



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: April 8, 2025

DATE: March 10, 2025

TO: Board of County Commissioners

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THROUGH: Kelly Mullin, AICP, Division Director, Planning & Building Division,
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SUBJECT: Public Hearing: Appeal of the Washoe County Board of Adjustment's
affirmance of the Washoe County Director of Planning and Building's
decision to reduce the appellant's short-term rental (STR) occupancy
from eight (8) persons to four (4) persons based on a reduction in
designated parking from two (2) spaces to one (1) space. The appellant is
requesting an occupancy of eight (8) persons based on two (2) parking
spaces.

The subject parcel is located at 916 Harold Dr., Unit #36, Incline Village, NV 89451. The Assessor's parcel number is 131-140-36. The parcel of land is 0.001 acres in size with a master plan designation and regulatory zone of Tahoe - Fairway, within the Tahoe Planning Area. The appellants and property owners are Matthew J. & Bernadette M. Castagnola.

The Board of County Commissioners (Board) shall consider the appeal based on the record on appeal and any additional evidence submitted at the Board's public hearing. The Board may affirm, modify or reverse the Board of Adjustment's decision. If the Board reverses the Board of Adjustment's decision, the Board may remand the matter back to the Board of Adjustment or directly grant two (2) parking spaces and the STR occupancy of eight persons. (Commission District 1.) FOR POSSIBLE ACTION

SUMMARY

The appellants, Matthew J. & Bernadette M. Castagnola, are appealing the Washoe County Board of Adjustment's affirmance of the Washoe County Director of Planning and Building's (Director) decision to reduce the appellant's short-term rental (STR) occupancy from eight (8) persons to four (4) persons based on a reduction in designated

AGENDA ITEM # _____

parking from two (2) spaces to one (1) space. The appellant is requesting an occupancy of eight (8) persons based on two (2) parking spaces.

The appellant's appeal is based on their contention that "there is nothing in your rules that prevent me from being creative and borrowing my neighbors assigned numbered spot." The appellant alleges they have agreements with four (4) Cedarcrest Condominium owners to use their dedicated parking spaces for their STR. The appellant goes on to assert a single STR party could fit more than 4 occupants in one vehicle.

At the January 2, 2025, Board of Adjustment public hearing on this matter, Washoe County staff recommended that the Board of Adjustment deny the appeal and affirm the decision of the Washoe County Director of Planning and Building for the reasons discussed in the staff report and at the hearing (*see* Attachment C – BOA Staff Report and Attachment H – Video Recording). Specifically, there is no dispute from the appellants that Cedarcrest Condominium Unit 36 has only one parking space assigned to the unit and WCC 110.319.15(b)(3) provides that one allocated parking space is required for every 4 occupants of a STR.

The Board of Adjustment denied the appeal and affirmed the Director's Decision to reduce the occupancy of the STR at 916 Harold Drive #36 to four occupants. The motion to affirm the Director's decision passed with three (3) in favor and two (2) opposed. *See* Attachment B - Action Order.

The Board shall consider the appeal based on the evidence submitted in the Record on Appeal and any additional evidence presented at the Board's public hearing; the Board may affirm, reverse, or modify the Board of Adjustment's decision.

Washoe County Strategic Objective supported by this item: Economic Impacts: Meet the needs of our growing community.

PREVIOUS ACTION

January 17, 2025. Appellant's, Matthew J. & Bernadette M. Castagnola, submitted an appeal of the Board of Adjustment's decision affirming the Washoe County Director of Planning and Building for WSTR21-0283 (STR Appeal – 916 Harold Drive #36) regarding maximum occupancy.

January 7, 2025. The BOA Action Order was filed and mailed to the applicant.

January 2, 2025. The Washoe County Board of Adjustment affirmed the decision of the Washoe County Director of Planning and Building for WSTR21-0283 (STR Appeal – 916 Harold Drive #36) regarding maximum occupancy.

June 4, 2024. Washoe County staff emailed the STR renewal permit card for WSTR21-0283 to property owners Matthew J. & Bernadette M. Castagnola with the maximum occupancy reduced to four persons with one parking space (see Exhibit B to Attachment C for email correspondence).

July 31, 2024. Prior to the STR permit renewal for 2024, Washoe County Code Enforcement staff conducted a site visit and confirmed that there is only one assigned parking space available for 916 Harold Drive Unit #36; therefore, the STR's maximum occupancy was reduced from eight (8) occupants to four (4) occupants. Although the complex has overflow permit parking, there are only sixteen (16) overflow parking spots

available for the twenty-four (24) “non-garage units”. *See* Attachment C - BOA Staff Report for Exhibit F - current STR permit card with reduced maximum occupancy and Exhibit G - HOA Parking Memo.

May 10, 2022. Article 319 Short Term Rentals, was amended (Ordinance 1686) to change the method used for STR maximum occupancy calculations. In response to the amendments, the subject STR permit was updated in February of 2023 to reflect the amendments to allow a maximum of eight (8) persons with two (2) parking spaces. The STR permit maintained a maximum occupancy of eight persons and two parking spaces through the 2023 annual renewal (see Exhibit E to Attachment C).

