



**NEVADA TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD
MEETING PACKET**

Friday December 4, 2020
Virtual Meeting

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STATE OF NEVADA

Nevada Tahoe Regional Planning Agency

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 Carson City, Nevada 89701-5246
 Phone (775) 684-2720 Fax (775) 684-2721
 NOTICE OF PUBLIC MEETING

NEVADA TAHOE REGIONAL PLANNING AGENCY GOVERNING BOARD

Friday December 4, 2020 9:00 AM

******Virtual Meeting******

This meeting will be held virtually pursuant to NRS241.023 and State of Nevada Declaration of Emergency Directive 006. In-person attendance is not available during this time.

Notice is hereby given that the **Nevada Tahoe Regional Planning Agency Governing Board** will hold a public meeting on **Friday, December 4, 2020**. The meeting will be held virtually. The meeting will begin at 9:00 a.m.

The Nevada Tahoe Regional Planning Agency uses LifeSize, a third-party app, for its virtual meetings and does not control its technical specifications or requirements. Your ability to participate in the public comment portions of a meeting may be impacted by factors including but not limited to the type of device you use, the strength of your internet or cellular signal, and the company that provides your internet or cellular service. The Nevada Tahoe Regional Planning Agency is not responsible if you are not able to participate in a meeting through LifeSize due to these or any other factors. For questions or additional information, you may contact Scott Carey, State Lands Planner at 775-684-2723 or at scarey@lands.nv.gov.

The public is invited and encouraged to participate by phone at 877-422-8614, when prompted, enter the meeting code 3567823. Public comment may also be submitted via email prior to the meeting, please submit public comments to scarey@lands.nv.us by 5 PM on December 3, 2020.

AGENDA

1. **Call to Order.**
 - a. Roll Call.
 - b. Approval of Agenda – For Possible Action.
 - c. Approval of Minutes of the July 23, 2020 Meeting – For Possible Action.
2. **Public Comment** – An opportunity for general comments from the public, may be limited to 3 minutes per person. **(Note: The Board may not discuss any subject or issue that is not on this agenda during this time.)**
3. **Interviews of Nevada Member at Large Candidates** – The Governing Board will interview candidates who submitted letters of interest and resumes for the Nevada Member at Large position. – Informational Only.

4. **Discussion and Selection of Nevada Member at Large – For Possible Action –**
To serve a one-year term commencing on January 1, 2021 pursuant to NRS 277.200, Article 3, section a, subsection 2.
5. **Request for Extension of Time for Condition #1 for the Determination of Certification of the Gaming Floor Area for the Tahoe Nugget in Stateline – For Possible Action** Review of a request to grant an extension of time for condition #1 of the Governing Board's certification of eligibility of the gaming floor area made on July 23, 2020 for the Tahoe Nugget – APN 1318-23-401-049, 177 US Highway 50, Stateline, Nevada.
6. **Report of the Executive Officer on Activities of the Agency: July 2020 – December 2020** – Informational Only.
7. **Recognition of Service to NTRPA for Commissioner Marsha Berkbighler – For Possible Action**
8. **Recognition of Service to NTRPA for Tim Cashman – For Possible Action**
9. **Board Member Comments**
10. **Public Comment** – An opportunity for general comments from the public, may be limited to 3 minutes per person. **(Note: The Board may not discuss any subject or issue that is not on this agenda during this time.)**
11. **Adjournment**

Notice: Items on the agenda may be taken out of order at the discretion of the Chair, the public body may combine two or more items for consideration; and the public body may remove an item or defer discussion of an item on the agenda at any time.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify Scott Carey in writing at the Division of State Lands, 901 S. Stewart St., Suite 5003, Carson City, Nevada 89701 or by calling (775) 684-2723, no later than December 2, 2020.

Notice of this meeting was posted at the following locations:

Nevada Tahoe Regional Planning Agency Website at www.lands.nv.gov/land-use-planning/nevada-tahoe-regional-planning-agency

Nevada Public Notice Website at www.notice.nv.gov.



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DRAFT MINUTES

DATE/TIME: Wednesday, July 23, 2020 – 10:30 am

PLACE: **Virtual Meeting.** This meeting will be held virtually pursuant to NRS 241.023 and State of Nevada Declaration of Emergency Directive 006.

