

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

GoToWebinar

January 18, 2022

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Ferry called the meeting to order at 9:30 a.m.

Members present: Mr. Alling, Ms. Carr, Ms. Chandler, Mr. Drake, Mr. Drew, Mr. Ferry, Ms. Ferris, Mr. Hill, Ms. Jacobsen, Ms. Roverud, Ms. Simon, Ms. Stahler, Mr. Teshara, Mr. Young

Members absent: Mr. Booth, Mr. Drake, Mr. Guevin, Mr. Smokey

Mr. Letton joined after roll call

II. APPROVAL OF AGENDA

Chair Ferry deemed the agenda approved as posted.

III. PUBLIC INTEREST COMMENTS

None.

IV. DISPOSITION OF MINUTES

Mr. Teshara moved approval of the December 8, 2021, minutes, with the following corrections:

Page 12; Final paragraph: City of South Lake Tahoe

Page 14; Paragraph 5: and separate plan

Ms. Carr seconded the motion.

Ms. Stahler and Mr. Alling abstained.

Motion passed unanimously.

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V. PLANNING MATTERS

- A. Discussion and Possible Action on the Tourist Core Area Plan (TCAP) Amendment: Artesian small scale manufacturing and industrial use in the Gateway district

[Agenda Item No. V.A. Tourist Core Area Plan \(TCAP\) Amendment](#)

Ms. Jennifer Self, Tahoe Regional Planning Agency (TRPA) and Mr. John Hitchcock (City of South Lake Tahoe), presented this item.

Ms. Self began by providing the context for this item, and explained that staff were seeking Advisory Planning Commission (APC) recommendation to the TRPA Governing Board to adopt amendments to the Tourist Core Area Plan, as provided in the January 2022 APC Packet.

Ms. Self explained that the City of South Lake Tahoe and TRPA adopted the Tourist Core Area Plan (TCAP) in 2013. The TCAP runs through the City's major tourist corridor, along Highway 50 from the Bijou Marketplace, and continues along Highway 50 to the casino corridor. It also runs up Ski Run Boulevard. The area includes a mix of primarily commercial, retail, and tourist uses, which cater to both local residents and visitors.

Procedurally, area plans and area plan amendments are first adopted by the local jurisdiction, and then they are adopted by the TRPA Governing Board. Upon TRPA approval and adoption of the area plan, the plan will become a component of Lake Tahoe Regional Plan. So, in bringing these amendments forward, staff must demonstrate that the local plan is in keeping with the Regional Plan. TRPA staff also has annual reviews with local jurisdictions to ensure that local plans are meeting the goals and policies set forth within them. So, in the development of this and other local plans, local jurisdictions engage with TRPA staff early and often throughout the planning process. With the proposed amendments, TRPA staff have been working closely with John Hitchcock and others at the City of South Lake Tahoe.

The City Planning Commission and the City Council have reviewed and approved these amendments, and the City Council adopted the amendments on November 16, 2021. The TRPA Regional Plan Implementation Committee (RPIC) unanimously recommended approval of the amendments to the TRPA Governing Board on December 15, 2021.

If the APC recommends adoption today, TRPA staff anticipate that the amendments will come forward for final consideration to the TRPA Governing Board in January 2022.

Mr. John Hitchcock presented more detail on the amendments.

Referring to the slide 2 (location map) of the presentation, Mr. Hitchcock explained that the proposed amendment is applicable to the Tourist Core Area Plan Gateway District Special Area #1 (north of Safeway and westward to Lakeland Village).

The Tourist Core Area Plan (TCAP) was adopted by TRPA and the City of South Lake Tahoe in 2013. It

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provides land use guidance for the whole area plan, and specifically to the Gateway District. The Area Plan vision is to provide an attractive mixed use, commercial, and tourist accommodation corridor, that provides a gateway to the tourist core area.

Currently, the district provides an array of uses, including tourist accommodation, residential, commercial, retail restaurants, and recreation uses, that cater to locals, as well as visitors.

To continue to promote the expansion of tourist-related uses, the Tahoe Wellness Center submitted an application to the City of South Lake Tahoe, to amend the TCAP to add small scale manufacturing, industrial services, and wholesale distribution, as part of retail commercial use.

The proposed amendment will continue implementation of TCAP objectives to develop, and redevelop a wide range of tourist-related uses, to enhance the user experience and the tourist core. The intent of the amendment is to allow the production and manufacturing of goods for on-site sale, as well as off-site retail sales.

Mr. Hitchcock said that the best way to think about this is that it is very similar to the 'farm to fork' movement. There is a current trend in retail business, where people are interested in the user/retail experience - not simply just buying a product from a retailer, but an interest in knowing how the products are manufactured/produced, where they come from, and having them for sale on site. The proposed amendment, amends the definition of industrial services, and wholesale distribution, and is tied to retail use.

Slide 4 illustrates some examples of the types of businesses that the City of South Lake Tahoe envision could take advantage of the proposed amendment, such as confectionary shops, leather goods, metal working businesses, woodworking, handcrafted goods, chocolatiers, and coffee shops - where the business would produce and sell items on-site, as well as being able to sell off-site for wholesale distribution. Mr. Hitchcock said that City thinks this an interesting concept that would expand retail uses within the tourist core, for both visitors and locals.

The proposed amendment is only connected to primary retail commercial use, so, it would not be possible to create a wholesale, or industrial primary use - it has to be tied to retail. Wholesale/industrial use would be limited 30% of the retail space, and will also require a special use permit from the City of South Lake Tahoe, and from TRPA, to ensure that any proposed use is desirable in the proposed location, and that all potential project impacts will be inadequately addressed. There are no changes to current design and development standards - current TCAP standards would still apply to any future projects.

Mr. Hitchcock summarized that the proposed amendment will facilitate the implementation of TCAP objectives, to encourage tourist-related retail commercial use on-site, as well as production on-site, and facilitate opportunities to enhance the retail experience, through demonstration and education opportunities as part of any retail expansion.

Commission Comments and Questions

Vice Chair Carr asked for clarification on the area shown as Special Area #1 on the map (slide 2). Mr. Hitchcock responded that the amendment applies to the Gateway District Special Area #1, north of Safeway, and not to Special Area # 1.

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Using coffee roasting as an example, Ms. Carr asked if potential odors, noise, and/or parking issues, would be addressed, and mitigated at the project level when actual development/redevelopment permit applications come to the City of South of Lake Tahoe.

Mr. Hitchcock responded that the proposed amendment is for 'special use', so they would have to make those special use findings. Any potential impacts such as odor, parking, or noise will have to be mitigated to a less than significant level. Also, the special use findings will require the City of South Lake Tahoe to make the specific finding that the use is desirable in that location, and will not be injurious to the neighborhood.

Mr. John Marshall (TRPA) added that the City may need to take a look at the location map, and possibly create a new special area designation, to avoid confusion before the item is taken before the Governing Board.

Ms. Susan Chandler questioned the source of the proposal – was it only from the Wellness Center or is there a consortium of businesses that are also interested in taking advantage of the proposed change?

Mr. Hitchcock responded that the source of the amendment is the Tahoe Wellness Center. Other retail uses were not part of the amendment, but the City of South Lake Tahoe are hoping that when the amendment occurs, other retail uses in the area will take the opportunity to expand, and include educational opportunities with on-site manufacturing as part of their retail experience.

Ms. Chandler added that the Bijou Center is the one area in town that is due for major renovation. She asked if it was also in the works for that area to be upgraded. Mr. Hitchcock said they had not heard from the property owners, but the City would definitely encourage redevelopment of the Bijou Center. He said that the Bijou Center is a designated historic resource, but they would work through as part of the planning process. Mr. Hitchcock added that the concept is to create flexibility in the system, and to encourage property owners to redevelop older sites that need BMPs and/or improvements as part of the redevelopment efforts.

Mr. Teshara said that he had followed the process through the City Planning Commission, and the City Council, and recalled that Mr. Nick Exline advocated for the proposed amendments on behalf of at least one client. He does not think the client was the Tahoe Wellness Center. Mr. Hitchcock responded that he would defer to Mr. Exline, but believes that he was representing the Tahoe Wellness Center in the application. Mr. Teshara added that he believes there were other clients that were similarly interested in the proposed amendment.

