

**ERRATA**

Agenda Item No. VI. B  
Amendments to Washoe County's Tahoe Area Plan  
To Allow Single-Family Condominium Uses in Special Area 1  
Of the Incline Village Commercial Regulatory Zone

Attachment B – Revised Washoe County Staff Report

Attachment C – Revised Ordinance 2023-\_\_ and Exhibits

Attachment B

Revised Washoe County Staff Report



# WASHOE COUNTY

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## MEMORANDUM

MEETING DATE: **June 28, 2023**

**DATE:** June 2, 2023

**TO:** TRPA Governing Board

**FROM:** Courtney Weiche, Senior Planner, Community Services Dept., 328-3608, [cweiche@washoecounty.gov](mailto:cweiche@washoecounty.gov)

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

**SUBJECT:** Washoe County Tahoe Area Plan Amendment

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### SUMMARY

On January 17, 2023, the Washoe County Board of County Commissioners (“Board”) adopted Bill No. 1888, Ordinance No. 1696, an amendment to Washoe County’s Code (ref. WDCA22-0003), which amended Washoe County Code Chapter 110 (Development Code), Article 220 (Tahoe Area) to add single family dwellings, limited to condominiums, as an allowable use in the Incline Village Commercial (IV-C)- Special Area 1 regulatory zone subject to Land Use Policy LU2-9 which provides “single family dwellings shall only be allowed in the Incline Village Commercial regulatory zone when they are part of a mixed-use development or when they are affordable housing units”. The IV-C regulatory zone falls within Washoe County’s Tahoe Area Plan and TRPA has adopted Washoe County’s Development Code, Article 220 as part of its adoption of the Tahoe Area Plan. Therefore, the amendment requires approval by the TRPA Governing Board to conform Washoe County’s Development Code amendment with TRPA’s adoption of the Tahoe Area Plan.

On March 22, 2023, the Regional Plan Implementation Committee (“RPIC”) recommended approval of Washoe County’s amendment to include single-family condominiums as an allowed use within the Incline Village Commercial (IV-C)- Special Area 1 regulatory zone. However, the RPIC limited its recommendation of approval to only apply to two (2) parcels (APN 132-231-09 and 132-231-10) within the regulatory zone. RPIC’s recommendation to restrict the proposed additional allowed use to only two (2) parcels created multiple concerns for County staff, including but not limited to the fact that the proposed modification would create inconsistency between Washoe County’s Development Code and TRPA’s adoption of the Tahoe Area Plan. Accordingly, Washoe County asks the TRPA Governing Board to wholly approve the original amendments adopted by the Washoe County Board of County Commissioners, and not substantively modify or piecemeal the County’s requested amendment. County staff do

not have the authority to support substantive changes to the original request without first having direction and/or approval to do so from the Board of County Commissioners.

TRPA staff have worked to address the RPIC's concerns by providing separate TRPA mitigation measures (Exhibit B to Attachment C) that specify requirements for TRPA's subdivision approval of a mixed-use structure or structures in Special Area-1 of the Incline Village Commercial Regulatory Zone. Washoe County staff generally agree that TRPA's adoption of mitigation measures that better define mixed-use zoning and incentives for affordable housing is appropriate. However, Washoe County staff cannot provide any feedback/comments about Washoe County's position on the content of any particular mitigation measure, as these measures have not been presented to the Board of County Commissioners.

## **BACKGROUND**

January 26, 2021. The Board adopted a comprehensive package of amendments that amended the Washoe County Master Plan, Tahoe Area Plan (WMPA19-0007) and Tahoe Area Regulatory Zone Map (WRZA19-0007) and development code amendments (WDCA19-0007) replacing Article 220 Tahoe Area Plan modifiers with two new articles, Article 220 Tahoe Area Plan modifiers and Article 220.1 Tahoe Area Design Standards.

