



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

**PLANNING
SERVICES DIVISION**

Paul Thompson, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP 
Agency Director

DATE: October 23, 2012

SUBJECT: **TAHOE REGIONAL PLANNING AGENCY REGIONAL PLAN UPDATE**

ACTION REQUESTED

1. Update on the status of the ongoing efforts related to the Tahoe Regional Planning Agency Regional Plan Update. No Board action is requested and there is no net County cost.

BACKGROUND

Since the previous update to your Board in July, staff attended and participated at all three Tahoe Regional Planning Agency (TRPA) Regional Plan Update (RPU) Committee Meetings as well as the Technical Working Group meetings. The purpose of the technical working Group is to incorporate into the Draft Code the direction provided by the RPU Committee. Internally, staff met on a number of occasions to review the information released by TRPA to discuss how the information presented might affect future development in Placer County. Additionally, staff discussed the appeals portion of the delegation of review authority prior to the meeting of legal counsels from TRPA and the local county and city governments. Placer County staff also met with staff from other local jurisdictions to formulate the position for California local governments to be represented at the Technical Working Group Meeting.

Bi-State Consultation Process:

The Regional Plan Update Committee, a subcommittee comprised of six Governing Board members, began meeting in August 2011. The focus of the Committee was to reach compromise on a variety of topics that were identified as having the potential to be controversial. Although consensus was reached on a majority of the items, a list was developed of topics where the RPU Committee did not have unanimous approval, including delegation of review authority, appeals, commodities, and certain project review requirements. This would become the basis for the topics of discussion at the bi-state consultation meetings, a process intended to resolve the areas of disagreement so as to not jeopardize the successful completion of the Regional Plan Update by December 2012.

On July 26, 2012, an agreement was reached between the California Natural Resources Agency and the Nevada Department of Conservation & Natural Resources that provided a written recommendation (Attachment 2) to the TRPA Governing Board requesting specific language replace the language currently contained within the Draft Regional Plan Update. This recommendation proposes a reduction to the maximum size of a project that could be delegated to the local jurisdictions, specific language to address the appeal process, commodities, Tourist Accommodation Unit transfer Policy, site specific transfer ratios, the new "Resort Recreation" designation, maximum height for High Density Tourist Districts, community character, land coverage and transfers, Total Maximum Daily Load, and Air Quality, delegation of review authority, and other areas of disagreement during the

Regional Plan Update Committee Meetings. The general sentiment of those who participated in this process was that it was not a perfect agreement, but that it was a fair compromise that all parties could agree to in order to move forward towards adoption of the Regional Plan Update. Prior to the adoption of the Regional Plan Update, the agreement would be brought before the Regional Plan Update Committee for their endorsement of the agreement. TRPA staff would then make the changes to the Regional Plan and Code to reflect the bi-state consultation agreement that would appear in the release of the final document to be brought before the TRPA Governing Board for Adoption.

Regional Plan Update Committee:

The Regional Plan Update (RPU) Committee conducted three meetings this past August in order to facilitate an endorsement on the agreement reached between the resource agencies of the two states. Minor technical changes were made including the removal of the designation of High Priority Restoration Area from the Tahoe City Golf Course property and a revision to the language affecting the boundary for coverage transfer incentives, consistent with the spirit of the bi-state agreement. The package was presented to the RPU Committee as an "all or nothing" proposal. The RPU Chair explained that the agreement involved a fair amount of give-and-take and that to begin to remove or significantly alter portions could result in "unraveling the fabric" of the bi-state consultation agreement that was reached. The subcommittee members, as well as those from the public and local agencies providing comment, were cautioned on several occasions against changes that would not be in keeping with the spirit of the compromise reached. At the end of the deliberations, the RPU sent forward a recommendation to the Governing Board to adopt the changes (with minor technical adjustments) proposed by the bi-state consultation process.

