

TAHOE REGIONAL PLANNING AGENCY  
REGIONAL PLAN IMPLEMENTATION COMMITTEE

TRPA/Zoom

March 22, 2023

**Meeting Minutes**

CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Hoenigman called the meeting to order at 12:00 p.m.

Members present: Ms. Aldean, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Settlemeyer

Members absent: Ms. Diss

I. APPROVAL OF AGENDA

Mr. Hester said there are no changes to the agenda but at 12:30 p.m. to maintain a full quorum of the Governing Board, they've asked that this meeting be recessed to 2:00 p.m. if it's not finished.

Mr. Hoenigman deemed the agenda as posted.

II. APPROVAL OF MINUTES

Ms. Aldean provided a few clerical changes to Ms. Ambler and moved approval of the February 22, 2023, minutes as amended.

**Motion carried.**

III. Recommendation regarding Proposed 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

TRPA staff Mr. Stock, Ms. Weiche, Washoe County, and Mr. Feldman on behalf of Nine 47 Tahoe provided the presentation.

Mr. Stock said Washoe County is requesting an amendment to the Tahoe Area Plan which covers the entirety of Washoe County's jurisdiction in the Tahoe Basin. The amendment would allow single family dwellings limited to condominiums in Special Area 1 of the Incline Village Commercial Zone.

This amendment is being advanced at this time in response to the Nine 47 Tahoe Project. This is an approved multi-family project which is seeking approval to subdivide into condominiums. Any decision or recommendation today is not about any specific decision on the Nine 47 Project or any comprehensive policy for short term rentals. It doesn't change development standards regarding height, density or coverage. It just looking at the zoning in this area right now.

Some background on the condominium subdivision process here in Tahoe because it's not like

everywhere else. In the area plan zoning it differentiates between owner occupied condominiums and renter occupied multi-family because the subdivision of land is not permitted in the Tahoe Basin if it increases development potential. However, conversion of existing structures into condominiums is allowed if no further development is created. New structures must be built first before they can be converted into condominiums. This is what they call the two step subdivision process. It starts with an existing structure and then you're able to subdivide that structure.

This amendment focuses on Special Area 1 specifically which is outlined in red on slide four. Recognizing that certain areas have site specific characteristics that differ from the rest of their zone and therefore justify different standards or uses. Special areas can target a specific parcel, or they can target multiple parcels. In the case of Special Area 1, he believes there's 36 parcels, but there is also a Special Area 2 that's just one parcel. Special Area 1 currently allows mixed-use multi-family, but not single-family condominiums. This prohibits subdivision in this area at this time. The County is seeking to add condominiums as a use into Special Area 1 which would then allow subdivision into condominiums.

The Advisory Planning Commission failed to recommend approval with six yes votes, four no votes, and two abstentions. It would have required seven yes votes to recommend approval. APC identified three issues in particular during their discussion. They were concerned that subdivision could increase short term rentals in the area, the definition of mixed-use and affordable housing was too vague, and that the Initial Environmental Checklist should be more thorough in its evaluation of short term rental and housing impacts. The Regional Plan Implementation Committee is being asked to make a recommendation to the Governing Board today regarding this amendment proposal.

(Presentation continued)

Ms. Weiche said this request is to add a single-family dwellings limited to air space condominiums in the Incline Village Commercial Regulatory Zone Special Area 1 and to amend the Section 220.150 which refers to a land use policy that already exists within the Tahoe Area Plan requiring that 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. This would be added as a special policy.

They've followed all the appropriate protocols of through Washoe County and TRPA's processes, public hearings and public outreach.

This would add single-family dwelling as an allowed use with one unit per parcel, with the exception that it is limited to air space condominiums. Text amendment is to an existing land use policy in the Master Plan that requires that it only be allowed in mixed-use development, or when it is a part of an affordable housing project.

This is an applicant driven in requested area plan amendment of the County. Mr. Feldman on behalf of the applicants will address the comments and concerns raised at the Advisory Planning Commission.

(Presentation continued)

Mr. Feldman on behalf of Nine 47 Tahoe thanked Mr. Stock and Ms. Weiche for their work on this.

The Washoe County Planning Commission unanimously approved the proposed amendment to the Washoe County Development Code on November 1, 2022, and the Washoe County Board of County Commissioners approved the amendment on January 17, 2023.

Typically, in urban areas in the basin, they have through the 2012 Regional Plan Update sought to concentrate development in urban areas and typically multi-family and single-family are allowed uses but in this special area, they learned that single-family was not an allowed use, because there was a desire at this end of town not to have lot and block subdivisions.

The prohibition on single-family development, which is unusual within urban areas in either community plans or area plans contain this prohibition, which was not intended to foreclose condominium development. Their research and reaching out to TRPA staff that participated in the adoption of the community plan confirmed that. The original application was to address these parcels but since nothing has happened in over 20 years in this general area, land use policy underlying both the community plan and now the new area plan seeks to promote changes if nothing is occurring, and environmental redevelopment is a desirable objective. They think this request is consistent with the underlying effort to update when stagnation and status quo does not promote environmental redevelopment.

No multi-family development has occurred in this area for twenty-plus years. There's an under supply of residential products across all price points. The legacy prohibition sought to prohibit lot and block as opposed to condominiumization. The only difference is the form of ownership whether it's for rent or for sale.

Land Use Policy, LU 7-1 directs the County to identify barriers which is that nothing has happened in this zone for couple of decades, and therefore, they were not originally proposing the entire special area be rezoned, but it is appropriate to rezone this special area which doesn't have housing within that area.

The benefits of the amendment promote walkability, bikeability, reduce dependence on the automobile, fulfill the area plan vision for concentrated development in the Town Center, increase housing alternatives and deliver an economic infusion with some significant ad valorem property tax as a side benefit.

The environmental impacts for the multi-family project were analyzed and TRPA found that there was a finding of no significant impact. There's no physical difference between multi-family and single-family condominiums. There's been some comments about short term rentals, and they took another look at that. The developer of this project does not have any intention to make it available for short term rentals. Upon further conversation with interested parties, while the original plan was to restrict short term rentals under the CC&Rs, people raised the idea that that could be amended and perhaps that restriction would evaporate. They will deed restrict this project, so short term rentals are not a possibility at this particular location. Most people object to short term rentals because they live next door and don't like the impacts, no one lives next door to this project and is an odd target for a short term rental conversation.

They also looked at what is the vehicle miles traveled consequence of other properties that are developed within the special area which are predominantly commercial. What the traffic engineers have revealed is the least impactful form of development is residential in terms of trip generation. If

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you look at short term rentals which again, could possibly occur, although they understand Washoe County may contemplate a broader ban on it, short term rentals at best are occupied 50 percent of the time. The trip generation from a short term rental is less than the trip generation from an occupied residential unit.

Workforce housing is a shared issue throughout the basin. This amendment does not foreclose workforce housing. They're all familiar with the barriers to workforce housing, and they all recognize that zoning in and of itself is not going to be the panacea for workforce housing. There needs to be incentives and some of the incentives that are in place haven't moved the needle.

It's relevant that within this area, Randy Fleisher, one of the principals in Nine 47 owns three other parcels that have been in conceptual development for workforce housing initiated three years ago. They've engaged consultants, including Praxis Consulting who's the lead tax credit financing advisor in Nevada and Collaborative Design Studio Architect and wants to develop 35 workforce housing units within this area. There's nothing in this amendment that would foreclose workforce housing, the people bringing forth this amendment are actively pursuing workforce housing.

He believes there's 42 parcels within this Special Area 1. On the right hand side, the green area is where the Nine 47 project would be located. The blue section indicates where there's an effort now to develop workforce housing. Outreach has been made to Washoe County to help facilitate advancing that ball, and the only other parcel in the area that's undeveloped is about 1.4 acres, 1.2 of which is outside of a stream environment zone that could support 20 potential new units and 20 potential new units if they were subject to short term rentals would not move the needle in terms of environmental impact or generation of traffic. The short term rental issue from the Nine 47 perspective is off the table, but in terms of the broader impact within this regulatory zone they believe it is less than significant.

This does not foreclose multi-family, it does not preclude workforce housing and commercial development, it does not impact density or traffic, it does not generate environmental impacts and certainly will not result in the proliferation of condominiums within this special area.