Mr. Drake said he thinks the proposed amendment is entirely appropriate, and that he is a fan of flexibility in zoning, particularly in regard to commercial use. He believes there is a blurry line between commercial and industrial activities, and in the Tahoe Basin it can be very challenging to find land that is zoned for any sort of manufacturing, even light manufacturing. Mr. Drake said he thinks this is a unique case that will stimulate investment. There is a huge trend of people doing small-scale, making of things, whether that be wood or coffee. Mr. Drake said he is that category, and that it is currently difficult to navigate the zoning code when you are trying to manufacture, and sell on-site. He thinks the location is appropriate, and that the process is perfect to address any concerns, and believes it is a smart move.

Mr. Drew asked that, since the Tahoe Wellness Center was the initial applicant, have they specifically

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stated what they would like to do under the proposed amendment. Mr. Hitchcock responded that if the amendment passed it would allow Tahoe Wellness Center to manufacture cannabis onsite. Mr. Drew asked why that was not an example given in any of the documents through the City of South Lake Tahoe, the Planning Commission, the Council, and now with the APC. Mr. Hitchcock responded that when the application was submitted it was focused on the cannabis business itself. Following his discussions with Mr. Exline, and internally with the City of South Lake Tahoe, they determined that the concept made a lot of sense, and wanted to be more inclusive for other of retail uses. Cannabis is just one business that could take an opportunity of these changes, but I they want to encourage it for all other retail uses – whether that be roasting coffee, or chocolate shops or a confectioner.

Mr. Drew said that cannabis should be included as a specific example as this moves forward to the Governing Board, because the reality is, that is the applicant who brought it forward. Mr. Drew added that he was on the City Planning Commission when the Area Plan was approved, and the use being talked about today, is not precluded under the existing Area Plan. He said he can understand the desire to clarify further, and is generally supportive of clarifying these kinds of uses, because we are not seeing redevelopment occur at the rate anticipated by the Regional Plan and subsequent area plans. However, cannabis is a really controversial issue, and he thinks it should be made clear that is the intent of the applicant. Mr. Drew does realize that the even if the amendment is approved, the applicant will still need to submit a specific application for review, but he would like to avoid the public being able to say, “that’s not what we were thinking was being approved”. He recommends that, as the process moves forward, staff need to be very clear about who the applicant was, and include their specific use in the examples.

Mr. Drew also informed that the owner of the original applicant business sits on the City of South Lake Tahoe Council, and asked for confirmation that he (the owner) has recused himself throughout the entire process. Mr. Hitchcock confirmed that the owner had recused himself throughout the process.

Regarding the Initial Environmental Checklist (IEC), Mr. Drew noted that for the air quality and lighting sections, ‘no’ was checked. He said he could understand that conclusion at the programmatic level, but asked Ms. Self if applicants would have to provide evidence that their specific projects would not have significant impacts on air quality or quality of lighting. Ms. Self affirmed that the IEC included in the packet today is a programmatic level document. When projects come forward, they will be reviewed for findings and compliance at the project level.

In reference to Ms. Chandlers statement that these amendments are targeting an aging town center, Ms. Self said the area was an existing town center, and the gateway district boundaries were moved to include this area for redevelopment a couple of years ago. In the development of these particular amendments, to spur and support local businesses, staff took a nod to existing land uses that were already evaluated and allowed along Ski Run Boulevard, to encourage similar types of maker spaces. So, that use was evaluated in the 2013 TCAP Amendment, and staff have now done the evaluation at a programmatic level for adding these uses in the Gateway District. When a particular business or project comes forward, they will be further evaluated for impacts to air quality, water quality, and similar. As Mr. Hitchcock said in his presentation, these uses would be permitted as a special use, and would therefore require approval by the TRPA Hearing Officer, and approval by the City of South Lake Tahoe Planning Commission.

Referring to the Special Use Area #1 at the Bijou site (Slide 2, Location Map) Mr. Drew asked if there was a reason that there is such a constrained footprint. He said that the map intimates that the footprint of

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the area is very small and located in the area of the applicant, the Tahoe Wellness Center. He asked if there was a reason staff did not look at a bigger footprint, because there are many places along Highway 50 that could take advantage of this amendment. Mr. Hitchcock responded that when the amendment was submitted, they were concerned about adding industrial & wholesale distribution to a Tourist Core Area Plan, and staff wanted to keep the amendment focused at this point in time. Mr. Hitchcock added that from his perspective, if it does become successful, the model could be expanded to other areas of the Tourist Core Area Plan.

Mr. Drew said that on page 82 of the Findings, it mentions that implementation of the proposed amendment anticipates an acceleration in threshold gains, but it does not say why. Given some of the nuances of the amendment, and what is in the existing area plan, Mr. Drew encouraged staff to include some additional narrative on how the proposed amendment will accelerate threshold gains, in the Governing Board packet and presentation.

Mr. Ferry asked Mr. Hitchcock to clarify what 'manufacturing of cannabis' means. Does it mean growing cannabis, or does it mean other things. Mr. Hitchcock said it means the ability to grow and sell cannabis on site.

Ms. Roverud pointed out that the amendment does require a demonstration and educational component, so is not just adding uses. The vision is to be tourist focused, but it really is intended to enhance the tourist experience and provide more experiential opportunities within the tourist core. The amendment is not allowing for those industrial to occur behind closed doors, and create the nuisances that we might think come along with that. The permit process will look closely to ensure that whatever is proposed is enhancing the experience for those in the tourist core, whether visitors or residents.

Mr. Drew said that this is a somewhat unique site within the area plan because there is a small, residential, contingent directly behind the site. He asked if there has been any feedback from the residential properties adjacent to the site. Mr. Hitchcock replied that they had not received any comments from any of the adjacent residents, but did receive questions from an individual who lived in Sierra Shores, and was supportive of the amendment. Staff notified all property owners within the Gateway District, as well as within 300 feet of the Gateway District boundary.

Public Comments

Ms. Molly Armanino echoed Ms. Roverud's comments, and added that an exciting and important part of the amendment is the educational component that she hopes will be a condition upon permitting any businesses. In particular, she would like to see businesses educate the public on the sustainable benefits of more in-house manufacturing, be that less vehicle miles traveled, or sustainable renovations to their building.

Mr. Nick Exline said that what he first came into contact with the applicant, he was excited by their willingness to incorporate environmentalism, and particularly environmental education into the project approval process. He and his team work tirelessly with their clients to introduce environmental elements whenever, and wherever possible, and it's really challenging. He added that from a regulatory perspective, applicants really don't get any benefit from it - it really has to be at the desire of the applicant. So, the willingness and excitement of this applicant, to use this opportunity for an area plan amendment process to require some level of environmental education was really exciting.

In response to Mr. Drew's earlier question about the size of the location, Mr. Exline said he

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fundamentally agrees, and encourages APC members to use their voice and your opportunity to suggest that all future area plan amendment processes require some level of environmental education, and justifications for environmental improvement.

In response to Mr. Teshara's earlier comments, Mr. Exline said that the Tahoe Wellness Center is his client and the applicant, although many other clients that he works with, and members of the South Lake Tahoe community have expressed great interest.

In response to questions about cannabis, and how this proposed amendment has been presented, Mr. Exline said it was important to note that nothing is materially changing at the Tahoe Wellness Center as a result of this amendment. The only thing that will change at Tahoe Wellness Center, is that the current non-compliant uses will be legitimized through this process. The amendment will also provide the opportunity to other businesses, which is why the presentation cited other examples. Mr. Exline closed by encouraging members to recommend this amendment.

Commission Member Comments

Mr. Drew said he is supportive of the concept. He has seen it in other areas, and it is desired. What he is struggling with, is some of the uses that are associated with cannabis and other light industrial activities. Regardless of whether it is happening now or not, he is struggling with those kinds of facilities, and that type of use, within the footprint of the Tourist Core Area Plan. Processing coffee, and cannabis operations are not the same thing, and cities and counties across the state are really struggling with some of the air quality and water quality issues from cannabis operations. He is supportive of the larger amendment, but is struggling with what can be allowed within it.

Mr. Teshara shared Mr. Drew's concerns, and particularly how this amendment came through the process. He has tremendous respect for Mr. Exline and his inspirational ability as an advocate to get people excited about the proposals that he brings forward to various legislative bodies. In witnessing the presentation to the Advisory Planning Commission and the City Council, Mr. Teshara said he was inspired by a broader application of this opportunity. He said he will likely support the recommendation, but the proposed amendment certainly came through the process without a lot of mention of cannabis specifically. He hopes the amendment will be applied more broadly the future.

