



# WASHOE COUNTY

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## STAFF REPORT

BOARD MEETING DATE: May 9, 2023

**DATE:** April 10, 2023

**TO:** Board of County Commissioners

**FROM:** Katy Stark, Planner, Planning and Building Division, Community Services Department, 775.328.3618, [krstark@washoecounty.gov](mailto:krstark@washoecounty.gov)

**THROUGH:** Kelly Mullin, AICP, Division Director, Planning & Building Division, Community Services Department, 328-3619, [kmullin@washoecounty.gov](mailto:kmullin@washoecounty.gov)

**SUBJECT:** Public Hearing: Appeal of the Washoe County Director of Planning and Building's partial approval of Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta), which sought a Tier 2 short-term rental (STR) administrative review permit for a maximum occupancy of 14 persons at 1447 Tirol Drive, Incline Village, Nevada 89451. The Tier 2 STR permit was approved for a maximum occupancy of 12 persons in accordance with Article 319, *Short-Term Rentals (STRs)*, and Article 809, *Administrative Review Permits*, of the Washoe County Development Code.

The applicant and property owner are Sanjay and Geetika Gupta. The property is located at 1447 Tirol Drive, Incline Village, Nevada 89451. The Assessor's parcel number is 126-560-33. The parcel of land is 0.001 acres in size with a master plan designation and regulatory zone of Tyrolian Village, within the Tahoe Area Plan. The appellants are Linda L. Smith and Paul E. Smith.

The Board should consider the record and any additional evidence presented during the public hearing and may confirm, reverse or modify the appealed action based on its interpretation of the required standards in accordance with WCC 110.809.20(e) and WCC 110.912.20.

(Commission District 1.)

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### SUMMARY

The appellants, Linda L. Smith and Paul E. Smith, own property located at 1437 Tirol Drive, Incline Village, Nevada, within Tyrolian Village. Appellants are seeking to overturn the Washoe County Director of Planning and Building's partial approval of Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta), which approved, with conditions, a Tier 2 short-term rental administrative review permit for a maximum occupancy of 12 persons. The appellants' appeal is based on their opinion that the allocated parking spaces for the STR do not meet Washoe County's parking requirements.

AGENDA ITEM # \_\_\_\_\_

Washoe County Strategic Objective supported by this item: Economic Impacts – Support a Thriving Community

### **PREVIOUS ACTION**

On March 7, 2023, the Washoe County Director of Planning and Building (Director) issued a written decision letter (Attachment A to this report), which partially approved, with conditions, the requested Tier 2 STR administrative review permit for a maximum occupancy of 12 persons. An occupancy of 14 persons was requested by the applicant, however, the subject property only has three designated parking spaces allotted by the HOA. This results in a maximum possible occupancy of 12 persons based on Washoe County's criteria of four occupants per parking space. See STR parking verification letter, included as Attachment E; see also email from Sheila Van Duyne, Esq. (HOA attorney), included as Attachment G.

Notice of the application for WSTRAR22-0013 (Gupta) was originally mailed to affected property owners on December 14, 2022, with a fifteen-day comment period provided as required by WCC Section 110.809.15(b)(2). Timely comments provided by affected property owners are included with the administrative review staff report in Attachment B to this report. Notice of the written decision was mailed to affected property owners on March 8, 2023.

### **BACKGROUND**

The appellants are appealing the Director's decision to partially approve the requested Tier 2 STR with a maximum occupancy limited to 12 persons, rather than the 14 persons requested by the applicants. The staff report for WSTRAR22-0013 (Gupta) is included as Attachment B to this report. The Director's written decision is included as Attachment A, along with the conditions of approval associated with this permit approval.

In the "Notice of Appeal" (included in Attachment C), the appellants state that "the Applicant apparently never applied for a Tier 1 permit." (page 1 of "Notice of Appeal"). This statement is incorrect. The owner of 1447 Tirol Drive submitted applications for both a Tier 1 STR permit and a Tier 2 STR permit on December 8, 2022. These are separate application processes, and separate applications were received. A Tier 1 STR has a maximum occupancy of 10 persons (WCC Section 110.304.15(d)(1)), and a Tier 1 STR permit is allowed and issued to a property owner by right if they meet all the requirements listed in the Washoe County Development Code, Article 319, *Short-Term Rentals (STRs)*. The owner of 1447 Tirol Drive submitted a Tier 1 STR application (WSTR000354-APP-2022), met all Tier 1 requirements, passed both a building inspection and a fire inspection, and was issued Tier 1 STR Permit WSTR23-0028 with a maximum occupancy of 10 persons. There is no appeal right or process for a Tier 1 STR permit as it is a ministerial permit and not a discretionary approval like a Tier 2 STR Administrative Review Permit application.

A Tier 2 STR has a maximum occupancy of 11 to 20 persons and, due to its higher occupancy, may require additional limitations to ensure compatibility with surrounding residential properties (WCC Section 110.304.15(d)(2)). An applicant must receive approval via the short-term rental administrative review process before they are permitted to operate an STR with 11 to 20 occupants.

The appellants have stated: “The permit approvals appear to be based on a finding of 3 allocated parking spaces. However, the parking does not meet the Washoe County Code requirements, is not within the property boundaries, and instead is located in access easements. Moreover, according to HOA legal counsel, the applicant is allocated only 1 parking space even where a garage has been built.” (Attachment C, page 2).

WCC Section 110.319.15(b)(2) states:

“All parking spaces must be: improved to Tahoe Regional Planning Agency (TRPA) standards; developed on-site within property boundaries; and dedicated specifically for parking. In multi-unit complexes, parking must be in designated parking spaces (if applicable) and limited to the number of spaces allotted to the unit.”