There's been significant community outreach, wide-ranging support for the project as well as the amendment from numerous small business owners, leaders in the community, property owners, nonprofits, religious, realtors, HOAs, and local residents. Extensive outreach has occurred with neighborhood meetings, community workshops, websites, fact sheets and more than 70 letters of support. There is a broader recognition that no change is not advancing the goals of either the area plan or the longer range vision of the Regional Plan, and that the supporters understand that environmental redevelopment will help us advance the ball and support both economic and environmental gains.

Presentations can be found at: [Washoe-Tahoe-Area-Plan Special Area 1.pdf](#)

#### Committee Comments & Questions

None.

Public Comments & Questions

Ellie Waller said mixed-use is a type of urban development, urban design, and urban planning. The theme here is urban. We're overlaying Tahoe with theories of urbanization and the Lake Tahoe Basin is unique. It's not protecting the unique environment. The area plan amendments proposed for Washoe and Placer County need extensive environmental analysis not being proposed or required. Another moniker is smart growth. It is urban planning and transportation theory that concentrates growth in compact walkable urban centers. Smart growth is a theory of land development that accepts the growth and development will continue to occur, and so seeks to develop that growth in an intentional way.

Next term used is sustainable development, this is an oxymoron. Part of the problem is that development itself is not consistently defined. Failure programs like the Community Enhancement Program had not a single project achieve its goals in 10 years. One was given benefits without all the requirements. Yes, there was much needed affordable housing which this project is not providing, was built, but did not achieve environmental benefits. Now, area plan amendments are cropping up in every local jurisdiction with new schemes and no data to backup success and are program driven. She believes the Nine 47, Incline Village and Boatworks Mall in Tahoe City are examples.

John Eppolito, a 25 year Real Estate Broker in Incline Village and Kings Beach said the words "prohibition", "stagnation", and "status quo" were used in the presentation. His understanding was that there was a committee that decided that this Special Area 1 would be workforce housing and affordable housing. The words that were used by the presenter were very misleading. He thinks that committee spent a lot of time, they're very concerned about the community, and what they did is just being pushed away by Washoe County and hopefully, not TRPA. Another thing that the presenter said, that is not true, is that there's a shortage of properties at all prices. That's not true. These condominiums are between \$2.5 and \$5 million, there's no shortage of properties in Incline Village up to \$5 million. The shortages are properties below \$1 million, especially single-family condominiums below \$500,000 are almost non-existent. He's not sure how they got 70 letters of support. He thought it was 35 when it was presented at the County. If 35 all had a spouse, they could have gotten up to 70 really quick. Amongst the community members and many of the realtors, this project is not very popular. He guesses, 70 letters of support mostly developers, friends, families, girlfriends, wives, children, maybe you could get to 70. There is a shortage of workforce housing and affordable housing and is what they need in Incline Village. It's disappointing that our representative at the County is not on our side and hopefully you'll be on our side and not lose credibility.

Kristina Hill, Incline Village resident and former TRPA employee said amending the Regional Plan is a big deal. You have to make findings that you comply with the environmental thresholds and the Code of Ordinances. When she worked at TRPA in the early 1980s, they established the environmental threshold standards and those are standards that define the capacity of the natural environment and set specific performance standards related to land use. The goals of the land use element of the thresholds are to promote housing for the workers employed in the region. Two, affordable and moderate income housing should be encouraged, and three remove barriers preventing affordable housing. The proposed amendment doesn't comply with any of these goals, and therefore cannot be found that it complies with the threshold standards of the TRPA.

Washoe County just did a checklist or the environmental analysis of this amendment and finds that

woefully inadequate. The fact that it includes 42 parcels that could now be used for condominiums, and they say that it doesn't prohibit workforce housing, most developers are going to build multimillion dollar condominiums, because it affords them a greater profit. There is a cumulative impact that also has not been analyzed in the environmental checklist. The Advisory Planning Commission also pointed out that we don't want to set a precedent. If this happens here in Incline, it could happen all over the basin, and it's not a good idea for single-family dwelling luxury condominiums to be put into commercial town centers. That's not what TRPA, Washoe County, or what they envisioned when she helped with the implementation of the Regional Plan. Please recommend denial of this proposed amendment at the Governing Board.

#### AFTER RECESS - DETERMINATION OF A QUORUM

Members present: Ms. Aldean, Ms. Gustafson, Ms. Hill, Mr. Hoenigman, Mr. Settlemeyer

Members absent: Ms. Diss

#### Public Comments & Questions

Pamela Mahoney Tsigdinos, author of the Reno Gazette Journal piece and full-time Incline Village resident. You would do a huge disservice to the Incline Village, Crystal Bay workforce by allowing this amendment, as it does not serve the needs of the community. More luxury housing is not what's needed. Housing for First Responders, schoolteachers, service workers are what's missing.

Sadly, this amendment appears to be written in such a way as to allow Washoe County to attract more developers, to create expensive, new trophy properties that will create new property tax revenues and set a new precedent for greater tourism attractions. As the bi-state agency, TRPA has the ability to look at the big picture. Please prioritize the needs of the community, your decisions will have real life consequences on who can make their home and livelihood in the Tahoe Basin. TRPA was created to protect Lake Tahoe, the basin, and its communities, not to be the economic development arm of the Chamber of Commerce and a partner to the developer and real estate industry. You shouldn't simply rubber stamp a major amendment without doing necessary verification of any developers claims. As for further protecting the communities, TRPA is overdue and completing a comprehensive environmental impact study. If TRPA isn't going to be the protector of Tahoe's environment, then this agency should be dissolved so that a new agency can pick up the mantle.

Roxann Aden, full-time resident of Incline Village understands that one of the drivers for this amendment is bringing in a redevelopment investment to the Incline Village Town Center, she's in favor of that. The organization's strong towns, uses the term stroad to describe a problematic stretch of pavement that tries to be both a road which is intended to connect to distant destinations at high speed with a street which is a stretch of pavement that includes many houses and stores, lots of driveways and intersections, and needs to be traveled at a slow speed. Highway 28 in Incline Village is a classic stroad and she supports redevelopment that addresses this. However, the proposed amendment exacerbates other problems. What little workforce housing they have in Incline Village is largely located in this area, and it will be displaced, they believe, along with a number of businesses that serve local needs by what many of them see has the inevitable influx of luxury condos likely to be used as second homes and despite promises to the contrary, also likely to be used as short term rentals. She feels that this amendment which has far reaching impact, has been slid under the door. Public meetings were held focused on Nine 47 Tahoe, with no mention

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that it was not in compliance with current zoning, and no suggestion that the entire area would be rezoned. Their bad for being distracted by shiny objects, but at this point a good outcome requires that they reboot discussions and develop plans that address the loss of housing and businesses that serve local needs, then fix the darn street.

Mr. Hoenigman said this is about recommendation to the Board, and there will be another opportunity for public comment when the Board takes up this issue in the future.

Kathy Julian said the 2021 Tahoe Area Plan reflected extensive community input prior to approval. This proposed code amendment to the Tahoe Area Plan does not. There has been insufficient community consultation. The August 22, 2022, public consultation focused on the luxury condominium project, not the broad reaching implications of the code change. The objective of jumpstarting the redevelopment of their town center was not the focus of that consultation. It's clear from the staff report that this amendment is not a one condominium complex, it's about incentivizing the owners of the other 40 parcels in Special Area 1 to develop a redevelop existing parcels. The objective stated, these properties housed among others, are locksmiths, coffee shops, nail salons, plant nursery, convenience store, and a multitude of modest restaurants. While Tahoe Boulevard would benefit from some redevelopment, any redevelopment should be consistent with the 2021 Plan which considered Special Area 1 a preferred area for affordable employee housing. Any redevelopment of older properties into condominiums should factor in the concerns of many many small businesses that will be forced to relocate. These inevitable impacts on small business have not even been acknowledged. She also agreed that the code amendment appears not to comply with the housing sub element of the thresholds land use element and its goals for affordable housing.

To respond to the points put forth by the applicant's representative, it is not correct that the prohibition on condominiums was not well thought through. During the consultation for the Tahoe Area Plan in 2020 and 2019, the community participated and remembered that was the objective. The mixed-use definition is not just vague, it doesn't exist. Regarding short term rentals, it will be a problem in this area. The County should go back to the drawing board and come up with something that works to protect housing as well as these small businesses.