Mr. Ferry said he agreed that being more forthcoming about the source of the amendment would be beneficial when going to the TRPA Government Board. Mr. Ferry highlighted Mr. Exline's comments that these activities are already occurring. Ms. Carr added that there is a note on page 33 of the packet that this is an existing non-conforming situation. She questioned whether, aside from just the land use designation, if there are other things about this particular non-conforming use that may need to be corrected via code enforcement or similar.

Mr. Guevin said there is a lot of concern with how marijuana products are processed and treated, and he thinks it is wise that the City of South Lake Tahoe will require a special use permit under this amendment. Because this is an existing operation, he is wondering how that has been addressed so far. He would encourage the requirement of special use permits under the new amendment, but would like to understand what happens with these types of industries that are already in place? How will they be incorporated into this new plan? There are big concerns with the processing of marijuana products specifically. The processing is much different, and much higher risk for marijuana, than for coffee or chocolate for example.

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Ms. Roverud offered a little more background on the Tahoe Wellness Center. She said that originally when the Center was established at the Bijou Center, they were allowed as a medicinal marijuana retail operation, and with that was a component of growing cannabis. That is what Mr. Exline refers to with the 'existing non-conforming situation'. So, while it is an existing non-conforming use within the zoning and land use categories of the Tourist Core Area Plan, the original medicinal marijuana operation was approved by the City. When the City moved to adopting an ordinance that allowed for retail of adult recreational cannabis, in line with the rest of State of California, the Council entered into an agreement that allowed the Wellness Center to engage in the adult use, recreational cannabis business as well. To use a familiar term, it was grandfathered in for a certain number of years, and within that timeframe, the Wellness Center needs to get the land use and zoning consistent, and approval of a special use permit, in order to continue operations.

Ms. Roverud explained that any City approvals associated with the Tahoe Wellness Center (and other cannabis related businesses) require safety inspections and detailed oversight. As part of the review of any Special Use Permit, they would revisit all of the safety issues, and address those through the Special Use Permit. The potential factors that might create incompatibility with neighboring uses are different with all the various uses that could take advantage of this amendment. Coffee has odors, cannabis has odors, there are safety issues associated with manufacturing and so on. This is why the requirement for a Special Use Permit review is so essential to this particular amendment. Ms. Roverud confirmed that the Tahoe Wellness Center are the applicant that submitted the request for the amendments to the City. However, the City believes this amendment could benefit the entire Tourist Core with other businesses creating these experiences for visitors and interested residents.

Mr. Drew said that the APC decision on this amendment today, is at the programmatic level. The individual uses that are proposed on any particular site as a part of any particular project will be left up to the purview of the City in approving any Special Use Permit. It is his understanding that it would be inappropriate for the APC to put any conditions on that approval, in terms of the types of uses that could be allowed. Mr. John Marshall (TRPA Legal Counsel) responded that by approving this amendment, the APC are not endorsing, or excluding, any particular use to come forward for a Special Use Permit. Mr. Marshall also noted that the in this instance, the City is acting both for its own code, as well as delegation permitting for TRPA, which could be appealed to TRPA.

Ms. Carr made a motion to recommend TRPA Governing Board approval of the required findings, including a finding of no significant effect, for adoption of the proposed Tourist Core Area Plan amendments as provided in Attachment B, with consideration given to renaming the Special Area #2.

Mr. Young seconded the motion.

Ayes: Mr. Alling, Ms. Carr, Mr. Teshara, Ms. Chandler, Mr. Drake, Ms. Jacobsen, Ms. Roverud, Mr. Young, Ms. Simon, Mr. Guevin, Mr. Drew, Mr. Ferry, Ms. Ferris Ms. Stahler,

Absent: Mr. Smokey, Mr. Letton, Mr. Hill, Mr. Booth

Motion carried.

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Ms. Chandler made a motion to recommend adoption of Ordinance 2022-___, amending Ordinance 2020-06, as previously amended, to amend the Tourist Core Area Plan to include the additions and revisions as provided in Attachment B.

Mr. Drake seconded the motion.

Ayes: Mr. Alling, Ms. Carr, Mr. Teshara, Ms. Chandler, Mr. Drake, Ms. Jacobsen, Ms. Roverud, Mr. Young, Ms. Simon, Mr. Guevin, Mr. Drew, Mr. Ferry, Ms. Ferris Ms. Stahler

Absent: Mr. Smokey, Mr. Letton, Mr. Hill, Mr. Booth, Mr. Drake

Motion carried.

V. PLANNING MATTERS

B. Discussion and possible action on the Certifications of the Final Environmental Impact Statement for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test Project. Information can be found on pg. 147 of your packet.

[Agenda Item No. V.B. Tahoe Keys Aquatic Weed Control Methods Test Project](#)

Mr. Hitchcock replaced Ms. Roverud as the City of South Lake Tahoe APC Representative for this item.

Ms. Marchetta introduced the presentation by stating that this item is the very important, number one, aquatic invasive species control threat to Lake Tahoe, and the role of the APC today, is to consider a recommendation to the Governing Board, certifying the technical adequacy of the Final Environmental Impact Statement (FEIS), for the applicant, who is the Tahoe Keys Property Owners Association (TKPOA), for the applicants proposed test of control methods for weeds in the Tahoe Keys.

Ms. Marchetta said that invasive weed control work in the Tahoe Keys has had a long history, and overall, there has been little success in getting ahead of the growing infestation in the Keys Lagoons. So, it is important to understand a little bit of the regulatory context for this proposal, a little context about the history of how this test proposal came about.

Ms. Marchetta said that aquatic invasive species (AIS) prevention and control has been a top priority initiative for Lake Tahoe for more than a decade, and the Tahoe partnership agrees that the invasive weeds that were introduced decades ago into the Tahoe Keys Lagoons, are the number one AIS control threat to the Keys, as well as to greater Lake Tahoe.

TRPA has been leading the work to combat AIS in the Tahoe region since 2007, after invasive quagga mussels were discovered at Lake Mead, and the AIS partnership agrees that the number one threat in AIS control is the Tahoe Keys Lagoons, where the aquatic weeds infestation is serious, growing, and is of increased concern, both to public health due to the growing risk of toxic cyanobacteria outbreaks, as well as being an actual threat of spread to other locations around the lake.

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The Key's lagoons hold the largest aquatic invasive plant infestation within the Tahoe region, at 172 acres, it is greater in size and biomass than all other Tahoe Marina's combined. We have a very large, unprecedented, and growing problem on our hands.

The proposed test project does not come to us as a typical land use, or natural resource planning process, and many in the public have been confused as to who is making the proposal and why. The proposal arises from an application for a test project that was submitted by the Tahoe Keys Property Owners Association (TKPOA), who proposed the project on behalf of its approximately 1,500 private homeowner members.

The applicant's proposal is to test aquatic invasive plant treatment methods, and that proposal arises in a complex regulatory scheme under the Clean Water Act, that can be quite confusing to the public. There is a large and diverse group of private property owners who are being required by the Lahontan Regional Water Quality Control Board (LRWQCB), to control a pollutant of concern on their private property, in this case, aquatic invasive weeds, in the Keys Lagoons. And those roughly 1,500 private homeowners within TKPOA, own the lakebed of the lagoons that is needing treatment for the weeds. So, in response to the Lahontan Regulatory Order, TKPOA, as the applicant, is now required ultimately, to propose an acceptable, and legally sufficient plan, to control those invasive weeds in the Keys.

Five years ago, in 2017, TKPOA made its first attempt to respond to the Lahontan Waterboard Order, but TKPOA faced early opposition to the first response. It was a comprehensive control proposal, and would have included broadcast herbicide treatment. The agencies, stakeholders, and the public said, at that time, "you don't have enough information to go that route". So, the control project, stalled, as it had so many times before, and the applicant struggled to provide all of the information required, and to satisfy what were essentially public fears and concerns about what remedy to implement in Lake Tahoe.

What we know, from decades of experience, is that often what it takes to solve the Lake's toughest, most insoluble problems, like this one, is a much more collaborative approach to reach a solution. So, with that more shared problem-solving approach in mind, by 2018, we began working with the Keys property owners, and other key stakeholders. We convened a stakeholder committee, and an even broader stakeholder consultation circle, around an approach that engaged property owners with agencies, key stakeholders, and the public.

So as a new partner with the TKPOA, we secured funding to help seek a more supported solution, and now, in addition to the millions that TKPOA has spent over the years, to control and study the Keys weeds problem, partners other than TKPOA have contributed more than an additional \$2 million, over the last four years. We have supported the cost of a facilitator to help work with the stakeholders in public, we have funded technical studies, like this Final Environmental Impact Statement, and we have shared in the cost of different interim treatment methods, to gather valuable data.

