

Date: January 21, 2016

To: Michael Sharp, General Manager

From: Geoff Smith

Subject: Comments on Kirkwood Specific Plan Mitigation Compliance 10-Year Review

In general, the Review tends to default to "compliant" as long as protocols or processes are in place for agency review and approval. I find that I lack sufficient knowledge about recent and on-going construction within the valley or on the mountain to fairly judge whether these processes are, in fact, working as designed. I will note, however, that questions have recently been raised about the adequacy of two key links in the mitigation chain: 1) whether Tri-TAC is fulfilling its intended review/recommendation purpose?, and 2) whether there exists sufficient on-site mitigation monitoring? These concerns certainly cloud the Reviewer's overall "compliant" evaluation.

It is gratifying to know that the KMPUD has on its own initiative affected the mitigation of several critical environmental impacts and continues to actively pursue remedies for other impacts to which the PUD contributes.

The Review makes no or insufficient mention of the following Plan shortcomings or unanticipated impacts:

Traffic - Review page 23, Mitigation 4.07: The eastbound SR88 turn lane to Kirkwood Meadows Drive (KMD) is a known hazard in slippery (snow and rain) conditions. There have been several reported and unreported accidents at this location. The radical slope and radius of the turn onto KMD promotes vehicle drift into opposing traffic lanes. This is a dangerous situation well deserving of mention and mitigation.

Traffic - Review page 23, Mitigation 4.07: Regarding the planned KMR (Vail) analysis of factors impacting utilization of parking to determine options to meet future demand. Both the 2003 Mountain Master Development Plan and the 2005 Specific Plan state a preference to avoid linear impervious surface parking since such parking inevitably requires the cutting of trees and paving of precious valley soils. KMR has stated publicly that it will not construct parking structures to meet future demand but instead will seek to widen Kirkwood Meadows Drive and establish paved parking lots where possible. This approach seems contrary to the intent of the aforementioned Plans and will certainly result in unanticipated traffic and visual and aesthetic impacts. Mitigation priority should be to improve parking efficiency in existing lots and, to the extent possible, expansion of existing lots. Expansion of linear paved parking, to include proposed new linear parking on the west side of the Kirkwood Meadows Drive, is by the very nature of its impact, incompatible with the Specific Plan. "Parking" is an unresolved and only partially mitigated impact and one that is left too much to the discretion of KMR(Vail).

Visual and Aesthetic - Review page 23/24, Mitigation 4.08: Visual and aesthetic mitigations are, in general, intended to ensure that terrain and vegetation is maintained in a natural and undisturbed appearance. Yet there exist at least three abandoned commercial project foundations with exposed metal that are highly visible and which clearly intrude on the intended aesthetic. Mitigation, i.e., removal and restoration, is likely under the purview of one or more of the project's approving agencies and should be initiated.

## Specific Plan 10 Year Review Comments ER

1. Page 2: KMPUD GM is also an ex officio member of TC-TAC
2. Page 4: Please include a table showing numbers of units actually built (not just entitled), and potential development remaining. The 395 units of “potential development remaining” understates the potential actual development/construction yet to be done, and therefore also the potential mitigation efforts that will need to be taken. E.g. East Meadows probably has about 40 lots remaining to be built, but all are entitled. Having a number of units yet to be built (both entitled and not yet entitled) is what is more relevant for both mitigation compliance and for KMPUD planning.
3. Page 8: The last sentence in the next to last paragraph “These instances (of non-compliance) were discovered...and corrected before project completion...” glosses over the damage that has been done during construction. KMPUD has photographic evidence of this damage: toxic runoff into Kirkwood creek, damaged vegetation in the Meadow, trees removed. This sentence would be accurate if it said “in some cases corrected before project completion but after damage was done”. One result of this 10-year review should be a mandate for pre-construction meetings to review erosion control, meadow preservation, tree protection and related practices, for all sizes of projects.
4. Page 9: The County and KCA have failed in their enforcement of proper re-vegetation in the cases of projects that have been started then abandoned. We have major examples where re-vegetation has not taken place in the partially completed construction projects, allowing invasive plants to take hold.
5. Page 9: The sentence “No additional actions are needed...” is wrong. New enforcement actions, and possibly a policy statement, are required to deal with partially completed and abandoned project sites.
6. Page 9: This paragraph should differentiate between large-scale projects, for which the Counties provide resources for proper mitigation compliance and enforcement, and smaller scale projects, for which no resources are provided.
7. Page 9: Water Resources: KMPUD is also planning to construct additional water storage as recommended in the Wheeler study.
8. Page 10: 2<sup>nd</sup> paragraph regarding protection of water resources: See comment numbers 3 and 6 above. Reviews and compliance have failed in instances when County permits have not been required, or if required, not sought. This has resulted in improper discharges into Kirkwood creek.

## Specific Plan 10 Year Review Comments ER

9. Page 11: This review should clearly state that the Specific Plan mitigations require the Resort to sweep all streets twice each year. Under ordinary circumstances, street sweeping should be required in the spring, as stated, and in the fall, to clean up the dust and debris generated by normal summer construction activities. This is when a lot of dust and debris are generated and need to be cleaned up.
10. Page 11: Is KMPUD aware of these permit applications, and do the applications properly address protection of Kirkwood's water sources?
11. Page 13: Will survey efforts to identify areas of noxious weeds include private properties where construction projects have been abandoned?
12. Page 14: Traffic: Recent discussions regarding parking between Vail, the Developer and the community indicate very low confidence in the parking counts that have been done in past years and in the related annual reports to TC-TAC. Recent proposals for additional surface parking along Kirkwood Meadows Drive and the "School Site" have met with controversy. This Review should not imply that "additional spaces along Kirkwood Meadows Drive" is an approved action.
13. Page 15: Visual and Aesthetic Resource: "No additional actions are needed..." Is not correct. Additional action is needed to address the blight of abandoned construction sites. These abandoned projects significantly degrade the aesthetic qualities of Kirkwood's natural and built environments.
14. Page 17: The bullets shown on page 17 should make clear that substandard (as defined in the Specific Plan), pre-existing housing should not be included in the count of employee housing, nor, under current rules, be eligible for deed restriction. Make clear that a reliable system of recording deed restrictions is required. Make clear that this mitigation measure was not designed to simply transfer developer dollars into the pockets of the resort or developer in "repayment" for substandard, old housing stock.
15. Page 19: Utilities and Infrastructure: Last sentence should include that the Wheeler Capacity Study also recommends additional water storage to meet build-out demand.
16. Attachment C Site Photographs: KMPUD's photos of damage to creek, meadow and trees should be included in this appendix.