MEMBERS PRESENT: – Marsha Berkbigler – Chair; Shelly Aldean; Mark Bruce; Jim Lawrence, Wesley Rice, and Mark Wlaschin (Alternate).

MEMBERS ABSENT: Barbara Cegavske – Vice Chair and Timothy Cashman.

OTHERS PRESENT: Charles Donohue – NTRPA Executive Officer; Scott Carey – State Lands; Tori Sundheim – Attorney Office of the Attorney General; Gary Midkiff – Midkiff & Associates; George Higgins – Northern Nevada Comstock Investments; and D. Scott Tate – Northern Nevada Comstock Investments.

1. **CALL TO ORDER** – Chair Berkbigler called the meeting to order at 10:33 am.
 - a. Roll Call – Scott Carey took roll and a quorum was established.
 - b. Approval of Agenda – Member Bruce moved to approve the agenda as submitted. The motion was seconded by Member Lawrence. The motion was passed unanimously. ***ACTION**
 - c. Approval of Minutes of the December 18, 2019 Meeting – Member Aldean proposed a change to the minutes on the last paragraph on page 2 of the minutes. In the first sentence of this paragraph, Member Aldean proposed the addition of “a” between the words was and way. Member Bruce moved to approve the minutes with the corrections as proposed by Member Aldean. The motion was seconded by Member Aldean. The motion was passed unanimously. ***ACTION**
2. **PUBLIC COMMENTS** – Chair Berkbigler called for public comment. Scott Carey stated that the meeting notice included instructions for how to submit a public comment before the meeting and as of the deadline of July 22, 2020 at 5:00 PM staff did not receive any public comments. Chair Berkbigler called for any additional public comment. There was no public comment.

3. **REPORT OF THE EXECUTIVE OFFICER ON ACTIVITIES OF THE AGENCY: JANUARY 2019 – NOVEMBER 2019** – Executive Officer Donohue provided the Governing Board with an update on the activities of the NTRPA. Mr. Donohue stated that he recently talked with Heather Bacon who is the President of the Tahoe Biltmore to receive an update on the implementation of the Boulder Bay project. He stated that the project continues to progress, the 18 units off SR 28 have been completed and that most of these units have been sold. He stated that the Tahoe Biltmore project hoped to begin phase 2 which includes the wellness center, but the project has been impacted by the COVID-19 pandemic. He further stated that the Tahoe Biltmore hopes to begin construction on phase 2 of the project within this construction season.

Mr. Donohue provided an update on the Cal-Neva project and reported that he talked recently with Gary Midkiff who was the consultant for the owner this project. He stated that project has been delayed by the involvement of an investment partner who has joined the project and is engaged with the design and other activities. Mr. Donohue stated that he will continue to monitor this project and will report back to the Governing Board on its status as the project continues.

Mr. Donohue stated that the Lakeside Inn in Stateline has decided to close permanently following a temporary closure caused by the COVID-19 pandemic this spring. He stated that the NTRPA received a request from an attorney the day after a newspaper published an article about the closure of the Lakeside Inn. He stated that the attorney was inquiring to NTRPA about the certified base data for the Lakeside Inn. He stated that it is unclear what the future plans are for the building at this time but there could be future actions requested by the NTRPA on this site.

Mr. Donohue stated that the corporate merger between Caesars Entertainment and Eldorado Resorts Inc. was completed earlier this week. He stated that the completion of this merger changes the gaming ownership landscape of South Lake Tahoe. With the completions of this merger, Caesars Entertainment/Eldorado Resorts Inc. now owns the Mont Bleu, Harveys Lake Tahoe, and Harrah's Lake Tahoe resorts. He stated that with the new ownership structure there could be some future actions requested by the NTRPA.

4. **DETERMINATION OF CERTIFIED BASE DATA ELIGIBILITY FOR THE ED'S TAHOE NUGGET IN STATELINE** – Scott Carey presented the [staff report](#) for this item to the Governing Board. Mr. Carey stated that this was an unusual request and that staff believes this is the first time that that NTRPA and Governing Board have considered such a request. In June, the NTRPA received a request from Northern Nevada Comstock Investments to make a determination on the eligibility of the certified base data for the Ed's Tahoe Nugget building in Stateline. Mr. Carey stated that Northern Nevada Comstock Investments is in the process of purchasing the building and that upon completion of the sale, they intend to reestablish a non-restricted gaming use within the building. Exhibit 1 of the staff report includes a copy of the applicant's requested action. Exhibit 2 of the staff report includes plans showing the configuration and use of the Ed's Tahoe

Nugget building today. Exhibit 3 of the staff report includes a copy of the applicant's plans for use of the building in Phase 1 of the project. Exhibit 4 of the staff report includes a copy of the applicant's plans for the building upon completion of all phases of the project. Exhibit 5 of the staff report is a copy of the certified base data plans for the Ed's Tahoe Nugget building.