So, for well over a year, we sat together at a collaborative consultation table to understand what information we have, what information we still need, and what questions did we still need to understand? So, when the diverse stakeholders came together, it was clear we had to lessen the unknowns and fears of broad scale treatment, before we would be able to move ahead to any final remedy.

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What arose out of that consultation, was an agreement to study a proposal to test different weed control methods. We realized that what we most needed to know, was a question of first impression, meaning, it had never been considered by others at any other water body, where similar invasive plants have been treated extensively a year over year. Here in Tahoe, we wanted to consider a different approach - could we effectively limit herbicide application to a one-time use, and only in the unique and controlled environment of the Keys Lagoons, and not in the open waters of Lake Tahoe. So, the question we designed the test around was, "what control methods independently, or in combination could effectively knock back a 172 acre infestation; and then, could we maintain that knock back, with only non-herbicide methods, year over year", and to test that in the unique and varied substrate, environments of the Keys Lagoons. No other water body, anywhere, has ever evaluated, tried, or tested this approach to herbicide use for aquatic weeds. And among the information from this test, will be the information we most need, when, as a group of collaborative partners and broad stakeholder interests, we have to sit together at a table several years from now, to work out the much harder question of how to design and implement a comprehensive remedy for the invasive plants in the Keys Lagoons.

Ms. Marchetta said that although APC members will likely hear comment asserting otherwise, the inclusion of herbicide in the test as one method, does not presuppose the use of herbicide in any final remedy.

Together, the stakeholders designed this combination of tests, that could help answer both the unique question, about the minimum use of herbicide, as well as other information gaps, about the efficacy of methods in combination. The design ensures that the test protocols are scientifically rigorous, statistically adequate, carefully controlled, and technically sound. So, the Final Environmental Impact Statement being considered for its technical adequacy today, is not for any kind of a final remedy.

What it does do, is evaluate a proposal, and alternatives to that proposal, to perform a carefully controlled test of different, aquatic invasive plant treatment options, on a small but representative scale, to help close information gaps, and address public fears about the effects of different treatments. Homeowners and stakeholders collaboratively chose this route to find a shared approach, if possible, to the complex and often confusing regulatory scheme the TKPOA it found itself in.

Ms. Marchetta said that today, they were presenting for recommended certification, the Final Environmental Impact Statement, that evaluates the test and alternatives to it. The FEIS analysis is comprehensive, and it discloses potential environmental effects, as is required. It shows that with carefully designed, resource protection measures, and multiple layers of fail-safe mitigations, the proposed test poses no threat to the environment of the Keys, or to the Lake itself.

It is on that basis, and the whole of the record, that they are recommending that APC recommend to the Governing Board to certify the EIS for the test project, under the compact. Ms. Marchetta noted that the Lahontan Regional Water Quality Control Board (LRWQCB) similarly reviewed the test project EIS, and that Board voted unanimously to certify the Final Environmental Impact Report under CEQA

Ms. Marchetta handed over to Mr. Marshall to explain the scope of APCs charge on this item.

Mr. Marshall said that like Ms. Marchetta, his role was to set context. Normally, the APC does not hear projects, since those are either handled at staff level, Hearings Officer, or go straight to the Governing Board. But, for projects that require certification of an EIS, the EIS comes to the APC for recommendation to the Governing Board on whether or not to certify the EIS. So, the project itself, or

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the merits of the project, are not before APC today, but the certification of the EIS is. Mr. Marshall said that the best way to think about that is that APC are not making a recommendation on the permit for this project, and they are not making a recommendation on the findings that go along with the approval of the project. Before the APC today, are the environmental considerations articulated in the EIS, and whether or not, the EIS technically addresses all the components that are required, and does so in a manner that is substantively reasonable. So that is the narrow view of the hearing today, and so for both APC and public, comments on the validity of the project, or the permit, are outside the scope of today's hearing – the focus is just on the adequacy of the environmental document.

Mr. Marshall handed over to Mr. Zabaglo for the main presentation.

Mr. Zabaglo reiterated that today, we are taking another step towards solving our biggest threat to Lake Tahoe, and are asking for APC recommendation to the TRPA Governing Board, to certify Environmental Impact Statement for the Tahoe Keys Lagoons Aquatic Weed Control Methods Test. The EIS is scientifically rigorous, it is comprehensive, and analysis of the tests of those different aquatic invasive species treatment methods will provide the missing information needed to design a complete treatment of the Tahoe Keys.

Mr. Zabaglo reiterated that this is a complex problem, that needs more information to solve. The AIS program has had a lot of success, but the Tahoe Keys is a whole new ballgame. It is exponentially bigger, extremely dense, and has difficult conditions to treat. It is the main source of spread, and our number-one priority for control. Assessment of all the tools really needed if we hope to find an ultimate solution.

TKPOA has been working for decades to address the issue, and in response to the waste discharge requirements they are under from Lahontan, they submitted an application to the two agencies to use aquatic herbicides to treat the infestation within the Lagoons. Aquatic herbicides have never been used in Tahoe before, which generated concern, and a lot of thoughtful discussion.

TRPA quickly engaged with partners to start a collaborative process, and to help develop a Stakeholder Committee, to ensure a broad range of perspectives and transparency, and have a forum for open discussion. TKPOA was very receptive, and fully supported the process, and the need to do that thorough analysis of a test. In addition to TRPA, Lahontan, and the TKPOA, the Stakeholder Committee consists of partners with diverse points of view, such as The League to Save Lake Tahoe, who provided an environmental non-profit organization perspective, the Tahoe Water Suppliers Association (drinking water suppliers from throughout the region), and the Tahoe Resource Conservation District, one of TRPA's main partners in both AIS prevention and control, and local experts on control in the basin. Perhaps the most important outcome of that collaborative process was the Stakeholder Committee's urging to take a more measured approach and collect more information to give the best chance for success, which was the impetus for a test. The test assesses multiple methods, both independently and combination, to implement a scientific experiment, and attain the best information possible to design a holistic treatment for the Tahoe Keys.

Once the test idea was put in place, an extensive public engagement process began. Scoping of the project started in the summer of 2019, and included multiple workshops and meetings to inform the public of the test project, and seek their input on a range of alternatives and issues to be included in the analysis. As a result, two action alternatives were developed, and one of the strongest recommendations heard, was that the No Action alternative really needed the same level of analysis as the proposed project. It was important to understand the risk of doing nothing.

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Scoping also helped inform a massive data collection effort, and over a million and a half data points were collected over the summer of 2019 to understand baseline conditions, how nutrient cycling in the Keys works, and to provide a strong foundation for the detailed impact analysis.

One of the major outcomes of the data collection, was that the weeds themselves fuel the nutrient availability in the Keys. Each year, when plants die off, the nutrients in the stems and leaves, return to the water and ultimately settle back into the sediment, becoming readily available for the future weed growth. So, while controlling upland sources of nutrients is important, and is also being addressed by the TKPOA, controlling the weeds themselves is the best way to disrupt that cycle.

Following scoping, a complete analysis to reveal potential impacts on the proposed project and alternatives began. The proposed project is a test of multiple methods, both independent and combination, to gain a true comparison of how those different treatment methods work.

The test is broken down by a use of Group A methods, that includes herbicides, ultraviolet light treatment, and laminar flow aeration, in the first year to provide an initial knock back.

In years two and beyond, Group B methods, which are all non-herbicidal, would be used to maintain the infestation at manageable levels. The methods include diver assisted suction, hand pulling, bottom barriers, and ultraviolet light treatment.

As stated in the EIS, herbicides would only be used in a one-time treatment the first year, and that is innovative in and of itself. Tahoe's AIS Program has a history of being innovative, with the first time use of bubble curtains to control weeds, and the first time use of ultraviolet light to control weeds, so this just builds on that history.

Referring to slide 12, Mr. Zabaglo described the test locations, which total 41 acres. Slide 13 illustrates an example of how a combination approach might work, but utilizing ultraviolet light down the middle, of a channel, where it has the best chance of treating the weeds more effectively, and utilizing the herbicide treatments along the edges, to maximize effectiveness, while minimizing the amount of herbicide use.

Action Alternative Two, is similar to the Control Methods Test, but does not include herbicide use, so it removes the ability to learn how all tools perform, under the same conditions, at the same time.

