

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

Tahoe Regional Planning Agency
Zoom

March 8, 2023

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Ferry called the meeting to order at 9:42 a.m.

Members present: Ms. Carr, Ms. Chandler, Mr. Drake (arr. 9:46 a.m.), Mr. Ferry, Ms. Ferris, Mr. Hill, Ms. Jacobsen, Mr. Letton, Ms. Moroles-O'Neil, Mr. Hitchcock (for Ms. Roverud), Ms. Simon, Ms. Stahler, Mr. Teshara, Mr. Young

Members absent: Mr. Alling, Mr. Drew, Mr. Guevin, Mr. Hill, Mr. Smokey

TRPA Executive Director Julie Reagan welcomed APC members and introduced Kimberly Chevallier in her new position as TRPA Deputy Director and Chief Partnerships Officer. She said that Kim is a great talent and TRPA are lucky to have her in this new executive role. Prior to joining the agency, Ms. Chevallier worked for a decade in Arizona with the U.S Institute for Environmental Conflict Resolution, where she honed her exceptional facilitation and mediation skills. Ms. Chevallier has been with TRPA for 8 years in her former capacity as the EIP Department Manager.

II. APPROVAL OF AGENDA

Mr. Ferry deemed the agenda approved as posted.

III. PUBLIC INTEREST COMMENTS

None.

IV. DISPOSITION OF MINUTES

Mr. Teshara provided correction to page 16: "Ms. Sharla Hales has been ~~appointed~~ elected"

Mr. Teshara moved approval of the January 11, 2023 minutes as amended.
Ms. Chandler seconded the motion

Motion passed.

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V. PUBLIC HEARINGS

[Agenda Item No. V.A. Washoe County Tahoe Area Plan Amendments](#)

TRPA Senior Long-Range Planner, Mr. Jacob Stock introduced the item.

Mr. Stock said that the Tahoe Area Plan, approved in 2021, encompasses the entirety of Washoe County's jurisdiction in the Tahoe Basin, including town centers in Incline Village and Crystal Bay.

The proposed amendment aims to allow single family housing, limited to condominiums, in Special Area 1 of the Incline Village commercial town center. This zoning change will allow for the option to subdivide multi-family rentals into owner-occupied condos, which is currently not allowed by the zoning. The amendment also codifies a policy requiring that condominiums are only allowed in the zone when part of a mixed-use or affordable housing development. Washoe County will provide additional justification for the amendment in the upcoming presentation. The Washoe County Board approved the development code amendment on January 17, 2023.

The Regional Plan Implementation Committee (RPIC) heard an information briefing for this item on February 22, 2023, where staff received a lot of public comment, and a recommendation from RPIC to look at the creation of a more robust definition for mixed-use development regionwide. Mr. Stock advised that is currently being reviewed through a separate process.

Mr. Stock said Governing Board approval is still required for this amendment to go into effect. He said that TRPA staff have reviewed both first and second drafts of the IEC to this amendment, and do not anticipate any conformance issues with the Regional Plan. Mr. Stock said that based on the comments received from APC today, Washoe County will work with TRPA staff to complete any revisions, and bring an amendment proposal back to RPIC, and to the Governing Board next month. Mr. Stock handed over to Washoe County Senior Planner Courtney Weiche to share more information on the proposed amendment.

Ms. Weiche said that the request is to amend the Tahoe Area Plan, Appendix A, Development Code Standards Article 220 Tahoe Area; to add single family dwellings limited to airspace condominiums, as an allowed use in the Incline Village Commercial Regulatory Zone, Special Area 1, and to amend Article 220.15 to add reference to an existing Tahoe Area Plan, Land Use Policy 2-9, which states "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".

Ms. Weiche explained that in January of 2021, the Washoe Board of County Commissioners adopted the Master Plan amendment, incorporating the Tahoe Area Plan, and adopted an amendment to the Development Code, incorporating Article 220 Tahoe Area Plan, and Article 220.1 Tahoe Area Design Standards. In May of 2021, the TRPA Governing Board adopted the Washoe County Tahoe Area Plan and amendments as necessary to the TRPA Code of Ordinances. In late 2021, Washoe County received an application for a special use permit to develop a 40-unit multi-family project on two properties in the Incline Village Commercial Special Area 1 regulatory zone. It was later determined a special use permit was not required for multi-family dwellings in Special Area 1 of the Incline Village Commercial Regulatory Zone, as it was an allowed use outright.

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Subsequently, the applicant submitted a tentative map to subdivide the proposed multi-family dwelling project into single-family dwellings, as condominiums. It was at this time that both TRPA and County staff discovered that single-family dwellings, even limited as condominiums, were not an allowed use in the Special Area 1, even though it is allowed in the broader regulatory zone of the Incline Village Commercial Zone. As a result, in July 2022, the same applicant submitted a development Code Amendment Application to the County (WDCA22-0002) to add single family dwellings, limited to condominiums, as an allowable use in the Incline Village Commercial Special Area 1 regulatory zone.

For the County, the requested amendment only impacts the development code, as the County adopted Appendix A: Development Code Standards of the Tahoe Area Plan, separately from the master plan into the Development Code. Since TRPA adopts the whole document as the Area Plan, the same request for TRPA purposes is for an Area Plan amendment.

In November of 2022, the Washoe County Planning Commission reviewed the proposed amendments to the County Code, Chapter 110, Development Code, and voted unanimously to recommend approval of the amendment to the Board of County Commissioners. In December 2022, the Board of County Commissioners introduced, and conducted a first reading for Bill 1888 and an Ordinance amending applicable sections of the Development Code. In January 2023, the Board of County Commissioners held a public hearing, conducted a second reading, and adopted Ordinance Number 1696, amending Washoe County Code Chapter 110, Article 220 Tahoe Area. Washoe County staff also presented the requested amendment as an informational item to the Regional Plan Implementation Committee on February 22, 2023. All of these meetings were open to the public, and were appropriately noticed.

Ms. Weiche added that the County did require that the applicant host a neighborhood or community meeting prior to any of these public hearings. A total of approximately 3,300 individual email recipients received the meeting invitation. There were 34 people in attendance. Public comment throughout the entirety of this process includes a mix of both support and opposition for the proposed amendment. Many of the comments have focused on the specific residential project, known as Nine 47 Tahoe.

Referring to the map on slide 6, Ms. Weiche said that Special Area 1 (outlined in red) is within the Incline Village Commercial Regulatory Zone. Special Area 1 parallels Tahoe Boulevard, and begins on the east side at Southwood Boulevard, and extends to the west boundary at 836 Tahoe Boulevard. It encompasses roughly one to 2 parcels deep, or adjacent from Tahoe Boulevard.

Ms. Weiche said that if the Area Plan amendment were to be approved, the text amendment would add single-family dwellings, limited to airspace condominiums, and when associated with an approved tentative subdivision map of multi-family, and limited to one unit per parcel - essentially saying no detached single-family structures. The second portion of the request would add reference to existing land use policy that is located in the master plan – Land Use 2-9 of the Tahoe Area Plan, clarifying that this policy will apply to all of Incline Village Commercial, including Special Area 1. And that states that single family dwellings will only be allowed in this regulatory zone when they are part of a mixed-use development, or when they are affordable housing units.

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Ms. Weiche handed over to the project applicant to provide additional information. Ms. Kara Thiel spoke on behalf of the Nine 47 project applicant. Ms. Thiel said that the developer was pretty deep into the process of getting the multi-family dwelling project approved, and submitting a subdivision map to the County to subdivide into single-family dwellings, when the County, TRPA, and the developer realized that single-family dwellings were not permissible in Special Area 1, which is kind of an anomaly. In most Community Plans and Area Plans throughout the Basin, if multi-family is allowed, subdividing into single-family dwellings is almost always permissible. It was a surprise to see that single-family dwellings as condominiums were not permissible in this area, so that is what initiated the proposed amendment.

Ms. Thiel said that in Tahoe, subdivisions are limited to airspace condominiums. So a project first has to be approved as a multi-family project, and then it could be subdivided into single-family dwellings. So the purpose of this amendment is to allow for that second step of subdividing an approved multi-family project into single-family dwelling airspace condominiums, and just to be clear, there is no difference between multi-family and single-family condominiums, except for the form of ownership. She added that when the project is approved as a multi-family dwelling, the environmental impacts are reviewed at that time, and upon finding that there will be no significant impact in this case, the project was approved. The next step of sub-dividing into single-family dwellings has no physical consequence.

