prosser Creek is located approximately 2.2 miles from the project site. The "Creek" that is referred to in the appellant letter is an unnamed, non-jurisdictional stormwater drainage channel located to the south of the project site. This is an existing drainage channel that is not designated as a watercourse by the State of California or the Federal government. All required project stormwater runoff will be treated on-site with site design measures/(Best Management Practices) BMPs that meet the Town's Municipal Separate Storm Sewer System (MS4) permit from the State of California. After the stormwater is treated on-site, it would be safe released into the unnamed drainage way that traverses approximately 2.2 miles of residential and golf course developed properties before terminating at Prosser Creek below Prosser Reservoir.

The State of California supports the use of established car wash locations, such as the one proposed on this project site, because the water is contained and is eventually discharged into the sanitary sewer system and treated versus individual persons washing cars at home and allowing car wash water, soap, wax, and other contaminants to freely enter the storm drain system that leads to watercourses. During the Planning Commission meeting on January 16, 2024, where the project received unanimous approval, the proposed car wash applicant voiced their plan to utilize materials deemed by the State of California to be non-hazardous. In addition, the car wash is designed to capture storm water runoff, and filter it from the water used for the car wash operations, consistent with local and state regulations. Therefore, the car wash facility will operate in a closed system such that the water used to wash the cars will be contained within the facility, reused, treated, and eventually discharged into the sanitary sewer system so that it is kept out of the natural drainages.

As for the discussion regarding groundwater, most, if not all, of the Truckee Donner Public Utility District's (TDPUD) source for drinking water is well beneath the earth's surface and undergoes not only natural filtration through the soil, but regulated treatment and testing at the distribution level by TDPUD before it makes it to a service location for consumption (www.TDPUD.org). Truckee Meadows Water Authority supplies drinking water for the Reno area, of that most of the water provided is surface water from reservoirs by way of the Truckee River that is treated and tested before delivery to the customer (www.TMWA.com).

Environmental Justice and Community Equity

Appellants' Comment No. 4(H) - EJ: The appellant states that the noise impacts, chemical runoff, and traffic safety raise concerns about the potential inequity of locating a use that creates such impacts near affordable housing.

Staff Response No. 4(H) - EJ

This comment expresses Appellant's concerns about affordable housing, but does not allege any issues with the Environmental Analysis performed for the Project. This comment overlooks that the project is subject to uniform standards, similar to any other location in Truckee. As such, the

Project will be required to comply with the Town's Noise and Drainage and Stormwater Water Runoff requirements.

Both market rate units and affordable housing are located within the Village at Gray's Crossing, with three market rate units in closer proximity to the car wash. Proximity to the affordable housing units is not a development standard in the Town's regulations and was not considered as part of the project review.

COMMENT NO. 5: THE PROCESSING OF THE PROJECT APPEARS DESIGNED TO EVADE PUBLIC REVIEW AND SCRUTINY.

Appellants' Comment No. 5(A): *"The fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability." (Lincoln Place Tenants Assn. v. City of L.A. (2007) 155 Cal.App.4th 425, 443-444, citations omitted.) As described by the courts, "[t]he EIR is intended to furnish both the road map and the environmental price tag for a project, so that the decision maker and the public both know, before the journey begins, just where the journey will lead, and how much they- and the environment-will have to give up in order to take that journey." (Natural Resources Defense Council v. City of Los Angeles (2002) 103 Cal.App.4th 268, 271.)*

Accordingly, environmental review derives its vitality from public participation. (Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist. (2004) 116 Cal.App.4th 396, 400.) Courts strictly apply CEQA's public review and disclosure requirements.

Even so, Truckee's processing of the Project Amendment to the Development Permit seems tailor-made to subvert public review. Despite the Town's seeming rejection of a smaller, less intrusive carwash proposal in 2019, the Applicant applied for a new, much larger carwash, divorced from a gas station in December 2023. This new application was submitted during the holiday season when many Truckee residents were away or otherwise unavailable. To the astonishment of community members who believed the Town had very clearly decided not to approve a car wash, the Planning Division scheduled a Planning Commission hearing for the Project immediately after the holidays on January 16, 2024. This left community members scrambling both to understand the legal basis for the Town's complete reversal and to participate in public comment for the hastily-scheduled Planning Commission meeting.