Ronda Tycer, 32 year resident of Incline Village said they all know that your board decision today has less to do with Nine 47 than with preserving Incline Villages commercial core. Many will speak today about Nine 47 but don't take the bait. Today, you aren't deciding anything about Nine 47 or any specific project. Your decision is solely whether or not to amend the Washoe Tahoe Area Plan for all developers in the foreseeable future. The plan change might look insignificant to some of you, but what might it mean to local Incline businesses? Special Area 1 encompasses 42 parcels, most with buildings, most housing businesses, and most of these businesses are small. How would the amendment affect the many Christmas Tree Village small business owners if a luxury condominium developer bought their building and forced them out. Or what if the current owner raised their rent because a luxury condominium development across the street caused property values to be reassessed?

The long term residents want redevelopment, but not at the expense of our small business community.

If you're in favor of the Nine 47 development, as many of us are, let's look at alternatives to Washoe's desire to change the entire Tahoe Area Plan. If spot zoning or moving the zone line can't

work, what about designating Nine 47 as a TRPA pilot project to assess the actual effects of single-family density condominiums in this commercial area? Let's find out if it's positive or negative before we change the entire Tahoe Area Plan. Thank you for voting against Washoe's reaching plan change.

Judith Miller said please ask yourselves who's our workforce. This isn't Silicon Valley. Our tourism, recreation based economy workforce consists largely of lower-income service industries employees, University of Nevada, Reno students, and seasonal workers who may only live here several months out of the year. Many depend on public transportation. This workforce often cannot afford a car, let alone a down payment on a home. That's why this portion of our commercial core Special Area 1 along the bus route was intentionally limited to apartments. Our community is a bit unusual in that half of the dwelling units here are already condominiums, roughly 4,000 out of the 8,000 homes. They have very few apartments, only about 250, and note that only one apartment in a parcel can be a short term rental. So, a 75 unit complex can only have one short term rental. Before the advent of the hosting sites, Airbnb and VRBO, these condominiums served as the workforce housing. Last count, there were nearly 450 condominiums being used as short term rentals. They don't need more luxury condominiums; they do need housing for our service industry and seasonal workers. Please define the mixed-use term, because currently it will allow 40 condominiums and one 900 and something square foot office. That's not her idea of mixed-use. Please defer the approval of this of this proposed change in the area plan.

Diane Becker, full-time resident of Incline Village said the original Washoe County Community Plans were developed over 12 or more years in conversations and meetings, between Incline Village and Crystal Bay community members, TRPA, and Washoe County staff. On January 26, 2021, the Tahoe Area Plan was developed between TRPA, Washoe County and the Incline Village community members in conversations and public meetings held throughout 2019 and 2020. Those documents highlighted the community need for affordable workforce housing. She referred the members of this committee, the Governing Board, to the sections in the Tahoe Area Plan referencing that this was correct. The proposed Tahoe Area Plan amendment was filed by a single developer because the developer wanted to build luxury condominiums in Special Area 1. Special Area 1 was formerly a commercially zoned area which changed in 2021 to mixed-use, commercial, and multi-family housing that was affordable housing. In response to the community, TRPA, and Washoe County support the need for affordable housing. Why is TRPA even considering changing this important zoning decision without replicating the extensive community involvement, having developed past plans and why would you do a piecemeal amendment process?

The suggestion by the developer that this property has sat stagnant with no residential development for over 21 years, is disingenuous at best since the change to multi-family housing that is affordable housing zoning, only first occurred in January 2021. Remember that 2021 was still pretty occupied with Covid. She urged that you should not take away the one real incentive that they have in Incline Village for affordable housing to be built. By removing the existing limitation in Special Area 1 that multi-family housing with increased height, density, and reduced coverage, be only for the housing if it's for affordable housing. Other areas outside the Town Center for those of you who don't recall, do not have increased height, density, and reduced coverage, that was only put in in January 2021 to encourage affordable and workforce housing.

Carole Black agreed with the other commenters. Housing is a component of the land use design in TRPA's Regional Plan, Thresholds, Housing Element HS-1, 2, & 3 as well as the recently adopted Tahoe Area Plan. The focus included addressing workforce housing, and quoting Ms. Regan's recent



report, identifying policy changes that make affordable housing options more feasible and give these projects an advantage over market rate homes. The proposed code change will drive the exact opposite of the desired results and should not be approved. Such a code change requires much more process and thought than she thinks has gone into this. It will result in expensive condominiums, too expensive for the workforce at \$2.5 million plus or \$9,000 a month estimated for rent on precious town center parcels adjacent to public transport which is counter to much of the other planning that's going on.

She went through the feedback and saw 70 or so comments supporting this. Most of those look like copy, cut, and paste of a statement with one grammatical error in it that was repeated. That does not mimic what you've heard today, or what has been presented in previous meetings. People have sat here, waited on the phone for hours to present their concerns about the community. The proposed zoning changes do not address but undermine the TRPA Regional Plan Threshold objectives and community needs and should not be approved. Also, consider rescinding the prior permit. This is not multi-use, it's craziness.

Chris Wood, Incline Village resident said his concern is that TRPA have some protections to prevent the development of the properties in the Special Area 1 into condominiums that get sold off for \$2.5 million, or whatever the market bears. Looking at the staff report on page 385, and Attachment D with the findings, it appears that a developer can come along like Nine 47 did and get a multi-family dwelling project approved, and then submit a request to break it into condominiums ownership of the air space. That seems to move the ball in the wrong direction as far as it goes, with workforce housing in the area and doesn't make sense. As he reads the information in the staff report, we are going to end up with more projects that seek to make money through selling condominiums at very high prices. There needs to be incentives to give to the developers, to get them a profit margin that they desire to build workforce housing and doesn't see that in any of this documentation here.

Andy Chapman, President & CEO of Travel North Tahoe Nevada, a 32 year, full-time Tahoe resident and an active member of the Incline Village and Crystal Bay communities. He joins the Washoe County staff and Planning Commission in support of this amendment to the Washoe County Tahoe Area Plan to allow single-family condominiums in Special Area 1. This amendment was unanimously approved by the Washoe County Planning Commission and the Washoe County Board of Commissioners, and the staff recommendation moves TRPA forward to achieve the environmental goals of the Regional Plan. There has been extensive due diligence by staff to avoid spot zoning and bring this amendment forward as there's been no substantial redevelopment or reinvestment in Special Area 1 for twenty-plus years. This would end that 20 years of stagnation which has been bad for our business and the environment. Opportunities to vote yes and bring investment, which in turn brings environmental redevelopment and increase economic vitality. The old development code unintentionally carried over from the 1996 Incline Village Community Plan, which unfortunately maintains a status quo. As confirmed by the TRPA planner who worked on the 1996 Community Plan, it was never the intent to leave out SFD forms of ownership. It was never intended to prohibit condominiums only to traditional lot in block subdivisions.

This effort fulfills the goals of the Tahoe Area Plan to direct higher density at town centers to reduce traffic, vehicle miles traveled, and create walkable communities. A yes, on this amendment improves the environment, fulfills the area plan by concentrating density into town centers and increases housing opportunity while delivering economic infusion into the community. There are some in our community that would like to maintain the status quo with no improvements to our

region, whatsoever, regardless of the project or its location. There are significant negative environmental impacts of doing nothing. He encouraged the committee to support the staff's recommendation.

Chris King, full-time resident of Incline Village said let's be clear about what this amendment will do. In short, it will destroy the character of our community, and it's easy to see that from the financial incentive that's created here. Nobody is going to do anything other than want to do exactly what's happening at Nine 47 throughout this special district. They'll want to build luxury condominiums and maximize their profits. This is going to wipe out the small businesses, it's going to wipe out any ability to have affordable housing, and workforce housing. A lot of these will be people from the Bay Area or distant areas who don't use these condominiums. They could see this in the redevelopment of all the older homes in Incline Village being torn down, rebuilt, and being sold for \$3 to \$5 million. Consider what the community will look like in 10 to 15 years, it will look like South Lake Tahoe around the casinos and Palisades with enormous luxury condominiums, and a completely transformed community that is nothing like the community that we all love and live in. He urged the Board to vote against this, and to restart the process and get much more community input before moving forward on any changes.