## **Kirkwood Specific Plan: Mitigation Compliance 10-Year Review**

### **Comments**

The review dated October 28, 2015 prepared by Resource Concepts, Inc. fairly evaluates the implementation of the Mitigation Monitoring Program. It addresses deviations that have occurred and the corrections along the way to prevent environmental impacts. As expected, the report highlights a few areas of concern and compliance measures in need of more discussion.

- The ten year milestone offers an opportunity for TC-TAC, county planning departments and other key stakeholders to review, clarify and perhaps modify the roles of those with the responsibility for implementing the 180 mitigation measures and those with review authority in order to ensure that the original scope continues to be appropriate for each responsible organization's structure and purpose.
- TC-TAC may also choose to respond to the KMPUD's recent offer to assist with the administration and communication around the monitoring process. With TC-TAC's approval the KMPUD might work with property managers in the Kirkwood community to participate in pre-construction meetings and review the proposed scope of work or repair or planned for property improvements to existing structures in Kirkwood.
- For the Summary of Recommendations noted in the Mitigation Compliance 10-year Review, TC-TAC may want to consider identifying responsible parties to address each and establish a project plan/timeline for completion as well as benchmarks for reporting progress to TC-TAC and the community.
- With the completion of the 10-year Review along with other factors, this may be a very busy period, one that necessitates more frequent meetings than in past years. As a result TC-TAC may want to consider adding a teleconference option for the TC-Board and county planners in order to move issues forward expeditiously.

### **Geology, Soils and Geologic Hazards**

The report identifies an area at Sentinels West has not been successfully revegetated. Bonds with the Amador County and the KCA are being held pending completion of the revegetation.

- Several construction projects during the summers of 2014 and 2015 were observed to not have BMPs to control runoff. The KMPUD stepped up to contact the counties to get the necessary BMPs in place. In both cases the necessary permits/approvals were not obtained.
- Develop community communication as to responsibility, action items and timetable. If a community member has a concern, they need to be informed who to contact.

### **Water Resources**

- The revised draft of the Grazing Management Plan from 2003 needs to be updated to prevent impacts to Kirkwood Meadow and Creek. Included: clarify the roles, responsibilities, and authority of the involved parties. Provide a means by which to formally review and monitor and modify management practices. Community communication as to who has the responsibility on this and what are the action items and the timetable for completion.
- Street sweeping (Mitigation Measure 4.02 (v)) is to be conducted twice per year and when buildup of loose materials occurs on paved roadways. This has become an issue for the

community in the past few years. *Clarification is required as to which roadways are covered (all paved roadways), the frequency and the party responsible for the expense of street sweeping.*  
Community communication as to responsibility, action items and timetable.

### **Aquatic and Biological Resources**

Mitigation Measure 4.03.4 (b) requires that KMR implement the Noxious Weed Management Plan. To date this has not been completed. The Draft Noxious Weed Management Plan needs to be updated prior to increased development activity to reflect current status of noxious and invasive weeds within the Kirkwood area (both on public and private lands), provide clarification and prioritization on the monitoring, reporting and *treatment* of species considered, provide prevention measures to reduce the risk of noxious weed introductions, and include an adaptive management protocol to update the plan based on survey data completed annually by El Dorado County. Parties responsible for implementing the plan should be delineated and a mechanism of reporting and review be developed.

- Education is needed for property managers in Kirkwood as to the species/description of noxious weeds of concern in Kirkwood and the preferred method/timing of elimination. Establish annual communication with El Dorado County personnel completing the annual surveys to disseminate information to the community as to results. Establish clear responsibility for eliminating noxious weeds on public (developed or undeveloped) and private lands (owner, HOA or property manager).
- Community communication as to responsibility, action items and timetable.

### **Traffic**

KMR to conduct a more detailed analysis of the factors impacting utilization of parking in order to identify options to meet current and future demand.

Community communication as to responsibility, action items and timetable.

### **Socioeconomics**

While the annual reporting specified in the mitigation measures is being adhered to, the Employee Housing Ordinance needs to be amended to better reflect the needs of the communities' employers. The policies and goals of the ordinance remain the same as stated in the Specific Plan. It is the mechanism (fee in lieu of versus deed restrictions) that needs to be modified.

Next steps: Stakeholders (KMR, KMD and KMPUD) to draft a short document that defines (or restates the demand for employee housing), outline a proposed ordinance for county to review in order to determine the scope of environmental review.

Community communication as to responsibility, action items and timetable.

### **Recreation**

Surveys to be conducted every four years. Most recent survey in 2006. Are surveys needed?

Community communication as to resolution, responsibility, action items and timetable.

To: Michael Sharp, KMPUD  
From: Sandy Sloan, East Meadows Homeowner  
Re: Mitigation Compliance 10 Year Review ("Review") of Kirkwood Specific Plan

Please convey my comments to Tri-Tac.