As noted in the Staff Report for the Project, past carwash proposals have generated public outcry and organized opposition over multiple meetings. Opposition has been great enough that past proposals have been abandoned prior to Project approval. (Staff Report, p. 40.) Truckee knew this proposal – and certainly the backtracking of the Planning staff on the issue – would generate opposition.

Staff Response No. 5(A)

Consistent with streamlining future environmental review for projects within the scope of a program EIR, Section 15183 states that projects consistent with a general plan (or, more broadly and precisely, "consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified") "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." (Hilltop Group, Inc., et al v. County of San Diego, et al. (2024) ___ Cal.App.5th ___.)

Here, the car wash application was processed as all land use applications are processed in the Town of Truckee. As noted in previous responses to the appellant's comments, no action was taken on the 2019 gas station, convenience store, and car wash component of the project. The application was submitted on March 14, 2022. The project was deemed complete on June 16, 2022 and a routing to other agencies and entities, including the Gray's Crossing Homeowners Association, was emailed on the same day. The Gray's Crossing Homeowners Association emailed its membership with the project details and information on how to provide comment on

the project. The Town scheduled the application for Planning Commission's review on July 18, 2023, with public notices being mailed and emailed on June 29, 2023. The applicant requested this item be continued to a future date and time uncertain while they worked on changes to the project. The applicant worked on changes and submitted revised project materials on September 25, 2023. Staff provided feedback on the revised submitted and the applicant then submitted the final submittal on December 18, 2023. Since the Village at Gray's Crossing Hotel project was anticipated for the January 16, 2024 Planning Commission hearing and the bulk of the staff report information was completed but not published for the July 2023 Planning Commission hearing, staff believed scheduling the car wash for the January 16, 2024 hearing would be efficient for the Gray's Crossing property owners and would be appropriate. The hearing was held after the holiday season.

The appellant's statement that the Town made a "complete reversal" on the project is incorrect. In 2019, the Town did not review this specific project request. Additionally, in 2019 staff recommended approval of the project, which included the gas station, car wash, and convenience store. As noted previously in this staff report, the Planning Commission did not take any action, nor was there any opportunity for the applicant to appeal an action if one was taken, on the gas station, car wash, or convenience store so no reversal was made on the action.

While the project may not be fully supported by the neighboring residents and property owners, the project was processed per our standard procedures. Public noticing consistent with the Town's requirements for public hearings has occurred throughout the process and opportunities for public comment prior to and at the meeting have been provided. Further, additional noticing and public outreach has occurred through ongoing correspondence with the local homeowners associations.

Appellants' Comment No. 5(B): *Despite the Developer's past promises to involve the community, neither the Fairway Townhomes, Henness Flats and Gray's Crossing neighbors were included in any good faith public discussion on potential land use. The Planning Department has not held the developer accountable for outreach to the neighboring communities.*

Accordingly, the Town's processing of a controversial application, completely over the holidays, supports an inference that the process was designed to evade public review, in violation of CEQA.

Staff Response No. 5(B)

The August 20, 2019 meeting minutes identifies that the applicant stated that "[they] would do additional planning efforts to see if something more palatable, that the neighborhood would want, that would make business sense. [...] It maybe in the future that we come back and say that we think the gas station is the best option. [Planning Commission] would review it at that time." Additionally, the Town Attorney noted that "There would be no guarantees of any kind about what might or might not be approved in the future with respect to the gas station site." The applicant was clear that they would consider other uses from the gas station, car wash, and convenience store, but no promises for alternatives were made. Additionally, no requirements for developer outreach exist in Town ordinances or within the conditions of approval for the 2019 approval. Nor is the Planning Division responsible for "holding the developer accountable" for outreach to neighboring communities. Staff recommended during the project processing that the applicant conduct public outreach with the neighborhood. However, the developer was not required to complete additional public outreach and no information on the outreach was provided. At the January 16, 2024 hearing, the applicant stated that they reached out to the homeowners association, but no information has since been provided.

The project has been in process for one year and 10 months and was not processed completely over the holidays as indicated by the appellant. The project was processed as all land use

entitlements are processed and public notice was provided to the neighborhood to provide opportunities for public review.

COMMENT NO. 6: COMMUNITY CONCERNS ABOUT THE GOOD FAITH PROCESSING OF THE PROJECT.