Mr. Carey stated that the Ed's Tahoe Nugget building was originally constructed in 1964, and for much of its history was used as a structure housing gaming and operated under the names, Tahoe Nugget, Ed's Tahoe Nugget, and John's Tahoe Nugget. He stated that the building was included in the original structures housing gaming list and was declared to be an existence before May 4, 1979. The certified base data for the Ed's Tahoe Nugget building was certified by that NTRPA Governing Board in 1987. Mr. Carey stated that in 1996 the building underwent a renovation which converted the use of the building from a structure housing gaming to restaurant, retail and office uses without gaming.

Mr. Carey stated that to the best of staff's knowledge this is the first time that an applicant has requested to return a non-restricted gaming use on a site after the original gaming use was modified. In this instance, the Ed's Tahoe Building went from a primarily gaming use with supporting restaurant, office, kitchen and other supporting uses to a building primarily used for restaurants, retail, and office uses. Mr. Carey stated that the applicant is requesting that the Governing Board decide on the eligibility of the certified base data on this site which if approved would allow them to reestablish the gaming use on the site.

Mr. Carey stated that the applicant is proposing to reestablish 2,339 square feet of gaming floor area in Phase 1 of the project and upon build out of all phases the maximum gaming floor area proposed would be 8,409 square feet. The total certified gaming floor area for the Ed's Tahoe Nugget site is 8,773 square feet. Mr. Carey stated that staff is recommending approval of the requested determination of eligibility of the certified base data on the Ed's Tahoe Nugget site.

He stated that from reviewing the Tahoe Regional Planning Compact, NTRPA Ordinance 1980-1, and NTRPA Plan Review Procedures Policy there was never a scenario envisioned where a structure housing gaming with certified base data would change its main use away from gaming and later request to reinstate this use. He further stated that it is staff's interpretation that the intent of regulating structures housing gaming within the Lake Tahoe basin was to freeze the square footages of the certified base data and location of these uses in order to achieve the environmental and scenic findings and declarations of the Lake Tahoe Planning Compact. He stated that it is staff's interpretation that the certified base data remains on the site forever and can therefore be reinstated or used subject to being able to make specific findings.

Mr. Carey presented the following findings to the Governing Board for consideration of the Ed's Tahoe Nugget certified base data eligibility request.

- 1) Pursuant to the Tahoe Regional Planning Compact Article VI, Section (e) any structure housing gaming may be rebuilt replaced to a size not to

exceed the cubic volume, height, and land coverage existing or approved on May 4, 1979.

Mr. Carey stated it is staff's interpretation of the compact that there is no time limit or expiration of the certified base data on a particular site. He stated that the applicant's proposed use of the certified base data on the site does not exceed the gaming floor area which was previously certified by the NTRPA on this site. He further stated that the certified base data on this site included a total of 8,773 sq ft and the applicant if approved would be utilizing a maximum of 8,409 sq ft upon completion of all future phases. He stated that staff finds the proposed request for determination of the eligibility of the certified base data on this site in compliance with the Tahoe Regional Planning Compact Article VI.

- 2) NTRPA Ordinance 1980-1 Article 3, Section 3.1 any structure housing gaming shall not enlarge the cubic volume of the structure, increase the total square footage of an area to or approved for public use; and convert private use area to public use area.

Mr. Carey stated that the applicant's proposed use of the certified base data on this site does not enlarge the cubic volume of the structure, it does not increase the square footage of the public use area, and it does not propose to covert private use areas to public use. He stated that staff finds the proposed request for determination of the eligibility of the certified base data on this site in compliance with the NTRPA Ordinance 1980-1.

- 3) Pursuant to NTRPA Plan Review Procedures Policy Section 1(d) all plans and proposals which will change the area in square feet devoted to gaming or change the location of gaming with any such structure must be accompanied by an information report.

