

**TRPA
APC
PACKETS**

**JULY
2000**

Counter

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION
NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on July 12, at the Tahoe Seasons Resort, Saddle Road at Keller, South Lake Tahoe, California. The agenda for the meeting is attached hereto and made a part of this notice.

June 30, 2000



John L. Marshall
Acting Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office, and the North Lake Tahoe Chamber of Commerce.

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

Tahoe Seasons Resort
Saddle Road at Keller
South Lake Tahoe, California

July 12, 2000
9:30 a.m.

All items on this agenda are action items unless otherwise noted.

AGENDA

- I. CALL TO ORDER AND DETERMINATION OF QUORUM
- II. APPROVAL OF AGENDA
- III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Advisory Planning Commission on any agenda item not listed as a Public Hearing or a Planning Matter item, or on any other issue, may do so at this time. However, public comment on Public Hearing and Planning Matter items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

- IV. DISPOSITION OF MINUTES
- V. PUBLIC HEARINGS
 - A. Scoping Session for Environmental Document for Stonewood Estates Condominiums (formerly South Shore Estates), Douglas County APN 007-050-05 Pg. 1
- VI. PROJECT REVIEW
 - A. Tahoe City Public Utility District, Lakeside Trail Phase 1A, Placer County APN 94-180-65, File No. 200225 Pg. 11
- VII. PLANNING MATTERS
 - A. Status Report on Transit-Oriented Development, Urban Boundaries, and the Two-Step Subdivision Process Pg. 19
 - B. Consideration of FY 2000 Tahoe Metropolitan Planning Organization Federal Transportation Plan Pg. 21

- C. Consideration of the Tahoe Metropolitan Planning Organization Pg. 25
FY 2000 Federal Transportation Improvement Program (FTIP)

VIII REPORTS

- A. Executive Director
 - 1. Report on Governing Board Actions Relative to APC Recommendations
- B. Legal Counsel
- C. APC Members

IX. ADJOURNMENT

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

North Tahoe Conference Center
8381 North Lake Tahoe Boulevard
Kings Beach, California

June 14, 2000

REGULAR MEETING MINUTES

Acting Chairperson Robert Jepsen called the regular June 14, 2000, meeting of the Advisory Planning Commission ("APC") to order at 9:45 a.m. and asked for a roll call.

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Members Present: Mr. Lohman, Ms. Moss, Mr. Cole, Mr. Honcoop, Mr. McDowell,
Ms. Kemper (arrived at 10:15 a.m.), Mr. Lane, Mr. Horton, Mr. McIntyre,
Mr. Morgan, Mr. Tolhurst, Ms. Kvas, Mr. Combs, Mr. Marchio (arrived
at 9:47 a.m.), Mr. Jepsen

Members Absent: Mr. Kehne, Ms. Baldrice, Mr. Porta, Mr. Poppoff

II. APPROVAL OF THE AGENDA

Acting Deputy Director Gabby Barrett stated that the staff summary for Agenda Item No. VI.A. had been corrected and distributed. He suggested combining Agenda Items V.A. and VI.A. for discussion purposes because they were both related to one another. Since Agenda Item No. V.A. was an action item, Mr. Barrett stated that Item VI.A. should be discussed first.

MOTION by Ms. Kvas, with a second by Mr. Morgan, to approve the agenda as modified. The motion carried unanimously.

III. PUBLIC INTEREST COMMENTS - None

IV. DISPOSITION OF MINUTES

MOTION by Mr. Cole, with a second by Mr. Morgan, to approve the April 12, 2000, APC minutes as presented. The motion carried unanimously.

Mr. Cole stated that on page 2, the third paragraph of the May 10, 2000, APC minutes, the words "to avoid meeting" should replace the words "to meet".

MOTION by Mr. Cole, with a second by Mr. Morgan, to approve the May 10, 2000, APC minutes, as amended. The motion carried with Mr. Jepsen abstaining.

Chairperson Gary Marchio took over conducting the meeting.