Appellants' Comment No. 6(A): *The appellant believes that the speed of the processing, the timing during the holidays, and the reversal of the Town's previous position are concerning. The appellant believes that no reason has been provided for the approval of the project that was previously deemed too impactful and believes that the Planning Commission's approval is arbitrary and capricious.*

A confluence of factors give rise to concerns about whether the processing of the Project occurred in good faith. The speed of processing and approval is notable, as is the timing during the holidays, given that the Town was fully aware of the controversy surrounding the approval of a car wash. Also concerning to the community is the City's abject reversal of its previous position.

Staff Response to Comment No. 6(A)

The project was submitted on March 14, 2022 and has been in process for almost two years. The hearing was held after the holiday season at the standard January Planning Commission hearing date. Each year, several projects are reviewed at the January hearing which falls on the third Tuesday of the month. As noted previously, the appellant's statement that the Town made a "complete reversal" on the project is incorrect. In 2019, the Town did not review this specific project request. Additionally, in 2019 staff recommended approval of the project, which included the gas station, car wash, and convenience store. As noted previously in this staff report, the Planning Commission did not take any action, nor was there any opportunity for the applicant to appeal an action if one was taken, on the gas station, car wash, or convenience store so no reversal was made on the action. The August 20, 2019 meeting minutes do not indicate that the Planning Commission believed the project was too impactful. As noted previously, the Planning Commission did not express concerns with the developer's failure to undertake CEQA analysis.

Appellants' Comment No. 6(B): *The Town's previous processes regarding a proposed car wash included extensive public outreach, significant public comment, and substantial controversy. In 2019, the car wash was relocated and redesigned in response to community concerns. When community concerns about traffic and community character could not be satisfied, the car wash was removed from the Project so that the Town would approve it.*

Staff Response No. 6(B)

Town staff provided the same amount of public outreach required by the Development Code, with additional emails to the homeowners association and to those residents and property owners that requested it, as was conducted in 2019. In 2019, the applicant voluntarily held an additional community workshop related to the Village at Gray's Crossing project. Separate meetings were conducted during that timeframe related to the Gray's Crossing Specific Plan that were not directly related to the project. A car wash was not approved prior to 2019 and the car wash was not relocated or redesigned at that time. The Planning Commission identified some concerns with the gas station and car wash character, but did not take any action on these components.

Appellants' Comment No. 6(C): *Then, in the middle of the 2023 holiday season, when residents were preoccupied or otherwise unavailable, the Project reemerged, much larger and very different than that which was previously proposed or studied, again next to residences. Yet, instead of rejecting this larger car wash which will have significantly greater environmental and community impacts, the Planning Commission suddenly claimed it lacked authority to consider the propriety of the Project or its community impacts.*

Staff Response No. 6(C)

The project has been in process for one year and 10 months and was not processed completely over the holidays. The project was processed as all land use entitlements are processed and public notice was provided to the neighborhood to provide opportunities for public review. The Planning Commission reviewed the project for consistency with the Gray's Crossing Specific Plan and determined that the project was allowed under the Specific Plan and identified modifications to the conditions of approval in order to make the appropriate findings for approval.

Appellants' Comment No. 6(D): No reason has been provided for the sudden approval of a facility that was previously deemed too impactful, rendering the Planning Commission's decision arbitrary and capricious. Community members are rightfully concerned about the impetus for the Town's complete reversal on this matter and will seek relevant communications if this matter goes to litigation. Appellants hereby request that Truckee and the Planning Division preserve all communications relevant to this matter should they be required in future discovery.

Staff Response No. 6(D)

This comment provides Appellant's allegation that the approval was previously deemed "too impactful" is without factual support in the record. Further, the allegation that project approval is arbitrary and capricious lacks legal support. Importantly, the comment does not allege any violation of procedure or relevant state law. Given that the Planning Commission previously approved a gas station within the Village Center and given that all communications are in the public record as required by State law, the allegations lack legal and factual support. As such, the comment is noted and no further response is required.

CONCLUSION

Appellants' comment: Appellant Fairway Townhomes Association respectfully requests the Town Council to reject the Project Amendment to the Development Permit for the Village at Gray's Crossing Car Wash. The Applicant is proposing a new, unstudied land use that was not covered by the Specific Plan. As described in the Truckee Development Code, the proposed primary use of the parcel is now a stand-alone automated car wash capable of servicing 45 cars per hour, as opposed to a gas station with a small appurtenant car wash.

