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STAFF REPORT

Date: December 7, 2022

To: TRPA Regional Plan Implementation Committee

From: TRPA Staff

Subject: Informational Presentation on Proposed Amendments to Douglas County's South Shore Area Plan to Allow Religious Assemblies as a Permitted Use in the Tahoe Mixed-Use Zone

Summary and Staff Recommendation:

Douglas County will provide an overview of the proposed amendment to the South Shore Area Plan (SSAP). This item is for informational purposes and no action is required at this time. Staff requests comments from the Regional Plan Implementation Committee (RPIC) before beginning the hearing process for final consideration of the Area Plan amendment. The proposed amendment has been adopted by the Douglas County Board of County Commissioners and will return to the RPIC and the Advisory Planning Commission for recommendation before the TRPA Governing Board makes a final determination.

Required Motion:

No motion is required.

Project Description/Background:

Since the 2012 Regional Plan Update, TRPA has encouraged local jurisdictions to develop Area Plans to replace the former local planning documents: Plan Area Statements and Community Plans. Area Plans are collaborative documents which become a component of both the Regional Plan and the city's or county's comprehensive plan. They represent a paradigm shift for TRPA since they enable TRPA to transition its focus to regional issues while allowing local jurisdictions greater autonomy to define and manage their own local land use.

The TRPA Governing Board approved the SSAP in September 2013. The plan encompasses a portion of Douglas County's jurisdiction in the Tahoe Basin, extending from the California state line to Burke Creek and from the Tahoe Shoreline to Pinecrest Drive on lower Kingsbury Grade Road. The plan includes two town center districts to accommodate mixed-use and tourist facilities in the area. The Nevada South Stateline Resort Area Casino Core encompasses the South Stateline casino core, focusing on providing accommodations for tourists. The Kingsbury Commercial Town Center District aims to achieve, "a mix of tourist, recreation, commercial, light industrial, public service, and residential use" (Sec. 20.703.060). The proposed amendment pertains specifically on the Tahoe Mixed-Use Zone of the Kingsbury Commercial Town Center District.

Through nearly a decade of implementation, the SSAP has facilitated development across the plan area. Most notably, the Edgewood Resort and Tahoe Events Center were recently developed within the SSAP. That said, over nine years of implementation, Douglas County staff have identified areas where the SSAP could better implement the area's vision for development.

While reviewing a recent development application for a synagogue at the corner of Market Street and Kingsbury Grade Road, Douglas County staff found that the Area Plan did not offer sufficient justification for requiring a special use permit for religious assemblies in the Kingsbury Commercial Town Center District's Tahoe Mixed-Use zone. In addition to finding religious assemblies consistent with the district's vision and purpose, staff also found that other similar uses, specifically membership organizations, were permitted by right in the Tahoe Mixed-Use zone. Douglas County staff believe that this discrepancy is inconsistent with the plan's vision and places an undue burden on religious organizations.

The proposed amendment seeks to remedy this issue by permitting religious assemblies by right in the Tahoe Mixed-Use zone, eliminating the need for a special use permit to develop a religious assembly in the zone.

A text amendment applying this change to the Douglas County Code was approved on September 1, 2022 by the Douglas County Board of County Commissioners. A copy of the adopted County Ordinance with redlined plan language is included as Attachment B to this packet. TRPA Governing Board approval is required to amend the SSAP.

Based on RPIC's direction, Douglas County will work with TRPA staff to complete any necessary revisions and bring the full amendment package back to RPIC and the Advisory Planning Commission for recommendation before the Governing Board makes a final determination on the proposed amendment.

Environmental Review:

An IEC is currently being prepared for the proposed amendment. Based on the narrow scope of the amendment and consistency with the existing SSAP, no significant environmental effects are anticipated.

Regional Plan Compliance:

The proposed Area Plan amendment will be reviewed by the RPIC and Advisory Planning Commission (APC). Recommendations of the RPIC and APC will then be considered by the Governing Board in determining whether to find the Area Plan amendment in compliance with the Regional Plan.

Contact Information:

For questions regarding this agenda item, please contact Jacob Stock, AICP, Senior Planner, at (775) 589-5221 or jstock@trpa.org.