The Dredge Alternative would remove the organic layer using a suction dredge type application, which has never been done in Tahoe, to remove the plants, roots, and turions, as well as the substrate that the weeds reside in, with all the nutrients in that loose, organic layer.

Finally, the No Action Alternative would be doing essentially nothing as far as treatment. There would be nothing gained, nothing learned, no ability to inform future, long term treatment of the keys, and the weeds would just continue to spread.

Mr. Zabaglo handed over to Mr. Jim Good to describe the analysis, the potential impacts, and how any potential impacts for the proposed project are mitigated to less than significant.

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Mr. Good introduced himself as an aquatic scientist with Environmental Science Associates, and explained that he would

- summarize the process for studying the environmental impacts of the proposed project, the action alternatives, and the no-action alternative
- describe the potential environmental issues that were identified, and the mitigation measures that were developed, for both the Control Methods Test, and the alternatives.

The environmental impact evaluation process began in 2017, with an initial study and an initial environmental checklist. They reviewed the existing information, identified potential impacts for the project, and concluded that for this project to go forward, an EIS and an EIR for CEQA would be required. So, in 2019, they undertook a very extensive, baseline data collection effort. They collected six months, growing season information, on all of the physical, chemical, and biological characteristics of the lagoon environment at the Tahoe Keys.

Mr. Good led a team of five PhD specialists in different areas of aquatic science, environmental toxicology, limnology, aquatic plants, fisheries, and hydrology. One important thing they used the data for, was to develop a conceptual model of nutrient loading, and nutrient cycling within the Tahoe Keys Lagoons. They used the baseline data, and other information and found two very important characteristics in Tahoe Keys. First, the aquatic weeds take their nitrogen and phosphorus primarily from the sediments. When they die back, they release some nutrients to the water column, and return some nutrients back to the sediments. And secondly, there's an inexhaustible supply of nutrients in the sediments, so while controlling non-point sources from the watershed is very important for limiting algal blooms and cyanobacteria, the source control will not reduce the acquired weed problem. You just have to deal with this inexhaustible supply of nutrients in the sediments.

So, with EIS and EIR, they identified 43 issues for the control methods test. Most of these issues are within the lagoons, where most activities occur on the project. These included issues for environmental health, hydrology, water quality and aquatic ecology. They also evaluated a lot of other resources, such as air quality, recreation, traffic, cultural resources, etc., and except for the No Action Alternative, they found that impacts can be mitigated to be less than significant for each issue.

First, for the project proposal, the Control Methods Test. In the way that the project was designed to be implemented, resource protection measures built into the project, addressed many of those 43 issues, and they were left with 10 issues that they found to be potentially significant without mitigation. These included the exposure and health risks to the workers who would be applying the herbicides, the potential for detectable concentrations of herbicide chemicals to persist in the lagoon water, short-term increases of aluminum in lagoon water, increased potential for harmful algal blooms, oxygen depletion in the lagoon water, increased phosphorus and nitrogen released by the decaying plants, and effects on non-target aquatic plants, including sensitive species, that would also result in changes in the aquatic plant communities. Again, for all of these issues, they found that they would be less than insignificant after mitigation.

Regarding the mitigation for the Control Methods Test, Mr. Good said that with the herbicides, applicator training and licensing would be required for all workers potentially exposed to the chemicals. Application rates would be less than the approved rates. There would be chemical breakdown, and other resource protection measures all led to the conclusion that there would be less than a significant risk of persistence of the herbicide chemicals in the lagoon water.

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Spill prevention and response plans would be important requirements to prevent excess concentrations of herbicides from entering the Lagoon, and aeration would be used, if needed to accelerate aerobic degradation.

For aluminum (that resides in the sediment), Best Management Practices to minimize sediment disturbance would prevent the aluminum from being released into the water, where it is potentially toxic to cold water fish and other aquatic life.

For the phosphorus, nitrogen, and the potential to increase harmful algal blooms, the timing and limited size of treatments is important in minimizing the amount of plant tissue that's decomposing.

There would be the use of lanthanum modified clay to remove phosphorous from the lagoon water if real-time monitoring, identifies the need for that. The lanthanum modified clay binds the phosphorus particles in the water, and settles to the bottom sediments, where they remain chemically bound and not available, essentially starving the cyanobacteria and phytoplankton of an essential nutrient.

If needed, aeration will be used to make conditions less favorable for harmful algal blooms by circulating the air.

Impacts of dissolved oxygen would be mitigated by the timing and limited size of treatments that limits the amount of plant tissue that is killed, and decomposing, limiting the oxygen demand from those decaying plants. Real-time monitoring of dissolved oxygen would be used to see if aeration is needed to maintain the water quality objectives.

Spring macrophyte surveys are an important mitigation to ensure that they are concentrating the weed control treatments on the target species, and avoiding impacts to non-target plants, including sensitive species - thereby avoiding adverse impacts to the aquatic plant community composition overall.

Action Alternative One, is the testing of all aquatic weed control methods that are part of the proposed project, except for herbicides. Most of the potentially significant issues and mitigations for Alternative One are the same as for the Control Methods Test.

Again, Best Management Practices would be used to minimize sediment disturbance, and the release of aluminum from the sediment into the water.

For phosphorus, nitrogen, and the potential for increased harmful algal blooms, the timing and limited size of treatments, minimizes the amount of decaying plants and release of nutrients.

Aeration, or lanthanum modified clay could be used to control cyanobacteria, if indicated by monitoring.

For dissolved oxygen, the timing, and limited size of the treatments, minimizes the amount of oxygen demand from decaying plants. Again, aeration would be used if dissolved oxygen concentrations begin to approach the minimum requirements of the water quality objectives.

Before implementing any of the weed control methods, the spring macrophyte surveys would be used to adjust the test site boundaries, focus on target plants, and avoid non-target plant species, and impacts to the plant communities, as best as possible.

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Action Alternative Two (the dredging alternative) is very different from the other alternatives. Here the potential significant impacts and mitigations are different.

First, there is a greater risk from aluminum in the sediments. There is a lot more sediment disturbance involved and that drives the need for more mitigation. Hydraulic dredging generates a lot of dredge spoils - essentially a slurry that has to be transported to a processing site, where it can be dewatered and prepared for disposal. Spill prevention is needed during the transport and handling

A lot of dewatering effluent is generated, and that requires treatment and testing. Leak prevention, spill control and containment plans must be followed to control the potential release of any dewatering effluent in preparation for transport.

At the dredge sites themselves, in the lagoons, turbidity curtain barriers would be used to contain any migration of the turbid water from outside of the actual test site.

As far as the potential contribution to flooding, from the discharge of dewatering effluent, that could be mitigated in two different ways. One would be, if the dewatering effluent could be discharged to the sanitary sewer system, or just by simply limiting discharge to Lake Tallac to when water levels are low.

The turbidity controls for dredging, substrate replacement, and dewatering are all important to the water quality requirements. For dissolved oxygen depletion, you could have oxygen demand from the organic sediments that are disturbed, so by the timing, and limited size of the treatments, turbidity, controls, and use of aeration if needed, they could minimize those effects to dissolved oxygen.

For increases in phosphorus and nitrogen, turbidity controls for dredging, substrate replacement and dewatering, are all important to prevent nutrients from leaving the sediment, and entering the water. Effluent treatment and testing would be required in testing before any release of dewatering effluent, to ensure that phosphorus and nitrogen levels were adequately reduced.

Spring macrophage surveys would be used in the dredge areas, and test site boundaries adjusted, to focus on the target species.

Effects on non-target, riparian and wetland habitats and species, could be eliminated by discharging the effluent to the sanitary sewer, or discharging in the summer and fall when the water levels are low.

They also took an in-depth look at what would happen under the No Action Alternative, which would be moving ahead with the limited amount of the weed control efforts that thus far have been unsuccessful, and the continued spread of aquatic weeds in Lake Tahoe.

Things that wouldn't change, are the ongoing risk of short term aluminum increases anytime the sediment is disturbed in the lagoons, and the ongoing potential risk from harmful algal blooms that have been observed the last several years in the lagoons.

The long term risks of water quality impacts from the growing aquatic invasive weed problem in Lake Tahoe are quite serious. These include increases in water temperature, increases in turbidity -which reduces clarity, increased floating weed fragments, more changes and fluctuation in pH, lower dissolved oxygen, and increases in phosphorus and nitrogen cycling from sediments into the water.