Staff Response:

The project is consistent with the allowed development density established by the Gray's Crossing Specific Plan. The Village Center District of the Gray's Crossing Specific Plan was originally approved for 38,900 s.f. of office and retail space, 120-room lodge with 5,000 s.f. conference facilities, a 7,200 s.f. community cultural center, a 1,800 s.f. service station and convenience store, 48 attached housing units, 21 residential lofts, and a church.

The Village at Gray's Crossing is currently approved for, 17,192 s.f. of retail, a 129-room hotel with 5,000 s.f. conference center, and 45 attached housing units, and 21 residential lofts. The community cultural center, service station, convenience store, and 21,708 s.f. of retail or office are remaining for the site. The 3,883 s.f. car wash is well within the remaining density identified for the Village District, either as a replacement for the service station and convenience center or as a replacement for the retail or office density.

The Gray's Crossing Specific Plan allows a car wash use within the Village Center District and is not a "new, unstudied land use". Rather it was contemplated during adoption of the Specific Plan and was determined to be a permitted use in the Village Center district. Based on a recent analysis of traffic, noise, and emissions, there were no environmental effects that are considered peculiar to the project or the parcel on which the project would be located. The project would be

subject to all Town, county, state, and federal standards related to stormwater treatment, discharge, public health and safety, and noise. Additional responses to this concluding comment can be found in the response to Comment Nos. 1 and #2.

Appellants' Comment: *The Project is also proposed in a different location than the gas station proposed in the EIR, within a residential area with potential traffic safety issues. A new land use requires a new, not amended, land use application.*

Staff Response:

The Village Center District was always contemplated as a mixed-use area with residential uses distributed throughout. As such, it is inherently not a “residential area” but rather it is “intended to provide land area for a range of retail, office, lodging services and business activity relating to the needs of the recreational activities and surrounding neighborhoods”. The proposed project is located on Edwin Way where the gas station and more intense commercial activity were previously anticipated and analyzed as part of the Gray’s Crossing Specific Plan Environmental Impact Report. Edwin Way is a low volume street that can accommodate additional traffic. While the current location differs from the 2004 anticipated location, the Specific Plan allows a car wash use to be located-without limitation-within the Village Center district. The proposed car wash project is being reviewed for consistency with the Gray’s Crossing Specific Plan regardless if it was new land use permit or an amendment. From a procedural standpoint, the processing of an amendment is the same as processing of a new land use application. If the project is found to be inconsistent with the Gray’s Crossing Specific Plan, a Specific Plan Amendment and environmental review would then be required. However, staff believes that the project is consistent with the Gray’s Crossing Specific Plan.

Additional responses to this concluding comment can be found in the responses to Comment Nos. 1 and 4.

Appellants' Comment: *Further consideration of the Project should be put on hold until after the completion of adequate environmental review and a public process that discloses, analyzes, and mitigates the Project’s full traffic safety, noise, water quality, and equity concerns. Appellants hereby incorporate into the appeal the comments previously submitted to the Planning Commission on January 11, 2024, attached.*

Thank you for your consideration of these comments. We look forward to the Town Council’s action on this important matter.

Staff Response:

A response to this concluding comment can be found in the response to Comment No. 4.

Fairway Townhomes Comments

Unique comments within the Fairway Townhomes Association comment letter which were attached to the appeal application are provided below. An annotated version of this comment letter is provided in Attachment #4. The annotated version of the letter indicates where responses can be found for each comment made within the January 11, 2024 Fairways Townhomes Association letter.

Appellants' Comment (FTA-5): *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 not withstand a legal challenge (and a legal challenge would be inevitable if the Planning Commission were to adopt such an interpretation).

Staff Response (FTA-5):

The car wash use is allowed within the Gray's Crossing Specific Plan. In this instance, review of compatibility of the use with the surrounding uses is not appropriate as this decision was previously made during adoption of the Specific Plan in 2004. Comparing this use to "adult-oriented businesses" or "cannabis dispensaries" is inappropriate. Both of these types of uses are clearly regulated within the Development Code and interpretation of these uses as a different type of use would be inappropriate. A "car wash" is a clearly defined use within the Development Code and an allowed as a use within the Gray's Crossing Specific Plan. Further response to this comment can be found in the response to Comment No. 2. As stated above, characterization of the Village Center district or even the larger Gray's Crossing plan area as a residential community is inappropriate. As stated in the Specific Plan executive summary, the Specific Plan "is a destination recreation community proposing golf, recreational amenities, single-family lots, cottage homes, attached housing and mixed-use development in a village center setting, with two community church sites and over 417 acres of passive open space".