General Comments:

1. The Review states on page 6 that, though the Resort has been sold to Vail, various properties are still held by the Master Developer and that between the two entities mitigations are being addressed. It is essential that the public agencies and the homeowners know which entity is responsible for which mitigations. Therefore, it is important that for each mitigation, it be specified who is responsible for implementing that particular mitigation. The roles and responsibilities of the Resort and the Master Developer need to be explicit.
2. Future reviews should not be first submitted as drafts to the Resort and the Master Developer. This Review has several comments that are not so much informational as opinions of Vail or the Master Developer, making the Review not appear objective. For example, in discussing parking the Review states that additional parking is planned along Kirkwood Meadows Drive. This proposal has not been officially proposed to Tri-TAC, much less approved. It has met with much opposition and, therefore, the Review should not state this idea as a fact. See page 14. Another example is the discussion of housing for employees on page 15. The Review states that the Master Developer believes the PUD connection fee and the housing fee may be 'duplicative.' This is an opinion of the Master Developer and does not belong in an objective review of mitigations.
3. Not enough attention is paid to enforcement of these mitigations. It is noted on page 8 that because of SWPP requirements, there has been weekly site monitoring during construction. However, now that major construction has slowed so dramatically, there has been no oversight of minor construction projects that have violated the mitigations and harmed the natural environment. Every contractor of every project—whether it be cut, fill, a new roof, a remodel—needs to be made aware of these mitigations and monitored. Communication needs to be improved, but also oversight of these "minor" projects needs to take place. Last summer and fall we saw highway grindings piled up and then running into the creek and a truck driving in the meadow. As we all know, any damage to the environment is not easily remedied, especially in our mountain climate.

Specific Comments:

1. p.10—The Grazing Plan should be approved as soon as possible with clear guidelines as to the roles and responsibilities of various parties.

2. P.11—Street sweeping must be done twice a year, in the spring and in the late fall. All public agencies have agreed that all streets must be swept and it must be made clear that the Resort is responsible for this. A late fall sweeping is very important after a dry summer and early fall.
3. P.14—it is good to know that the Resort finds the parking adequate.
4. P.15—I think everyone agrees employee housing remains and issue and a revised ordinance is necessary. Substandard housing should not be “counted” as employee housing and there should be an exploration of in-lieu fees to build more consolidated employee housing units.
5. Several traffic mitigations that have not been implemented are simply not mentioned. COA 94, 95 and 96 are completely ignored in this Review. These mitigations require traffic monitoring, improvements to Highway 88 and a traffic impact fee. See pages 41-44 of the Mitigation Monitoring Program. These mitigations should be addressed in the Review.

Thank you for an opportunity to comment on this Review. Proper implementation of the mitigations for development are essential to all in the Kirkwood community.



March 4, 2016

*Via email*

**TRI-COUNTY TECHNICAL ADVISORY COMMITTEE:**

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Re: **Kirkwood Specific Plan – Mitigation Compliance – 10-Year Review**

Gentlemen:

Thank you for giving the Kirkwood community the time to submit comments and questions regarding a recently completed 10-Year Review of the Kirkwood Specific Plan. By giving the community ample time to review and submit their input, the Tri-County Technical Advisory Committee (TC-TAC) shows that they appreciate the public review process and the overall intent of the Kirkwood Specific Plan. Thanks also to Vail Resorts, Inc. (VRI) and Kirkwood Resort Development (KRD) for retaining Resource Concepts, Inc. (RCI) to complete this review.

Following are comments and questions from the Kirkwood Meadows Public Utility District (District) regarding this review. We look forward to discussing these at the TC-TAC meeting scheduled for March 11, 2016 and at subsequent TC-TAC meetings. It is our understanding that any recommendations from TC-TAC, as well as RCI's report dated November 6, 2015 (Report) will be forwarded to the Planning Commissions and Boards of Supervisors of all three counties.

***Process***

It should be noted that the project proponents, VRI and KRD, selected, paid for, reviewed, edited and gave final approval of the review. Though the District has great respect for RCI, any hope for objectivity was diluted in the process. This potential conflict of interest could have been easily remedied had TC-TAC selected and paid for the review directly and then billed the proponents for the cost.

***Introduction - Page 2***

The District is also an ex-officio member of TC-TAC.



***Change in Resort Operator – Page 6***

How “the division of responsibilities for implementing required mitigation and monitoring responsibilities” was completed, and specifically who is responsible for what, is vital information and should be known to TC-TAC and the public.

***Geology, Soils, and Geologic Hazards – Page 8***

The District has no knowledge of any representative of the Kirkwood Communication Association (KCA) having the training or performing any periodic construction monitoring on any project. The Report states that interviews with resort personnel did identify that BMP’s were not installed initially, but then corrected and there were no new significant environmental impacts. This should be listed as an opinion of the proponent and not a statement of fact.

Several instances have occurred recently where BMP’s have not been installed at all, and significant environmental issues occurred with no reporting or inspection process involved. Additional actions including pre-construction meetings, permitting and inspections need to be implemented.

***Water Resources***

It should be noted that the District is also looking at constructing additional water storage for future domestic supply and fire suppression.

***Noxious Weeds – Page 12***

The District disagrees with the Report’s findings in terms of the current impact of noxious weeds in Kirkwood. There is no mention of the infestation of Sweet Clover, Scotch Broom and other non-native invasive species which are spreading throughout Kirkwood, and most notably in areas around the Lower 7 parking area, District land adjacent to this area, as well as at the Thunder Mountain parcel. Not only does a Noxious Weed Management Plan need to be formulated, but a plan to deal with the existing problem needs to be included before native grasses and wildflowers are overtaken.

***Socioeconomics – Page 13***

The District disagrees that the objectives of the Specific Plan and the Employee Housing Ordinance are currently being met. The Report is stating KRD’s opinion rather than an objective review of mitigation compliance. An example is on Page 16, last paragraph: “As this additional housing proposed by the KMPUD would satisfy the remaining employee housing requirements ...” This finding has not been established, and is an opinion rather than a statement of fact. As has been previously stated, the District feels that the existing Employee Housing Ordinance system is broken and detrimental to future development in the area.

***Traffic***

This section is confusing as it seems to state that adequate parking is available, even though VRI has recently stated that they question the previously reported counts and have a need for additional parking. Any new parking envisioned needs to be designed with proper emergency egress and pedestrian flow in mind.