September 9, 2021. An STR permit was issued for 916 Harold Drive with a maximum occupancy of five (5) persons (see Exhibit C to Attachment C).

BACKGROUND

The appellant is requesting a maximum occupancy of eight (8) persons with two (2) parking spaces for STR Permit WSTR21-0283. The appeal application for the Directors decision is included as Exhibit A to Attachment C (BOA Staff Report). Communication from Washoe County staff to the appellant regarding the occupancy and parking reduction is included in Exhibit B to Attachment C. Communication between Washoe County Code Enforcement Officer Steve Oriol (CEO Oriol) and the appellant is included as Exhibit G to Attachment C.

Several sections of Washoe County Code, Article 319, Short-Term Rentals (STRs), regulate parking requirements and the associated occupancy limitations for STRs. The specific applicable code sections for parking/occupancy have been highlighted below.

WCC Section 110.319.10 Requirements for Application.

- (d) For STRs within multi-unit developments, the application must include evidence of the number (and location, if applicable) of **parking spaces allocated to the unit. Where parking spaces are unassigned, overflow parking will not count toward the required number of parking spaces;**

WCC Section 110.319.15 Standards.

- (b) Parking Standards. In areas outside the jurisdiction of the Tahoe Regional Planning Agency (TRPA), parking standards applicable to all residential uses, or the parking standard adopted at the time of original building permit approval of the residence, shall apply. Within the jurisdictional boundaries of the TRPA, the following parking standards shall be adhered to:

- 1) No STR parking is allowed within access easements or the public rights-of-way.
- 2) 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.

3) One parking space is required for every four occupants.

- 4) Within the Tahoe Basin, on-site STR parking may be limited and may require approval of TRPA coverage. Limitations such as these and other factors do not reduce or eliminate the requirement for on-site parking. **Inability to develop the appropriate number of parking spaces on-site will subsequently limit the maximum number of occupants allowed by the STR permit.**

(e) Occupancy Limits. An occupancy limit shall be established for each short-term rental based on individual characteristics of the dwelling unit and property. Overall maximum occupancy of an STR will be determined by the Planning and Building Division Director or her/his designee(s) after considering all the factors below. The maximum number of occupants allowed within an STR is based on the following parameters:

- 1) The occupant load shall be calculated as two (2) occupants for every legally permitted bedroom in accordance with Section 110.319.20(a)(1). The remainder of the home (excluding bedrooms) shall be calculated as one (1) occupant for every 200 square feet of habitable space in accordance with Table 1004.5 of the 2018 International Building Code (IBC) or the currently adopted edition.
- 4) **Occupancy may be further limited by the following: available number of on-site parking spaces;** voluntary reduced limits as proposed by the property owner; and any other factors that the Planning and Building Division Director or her/his designee(s) determines may affect life safety.

According to the code sections referenced above, an STR must have one allocated paved parking space, improved to TRPA standards, for every four occupants. Even if a potential maximum occupancy of more persons exists for a property based on bedroom count and habitable space, the number of paved parking spaces assigned to the STR unit may decrease that occupancy below the potential maximum.

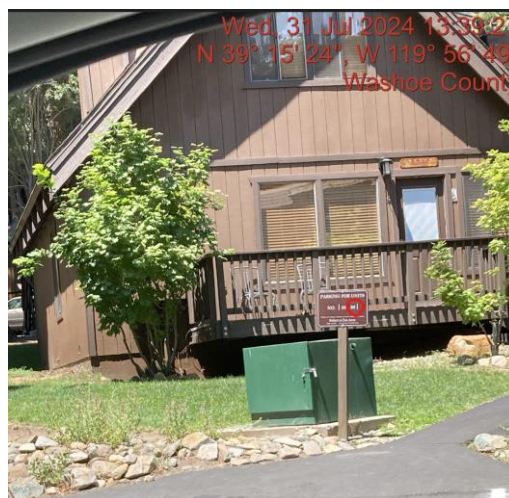
Washoe County's short-term rental permitting process has been active for approximately three years. As of November 14, 2024, there were 756 active STR permits for properties within unincorporated Washoe County. Three hundred and seventy-seven (377) of these active permits were originally issued during the first half year of the STR program in 2021. Due to the initial volume of permits pending processing and approval during this time, planning staff were not able to conduct physical site visits to verify proposed parking spaces were code compliant. As the STR program matured, dedicated STR code enforcement officer (CEO) Steve Oriol has had the opportunity to investigate the specific parking situations at multiple condominiums in Incline Village, including Cedarcrest Condominiums, where the appellant's STR unit is located.

Code enforcement staff conducted two visits to the Cedarcrest Condominiums complex in the summer and fall of 2024 to count all available paved parking spaces within the property. Cedarcrest Condominiums is made up of fifty (50) detached single-family condominiums, see map below. Access is provided from both Harold Drive and Fairway Park Drive for the complex.