Mr. Carey stated that staff finds that the plans and correspondence submitted by the applicant to be sufficient and to meet the information report requirement and therefore are in compliance with the NTRPA Plan Review Procedures Policy.

Mr. Carey stated that if the Governing Board wishes to approve the request, staff is recommending that the request be approved subject to 1 condition of approval. He stated that the applicant currently does not own the property and does not have access to the site in order to perform accurate measurements for the certified base data calculations. He further stated that the staff report and plans submitted by the applicant do have some minor differences with the certified base data on file with the NTRPA.

Mr. Carey proposed that in order to clean up these discrepancies and to clean up the certified base data, that the applicant be required within 6 months of acquiring the property to provide the NTRPA with detailed architectural floor plans and base data calculations for the building.

Member Lawrence asked for clarification of the Governing Board's requested action today. Mr. Lawrence stated that today's action by the Governing Board is not based on

the numbers and calculations submitted by the applicant but rather the Governing Board's actions today are based on reinstituting or acknowledging the certified base data on the site from 1987.

Mr. Carey stated that Member Lawrence was correct. He stated that the primary questions for the Governing Board today are whether or not the applicant is exceeding the certified base data calculations in this building and whether those calculations are still in existence and active on the site.

Member Aldean asked for clarification from the staff report about the proposed condition of approval requiring the applicant to submit detailed architectural floor plans and base data calculations. Member Aldean acknowledged that with modern technologies that there may be some discrepancies between the calculations that applicant submits and that the certified base data may need to be reviewed by the NTRPA. Member Aldean further stated that she did not think that the NTRPA had flexibility with doing anything that was not verifiable.

Mr. Carey stated that the intent of the proposed condition of approval is to allow for the applicant to submit new architectural floor plans and base data calculations to ensure that building is in compliance with the certified base data on record with the NTRPA. He stated that if the applicant's base data calculations show an increase in public area or cubic volume or anything else that would trigger a recertification of the base data, that staff would bring forth the recertification request for the Governing Board's review and consideration.

Member Rice stated that Douglas County continues to lose gaming at Lake Tahoe and that he keeps hearing about efforts to reestablish gaming in the area. He stated that many locals are not pleased with the gaming being offered and are leaving the area for their entertainment. He stated that when he first moved to the area, the subject property was known as Ed's Tahoe Nugget and that he is encouraged to see gaming be reestablished on this site. He further stated he finds it very encouraging to see that someone wants to reuse the Ed's Tahoe Nugget building for its original intent.

Gary Midkiff with Midkiff & Associates spoke on behalf of the applicant, Northern Nevada Comstock Investments. Mr. Midkiff stated that without owning the building, the applicant has not had access to the building in order to conduct accurate measurements. He stated that once the applicant has access to the building, they will be able to submit detailed architectural floor plans and base data calculations to the NTRPA. He stated that as far as they know, there have not been any changes to the interior of the building which would impact the gross area of the building. He stated that they do know that some areas inside of building have been modified from what they were previously used for and that they will work with staff to confirm the base data calculations.

Chair Berkbigler opened a public hearing for this item and invited anyone from the public to provide public comment. Scott Carey stated that as of the public comment deadline of July 22, 2020 at 5:00 PM staff did not receive any public comments on this

item and that they do not have any requests to speak. No public comment was provided, Chair Berkgigler closed the public hearing.

Member Rice made a motion to find that the certified base data for the Ed's Tahoe Nugget site, Douglas County APN 1318-23-401-049 is valid and eligible to be used on the site and moved to approve the applicant's request to utilize the certified base data on this site as indicated on Exhibit 5 of the staff report subject to Condition 1 as listed in the staff report. Member Aldean seconded the motion. There was no discussion on motion. Chair Berkgigler called for a roll call vote on the motion. ***ACTION**

AYES: Chair Berkgigler, Member Aldean, Member Bruce, Member Lawrence, Member Rice, and Member Wlaschin.

NAYS: None

ABSTAINERS: None

ABSENT: Member Cashman

5. **BOARD MEMBER COMMENTS** – There were no Board Member Comments.
6. **PUBLIC COMMENTS** – Chair Berkgigler called for public comment. Scott Carey stated that the meeting notice included instructions for how to submit a public comment before the meeting and as of the public comment deadline of July 22, 2020 at 5:00 PM that staff did not receive any public comments. Chair Berkgigler called for any additional public comment. There was no public comment.
7. **ADJOURN** – Chair Berkgigler adjourned the meeting. The meeting was adjourned at 11:04 AM. ***ACTION**

Note: These minutes should be considered draft minutes pending their approval at a future meeting of the Nevada Tahoe Regional Planning Agency Governing Board. Corrections and additions could be made prior to approval.