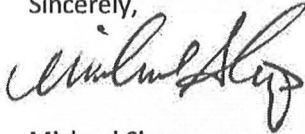
**Public Services – Page 18**

The District feels that the level of police protective services for the winter months needs to be evaluated to insure that it meets the community's current and future needs.

**Summary**

Thanks again for allowing the District to comment on this Kirkwood Specific Plan 10-Year Review. We look forward to working with TC-TAC to formulate a set of recommendations which can be forwarded to the Planning Commissions and the Board of Supervisors of each of the three counties.

Sincerely,



Michael Sharp  
General Manager

cc: KMPUD Board of Directors  
KMPUD Planning Committee  
Terry Woodrow, Alpine County Board of Supervisors  
Lynn Morgan, Amador County Board of Supervisors



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Rebecca R. Akroyd  
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March 8, 2016

**VIA E-MAIL**

Mr. Zach Wood, Alpine County  
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Mr. Chuck Beatty, Amador County  
Tri-County Technical Advisory Committee  
E-mail: [REDACTED]

Mr. Aaron Mount, El Dorado County  
Tri-County Technical Advisory Committee  
E-mail: [REDACTED]

Re: Kirkwood Meadows Association Comments on Kirkwood Specific Plan Mitigation  
Compliance 10-Year Review

Dear Mr. Wood, Mr. Beatty, and Mr. Mount:

This letter is submitted on behalf of Kirkwood Meadows Association ("KMA") regarding the Kirkwood Specific Plan Mitigation Compliance 10-Year Review ("10-Year Review"), which is included as Item 5 on the agenda for the March 11, 2016 meeting of the Tri-County Technical Advisory Committee ("TC-TAC"). The 10-Year Review evaluates development within Kirkwood for compliance with the Kirkwood Specific Plan Mitigation Measures ("mitigation measures"). KMA has concerns regarding Kirkwood Mountain Development's ("KMD") and Kirkwood Mountain Resort's ("KMR") compliance with several of the mitigation measures, specifically, the street sweeping, traffic, parking, and visual and aesthetic resources mitigation measures. KMA also has concerns regarding the 10-Year Review's references to Kirkwood Community Association's ("KCA") review and decision making authority. These are important issues within Kirkwood, and KMA appreciates the opportunity to submit these comments on the 10-Year Review.

**1. The 10-Year Review Does Not Adequately Address Street Sweeping Mitigation**

Mitigation Measure 4.02(v) requires KMR to "[c]onduct street sweeping with vacuum sweeper twice a year and when buildup of loose materials occurs on paved roadways." However, the 10-Year Review confirms that street sweeping is "only being conducted once per year in the spring after snow melt and on an as needed basis." (10-Year Review, p. 11.) The 10-Year Review indicates that KMR plans to request TC-TAC to grant a deferment with respect to the second required sweeping. (*Id.*)

The 10-Year Review does not disclose fully the street sweeping that is actually occurring. In recent years, street sweeping has not always occurred even once per year within KMA. At a minimum, street sweeping must occur once per year. If construction has occurred, then street sweeping should occur twice per year, as mandated by Mitigation Measure 4.02(v). KMA

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objects to the planned deferment of the second required sweeping in years when there has been construction.

In addition, street sweeping must occur throughout Kirkwood, including within KMA. Street sweeping is identified as a mitigation measure to prevent contamination of water resources from runoff. In order to prevent contamination, all of the streets in Kirkwood must be swept, not just some of them.

Furthermore, the 10-Year Review should be revised to make clear that KMR and KMD, and not the homeowners associations within Kirkwood, are responsible for street sweeping. An April 12, 2012 Master Development Agreement between KMR, KMD, KAI, and others indicates that homeowner associations “shall sweep roads within [the] jurisdiction of such [homeowners association]” (Exh. I to Apr. 12, 2012 Master Development Agreement), but this position is inconsistent with the requirement in the Mitigation Measure that KMR and KMD—the project proponents—bear responsibility. Alpine and Amador counties have confirmed that KMR is responsible for street sweeping. (See Feb. 2, 2005 letter from Brian Peters to Reid Bennett, attaching correspondence regarding street sweeping in Kirkwood; Oct. 18, 2004 letter from Brian Peters to Gary Derck.) This responsibility includes a financial obligation to pay for street sweeping; homeowner associations within Kirkwood, including KMA, are not required to take on this responsibility, or the associated cost.

## **2. The 10-Year Review Does Not Accurately Discuss Parking and Traffic Mitigation**

The Mitigation Measures include two key requirements that govern traffic and parking in Kirkwood. First, Mitigation Measure 4.07(b) requires KMR to conduct traffic counts every three years and to provide the results to the TC-TAC. Second, Mitigation Measure 4.07(d) requires KMR to prepare an annual report that analyzes day-visitor parking during peak periods. If the study shows that the number of day-visitor-related vehicles parked within the resort exceeds the amount of parking spaces available for day visitors (approximately 2,500 spaces), then TC-TAC will require KMR to implement a mitigation plan that may include the provision of additional spaces.

The 10-Year Review indicates that the most recent traffic study was completed in 2010, and that the 2013 review was deferred due to a lack of new development within Kirkwood Valley. (Attachment A, p. 11.) It acknowledges that “[n]o new on-mountain facilities or private land developments have occurred in 2014 that would contribute to an increase in peak traffic.” (*Id.*) In addition, the 10-Year Review notes states that “[t]he 2012/2013 parking report identified a total of 3,097 parking spaces that are available for visitors. No shortage of parking spaces was reported during [the] past year.” (*Id.*) Yet, the 10-Year Review goes on to state:

KMR intends to conduct a more detailed analysis of the factors impacting utilization of parking so that it can identify options to meet current and future demand, including improving the efficiency in which existing spaces are cleared, improving accessibility to visitors after heavy snow storms, and adding additional spaces along Kirkwood Meadow Drive. ...