Technical Code Review Group:

A meeting of the Technical Working Group was held on September 7, 2012. The Technical Working Group, comprised of a representative from each state government, a member from county government from each state (a member of Placer County Community Development/Resource Agency staff represented the California local governments from Placer and El Dorado Counties and the City of South Lake Tahoe), an attorney from each state, and a representative from the environmental community, was formed to implement the changes proposed by the bi-state consultation process and endorsed by the RPU Committee. Similar to the RPU Committee meetings, minor adjustments to language were made, but the group was again cautioned to not make changes that would conflict with the agreement reached during the bi-state consultation process. One of the more complicated matters identified related to the appeal process for the projects (TRPA refers to these as activities) delegated to be reviewed as part of the future adoption of the Area Plans. Due to the potential legal issues related to the appeal process, consistency with state law and the California Environmental Quality Act (CEQA) that might arise from the proposed process and requirements, it was determined a meeting of local government counsel should be convened to evaluate this proposal. That meeting was recently held and it would appear that the other local jurisdictions share concerns similar to that of Placer County with respect to the process to appeal delegated TRPA review authority. Depending on the changes that might be made in the final draft of the Regional Plan Update and Code, this will be an item for comment before the Governing Board after the release and prior to the adoption of the Regional Plan Update anticipated on December 12, 2012.

CURRENT STATUS

The release of the Final Regional Plan Update, Regional Transportation Plan, Code, and accompanying Environmental Impact Statement is scheduled for October 24, 2012. Staff will review the documents once released and return to the Board to receive direction on comments to provide to TRPA prior to the anticipated final adoption in December 2012.

FISCAL IMPACT

None.

NEXT STEPS

TRPA remains on track for final adoption of the Regional Plan on December 12, 2012. The following is the proposed schedule of dates for the completion of the Regional Plan process:

- Release of Final EIS, Regional Plan Update, Regional Transportation Plan, and Code – October 24, 2012
- Governing Board review of Final Plan – November 14, 2012
- Governing Board Regional Plan Adoption – December 12, 2012

County staff will review the documents released on October 24, 2012 and return to the Board for direction on providing comments to TRPA.

CONCLUSION

No action is necessary as this status update is intended to generate discussion and input from the Board regarding the TRPA Regional Plan update. Staff will return to your Board after the release and review of the Final Regional Plan Update and EIS on October 24, 2012.

ATTACHMENTS:

Attachment 1: July 26, 2012 Letter and Recommendation Agreement from California Natural Resources Agency and the Nevada Department of Conservation & Natural Resources

Attachment 2: TRPA Timeline for Completion of the Regional Plan Update

- cc: David Boesch, County Executive Officer
Jennifer Merchant, Tahoe County Executive Office
Karin Schwab, County Counsel
Loren Clark, Assistant CD/RA Director
Rick Eiri, Engineering and Surveying Manager
Dan Dottai, Engineering and Surveying Manager
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Peter Kraatz, Deputy Public Works Director
Nick Trifiro, Associate Planner



NEVADA DEPARTMENT OF
**CONSERVATION &
NATURAL RESOURCES**

July 26, 2012

Chair Norma Santiago and
Members of the Governing Board
Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89449

Dear Chair Santiago and Members of the Governing Board:

The states of California and Nevada have closely examined the outstanding major issues of the TRPA Regional Plan Update (RPU). We are writing to share our recommendations for the Governing Board's consideration when finalizing policy in the RPU. The recommendations and language we have carefully provided is the product of consensus among the vast array of stakeholders in Lake Tahoe. We believe our recommendations offer the Governing Board an unprecedented opportunity to build upon environmental progress.

At the 15th Annual Tahoe Summit held in August 2011, Governor Brown and Governor Sandoval announced a renewed commitment by the states of California and Nevada to Lake Tahoe. Our states agreed¹ to work cooperatively with the shared goal of helping to complete the RPU by the end of 2012.

In the weeks and months since the summit, California and Nevada have remained focused on delivering this promise. The California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources have dedicated hundreds of hours of time in an effort to come together as partners around policy solutions. We have met with, listened to, and solicited input from stakeholders within the Basin and have closely followed the work of the Governing Board's RPU Committee. Not unlike the Governing Board, we have heard from members of the conservation community, area business owners, civic leaders, local elected officials, technical experts, and – most importantly – residents and concerned citizens. Through this endeavor, we

¹ "The best way to do that is by working cooperatively with the State of Nevada to promote policies that ensure both the environment and the economy of Lake Tahoe are protected in perpetuity," said Gov. Brown.

