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MEMORANDUM

Date: December 7, 2022

To: TRPA Regional Plan Implementation Committee (RPIC)

From: Kate Moroles-O'Neil, Douglas County Planning Division

Subject: Staff Report RE: Zoning Text Amendment (ref. DP 22-0145), amending Section 20.703.090, subsection .080, of the Douglas County Code relative to the Tahoe Area Plan Regulations

I. SUMMARY

On September 1, 2022, the Douglas County Board of County Commissioners approved Ordinance 2022-1603, a Zoning Text Amendment (ref. DP 22-0145), amending Section 20.703.090, subsection .080, of the Douglas County Code relative to the Tahoe Area Plan Regulations to clarify that religious assemblies are authorized in the Lake Tahoe T-MU (Tahoe Mixed Use) zoning district as a matter of right and thereby eliminating the need for a special use permit. The T-MU zone falls within Douglas County's South Shore Area Plan. Therefore, any amendment requires approval by the TRPA Governing Board before it can be effective.

II. RECOMMENDATION

This is an informational presentation on the approved amendment to the Douglas County Code and proposed amendment to the South Shore Area Plan. No RPIC action is required at this time.

III. BACKGROUND

When Douglas County was processing development application DP-21-0272 regarding a Special Use Permit for a Synagogue located in the T-MU/Town Center (Tahoe-Mixed Use/Town Center Overlay) zoning district within the South Shore Area Plan of the Tahoe Region, some issues arose which prompted the proposed amendments.

First, when Staff examined other permitted uses within the T-MU /Town Center zoning district they noticed that there was striking similarity between the definition of “religious assembly” and “membership organizations” set out in Section 20.703.130 of the Douglas County Code (“DCC”). However, membership organizations were allowed by right in the district and religious assemblies required a special use permit. See applicable excerpts from Section 20.703.130 below.

20.703.130 List of primary uses and use definitions

Use	Definition
Religious assembly	Religious organization assembly or institutional facility operated for worship or promotion of religious activities, including churches and incidental religious education. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals, and other potentially related operations (such as a recreational camp) are not considered a religious assembly and are classified according to their respective activities.
Membership organizations	Permanent meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, such as: business associations; professional membership organizations; labor unions and similar organizations; civic, social and fraternal organizations; political organizations; and other membership organizations. The use does not include country clubs in conjunction with golf courses (see "Golf Courses"); religious organizations ("see Religious assembly"); and lodging (see "Multi-person Dwelling").

Second, it is clear from the description of the zoning district in Section 20.703.060 of the DCC, that the religious assembly use is entirely consistent with the T-MU (Tahoe Mixed Use) zoning district which specifically allows public service uses. Douglas County staff could not find previous justification for allowing religious assemblies only by special use permit. See applicable excerpt from Section 20.703.060 of the Douglas County Code below.

20.703.060 Tahoe Zoning Districts

A. The following zoning districts have been established to implement an Area Plan within Douglas County:

2. “T-MU” (Tahoe – Mixed Use). This district is for areas that are targeted for redevelopment and that may include a mix of tourist, recreation, commercial, light industrial, public service, and residential uses

B. The following overlay zoning districts have been established to implement an Area Plan within Douglas County:

2. TC (Town Center) Overlay. This overlay district is for areas targeted for redevelopment in a manner that improves environmental conditions, creates a more sustainable and less auto-dependent development pattern and provides economic opportunities and future development that will bring environmental gain to the Region.

Furthermore, during the public hearings on DP-21-0272, the attorney representing the Synagogue made it clear that he believed the requirement that religious assemblies must obtain a special use permit was discriminatory in nature and violated the Religious Land Use and Institutionalized Persons Act (RLUIPA). On June 27, 2022, Douglas County was served with a Petition for Judicial Review for the Board of County Commissioners to reconsider granting a special use permit for the synagogue. It is highly likely given the statements by the Synagogue's attorney that the issue of whether Douglas County has violated RLUIPA will be part of this litigation. With the approval of Ordinance 2022-1603 and further TRPA approval of the proposed amendments it is likely that the appeal of the Board's decision will be rendered moot thereby avoiding the unnecessary burden and expense of such litigation and allowing the Synagogue to operate in the district without a Special Use Permit.

In sum, Staff could not explain to the applicant why membership organizations were allowed as a matter of right but religious assemblies were not since the community impacts from the uses were similar and both uses were consistent with the T-MU zone. Therefore, Douglas County staff believe that religious assemblies should be allowed by right in the T-MU zone of the South Shore Area Plan.

V. CONCLUSION

Staff believes all findings can be made to approve the proposed zoning text amendment and that the amendment will support and further the aims of the South Shore Area Plan. This is an informational item only. Staff welcome comments and questions from RPIC members and will return to RPIC for a formal hearing and recommendation in January.