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(*Id.*) It is premature for KMR (or any other entity) to consider the expansion of parking on Kirkwood Meadows Drive at this time. Mitigation Measure 4.07(d) provides that if the number of day-visitor-related vehicles parked within the resort exceeds the amount of available parking spaces, only then will TC-TAC require KMR to implement a mitigation plan that may include the provision of additional spaces. To the extent the 10-Year Review recommends that KMR consider additional spaces along Kirkwood Meadows Drive independent of the need for additional spaces, and outside of the framework of a mitigation plan, it is inconsistent with Mitigation Measure 4.07(d).

Moreover, as KMA has previously explained in comments to TC-TAC, there are significant limits on the ability to expand parking on Kirkwood Meadows Drive. KMA holds an easement for parking by its members and their guests along the eastern side of the Drive, which extends from one hundred five feet north of Wintergreen Way to Hawkweed Way. The easement was granted to KMA by the Kirkwood Associates, Inc. ("KAI"). The KMA easement is for parking by KMA members and their invitees/guests; parking by the general public within the easement is not allowed, except as authorized by contract. The governing 1988 agreement allows KAI (or its successors) limited use of the easement for "overflow parking" up to 5 days per year only. KAI's successors have acknowledged this limitation, including in the 2001 Master Parking Plan. Most importantly, the 1988 agreement dictates that if Kirkwood Meadows Drive is expanded, relocated, or re-aligned, KAI "agrees to relocate the parking easement as necessary in such a way as to maintain the same gross area of parking in favor of KMA. In such an event, KAI shall consult with KMA, and the parties shall mutually agree upon the relocation." Prior to KAI or its successors submitting any plan for expanded parking that changes Kirkwood Meadows Drive in a manner that relocates the parking easement in any way, mutual agreement on relocation is required.

In sum, KMR's recommendations regarding Mitigation Measure 4.07(d) are inconsistent with the measure itself. Until KMR conducts regular analyses of traffic and parking, prepares the required reports, and determines that additional parking is needed, a mitigation plan that considers the addition of new parking spaces is not needed or allowed. Further, even if the consideration of additional parking is warranted at some point in the future, there are limits on the addition of parking on Kirkwood Meadows Drive, as explained above.

3. **The 10-Year Review Does Not Accurately Describe Required Review for Projects within Kirkwood Meadows Association**

A. **Visual and Aesthetic Resources**

The Mitigation Measures for Visual and Aesthetic Resources are very general, e.g. requiring that "[g]rading . . . be done in a manner which minimizes erosion, conforms to the natural topography, and minimizes cuts and fills." (Mitigation Measure 4.08(d).) Yet, the 10-Year Review incorrectly states with respect to the visual and aesthetic requirements, Mitigation Measures 4.08(a)-(y), that "[l]andscape plans are submitted to Tri-TAC, the applicable County Planning Department, and KCA Design Review Board for review and approval." (Attachment A, pp. 12-13, emphasis added.) There are problems with this description for two reasons.



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First, Mitigation Measures 4.08(a)–(y) are associated specifically with the 2003 Kirkwood Specific Plan and the October 2002 Kirkwood Recirculated Revised Final Environmental Impact Report (“EIR”). Planned development that was approved prior to the 2003 Kirkwood Specific Plan and the EIR is not subject to the visual and aesthetic mitigation measures committed to in the EIR and, therefore, KMA is not required to obtain approval regarding these requirements.

Second, the requirement of TC-TAC approval is limited to new development within the viewshed of State Route 88; sixteen such lots within KMA have been identified as fitting within this category. KCA approval is not required. KCA does not have jurisdiction over KMA or its members, and therefore cannot require KMA members to obtain approval for development projects prior to implementation, even those KMA members whose lots are within the viewshed of State Route 88.

B. Other Resource Categories

Table 1 in the 10-Year Review also incorrectly identifies KCA as having “Review Authority” with respect to one or several aspects of the following categories: (1) Geology, Soils, and Geologic Hazard, (2) Water Resources, and (3) Aquatic Resources. However, KMD and KMR are the project proponents under the EIR. As a result, they have responsibility for complying with the mitigation measures. Moreover, KCA did not exist when the 2003 Specific Plan and its EIR were adopted. Naturally, the mitigation measures do not mention KCA. While KCA may have some involvement in mitigation measure implementation, such involvement must only be through KMD and KMR. As a result, it is appropriate to remove all references to KCA from the 10-Year Review.

In sum, KMA is not required to obtain KCA approval before implementing previously-approved development, or before implementing any other kind of development. The 10-Year Review is inaccurate to the extent it suggests or recommends otherwise, and references KCA as having any approval authority.

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**Conclusion**

Until the issues in this comment letter are addressed, KMA objects to TC-TAC approval of the 10-Year Review and the recommendations therein. KMA representatives are happy to meet in person to discuss these concerns.

Regards,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation



REBECCA R. AKROYD

cc: Judy Flinn, KMA Board President, [REDACTED]; Michael Sharp, Kirkwood Meadows Public Utility District, [REDACTED]; Rick Ansel, Kirkwood Public Utility District, [REDACTED]; Bob Epstein, Kirkwood Public Utility District, [REDACTED]; Lynn A. Morgan, Amador County Supervisor, District 3, [REDACTED]





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**DEPARTMENT OF TRANSPORTATION**

DISTRICT 10

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March 10, 2016

AMA-88-PM 71.36  
Kirkwood Specific Plan  
Kirkwood Mountain Resort  
Mitigation Compliance  
10-Year Review

Chuck Beatty, Planner  
Amador County Planning Department  
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Dear Mr. Beatty:

The Department of Transportation (Caltrans) thanks you for the opportunity to comment on the Kirkwood Specific Plan Mitigation Compliance 10-Year Review (Mitigation Review). The Kirkwood Specific Plan was approved in 2003 to guide development on private land within the Kirkwood community. The Mitigation Review examines the measures in the Mitigation Monitoring Program (MMP) from the Specific Plan Final EIR to ensure they are being implemented. The project is located on State Route (SR) 88 within the Eldorado National Forest and spans Alpine, Amador, and El Dorado Counties. The developed parts of Kirkwood Mountain Resort are within Alpine and Amador Counties which are within Caltrans District 10.