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STAFF REPORT

December 4, 2020

Subject: Discussion and Selection of Nevada Member at Large to serve a one-year term commencing on January 1, 2021 pursuant to NRS 277.200, Article 3, section a, subsection 2.

Jurisdiction: NRS 278.792 section 2(c) outlines the appointment process for the Nevada Member at Large position on the NTRPA Governing Board. Pursuant to the statute, 6 members of the Governing Board make the selection, the outgoing Nevada Member at Large will not vote on the selection.

(c) One member appointed for a 1-year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the Governor shall make the appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region.

If the Governing Board cannot get to a majority vote on the Nevada Member at Large selection after 30 days of the vacancy NRS 278.792 section 3 provides that the Governor will make the appointment

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the Governor shall make the appointment.

Recruitment Process: In September the agency was notified by Member Cashman that he planned to step aside from his member at large position at the end of his current term ending on December 31, 2020. Member Cashman's decision leaves a vacancy on the Governing Board for the Nevada Member at Large position from January 1, 2021 to December 31, 2021. Per NRS 278.792, the Governing Board shall make an appointment of the Nevada Member at Large position.

The last time the NTRPA Governing Board had a vacancy for the Nevada Member at Large position was in 2008. During the selection process for that vacancy the Governing

Board created a recruitment and selection process. Through this process Member Cashman was appointed by the Governing Board to the Member at Large position. Below is an outline of the selection process that was adopted by the Governing Board in 2008 and the agency has followed for this current recruitment and selection process.

Step 1: Recruitment: From October 2 to October 29th, the agency put a call out for letters of interest and resumes for people interested in the Nevada Member at Large position. The notice was posted on the NTRPA and Department of Conservation and Natural Resources (DCNR) websites. Additionally, DNCR sent out a press release announcing the vacancy. The press release was sent out to all Northern Nevada print, radio, TV, online news media outlets as well as entities like local chambers of commerce, the Nevada Chapter of the American Planning Association, and other interested Lake Tahoe stakeholders. Upon conclusion of the recruitment period, the agency received a total of 9 letters of interest and resumes from the following individuals listed in alphabetical order.

Tom Clark
 Kate Dargan Marquis
 Debra Dudley
 Peter Gower
 Michael Harper
 Ben Johnson
 John Krompotic
 Stallar Lufrano-Jardine
 Haley Williamson

A copy of all of the letters of interest and resumes received for the Nevada Member at Large is available [HERE](#).

Step 2: Governing Board Review and Selection for Interview: Each of Governing Board Member (except for the current Nevada Member at Large) received a copy of the letters of interest and resumes received to review. After reviewing the letters of interest and resumes each Governing Board Member will send to staff their top two choices for whom they would like to interview at the next meeting. Prior to the Governing Board meeting, agency staff will notify the candidates who were selected for an interview.

Step 3: Governing Board Interviews Candidates and makes Appointment: At the meeting on December 4th, the Governing Board will interview the selected candidates and ask each candidate questions. Staff is proposing that each candidate selected for interview be given 5 minutes to make a general statement to present their qualifications and interest in the Nevada Member at Large position. During the interview process, Governing Board Members are welcome to ask each candidate any question they would like. Staff recommends that each Governing Board Member ask only question per candidate. Below is a list of questions developed by staff that could be asked of each Nevada Member at Large candidate.

The TRPA meets monthly and often for two days. The NTRPA meets on an as needed basis but at least once a year. What is your ability to attend each meeting and participate: 1). without having to recues yourself due to a conflict of interest

and 2). your ability to adjust your vacations and other business commitments around NTRPA and TRPA's schedule?

What do you feel are the most crucial economic issues facing the Lake Tahoe Basin today?

What is your experience with land use planning, environmental protection, and gaming within the Lake Tahoe Basin?

At the conclusion of the candidate interviews the Board will make a selection. Under the selection process adopted by the NTRPA Governing Board in 2008, a majority vote of the 6 members (Per NRS the current Nevada Member at Large does not vote) is needed to make the appointment of the Nevada Member at Large. If after the first vote there is not a majority, the Governing Board will vote again and until they have a selected candidate with a majority.