"Gov. Brown and I agreed that while much has changed at Lake Tahoe since the Bi-State Compact was created in 1969, our two states' dedication to the resource remains unwavering. I look forward to working with Gov. Brown on updating the Regional Plan," said Gov. Sandoval.

believe that we have a much greater appreciation for the history, the concerns, and the hopes of all who have a stake in the success of the updated TRPA Regional Plan.

As the broader community and the Governing Board knows, over the past few months we have also embarked in a more formal bi-state consultation process in an effort to bridge differences identified through the work of the RPU Committee. This process was initiated with the hope of offering additional areas of agreement for the Governing Board to consider as part of its planning effort. We have not sought to re-do the draft work product already started by the RPU Committee and the Governing Board. In fact, we have concluded through our process that there is more agreement among the stakeholders than there is disagreement.

However, despite the RPU Committee's diligent work, the fact remains that significant unresolved issues have emerged that threaten the successful completion of the RPU. We created our bi-state consultation process to see if our engagement could help drive resolution of these policy issues by finding consensus positions around four broad areas of discussion: delegation of authorities and establishment of an appeals process; water quality; land coverage questions; and air quality.

Throughout our stand-alone effort, our approach was to listen carefully to all parties and build consensus where possible. We set out committed to a well-represented, collaborative process that would further unify California and Nevada's shared responsibility for the protection and preservation of Lake Tahoe and the economic viability of the region. We invited individuals from each state to meet with us for five all-day meetings and convened breakout work sessions in the interim. We challenged each individual participant to think broadly, to be creative and to represent interests greater than their own. Each participant – one conservation, one business, and one local government representative from each state, in addition to two members of the Governing Board who conveyed the RPU Committee's perspectives – diligently joined us in this group problem-solving endeavor. We thank each of them for their hard work and commitment to this collaborative effort.

We believe our efforts have yielded results that demonstrate strong merit and deserve further consideration by the RPU Committee and the Governing Board as part of its public deliberation process. Through our partnership and teamwork, we have forged agreement on language that offers real progress on approximately 17 previously unsettled policies contained in the Regional Plan Update. These areas of agreement – and the attached policy language drafted as an entire package through our consultation process – include:

- Level of Local Delegation and Appeal Process
- Commodities
- TAU Transfer Policy

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- Site Specific Transfer Ratios
- New “Resort Recreation” Designation
- High Density Tourist District: Maximum Height
- Community Character: Community Design
- Community Character: Level of Service
- Land Coverage Transfers Across Hydrologic Zones: Excess Mitigation Fees
- Land Coverage Transfers Across Hydrologic Zones: Land Coverage Transfers
- Offsite Land Coverage Mitigation
- Land Coverage Allowances
- Areawide Coverage Management Plans
- TMDL
- Air Quality
- BMP Compliance
- Pilot Program for Drive-up Pharmacy Windows

The states of California and Nevada take seriously our unique, shared roles at Lake Tahoe. Through our personal engagement, we believe we have fostered a bi-state relationship that is healthier than in recent memory, is engendering stronger trust among other stakeholders, and represents a “new start.” We believe that our recommendations will protect the environment and will benefit the economy. We respectfully ask the RPU Committee and Governing Board to consider these consensus positions as it works to finalize the RPU in the coming months.

Sincerely,



John Laird
Secretary for Natural Resources
State of California



Leo M. Drozdoff, PE
Director of Conservation and Natural Resources
State of Nevada

cc: Governor Brown
Governor Sandoval
Senator Dianne Feinstein
Senator Harry Reid
Senator Dean Heller
California Legislative Delegation to Lake Tahoe
Nevada Legislative Delegation to Lake Tahoe
Joanne Marchetta

Attachment

California-Nevada Consultation

Regional Plan Update Recommendations

July 25, 2012

Level of Local Delegation and Appeal Process

The group recommends the following language and process:

I. Once an Area Plan, and Zoning and Development Codes with the Plan, have been found in conformance with, and incorporated into, the Regional Plan, Local Governments may assume development review authority by Memoranda of Understanding with TRPA, subject to the following limitations:

A. The TRPA Governing Board shall annually review a sample of permits issued within each Area Plan, and shall certify that the Area Plans are being implemented in Conformance with the Regional Plan. If the TRPA Governing Board finds that development permitted within an Area Plan does not comply with the conforming Area Plan, TRPA may retract delegation of certain permitting authority and implement the conforming Area Plan.