Appellants' Comment (FTA-8): *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, 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.*

Staff Response (FTA-8):

The 2004 version of the Village at Gray's Crossing included a gas station located at the southwest corner of the Village at Gray's Crossing, accessed off of Henness Road. It was envisioned directly across the street from the 92 affordable housing units, in close proximity to 10 attached residential units, and on the same parcel where the unnamed drainage exists. The 2004 gas station was located on the parcel directly to the south of the currently proposed car wash. With the proposed car wash, most vehicles would still enter on Henness Road and onto the lesser volume Edwin Way. There may be some traffic that enters on Prosser Dam Road, but the majority of passing users on State Route 89N would use the Henness Road entrance to Edwin Way.

The appellant has stated that "the developer later determined that the proposed location was undesirable due to the floodplain and permitting issues, which led to a revised proposal to relocate the gas station." Staff is unaware of the reason why this current applicant has chosen the specific location within the Gray's Crossing Village Center and there have not been any

conversations related to their concerns with an alternate location. The current applicant is a different developer than the developer that applied in 2004 and 2006. It is unclear where the appellant obtained this information.

Further response to this comment can be found in the response to Comment No. 1.

Appellants' Comment (FTA-9): *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"**.*

Staff Response (FTA-9):

Land Use Goal 1.7 is a new policy in the 2040 General Plan. General Plan. The project was deemed complete on June 16, 2022, prior to the May 9, 2023 adoption of the 2040 General Plan, and the Town Council did not impose a moratorium on processing of land use entitlements while the update was underway. The car wash project is required to be reviewed under the 2025 General Plan and any new policies within the 2040 General Plan do not apply to projects deemed complete prior to the adoption of the 2040 General Plan. Further, a "car wash" use is not listed in Land Use Goal 1.7.

Response to the remainder of the comment can be found in the response to Comment No. 1.

Appellants' Comment (FTA-17): ***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.*

Staff Response (FTA-17):

The proposed car wash is a self-service car wash. No auto detailing is proposed. Chemicals used will be required to be in compliance with federal, state, and county regulations.

Appellants' Comment (FTA-19): *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.*

Staff Response: The site is not visible from Interstate 80 and no signage is oriented toward State Route 89N and is not intended to be a "transient travel plaza." A car wash use is not solely for people traveling through Truckee; residents of the Truckee/North Tahoe community frequent car washes. Additionally, the proposed car wash is not a full-service car wash where detailing services would be provided. As discussed previously, this parcel is part of a larger vision to provide a range of commercial uses and services relating to the needs of surrounding neighborhoods and a car wash was determined to be one of the uses, amongst many, to meet the needs of local residents.

Appellants' Comment (FTA-20): *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.*

Staff Response (FTA-20):

It is unclear which gas station/car wash the appellant is referencing as being "infeasible." A gas station was previously proposed and approved at both the northern end and the southern end of the Village at Gray's Crossing. Both have not been constructed but it is unclear the reasons why the projects were not completed. In general, it is staff's understanding that financial circumstances are a driving force developers propose and execute development projects.

Responses to the remainder of the comment can be found in the response to Comment Nos. 5 and 6.

FINDINGS:

Due to the appeal of the Planning Commission findings and approval of the Project, the Council is required to make its own findings supporting approval or denial of the project. The following findings are proposed as part of Resolution 2024-12:

1. There are no environmental effects of the Project peculiar to the parcel(s) on which the Project would be located, because: (i) there is nothing unique or peculiar about the parcel(s) which would distinguish such impacts from other parcels in Truckee upon which similar uses are located; and (ii) all effects of the Project on the environment will be substantially mitigated by uniformly applied development policies or standards previously adopted by the Town, including but not limited to

Air Emissions in accordance with Section 18.30.030; drainage and stormwater runoff in accordance with Section 18.30.050; exterior lighting and night sky in accordance with Section 18.30.060; fences, walls, and hedges in accordance with Section 18.30.070, and Noise in accordance with Chapter 18.44, etc.;