Staff Recommendation:

Staff recommends that the Governing Board interview candidates for the Nevada Member at Large and make an appointment per NRS 278.792 section 2(c).



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STAFF REPORT

December 4, 2020

Subject: Request for Extension of Time for Condition #1 for the Determination of Certification of the Gaming Floor Area for the Tahoe Nugget in Stateline – For Possible Action

Jurisdiction:

Pursuant to the Tahoe Regional Planning Compact, the NTRPA Governing Board reviews and regulates redevelopment of and modifications to Structures Housing Gaming. The Compact provides the following guidance related to the applicant's request for the NTRPA to amend Condition of Approval #1 for the Governing Boards determinization the Certified Base Data eligibility for the Tahoe Nugget.

- Structures Housing Gaming are buildings operating under a nonrestricted gaming license that existed on May 4, 1979 or were approved for construction before that date.
- Structures Housing Gaming are inclusive of their public areas, such as gaming, retail, restaurants, meeting areas, etc. and private areas such as hotel rooms and parking.
- Article VI of the Compact limits the amount of Structures Housing Gaming space to what was existing, or approved to be constructed, prior to May 4, 1979.
- Article VI(d)(1) says construction of a structure not so existing, or enlargement in cubic volume of any existing or approved structures is prohibited.

To assist the NTRPA Governing Board, certified base data for each Structure Housing Gaming was established. The certified base data documents the areas occupied by Structures Housing Gaming as of May 4, 1979. Certified base data is established for each Structure Housing Gaming public areas, private areas, gaming, cubic volume, coverage, etc. Because the Compact restricts and even prohibits redevelopment if certified base data is exceeded, it is important that the data be accurate.

The Tahoe Regional Planning Compact Article VI, Section (e) states that "Any structure housing licensed gaming may be rebuilt replaced to a size not to exceed the cubic

volume, height, and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review of approval would be required for a new structure.”

NTRPA Ordinance 1980-1 Article 3, Section 3.1 states “When any modification, remodeling or change in use of a structure housing gaming requires a permit from the permit-issuing authority, an application shall be filled with the agency and with the permit-issuing authority showing proof of filing with the agency. The permit-issuing authority shall review the application for compliance with this ordinance. The application shall be deemed in compliance with this ordinance, if when compared to the base data findings on file with the permit-issuing authority, it will not:

- (a) Enlarge the cubic volume of said structure;
- (b) Increase the total square footage of an area to or approved for public use on May 4, 1979; and
- (c) Convert private use area to public use area.”

NTRPA Plan Review Procedures Policy Section 1(d) states, “Changes in Gaming Area” states that “All plans and proposals which will change the area in square feet devoted to gaming or change the location of gaming with any such structure must be accompanied by an information report (NRS 277.200, Article VI(g)). The Board will review all information reports showing changes in gaming and direct their transmittal to the TRPA.”

Therefore, it is under the jurisdiction of the NTRPA Governing Board to review applications that propose changes to structures housing gaming, and in this instance, amend a condition approval from a previous determination of eligibility of certified base data on the Tahoe Nugget site.

Lake Tahoe’s Scenic Character:

In reviewing this request for an extension of time for Condition #1, it is important to recall that the Tahoe Regional Planning Compact stresses the importance of the scenic character of Lake Tahoe.

Compact, Article I, “Findings of Declaration of Policy:

Section (a)(8) states:

“Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.”

Section (a)(10) states:

“In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region’s natural endowment and its manmade environment.”

Application:

At the July 23, 2020 NTRPA Governing Board meeting, the Board found that the certified base data for the Tahoe Nugget site was valid and eligible to be used on the site.

At this same meeting the Governing Board approved the Northern Nevada Comstock Investment's request to utilize the certified base data on this subject to Condition 1. This condition of approval required that the applicant submit to the NTRPA detailed architectural floor plans and base data calculations within 6 months after purchasing the property.

On November 24, 2020, NTRPA staff received a request from D. Scott Tate, Managing Partner with Northern Nevada Comstock Investments requesting to amend to Condition #1 associated with the Governing Board's previous determination of the certified base data eligibility for the Tahoe Nugget site. The purpose of the request to amend Condition #1 is to allow for additional time to submit to the NTRPA detailed architectural floor plans and base data calculations. Exhibit 1 of this staff report is a copy of the letter submitted by D. Scott Tate outlying their request to amend Condition #1.