B. Approval of projects within Area Plans shall require TRPA review and approval if the project includes any of the following criteria, except for minor improvements as further specified in the code of ordinances:

- a. All development within the High Density Tourist District;*
- b. All development within the Shorezone of Lake Tahoe;*
- c. All development within the Conservation District;*
- d. All development within the Resort Recreation designation;*
- e. All development meeting criteria on the following table:*

	Regional Center	Town Center	Not in Center
Residential	100,000 sq.ft.	50,000 sq. ft.	25,000 sq. ft.
Non-Residential	80,000 sq. ft.	40,000 sq. ft.	12,500 sq. ft.

C. The limitations specified in the Table above may be increased or decreased by the TRPA Governing Board if the Board finds that local governments, based on ongoing monitoring, reporting and performance review, are acting on projects consistent with the Area Plan and that the terms and conditions of the Area Plan are being met. After four years

there will be a discussion on increased levels of delegation moving forward.

II. Local Government decisions on delegated project applications may be appealed to the TRPA subject to the following criteria and process:

- A. *Appeals shall be limited to whether the decision by a local government is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.*
- B. *Appeals can only be filed by an "aggrieved person" as defined in the Compact [Article VI (j) (3)].*
- C. *Appellants who would be subject to the Compact's exhaustion provision (see Article VI (j) (3)) must demonstrate that they have exhausted all administrative remedies prior to appealing a decision to TRPA. It is recognized that public agencies have a specific role defined in the Compact; however, public agencies are encouraged to engage lead agencies as early as possible when projects are being processed pursuant to approved Area Plans.*
- D. *An appellant must file an appeal application to TRPA within 15 calendar days of the last local government decision.*
 - a. *The application to TRPA must include:*
 - i. *A clearly written statement explaining the grounds for appeal.*
 - ii. *A \$1,000 TRPA appeal fee (with the local government appeal fee not to exceed the TRPA fee for appeals.)*
 - iii. *Appellants are required to provide documentation to support their claims, and the applicant or lead agency may also augment the record.*
- E. *Once an application is received by TRPA, the project approved by the local government is stayed pending the outcome of the appeal.*
- F. *Within 60 days after receipt of an appeal, TRPA staff will make a recommendation on whether the appeal is frivolous as defined in II A, B, and C. This recommendation will serve as the basis for the TRPA Governing Board in its decision to proceed with an appeal hearing. The voting structure for appeal decisions will be the same as project votes before the Governing Board as defined in the Compact.*

G. *The TRPA Governing Board may take action the first time the appeal is presented to the board or, after hearing the appeal, defer action to the next Governing Board meeting.*

a. *Appeal review and action by the TRPA Governing Board is limited to whether the decision by a local government is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.*

b. *If no action is taken by the TRPA Governing Board at the initial meeting at which the appeal is presented, the Governing Board must take action at the Governing Board meeting the following month.*

H. *Appeals upheld by the TRPA Governing Board nullify the local government decision and the project applicant would be required to re-apply to the local government.*

I. *In very limited circumstances, consistent with Goal III. C below, the TRPA Governing Board may modify a local government decision on a project to make the decision consistent with the Area Plan.*

III. Appeal Process Goals

- A. *Eliminate frivolous appeals and appellants "laying in wait" by encouraging early and consistent engagement.*
- B. *Increase procedural certainty and timeliness (irrespective of outcomes).*
- C. *Establish that project-by-project negotiation should not be the Governing Board's default position.*

Commodities

The group supports the commodities reflected in DEIS Alternative #3, with clarifying language below in italics:

Residential Allocations:	2600	
Residential Bonus Units:	600	<i>(to be used in centers)</i>
Commercial Floor Area:	200,000	<i>(provided existing 383,000 available CFA square footage is first exhausted)</i>
Tourist Accommodation Units:	-0-	

There is no automatic recharge of commodities; however, the group recognizes that in the event commodities are exhausted the TRPA Governing Board may consider additional allocations.