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VI. PLANNING MATTERS

A. Discussion on Excess Coverage Mitigation Fees

Mr. Joe Pepi, Senior Planner with the Long Range Planning Division, presented the staff summary discussing the excess land coverage mitigation fee.

Ms. Kvas suggested that TRPA acquire input from contractors and residents that are building homes so their opinions and/or comments would be included into the mix.

Mr. Honcoop asked if the option that the excess coverage mitigation program is no longer a useful tool and proves to be the one that TRPA comes up with after some study, how would that impact the MOU which is about to be agreed upon.

Agency Counsel John Marshall said that the MOU is broader than the single coverage issue that is being discussed. There are more things covered than just the one transfer of development right of impervious coverage. The MOU has practical affects beyond this isolated issue of what we do about coverage. Secondly, there are still opportunities, even given the existing circumstances, for transfers and banking of coverage. TRPA does not feel that even though there is this outstanding issue out there about what we do about retirement of coverage and the excess mitigation fee, there is still an opportunity to serve the public and gain an environmental benefit from retiring coverage by the creation of a land bank.

As a follow-up question, Mr. Honcoop questioned that if at the end of the discussion, TRPA is going to propose having on this excess land coverage mitigation fee, the Agency comes up with something that is different than what is already assumed in the MOU, will the MOU be amended. Mr. Barrett stated that it is possible that it will have to be amended. The excess coverage mitigation fee program is just one element of what the land bank does and the program may need some Code amendments, different ways of actually implementing that, or different techniques. The basic land bank that TRPA is proposing with the MOU has more functions than that and will be going on, no matter what, and should be going on.

Mr. Jim Lawrence, Program Coordinator for the Nevada Division of State Lands, stated that Nevada State Lands supports TRPA's recommendation of getting all the necessary parties together and start to discuss this issue because it is a discussion that needs to take place. A correction needs to be made on the second page and second paragraph of the staff summary, where it states that "the State of Land has no land bank to receive the mitigation fees"; in fact, they have had an MOU in place with TRPA, and we have been receiving excess coverage mitigation fees from TRPA since about 1996, and Nevada State Lands has an ongoing program retiring land coverage in Nevada. The State found out that when they started receiving fees, the \$5 per square foot was a little bit out of wack. The point that the coverage price is actually based on area, not necessarily state, is a very good one because the prices do vary, whether it is in South Shore or North Shore. The State has been working with TRPA and doing the best they can with the mitigation funds and making the best purchases possible. But the time is now to sit down and see what we are going to do about this. Also, the figures in the second paragraph about what the actual obligation is in the State of Nevada, need to be fine-tuned. Even though we have been receiving these fees since 1996, the State of Nevada has had a land acquisition in place since 1986. In fact, they have done about 28 million dollars worth of acquisitions on the Nevada side, buying properties, retiring them and extinguishing the development land coverage rights on them. We need to figure out what the obligation is of the State of Nevada.

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The MOU and Amendment of Chapter 4 are exclusive. There is some interrelation in the fact that one purpose of the land bank is the excess coverage mitigation programs, but really the MOU, in establishing this land bank, the primary interest is to facilitate the implementation of the EIP programs. By having this flexibility of being a land bank and transferring land coverage, this will give State Lands more flexibility in order to implement EIP programs as we go down this EIP path for the next ten years.

Chairperson Marchio stated that the APC supported the staff summary.

Chairperson Marchio opened the meeting up for a public hearing. Since no one wished to comment, Chairperson Marchio closed the public hearing.

V. PUBLIC HEARINGS

- A. Amendment of Chapter 4, Project Review and Exempt Activities to Provide for an MOU Between TRPA and Nevada State Lands Relative to Land Bank

Special Programs Administrator Rick Angelocci presented the staff summary amending Chapter 4, Project Review and Exempt Activities, to Replace the Existing 1993 MOU Between TRPA and Nevada Division of State Lands Relative to a Land Bank.

(Ms. Kemper arrived at 10:15 a.m.)

Mr. Jepsen complimented Mr. Angelocci on the way he presented the staff summary; it was very easy to follow and see what the changes were. Mr. Angelocci thanked Mr. Jepsen and also complimented the staff at State Lands for their hard work in exchanging data through floppy disks.