Doug Flaherty said, Washoe County, TRPA and the developer have failed to provide substantial evidence as required by the Bi-State Compact that address or support required findings or rationale, i.e., Chapter 4, Findings, one in the staff report, page 414, that the plan amendment is consistent with applicable TRPA Code of Ordinances, Finding for E, this in connection with the cumulative 40 plus parcel cutting of east side forest trees, greater than 24 inches in diameter. Of which the cutting of the trees over 24 inches on eastern slopes requires compliance with the TRPA Code of Ordinances set forth in the Regional Plan. Further, the environmental checklist finding 4.G does not provide sufficient information to fully assess the proposed code amendment regarding the impacts of 40 plus parcel eastern forest tree cutting of trees over 24 inches in diameter therefore, an environmental assessment is required for the Code to properly assess this impact. There are other failures on the environmental checklist that he's noted where there's a lack of substantial evidence to substantiate the findings. In this case, the environmental assessment is required for the 40 parcel cumulative impact as a result of the proposed area plan amendments. Currently, the environmental assessment is arbitrary, capricious, highly controversial and if TRPA accepts this finding without a minimum environmental assessment to determine its cumulative effects on old growth eastern forest trees within Special Area 1, TRPA will be practicing prejudicial abuse of discretion. He submitted written comments with more detail.

Helen Neff Incline Village resident submitted written comments. She's not against intelligent smart development, or well-planned redevelopment. She's asking this committee to provide the residents of Incline Village with answers on two critical and practical points. One, how does this proposed amendment give Incline Village a walkable town center, as mentioned numerous times in the supporting documents as a reason to allow air space condominiums when our main street, State Route 28, is not safe for pedestrians. Adding air space condominiums does not make our town center walkable. It's not safe to walk now, and it will not be safe until realities including speeding traffic and F rated intersection, sidewalk design, lack of bike lanes, and too many intersection driveways are corrected. The second point is, what is a mixed-use development? Washoe County Planning Commissioners, Washoe County Board of Commissioners, TRPA, the Advisory Planning Commission members have all asked this question relating to this amendment as far back as November 1, 2022, and the question has not been answered. Until this question is answered and

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made part of the Washoe County code, it will be open to interpretation by developers, planners, residents who undoubtedly each have a different definition. She can envision a walkable, mixed-use town center with a safe main street, but this amendment will not achieve that.

Alex Tsigdinos, full-time resident of Incline Village urged the committee not to approve this proposed amendment. Changes the zoning over the entirety of Special Area 1 which is meant for commercial and affordable housing uses, and it's contrary to that designation. This complex is already being marketed, and you'll see on the website how they position it. The developer's presentation grossly underestimated the community's concern over short term rentals as well as their impact. Senator Rosen's office puts the short term rental impacts at 5 to 10 times that of owner occupied residence in terms of vehicular traffic and environmental impact. His fear is this 40 condominium complex will become a giant clerk less hotel. If approved, a deed restriction against short term rental use in the amendment would be highly advantageous. The Washoe County Commissioners recommended passing this. Note that all of them live in Reno/Sparks area outside of the Tahoe Basin.

Gavin Feiger, League to Save Lake Tahoe said project driven amendments are not the comprehensive planning we need to achieve the Regional Plan. The proposed amendment aims to make a zoning change for a project that's not needed. The zoning change itself doesn't align with the Regional Plan goals and won't help achieve Regional Plan Performance Measures and benchmarks. In fact, it might well set us back. Goals and policies are integral aspects of planning documents. They are a result of a lot of discussion and thoughtfulness, and they need to be a large part of the decision making process. The projects representative identified a single area plan policy that might justify the zoning change, that's cherry picking. The area plan has at least one overarching goal and six to eight policies that would not support this change. The Regional Plan, which area plans are incorporated into as they're developed and amended, also has overarching goals and policies around housing that area plans must adhere to. Of the three goals and eight policies concerning housing in the Regional Plan, not a single one supports this zoning change. The Advisory Planning Commission declined to recommend this area plan amendment and encouraged the Regional Plan Implementation Committee to also not recommend approval.

Beth Davidson, full-time resident of Incline Village said this amendment would dramatically change this community and would not be a benefit at all. The applicant said that there's been no redevelopment in the last 20 years. They currently have a new grocery store going in, a Starbucks, and related buildings that have been built on the corner, not well designed frankly, in terms of parking. Perhaps that was hastily implemented. But certainly, providing more condominiums in the middle of town does not make this a walkable community. During the break today, she walked from her home at McCloud condominiums, and would have walked to Raley's but couldn't do that because Washoe County has not yet plowed the pathways around Incline Village. Washoe County needs to take care of the current capacity that it's responsible for instead of asking for more capacity which this zoning amendment would do so. Please reject that amendment.

Tobi Tyler, Tahoe Area Group of the Sierra Club said TRPA's Town Centers have been designated to allow affordable housing and multi-family dwellings near public transportation. These town centers allow higher density, coverage, and height than other areas without addressing the real need for affordable housing. The condominiums at Nine 47 Tahoe Boulevard are not affordable, but rather start at \$2 million per unit. They are opposed to this code change which will lessen the probability of affordable housing and a walkable community without sufficient community input as well as

increase in height and density of structures. Increased density, height, and coverage without a cumulative impacts analysis and without any true workforce housing puts the entire community at risk in the event of an evacuation because of fire or other disasters. It also increases air and water pollution because of increased fossil fuel bikes, cars, boats, and snowmobiles that come with increased density. Approval of this plan does not extend any environmental goals and will cause significant environmental impacts. These continued giveaways to luxury developer proponents, without analyzing cumulative impacts of increased population and associated environmental impacts must be stopped until a thorough cumulative analysis is done. TRPA was created to look at the big picture and protect the environment. Read the Bi-State Compact and start implementing what you were created for and stop the giveaways to the highest bidders.

Denise Davis, Incline Village resident, said Mr. Feldman stated his research found no reason for the omission of single-family dwellings. Eric Young, Washoe County Senior Planner, stated the same at the March 8, 2023, Advisory Planning Commission meeting. There were reasons, it is not an oversight or omission. She and other community members attended workshops and meetings in 2019 regarding the development of the Washoe County Tahoe Area Plan. There were specific discussions regarding reserving this area for workforce housing. Apparently notes from those workshops and meetings are not available. Community members spent a lot of time and effort on the area plan. Now, those efforts are being minimized and disregarded. This amendment is especially ironic in light of the need for workforce housing, and the work currently underway to increase the availability of it. Her opposition is to the amending of the Washoe County Tahoe Area Plan and is not in regard to the proposed project that seems to have started this process. It seems the project backers were misinformed at the start of their effort, but the solution is not to amend the area plan.

Hang T, 16 year resident of Incline Village and five year nail salon owner supported the area plan amendment to bring the condominium form of ownership to Special Area 1. Her salon is within walking distance of the proposed development. It is very important you hear from us who are working and running a business. Allowing the condominium ownership, they can benefit from much needed investment into the local economy at Lake Tahoe.

Ann Nichols, North Tahoe Preservation Alliance, 51 year Real Estate Broker said there's a big difference between condominiums, air space, side by side, and multi-family. For a multi-family you can't ask as much money because typically they're not as big. They're seeing some 5,000 to 6,000 square foot condominiums in these projects. It's a difference in kind, it's not in degree. It's a big deal. This two-step process where you can do multi-family and immediately make them into condominiums, the TRPA has allowed this for years. It's a mistake and self-inflicted wound. It's one of the reasons why we have no affordable workforce housing. You have to stop doing this. Please deny this, it's a far reaching change, and it's a terrible precedent and we're going to be condominiumized.

Lawrence Wodarski is in support of the Plan Amendment. He's the owner of a property management company that's been serving the Incline Village community for 43 years, providing commercial property management and maintenance, HOA management, and long-term rental management services. They do not engage in short term rentals. They maintain and assist in the management of the three largest shopping centers in the Village and is in constant communication with the tenants of these centers, all of which, except for two, are small locally owned businesses. The feedback that they received most frequently from our small business tenants is the need for an increase in

residents who have a stake in the community. When the tourist seasons end, these businesses only have local residents to support their businesses. The community has the need and the capacity to absorb an increase in the resident population and having additional living units on our main street within walking distance of the so-called town center, would be a positive addition to our community. With respect to affordable housing, from an economic standpoint he and others believe that there are other potentially suitable locations in the Village for modest and affordable housing and thinks everyone understands our community needs both. Please vote yes on the plan.