May 26, 2021. TRPA Governing Board adopted the Washoe County Tahoe Area Plan and amendments to Chapters 34, 36, and 38 of the TRPA Code of Ordinances. The TRPA's adoption of the Washoe County Tahoe Area Plan included two Articles within Washoe County's Development Code—Article 220 Tahoe Area Plan modifiers and Article 220.1 Tahoe Area Design Standards.

October 8, 2021. An applicant submitted a special use permit application to Washoe County (WSUP21-0029) to construct a 40-unit multifamily residential project at 947/941 Tahoe Boulevard, as required for projects located in the broader Incline Village Commercial regulatory zone. Staff later determined that the proposed project was not subject to the approval of a special use permit because the project site was located in Special Area 1 of the IV-C, in which multifamily dwellings are an allowed use. As an allowed use and not a special use, the 40-unit multifamily project would not require discretionary action by the County. The applicants indicated their desire was to eventually subdivide the multifamily dwellings into air space condominiums.

December 8, 2021. The applicant submitted a tentative subdivision map application to Washoe County (WTM21-012) to subdivide a proposed 40-unit multifamily dwelling project located at 947/941 Tahoe Boulevard into 40 air space condominiums. Pursuant to Washoe County's development review process, the applicant held a neighborhood meeting in Incline Village on January 24, 2022, for the 40-unit project and subdivision.

During staff's review, it was identified that the Tahoe Regional Planning Agency's (TRPA) Code of Ordinances considers condominiums to be single family dwellings, which are currently not an allowed use in IV-C Special Area 1.

Upon subsequent consultation with Washoe County and TRPA staff, the applicant was informed that they would need to seek approval to amend TRPA's adoption of the Tahoe Area Plan and Washoe County's Development Code (Article 220) if they desired to pursue adding single family condominium dwellings as an allowable use in Special Area

1 of the IV-C regulatory zone. This request would require both Washoe County and TRPA approval.

It is important to note that the subject amendment is not specific to any one parcel or project in the IV-C Special Area 1 regulatory zone. The proposed amendment addresses the addition of single-family dwellings, limited to air space condominiums, for the whole of IV-C, Special Area 1.

July 8, 2022. The applicant submitted a development code amendment application to Washoe County (WDCA22-0002) to add single family dwellings, limited to condominiums, as an allowable use in the Incline Village Commercial (IV-C)- Special Area 1 regulatory zone subject to Land Use Policy LU2-9 which provides “single family dwellings shall only be allowed in the Incline Village Commercial regulatory zone when they are part of a mixed-use development or when they are affordable housing units”.

August 22, 2022. The applicant held a Zoom meeting to request feedback on the requested development code amendment. A total of 3,264 individual email recipients received the meeting invitation. Thirty-four people were in attendance.

November 1, 2022. The Washoe County Planning Commission (PC) reviewed the proposed amendments to Washoe County Code Chapter 110 (Development Code), Article 220, Tahoe Area, and voted unanimously to recommend approval of Development Code Amendment WDCA22-0002 to the Board.

December 13, 2022. The Washoe County Board of County Commissioners (Board) introduced and conducted a first reading for Bill 1888, an ordinance amending Washoe County Code Chapter 110 (Development Code), Article 220, Tahoe Area.

January 17, 2023. The Board held a public hearing and conducted a second reading for Bill 1888, and after the public hearing, adopted Ordinance Number 1696, which amends Washoe County Code Chapter 110 (Development Code), Article 220, Tahoe Area as stated below in this staff report.

February 22, 2023. The Regional Plan Implementation Committee (RPIC) heard a presentation on the requested amendment to TRPA’s adoption of the Tahoe Area Plan for informational purposes only.

March 8, 2023. The Advisory Planning Commission held a hearing on the requested amendment and failed to pass a motion to recommend approval of the required findings.