Ms. Thiel said she encouraged the APC to recommend approval to the TRPA Governing Board, as the amendment will encourage redevelopment, and promote walkability and bikeability, which are all goals of the area plan amendment. Finally, Ms. Thiel said that the APC may hear some comments about what this amendment is likely to do, and wanted to point out that the amendment does not prohibit multi-family dwellings in Special Area 1 – that is still a permissible use. The amendment does not preclude workforce housing in Special Area 1, and it does not preclude commercial development in Special Area 1. It does not impact density, height, or any other development standard. Nor does it impact traffic, or generate environmental impacts. Finally it will not result in the proliferation of condominiums throughout Special Area 1, which you may hear from some people in opposition of the project.

APC Comments/Questions

Chair Ferry asked TRPA Legal Counsel Mr. John Marshall, if he could validate Ms. Thiel's comment that this is just a common step, and that in order to subdivide multi-family airspace condos into single-family, this step needs to occur. Mr. Marshall responded that there are two levels. One level is the project itself, and the other level is the zoning change. Mr. Marshall said that if there is a zoning change, then yes, it becomes a very simple process for a two-step subdivision. First, it's approved as a multi-family, then it's subdivided into airspace condo units. That assumes that the planning decision has already been made to allow that subdivision to occur.

Mr. Marshall added that this is a little different. This is whether or not to allow that to happen in this entire zone. So it's not just limited to this building. It's a zone change for the Special Area, and the question before the APC is, should this change be made in the zoning, to allow the second step of a two-step subdivision to happen? Mr. Marshall said that Ms. Thiel may be correct if you look at it from the aspect of this particular building, but the question for APC recommendation is a bit broader, and that's whether to allow this to occur within this zone. Mr.

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Ferry said he was thinking the same thing. He added that typically this zoning would have been allowed first, and the subdivision would have taken place secondarily.

Vice Chair Carr asked for the definition of an airspace condominium. Mr. Marshall responded that an airspace condominium is basically the unit in space. So if you have a condominium unit, instead of it being a land subdivision, it's a subdivision of the space that is occupied by the condominium unit. Ms. Carr asked if the condominium may be a building with multiple units within the building? Mr. Marshall clarified that you have a building, with individual condominiums in it, and the subdivision is going from the building as one multi-family lot/APN, to individual condos being owned separately and as separate Assessor Parcel Numbers (APNs). So they are the airspace unit within that one building, or multiple buildings. It allows for the sale and transfer of individual units within a larger building.

Referring to this particular project, Mr. Ferry asked if prior to this approval, when it was approved as a multi-family building, it would not have been separate APNs. Mr. Marshall said yes, it would be limited to the physical parcel/s on the ground, as opposed to the airspace above the ground.

Mr. Teshara said there are environmental analyses and documents in the packet, and said it seems that before we move to APC questions and public comment, it might be good to have the appropriate County or TRPA staff review those documents. He said he is particularly interested in the environmental checklist. He thinks that's an important part of the APC's decision today, and based on the public comments received, the public also has questions related to that.

Mr. Stock said that the purpose of the Area Plans in 2012, was to give greater local land use autonomy to the Counties and the City of South Lake Tahoe. So when TRPA reviews an IEC (Initial Environmental Checklist) or Conformance Checklist, they are reviewing strictly for conformance with the Regional Plan. The purpose is to give some autonomy to the local government, while maintaining compliance with the larger Regional Plan. Mr. Stock asked Mr. Teshara if there were any particular sections he was interested in.

Mr. Ferry asked Ms. Weiche if Washoe County had performed any environmental review outside of TRPA's Initial Environmental Checklist process. Ms. Weiche replied that the State of Nevada does not have any specific environmental review processes for something like this, other than consistency and performance with Washoe County plans and the master plan. So the review and environmental analysis was specific to the requirements of TRPA. She added that certain findings of the IEC were more pertinent to the request, such as land use, population, housing, and transportation, which were the areas of most substance for this particular request. Mr. Stock confirmed that the IEC was completed by Washoe County staff, and then submitted to TRPA. Mr. Stock reviewed and provided comments to Washoe County, who then provided a final draft.

Mr. Stock said that the most pertinent piece would be land use, which includes the questions: Does this include uses which are not listed as permissible uses in the application area plan, plan area statement, or adopted community or master plan. Mr. Stock said the answer there is yes - they're adding a new use to this zone. The second question is, does it expand or intensify an existing non-conforming use, and the answer there is no - this wouldn't apply to existing non-conforming condominium uses in the zone. The justification that the County gave for this

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section is highlighting the similarities between multi-family rental and ownership condos as uses. The County argued that adding this this additional use will allow another option to facilitate the type of walkable communities and town centers that the area plan is trying to accomplish. Mr. Stock said that when you look at it in combination with the activation of that policy around requiring mixed-use for condominium subdivisions, he thinks that is largely correct from a policy standpoint.

Ms. Stahler asked if there was a reason why the Tahoe Area Plan did not specifically include single-family and condominiums to begin with. Was that intentional, with reasons behind it, or was it simply an oversight? Mr. Eric Young, APC member and lead planner in the original area plan adoption, responded that the reasons that the original Washoe County Plan Area Statements were developed this way have been lost. He said that they committed to not changing what was there when they adopted the new master plan, and used status quo as much as possible. He said they needed to make some changes to come into conformance, and so forth, but in terms of allowed uses, when they looked across the landscape of Incline and Crystal Bay, it had been divided up into plan area statements, and many of those plan area statements had special areas. They tried really diligently to track down the meaning of those, how they were developed, why they were slightly different, why they weren't just included on their own. Unfortunately, that history and knowledge has been lost, and so they don't really know why Special Area 1 said no single-family. They do have some hypotheses, and he thinks the best hypotheses is that the concept of condominiums and condominium subdivisions was not as important 30 some years ago. It's possible that they were trying to literally prevent single-family houses, and the spread of single-family development as we would normally think of it, and not to limit condominium development. But nobody can say that for sure. He added that they have similar questions about some other special areas - why are they like this, why did they do that? They want to assume that it was a good idea and thought through, but unfortunately they just can't say what the original reasoning was.

Mr. Hitchcock offered some history on the original community plan. He said that when TRPA was adopting the original community plans for Incline Village, and others around the basin, the focus was really on concentrating commercial uses within town centers, and at that time, residential development within town centers wasn't really thought of. That's kind of a new land use trend over the last 10-15 years, where we're looking at promoting mixed-use projects, and walkable communities. But back in the early-mid eighties and early nineties, residential uses weren't really a concept for inclusion in those community plan areas.

Mr. Hitchcock asked Ms. Weiche if in terms of the mixed-use definition, is it mixed-use with commercial, or is it any type of mixed-use? Ms. Weiche responded that both Washoe County and TRPA regulations do not specify or define what mixed-use is, nor does it direct what those uses can or should be. So they are fairly limited on what they can hold applicants or projects to at this time. However, that is a top priority for the county-initiated area plan amendment that Washoe plan to begin within the next couple of months. Working with TRPA, they intend to look at it from a regional approach, so that there's a regional standard of mixed-use. She added that this is a high priority for Washoe County, specifically in relation to the referenced project, not the area plan amendment.

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Mr. Hitchcock said that if TRPA is interested in looking at the definition of mixed-use from a regional perspective, he would encourage TRPA staff to reach out to local agencies in the process for shared understanding and agreement on the definition.

Ms. Chandler said the table refers to land use permit as either an A or an S. She asked for clarification on those designations. Mr. Stock responded that A is an allowed use, so that is a permit that's processed at the staff level. An S is a special use permit, so that's a permit that is more discretionary and would go before the Hearings Officer. Mr. Marshall added that for TRPA purposes, the key difference is whether or not there is a public hearing. So with allowed use, there is no public hearing, and for anything that's a special use, it has a public hearing that is noticed.

Ms. Weiche added that from the county perspective, and this is the complicated part of having, two jurisdictions, if indicated and asked for special use permit, the applicant would also have to obtain a special use permit from the county, and that would likely be heard by the Board of Adjustment. So there would be two permits required from both the county and TRPA.

Moving on to population, Mr. Stock said there are two questions in the population section of the IEC. The first asks whether the proposal will alter the location, distribution, density, or growth rate of the human population planned for the region. This one they felt was relatively easy. There is no change to the density or development standards in this proposal. There's also no change to the residential unit distribution system. So no impact was found there. The next question asked whether this would include a result in the temporary or permanent displacement of residents. The county argues that this proposal will result in more options for residential development, so that would actually increase the amount of residential development in Special Area 1.