Chairperson Marchio opened the meeting up for a public hearing. Since no one wished to comment, Chairperson Marchio closed the public hearing.

MOTION by Ms. Kvas, with the caveat that if changes need to be made after the agencies work through the excess mitigation, it would be brought back to the APC for review, with a second by Mr. Jepsen. The motion carried unanimously.

- B. 64-Acre Tract Intermodal Center Environmental Document (TRPA Draft Environmental Impact Statement, NEPA Draft Environmental Impact Statement, CEQA Draft Environmental Impact Report)

Associate Transportation Planner Jim Allison presented the staff summary on the 64-Acre Tract Intermodal Center Environmental Document (TRPA Draft Environmental Impact Statement, NEPA Draft Environmental Impact Statement, CEQA Draft Environmental Impact Report), in addition to a slide presentation.

Ms. Jackie Faike, with the U.S. Forest Service, discussed the history of the 64-acre tract and how it was formed.

Mr. Jim Jordan, with Balloffet & Associates, commented that numerous concerns have been raised about the project from a land use point of view, and one is that there was a contention

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that the project would be incompatible with the findings required under Section 4F of the Transportation Act. The Forest Service, as we proceeded through the development of the EIR/EIS/EIS, did considerable analyses of the requirements with respect to Section 4F, which basically is a requirement that if recreational land is going to be used for purposes other than recreation, then the sponsoring agency has to make certain findings. The Forest Service looked at it and they also consulted with the Federal Transit Administration ("FTA") because one of the potential funding sources for the intermodal transit center would be FTA funds. Both agencies found and notified us that Section 4F is not really applicable to this particular parcel, based upon their findings. With respect to land use, we looked at compatibility with all of the planning documents to make sure that this proposed use, as we have done with other environmental documents prepared for TRPA and other sponsoring agencies in the Basin, is compatible with all of the sequence of planning that has been going on since the formation of TRPA thirty years ago. We could make a finding that the proposed project was compatible, but it does require a finding of Special Use by TRPA and Placer County with respect to conformance with Plan Area Statement 174, and also requires a Special Use permit from the Forest Service. The findings that were necessary for those we found could be made and therefore there would be no impact.

Mr. Jordan suggested that Gordan Shaw, with Leigh, Scott & Cleary, speak to discuss the controversy over the traffic issues.

Mr. Gordan Shaw, with Leigh, Scott & Cleary Transportation Consultants, stated that there is more demand on Highway 89, particularly Northbound, than there is capacity on that roadway. This is not generated by the traffic signal at the "Y", which runs at a level of service "C"; level "F" being the worst. The problem really shows up more in the capacity constraint, particularly around Fanny Bridge, of the pedestrians that are on the bridge. There is about five feet of sidewalk on one side; the fish side; and at times a few hundred people are either on that bridge or walking to that bridge or walking from that bridge, and the natural reaction of anyone driving past a sidewalk that is overflowing with people and bikes is to drive by very slowly. As the traffic creeps by when there is a high pedestrian volume, we lose the capacity of that roadway. There are times when the delay from that constriction point is a few miles long and can take an hour or more of delay on that highway. This is typically happening from about 10:00 to 4:00 through the peak summer months. What we have determined as our standard of significance, because of the severity of that existing problem, is that any increase in that problem would be treated as significant, which is a very stringent standard of significance.

During this force flow condition, when we have this long queue, we have done some surveys and TRPA and Placer County staff have done some surveys, to find that the turn to turn into this traffic stream is actually not all that bad. Somewhere around 1 out of every 3 drivers is letting people in. The average delay is around 30 seconds for the vehicles that we had pull out from the side street into the through traffic. We borrowed a TART bus and used that so we would be consistent. During these force flow conditions, the left turnouts are not particularly a problem; it's the queue along the highway. We also have free flow conditions. (Mr. Shaw made a slide presentation showing this.)