The Specific Plan traffic mitigation measures were also adopted for the Kirkwood Mountain Resort Mountain Master Development Plan (MMDP) through the Traffic and Parking Action Plan included in the USDA Forest Service Final Environmental Impact Statement. While the Mitigation Review assigns responsibility for this improvement to Kirkwood Mountain Development (KMD), compliance with the MMDP Traffic and Parking Action Plan would likely be the responsibility of Kirkwood Mountain Resort (KMR). Caltrans expects that the lead agencies for these projects will require the physical improvements required by the mitigation measures to be constructed by the project proponents, when warranted. The sale of the resort and split of responsibility for mitigation was not foreseen for either project. It is in the interest of all parties to have responsibility for these improvements addressed comprehensively for both projects.

Mitigation Measures (MM) 4.07(a) and 4.07(b) require construction of improvements or implementation of traffic controls within the State right of way on SR 88 and Kirkwood Meadows Drive, and the MMP lists Caltrans as an agency with review authority for these measures. Prior to the recent release of the Mitigation Review, Caltrans had not received the 2010 or 2013 traffic evaluations for review. We have now received the 2010 evaluation from Amador County, but still do not have the 2013 memo. Caltrans cannot concur that KMD and KMR have complied with these measures when we have not received these evaluations in a timely manner or been given an opportunity to respond. Because these same measures, including periodic evaluations of traffic, are required for the MMDP, the Forest Service should be receiving the technical memos as well.



Mr. Beatty  
March 10, 2016

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The Mitigation Review reports that the 2013 traffic evaluation deferred further review due to a lack of development at Kirkwood since 2010. MM 4.07(b) requires traffic counts and level of service modeling during peak conditions including summer events. Peak conditions at Kirkwood are dependent on a number of factors including weather, season, parking operational strategies and capacity, and the mix of overnight vs. day visitation. Since residents and long-term guests are less likely to drive at peak conditions, a lull in development is not an accurate indicator of trends in peak traffic volumes. With the return of normal snow conditions this year, the winter of 2016 is a good time to take traffic counts.

The potential for queuing onto SR 88 at the Kirkwood Meadows Drive entrance including the possibility for backups to the avalanche area at Carson Spur means analysis of peak conditions and mitigation of peak condition impacts is of utmost importance to ensuring the safety of Kirkwood visitors and the traveling public. Caltrans Maintenance staff have been impressed by the work of CHP in preventing backups but noted that queuing still occurs if CHP is not present for peak or near-peak conditions. We support active control by CHP and recognize the added benefits of CHP presence, but we note that active control is not a permanent substitute for physical improvement of the intersection.

The 2007 Fehr and Peers technical memo recommended widening of the Kirkwood Meadows Drive approach to SR 88, which is one of the mitigation measures the lead agencies are responsible for implementing. The improvement was not constructed, and the recommendation was removed from the 2010 memo.

The 2007 and 2010 technical memos both recommend extending the westbound SR 88 left-turn pocket. This is not an improvement required by the mitigation measures, but the need is directly attributable to the resort and private development at Kirkwood. The sale of Kirkwood Mountain Resort to Vail is an unforeseen change that could not have been evaluated in the Specific Plan EIR. While the recommendations in the 2007 and 2010 plans precede the sale, the availability of Vail passes that can also be used at the South Lake Tahoe resorts owned by Vail, may be affecting the trip distribution at the Kirkwood Meadows Drive/SR 88 intersection. If future traffic evaluations show a substantial increase in trips to the east on SR 88, preparation of a supplemental document or addendum may be appropriate to assess mitigation for potentially significant impacts attributable to the sale.

MM 4.7(d) addresses annual evaluations of parking and implementation of parking facility improvements, efficiency improvements, and demand management to reduce the impacts of parking under peak conditions. Under peak conditions, the delay in accessing parking or lack of adequate parking can contribute to queuing that can affect SR 88. Through review of the recent preliminary draft Kirkwood Meadows Drive Improvements plans, we have been informed that the Specific Plan, through the 2001 Kirkwood Master Parking Plan, prohibits parking on the west side of Kirkwood Meadows Drive. Caltrans recommends enforcement of this provision to improve the flow of traffic into Kirkwood and help to reduce the potential for queuing on SR 88. Proper posting and enforcement of a 'No Parking' zone on the west side of Kirkwood Meadows Drive may also allow for construction of active transportation improvements on the street.

Mr. Beatty  
March 10, 2016  
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Caltrans looks forward to improved coordination with the TC-TAC and lead agencies to ensure impacts identified through the ongoing review of transportation conditions at Kirkwood are mitigated.

If you have any questions or would like to discuss these comments, please contact Michele Demetras at (209) 948-7647 (email: michele.demetras@dot.ca.gov) or me at (209) 948-7325 (e-mail: carl.baker@dot.ca.gov).

Sincerely,



CARL BAKER, Chief  
Office of Rural Planning & Administration

- c: Rick Hopson, District Ranger, Amador Ranger District, Eldorado National Forest
- Aaron Brusatori, Director, Amador County Dept. of Transportation and Public Works
- Brian Peters, Director, Alpine County Community Development Department
- T.H. Brown, Commander, Amador Area CHP Office
- John Gedney, Executive Director, Amador County Transportation Commission



Chuck Beatty [REDACTED]

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## TC-TAC Agenda Packet for 3/11/16

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Reid Bennett [REDACTED]

Thu, Mar 10, 2016 at 10:22 PM

Reply-To: Reid Bennett [REDACTED]

To: Reid Bennett [REDACTED]

, Chuck Beatty [REDACTED]

Cc: Aaron Mount [REDACTED]

Zach Wood [REDACTED]

>, Roger Trout [REDACTED]

Hello TC-TAC members,

Briefly, here are a listing of some concerns related to the 10 Year Review at Kirkwood:

Topics:

- 1)KMR/Vail should have installed a flood prevention wall to keep Kirkwood Creek from flooding Base Camp by now (it recently flooded about one foot). KMR/Vail should be held liable for the damages caused by that recent flood, as they wouldn't have occurred if this mitigation measure was in compliance,
- 2)Entrance sign is not in compliance with permit granted by Amador County -- only "events" are to be listed,
- 3)Street sweeping not in compliance -- all roads are to be swept and paid for by KMR/Vail
- 4)Because there has been much less than anticipated development the past ten years -- another 10 Year Review should occur in ten years. This review has highlighted many problems (i.e. lack of compliance and enforcement) and should have many positive outcomes,
- 5)There should be consequences for KMR/Vail when mitigation measures are not in compliance: stop issuing building permits and fines should be possible,
- 6)There should be more mitigation monitoring and a "watchdog" in Kirkwood -- the KMPUD is the obvious choice for this!