Per the Cedarcrest Homeowners Association memo “STR Permit Parking Validation Letter”, the subject property is one of twenty-four (24) non-garage units in the complex. Each of these units is assigned “at least one (1) parking space in the Common Element parking areas”. The memo goes on to state the non-garage units shall also have use of the remaining ‘Common Element’ parking spaces, however those are unassigned spaces. See Exhibit G for the Cedarcrest Parking Memo to Attachment C.

Despite the two parking passes that are given to each Cedarcrest Condominium owner, there are not two *allocated* parking spaces available at 916 Harold Drive, Unit 36. Unit 36 has one assigned parking space. They also have a permit to use up to one overflow space, but there are more units than overflow spaces available so there is insufficient parking for each unit to have two spaces, despite the issuance of two parking passes by the HOA.



Appellant’s Assigned Parking Space

Analysis

The appeal application states a request for a maximum occupancy of eight (8) persons with two (2) parking spaces for STR permit WSTR21-0283. The appellant states: *“We have owned the property for 20+ years and we have always been issued 2 parking permits for this unit by the HOA. That is what we purchased. It is stated in the CCRs that we have 2 permits to park in 2 spaces in the complex. One is a numbered space and the other is a permit only spot. However, I have made agreements with 4 other owners to use their numbered spots as needed. These other owners rarely come up so I have the ability to use whichever numbered spot that is available. We have never not been able to have access to 2 spots in all the years we have been renting. We have never had a complaint and we follow the rules.”*

Per WCC Section 110.319.15(b)(2), in multi-unit complexes, parking must be in *designated* parking spaces (if applicable) and limited to the number of spaces allotted to the unit. Per WCC Section 110.319.10(d), where parking spaces are unassigned, **overflow parking will not count toward the required number of parking spaces.** Despite the two parking passes given to each Cedarcrest Condominiums unit owner, there are not enough paved parking spaces to correspond to the number of parking passes distributed. The paved parking spaces are not designated for specific units, and there is no way to ensure that those parking spaces will be available for the use of STR occupants. The Code also does not allow an increase in occupancy based on arrangements made with neighbors to utilize their assigned parking. The paved parking spaces must be designated and allotted to a unit in order to meet Washoe County Code requirements for STR parking.

In both appeal applications the applicant states: “We have never had a complaint and we follow the rules.” The potential number of parking violations, or lack thereof, does not alter the requirement to determine STR parking and occupancy calculations based on Washoe County Code.

A full staff analysis of the project and required findings can be found in Attachment C, Board of Adjustment Staff Report.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATIONS

It is recommended that the Board of County Commissioners review the record and consider the record, and any testimony, materials and evidence submitted at the Board’s public hearing. The Board may take one of the following actions:

1. Grant Matthew J. & Bernadette M. Castagnola’s appeal and reverse the Board of Adjustment’s decision; and thereby approve the use of two (2) parking spaces and an increased maximum occupancy for WSTR21-0283 to eight (8) persons;
2. Deny Matthew J. & Bernadette M. Castagnola’s appeal and affirm the Board of Adjustment’s decision; and thereby, deny an increased occupancy for WSTR21-

0283 and maintain the maximum occupancy of four (4) persons based on one (1) allocated parking space; or

3. Remand this matter to the Board of Adjustment with instructions.

POSSIBLE MOTIONS

Should the Board agree with the *Board of Adjustment's* denial of WSTR21-0283 (STR Appeal – 916 Harold Drive #36), staff offers the following motion:

“Move to deny Matthew J. & Bernadette M. Castagnola’s appeal and affirm the decision of the Board of Adjustment in case WSTR21-0283 (STR Appeal – 916 Harold Drive #36) affirming the maximum occupancy of four (4) persons, based on the record and evidence presented today.”

or

Should the Board disagree with the *Board of Adjustment's* denial WSTR21-0283 (STR Appeal – 916 Harold Drive #36), staff offers the following motion:

“Move to grant Matthew J. & Bernadette M. Castagnola’s appeal and reverse the decision of the Board of Adjustment in case WSTR21-0283 (STR Appeal – 916 Harold Drive #36) and granting an increased maximum occupancy of eight (8) persons for the STR, based on the record and evidence presented today and the allocation of two (2) parking spaces to the subject unit.”

ATTACHMENTS

Attachments A through H Constitute the Record on Appeal:

- A. Appeal of Board of Adjustment Denial
- B. Board of Adjustment signed Action Order
- C. Board of Adjustment Staff Report with Exhibits
- D. Board of Adjustment Public Comment
- E. Board of Adjustment Staff Presentation
- F. Board of Adjustment Applicant Presentation
- G. Board of Adjustment Meeting Minutes
- H. Board of Adjustment Video Recording
- I. Public Comment Received After Board of Adjustment Meeting

cc: Appellant and Property Owner: Matthew J & Bernadette M Castagnola
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