The original intent of Condition #1 as approved by the Governing Board was to clean up the certified base data that the agency has on file for the Tahoe Nugget site. At the time of the original request in July, the applicant did not own the building and did not have access needed to conduct detailed measurements and develop more accurate floor plans. Because of this, there are some minor discrepancies with the square footages and cubic volume indicated and the exhibits reviewed by the agency and Governing Board when compared to the certified base data on file for the site. These differences between the certified plans and the plans submitted by the applicant submitted earlier in the year are listed below.

Type	Plans	Certified Data	Difference
Cubic Volume	203,502 CF	200,462 CF	+3,040 CF
Site Coverage	11,736 sq ft	11,560 sq ft	+176 sq ft
Non Base Area	6,797 sq ft	6,661 sq ft	+136 sq ft
Base Area	9,176 sq ft	9,461 sq ft	-285 sq ft
Public Area	15,973 sq ft	16,122 sq ft	-149 sq ft
Private Area	0 sq ft	0 sq ft	0 sq ft
Gaming Area	8,403 sq ft	8,773 sq ft	-307 sq ft

Staff believes that the preliminary nature of the original certified base data eligibility request and the applicant's limited access to the building are the main reasons behind the differences between the plans submitted and certified base data. The Tahoe Nugget certified base data was approved by the NTRPA in 1982. Given the age of the certified base data and the advances in computer technology and architectural design in calculating square footage and cubic volume, staff believes that it is reasonable to assume that there would be some minor discrepancies in the data.

Since 1996, there have been very few alternations to the Tahoe Nugget building. Given the building's age staff believes there is a need to update or clean up the certified base data on this site. The approved Condition 1 requires that the applicant within 6 months after purchasing the building to submit architectural floor plans and base data calculations for the Eds Tahoe Nugget building to the agency. According to records obtained by the NTRPA from Douglas County, Northern Nevada Comstock Investments closed on the purchase of the Tahoe Nugget building on August 19, 2020. In September, agency staff notified the applicant that they had until February 19, 2021 to satisfy the requirements of Condition #1.

Staff believed that once the applicant had purchased the building, they would have been able to take detailed measurements of the building and submit more accurate base data calculations for the site within 6 months. However, in the months since the applicant has owned the building they have come across many unexpected issues with the building. According to the applicant these issues make it impossible to submit the detailed architectural floor plans and base data calculations by the February 19, 2021 deadline.

At this time the applicant is expecting the overall project to be completed in multiple phases but likely 3 phases. At the July 23, 2020 Governing Board meeting the applicant submitted conceptual floor plans for the first phase and upon full build out but did not specify how many phases. The applicant has informed agency staff that they intend to reestablish the gaming use within the building as leases with existing tenants expire. The first lease with an existing tenant is set to expire in the middle of 2021. According to the applicant once a tenant has left the building they will need to go through the leased space and examine the condition of the building and determine improvements needed to reestablish the gaming use along with developing the required the detailed architectural floor plans and base data calculations. Because the building has primarily been used as restaurant and retail space for the past several decades there are a lot of improvements needed to reestablish the gaming use. The applicant is requesting an amendment to Condition #1 to allow additional time to develop plans for use of the building in the first phase and for future phases. The applicant has indicated to staff that once they have developed their plans for the building, they can submit the detailed architectural floor plans and base data calculations to the agency.

With the updated detailed architectural floor plans and base data calculations, the NTRPA will be able to clean up the certified base data on file. Additionally, the updated data and plans will allow the agency to make an accurate determination on whether a recertification request to the NTRPA Board will be warranted when reviewing future phases of the project. As indicated at the July 23, 2020 Governing Board meeting, NTRPA staff proposes that if the architectural floor plans and base data calculations for the first phase and future phases of the project are substantially in compliance with the certified base data for the site, than staff will have the ability to sign off the plans for compliance and report back to the NTRPA Governing Board. If the architectural floor plans and base data calculations for the first phase and future phases of the project are not in compliance with the certified base data, staff will then schedule a recertification request for the NTRPA Governing Board's consideration.