2. All environmental effects of the Project were analyzed in the EIR because the EIR analyzed the full effects of development on the Project site, and the proposed Project is substantially similar to, and no more intense than, the development previously approved and analyzed in the EIR;
3. There are no potentially significant offsite or cumulative impacts that were not adequately discussed in the EIR because the EIR addressed all reasonably foreseeable, potentially significant offsite and cumulative impacts, including without limitation traffic impacts. Since the certification of the Gray's Crossing EIR, the California Highway Patrol (CHP) facility was constructed by the State of California. This project was not initially envisioned during certification of the Gray's Crossing EIR. However, the EIR for the CHP facility assigned 28 PM peak trips to the project, which is lower than a typical industrial or service commercial project that would have been otherwise developed at the site. Further, a traffic analysis was conducted for this project and no impacts to traffic were identified; and
4. There are no new significant effects or previously identified significant effects that will be substantially more severe than discussed in the EIR as a result of substantial new information which was not known at the time the EIR was certified.

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 Development 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.
5. 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.
6. 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.

7. 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.

Compliance with CEQA: Staff has determined the project to be exempt from additional environmental review pursuant to Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning).

CEQA was enacted to advance four related purposes: to (1) inform the government and public about a proposed activity's potential environmental impacts; (2) identify ways to reduce, or avoid, environmental damage; (3) prevent environmental damage by requiring project changes via alternatives or mitigation measures when feasible; and (4) disclose to the public the rationale for governmental approval of a project that may significantly impact the environment. It requires that "all agencies of the state government which regulate activities which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage. (§ 21000, subd. (g).) CEQA and its related regulatory provisions provide for a multi-tiered review process when an agency is asked to approve an activity that may significantly affect the environment.

Guidelines section 15183, subdivision (a), requires no additional environmental review for projects "consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified," except as might be necessary to determine whether there are project-specific significant effects. Guidelines section 15183 was promulgated on the authority of section 21083.3, which provides a public agency need examine only those environmental effects that are peculiar to the project and were not addressed or were insufficiently analyzed as significant effects in the prior EIR.

EIRs associated with Specific Plans are often called Program EIRs. Program EIRs, like the EIR certified by the Town in conjunction with the specific plan, are used for a series of related actions that can be characterized as one large project. If a program EIR is sufficiently comprehensive, the lead agency may dispense with further environmental review for later activities within the program that are adequately covered in the program EIR. (Center for Sierra Nevada Conservation v. County of El Dorado (2012) 202 Cal.App.4th 1156, 1171 (Center for Sierra Nevada Conservation); see also Guidelines, § 15168, subd. (c).) " [A] program EIR may serve as the EIR for a subsequently proposed project to the extent it contemplates and adequately analyzes the potential environmental impacts of the project' [Citation.]" (Center for Sierra Nevada Conservation, at p. 1171.)

Consistent with an emphasis on streamlining future environmental review for projects within the scope of a program EIR, Guidelines section 15183 states that projects consistent with a general plan "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." (Guidelines, § 15183, subd. (a), italics added; see also 21083.3, subd. (b) [environmental review of a project consistent with a general plan for which an EIR was certified shall be limited to those effects on the environment which are peculiar to the parcel or project and were not addressed as significant effects in the prior EIR].) Thus, when an agency utilizes the streamlining process in Guidelines section 15183, the agency shall limit its examination of significant environmental effects which it determines: "(1) Are peculiar to the project or the parcel on which the project would be located, (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was

certified, are determined to have a more severe adverse impact than discussed in the prior EIR.” (Guidelines, § 15183, subd. (b)(1)-(4).)

Statement of Reasons for Exemption Determination

As stated above, the Town certified the Gray’s Crossing Specific Plan Final Environmental Impact Report (SCH #2002072115) in February 2004 based on a finding that the Gray’s Crossing Specific Plan will not result in significant environmental impacts with the incorporation of mitigation measures with the exception of Impact 4.4.6 (Cumulative Air Quality) and Impact 4.2.12 (Cumulative Traffic on I-80) for which the impacts are identified as significant and unavoidable and overriding considerations were adopted. The project will be subject to the mitigation measures identified in the Gray’s Crossing Specific Plan. A “car wash” use is an identified allowed use within the Village Center District of the Gray’s Crossing Specific Plan. Through noise, traffic, and emissions analysis, staff has determined that the proposed project is similar to and no more intense than the gas station/convenience store use identified in the Gray’s Crossing Specific Plan EIR.