Please feel free to forward/communicate this to others, as appropriate.

Thank you,  
Reid Bennett  
President  
Friends of Kirkwood Association  
[Quoted text hidden]



400 Capitol Mall, 27th Floor  
Sacramento, CA 95814

T | 916.321.4500  
F | 916.321.4555

Rebecca R. Akroyd  
rakroyd@kmtg.com

March 24, 2016

**VIA E-MAIL**

Mr. Zach Wood, Alpine County  
Tri-County Technical Advisory Committee  
E-mail: [REDACTED]

Mr. Chuck Beatty, Amador County  
Tri-County Technical Advisory Committee  
E-mail: [REDACTED]

Mr. Roger Trout, El Dorado County  
Tri-County Technical Advisory Committee  
E-mail: [REDACTED]

Re: Kirkwood Meadows Association Supplemental Comments on Kirkwood Specific Plan Mitigation  
Compliance 10-Year Review

Dear Mr. Wood, Mr. Beatty, and Mr. Trout:

This letter is intended to supplement the March 8, 2015 comments submitted on behalf of Kirkwood Meadows Association ("KMA") regarding the Kirkwood Specific Plan Mitigation Compliance 10-Year Review ("10-Year Review"). In the March 11, 2016 meeting of the Tri-County Technical Advisory Committee ("TC-TAC"), committee members indicated that they would accept additional comments on the 10-Year Review in advance of the April 1, 2016 TC-TAC meeting.

KMA's March 8 comments presented three main criticisms of the 10-Year Review. First, KMA commented that the 10-Year Review's discussion of compliance with street sweeping mitigation (Mitigation Measure 4.02(v)) is inadequate. The 10-Year Review does not disclose fully the street sweeping that is actually occurring, and lacks clarity regarding responsibility for street sweeping on all Kirkwood roadways. Second, the 10-Year Review's discussion of compliance with parking and traffic mitigation (Mitigation Measures 4.07(b) and 4.07(d)) is flawed. The 10-Year Review fails to acknowledge the import of noncompliance with mitigation measures requiring regular traffic studies and suggests a need for expanded parking on Kirkwood Meadows Drive when consideration of expanded parking is premature. Third, the 10-Year Review improperly requires Kirkwood Community Association ("KCA") design approval of development in Kirkwood, when KCA approval is not required of any KMA development, particularly not development that was approved prior to the 2003 Kirkwood Specific Plan or that is outside the viewshed of State Route 88.

KMA therefore requests that TC-TAC require the following amendments to the 10-Year Review prior to approving the 10-Year Review or making any recommendation regarding the 10-Year Review to the planning commissions and boards of supervisors of Alpine, Amador, and El Dorado counties:

1. **Street Sweeping.** Revise relevant discussion in 10-Year Review and Attachment A to continue requiring street sweeping twice per year throughout Kirkwood, including on roadways within Kirkwood's various neighborhoods. Clarify responsibility for street sweeping and cost for street sweeping; in doing so, clarify that homeowners associations within Kirkwood have no responsibility for street sweeping or the cost of street sweeping.

Mr. Zach Wood  
Mr. Chuck Beatty  
Mr. Aaron Mount  
March 24, 2016  
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2. **Parking and Traffic.** Revise relevant discussion in 10-Year Review and Attachment A to acknowledge past noncompliance with mitigation measures requiring regular traffic counts and parking reports. Require existence of a parking shortage before Kirkwood Mountain Resort can implement a mitigation plan that considers the provision of additional spaces. Add discussion of limitations on parking on Kirkwood Meadows Drive in light of prior comments by KMA and the California Department of Transportation (Caltrans).
3. **KCA Review.** Revise relevant discussion in 10-Year Review and Attachment A to accurately describe responsibility for review of development within Kirkwood, noting particularly limitations on review authority, e.g. over planned development that was approved prior to the 2003 Kirkwood Specific Plan and development that is outside the viewshed of State Route 88. Revise discussion to note that Kirkwood Mountain Resort and Kirkwood Mountain Development are the project proponents under the EIR, and as such, have responsibility for complying with the mitigation measures in all resource categories, including visual and aesthetic; geology, soils, and geologic hazard; water; and aquatic resources. Require removal of all references to KCA from the 10-Year Review.

In addition to the requested amendments above, KMA respectfully requests that TC-TAC include a recommendation to the three counties' planning commissions and boards of supervisors that an additional review of mitigation measure compliance occur in five years' time. This new "15-Year Review" would provide a "check" on the project proponents' compliance with the mitigation measures, and would help increase the likelihood of improved compliance with the mitigation measures.

Thank you for taking the time to seriously consider the comments and recommendations of KMA and other Kirkwood community organizations and members.