March 22, 2023. The RPIC partially recommended approval of the requested amendment to include single-family condominiums as an allowed use in Special Area 1 but limited its approval to only include two parcels within the regulatory zone (APN 132-231-09 and 132-231-10). RPIC included a recommendation to consider allowing single-family condominiums as an allowed use for the remainder of the Special Area 1 regulatory zone only after further defining mixed-use zoning and incentives for affordable housing. Please note that Washoe County Commissioner Hill voted against the motion to modify the amendment as adopted by the Board. The TRPA staff recommendation addresses RPIC’s concerns by defining mixed-use zoning and incentives for affordable housing in mitigation measures attached to the ordinance.

**PUBLIC INPUT RECEIVED**

Public comment included a mix of both support and opposition for the amendment. Many of the comments focused on a specific project, known as “Nine 47 Tahoe Condo”, recently approved by TRPA for new construction as a multifamily dwelling development in June of 2022. The subject area plan amendment would apply to the entire Special Area 1 of the Incline Village Commercial regulatory zone. The analysis required for the requested amendment is for the addition of single-family dwellings as an allowable use for IV-C, Special Area 1 only, provided that: (1) the use is associated with an approved tentative subdivision map for multifamily use; and (2) the use is part of a mixed-use development or the single-family dwelling units are affordable housing units. Proposed TRPA mitigation measures further define the above stated requirements.

### **CONCLUSION**

Washoe County believes all findings can be made to approve the proposed area plan amendment and that the amendment will support and further the aims of the Tahoe Area Plan and the Regional Plan. It is requested that the Governing Board approve the proposed amendment in its entirety and without substantive modifications.

Attachment C  
Revised Ordinance 2023-\_\_

TAHOE REGIONAL PLANNING AGENCY  
ORDINANCE 2023-\_\_

AN AMENDMENT TO ORDINANCE NO. 2021-06 TO ADOPT  
TAHOE AREA PLAN AMENDMENTS

The Governing Board of the Tahoe Regional Planning Agency (TRPA) does ordain as follows:

Section 1.00 Findings

- 1.10 It is desirable to amend TRPA Ordinance 2013-05 by amending the Tahoe Area Plan to further implement the Regional Plan pursuant to Article VI (a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 The Tahoe Area Plan amendments were the subject of an Initial Environmental Checklist (IEC), which was processed in accordance with Chapter 3: *Environmental Documentation* of the TRPA Code of Ordinances and Article VI of the Rules of Procedure. The Tahoe Area Plan amendments have been determined, with mitigation, not to have a significant effect on the environment and are therefore exempt from the requirement of an Environmental Impact Statement (EIS) pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) and the Governing Board have each conducted a noticed public hearing on the proposed Tahoe Area Plan amendments. At these hearings, oral testimony and documentary evidence were received and considered.
- 1.40 The Governing Board finds that the Tahoe Area Plan amendments adopted hereby will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.50 Prior to the adoption of these amendments, the Governing Board made the findings required by TRPA Code of Ordinances Section 4.5, and Article V(g) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 TRPA Code of Ordinances Amendments

Ordinance 2021-06 is hereby amended by amending the Tahoe Area Plan as set forth in Exhibit A subject to mitigation measures set forth in Exhibit B.

Section 3.00 Interpretation and Severability

The provisions of this ordinance amending the TRPA Code of Ordinances adopted

hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Regional Plan Package shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Regional Plan Package are hereby declared respectively severable.

Section 4.00    Effective Date

The provisions of this ordinance amending the Tahoe Area Plan shall become effective on adoption.

PASSED AND ADOPTED by the Tahoe Regional Planning Agency Governing Board at a regular meeting held on \_\_\_\_\_, 2023, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

\_\_\_\_\_  
Cindy Gustafson, Chair  
Tahoe Regional Planning Agency,  
Governing Board

Exhibit A to Attachment C  
Amendments to the Washoe Tahoe Area Plan

**EXHIBIT A**

**AMENDMENTS TO THE WASHOE TAHOE AREA PLAN**

The proposed text amendment is shown in Bold **Red**.