TAU Transfer Policy

The group recommends the following related to TAUs:

Transferred TAUs may be used to entitle, on a one-to-one basis, unit sizes described in subparagraph (b) below, provided the proposed project (receiving site) will be a professionally managed tourist accommodation facility containing three or more of the following on-site guest amenities or services:

- a. On-site guest amenities or services:
 - (i) front desk/check-in/lobby
 - (ii) business center
 - (iii) spa services
 - (iv) fitness facility
 - (v) restaurant
 - (vi) bar
 - (vii) conference space
 - (viii) concierge's services
 - (ix) pool or other resort recreation facilities
 - (x) valet/below structure parking
 - (xi) housekeeping
 - (xii) bell desk

- b. Providing three or more of the on-site guest amenities or services in subparagraph (a) are provided, 80% of the tourist accommodation units may be up to 1,200 square feet, with kitchens, and no more than 20% of the project's floor area may contain units not to exceed 1,800 square feet, with kitchens.

- c. When transferred TAUs are utilized for smaller tourist accommodation facilities that are not operated as destination resorts, the facility must be professionally managed, units shall not be rented for a period longer than 29 days, and TAUs may be up to 850 square feet in size.

- d. This transfer policy applies to hotels or timeshares and fractional units within a professionally managed tourist accommodation facility.

- e. The group supports the creation of a pilot program allowing the conversion of a limited number of TAUs to ERUs for multi-unit projects. Each TAU can be used for a maximum of 1,250 sq. ft. of residential floor area on the same parcel.

Site Specific Transfer Ratios

For site specific transfer ratios, the group recommends the following:

- a. Add to the TRPA "to do" list a review of the efficacy of the ratios;
- b. Remove references to increased ratios in the area plans in proposed Code Section 13.5.3.B.4 except for Stream Restoration Plan Areas;
- c. Leave the designation of Meeks and Motel 6 and add the Tahoe City golf course in Stream Restoration Plan Areas.

New "Resort Recreation" Designation

The group recommends replacing the Draft RPU provisions regarding additional uses and subdivisions in recreation districts by establishing a new "Resort Recreation" designation and limiting the new development and subdivision allowances to this new district. The group further supports mapping the Heavenly California Base parcels and the Edgewood Mountain parcels with this new "Resort Recreation" designation in which TAUs, residential and commercial development could be allowed (including appropriate accessory uses). The designation of those mapped Heavenly and Edgewood parcels is subject to the following conditions 1) the parcels must become part of an approved area plan; 2) subdivisions will be limited to "air condos" (no lot and block subdivisions); 3) development is transferred in from outside the designated area; and 4) transfers result in the retirement of development. All areas currently designated "Recreation" in the existing Regional Plan would remain unchanged.

High Density Tourist District: Maximum Height

The group agreed upon the following definition for maximum height in the high density tourist district:

A maximum of 197 feet of building height may be permitted within the high density tourist district, limited to replacement structures, provided, the structures to be demolished and replaced are an existing casino hotel, with existing structures of at least eight stories, or 85 feet of height as measured from the lowest point of natural grade.

Community Character

I. Community Design

The group recommends the following community design standards (reference 13.5.3 D 1.):

Area Plans that include the Regional Center or Town Centers shall address the following design standards:

- a. Existing or planned pedestrian and bicycle facilities shall connect properties within Centers to transit stops and the Regional Bicycle and Pedestrian network.*
- b. Area Plans shall encourage the protection of views of Lake Tahoe.*
- c. Within town and regional centers, building height and density should be varied with some buildings smaller and less dense than others.*
- d. Site and building designs within Centers shall promote pedestrian activity and provide enhanced design features along public roadways. Enhanced design features to be considered include increased setbacks, stepped heights, increased building articulation, and/or higher quality building materials along public roadways.*
- e. Area Plans shall include strategies for protecting undisturbed sensitive lands and, where feasible, establish park or open space corridors connecting undisturbed sensitive areas within Centers to undisturbed areas outside of Centers.*