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There are also a lot of concerning, increased long term impacts to aquatic ecology under this No Action Alternative:

- Displacement of native plant species with invasive species
- Shifts in aquatic plant communities
- Reduced health of benthic invertebrate community
- Increased risks to special status fish species
- Reduced suitability of habitat for native or recreationally important fish species
- Increased spread of aquatic invasive species overall

All these impacts would contribute to reducing the quality of recreational boating in Lake Tahoe, and the ability to meet TRPA recreation thresholds. There would also be concern long-term about impacts to water supplies in Lake Tahoe.

Mr. Good handed back to Mr. Zabaglo who continued describing the environmental review process. He explained that in July of 2020, the draft impact analysis was released to the public for a 60 day public comment period. In addition, a [project website](#) was established for the public to obtain information throughout the process, and multiple webinars and virtual meetings were held to ensure that the public had several opportunities to weigh in.

During the public comment period they received over 3000 comments, with the large majority as form letters, essentially expressing opinion on herbicide use. While there is certainly opposition to herbicide use, others stated that they really need to be tried in order to have any chance of success at solving the problem.

Other common themes included the nutrients, harmful algal blooms, blocking off the Keys during the test, and concerns about impacts to drinking water. Regarding the nutrients, the analysis revealed that the weeds themselves are the primary source of nutrients in the Tahoe Keys, and in order to change that pattern of returning nutrients to the system, actions to control the weeds are needed.

There were several comments on harmful algal blooms, and the cyanotoxins that they may be able to produce. As Mr. Good mentioned earlier, they are already occurring, and any method of treatment, herbicidal or not, could contribute to increases in their occurrences. The analysis identifies mitigation such as aeration, making this impact less significant, and treating early when the biomass is low, and when water is filling in as snow melts, to prevent some of those harmful algal bloom formations.

Comments were also received about putting a barrier between the Keys and the rest of the lake during the test. That idea was analyzed, and would do nothing to mitigate any of the potential impacts that were identified, but was also likely to result in increased occurrences of harmful algal blooms, as fresh water would be prevented from entering the lagoons.

Protection of drinking water was a concern for commenters. The analysis concludes that impacts to drinking water are less than significant, even before mitigation. Mitigations and protective measures include double turbidity curtains at all herbicide test locations, which would remain in place as long as herbicides can be detected.

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Treating in the spring utilizes the fresh water filling in the Keys. There are no other tributaries going into the Keys, so when the snow is melting, it prevents any water movement out of the Keys.

TKPOA will also be implementing a continuous monitoring program, routinely testing outside the turbidity curtains in the main lagoon and the lake proper, to ensure that herbicides have not escaped the curtains. It is also expected that the herbicides will degrade quickly.

The Tahoe Science Advisory Council provided input on the analysis, and their review concluded that the EIS is comprehensive and thorough.

The final EIS was released on December 29, 2021, and includes agency responses to every comment timely received. Responses are in the form of master responses to provide information on recurring themes, and also individual responses with more details needed. The final EIS also documents the changes that were made to the draft, most of which are minor corrections or providing additional clarification on an issue.

Attachment A of the staff report in the APC packet, discusses the findings required to certify the Environmental Impact Statement and the Rationale to support those findings. The EIS is technically adequate, it includes a reasonable range of alternatives, and response to all comments timely received. Most importantly, the analysis addresses a broad range of issues, and demonstrates that all impacts can be mitigated successfully. Only the non-project alternative has significant, and unavoidable impacts.

Mr. Zabaglo said that any chance they have of controlling weeds lake wide, hinges on their ability to do so in the Tahoe Keys.

Mr. Scott Ferguson of Lahontan Regional Water Quality Control Board, provided a summary of the hearing and action from the Lahontan Board meeting. He explained that the Board considered four actions, with the primary action related to the hearing today - certifying the Environmental Impact Report. The Lahontan Board hearing consisted of Lahontan staff making their presentation, followed by TKPOA, and was then opened up to over 50 interested parties. The TKPOA were given the opportunity to make closing statements and Lahontan made minor changes to the actions going before the Board. The Lahontan Board deliberated and unanimously approved the items; they adopted a resolution to certify the Environmental Impact Report, and adopted a resolution to grant an exemption to a Basin Plan waste discharge prohibition, regarding the use of aquatic pesticides in surface waters. They also unanimously approved a National Pollutant Discharge Elimination System Permit, that will regulate the residual herbicides, and the use of lanthanum modified clay. Finally, the Board approved an order establishing a mitigation, monitoring, and reporting program for the Environmental Impact Report.

Commission Member Comments

Referring to Mr. Marshall's earlier instructions to APC members on this agenda item, Mr. Young said he didn't have comments or questions on the adequacy of the of the document. He asked if there is an assumption that one of these alternatives, or grouping of the alternatives, will actually get us where we need to go? And, are we prepared to find out that none of these are going to get us where we need to go, and what would we do in that case?

Ms. Simon wanted to share what she has heard from her community about the use of herbicides. There is a general feeling that this could threaten their water supply, not necessarily from the test, but from

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moving forward if herbicides are a rousing success. Ms. Simon also had questions about the EIS. Firstly, referring to the use of aeration “if needed”, she asked how “if needed” would be assessed. Referring to the use of lanthanum modified clay, she asked if that was a costly element, and safe to use. Ms. Simons asked how any degradation in water quality would be assessed for the various methods, and finally, she asked, if there was any indemnification for the TKPOA if things do go wrong.

In response to Ms. Simon’s question about aeration, Mr. Good said that a lot of monitoring will be required during implementation of the weed control methods, whether it be UV light or herbicides. Decomposing plants place an oxygen demand on the water, so there is concern about dissolved oxygen. Comprehensive monitoring of water quality during the test, will indicate whether aeration is needed, and when.

In answer to Ms. Simon’s questions about lanthanum modified clay, Mr. Good explained that implementation would involve spreading the material on the surface of the water. As it settles down through the water, the phosphorous molecules become absorbed onto the clay particles, and chemically bound to the clay. Mr. Good has not looked at information on cost, but he has reviewed the evaluation of potential toxicology to aquatic life, and at the concentrations approved for use, that would not present significant concern for fish, or aquatic life in the lagoons.

Mr. Marshall responded to Ms. Simons question, “what happens if things go wrong, and who pays”. He said that the question is outside the scope of the presentation, which is on environmental impacts. He added, that like all permits, there is a standard indemnification clause. With this permit and the anticipated effects, the chances of anything going wrong that would need to be indemnified, are very, very small because of the conclusions of the EIS. That is part of the permit conditions, that will go to the Governing Board for discussion at that level.

Ms. Chandler said that she lives in the Tahoe Keys, and spoke in favor of certifying the EIS. Since 2016, she has been on the Tahoe Keys Water Quality Committee. She is very much aware of the hard work that has gone into this proposal by many people. She has attended some Stakeholder Committees, and can attest that this has been a very transparent process, and the problem has been looked at from many different angles. She thinks that the process arrived at a scientifically sound test, that will give a good idea as to what is the best way of working on this problem. She believes that the option of doing nothing is the worst thing that can possibly happen. Ms. Chandler urged members to look at the science being presented today, and said that the risk of not doing the test, is much greater than the risk of doing the test.

Ms. Carr made a comment related to master response number 11. She said it was pointed out by some, that not including an alternative for filling in the Tahoe Keys, was a deficiency in the EIS. She can see why it is not a deficiency, because they are trying to test various methods for weed removal, and if they fill in the Keys, they can't do those tests. However, she presumes, that when they get to the next phase, three – four years from now, the potential for bringing that alternative back, as a long term solution, could come back on the table. So, people that are interested in discussing that solution to the weeds problem in the Tahoe Keys, could potentially be satisfied at a different point down the road.

Mr. Marshall confirmed that filling in the Tahoe Keys was excluded from the test project, which is the subject of the EIS. They know that filling in the Keys would be an effective strategy for addressing the weeds. It has substantial other effects, which may preclude it from being considered a viable alternative

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in the future, but it is not, as a matter of course, precluded from that next step after this test - which would be to consider the long term strategies to address weeds in the Tahoe Keys.

Ms. Carr asked if other test methods, if deemed favorable, could be expanded from a test-scale to a full-scale. Mr. Marshall said that the purpose of the test project was to test these methods and technologies, to inform the next decision.