Based on the Bollard Acoustical Consultant’s noise comparison, while the noise generated from a car wash would be greater than the noise generated from the convenience store/gas station use that was contemplated in the Gray’s Crossing Specific Plan EIR, the noise would still be in compliance with the requirements of the Town’s Noise Ordinance. Additionally, as with all uses in Truckee, the project would be required to comply with the Town’s Noise Ordinance, as specifically identified in Condition of Approval No. 6.

A traffic analysis of the project was completed to determine if the proposed car wash would impact intersection level of service at Henness Road/Edwin Way or Prosser Dam Road/Edwin Way. LSC Transportation Consultants used the estimated traffic volumes and the worst-case scenario trip generation and determined that all resulting intersection LOS were acceptable with LOS B or better for the worst movement on both Henness Road/Edwin Way and Prosser Dam Road/Edwin Way. LSC expects that there will be no LOS issues at either Henness Road/Edwin Way and Prosser Dam Road/Edwin Way with the addition of the proposed car wash.

Additionally, the applicant has completed an emission comparison based on average daily trips for the proposed car wash. The applicant found that a full-service car wash has some additional attributed idling time as compared to a gas station/convenience store; however, the volume of overall emissions/air quality impact is approximately 14.3% of a gas station which is the use that was evaluated with the EIR.

Staff Recommendation: For the above reasons, staff recommends denial of the appeal of Planning Commission approval of the application. Council approval of the proposed car wash entails construction and operation of a permitted use in the Village Center District of the Gray’s Crossing Specific Plan. The Project is consistent with the 2025 General Plan and the development standards associated with the Gray’s Crossing Specific Plan’s Village Center District and, where applicable, the CN (Neighborhood Commercial) zoning district of the Development Code. The Village at Gray’s Crossing initially included a gas station as part of a broader mixed-use development, including residential, retail, office, and lodging. Although a gas station is no longer envisioned in the Village at Gray’s Crossing, the car wash provides a similar service use for the community. The Project mitigates visual impacts of the building through additional architectural features and landscaping. Comprehensive environmental analysis was conducted. The Town has rigorously compared the potential impacts of the car wash to the previously analyzed gas station; the impacts of the car wash were found to be equal to or less than that of a gas station. Accordingly, with incorporation of the proposed conditions of approval, staff recommends that the Council deny the appeal, and uphold the Planning Commission adoption of Resolution 2023-11, thereby approving the Development Permit for the Village at Gray’s Crossing car wash.

Priority:

<input type="checkbox"/>	Enhanced Communication	<input type="checkbox"/>	Climate and Greenhouse Gas Reduction	<input type="checkbox"/>	Housing
<input type="checkbox"/>	Infrastructure Investment	<input type="checkbox"/>	Emergency and Wildfire Preparedness	<input checked="" type="checkbox"/>	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 March 1, 2024 and mailed on February 28, 2024 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 February 28, 2024 to community members that have specifically requested updates on the project. Public comment submitted for the appeal can be found at the Additional Information and Public Comment link of the website: <https://portal.laserfiche.com/Portal/Browse.aspx?id=59703305&repo=r-6a91ddbc>

Attachments:

Attachment 1: Draft Resolution 2024-12 – Upholding the Planning Commission decision and denying the appeal on the Village at Gray's Crossing Car Wash Development Permit Project Amendment

- Exhibit A: Plans
- Exhibit B: Conditions of Approval
- Exhibit C: Findings
- Exhibit D: Gray's Crossing Specific Plan EIR Mitigation Measures

Attachment 2: Appellant appeal submittal

Attachment 3: Applicant submittal, with drainage report, noise study, traffic study, and emissions study

Attachment 4: Annotated Fairway Townhomes Association Comment Letter

Attachment 5: Planning Commission staff report, Resolution 2023-11, minutes, and additional public comment can be found at the following links.

January 16, 2024 Planning Commission staff report, including applicant submittal, drainage report, traffic memo, and noise study, and the history of Gray's Crossing: <https://portal.laserfiche.com/Portal/DocView.aspx?id=59688897&repo=r-6a91ddbc>

Resolution 2023-11:

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59694296&repo=r-6a91ddbc>

Minutes:

January 16, 2024 meeting minutes:

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59703274&repo=r-6a91ddbc>

Planning Commission public comment:

<https://portal.laserfiche.com/Portal/Browse.aspx?id=59684606&repo=r-6a91ddbc>