The group also recommends the following language as an addition to the community design standards (reference the addition of an E. to 13.5.3):

Town Center, Regional Center and High Density Tourist District Boundaries

When Area Plans propose modifications to the boundaries of a Town Center, Regional Center, or High Density Tourist District, the modification shall comply with the following:

- a. Boundaries of centers shall be drawn to include only properties that have been developed. Any undeveloped parcels that are included in Centers shall have at least three sides adjacent to developed parcels.*
- b. Properties included in a Center shall be less than 1/4 mile from existing Commercial and Public Service uses.*

c. *Properties included in a Center shall encourage and facilitate the use of existing or planned transit stops and transit systems.*

The group further recommends that (reference CD2.1B.1) TAUs and affordable housing be deleted; that a footnote (reference Table 13.5.3-1 [2]) be deleted that reads: "*Except Area Plans may identify higher-density areas adjacent to town centers, regional centers, and the High-Density Tourist District and in other areas permitted by the Regional Plan*"; and that a statement be included that "*Community Plans outside of Town Centers shall not be eligible for additional height and density.*"

II. Level of Service

The group recommends language (to replace the final bullet in T-10.7) to read:

These vehicle LOS (Level of Service) standards may be exceeded when provisions for multi-modal amenities and/or services (such as transit, bicycling and walking facilities) are adequate to provide mobility for users at a level that is proportional to the project generated traffic in relation to overall traffic conditions on affected roadways.

Land Coverage Transfers, Mitigation and Allowances

I. Transfers Across Hydrologic Zones – Excess Coverage Fees

The group supports a change to allow for the use of excess coverage mitigation fees outside the hydrologic zone in which the fees are collected to achieve more strategic environmental benefit.

II. Transfers Across Hydrologic Zones – Land Coverage Transfers

Add to the TRPA "to do" list a detailed review of coverage transfers across hydrologic zones. This review will include presentations from the California Tahoe Conservancy and the Nevada Land Bank/Nevada Division of State Lands.

III. Offsite Land Coverage Mitigation

The group supports a change to allow for offsite restoration across hydrologic boundaries for excess coverage mitigation purposes, provided the restoration occurs on more sensitive lands than the project area.

IV. Land Coverage Allowances

The group supports the coverage allowances and exemption proposed in the regional plan update for decks, sheds, and pervious coverage. The group further supports the proposed regional plan update exemptions for bike paths and ADA compliance.

V. Areawide Coverage Management Plans

The group supports the position that the benefits of a comprehensive area wide coverage management plan shall not accrue to the areas within 300 feet from the high water mark and coverage in that zone shall be governed by the current Regional Plan. Property owners that elect not to participate in areawide coverage management plans shall continue to be subject to the coverage provisions under the 1987 Regional Plan.

TMDL

The group recommends inclusion of the following language:

TRPA will utilize the water quality improvement plan for registered catchments, or TRPA default standards when there are no registered catchments, in the conformance review of area plans.

The TMDL regulatory agencies will, through the TMDL adaptive management system, provide to TRPA:

*Annual progress reporting and analysis;
Copies of all MOAs and NPDES permits;
Notification of all breaches or violations of MOAs or NPDES permits.*

Further, the Regional Plan Update provides for annual audits of each local jurisdiction's permitting actions under its approved area plan.

TRPA will use catchment data and all reporting to inform area plan re-certification every four years.

Air Quality

The group recommends, and affirms its support, for the proposed RPU in relation to 8 hour ozone standards, disbursement of air quality mitigation fees, and the prohibition of biomass facilities as described.

Additional Recommendations

The group recommends that TRPA create a subcommittee of the TRPA Governing Board, along with interested parties, to explore options related to BMP compliance.

The group recommends TRPA develop and adopt a pilot program for drive-up pharmacy windows in the City of South Lake Tahoe, to be monitored for environmental impacts and evaluated for further opportunities in the Basin.