In terms of the project and how it affects these conditions, our firm has gone and looked at the existing bus usage in the area and the proposed plans for new bus services. The bottom line number is about 160 buses per day would come in and out of the center. During the p.m. peak hour, we would see 120 vehicles and buses going in or out of this site. A large majority of that traffic is already on the highways. The bus that goes from Tahoe City to Tahoma is already going by and would simply divert into this site. Most of that traffic doesn't show up away from the site; it does show up on the site driveway. We do have an increase in traffic in the

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Northbound condition where we have the long queue of traffic. People coming from Squaw Valley and Alpine Meadows largely generate that; they are going to Tahoe City or they are going to catch a bus somewhere else around the Lake. They would not otherwise be coming across Fanny Bridge into the site, but they are now because this is where the parking and the transit center is. We have estimated that we will be adding 16 cars Northbound to this long queue of traffic. Also, we have determined that to be a significant impact. It turns out to be about a 2.5% increase in the length of that queue.

There is a plan on the books now, after the Tahoe City Public Utility District has been working on a bike trail program and pedestrian program, that would widen Fanny Bridge on the downstream side so that we could move the traffic lanes over and get a much wider sidewalk on the upstream side where the people want to look at the fish. Hopefully, we could put a visually attractive barrier between the pedestrians and the cars, and remove some of the Northbound friction. It will not solve the problem; but it would certainly help the problem. In fact, that would help the problem more than this project, in either of its configurations, would exacerbate the problem.

There is a significant impact on the left turns out on the free flow conditions. We have looked at putting traffic signals, but we don't meet the numbers to put in traffic signals. Another option is putting in a two-way left turn lane in the middle of the street. The traffic analysis shows that this would mitigate the traffic impact for turning left out of the sites. We have looked at circulation issues of pedestrian traffic, and there is a traffic guard at the bridge at the present time. There is a need to expand that, but with the crossing guard program, we can mitigate the impact of more pedestrians crossing the road in a friendlier manner than traffic signals.

We have developed a parking management program for this parking area that states that it is there for transit use; it is there for commercial use; people can walk into Tahoe City, but they cannot use it for taking rafts off the top of their cars and putting them into the river. The two-way left turn lane in the middle of Highway 89 solves the transit impact.

Mr. Jordan briefly reviewed some of the other significant issues based upon the comments they had received and the analysis they have performed.

Mr. Allison commented that once the mitigation measures are applied, there are no remaining significant impacts, and that includes very stringent transportation levels. The comment period ends on July 21, 2000. After that, TRPA hopes to respond to all the comments received on the project and bring it back to the APC and Governing Board in August or September for approval of whatever alternative is selected.

Mr. Tolhurst questioned why the 17,500 square feet of land coverage was not considered significant. Mr. Allison believed it was not considered a significant impact because there is a mitigation plan according to the TRPA Code of Ordinances to accomplish that. If it was over the allowable coverage allowed on that parcel, then there would be a significant impact and we would have transfer in more coverage or some other instance of that nature.

Mr. Tolhurst commented that he noticed that the same responses on several items, and under "biological resources", it says that there will be people coming to the site because that is what the site is for; people coming to the site for transportation. The mitigation measure is discouraging recreational people from using it, but there still are people using it for transportation, so it appears that this is an impact that hasn't been addressed. Mr. Tolhurst believed that a response needed to be elaborated on as to why that's not significant. The other

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issue is Fanny Bridge, which seems like the crux to the main issue, and he wondered if there isn't a cultural problem there. Mr. Allison responded that there are several people in the audience today that can address that particular issue. In addition, it is also being addressed through the project application and preparation for the Fanny Bridge widening.

Mr. Tolhurst didn't understand why the pedestrian crossing was so easily dismissed because it seems like a good solution to the problem. Mr. Allison replied that historically, they probably would not be used in this situation because they require somebody to decide to climb the steps or ramp and get up and back down just to cross this little street area. If we have a crossing guard program, we seem to be addressing that situation. In addition, the overhead crossing would have very significant visual impacts, and as our scenic corridors run along the highway, it would significantly detract from the nature of the highway.

Mr. Marchio stated his concern about the noise mitigation measure and trying to incorporate landscaping. He said that unless the landscaping is so dense and so thick, it would not be significant enough to mitigate the noise level. Mr. Marchio suggested that this item be reviewed and pursued.