Mr. Ferry asked a clarifying question on number 2. He said this is a little convoluted because we're talking about a zone change, but we're also talking about the immediate effect of this Nine 47 Tahoe Project. The question asks will the proposal decrease the amount of housing in the Tahoe region, historically or currently being rented at rates affordable by lower, or very low-income households. As he understands it, the project would have been multi-family rental units, and this zone change would allow single-family ownership, which could then be rented, but doesn't necessarily have to. To him, multi-family rental is geared more towards a lower, more affordable income type use, than a single-family ownership model. He asked how staff analyzed this question, and checked 'no' given that?

Mr. Stock replied that in the case of the Nine 47 Tahoe project, there are no existing multi-family units. So staff interpreted this question as referring to the displacement of existing residential units. He said the possibility of airspace subdivisions could result in the subdivision of other multi-family units, so that complicates it a little bit. Mr. Ferry asked if there are any existing multi-family rental units in Special Area 1. He said it could be a complicating factor if there was some incentive to remove that multi-family housing to subdivide into airspace condominiums for single unit ownership.

Mr. Young said these are really good questions, and questions that the County have had along the way. He said that we have to be very cautious about what we know and what we assume.

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It's easy to make assumptions about the difference between multi-family and condo ownership, and what the market segment they are targeted to will be, and what people will pay, and who will live there. But the data, science, and academic analysis is really not there. He said we have a great environmental analysis and so forth, but it's very difficult to do the socio-economic analysis of the real difference between these two. He has done some research on his own and the literature shows no consensus. He said it would be nice to have that data, but unfortunately, this is one of those cases where you can just trip and fall into making assumptions about what you think the impact might be, and we are not presented here with any of the data that tells us that. Mr. Young acknowledged the idea that approving this may somehow cause a neighbor to pursue a similar idea, but he is not willing to use that stretch of logic to decide. He will base his vote on the actual data and knowledge that's presented.

Ms. Weiche said that County staff were not looking at this specific project as part of their analysis. Obviously, they know that the project is the impetus, however they are looking at the analysis Special Area 1 wide. She said she believes there may be some multi-family in the area, and if somebody wanted to do that on an existing development, or maybe develop a vacant parcel to do something similar, Policy Land Use 2-9 will require that it is either part of a mixed-use development (which as discussed needs some clarification), or they have to be affordable housing units. This is the only use that would have that requirement tied to it.

Ms. Simon said we have a parcel here that has been vacant for some time. It was a restaurant and parking lot before that, and if this is approved, we're talking about 40 dwellings, so that's quite an increase in population for that particular parcel. She added that she thinks there could be a conflict with some of the transportation studies, because it's one of the worst intersections in Incline Village, and when you add that many people, and cars, and dwellings whether it's single-family or multi-family, you do create a bottleneck. Ms. Simon said she is concerned that approving this amendment would set a precedent for development within the commercial zone, and the real issue is, is this far-reaching amendment really what's really best for this commercial zone? She said that the impact will be far beyond the two parcels in the proposal, and she is questioning why that is necessary, because it will then impact over 35 other parcels in the area.

Mr. Marshall advised that the project itself has already been approved. So the scope of the environmental analysis here is based on the zone change to go from multi-family to airspace condominiums, to allow that to happen. Therefore, APC members shouldn't take the impact associated with the Nine 47 multi-family building into account for this decision. With that said, they can take into account the reasonable, foreseeable impacts associated with moving from just single-family to allowing the two step subdivision, and whether or not that might have some impact on increased development beyond what would happen with just multi-family allowed. That is where you may want to focus your attention, not on the specifics of the already approved Nine 47 Tahoe project.

Ms. Simon asked for clarification on the amendment. Mr. Marshall said the amendment is not whether to allow multi-family, or not to allow multi-family; it's whether to allow single-family use as airspace condominiums. The Nine 47 Tahoe project was already approved as a multi-family project. So it meets all requirements, was approved by the Governing Board, and can move forward as a multi-family project. The question before the APC is, do you want to change the applicable zoning to allow that multi-family unit to be subdivided into airspace condominiums? That would be the second step of how TRPA looks at the subdivision of existing

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structures, which is a topic in and of itself. So the IEC is prepared to look at the zone change. or the adding of this airspace single-family use, not whether or not you can build a multi-family building.

Mr. Ferry asked, given that the project has been approved, if the APC and the Governing Board approve this zone change, is there a subsequent action on that project approval that is required, or is that project allowed to just go forth with single-family ownership. Is there some technical or other approval of that project that will then be subsequently required. Mr. Marshall said yes, the project applicants would then have to get a subdivision permit from TRPA as the second step following any zoning change.

Mr. Ferry said that is a fairly routine process, if the zoning allows it. He asked if there were any other conditions on the project that would require it to be analyzed differently. Mr. Marshall said that in general the impacts of the building are analyzed at the approval of the multi-family dwelling stage. So at the second step, they're looking at just the impacts associated with the subdivision, not the presence of the building itself. So, for example, Ms. Simon's comments about increased traffic would be analyzed during the initial stage, unless there is something unique about the site that would cause additional impacts because you're going to an airspace condominium versus a high-end rental project.

Ms. Weiche said that Washoe County have not reviewed or approved the multi-family project. That is TRPA permit that is required. Because multi-family is an allowable use, the County would be reviewing the project at the building permit stage. If this was to be approved, and the applicant pursues a change to single-family condominiums, the tentative sub-division map would also be required by the County, and at that time the County will have an opportunity to also look at the impacts as just described. Additional traffic studies may be required, consistency with the area plan will be considered - all of that will occur as part of the tentative map process at the County, and conditions of approval would be appropriately applied.

Ms. Jacobsen expressed concerns about potential displacement, and how this amendment might affect existing multi-family uses in the zone. Placer County are currently working on some Tahoe Basin Area Plan amendments, and they have single-family allowed. Ms. Jacobsen said she recognizes switching an existing facility to condominiums can help to help finance a project, but Placer County are looking at putting some parameters around that. She asked if there could be additional caveats, perhaps limit to no single-family on ground floors, to protect ground floor commercial uses in the district. Also, perhaps requiring that a certain percentage of any mixed-use project be set aside as workforce, affordable, or achievable – to ensure it doesn't just become luxury units with short term rentals.

Mr. Ferry asked if there was any opportunity for modification to the table. He said that frankly, the mixed-use definition is fairly weak and ambiguous, and wondered if there is an opportunity to reevaluate that.

Mr. Hitchcock said that a lot of the opposition comments related to the potential loss of workforce housing/affordable units. He assumes that within the Area Plan there are other strategies and policies that encourage workforce housing and multi-family housing within the town center. Ms. Weiche affirmed, and said this area, along with five other regulatory zones are identified as preferred affordable housing areas. Right now, the Area Plan has some policies that

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encourage affordable housing, recognizing the need to develop workforce and affordable housing, especially in areas like town centers. However, the County also recognizes that there is a need to further implement and strategize how the Area Plan can be improved. The County is looking at this as a whole - across Washoe County there is a need for affordable housing. Specifically, in the Tahoe area of Washoe County, they are working with the Tahoe Prosperity Center on the Washoe Tahoe Housing Plan Action Roadmap, with policies and recommendations to be incorporated into the future amendment. But at this time, the County do not have any mandates, or inclusionary zoning. There is nothing that mandates that affordable housing has to happen anywhere in the Area Plan. It just states preferred affordable housing. Ms. Weiche repeated that this amendment does not take away the opportunity or option to have affordable housing in this special area.

Mr. Ferry asked if short-term rentals (STRs) would be allowed in the multi-family configuration as approved, versus an airspace single-family condominium development. Ms. Weiche responded that the County's STR Ordinance, which was approved around the same time that the area plan was adopted, does allow for one short-term rental per parcel. So when looking at a multi-family development, it is one parcel with many multi-family units. So in this project example, one of the 40 units could be short-term rented. Once subdivided, those are considered their own unique parcels, and short-term rental could be applied for each of those newly created parcels. There is nothing at this time that would prohibit that, although for this specific project it has been publicly stated, albeit it's not in the proposed amendment, that the developer plans to use CC&R's to restrict/prohibit the user of short term rentals. Ms. Weiche added that part of the effort with the Prosperity Center, is looking at some amendments to short term rental regulations as part of those recommendations.