Referring to AQU 7, 'effects on fish movement that would block access to spawning habitat', in the ES 1 table on page 203 of the APC packet. Ms. Carr said it talks about there being no significant potential to block fish movements, but there was discussion about use of turbidity curtains to control the migration of various elements during the testing project. She presumes these turbidity curtains would potentially prevent fish movement, and asked if that was significant given the timing of the test? Is that different from the time of spawning, or is there no spawning habitat in the Keys to being with?

Mr. Good responded that the habitat and use of the Tahoe Keys Lagoons is so very limited by the aquatic weed problem, that migration and use by fish was not found to be significant for the overall populations. So, where several individual fish might get impeded by a turbidity curtain, it would not have any significant impact on the fish community overall.

Ms. Carr asked how the Tahoe Keys, as a very, non-native construction, could have native species. Are these species present in other streams in the basin? How did they become native in this environment, and why are they important, as compared to the invasive species. Mr. Good said that aquatic plants are an important element of the aquatic ecosystem, in that they provide habitat and cover for native fish. They are an integral component of the ecosystem, and all the aquatic, biological life that lives there. So, we would not want to do anything to eliminate all aquatic plants from the Tahoe Keys Lagoons, or any other part of Lake Tahoe. He said that in some cases, native plants are just as effective at spreading around and inhabiting suitable habitat as the aquatic invasive plants that we are battling. The native plants have been there since very soon after the lagoons were excavated. What they would like to see, if some of weed control methods are successful, is that, after knocking back the dominance of the invasives, that spot treatments of invasives that bounce back, they could give the natives a chance to become dominant again.

Referring to AQU 3, on page 202 of the APC packet, Ms. Carr said it talks about there being no published evidence about endothall causing substantial, adverse effects. Ms. Carr commended the research, but asked if there would be ongoing monitoring of the plant species during the project. Mr. Good responded that pretreatment surveys will try to avoid the water shield, and adjust the boundaries of the test sites in Lake Tallac, to avoid a direct hit on any good, strong, healthy stands of water shield. Monitoring is required for the plant communities, both during and after treatments. This would all be part of the information generated from the test, to ascertain effects on the water shield, as well as on water quality, plant communities, benthic invertebrates, etc.

Referring to WQU 3, on page 190 of the APC packet: "fragments may incidentally break off from aquatic plants during herbicide applications, ultraviolet light treatments and placement of LFA systems in suction. Floating plant fragments may escape causing nuisance and adversely affect beneficial uses." Ms. Carr said it makes sense, and she is aware that disbursal of fragments is a real problem in the No Action Alternative. What surprised her, was that the coding on significance before mitigation, talks about the proposed project as 'not applicable' to this particular issue – when the description of the issues, that

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fragments may incidentally break off during herbicide applications, does not seem to be in alignment with the issue itself.

Mr. Good said that anytime boats are operational, there is a chance of generating fragments. With the aquatic herbicide application, there would be some lines off of the boat performing the application. Mr. Good said those would not do much to cause fragments, certainly not nearly as much as the harvesting machines. As for capture of the fragments, during the aquatic herbicide applications, and for weeks thereafter, there will be double turbidity curtains. So, fragments escaping out the main lake would be prevented pretty thoroughly. Some fragments will break off during use of the UV light array. With the UV light, the fragment control efforts that are currently used during harvesting, would continue to be used during this project, but they don't capture 100%.

Mr. Good said he would need to review the precise reference mentioned by Ms. Carr. Ms. Carr said it was certainly not a deal breaker on the adequacy of the EIS, but it just seems that there is potential for there to be fragments generated, before mitigation, that that would either be potentially significant or less than significant. Mr. Marshall said they would look at the appropriate denomination, it may be that 'less than significant', is more appropriate than 'not applicable' for that particular issue.

Mr. Teshara said he had listened in to the Lahontan Board meeting last week. He said he is not a technical expert, but has listened to many presentations on this important topic, and thought that the Lahontan Board, staff, TKPOA, and others who presented, did an excellent job. Mr. Teshara added that he appreciated Ms. Marchetta's framing of the item, and he is very comfortable supporting the action before the APC today.

Mr. Ferry said that he knows turbidity curtains are proposed as mitigation for dredging, and he has heard them mentioned as probable mitigation for herbicide spread as well. He asked if they are just talking about herbicide residues, since the herbicide is water soluble, and has any research been done on how will turbidity curtains control herbicide expansion or migration? Is that part of the test? Mr. Zabaglo confirmed that turbidity curtains are part of the proposed project for herbicide use, and are required by the Lahontan Permit to be kept in place, for as long as herbicides and their degradants can be detected. Previous trials of turbidity curtains, using rhodamine dye, with double turbidity curtains, showed 99% compliance, or ability to keep those things within the test area.

Ms. Simon asked if staff had any insight into the status of other proposals presented to the Lahontan Board last week. She said that one of them was an environmentally superior proposal that did not include the use of herbicides, but that was not adopted. Mr. Marshall responded that both the EIS and the EIR form a joint document. All the same alternatives were examined in the document. CEQA requires the identification of an environmentally superior alternative, but does not require it to be adopted if it does not achieve the purposes. That was the question before Lahontan Board, who unanimously chose to approve the proposed comprehensive test.

Mr. Marshall said that the role of APC today, is to look at the environmental document, to make certain that it is technically adequate, and that they can make the substantive findings set forth. One of the findings that the TRPA Governing Board will have to make, is which project it wants to approve - the proposal that is being recommended by staff, or they have within their discretion to choose a modified project. That is not the question before APC. The questions for APC are, was there a reasonable range of alternatives, and where those alternatives analyzed appropriately.

Public Comment

Mr. Jesse Patterson, Chief Strategy Officer for the League to Save Lake Tahoe (the League), addressed the APC. He said that the League is the largest and oldest organization, focused on protection of water quality and clarity of Lake Tahoe. Over 65 years they have had quite a bit of success in achieving that mission, thanks in large part to partnerships with many of the staff and partners who have worked on this project.

The League have never supported a project, program, or proposal that would threaten Lake Tahoe water quality, or clarity, and that is no different today. The Tahoe Keys has been a top priority for the League for almost a decade, as it poses one of the largest threats to a unique and delicate ecology, which if left unsolved, could damage the lake we know and love, forever.

Mr. Patterson said he was commenting to relay the Leagues strong support for the proposed project, recommendation to certify the EIS, and to provide some context on their involvement over the last decade, and how that has been incorporated into the project and environmental analysis.

Mr. Patterson has participated in several iterations of Tahoe Keys related Stakeholder Committees over the last nine years, including this most recent effort that led to the Control Methods Test proposal, and associated final EIS. All of that involvement has been inclusive, transparent, and very responsive to input given by the League and other partners.

Since 2013, the League have committed thousands of hours of staff time, and technical expertise from their team, which consists of water quality, environmental policy, community engagement professionals, several of whom have multiple graduate degrees in the field. They have also dedicated just over \$200,000 in direct funding, to support innovative pilot projects, which include non-chemical control method testing, aquatic weed containment projects, and additional scientific monitoring. In 2018, one of those projects was implementing the first ever bubble curtain, to help contain the spread of aquatic invasive weeds. The League have continued to improve and monitor it over the last three years, and will do so throughout the Control Methods Test, if approved.

The League also funded the implementation of the largest laminar flow aeration project in Lake Tahoe, at 5.9 acres in April 2019, because they were curious about how that might affect nutrient sources providing growth to plants. That information is included in the environmental analysis and Control Methods Test before APC today. While these efforts have been helpful, and show promise towards helping to control and contain the aquatic weed infestation, it has become incredibly clear that the currently tested methods are not enough alone nor a long term. The Control Methods Test was designed to help them learn about additional tools, and to determine which are effective in combination and in application. The environmental analysis considered all of this information in a thorough and transparent way.

Mr. Patterson said that the League strongly support the Control Methods Test Project, and encourage the APC to recommend certification of the final EIS. The League shares many of the questions heard today, but pragmatically we need to move through this very safe, very science based test, to learn more before we assess what comes next. They are very interested in what comes out of the test and how to apply something long term. The proposed project is scientifically based, and poses no significant threat

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to life. In fact, the No Action alternative is the worst thing that could happen to Lake Tahoe. In closing, Mr. Patterson said we are running out of time, and Lake Tahoe is too important, not to continue to explore a solution.

Mr. David Blau, League to Save Lake Tahoe Board Member and Program Chair, and Rubicon Bay homeowner, said that he had 38 years' experience in the preparation of CEQA and NEPA documents, including combined State and Federal documents. He echoed what Mr. Marshall had previously explained, that the decision before the APC today is the adequacy of the EIR. It is not what commission members might like, or not like about a certain aspect of a component, but the adequacy of the EIR as a full disclosure document.