Chuck Butler, property owner in Special Area 1 in Incline Village supported this amendment, to allow for the addition of single-family condominiums, as it was unanimously approved by Washoe County. There's been significant local support for this project. There's been almost 900 inquiries about the project in a positive way, of which one third were directed by basin area residents or brokers representing those residents who weren't able to purchase their ideal home at the time due to a lack of options. They believe that this would promote an end to the 20 year stagnation that has occurred here with the under development of the area. The point of these plans is to drive density into central areas to promote walkability and responsible environmental planning. It has not happened. That is not a function of condominiums not being there, it's a function of these other options to not have what's necessary to truly make them occur. Condominiums would increase the tax base by approximately two million dollars. Those funds could be used to support and augment affordable housing options in a real manner. They are sympathetic to the issues of affordability and short term rentals. Nine 47 will be deed restricted and they are doing that to show their commitment. In addition to affordability, they've analyzed the last eight affordable projects in Washoe County and are very familiar with what's necessary with is why they've undertaken a project in Adler which is on the edge of the area and are excited that it will deliver 47 affordable units. It's being done in a public private partnership and is the way to go about it.

Royal Kuckhoff, Incline Village resident since 1970 said thank you for your environmental review of the outdated development code to amend the area plan to allow the condominium ownership at the Special Area 1 location. He supported the Washoe County Tahoe Area Plan Amendment to allow single-family condominiums in Special Area 1 of the Incline Village Commercial Regulatory Zone. He supports this amendment because Incline Village needs to attract investment, help our lake economy, and community. Let's end this stagnation going on in our community for more than 20 years, several parcels within the Special Area 1 have been dormant, including these two. There's a reason why nothing is happening here. Let's update the old development code. A yes vote on this amendment will bring much needed investment to improve Lake Tahoe's clarity, environment, and economy. It concentrates development in a town center, walkable communities with direct access to bike and trails, reduces dependence on autos and parking demand, upgrades stormwater controls, significantly reduces trip generation and vehicle miles traveled. This amendment is needed. Condominium owners do not want short term rentals, deed restrictions have already been spoken to. This location will never have workforce housing. Research shows workforce housing is needed at all income levels. A yes vote aligns the community plan, area plan, and regional plan to concentrate development in town centers and create walkable communities. Dozens of people have taken the time to send their letters of support to this amendment. They represent a diverse group of community residents and hope you'll listen to those of them who are part of the solution, and want to improve our community, to raise our families and have full-time jobs. Please vote yes.

Scarlett Martin full-time resident since 2012, said she keeps hearing on the pro side that there's 20 year lack of development and stagnation. The most recent area plan was done in 2021. They spent a

lot of time and effort going through it and decided they're reasonable trade-off was increased density and increased heights in the middle of Incline Village so that they could hopefully get some multi-family housing, and the idea is that it would be mixed-use. Mixed-use from where she's originally from, typically mean something like underground parking, first level retail, possibly second level offices, or apartments or condominiums. She's not so much condo versus apartment because you can own a condominium and rent it out. It's supposed to be mixed-use and the idea that Nine 47 is "mixed-use" because the 40-42 units also have under 1,000 square foot administrative office. That's ludicrous. That's not what anybody means when they say mixed-use. Please start over and if you're going to vote for this, at least make clear what is mixed-use.

Mr. Hester said there are five options. One, the Regional Plan Implementation Committee can recommend denial to the Governing Board; two, they can recommend approval; three recommend approval for only a limited part of the area, dividing it geographically; four, recommend changes that need to be made prior to the approval; and five, they could do a combination of geographic area and changes.

#### Committee Comments & Questions

Ms. Gustafson said she with her position on the TRPA Board, she tries to honor what the local agency, local government, her counterparts in local government have done, and what their recommendations are. She does have concerns about this one. She's spoken with Ms. Hill to share some of those. One is 925 feet of commercial floor area is a very minimal amount of mixed-use and remain concerned that if that minimal amount is truly mixed-use, is it just residential condominiums. Her experience with residential condominiums in a town center or in a more urbanized area, ends up creating conflicts. The owners often want the businesses to shut down early. They don't like the noise they if there's a bar restaurant nearby, they start complaining. That's advice from other areas where they've had residential units. On the flip side, it takes residential investment in order for us to have the financing to make other projects work.

There is no doubt, development in Tahoe is so very costly that without that incentive, they don't see the improvements they need. How do they find that right balance? As one Governing Board member, she wants to honor what the Washoe County Commission has debated on this, at the same time, she has a role to play on the broader region where this could be precedent setting for other jurisdictions too. She thinks short term rentals do belong in these areas and not in other areas. She hates to see that you won't have like hotel and visitors that are on the street front walking to these businesses, because there is so much of Incline Village and most of our communities don't have year-round residents anymore. And just because these are built as single-family condominiums, they probably will be vacant quite a bit at the time, and that doesn't help the town center with commercial vitality. She's torn on this. She'd like to hear more about the improvements that the development will make. Will they be building sidewalks and pedestrian walkways, was that a requirement on the initial project? What are some of the other improvements to this area?

She would tend to lean on a modified approach to this, and get it to the Board for more discussion, because she does feel like changing all the zoning for that whole area could be problematic, and that we all know single-family homes and condominiums are the highest and best use for a developer. So, as properties change, they'll all want to go to that, commercial does not make sense in Tahoe right now and doesn't make retail sense in a lot of areas of our country. It is a challenge to keep commercial services and professional businesses in our communities.

Mr. Feldman on behalf of Nine 47. First, the project will deliver in its front edge the segment of multi-use trail and is responsive to the connectivity component. With respect to mixed-use, Ms. Gustafson raised a great point, and not a point lost on the developer. At this particular location, a lot of thought went into what has been perceived as a minimal inclusion of mixed-use. For example, that there is no multi-family adjacent to this location. Multi-family has been an allowed use since the community plan was developed in 1996 and nothing has been developed. Therefore, there is not a lot of mixed-use around to support neighborhood retail which is why commercial condominium office which would not conflict with the residential component, has been incorporated to satisfy the mixed-use component. In addition, to which it is the least generative of trips and people have expressed concern with the amount of traffic at this location and that seemed to be the way to balance the interests.

There's also enhanced stormwater protection. The current 20 year, 1 hour storm requirements for a site that has been dormant since it was a gas station, very high trip generator and a restaurant which has since been demolished.

Ms. Gustafson said she knows what Placer County does in requiring contributions to affordable housing from new development, does Washoe County have such a program?

Ms. Hill said no, Washoe County does not have that. They are working through the Washoe Tahoe Housing Partnership with the Tahoe Prosperity Center to come up with incentives for the Tahoe Area Plan for workforce housing. Those are outlined in their area plan as something that they need to do. When she approved their area plan, one of the first things she did as a new board member in 2021, she promised the community they would be coming back with those updates. They had to do a study with the TPC to see how many units they needed and where the problem areas are and what the impacts of the current lack of affordable housing in Incline Village are. That study was done in 2021 and 2022. They've been developing these policies and think that they will come forward to the Board this year.

This policy work takes time. The County has never embarked on this before. She's been pushing for the County Commission to look at workforce housing policies for two years since, and they just tackled that at their strategic planning session in January. It's something that they are behind on but is something that they are moving forward with. They could look at a few like that, she doesn't think that will be the first thing that the Board will probably do, it will probably be more incentive based and less punitive but is something on the table that they are discussing for the future.

Ms. Gustafson asked Ms. Hill how much public comment was received at the Washoe County Board of Commissioners meeting when they approved it.

Ms. Hill said they didn't receive a lot of public comment, and mainly because they don't do virtual public comment at the County Commission. People have to drive to Reno and is harder for folks to go to. It was under 20 and less public comment than they received today. She's heard loud and clear developer driven amendments are not ideal. But the developer did find this discrepancy, and the County Commission decided you're right, they don't have a problem with condominiums when they are associated with mixed-use and or workforce housing in this special district area, because this is downtown. In order to make these developments pencil, they do understand condominiums are part of that. They plan to come back with minimal areas for commercial development which she's heard from the community. The County wasn't ready to deliver that package and the developer

wanted to move ahead and that is what the developer is choosing to do, and the County is okay with this but certainly moving forward with their own amendments.