Attachments:

- A. Douglas County Staff Memo Summarizing the Proposed Area Plan Amendment
- B. Douglas County Ordinance 2022-1603 with Redlined Amendment

Attachment A

Douglas County Staff Memo Summarizing the Proposed Area Plan Amendment



COMMUNITY DEVELOPMENT
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Building Division
Engineering Division
Planning Division
Code Enforcement

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.

Attachment B

Douglas County Ordinance 2022-1603 with Redlined Amendment

ORDINANCE 2022-1603

SUMMARY

An Ordinance amending Section 20.703.090, subsection .080, of the Douglas County Code relative to the Tahoe Area Plan Regulations to make it clear 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 Board of County Commissioners also finds that religious assemblies are a public service activity similar in nature to membership organizations as set out in Section 20.703.130.

TITLE

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 make it clear 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 Board of County Commissioners further finds that religious assemblies are a public service activity similar in nature to membership organizations as set out in Section 20.703.130.

RECITALS

WHEREAS, on June 20, 2013, the Douglas County Board of County Commissioners (the "Board") adopted Ordinance 2013-1385 which added Chapter 20.703 relative to the Tahoe Area Plan Regulations to Title 20 of the Douglas County Code; and

WHEREAS, on November 21, 2013, the Board adopted Ordinance 2013-1400 which contained amendments to the Tahoe Area Plan Regulations adopted by the Tahoe Regional Planning Agency Board; and

WHEREAS, the Board has determined that religious assemblies are a public service activity that is similar in nature to membership organizations as described in Section 20.703.130 of the Douglas County Code; and

WHEREAS, membership organizations are authorized in the Lake Tahoe T-MU (Tahoe Mixed Use) zoning district as a matter of right; and

WHEREAS, given the similarities between religious assemblies and membership organizations there is no reason why religious assemblies should be required to obtain a special use permit in the Lake Tahoe T-MU (Tahoe Mixed Use) zoning district prior to operation while membership organizations are not subject to a similar requirement.

NOW THEREFORE, based on the foregoing considerations, THE Board of County Commissioners of the County of Douglas does ordain as follows:

Section I. The Douglas Development, Title 20, Section 20.703.090, subsection .080, Tahoe Area Plan Regulations, are hereby amended as follows (new language is in red and underlined and deleted language is stricken through).

20.703.090 South Shore Area Plan permitted, development permitted, and special use permitted uses (Table).

The following list represents those uses in the South Shore Area Plan which are permitted by right (P), require a County Special Use Permit (S), or are prohibited (blank space). "TRPA" is placed before any use requiring a TRPA review or Special Use Determination. Uses not listed are prohibited. Uses listed as permitted may require a Design Review pursuant to Chapter 20.614, *Design Review*, of this code. In cases where a TRPA review or Special Use Determination is required, a County Design Review or Special Use Permit shall not be required. In all cases, the County is responsible for Building Permit and Site Improvement Permit review and approval.

20.703.090 Use	T-T/HDT	T-R	T-RR	T-MU/TC [3]
.080 Public service				
(A) Collection stations	TRPA-S			S
(B) Cultural facilities	TRPA-P	S[5]	TRPA-S	P
(C) Day care centers/pre-schools	TRPA-P	S[5]		S
(D) Government offices and facilities				P
(E) Hospitals				S
(F) Local assembly and entertainment	TRPA-P	S[5]	TRPA-S	p
(G) Membership organizations				P
(H) Post office	TRPA-P			P
(I) Public health and safety facilities	TRPA-P	S	TRPA-S	P
(J) Public owned assembly and entertainment	TRPA-S	S		S
(K) Public utility centers		S		S

20.703.090 Use (Cont.)	T-T/HDT	T-R	T-RR	T-MU/TC
(L) Religious assembly	TRPA-S			S P
(M) Schools – college	TRPA-S			S
(N) Schools - kindergarten through secondary				S
(O) Social service organizations				P
(P) Threshold related research facilities	TRPA-S	S[5]	TRPA-S	S

Proposed on the 1st day of September, 2022.

Proposed by Commissioner Rice.

Adopted this 1st day of September, 2022, by the following vote:

Vote-- Ayes: Commissioners Rice
Nowosad
Tarkanian
Gardner
Engels

Nays: Commissioners _____

Absent: Commissioners _____



Mark Gardner, Chairman
Douglas County Board of Commissioners

Attest:


Amy Burgans, Douglas County Clerk

This ordinance is effective on the 15th day of September, 2022.