Staff recommending an amendment to Condition #1 to allow additional time for the applicant to submit detailed architectural floor plans and base data calculations for the first phase and future phases of the project. For the first phase of the project staff is proposing that the condition of approval be amended to allow the applicant until December 31, 2021 to submit the detailed architectural floor plans and base data calculations to the agency. For future phases of the project, staff is proposing that the condition of approval be amended to allow the applicant to submit detailed architectural floor plans and base data calculations 6 months after commencing each future phase. The intent of the revised condition as it relates to future phases is to allow the applicant to go through the building and develop plans to reestablish the gaming use in the building in future phases and have enough time prepare the measurements needed to develop detailed

architectural floor plans and base data calculations. Below is a comparison of the existing Condition 1 approved by the Governing Board in July and the proposed new Condition 1.

Approved

Condition 1: Within 6 months after acquiring the property, the applicant will submit detailed architectural floor plans and base data calculations for the Eds Tahoe Nugget building to the NTRPA.

Proposed

Condition 1: The applicant will submit detailed architectural floor plans and base data calculations for the Tahoe Nugget building to the NTRPA for the first phase of the project by December 31, 2021. For all future phases of the project the applicant will submit detailed architectural floor plans and base data calculations for the Tahoe Nugget building to the NTRPA within 6 months after commencing each phase.

Staff Recommendation:

Staff recommends the approval of the request to amend Condition #1 associated with the previously approved certified base data determination of the Tahoe Nugget site. The requested amendment to Condition #1 does not alter the Governing Boards previous approval of the eligibility of the certified base data on the site and is compliant with the Tahoe Regional Planning Compact, NTRPA Ordinance 1980-1, or NTRPA Plan Review Procedures Policy. It is staff's interpretation of these regulations that the intent of regulating structures housing gaming within the Lake Tahoe basin was to freeze the square footages of the certified base data and location of these uses in order to achieve the findings and declaration of policy of the Tahoe Regional Planning Compact. The proposed amendment to Condition #1 will allow the applicant additional time needed to reestablish gaming use on the site consistent with the findings and declaration of policy of the compact.

Suggested Motion: *I move to approve the amendment to Condition 1 associated with the previously approved certified base data determination for the Tahoe Nugget site, Douglas County APN 1318-23-401-049 as outlined in the staff report.*

ATTACHMENTS:

Exhibit 1: Letter from D. Scott Tate, Northern Nevada Comstock Investments

November 24, 2020

Charlie Donohue, Administrator
Nevada Division of State Lands/NTRPA

Via e-mail

RE: Request to NTRPA for consideration of additional time for Northern Nevada Comstock Investments to meet condition #1 of the July 17 NTRPA action recognizing the Certified Base Data eligibility for the Ed's Tahoe Nugget located at 177 U.S. Highway 50, Stateline, NV , Douglas County APN 1318-23-401-049.

Dear Mr. Donohue,

As you are aware, Northern Nevada Comstock Investments recently became owners of the former Ed's Tahoe Nugget. In doing so, they inherited several leases to the interior of the building. Soon after taking ownership, we undertook a detailed interior survey of the entire structure. As a result of that detailed survey we learned that the building needs extensive modifications to allow its operation as a casino. Unfortunately, these modifications cannot be undertaken without severely disrupting the operations of the present tenants.

The first of the existing leases will expire the middle of next year and these lease(s) will not be renewed. This will allow us to begin the necessary demolition and remodeling of the interior of this portion of the building. Among the changes to the original building that were discovered in our survey, was that there were some of the exterior walls that are up to 16" thick and we will not know exactly what we will discover when we begin to open up these walls.

For this reason we cannot prepare exact plans for the new interior areas until we know what we find. Therefore, we request that the timeframe previously granted be amended to allow us 6 months from the expiration of the first leases to prepare the final interior plans for the remodel of this portion of the building. This will allow us time to prepare the necessary Information report and supporting plans required by Article Vi(g) of NRS 277.200. As other leases expire and we can begin demolition of the interior of these areas, we can prepare and submit plans for necessary additional changes for approval at that time. I will work with you staff, and if necessary with your Board, to obtain full NTRPA approval before undertaking any changes to the Nugget building.

Thank you for your consideration of this request and for scheduling the NTRPA Board review at its December 4th meeting. Feel free to give me a call if you wish to discuss this item further before the meeting.

Regards,



Scott Tate

Cc: Gary Midkiff