Ms. Aldean said there's a suggestion that they should be decoupling the proposed development at this location with the proposed area plan amendment but that's difficult too. As Ms. Hill pointed out, there were some missteps along the way. First, the applicant submitted a special use permit application to build a 40-unit multi-residential project and the Washoe County staff determined that a special use permit was not required because multi-family dwellings are allowed in Special Area 1. Then the applicant submitted a tentative subdivision map only to find out that single-family condominiums were not allowed in Special Area 1 which precipitated the amendments before us today.

As a former member of the Board of Supervisors in Carson City representing the local jurisdiction, she understands Ms. Gustafson's position of wanting to honor the hard work of our fellow commissioners and supervisors, but also wanted to take into consideration the work of our Advisory Planning Commission. Since there's an opportunity for a compromise, her thoughts are to make this a part of a first phase to the amendment to allow this project to proceed, because the developer has been working with County in good faith. She understands the reluctance for spot zoning and am not saying that the rest of the property can't be considered for these use amendments, but that they only do it in phases. This would allow the County in cooperation with TRPA to develop a definition for mixed-use. It would look like something probably beyond 1,000 square feet, depending on the total square footage of the development, and that maybe the County looks at the idea of restricting short term rentals in this Special Area 1. As indicated by Ms. Hill, there's more work to be done and the County is up to the task. They're interested in maybe making some further amendments.

Her compromise would be to approve the amendment as it applies to these two lots which encompass this development proposal and then get back to work to look at some of the outstanding issues related to short term rentals and mixed-use developments.

Ms. Hill said she has a hard time with that proposal because today, they are not looking at one development. They are looking at an area plan amendment and knows that it's hard to decouple it and doesn't think that's her role is to give a developer one thing. It's to look at an entire area which the County Commission thoughtfully did and plans to bring the things back. That's her concern, if you don't like this for the area, they you shouldn't approve it today. But if you do like it for the area, then you should approve it today. It's not necessarily the right thing to be looking at one development in particular. She wouldn't be doing her job to move forward with that. Maybe she needs more thought, and the group could certainly vote for that today and it comes back to the Board, but she wouldn't feel good moving forward with that. Thank you for trying to find a compromise.

Ms. Aldean said she was trying to find something that will address the concerns that have been expressed here today while honoring the work of the Washoe County Commission. Spot zoning is sort of a pejorative term, but it's generally intended to avoid the creation of friction zones. Here, having a multi-family or condominium project adjacent to multi-family adjacent to commercial is not necessarily creating a friction zone, because that's what was contemplated for Special Area 1. It was a mix of uses in the downtown area and understands that there's at least one other parcel in Washoe County that was spot zoned. She doesn't know if it was in connection with a specific development project, or whether it was just deemed to be kind of an extraordinary situation where



the zoning was deemed to be improper.

Mr. Hester said when they looked at that, there's a SA.2 on the map, it's one parcel zoned differently. They also looked at some other projects and there's a list of three other examples of that, one of them is Incline Village 3, one is Mountain Shadows, and one of them is Tyrolian Village. Spot zoning, some states define it and have a law against but isn't the case here, it is pejorative.

Ms. Aldean said there's nothing to prevent us from coming back after they've addressed some of these outstanding issues and looking at the balance of Special Area 1 for similar consideration. We're not closing the door to that as an option in the future. She respects the work of the Advisory Planning Commission, and their concerns are well founded, and doesn't think they can address those concerns here today. Her recommendation to the Governing Board would be to take a look at phasing these changes to the area plan with respect to Special Area 1.

Mr. Settelmeyer said remembering his assembly days, walking the Northwood and Southwood area where this project is and seeing the decline of that area. Actually, knocking on a hotel door where a family was living, and then going to the next hotel door and somebody trying to slip him a package of information and asking me for money. It's not really a good area. Some of these structures are dilapidated.

We're not the last vote because this goes to the Governing Board. Then during that timeframe people have the ability to provide more information to us. He looks at this as the preliminary planning commission type step to bring to the full Board. He's interested in learning more about it, especially as he looks at the areas in relation to Special Area 1 where SA.2 is next to the Incline Village residential units, next to Fairway versus all these other homes, and looking at all the commercial that is currently above Tahoe Boulevard. In that respect, that exist, and trying to get a good feeling of that mixture, trying to figure out if there's a balance but the discussion of compromises always brings me to the concept of, where are we today? Where did they start? And he hasn't really heard that. Where did these properties start 10 to 20 years ago when they started trying to develop them versus the restrictions they've already potentially given away, or what compromises they've made as we continue to discuss more compromise.

For that he would generally look to the local governments that started this process from the beginning to today, where he is just being brought in at this point, and being told to, yay, or nay. To him, it's almost more of an appropriate thing, because he worries that if they continue to discuss compromises, again, he's not sure where this started. He's more inclined on the concept of having it go forward to continue the discussion and get more information from all parties, because he hasn't necessarily weighed in with his counter parts within Washoe County, or the Planning Commission who probably had more than a 20 to 40 minute hearing on this subject.

Mr. Hoenigman said, like Ms. Gustafson, he has mixed feelings about this project and would like to see a compromise solution if one could work but it doesn't sound like that's something that everyone is willing to do. He does think that they need to address the mixed-use issue. He also thinks the short term rentals should be looked at more on county or basin wide way, because this to him is the perfect place to have short term rentals. If you look at the best practices for short term rentals, are documents the consultants they hired to help them figure out our plans around the lake. They recommend trying to get short term rentals in the downtown areas and entertainment districts, and then keeping them out of the neighborhoods where they tend to cause more problems

and more vehicle miles traveled. His biggest concern on this was that by changing this area to allow condominiums will make it much harder to incentivize private development of affordable housing in the future. The big reason that they are all talking about increasing height, density, and coverage is to incentivize affordable housing. By allowing condominiums in this area, they will be pushing up that land price, and will have to go bigger, denser, and more covering to make it so that market rate developers or private developers can create the workforce housing that they want to see in these areas.

The subsidies that they're seeing for affordable housing to get it built publicly in the basin is, the numbers are insane. We're not going to be able to do a ton without getting the private developers in on this and incentivizing them. For this particular project, the mixed-use is fine, it's at the very end of this commercial district, up against open space. It's kind of the end of row and the dregs of retail. As a developer in Southern California, every town makes us build retail, and it's almost always vacant and underutilized because there's way too much retail in the world right now, given the shift to online purchasing. As Ms. Hill said, they have vacancies all over town, it's hard to ask someone in this instance to put in more affordable housing.

On the plus side of this project, it's a choice of recommending approval of 40 luxury homes built in this downtown area. Those luxury homes, those units would probably be built scattered in the forest, where they're not walkable, and they aren't serviceable by transit and would actually produce more runoff and more coverage than if they're built in this configuration. This project has a lot of pluses and minuses to it and would love to see a compromise.

Mr. Settlemeyer asked what happens from here, is this similar to a planning commission session? If this body chooses denial, will it still go forward?

Mr. Hester said yes, it would still go forward.

Mr. Settlemeyer said so, no matter what they decide today, it still goes forward, and then the full Governing Board then has a choice to make the final decision.

Mr. Hester said correct, the Governing Board would make the final decision with all options available. There are the options that if they do something different than what Washoe County's done, Washoe County can then rehear it and change it if they'd like to.

Ms. Aldean made a motion to recommend to the Governing Board to approve the change in zoning for the two parcels that are the subject of this development project in Special Area 1 and move that forward with the understanding that TRPA and Washoe County will collaborate on defining mixed-use. Currently, TRPA doesn't have a mixed-use definition in its Code of Ordinance and presumes that Washoe County probably does but if not, they will collaborate on defining mixed-use. It can be applied for future projects, including possibly the next phase of this development.

Ms. Aldean said there are a plethora of short term rentals, and they hear that every day all around the basin. But the focus has to be on how we can better incentivize affordable housing. She understands and recognizes the concern that this project is going to increase land values which is going to make it doubly difficult for the development of affordable housing possibly in Special Area 1. But she keeps coming back to the commitments that were made to this developer. They have pursued it with diligence and have responded to kind of a changing landscape and doesn't want to

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do anything to impede their progress and this is why she is recommending that we phase this development by at least initially allowing the change in the area plan on these two parcels to allow this development to move forward and then consider these ancillary issues for future consideration of a similar treatment for the balance of the property.