Mr. Honcoop questioned if they have looked at the exposure by virtual of the concentration of buses in the transfer point in terms of the diesel exhaust being eliminated. In addition, where the "purpose and need" of the project is discussed, he only noticed the reply was "reduce the dependency on autos". That usually is a second step of what really is the primary purpose and what is that; to provide expanded transportation alternatives; to reduce air pollution impacts; reducing dependency on the autos is more of a social cause given, but he requested an elaboration on this issue in the document itself. Mr. Allison said that there is a more in depth discussion in the EIS. We did not list that as an impact, but Mr. Allison believed that maybe it should be. In terms of turning the fleet over to CN&G, we are moving towards that direction, but we have to get the infrastructure in place in the North Shore area. That is the direction we eventually want to go in the Tahoe Basin.

Ms. Kvas asked if there would be provisions for tour buses, and Mr. Allison said that there would be provisions for tour buses to pull in to the site; it is not for long-term parking.

Mr. Will Gardner, with Placer County Department of Public Works, stated that they are the proponent of the project and will end up designing, building, funding and operating and maintaining the facility. In terms of the bus question, we operate Tahoe Area Regional Transit, and we will be running buses in and out of there; that is the primary purpose of it. The analysis in the document doesn't include tour buses; it includes the TART; public transit buses; it includes some hotel and motel shuttles; taxis, and shuttles for employees and visitors to ski areas, but does not specifically include all the tour bus activity. It is not necessarily ruled out, but that is not the County's overall intent to have tour buses parked unloading people.

Mr. Cole suggested to Mr. Allison to look at the TDD documents because a lot of the same issues and controversies have taken place with the South "Y" transit program.

(Break taken at 11:15 a.m.)

(Reconvened at 11:25 a.m.)

Chairperson Marchio opened the meeting up for a public hearing.

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Mr. Tony Rossmann, an attorney from San Francisco and the representative for the Tahoe Tavern Property Owners and the Tavern Shores Property Owners' Association, stated that both of these groups of residents first were established in the Basin in 1965, and both developments were completed in 1971. If there is some accuracy in some of the descriptions that the Forest Service has given you, it is the recognition that these two property owners associations represent some of the longer standing residents of this basin. They have made significant investments in creating these exemplary developments, and it is clear that they will be adversely affected by improper development on 64-acres. He was discussing this project with a public official yesterday – I will not embarrass that person by saying whom it was – but the remark was made to me "well, someone does have to suffer for this, and it's too bad your clients are going to have to be those people who suffer." That is an unconscionable position for a public official in the position of this person to take. Mr. Rossmann stated that he is here to present issues, obviously, on the environmental impact statement and report to the APC to forward on to the Governing Board. But he wanted to take a minute to tell the APC about his professional background, since the other people who spoke are ones you see pretty frequently and everyone knows them pretty well. Mr. Rossmann's first involvement with the TRPA was back when Gary Owens was the Executive Director and General Counsel, and it involved the Lake County Estates case that went all the way to the United States Supreme Court. He picked up the case on remand, representing the property owners at what is now the golf course. He looked at the case and he thought, on the one hand, the property owners are saying they want to get a fair return on their investment, and all the public agencies are saying they really want the land to be used for the public, why don't we just make that happen. It took two or three years of pretty intense effort, but we did make that happen. Mr. Rossmann was able to convenience his client to turn away from the court room and sit down with State Parks and Recreation and the Forest Service and with representatives of your predecessors and work out a solution that solved the problem.

Before I took that case, and really until two years, I had the privilege of working with someone I was discussing about with the TRPA Agency Counsel this morning. Mr. Rossmann shared TRPA's disappointment that Gregg James was not coming to the TRPA because for 21 years, he represented Inyo County and their water fight against Los Angeles. He commented about what a good person Mr. James is and how he has brought about peace in the Owens Valley, combing our litigation with his great negotiating skills.