**Section 110.220.145 Incline Village Commercial Regulatory Zone.**

<b>INCLINE VILLAGE COMMERCIAL REGULATORY ZONE</b>		
Allowable Land Uses by Land Use Classification	Land Use Permit	Density
<b>Residential</b>		
Employee Housing	A	Based on other residential use densities
Multiple Family Dwelling	S	15 units per acre minimum  25 units per acre maximum
Multi-Person Dwelling	S	25 people per acre
Nursing and Personal Care (Section 110.220.410)	S	40 people per acre
Residential Care (Section 110.220.410)	S	40 people per acre
Single Family Dwellings	S	1 unit per parcel + 1 accessory dwelling where allowed by Section 110.220.85
<b>Tourist Accommodation</b>		
Bed and Breakfast Facilities	A	5 units per site
Hotels, Motels and Other Transient Dwelling Units	A	40 units per acre
Timeshare (Hotel/Motel Design)	S	Based on hotel, motel and other transient use densities set forth above
Timeshare (Residential Design)	S	Based on hotel, motel and other transient use densities set forth above
<b>Commercial</b>		
Auto, Mobile Home and Vehicle Dealers	A	
Building Materials and Hardware	A	
Eating and Drinking Places	A	
Food and Beverage Retail Sales	A	
Furniture, Home Furnishings and Equipment	A	

General Merchandise Stores	A	
Mail Order and Vending	A	
Nursery	A	
Outdoor Retail Sales	S	
Service Stations	A	
Amusements and Recreation Services	S	
Privately Owned Assembly and Entertainment	S	
Outdoor Amusements	S	
Animal Husbandry Services	A	
Auto Repair and Service	S	
Broadcasting Studios	A	
Business Support Services	A	
Financial Services	A	
Contract Construction Services	A	
Health Care Services	A	
Laundries and Dry Cleaning Plant	A	
Personal Services	A	
Professional Offices	A	
Repair Services	A	
Sales Lot	S	
Schools – Business and Vocational	A	
Secondary Storage	S	
Food and Kindred Products	S	
Fuel and Ice dealers	S	
Industrial Services	S	
Printing and Publishing	A	
Small Scale Manufacturing	S	
Storage Yards	S	
Vehicle and Freight Terminals	S	
Vehicle Storage and Parking	S	
Warehousing	S	
Wholesale and Distribution	S	
<b>Public Service</b>		
Churches	A	
Collection Stations	S	
Regional Public Health and Safety Facilities	S	
Health Care Services	S	
Cultural Facilities	A	
Day Care Centers/Preschools	S	
Government Offices	A	
Hospitals	A	
Local Assembly and Entertainment	A	
Local Post Office	A	
Local Public Health and Safety Facilities	A	
Membership Organizations	A	

Publicly Owned Assembly and Entertainment	S	
Pipelines and Power Transmission	S	
Schools – Kindergarten through Secondary	A	
Social Service Organizations	A	
Threshold-Related Research Facilities	S	
Transit Stations and Terminals	S	
Transportation Routes	S	
Transmission and Receiving Facilities	S	
Recreation		
Day Use Areas	A	
Participant Sports Facilities	A	
Outdoor Recreation Concessions	S	
Recreational Centers	A	
Riding and Hiking Trails	S	
Sport Assembly	S	
Visitor Information Centers	S	
Resource Management		
Reforestation	A	
Sanitation Salvage Cut	A	
Thinning	A	
Tree Farms	A	
Early Successional Stage Vegetation Management	A	
Nonstructural Fish Habitat Management	A	
Nonstructural Wildlife Habitat Management	A	
Structural Fish Habitat Management	A	
Structural Wildlife Habitat Management	A	
Fire Detection and Suppression	A	
Fuels Treatment	A	
Insect and Disease Suppression	A	
Sensitive Plant Management	A	
Uncommon Plant Community Management	A	
Erosion Control	A	
Runoff Control	A	
Stream Environment Zone Restoration	A	
INCLINE VILLAGE COMMERCIAL REGULATORY ZONE SPECIAL AREA 1		
Allowable Land Uses by Land Use Classification	Land Use Permit	Density
Residential		
<b>Single Family Dwelling*</b>	<b>A</b>	<b>1 unit per parcel</b>
Multiple Family Dwelling	A	15 units per acre minimum  25 units per acre