Mr. Ferry said that Special Area 1 includes around 35 parcels that this zone change would affect. He asked how County staff had thought about analyzing the environmental impacts of going from potentially one STR per parcel, to up to 40 str's on this one parcel. Ms. Weiche said she cannot say whether staff were looking at every possible allowable use of those parcels. She said that one thing that could occur is that, rather than explicitly banning them in a regulatory zone, or prohibiting them for certain types of regulatory zones, STRs could be prohibited as a condition of approval of tentative maps. So it wouldn't necessarily be as a part of this amendment, it would be something that as part of the tentative map approval, future single-family condominiums would not be able to pursue a STR. Mr. Ferry summarized that it sounds like it was not considered in the environmental analysis, and that they would be relying on some potential future exclusion of STRs, which the APC would not have any control over.

Ms. Simon said it's her understanding that while the initial CC&Rs might permit or prohibit short-term rentals, the owners and association could change the CC&Rs. So whatever the developer envisions might be one circumstance, but over time that could change. Mr. Marshall confirmed her understanding was correct.

Mr. Teshara said he heard that a representative of the developer was in the room and suggested they may wish to address that under Public Comment. He said he knows the sensitivity around STRs throughout the Basin, and the developer may have an intent of what they want to do. He acknowledged that could be changed, but also heard Ms. Weiche's comments that the County may say there won't be any STRs in those types of developments in the future. He added that

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the APC have to consider what they know today, while he appreciates people thinking about other possibilities, they have a pretty narrow scope here.

Mr. Ferry agreed with Mr. Teshara's comments and said that what they have to go on today is that STRs would be allowed, so they cannot rely on any subsequent action that they have no control over.

Mr. Chuck Butler introduced himself as one of the co-developers of the Nine 47 Tahoe Project. He said their focus for this project has always been people who want to live there long term, and for the majority of the year. He said most of the reservations are people who have expressed opposition to having STRs, they don't want neighbors who are going to be transient, in and out, causing problems. The condo documents currently prohibit STRs. It is the developer's belief that the project would be compliant with the County. As to how they want to handle STR's, they believe that it should be owned and managed by the County with a cohesive strategy for the Basin in general.

Mr. Ferry asked if the developers plan to prohibit STRs in the CC&Rs. Mr. Butler said yes, in the draft documents currently being shared with prospective residents, there is a prohibition STRs. Mr. Ferry said that Mr. Butler's previous statement sounded a little counter to that when Mr. Butler said they plan to follow what Washoe County would allow. Mr. Butler clarified that within their condo documents, they prohibit the use of STRs, but ultimately they will be in compliance with whatever the County says. Mr. Ferry asked what if Washoe County says STRs will be allowed? Mr. Butler responded that their documents will say that STRs are not allowed, because that is what the residents of the community want.

Ms. Carr said, with all due respect to the developer, that she knows CC&Rs can be changed with a majority vote of the residents. She asked if the condo documents were similar in that regard. Mr. Butler said that if in 10 years from now, the property owners want to get together and modify the documents, that will be their decision as property owners. They will be bound by all the rules in existence at the County at that time. Mr. Teshara asked if that meant the original CC&Rs would be in place for at least 10 years before they could be modified? Mr. Butler said that was an illustrative example – he could have used 20 years or 5 years.

Moving on to the housing section of the IEC, Mr. Stock said the first question asked will the proposal decrease the amount of housing in the Tahoe region. The County said no, and TRPA staff agreed. Adding an additional residential use is not going to decrease the amount of housing if anything it will increase or have no effect on the amount of housing in the region.

The second question is, will the proposal decrease the amount of housing in the Tahoe region, historically or currently being rented at rates affordable by lower and very low-income households. So the county had two points to justify no on that question. The first point was the codification of Land Use Policy 2-9, which requires that single-family condominiums shall only be allowed in the zone if they are part of mixed-use or affordable housing units. So the County says that this is the codification of a policy that could have the effect of increasing the amount of affordable housing. Otherwise the County said that the proposed amendment does not impact a property owner's ability to develop affordable housing. TRPA's staff analysis of compliance found that was in conformance with the Regional Plan.

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Mr. Ferry asked for clarification on question 1 about the decrease in the amount of housing. He said they can't make assumptions, but a multi-family building will definitely house more people than single-family. Mr. Stock responded that the single-family housing would be limited to condominiums. As Mr. Marshall explained, you can only get condominium uses through a two-step subdivision. First the approval of multi-family, and then the subdivision of that multi-family into condominiums. Detached single-family housing is still prohibited in this zone.

Moving to transportation, Mr. Stock said that this case is looking strictly at the addition of the single-family condominium use to this zone. Washoe County the Institute of Transportation Engineers (ITE) Trip Generation Manual for their transportation analysis, which is pretty standard in an IEC. According to that analysis, single-family condominiums have a very similar, and even slightly trip generation than multi-family units, which are already allowed. So tiering off the previous environmental analysis, which included multifamily, this project would not have a significant impact on traffic.

Mr. Teshara said he believes they have had a good robust discussion, and appreciated that they were able to go through this in more detail before public comment, and before APC deliberation.

Public Comments & Questions

Mr. Tim Kane, owner of Integrity Properties in Incline Village, thanked the APC and TRPA for the work they have done. He has been a full-time resident for almost 11 years, and has been part of the Incline community since he was born. His parents have retired to Incline, and his siblings have all lived in Incline over the years.

Mr. Kane said he was here to voice strong support for this development. Being in Incline for so long, he has seen many businesses come and go on the lot - it has been vacant for many years, and is an eyesore. He said it is the start of the town center and the retail area. Mr. Kane said is friends with many business owners, whether business or restaurant or shop owners. He said they have very limited parking through that area for people to support our local businesses. Mr. Kane said they have all said for a long time that Incline Village needs beautification and ease of access, and a development like this would provide that. It would be within walking distance to all the shops, and they need that for their long-term success. He is in strong favor of it.

Ms. Ronda Tycer said she has been an Incline Village resident for the past 38 years. She said the APC Committee Meeting Packet includes a detailed description from several Incline residents and a former lawyer, giving reasons why the proposed policy change to the Washoe Tahoe Area Plan should not be approved. She offered a summary to those pages by saying that doing so undermines the incentive for future developers to build truly affordable, achievable housing in any of the Special Area 1, or other commercial zones, The precedent will be set. She said this is not an assumption, this is a fact. She said that those who do not want the policy change believe, based on past experience, that it will open the opportunity for more short-term rentals in expensive condos in Incline. Real estate investors can afford two to five million dollars, given their expected return on investment. She said 95% of the other buyers cannot. She said we all know that short term rentals take away from achievable, affordable housing, we all know that STRs have the best return on investment for absentee ownership, and we know that Washoe County allows unlimited STRs in Incline. We also know that CCRs can be changed.

Ms. Tycer said that even if many of us, including herself, want to see a beautiful development at Nine 47 Tahoe Boulevard, they are against the Washoe Tahoe Area Plan amendment, because of its wide-ranging and long-term negative effects. She wanted to emphasize that a decision to change the area plan is not favored by most residents who actually understand the repercussions, and live and vote in Incline Village. She said that in December, the developer sent out a form letter and received 49 responses that he included in the January Washoe Commissioners meeting, but 31 of those 49 respondents did not live in Incline Village or Crystal Bay. In fact, of the 70 supporting letters he cited, which are in the APC Packet, more than half of the respondents live outside of Incline. So her question is, when will the voices of ordinary Incline residents, who live in the village, be given priority in TRPA's decision-making?

Ms. Tycer said that Incline residents resist unregulated short-term rentals throughout their neighborhoods, which TRPA allowed in 2004. They resist increasing height, density, and coverage, which decreases the possibility of wildfire evacuation, and they resist changing the Washoe Area Plan in a way that will reduce the opportunity for future affordable, achievable housing.

Ms. Christina Hill asked "is this a mixed-use proposal? No, it's just condominiums". She said it showed in Ms. Weiche's presentation, that if you're changing the permissible uses to allow single-family dwelling, it doesn't differentiate between attached or detached. Ms. Hill said she is a long-time planner in the Basin, and worked at TRPA in 1981 when the Thresholds were drafted and adopted. She said that when you do a Regional Plan amendment, such as being proposed by this action, you have to make findings relative to the Thresholds. One of the Thresholds is land use, and a sub-element of that land use Threshold is housing. She said there are three goals in that sub-element. The first goal is for housing for workers employed in the region, like workforce, affordable housing. She said this is not that. She said goal number two reads that, affordable housing for moderate income is encouraged for residents of the region. She does not see that being discussed or that being an option with million-dollar condos. She said that goal number three is to remove barriers preventing affordable housing - using this vacant parcel for million-dollar condos would put up a barrier to affordable housing.

