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**Date:** Tuesday, March 21, 2023 at 3:55 PM

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**Subject:** Washoe County Tahoe Area Plan Amendment, Item No. 3 on Tomorrow's RPIC Agenda

Dear Committee Members,

Please find attached our letter, dated today, concerning the above-referenced matter.

Thank you,

Kara

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March 21, 2023

Regional Plan Implementation Committee  
Tahoe Regional Planning Agency  
128 Market Street  
Stateline, Nevada 89449

Re: Amendment to Washoe County Tahoe Area Plan to Add Single-Family  
Condominiums as an Allowed Use in Special Area 1 of the Incline Village  
Commercial Regulatory Zone Subject to Policy LU2-9

Dear Honorable Committee Members:

TRPA's Advisory Planning Commission (APC) considered the above-referenced amendment ("Amendment") at its March 8, 2023, meeting. While the Amendment received more "ayes" than "nays", it failed to receive the requisite vote for APC recommendation of approval to the Governing Board. We offer the following in response to the APC's request for additional information.

APC Comment: Washoe County permits one short-term rental (STR) per parcel within the Tahoe Area Plan (TAP). Thus, a 20-unit multiple-family dwelling (MFD) development located on a single parcel would be entitled to a single STR. If the 20-unit development were subdivided into single-family dwelling (SFD) condominiums, each condominium<sup>1</sup> would be entitled to an STR for a total of 20 potential STRs. Some Commissioners asked that potential impacts of an increase in STRs that could result from condominium subdivisions be considered in the Initial Environmental Checklist (IEC) for the Amendment.

Response: Special Area 1 is substantially built out with shopping centers, restaurants, banks, retail stores and commercial offices. Of the seven privately-owned vacant parcels, two are approved for a 40-unit MFD project known as Nine 47 Tahoe ("Nine 47") which will be deed restricted to prohibit STRs. The Nine 47 developer owns three other vacant parcels and has commissioned preliminary drawings to develop workforce housing thereon. The remaining two vacant parcels comprise approximately 1.5 acres, a portion of which is SEZ, and could potentially house 20+/- SFD condos. Thus, as a result of the Amendment, there could potentially be up to 20+/- STRs in Special Area 1, unless already developed properties are redeveloped with SFD condos. Demolition and redevelopment of existing commercial properties is unlikely due to the very high costs of demolition and, likely, asbestos abatement. Moreover, Washoe County is

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<sup>1</sup> A condominium unit is a separate airspace parcel.

considering a moratorium on new STRs in the Basin which, if adopted, would make this a moot issue.

In response to APC comments, additional analysis has been conducted on the potential impacts of STRs and the IEC for the Amendment has been updated with this information. According to the IEC and LSC Transportation's analysis comparing MFD, SFD condos, STRs and a variety of commercial uses, STRs generate slightly more trips and VMT than MFD or SFD condominium developments of the same size and at 100 percent occupancy.<sup>2</sup> Even so, the increase is insignificant as defined by TRPA. LSC also evaluated a variety of commercial use scenarios based on commercial uses currently permissible in Special Area 1. The analysis demonstrates that any commercial use would generate more, and in some cases, exponentially more trips and VMT than STRs. Based on the IEC, the Amendment could not have a significant effect on the environment even if SFD condominiums were rented as STRs.

APC Comment: Some Commissioners expressed concern that the findings do not adequately address the potential impact of SFD condos on housing affordability.

Response: Lack of affordable housing is a Basin-wide issue. Barriers to new affordable housing for Tahoe's workforce include scarce and expensive lands; high construction costs due to geography, snow loads, short grading season, limited contractors and subs and lack of funding. Unfortunately, height, density and land coverage incentives have not been effective. TRPA's residential bonus unit incentive program, which obviates the need for a developer of affordable, moderate or achievable housing to acquire units of use on the open market, sets the stage but much more is needed. Private development of affordable housing in Incline Village will not be realized unless and until gap funding and other incentives, such as waiver of sewer and water connection fees and property tax abatement, become available. Notably, the Nine 47 developer is working with the Washoe Tahoe Housing Partnership and has engaged tax credit consultants and architects to develop 35+/- units of affordable housing within Special Area 1. Active efforts are underway despite the Basin-wide challenges to deliver workforce housing.

During the March 8 APC hearing on the Amendment, one Commissioner commented that he considers MFD rentals to be lower income and subdivision of a MFD development into SFD condos might price people out of the market. For the reasons enumerated above (i.e., high cost of land and construction), there is little relative difference between a privately developed MFD project versus a SFD condominium project in terms of construction cost and therefore cost to a tenant or purchaser. To illustrate, as a for rent product, the approved 40-unit MFD project in Special Area 1 known as Nine 47 Tahoe ("Nine 47") would require rents averaging \$9,000 to \$12,000 *per month* to be a viable project. Neither a new rental MFD project nor a new for-sale SFD condo project in Incline Village would provide affordable housing. Allowing SFD condominiums in Special Area 1 will not impact affordability.

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<sup>2</sup> Based on a conservative assumption, an STR may be occupied 50 percent of the time. Of the 46 SFD condo units that have been completed and sold at Beach Club, only six are operated as STRs.

APC Comment: Certain Commissioners suggested the County, as part of the Amendment, define and set minimum standards for mixed-use development to strengthen and further define Policy LU2-9 which allows SFDs when part of a mixed-use development or when they are affordable housing units.

Response: Policy LU2-9 was carried over to the Area Plan from the 1996 Incline Village Commercial Community Plan which it replaced. The policy provides that SFDs are permissible in the broader Incline Village Commercial Regulatory Zone, but not in Special Area 1, when they are part of a mixed-use project or when they are affordable housing units. The Amendment simply applies the 25+ year old policy to Special Area 1 for consistency within the broader Regulatory Zone.

“Mixed-use” was not defined in the former Community Plan and is not defined in the Tahoe Area Plan or TRPA Code of Ordinances, although the term is used throughout the various documents. While it is appropriate to consider a Basin-wide definition prospectively, numerous mixed-use projects have been approved in Tahoe without statutory prescription, including the approved Nine 47 Project with approximately 1,000 sf of commercial office space.<sup>3</sup> According to Washoe County staff, the County is considering a mixed-use definition and would bring it forward in a subsequent Area Plan or County Development Code amendment. However, as the Commissioner representing the City of South Lake Tahoe explained at the March 8 APC meeting, the local jurisdictions should collaborate with each other and TRPA to formulate a definition that applies throughout the Basin. For these reasons, we submit developing a mixed-use definition is larger than this Amendment.

Thank you for your consideration of the foregoing.

Sincerely,

FELDMAN THIEL LLP



By:

Kara L. Thiel

KLT/ld

cc: Washoe County  
Brendan Ferry, TRPA APC Chair  
Julie Regan, TRPA Executive Director  
John Marshall, TRPA Legal Counsel  
Jacob Stock, TRPA Planner

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