The appellants have argued that parking for 1447 Tirol Dr. is not developed on-site within property boundaries. 1447 Tirol Dr. is located in Tyrolian Village, which is a multi-unit townhome complex. Due to 1447 Tirol Drive’s location in a multi-unit complex, Washoe County planning staff base parking calculations on the number of designated parking spaces allotted to the unit in accordance with WCC 110.319.15(b)(2). Because such spaces are assigned to the unit, such spaces do not have to be within the property boundaries of 1447 Tirol Drive, which would not be possible in any event given the size of the parcel footprint. This is the same methodology for calculating the number of designated parking spaces for condo units used as STRs as well. Here, the number of allotted parking spaces is determined by the Tyrolian Village HOA, and the HOA provides a parking verification letter which is emailed directly to planning staff and code enforcement staff. The HOA provided such a letter for 1447 Tirol Dr. (letter included as Attachment E), and the HOA indicates that there are three (3) parking spaces allotted for 1447 Tirol Drive. Two of the allotted parking spaces are located in the property’s 2-car garage, and one parking space is located in the driveway.

In the “Notice of Appeal” (included in Attachment C), the appellants state that the Director ignored a letter from the HOA’s legal counsel when determining that three parking spaces were allowed for 1447 Tirol Drive. The letter from the HOA’s legal counsel, dated December 29, 2022, is included as Attachment F. The letter discusses the HOA’s CC&Rs and allocated parking spaces for each unit. The HOA’s legal counsel discusses “one” parking space for each unit in Tyrolian Village. Planning staff reached out to the HOA’s legal counsel via email to determine if one parking space was allotted for 1447 Tirol Drive or if the three parking spaces indicated in the HOA’s parking verification letter were allotted for 1447 Tirol Drive. The HOA’s legal counsel confirmed: “There are two spaces within the garage and then one on the driveway.” This email confirmation is dated January 4, 2023, and is included as Attachment G.

According to WCC Section 110.319.15(b)(3), one parking space is required for every four occupants. In compliance with this code requirement, the Director approved a maximum occupancy of 12 persons for WSTRAR22-0013 (Gupta), rather than the 14 persons requested in the application, in order to adhere to the requirement of one parking space for every four occupants.

The appellants have also argued that the allotted parking spaces are located within access easements, in violation of WCC Section 110.319.15(b)(1).

WCC Section 110.319.15(b)(1) states:

“No STR parking is allowed within access easements or the public rights-of-way.”

The recorded map for 1447 Tirol Drive does not show any specific access easements. The roadways in Tyrolian Village were offered for dedication to Washoe County, but acceptance was rejected, at which point the roads became common area. In addition, the parking verification letter provided by the HOA states that the property has “a driveway that can fit an additional vehicle, if parked sideways and not sticking onto the traveled way,” thus confirming that the STR parking, as approved by the HOA that controls the common area, will not block or be within an access easement or ROW. The recorded map for Tyrolian Village Unit 4 is included as Attachment H. The Assessor’s Map for Tyrolian Village Unit 4 is included as Attachment I. In both of these maps, the owner’s parcel can be found under the designation “C-171”.

### **FISCAL IMPACT**

No fiscal impact.

### **RECOMMENDATION**

The Board of County Commissioners may review the record and evidence submitted during the public hearing and take one of the following actions:

1. Affirm the decision of the Washoe County Director of Planning and Building to partially approve Tier 2 Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta) for a maximum occupancy of 12 persons; or
2. Reverse the decision of the Washoe County Director of Planning and Building and deny Tier 2 Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta). This would limit 1447 Tirol Drive to a maximum occupancy of 10 persons, as approved under their Tier 1 STR permit.

### **POSSIBLE MOTIONS**

Should the Board agree with the Director of Planning and Building’s partial approval of Tier 2 Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta), staff offers the following motion:

“Based on the record of appeal and the evidence presented at the public hearing, move to deny the appeal and affirm the decision of the Director of Planning and Building to partially approve Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta) for a maximum occupancy of 12 persons.”

or

Should the Board disagree with the Director of Planning and Building’s partial approval of Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta), staff offers the following motion:

“Based on the record of appeal and the evidence presented at the public hearing, move to grant the appeal and reverse the decision of the Director of Planning and Building and deny Short-Term Rental Administrative Review Case Number WSTRAR22-0013 (Gupta).”

- Attachments:
- A. Record on Appeal: Written Decision for WSTRAR22-0013
  - B. Record on Appeal: Staff Report for WSTRAR22-0013
  - C. Record on Appeal: Appeal Application
  - D. Active Tier 1 STR Permit WSTR23-0028 for 10 occupants
  - E. Record on Appeal: Parking Verification Letter from Tyrolian Village HOA
  - F. Record on Appeal: Letter from Tyrolian Village HOA's legal counsel
  - G. Email from Tyrolian Village HOA's legal counsel confirming parking
  - H. Recorded Map – Tyrolian Village Unit 4
  - I. Assessor's Map – Tyrolian Village Unit 4

Tier 2 Applicant/Owner: Sanjay & Geetika Gupta, [sgupta2877@gmail.com](mailto:sgupta2877@gmail.com) & [geetika1973@gmail.com](mailto:geetika1973@gmail.com)

Tier 2 Applicant Consultant: Mary Meeker, [marymeekerrealtor@gmail.com](mailto:marymeekerrealtor@gmail.com)

Appellant: Linda L. Smith & Paul E. Smith, [lsmith2650@aol.com](mailto:lsmith2650@aol.com)

Appellant Legal Counsel: Rick R. Hsu, Esq., [rhsu@mcllawfirm.com](mailto:rhsu@mcllawfirm.com) & Michelle Mowry-Willems, Esq., [mmowry-willems@mcllawfirm.com](mailto:mmowry-willems@mcllawfirm.com)