Ms. Hill said she does not see how anyone could logically make the finding that they are complying with the Thresholds, and she is offended by that. She said she was active in the original adoption of the Area Plan. She said Eric Young states that he doesn't remember what was decided, but she remembers that they decided to leave this multi-family so it would be for workforce housing apartments that people who live and work in our community could afford.

Ms. Hill said she strongly asks the Commission to vote no on this amendment. She thinks it's bad for the community, and it's horrible for Incline Village to allow more single-family dwellings.

Ms. Kathie Julian said she would like to support what the last two speakers have said, and that she sent comments by email today. She said she would urge the APC to reconsider this proposed code change, not because she does not think it is reasonable to have a nice development at the corner of Tahoe Boulevard and Northwood. She is not against that project per se, but she is against the extension of the code change to the other 30+ parcels in the commercial area. She said it will inevitably have an impact on the incentives to build affordable housing, and to even develop small business commercial establishments. Once you establish a precedent for building

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luxury condos at 2.5 to 5 million dollars, you will have investors coming in to do that. As people have mentioned, there is no guarantee that those won't end up as STRs, but that's really a side issue.

Ms. Julian said she is more concerned about having a Tahoe Area Plan that had been discussed and approved in 2021, which really did encourage workforce housing, affordable housing, and true mixed-use housing - this extension of the code change to those 30+ parcels outside this two-parcel area, will simply gut what was already discussed with the community back in 2020/2021, and there has not been those conversations to date. She said conversations on this have really focused on Nine 47 Tahoe, and that's not the point. She thinks many community members are concerned about the impact of this code change on the other 30+ parcels. She implored the APC to reconsider this, and to ask the County to go back and have broader consultations with the community on their vision for those other areas of Special Area 1. She said it should not be portrayed as a minority of residents who are somehow against Nine 47 Tahoe.

Ms. Kara Thiel, on behalf of the Nine 47 Tahoe developer said she wanted to respond to a couple of questions from APC members. She said there are approximately 46 parcels in Special Area 1. She said that 7 of those are vacant, and two of those 7 are publicly owned, and therefore not eligible for development. Three of the remaining five parcels are owned by the developer, who has no intention to do any further single-family dwelling or condo development. So that leaves two vacant parcels that could potentially be developed with multi-family and then subdivided into single-family. One of those is 0.3 acres of SEZ (Stream Environment Zone), and the remaining acreage is 1.2 acres. At most, another 20 or 30 single-family condominiums could be developed within all of Special Area 1. So the outcry that this could have far-reaching impacts, and that single-family dwelling condos would just proliferate throughout Special Area 1 is just unfounded.

Ms. Thiel said that they had originally proposed this Area Plan amendment just for the Nine 47 Tahoe parcels, but TRPA and County staff suggested that would be spot zoning, so let's do it to all of Special Area 1. To Mr. Ferry's comments about existing development being subdivided into condos, Ms. Thiel said there is not one single multi-family development in Special Area 1. She said there is no residential development in Special Area 1, except for one or two units, one of which is above a gas station, and the other is part of another mixed-use. So they don't have residential development in Special Area 1. There have not been multi-family dwelling projects constructed in all of Incline Village in over 20 years, so to suggest that this amendment will hurt multi-family, or affordable, or workforce housing projects is also unfounded. This amendment doesn't prohibit any other property from doing workforce housing. Workforce housing is not going to be built on Nine 47 property, whether this amendment is approved or not. Finally, in regard to the Nine 47 CC&R, they do prohibit short-term rentals, and there is a provision that would require unanimous approval for that provision to be changed. Ms. Thiel submits that unanimous approval is almost impossible.

Ms. Helen Neff, Incline Village resident, said it is not her intention to hamper any needed development for the village or for any financial gains. She is not opposed to the Nine 47 Tahoe project, but she asks that a solution is found for two major issues. Before she addressed those issues she wanted to respond to two comments. The earlier referenced TRPA approval for this project was approval of a consent item, not a hearing, during the June Governing Board

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meeting. Also to the fact that there are only a limited number of vacant parcels, Ms. Neff said that there is nothing that prohibits a landowner from knocking down their aging commercial development in the town center to build a luxury condominium.

Ms. Neff said her first big issue is 'safe streets'. The east intersection of the Incline Village commercial zone is an F-rated intersection – dangerous to pedestrians, cyclists, and vehicles. Per the TRPA Threshold Standards and Regional Plan, amended in 2021, Section 4.1 says that level of service criteria should not be below C on a recreational or scenic road, and SR 28 is designated as a scenic road. Ms. Neff said she is pleading with TRPA to address the needs of the community for transportation safety, rather than just issuing a lengthy and very professionally produced report, and then not implementing and enforcing it. She said this 'simple to solve' transportation issue needs to be addressed before this code change. Ms. Neff said they will never have a pedestrian-friendly town center without safe streets.

Ms. Neff said her second issue pertains to the definition of mixed-use development. She said that at the November 1, 2022, Washoe County Planning Commission meeting (about 3.5 hours into the recording), the commissioners inquired about the definition of mixed-use, and County Planner, Ms. Weiche replied that the county has an interest in exploring this definition, and that it will be included in any proposed amendment to the code, and Ms. Neff said she has not seen it. She said that the project in question has a tiny percentage of footage, 925 square feet, located on the same level as below ground parking, to be designated as office, and thus the project is considered mixed-use. She asked the APC if 925 square feet of commercial space located in the basement of a project with over 100,000 square feet of residential space defined the project as mixed-use. Ms. Neff said she has reviewed the definitions of mixed-use development in the American Planning Association Publication of Planning and Urban Design Standards, and a basement office of 925 square feet does not fulfill the definition. Ms. Neff said she appreciates that the TRPA Governing Board has acknowledged that.

Mr. Royal Kuckhoff said he is a local businessman and homeowner. He arrived in Incline Village in 1970, attended school through high school, and raised three daughters there. He said he has seen many changes to the town over the years, some good, some bad, but Nine 47 Tahoe most definitely lands on the good side of the ledger. He expressed thanks for the environmental review of the Nine 47 Project and the development code amendment. He voiced his strong support for the amendment to move forward - Incline Village needs this investment to help the lake, economy.

Mr. Kuckhoff said that for too long, more than 20 years, this site has been dormant, stagnant. He grew up with the respective families on these two sites - the Parsons Family, Stanley's Restaurant, and the Parks Family, Chevron Gas Station. He said that environmental wins and investment benefits are upgraded stormwater management controls, reduced trip generation by 1,500 daily vehicle trips and vehicle miles travelled, reduced dependence on automobiles and parking demand. It has direct access to bike and walking trails, and 10-minute walks to everything in town, from the beaches to all of the local businesses. It implements the goals of the Tahoe Area Plan to concentrate development in the town center, and to create walkable communities.

Mr. Kuckhoff said the project is already approved for 40 rental apartments, but the amendment is needed to update the old development code to allow single-family dwellings and ownership.

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He said that for economy wins, the project will contribute 45 million dollars across two years to the local economy from annual taxes, jobs created, new economic activity, increased property values, and investment attraction. It will help to address the housing shortage by adding 40 new living units in the town center. He said that research shows that housing is needed at all income levels.

Mr. Kuckhoff said this is what is true. Dozens of people have taken time to send letters of support. He said he was able to come today, but many others could not due to job and family responsibilities. Yes, you'll also hear from a vocal group that seems to attend and protest everything for the town, but they do not represent. He hopes you will listen to those who are working to improve the community as they raise families and have full-time jobs.

Mr. Kuckhoff said that Randy Fleisher, the developer, lives in Incline Village, and is an active community member. He consistently supports their nonprofits and more. He is planning an affordable housing project in another location, and there are minimum properties available where there will be any negative impact. For all of these reasons and more, Mr. Kuckhoff voiced his strong support for the Nine 47 Tahoe Project and amendment to allow for a condominium form of ownership.

Ms. Ann Nichols said she has been here for here for 50 years, followed TRPA since the beginning, and this is one of the best APC meetings she has heard. She said she is against this project because of the overall zoning change. She said she is a vocal minority, but has been here as long as Mr. Kuckhoff. She said that suppressing valid criticism shouldn't be the go-to when the community has concerns. She has been a realtor, a California and Nevada broker, the whole time she has been here. She said you get more money when you have a deeded condo, than when you have multi-family - that's the reason they want to do this. This two-step process that TRPA endorses is a real problem, it's why they don't have more affordable and workforce housing.

Ms. Nichols said this does create a barrier in this whole section of town. There are duplexes and some units here, it's not the case to say there aren't. As far as the Prosperity Center, justifying all these things, a lot of us are very concerned. It's a self-anointed nonprofit that is now touting themselves as the agency for development - she has real concerns and would like to know more about their Envision Plan that was developed by a PR firm in Sacramento.