Mr. Marshall said that's direction that you're giving staff to bring that back to the board as the recommendation from the Regional Plan Implementation Committee. His interpretation of the motion is essentially to look at this in a phased manner. The first phase being to recommend the added use of single-family to a subarea of Special Area 1 that consists of the Nine 47 project, and to consider in the future whether to add the use to the remainder of Special Area 1 depending on additional information regarding mixed-use and short term rentals.

Mr. Feldman said Washoe County's amendment was to their development code and not to their mapping. They're endeavoring to commence construction in May which would require this to go back to the Washoe County Planning Commission for a map amendment and then back to the Washoe County Commission, which would effectively cost them a full year in delay. Hindsight's 2020, when they brought this forward to Washoe County, they proposed what Ms. Aldean proposed, and they had a broader vision to incentivize development in the rest of this special area because as Director Settlemeyer noted it has not seen much rejuvenation in the last couple of decades. He's not in conflict with Washoe County, they were trying to be a team player, but what you have proposed, which of course, is what they had initially proposed would cost a year to get through the system. He doesn't know if it's palatable to say Washoe County is initiating a general review of its area plan, and if they could advance this and that general review of the area plan. If the will of the world is to restrict the balance of Special Area 1 through that process to foreclose future condominium development, that may be the will of the people at that time. The fact that if they're able to advance this, this year, it doesn't foreclose the opportunity if that's what Washoe County wants to bring back to TRPA to say they don't want to see additional condominiums in this area, they want to restrict it to these two parcels, maybe that's a win-win.

Ms. Aldean said although she can't speak for the rest of the committee, she would not look favorably on another condominium project in the remainder of Special Area 1.

Mr. Marshall said there are two things here. There is the Washoe County process which changes Washoe County's regulations the way they have it written, plus it advances to TRPA a change to the area plan. He's confident, between now and the Governing Board, they can reconcile those two things so that they can give effect, what may not be an over a map overlay. But essentially will be a TRPA action if this is the will of the committee to phase in, as Ms. Aldean talked about starting with allowing this use for these two parcels, or one parcel, whatever it is. Which would not require an additional process at Washoe County to affect you. What would happen is that there would then be this inconsistency for the rest of the area, and with the Washoe County ordinances and code would allow single-family dwelling but TRPA Regional Plan would not. Then that could be reconciled in the second phase of what you're talking about. They can figure out what is the right wording for that if that's the recommendation from the committee.

He would not recommend if you have a strong desire not to have this for the rest of the zone that you up zone it, and then consider down zoning.

Mr. Feldman said that makes sense.

Ayes: Ms. Aldean, Ms. Gustafson, Mr. Hoenigman

Nays: Ms. Hill, Mr. Settlemeyer

Absent: Ms. Diss

**Motion carried.**

IV. Recommendation regarding the 2023-2024 distribution of residential allocations to El Dorado County, City of South Lake Tahoe, Placer County, Washoe County, and Douglas County

TRPA staff Ms. McMahon provided the presentation.

Ms. McMahon said in the Tahoe Basin in order to facilitate orderly growth and development as called for in the Compact, TRPA has adopted a development rights system. Under this system, there's existing development rights or existing development and new development rights authorized under the Regional Plan. There are three types of development rights that can be used to construct a new residential unit.

Existing development includes Tourist Accommodation Units, Commercial Floor Area and Residential Units that can be converted into a residential unit of use, and transferred to parcels eligible for development used to construct a residential unit. Second, the Agency can award residential bonus units for deed restricted, affordable, moderate, or local achievable housing. Third, which is the focus of today's presentation, a residential allocation when paired with a potential residential unit of use which are on parcels that were vacant when the 1987 Regional Plan was adopted. When that potential residential unit of use and allocation are paired, they can also be used to build a market rate residential unit.

The Governing Board considers the release of allocations every four years of up to 520. The last release of allocations occurred in 2021 and then residential allocations are considered for distribution to the local jurisdictions every two years, based on the performance review system provided in Chapter 50 of the Code of Ordinances.

The distribution of allocations is based on three factors and based on three factors of residential audit performance, Total Maximum Daily Load (TMDL) implementation and then short-term rental neighborhood compatibility.

The Code of Ordinances states if a local jurisdiction receives a score of 90 percent or greater on their residential and code compliance audit, they shall not receive a deduction in allocations. This year they found that all the jurisdictions have scores of 90 percent or greater.

The Lake Tahoe Total Maximum Daily Load program requires local jurisdictions to reduce pollutant loads to restore Lake Tahoe's clarity. TRPA consulted with both the California Lahontan Regional Water Quality Control Board, and the Nevada Division of Environmental Protection and found that all jurisdictions are in substantial compliance with their requirements and are not recommending any deduction based on TMDL.

The third criteria, in 2004, TRPA changed the definition of single-family and multi-family residential

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units to allow for vacation home rentals if local jurisdictions had a neighborhood compatibility program established. In 2019, there were concerns that not all the local jurisdictions were managing their short term rentals. There was a working group that was established by the Local Government and Housing Committee which came up with guidelines and the jurisdictions now have to demonstrate that they are meeting the three basic criteria in the guidelines of its operational, enforcement, and locational criteria. In those guidelines there's a wide range of best management practices that local jurisdictions can adopt.

Staff is recommending that all the jurisdictions receive their base allocations for 2023 and 2024, with the exception of Washoe County because they have yet to address the short term rental location criteria and therefore, they're recommending two increments of deductions, or 7 allocations.

Staff recommendations were taken to the Performance Review Committee which is a committee made up of staff members from the five local jurisdictions, and one TRPA staff member. They voted to recommend approval of staff's recommendation to the Governing Board.

Based on the performance review systems recommendation, staff as recommending the Regional Plan Implementation Committee make the recommended motions in the staff report.

Presentation can be found at: [Residential-Allocations.pdf](#)

Committee Comments & Questions

None.

Public Comments & Questions

None.

Committee Comments & Questions

Ms. Gustafson made a motion to recommend approval for the proposed distribution of Residential Allocations for 2023 and 2024 meets the requirements of Chapter 50, Section 50.5 Allocation of Additional Residential Units of the TRPA Code of Ordinances.

Ayes: Ms. Aldean, Ms. Gustafson, Mr. Hoenigman, Ms. Hill, Mr. Settlemeyer

Absent: Ms. Diss

**Motion carried.**

Ms. Gustafson made a motion to recommend approval of the distribution of Residential Allocations for 2023 and 2024 as shown in Table 3 of the staff report.

Ayes: Ms. Aldean, Ms. Gustafson, Mr. Hoenigman, Ms. Hill, Mr. Settlemeyer

Absent: Ms. Diss

**Motion carried.**

- V. Recommendation regarding proposed code amendments to the “Achievable” deed restriction category definition, including changes to Sections 52.3.4 and 90.2, and an amendment to Section 34.3.3 regarding driveways for accessory dwelling units

TRPA staff member Ms. Fink provided the presentation.

Ms. Fink said today’s presentation will be on a proposed change to TRPA’s definition of a achievable housing which is one type of housing that they incentivize through our bonus unit program. The point of this amendment is to make an update to the definition so that it better serves local workers. Staff is moving forward on this after hearing a sense of urgency from the Board and several stakeholders and also to align with Placer County, who has a similar type of deed restriction. This is basically a Code fix. There is a much more comprehensive set of amendments that they’re working on and will be bringing forward in the coming months.

In Tahoe it’s very hard to carve out a niche for the missing middle, and that is the workers that make too much to qualify for subsidized housing, but not enough to be a home in the basin. Because there is such a high demand for second homes, they’re seeing so much of the housing stock be diverted into the second home market. With this achievable definition, they’re trying to carve out a niche for that housing.

The current definition for achievable housing has ended up with fairly high income caps, and it does not have a requirement for local employment. The reason that the income caps related to this definition have become so high is because when they approved this definition in 2018, they tied the qualifying income level to the amount needed to afford the median priced home. As they’ve seen home prices skyrocket over the last several years, that income cap keeps rising and rising. Now, they’re finding that with no local employment requirement, they’re potentially subsidizing people with fairly high incomes who aren't working locally.