Regards,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation



REBECCA R. AKROYD

cc: Judy Flinn, [REDACTED]; Michael Sharp, [REDACTED]; Rick Ansel,  
[REDACTED]; Bob Epstein [REDACTED]; Lynn A. Morgan, [REDACTED];  
Nate Whaley, [REDACTED]; Casey Blann, [REDACTED]





Chuck Beatty [REDACTED]

## Comments on the 10 Year Review of the Kirkwood Specific Plan

3 messages

Sandy Sloan [REDACTED] > Tue, Mar 29, 2016 at 12:42 PM  
To: [REDACTED] Aaron Mount [REDACTED] >, Zach Wood [REDACTED] >, Brian Peters [REDACTED], Chuck Beatty [REDACTED] >, [REDACTED]  
Cc: Sandy Sloan [REDACTED]

Roger Trout, El Dorado County Community Development  
Zach Wood, Alpine county Community Development  
Chuck Beatty, Amador County Planning Department

Gentlemen:

Thank you for giving the Kirkwood community time to comment both orally and in writing on the 10 Year Review of the Kirkwood Specific Plan. As a homeowner at Kirkwood since 1981, and as a constituent who was very involved in the adoption of the 2003 Specific Plan, I would like to expand on some of the previous comments I have made, both in writing and at the March 11, 2016 meeting of TC-TAC.

1. Importance. First, I cannot stress how important the Specific Plan and the concomitant Mitigation Monitoring Program are to the Kirkwood community. The 2003 Specific Plan was at least 3 years in the making and involved hundreds of hours of talks and negotiations among the Resort, the Planning Departments of three counties and the community. The process was successful, because, in my opinion, everyone listened to everyone else and a document was produced which balanced the growth of the community with environmental concerns. The Mitigation Monitoring Program implements this precarious balance.
2. Process. It is not enough for a review of required mitigations to be filed with the County after public comment. Otherwise, the review will have been an exercise in futility. Mr. Trout's suggestion at the last TC-TAC meeting makes sense. The consultant hired by Vail Resorts, Inc. ("Vail") and Kirkwood Resort Development (the "Developer") should take into account the questions and comments raised by the public and the TC-TAC members and respond in writing by correcting and/or supplementing the Review. This way when the document is presented to the County officials it will be as accurate and thorough as possible. Then the Boards of Supervisors will be able to direct staff accordingly to clarify mitigations, add mitigations, or assure mitigations are being implemented. This supplemental document should, of course, be paid for by Vail and the Developer.
3. Clarity as to Responsibility. As several people have pointed out, now that the Developer has sold the Resort to Vail, while retaining developable property, the Review should clarify which entity is responsible for which mitigation.
4. Enforcement. Mitigations are useless if they are not enforced, so it is essential that there be more oversight of ALL projects, not just major developments. Many mitigations have been ignored while construction is taking place. I urge the Counties to work with our on-site PUD to have the PUD help with enforcement of the mitigations.
5. Absence of Review of Some Mitigations. Some mitigations are not addressed at all. The consultant should go through EACH mitigation in the Mitigation Monitoring Program and address its status. For example, I note that Conditions of Approval 94,95 and 96 regarding traffic on Highway 88 were ignored and Condition of Approval 55 (Measure 4.3.1(f) regarding flooding to Base Camp and Kirkwood Meadows Drive was ignored.
6. Employee Housing. Employee housing is a need in the Kirkwood valley. The Employee Housing Ordinance is not as clear as it should be and is not being implemented in a consistent logical way. Individual developers are frustrated with the process, as evidenced by the developer who came to a recent TC-TAC meeting asking for help in tracking the money he paid the Developer to assure an employee unit was set aside. This vital issue should not be ignored. I hope that TC-TAC will have planners and someone from the PUD work together to clarify and strengthen the Employee Housing Ordinance.

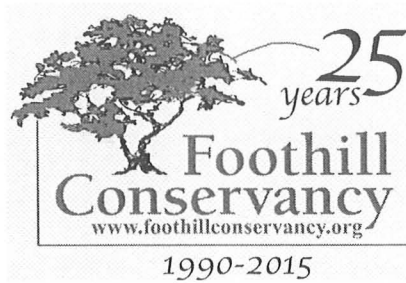
Amador County Mail - Comments on the 10 Year Review of the Kirkwood Specific Plan

7. Future Review. Since the Resort is developing more slowly than expected and it was anticipated that buildout would occur within 10 years, it is necessary that another review of mitigations take place in 5-7 years. Many mitigations are ongoing and many have yet to be implemented since they are tied to future growth. Therefore, it would be prudent to review the status of the plan and the mitigations again in the future.

Thank you for the opportunity to comment.

Sandy Sloan

[Redacted]



March 31, 2016

Chuck Beatty  
Amador County Planning Department  
810 Court Street  
Jackson, CA 95642

Zach Wood  
Alpine County Community Development  
50 Diamond Valley Road  
Markleeville, CA 96120

Roger Trout  
El Dorado County Community Development  
2859 Fair Lane Court  
Placerville, CA 95667

***By email transmittal***

Re: 10- year mitigation compliance review for the Kirkwood Special Plan

Dear Mr. Beatty, Mr. Trout, and Mr. Wood,

Foothill Conservancy thanks you for the opportunity to comment on the Tri-County Technical Advisory Committee's (TC-TAC) 10-year mitigation compliance review of the Kirkwood Specific Plan. Foothill Conservancy is a 501(c)(3) based in Jackson, CA. Since 1989 we have worked to protect the land and water resources in Amador and Calaveras counties.

Kirkwood's residents and homeowner groups have already brought to your attention mitigation measures for the Kirkwood Specific Plan that have not been followed. Examples of noncompliance have occurred in several mitigation categories, including visual and aesthetic, water resources and vegetation resources. We agree with the comments submitted by the Kirkwood Meadows Association, the Friends of Kirkwood Association, and the Kirkwood Public Utility District. Instances of noncompliance with required mitigation measures for the Kirkwood Specific Plan not only must be enforced, but must be prevented in the future.

We urge the TC-TAC's 10-year review include a specific listing of, and recommendations for rectifying, each instance of mitigation noncompliance. In addition, given the problems with mitigation noncompliance during the past 10 years, we request that the next mitigation compliance review be scheduled for five, not 10, years.

Sincerely,

A handwritten signature in black ink that reads 'Cecily Smith'. The signature is written in a cursive, flowing style.

Cecily Smith  
Executive Director