Mr. Vic Castello said he lives at 1700 Pine Cone Circle. This is his second winter here following retirement but, they have had a home here since 2009. They are permanent residents, and love Incline. They think that the Nine 47 Tahoe project is exactly what is needed on the Tahoe Boulevard corridor. The downtown needs a little "oomph", and he thinks this could kickstart some other developments that would greatly enhance the downtown. Mr. Castello said that anything Mr. Randy Fleisher builds will be first class, and I think this might encourage other people to do the same. Mr. Castello said these types of investments are very risky. There are a lot of uncertainties. He knows people think that developing is just a money machine, but that's not quite how things work, there is a lot of risk, and for a developer to come in and propose such a first class project, is something that should be embraced. He and his family strongly support this project.

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Mr. Lawrence Wardowski said he was appearing on behalf of his company to support the plan amendment to allow the Nine 47 Project to be a condominium ownership development. He is the owner of a property management company that has been serving the village community for 43 years, providing commercial and residential property management and maintenance. They maintain and assist in the management of the three largest shopping centers in town, consequently he is in constant communication with the tenants of these centers. All of the tenants, except one, are locally owned small businesses. In addition, he sits on various committees within the Incline Village/Crystal Bay Business Association, including the newly formed Main Street Beautification Committee.

Mr. Wardowski said the feedback they receive 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 season ends, these businesses have only local residents to support their businesses. The Nine 47 Tahoe Project is the type of development that would serve the community. The parcels proposed have been vacant eyesores in the community for many years, as everyone knows. As previously stated, this developer has a future project in Special Area 1, that would include workforce housing, and Mr. Wardowski believes that this is precisely the kind of private sector leadership that the community needs. The project fits within the Tahoe Area Plan, it would bring another level of economic vitality into the community, it would increase population density in the town center. As previously said, it would reduce auto dependency, and upgrade storm management and erosion control provisions on these vacant parcels.

Mr. Wardowski said that in his experience, it has been a rare occasion for a community resident to invest the time and resources necessary to upgrade the community with sorely needed housing. When that occurs they are committed to assist that in any way they can. He has been an active member of the Incline Village community for 22 years, and he encourages the APC to recommend the proposed amendments. He added that his company will not take on a property when the interest is in short-term rentals. Lastly, he offered thanks to the APC for the work they do on behalf of the Lake and all of its communities.

Mr. Randy Fleischer said he wanted to thank the APC for all the great work they do for the Lake. As one of the co-developers of Nine 47 Tahoe, he wanted to state that when they were in the process of developing and designing Nine 47 Tahoe they did it with the view of the Tahoe Area Plan. They wanted to provide access to the walk and bike path, they wanted to clean the site and reduce the stormwater, they wanted to improve the area in the site. Mr. Fleisher said he is also working on another project in the area which will provide workforce housing.

In regard to Nine 47 and the Area Plan. He thinks that the Area Plan does not preclude workforce housing, it does not preclude multi-family. In their CC&Rs they will preclude short term rentals – there will be a requirement unanimous consent to all overturn the restrictions on short-term rentals.

Mr. Dale Smith said he wanted to speak in favor and ask the APC to recommend in favor of the item to amend the County Development code to allow airspace condominiums in Special Area 1 of the Incline Village Commercial Regulatory Zone. He is a 45-year resident of Incline Village, an Architect, and an office owner for 34 years. He was elected to three terms on the Board of Directors to the local fire district, a member of the Incline Village/Crystal Bay Business Association, and past president of the Tahoe Incline Rotary Club.

Mr. Smith said he strongly supports amending the County Development Code to allow airspace condominiums in Special Area 1 - the Plan Area amendment is similar to other Tahoe Basin area plans, allowing multi-family dwellings alongside airspace condominium single-family. The amendment is consistent with the Washoe County Master Plan, and will allow for more desirable development of land within this regulatory zone, and will help the plan area deliver on its goal to concentrate development, identify town centers, and create walkable communities. The amendment will allow the Nine 47 Project to move forward, and it is exactly the kind of development Incline Village needs at the gateway to its commercial core. The project will provide a positive economic benefit to the local economy, jumpstart redevelopment, and further creation of community. Mr. Smith urged the APC to approve this amendment to the Washoe County Development Code.

Mr. Butler, on behalf of himself and his partners, thanked the APC and TRPA staff. He said he wanted to go back to the issues raised. In regard to traffic, that was a really big issue for them upfront. They engaged with the community and talked to the Nevada Department of Transportation (NDOT). They want to ensure that is a safe intersection, and will do everything they can with the community and NDOT to do that. He pointed out that it will have the same impact as multi-family would, and will have less of an impact in terms of the previous uses which was a gas station in a restaurant, or if retail or commercial were developed there.

With regards to the STRs, Mr. Butler said they know it's a passionate issue. As you've heard a lot, it requires a 100% vote to overturn the initial CC&Rs and he hopes that speaks to their tone and goals. When someone calls and asks about that as their primary intent, we tell them that is not an option here and dissuade those types of people from looking at the project. For the longer-term impact in terms of what could happen, there are really only 7 parcels, five of which are privately owned, and three of which they own and control. That leaves a little over an acre. He hears the concerns of this widespread trend of things that could happen, but believes it's really an unfounded concern. Within this area, there are really only two small parcels.

Mr. Butler said this amendment does not suppress affordable housing in any way. There has not been material development in this area in 20+ years. To truly encourage affordable housing you have to have a public/private partnership. You have to have funds available in order to supplement and offset the cost if you're really to do it. Incline Village has one of the highest costs to build in any place in the country. It's remote, all the subcontractors have to come in, you have snow load, the codes are extremely expensive to maintain – it's expensive to build there. So in order to do that, you have to have funds set aside in a public/private partnership. Doing our project, or any of these other projects will have zero impact on the success of affordable housing, and they want to do affordable housing. They have taken the steps on a parcel they own to engage in discussions with a lot of people like St. John's Land Trust, and others who are trying to take this issue on. They have reached the conclusion that in order to do this, a public/private partnership with funding offset funding resources is needed. In order to do this you have to make the project look attractive, with incentive tax credits to finance the project. They have gone to their own cost of looking at this, and come to conclusion that modular is the only way to make it cost effective in this market. Mr. Butler concluded that it is a real issue, and they are putting their money where their mouth is.

APC Member Questions, Comments & Deliberation

Ms. Simon directed a question to Mr. Marshall regarding the requirement for CC&Rs, where there has to be a 100% agreement to change the CC&Rs. She asked if that could be in conflict with Nevada law. Mr. Marshall said he does not know, but believes that is the choice of the developer. He could not say whether or not Nevada law precludes a 100%, but thinks he can say with confidence that it is up to the developer to set what those voting requirements are in the first place. He assumes that if they are including it, they have to have a pretty good reason.

Ms. Stahler said she appreciated the discussion and public comments. She was definitely of one mindset before the discussion, but has since changed her mind. To Mr. Marshall's point, Ms. Stahler said the question before them is an ordinance change to allow single-family residential airspace condos, as well as multi-family developments. Before the discussion, she was thinking that the environmental impacts of the ordinance change would be minimal - no increase in the number of units, no increase in density, and therefore no increase in traffic or other significant environmental impacts. But through the short-term rental conversation, she learned that this ordinance could potentially allow one short-term rental per airspace condo versus one STR per multi-family development within Special Area 1. While she has no issue with the project itself, and believes the project proponents have very thoughtfully addressed STRs under their own steam, she believes the APC are obligated to evaluate the potential environmental impacts and make a finding of no significant effect for the most intensive use allowed by Washoe County's proposed ordinance change. From what she has heard about the environmental checklist, and how it was put together, she does not think that has been completed. For that reason she will vote 'no' on these items. She does not think it's quite ready, and would encourage Washoe County to come back to the APC with a revised IEC that contemplates the maximum STRs that could be allowed within Special Area 1 as a result of the proposed code change.

Ms. Jacobson said she appreciated both sides of the dialogue presented. She agreed with Ms. Stahler, and understands that the subdividing of these units can be a tool to get the type of town center reinvestment that they look for in revitalization, but she is not prepared to move this forward to the Governing Board today. She thinks it needs more thought, and would like to see some consideration of parameters that would safeguard workforce housing and commercial space on the ground floor.