Employee Housing	A	Based on other residential use densities
Nursing and Personal Care (Section 110.220.410)	S	40 people per acre
Residential Care (Section 110.220.410)	S	40 people per acre
<b>Commercial</b>		
Building Materials and Hardware	S	
Eating and Drinking Places	A	
Food and Beverage Retail Sales	A	
Furniture, Home Furnishings and Equipment	A	
General Merchandise Stores	A	
Mail Order and Vending	A	
Nursery	A	
Outdoor Retail Sales	S	
Service Stations	S	
Privately Owned Assembly and Entertainment	S	
Broadcasting Studios	A	
Financial Services	A	
Health Care Services	A	
Personal Services	A	
Professional Offices	A	
Repair Services	A	
Schools – Business and Vocational	A	
Printing and Publishing	S	
<b>Public Service</b>		
Churches	A	
Cultural Facilities	A	
Day Care Centers/Preschools	A	
Government Offices	A	
Local Assembly and Entertainment	A	
Local Post Office	A	
Local Public Health and Safety Facilities	A	
Membership Organizations	A	
Publicly Owned Assembly and Entertainment	S	
Regional Public Health and Safety Facilities	A	
Social Service Organizations	A	
Pipelines and Power Transmission	S	
Threshold-Related Research Facilities	S	
Transit Stations and Terminals	S	
Transportation Routes	S	
Transmission and Receiving Facilities	S	

**INCLINE VILLAGE COMMERCIAL REGULATORY ZONE SPECIAL AREA #2**

Allowable Land Uses by Land Use Classification	Land Use Permit	Density
<b>Commercial</b>		
General Merchandise Stores	A	
Mail Order and Vending	A	
Building Materials and Hardware	S	
Eating and Drinking Places	A	
Food and Beverage Retail Sales	A	
Furniture, Home Furnishings, and Equipment	A	
Professional Offices	A	
Broadcasting Studios	A	
Schools – Business and Vocational	A	
Financial Services	A	
Health Care Services	A	
Printing and Publishing	S	

**INCLINE VILLAGE COMMERCIAL REGULATORY ZONE SPECIAL AREA #3**

Allowable Land Uses by Land Use Classification	Land Use Permit	Density
<b>Public Service</b>		
Churches	A	
Collection Stations	S	
Regional Public Health and Safety Facilities	S	
Health Care Services	S	
Cultural Facilities	A	
Day Care Centers/Preschools	S	
Government Offices	A	
Hospitals	A	
Local Assembly and Entertainment	A	
Local Post Office	A	
Local Public Health and Safety Facilities	A	
Membership Organizations	A	
Publicly Owned Assembly and Entertainment	S	
Pipelines and Power Transmission	S	
Schools – Kindergarten through Secondary	A	
Social Service Organizations	A	
Threshold-Related Research Facilities	S	
Transit Stations and Terminals	S	
Transportation Routes	S	
Transmission and Receiving Facilities	S	
<b>Resource Management</b>		
Reforestation	A	
Sanitation Salvage Cut	S	
Thinning	A	
Tree Farms	A	

Early Successional Stage Vegetation Management	A	
Nonstructural Fish Habitat Management	A	
Nonstructural Wildlife Habitat Management	A	
Structural Fish Habitat Management	A	
Structural Wildlife Habitat Management	A	
Fire Detection and Suppression	A	
Fuels Treatment	A	
Insect and Disease Suppression	A	
Sensitive Plant Management	A	
Uncommon Plant Community Management	A	
Erosion Control	A	
Runoff Control	A	
Stream Environment Zone Restoration	A	

**\*Only allowed when associated with an approved tentative subdivision map of a multifamily structure or structures into air space condominiums. Subdivision of a mixed-use structure or structures shall be subject to additional TRPA mitigation measures. Please see TRPA Ordinance 2023-\_\_.**

**Section 110.220.150 Incline Village Commercial Regulatory Zone Special Policies.** The following special policies will be implemented in the Incline Village Commercial Regulatory Zone.