The current deed restriction requires that the unit must be used as a permanent residence. It cannot be used as a second home or a vacation home rental, and the owner of the deed restricted unit must submit an annual compliance form. The table on the right of slide three shows that although they do have this higher income limit that is meant to capture the missing middle, this definition is also inclusive of our subsidized deed restriction categories which include affordable housing and moderate income housing, and those definitions align with State and Federal definitions for types of housing that can receive subsidies and grants.

They are proposing to replace the income cap with a local employment requirement for households that make more than 120 percent of the area median income, so once they’re out of that subsidized category. This is based on what they've seen other areas do, such as Vail, Summit and Eagle Counties and now Placer County. Under the new definition, a household that lives in an achievable unit must meet one of these criteria. At least one member of the household must be employed at least 30 hours a week for a local employer, or the household must meet the moderate income limits, or below, or they would be a retired household who's lived in a deed restricted unit in Lake Tahoe for at least seven years. That would prevent someone who's been living in a deed restricted

unit from getting kicked into the challenging market as soon as they retire. They would keep the requirement that it be a primary residence and cannot be used as a second home or short term rental. In addition, an annual compliance certification must be submitted.

They brought this to the Local Government and Housing Committee last year and received support. She thanked Ms. Aldean for some of the comments she provided at that meeting, and throughout this process. They did incorporate one suggestion in particular, which was to include a requirement asset cap for households that are purchasing these units. That would give them another lever to prevent these units from being bought up by people who may have low income on paper but have a second home, or quite a bit of assets somewhere else. And also modeled that language on what they've seen in other areas.

As part of this amendment, they're also including another code change that is needed related to driveways for Accessory Dwelling Units (ADU). It's a change that would allow a second driveway for ADUs when that second driveway would have less environmental disturbance than the current Code which would require a circular driveway. That could end up requiring more coverage or tree removal than is needed.

If recommended for approval is made today, this will be taken to the Advisory Planning Commission for recommendation for approval in April, and to the April Governing Board meeting for consideration of approval.

Presentation can be found here: [Achievable-Housing-Definition.pdf](#)

#### Committee Comments & Questions

Ms. Aldean referred to page 549, under Subparagraph E, at the end it states that the owner must continue to be the occupant, provide annual compliance reports to remain eligible for the exemption, and not be subject to the annual fine and rent that unit only to a qualified renter, no longer the occupant, or sell the unit only to a qualified buyer. Should there be reference to Section 90.2?

Ms. Fink confirmed that it was to understand what the qualification is and agreed that it is a good addition.

Ms. Hill said there are deed restricted units in Incline Village that she knows TRPA followed up with. Are they using this definition when they're following up with those folks in those units?

Ms. Fink said for the most part, they are working with them to bring them into compliance with the existing language that's in their deed restriction. In a few cases, they have offered to update their deed restriction to this language, so that they can get some of the new benefits and reduce some of the confusion that has happened with a few of those units where there were just a variety of deed restrictions in one condominium complex. They have had one household update to this language.

Ms. Hill asked if she could get a report on where that is so she can articulate that to constituents. She supported this proposal.

Ms. Gustafson said she fully supported this proposal. Because there's been so much public comment

she wants to reflect, and they may get it today and they may not. By removing the income levels, they aren't helping the workforce in the community, and that is so far contrary to the reality of what they're facing. When their hospital district cannot hire doctors, nurses, and anesthesiologists. When the first responders can't live in our community, or our fire chiefs, sheriffs, and deputies. Many of those may have very high incomes, and still can't live in our community. She urged everybody that these deed restrictions are flexible for a reason because they have people at all levels unable to live in our communities and serve our communities. She's well aware that some of those incomes can get up there but they need and want those people mentioned along with public employees, superintendents of schools, leaders in our community, etc. to also be able to live here.

Mr. Hoenigman said if their income is high, they are required to work in the basin and is an environmental benefit that they aren't commuting in and out of the basin.

#### Public Comments & Questions

Ellie Waller thanked Ms. Aldean for the inclusion request of a requirement of asset cap, with the understanding of the removal of the equivalency of income. Is there going to be a discussion on what that asset cap should be?

Ms. Fink said they have included in the deed restriction language what the asset cap is set at, and it's set at twice the area median income. It's set at a level that would be below what someone would have if they owned a second home somewhere else. The cap would be approximately \$200,000 on average for the basin.

Mr. Hoenigman said of total assets.

Ms. Fink said that's correct.

Doug Flaherty, TahoeCleanair.org appreciated the issues and how complicated they are and doesn't think there's anybody in the Tahoe Basin who doesn't support affordable or workforce housing. However, from an environmental perspective, when you mentioned the word additional driveway, that perked his ears up because any additional driveway is going to impact a neighborhood, a local community, or Tahoe Basin wide when it comes to this issue that he raised earlier about the cutting of east side forest trees greater than 24 inches in diameter. This on the Nevada side that he's speaking to. The east side which goes from Brockway on down to the south. That may be a concern as we move through this, you're always also going to be challenged with the issue of overcapacity. He has not read the Environmental Checklist but if you haven't addressed over capacity or some sort of data that might suggest what we're looking at here in the long term as far as cumulative impacts that may become an issue. We're all applauding any reasonable effort that doesn't impact the environment, to figure out ways for additional affordable or workforce housing.

Kathy Julian, Incline Village resident thanked Ms. Fink for the presentation. She's interested in better understanding what kind of enforcement authority TRPA brings to these deed restrictions a side from the compliance report, and perhaps a fine.

Ms. Fink said there are three main ways of enforcement. One is that annual compliance certification that comes with a penalty if it's not submitted. They also have the ability to ask for more documentation at any time based on a complaint or an audit. They're currently auditing



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approximately 30 percent of the deed restrictions that they have right now. Lastly, local jurisdictions are all contracted with a third party service provider host compliance to scour the web and make sure that there aren't illegal short term rentals, so that none of these would be able to be used as a short term rental.

Mr. Marshall said they also have their compliance authority or enforcement authority under the Compact to go to court and get a civil penalty, or injunctive relief of \$5,000 per day.

Committee Comments & Questions

Mr. Hoenigman said it was brought to his attention about the current penalties and enforcement and asked that they review that in the future to make sure that the penalties outweigh the skirting of the regulations and doing these rentals.

Ms. Aldean made a motion to recommend adoption of the required findings in Attachment E, including a finding of no significant effect, for the adoption of Amendments to the TRPA Code of Ordinances related to: 1) the "achievable" deed restriction category definition, including changes to Sections 52.3.4 and 90.2, and 2) driveways for accessory dwelling units, including changes to Section 34.3.3 as described in this staff report.

Ayes: Ms. Aldean, Ms. Gustafson, Mr. Hoenigman, Ms. Hill, Mr. Settlemeyer

Absent: Ms. Diss

**Motion carried.**

Ms. Aldean made a motion to recommend adoption of Ordinance 2023-\_\_ as shown in Attachment A amending Ordinance 87-9 as amended for the adoption of amendments to the TRPA Code of Ordinances, Chapters 34, 52, and 90 as amended on the record.

Ayes: Ms. Aldean, Ms. Gustafson, Mr. Hoenigman, Ms. Hill, Mr. Settlemeyer

Absent: Ms. Diss

**Motion carried.**

VI. COMMITTEE MEMBER REPORTS

Ms. Hill is hoping that the Local Government and Housing Committee are going to meet soon.

VII. PUBLIC INTEREST COMMENTS

None.

VIII. ADJOURNMENT

Ms. Hill moved to adjourn.

**Motion carried.**

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Chair Mr. Hoenigman adjourned the meeting at 5:18 p.m.

Respectfully Submitted,



Marja Ambler  
Clerk to the Board

*The above meeting was recorded in its entirety. Anyone wishing to listen to the recording of the above mentioned meeting may find it at <https://www.trpa.gov/meeting-materials/>. In addition, written documents submitted at the meeting are available for review. If you require assistance locating this information, please contact the TRPA at (775) 588-4547 or [virtualmeetinghelp@trpa.gov](mailto:virtualmeetinghelp@trpa.gov).*

DRAFT