Mr. Rossmann has had a lot of experience in this area, but he would like to convey to the APC that there are some really severe legal problems with the approach that is being taken by the Forest Service in this case and the County. Unfortunately, it looks like the TRPA staff is also adopting their position. Just so the record is clear, his client's have authorized him to release a confidential proposal that was made to Juan Palma last year where he looked at this project the way he looked at the Tahoe Estates case when that came to him 17 years ago. That is, is there a way to meet what may be a legitimate public need and still protect public values and the legitimate private values that are represented by the owners of Tahoe Tavern and Tavern Shores. I believe there is a way. It was basically bought off; we never did get a response from Mr. Palma except to say "Thank you. I will think about this in my future decision making." And, of course, you can read between the lines in the alternative section of the EIS; and see that that is dismissed as something that is just a planning document. That is to say, we should really work together to obtain the realignment or bypass of Highway 89, but functionally, obviously, if that road can be realignment, you are going to solve the problem at the "Y". Incidentally, some new access would be created that might open up some possibilities on the 64-acre tract that would meet the public needs, but also protect his client's interests. That's being dismissed as speculative. And yet, the APC is being told that documents written in 1965 or 1983 now fix the

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transit center on this facility. We are really being told two different messages; on the one hand when it serves the interests of the project proponent, planning documents are determinative; on the other hand, when they serve the interest to dismiss something as speculative, they are only planning documents. We are putting into the public record this proposal. In addition, we are also submitting for the record our resolution of our appeal on the decision with the Lake of the Sky facility.

(Mr. Lane left the meeting at 11:46 a.m.)

He stated that he is glad that this meeting is being taped today because some of the testimony that has been heard in the last hour really is the strongest evidence from the proponents themselves of why if that interpretative center is ever to be built, it should not be built on the Lake side, with the parking on the river side. If, in fact, we are told that it is not the "Y" intersection itself but just people walking along Fanny Bridge that are the problem, it is unfortunate that this project is being touted to serve recreation, and yet it is the people who come here for recreation who are the problem that we have to mitigate. But if we have to mitigate the problem of people walking on the road or across the road, what you are being presented with is a recipe for further disaster and exasperation of those impacts.

We do hope that the questions you've asked today you will continue to ask, and that the Governing Board will continue to ask, so that if Placer County and the Forest Service approves this, we hope they will approve something that we can all support together. If they don't take that route, then the right questions will have been asked. Our purpose here is not to engage in litigation or perpetuate dispute. If that were the case, we would not have solicited a resolution of the appeal with Mr. Palma on the transit center two years. But frankly, we are frustrated now because we do see what you've heard this morning as the professional bureaucrat private consultant blow off the objector approach, and not honestly addressing the fact that there are limited resources in this Basin. There are honest conflicts over those resources, and we ought to be sitting down to resolve those disputes together.

Mr. Rossmann continued that he did remember in 1986, when the Lake of the Sky plan was adopted and being assured by Forest Service officials at that time that it did not fix anything, and that further environmental review would have to be conducted for every individual project that was proposed for the 64-acres. It is really quite unfortunate that now we are being told that that document somehow makes this transit center part of the recreational use of the land. In fact, later this morning, we heard that this project is not designed to bring any more recreational use into the Basin. Somewhere between those two extremes may be truth, but it cannot be had both ways. If there is one legal point I would ask you to think about is this question of what the prerogatives are to use federal transportation funds to take away a recreational resource. The testimony this morning was very clear about that. We are going to take recreational land to make a transit facility. That is not an illegitimate government purpose, but it is one that has exacting requirements under federal law because what they are doing is what Congress intended to stop them from doing; the path of least resistance. The public already owns it; it is a park; it's recreational land; let's put the freeway there; let's put the transit facility there. That's what Section 4F is all about. I have litigated that issue to the Ninth Circuit many times. I have seen few cases as clear as this one. You are getting bad advise if you are being told, based on nothing in this record – and if there is an official position in writing from the Federal Transit Administration, it deserved to be in this EIS/EIR, and if there is such an official written determination in their view that Section 4F doesn't apply, we are asking for a copy of that at the earliest opportunity and before the Governing Board meeting.