Mr. Teshara said he appreciates the thoughtful comments from Ms. Stahler and Ms. Jacobson. He said he is familiar with this property, and it's been a blight in the community for a long time. Much of his work is with businesses in the Basin, and he is very sensitive to the business community because he knows how much the businesses need people and activity in the downtown area. He said that the principal barrier to affordable housing is zoning to some extent, but subsidies are necessary. He is glad to hear that Mr. Fleischer and his associates are looking at partnerships to build affordable workforce housing in the Incline Village area, where the study shows it is seriously needed, as it is in most of our communities.

However, he believes the APC has a narrow band before them. He appreciates that there is concern about the STRs, but believes that Washoe County Board of Commissioners and staff will do everything they can to ensure there is no proliferation of STRs in the Incline Village area. Certainly the community has expressed that on many occasions. Mr. Teshara said that he is concerned about an overreach of what is being presented today. As the Chairman pointed out,

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the APC has a narrow scope, He is prepared to support the motions to move this on to the Governing board, with the understanding that the Governing Board is looking at the definition of mixed-use, and may have additional information that they don't have today. Based on what they have in the record, and what's been heard in public testimony, he is prepared to support both motions.

Mr. Young said it may be rare to see both sides having such valid input, and to be in a position of trying to really understand the scope of the decision, and the context of what both sides are saying. He will support this, and one of his reasons, perhaps ironically, is what's happening with the Prosperity Center – the value of it, and the dedication of the people involved. It is not a minority of activists; it is a large and growing group of community members who have very valid concerns and have decided it's time for them to do something about it. He would encourage everybody in Incline Village to learn more about what they're doing, more about the housing study that they produced, and how they intend to go about implementing it. For the first time, he has an enormous amount of confidence, and where the County and the community is going to be able to go with some affordable housing and workforce housing progress. It has been a difficult barrier forever in Incline Village, and the ongoing effort at the Prosperity Center is the most serious, comprehensive, and dedicated effort that has occurred to date.

Mr. Young said he believes it will pay off, in a much more comprehensive analysis and review of how to look at the entire area. His view, and Washoe County's view, is that this amendment - even if it did require workforce or affordable housing – is that it is not what the community needs. It's not the solution to the housing issue in Incline Village. He said a 'no' vote against this is not a vote for eventual multi-family housing, or for eventual workforce housing, it is a vote for an empty parcel. He said that both sides have commented today – and they're both right. This investment in this area is likely to do some very positive things. The environmental redevelopment alone is exactly what they are trying to achieve. He said those positives are worth moving forward on, and he believes its worth being positive and supportive of what the Prosperity Center is trying to accomplish in their more comprehensive and widespread efforts to tackle the issue in Incline Village. He does not see a 'yes' vote as a barrier to affordable or workforce housing. He sees them as two separate things that are getting them conflated. He said that as they sit here today, it is an extreme assumption that all of these will become STRs, and even if they did, they don't have any scientific data to show how that would impact things differently. He recognizes the problem and respects where people are coming from but does not believe he can base his vote on an amorphous potential of what might happen with STRs. He will support the vote to move forward.

Ms. Simon said she does not think she can support the motion, but thanked Mr. Young for his analysis. She does track the Prosperity Center and they have done some good analytical work, but it has not resulted in any increase in workforce housing to date. She thinks the 947 Tahoe Project would stand on its merits, but the proposal before the APC today is much more far reaching than she is able to go at this time.

Mr. Drake said this is a very difficult decision for him. He owns a business in Incline Village, he is very knowledgeable of the site, and has talked to a lot of people on both sides of the issue. He knows they are not evaluating this project today. It is not his ideal project for the parcel, but believes it has more potentially positive aspects than negative. When he zooms out, and considers if it sets a precedent for 'condo-izing' multi-family properties, and thereby potentially

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disincentivizing employee, affordable, or achievable housing, yes, potentially. But the proposed code amendment before APC today is only about Special Area 1, where there are very few properties that could actually become condos. So the risk is very limited. He agrees with Ms. Ann Nichols that the currently allowed two step process for 'condo-izing' is a problem that should be addressed, but they cannot fault this proposed amendment because that is currently allowed. This lot has been vacant for a very long time, and vacant lots on our main streets do no good. At the end of the day, building any sort of higher density residential, whether it's truly mixed-use or condos near our town centers is a good thing.

He is not terribly concerned about the STR potential in the future. It is certainly there, but he thinks that all can agree that STRs really belong concentrated near town centers, and not in residential neighborhoods, so to him that's not a big of a concern. All that being said, he is leaning towards supporting this today, and strongly encourages Washoe County to go back and take a hard look at the definition of mixed-use in the Tahoe Area Community Plan, as well as taking a hard look at what incentives and structures are in place to encourage affordable, achievable housing. Mr. Drake said he knows that this project proponent is looking at some lots, has a project moving forward, and is looking for more support. He said this is not a perfect project, and if he could wave a magic wand he would wish they were making an amendment to the code to enable it, but he thinks it's the right decision today.

Ms. Moroles O-Neil said it was very interesting to hear both sides. When she read the packet, she knew which way she would go. She really empathized with both sides, but deferred what is in front of them today. As a planner, the hardest thing is to not project into the future, especially in regard to STRs. But when she looks at what is presented today, she is in support of this item. It's a difficult one for sure, and she empathizes with all the things that have been brought up today. It definitely made it a harder decision for her.

Mr. Ferry said he wanted to speak to a concern brought up by Ms. Hill in public comment. Since the first motion requires APC to approve the required findings as described in Attachment D, he has some concerns about the Chapter 4 Findings - Finding number one, that the proposed plan area amendment is consistent with and will not adversely affect implementation of the regional plan, including all applicable goals, policies, etc. Ms. Hill read out the land use Regional Plan goals, focused around affordable, moderate housing, etc. He asked if staff could speak to how their analysis is affirmative that the proposed amendments to the area plan, not focused on the project, are consistent with all the Regional Plan goals, knowing that there is an extreme focus on affordable, and moderately affordable housing in the Basin.

Mr. Stock said he would also like to review in light of the comments, but said that when TRPA staff are reviewing IEC conformance documents and findings that are submitted by an applicant, they have a narrow mandate to look at compliance with the Regional Plan. In the case of the IEC and Conformance Checklists, there are limited enforcement mechanisms that they have for affordable housing. So he would like to go back and review the findings, but they are relatively limited in what is enforceable in making findings of conformance or non-conformance. Mr. Ferry asked if even though they may have goals and policies, maybe the implementation of those has a pretty narrow enforceability. Mr. Stock agreed.

Mr. Marshall asked Ms. Weiche to respond and add some context. Ms. Weiche reiterated that the proposed amendment would add one additional use, and not take away any ability for

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affordable housing. From the position of Washoe County this is not taking away the option of developing affordable housing, it's just providing another option for a different type of residential use in Special Area 1. Mr. Marshall said he would not argue for a particular finding, but the way in which those findings are presented to you is whether or not this particular code amendment achieves and maintains thresholds, and whether or not it's consistent with the Regional Plan policies. They need to have substantial evidence, in the record, that they believe supports the findings. For example, they can have a legitimate disagreement on whether or not there's evidence in the record to support a plan amendment that will allow Condo use that allows more STRs, than if it was just multi-family.

The question they must ask is whether or not that issue precludes them from making a finding that it's consistent with, for example, policies to encourage affordable housing. Is there something about adding the gloss over this Special Area that you can subdivide into airspace - does that have an effect that would be inconsistent with encouraging affordable housing? He also highlighted that the policy would only apply to vacant lots. There are very few vacant lots, therefore, the reach of this policy is not particularly wide. As he understands it, it applies to all lots. So if there were a tear down & rebuild, or similar, it could move through the two-step subdivision process that would be allowed by this. So it's broader than just the vacant parcels, but you still have to be able to justify the findings that there is something that would either not interfere with, or actively discourage affordable housing. You need to look at the record, and affirmatively make these findings, and if the record is not there to support it, in your opinion, then that would support a 'no' vote. If the record is there to support it, as I think you've heard both sides are articulate, then you can also make the findings to add this policy to the Special Plan area.

Mr. Ferry thanked Mr. Marshall for his clarification and said he was struggling to make the finding allowing subdivision to single-family for 46 parcels, even knowing that two of those are publicly owned. Making this amendment does not support affordable housing goals and other Regional Plan housing goals.

Ms. Stahler said she shared the same struggles. For her it has not been demonstrated that even impacts to traffic and transportation have been fully evaluated with the notion that each airspace condo could potentially be converted to an STR within the Special Area 1 plan.

Mr. Teshara said that he would be prepared to make the first motion and the vote will fall where it may. But otherwise they're getting into a circular discussion. Mr. Ferry agreed that they need to make a decision - they could either postpone the vote and ask for more information, or could proceed with the vote and see where it falls.