- a. The Incline Village Commercial Regulatory Zone includes the following special designations as defined in TRPA Code of Ordinances Section 11.6.3, *Special Designations*:
  - (1) Preferred Affordable Housing Area
  - (2) Scenic Restoration Area
- b. Parking areas should be developed taking access from local streets such as Alder Avenue and Incline Way.
- c. Single family dwellings shall only be allowed in the Incline Village Commercial regulatory zone when they are part of a mixed-use development or when they are affordable housing units.**

Exhibit B to Attachment C  
Mitigation Measures to Ordinance 2023-\_\_

**EXHIBIT B**  
**MITIGATION MEASURES TO ORDINANCE 2023-\_\_**

The following mitigation measures shall apply to TRPA subdivision approval of a mixed-use structure or structures in Special Area-1 of the Incline Village Commercial Regulatory Zone:

1. Structure(s) shall be designed to accommodate pedestrian-oriented non-residential uses on the ground floor street frontage at a minimum average depth of 40 feet, but in no case less than 25 feet, for a minimum of 60 percent of the ground floor frontage. Adjustment to the location of pedestrian frontage can be approved administratively if site conditions (e.g., slope, lack of right-of-way, etc.) prevent placing it on the street. The mixed-use structure(s) shall have a maximum floor area ratio (FAR) 1.3 not subject to density limits. Unoccupied areas such as basements, parking garages, stairs, and elevator shafts shall be excluded from the FAR calculation.
2. Permissible pedestrian-oriented non-residential uses include, but are not limited to, retail, restaurant, personal services, office, and entertainment uses. Lobbies, gymnasiums, sales offices, management offices and leasing offices may be included if they are open to the public.
3. Structure(s) shall include deed-restricted residential units. Deed-restricted units shall be substantially similar to the project's market rate mix of units, size, and design of units. However, two or more affordable deed-restricted studio units may be substituted for any required larger deed-restricted unit if the combined square footage is similar. In addition to the above stated requirements, deed-restrictions shall meet one of the following alternatives:
  - a. No less than 10 percent of residential units or at least one unit, whichever is greater, shall be deed-restricted affordable or a mix of affordable and moderate-income housing. Where there is an even number of deed-restricted units, affordable and moderate-income housing may be deed-restricted on a 1:1 basis. Where there is an odd number of deed-restricted units, the majority shall be deed-restricted affordable. Deed-restricted units may be built on site or elsewhere within Special Area-1. Deed-restricted units must be built before or concurrently with market rate units.
  - b. No less than 10 percent of residential units or at least one unit, whichever is greater, shall be deed-restricted achievable units. Deed-restricted units must be built concurrently on site. An offsite parcel in Special Area 1 with an equal or greater unit capacity, less any mixed-use space on the first floor, as the project site must be deed-restricted affordable. After building the full unit capacity of affordable housing units on the offsite parcel pursuant to this subsection, TRPA shall, upon the developer's request, release the achievable units from the deed restriction.
4. No TRPA minimum parking requirement. Parking and vehicle access shall be designed to limit conflict with pedestrian circulation along the ground floor frontage.
5. No more than 20 linear feet of the street-fronting façade may be blank or featureless.

6. The ground floor and street frontage shall be designed to promote pedestrian accessibility such as transparent façade, ground floor ceiling height no less than 10 feet, pedestrian-oriented street-facing entry, sidewalks, and other pedestrian improvements.

These requirements shall apply until TRPA adopts an amendment to the Code of Ordinances defining and setting minimum standards for mixed-use development at which time the Code shall apply, and requirements 1, 2, 5, and 6 shall be automatically repealed. Subdivision of structures receiving a mixed-use permit from TRPA on or before June 30, 2023 within Special Area 1, are not required to comply with items 1, 2, 5, and 6, above.