Mr. Blau said that the League's mission is to protect water quality and clarity, and this cannot be done if the Tahoe Keys are not cleaned up. Lake and the ecological health of the Tahoe Keys are inseparable, and it has been hard to get many people to accept that - they want to focus on the debate within the Keys, but it is inseparable from the health of the lake.

Mr. Blau said the EIS is extremely thorough, legally defensible, science based, and one of the most complete and comprehensive EIS' Mr. Blau has ever seen. Mr. Blau doubts that this much work has ever been done on a testing program, in any environmental document.

Mr. Blau said the League are especially appreciative that the No Action Alternative, has been treated as a distinct alternative, all the way through. In most EIS', no action is dismissed in one or two pages, but in this case, it was treated thoroughly under every technical topic, throughout the document. He said it is not surprising that the conclusion was that the No Action Alternative is the most adverse, and the most harmful to the lake.

The League support the proposed project as stated. All three of the Category A tools need to be tested separately, as well as in combination. Mr. Blau said that UV light, and laminar flow aeration both have promise, but they have serious limitations, and are not likely to achieve the goal of 75% biomass knock back in the Tahoe Keys.

Mr. Blau said that the two herbicides proposed for use, have been in use for almost 50 years, and are EPA approved. There have never been any residual effects found, even where they have been used in lakes as drinking water supply, taking out. The herbicide tests will be done only in the first of the three years, and the dosage is less than half of what is allowable by the EPA. Mr. Blau said the key EIS finding, is no significant impact to environmental health, water quality, or aquatic biology. That was the finding from the environmental consultants, TRPA staff, and Lahontan staff. Lahontan staff went beyond that finding and said that the Control Methods Test satisfies all applicable exemption criteria. The EIS has also been peer reviewed by the Tahoe Science Advisory Council

Finally, Mr. Blau said there has been a lot of misinformation and misconception floating around for years relative to this project, and addressed three of these misconceptions. Number one, herbicides would be required every year after the test. Mr. Blau said that is absolutely false. The hope is that one comprehensive application will knock back the weeds by 75%, or close to it, and then other tools can be used for spot treatment and maintenance year after year. Number two, using herbicides would open the floodgates for use all over the lake. Mr. Blau said this is also not true - every use of herbicide would require separate exemption from Lahontan, and an EIR to back that up. And number three, it has been claimed that all methods have not been exhaustively tested. Mr. Blau said that he would submit that 12

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years of study, five years of environmental analysis, millions of dollars, and thousands of hours, would qualify as exhaustive. Mr. Blau said there is no silver bullet, and we cannot ignore the lake, and focus the entire debate on the Keys. He said we need to test all tools now, to find a science based, long term solution.

Mr. Blau pointed out that the EIS is unique in three ways. Firstly, he has never seen a full EIS/EIR used for a testing program. Second, he has never seen the no action alternative treated as a distinct alternative. And three, he has never seen this level of mitigation, monitoring and protection, to ensure that no harm is done to the lake itself.

Mr. Robert Larsen, Program Officer for the Tahoe Science Advisory Council (TSAC), said this is an extraordinarily complex and important issue. As has been mentioned, TSAC review the draft environmental document, and provided comments in January 2021. The reviewers found the document to be a thorough, comprehensive analysis of the proposed aquatic invasive plant control methods test project.

Mr. Larsen read a summary of the conclusions from a memorandum submitted by TSAC:

“Dr. Sudeep Chandra and Dr. Alexander Forrest conclude that the Tahoe Keys Lagoons Aquatic Weed Control Methods Test DRAFT EIR/EIS, as a whole, has thoroughly considered the importance and urgent need for controlling aquatic invasive plants in the Tahoe Keys. Various approaches and alternatives that could be utilized for plant control for this situation and their potential impacts have been well researched and presented in a logical way. The document is well written, transparent in its findings and includes sufficient data analysis to proceed with projects that seek to control plants. Based on this work, sustainable solutions should be developed before the situation worsens both in the Tahoe Keys and then the broader body of Lake Tahoe.”

Mr. Larsen concluded that this is an extraordinarily thorough and complicated document, and has been assessed by a number of professionals and experts in the field, including TSAC scientists. On behalf of the council, he encouraged the APC to recommend that TRPA Governing Board certify the Control Methods Test EIS, and advance this important project.

Commission Member Comments

Ms. Carr said she was very pleased that this project did go through the Tahoe Science Advisory Council, because that is what the council is there for. Getting that independent peer review of this very important document was the right move. Ms. Carr also appreciated the letter that was issued back in January of 2001, which certainly helped in her decision making. So, thank you.

Ms. Stahler said she also very much appreciated the review of the No Action alternative, and found it pretty remarkable that the no action alternative, was found to be the least environmentally beneficial. She also found it remarkable that all potential impacts that were evaluated, were found to be less than significant. She would have expected some significant impacts, and maybe a statement of overriding considerations, but here, such care has been taken with the mitigation measures, that all potential impacts were found to be less than significant.

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Ms. Carr made a motion to recommend the Governing Board certify the final EIS as technically adequate as set forth in attachment A, with TRPA consideration of updating table ES 1 for issue WQ 3, to identify in the proposed project in Action Alternative One, the potential significance before mitigation, and to include mitigation actions in the table.

Ms. Stahler seconded the motion.

Ayes: Mr. Alling, Ms. Carr, Ms. Chandler, Mr. Drake, Ms. Jacobsen, Mr. Hitchcock, Mr. Young, Mr. Guevin, Mr. Drew, Mr. Ferry, Ms. Stahler,

Abstain: Ms. Simon

Absent: Mr. Smokey, Mr. Letton, Mr. Hill, Mr. Booth, Ms. Ferris, Mr. Teshara

Motion carried.

Ms. Chandler made a motion recommend the Governing Board make the compact Article Seven findings for the Final EIS, as set forth in Attachment A

Mr. Alling seconded the motion.

Ayes: Mr. Alling, Ms. Carr, Ms. Chandler, Mr. Drake, Ms. Jacobsen, Mr. Hitchcock, Mr. Young, Mr. Guevin, Mr. Drew, Mr. Ferry, Ms. Stahler,

Abstain: Ms. Simon

Absent: Mr. Smokey, Mr. Letton, Mr. Hill, Mr. Booth, Ms. Ferris, Mr. Teshara

Motion carried.

VI. REPORTS

A. Executive Director/Upcoming Topics

Mr. Hester advised of some upcoming topics for the APC. Firstly, staff will be bringing a proposed amendment for the Bijou Al Tahoe Community Plan. An amendment on treatment of slopes between 30 and 50% for vegetation treatments and forest health will come before the APC next month. Also upcoming, is the AIS Program Update, a Threshold Update Briefing, and a series of code amendments dealing with Climate Change.

B. General Counsel

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Mr. Marshall thanked several APC members for making comments at the recent Lahontan Board Meeting.

C. APC Members

Mr. Guevin informed that the most recent storm resulted in significant damage to the Tahoe Douglas Fire Protection District Fire Boat. Tahoe Douglas Fire Protection District may need to acquire a replacement Fire Boat, and are continuing work for a proposed Public Safety Pier

Ms. Jacobsen advised that in December 2021, the Placer County Board adopted a Transportation Fee Update, which includes projects aimed at reducing VMT. The Board also held a workshop on potential updates to their short term rental ordinance. They will move forward on January 25, 2021, with an update to the ordinance, that includes a numerical cap, and a minimum night stay requirement, and increased penalties/fines on short-term rentals for the Tahoe region of Placer County.

Mr. Hitchcock advised that the City Council Meeting this evening will consider items including the Bijou Tahoe Community Plan Amendment, adoption of the 56-Acres Master Plan, and Tiny Homes on Wheels in residential neighborhoods.

Mr. Ferry said that El Dorado County and the City of South Lake Tahoe have reached consensus on agreement for the 56-Acres Master Plan. The agreement will go before El Dorado County Board on January 25, 2022. Last week, the El Dorado County Board adopted area plan amendments to include accessory dwelling units (ADUs).

VII. PUBLIC COMMENT

None.

VIII. ADJOURNMENT

Mr. Teshara moved to adjourn.

Chair Ferry adjourned the meeting at 12:47p.m.

Respectfully Submitted,



Tracy Campbell
Clerk to the Advisory Planning Commission

The above meeting was recorded in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review