Ms. Chandler said she was thinking outside the box, because it really seems that the whole conversation is based on one project, which is two parcels in Special Area 1. It seems to her that in the past they have been able to take parcels and reassign them to other areas where they might be more appropriate. Looking at the map, the two parcels are at the intersection of Southwood and Tahoe Boulevard. It seems that they could very easily be incorporated into the Incline Village Commercial, or the Incline Village residential, which would maybe have different specifications of zoning requirements, and therefore maybe you don't have to change the zoning for all of Special Area 1 for that one particular project. Mr. Stock said that idea was proposed early on in the process, and discussions with TRPA and Washoe County determined it

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would be considered spot zoning - changing the zone of specific parcels for for an intended use without changing a further zone, which is considered illegal in some cases.

Mr. Marshall said that while he did not have the map to hand, maybe Ms. Chandler was asking if it was possible to make a map change that would bring it into another Plan Area Statement or zone that would allow single-family zoning. He added that there may be density allowances in its current town center location that allow it to go to 40 units, and if it was moved it that may be lost. So there's other consequences associated with that. If it's on a boundary, shifting it from one boundary to another might solve the larger concern about changing the zoning for Special Area 1, but there may be other impacts associated to the particular project.

Mr. Teshara said he would make a motion with the understanding that they don't know how the vote will come, but what they do need is some clear direction from the APC, either to staff or to the Governing Board. But he finds nothing about keeping these parcels blighted that is consistent with the Regional Plan.

Mr. Teshara made a motion to recommend approval of the required findings, as described in Attachment D, including a finding of no significant effect, for adoption of the Area Plan amendment as described in the Staff Report and the subject of discussion today

Ms. Chandler seconded the motion.

Ayes: Mr. Drake, Ms. Ferris, Mr. Hitchcock, Ms. Moroles-O'Neil, Mr. Teshara, Mr. Young,

Nayes: Ms. Jacobsen, Ms. Simon, Ms. Stahler, Mr. Ferry

Abstain: Ms. Chandler, Mr. Letton

Absent: Mr. Alling, Ms. Carr, Mr. Drew, Mr. Hill, Mr. Guevin, Mr. Smokey

Motion Failed.

Mr. Ferry said he was trying to stay in his lane as an APC member. As much as he thinks it is bad policy to adjust zoning after a project is proposed, he is not making a no vote based on that. He is really struggling with the findings in Chapter 4 for the Regional Plan affordable housing goals, and agrees with Miss Stahler's analysis of STRs and traffic impacts that this opens up to all of Special Area 1.

Mr. Teshara and Mr. Ferry said that the given the failure of the first motion, they would not proceed with the second motion. Mr. Ferry said they would provide staff with constructive feedback on how this project to amend the area plan could come back to APC, and be successful. Mr. Ferry said he has voiced his points of weakness, and asked other no voters to elaborate. Ms. Jacobsen said she would like to see some parameters, for example if a certain percentage of the single-family condos where deed restricted for workforce housing, it would also play into the STR piece by limiting the number that could be used for STRs. She would ask staff and the County to look at further defining what the mixed-use piece looks like. She

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understands this is really being proposed for a project, but it is a change to the entire district. It may not be a lot of sites, but she believes there should be more consideration around what makes the most sense for the district and for the community as a whole. She is not opposed to making a change to encourage that kind of revitalization to happen, she just thinks it needs a little bit more work.

Ms. Stahler suggested that staff and the County take another crack at completing the Initial Environmental Checklist, but with the viewpoint of evaluating potential environmental impacts from the perspective of allowing one STR per APN, as is consistent with Washoe County's current rules.

Mr. Hitchcock encouraged staff and the County to take a look at the mixed-use definition. Maybe take a harder look at requiring ground floor retail, only residential above the commercial space, or requiring a certain gross floor area be dedicated to commercial space.

Building on Mr. Hitchcock's point, Mr. Teshara said they have heard that the definition of mixed-use came up at RPIC, and is planned for Governing Board discussion. He asked staff about the timing of this discussion, and when there might be a resolution on the issue. Mr. Teshara said he appreciated all the points of view expressed today, and that this development team has invested a lot of money into this project. They shouldn't have to wait for an extended period of time to get answers. Mr. Stock said staff do not currently have a timeline for the regional level discussion. He said that will require working with all of the local governments and working with a stakeholder group. He believes it is something that could be addressed more expeditiously through the Tahoe Area Plan, at least for the purposes of this project. Mr. Teshara said he appreciated the candor, and encouraged Ms. Weiche and the County to think about that in the Washoe County context.

Mr. Marshall summarized that the APC have made a recommendation on the first motion. In coordination with Washoe County, TRPA staff will determine the best course forward. It may be taken to the Governing Board as is, with the APC failure to make recommendation, or Washoe County may want to make some policy amendments. Mr. Ferry asked for clarification that even though the APC failed to pass motion one, this item could still go to the Governing Board and be approved. Mr. Marshall confirmed that was correct.

Ms. Weiche asked, so there isn't necessarily a recommendation of denial, there is just not a recommendation because the motion did not pass, and it will be up to the County on whether or not to proceed to the Governing Board with no recommendation? Mr. Marshall agreed with the first part of Ms. Weiche's comment, but not the second part. The motion was to get a recommendation to approve, and that failed. Mr. Marshall said that if they were to move forward to the Governing Board, the distribution of votes would be included in the staff report. Mr. Teshara pointed out that that they did not get to the approval motion, it was only the approval of the findings, that is an important distinction.

Ms. Simon said that this is a blighted area and would be improved by the 947 Tahoe project. But it could also be improved by making it an open space, or a park.

Due to time considerations, Mr. Ferry proposed that informational agenda items V.B. and V.C. be continued.

VI. REPORTS

A. Executive Director

TRPA Deputy Director and Chief Partnerships Officer, Ms. Chevallier said that TRPA have just released the 2022 Annual Report, which includes many of the accomplishments since the 2012 Regional Plan update, along with accomplishments for the past year. Ms. Chevallier's EIP Briefing presentation (now continued to a future meeting) was going to cover a lot of the Environmental Improvement accomplishments over the last year, particularly the work that the partnership is doing around the prioritization of projects for Lake Tahoe Restoration Act funding. They are in the process of submitting the request for FY 2024 to the congressional delegation on March 15, 2023. She said they are really excited about new legislation introduced last week, to extend the Lake Tahoe Restoration Act to 2034.

B. General Counsel

Mr. Marshall said TRPA recently received a positive opinion from the District Court in a non-littoral buoy litigation, that essentially said that a grandfathering letter is not adequate to establish both pre-1972, and governmental approval.

C. APC Member Reports

Mr. Hitchcock said the City had issued a press release, urging residents to take the threat of roof collapse seriously, and to prepare for the pending storm. Sandbags are available behind Fire Station Number 3, which is accessible from James Avenue. The City Manager also issued a local emergency proclamation for the City of South Lake Tahoe, due to the pending severe winter storm.

Miss Jacobsen said Placer County have also issued an emergency proclamation. They are dealing with heavy impacts of the storm in the foothills and an avalanche in Tahoe. Information on the storm situation and the resources can be found on the Ready Placer website page.

In reference to the Tahoe Basin Area Plan amendments that Placer County has been working on, Ms. Jacobsen said that a workshop scheduled for tomorrow night, has been rescheduled to March 23, 2024 at the North Tahoe Event Center in King's Beach from 5:00 to 7:00 p.m.

Mr. Young thanked everyone for a great discussion, he really appreciated the sincere engagement. He especially liked the discussion on findings. It's so important to focus on finding, the housing findings in particular do seem maybe a little subjective. He watched people look at exactly the same thing and see two different things, and that's perfectly legitimate. But it's not helpful to us as a commission, so he would love to see a future agenda item where they can talk about the housing findings in particular, to maybe make them a little bit less subjective for all.

Mr. Ferry said the El Dorado County Board had also declared a declaration of emergency. A lot of people are really struggling and scared out there. Roof collapses are a very serious issue, and flood concerns are coming.

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Mr. Ferry added that the El Dorado County CAO Don Ashton retired on March 3, 2023. The new interim CAO is Tiffany Schmid.

VII. PUBLIC COMMENT

None.

VIII. ADJOURNMENT

Mr. Alling moved to adjourn.

Chair Ferry adjourned the meeting at 12:53 p.m.

Respectfully Submitted,



Tracy Campbell
Clerk to the Advisory Planning Commission

The above meeting was recorded in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review