

## STAFF REPORT

Date: October 17, 2018

To: TRPA Governing Board

From: TRPA Staff

Subject: Development Rights Strategic Initiative Amendments to the TRPA Regional Plan Goals and Policies LU-2.1 and DP-3.7 and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90

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### Summary and Staff Recommendation:

TRPA staff and the Development Rights Strategic Initiative's (DRSI) Working Group ask that the Governing Board consider approval and adoption of amendments to the TRPA Regional Plan Goals and Policies LU-2.1 and DP-3.7 and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90 to implement proposed changes to the development rights system and residential bonus unit program. The Development Rights Working Group, Advisory Planning Commission (APC), and Regional Plan Implementation Committee (RPIC) unanimously recommended approval of these changes.

### Required Motions:

In order to recommend approval of the requested action, the Governing Board must make the following motion(s), based on the staff summary:

- 1) A motion to recommend approval of the required findings (Attachment A), including a finding of no significant effect, for the adoption of amendments to the TRPA Regional Plan Goals and Policies LU-2.1 and DP-3.7 and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90 to implement changes to the development rights system and residential bonus unit program as provided within this staff report.
- 2) A motion to recommend approval and adoption of Ordinance \_\_\_-\_\_ (Attachment C), amending Ordinance 87-9, as amended, for the adoption of amendments to the TRPA Regional Plan Goals and Policies LU-2.1 and DP-3.7; and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90.

In order for motion(s) to pass, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required.

### Regional Plan Implementation Committee Recommendation/Discussion:

The Regional Plan Implementation Committee (RPIC) unanimously recommended approval of the proposed amendments and environmental documentation on September 26, 2018 subject to typographical corrections to the amendments as provided by Shelly Aldean. TRPA staff incorporated these corrections into the amendments found within Attachments B and C.1 of this packet.

Advisory Planning Commission Recommendation/Discussion:

The Advisory Planning Commission (APC) unanimously recommended approval of the proposed amendments and environmental documentation on September 12, 2018.

Working Group Recommendation/Discussion:

The DRSI Working Group unanimously recommended approval of the proposed amendments and environmental documentation on August 23, 2018.

Project Description:

The Tahoe Regional Planning Agency's (TRPA) Development Rights Strategic Initiative (DRSI) considered changes to the development rights system to accelerate the Lake Tahoe Regional Plan Goals and Policies, support environmentally beneficial and economically feasible redevelopment, improve the effectiveness and predictability of the development rights system, and continue to manage growth in the region. The development rights system is a central part of the Regional Plan's growth management system and an important strategy used to attain multiple environmental thresholds. The DRSI proposes five changes to the system:

- (1) allow conversions between different types of development rights – commercial floor area (CFA), tourist accommodation units (TAU), and residential units of use (RUU) – using environmentally neutral exchange rates;
- (2) expand the eligibility of the residential bonus unit incentive program;
- (3) enhance the development right banking system through partnerships with the local land banks;
- (4) eliminate overlapping, multi-jurisdictional approvals of development rights transfers; and
- (5) eliminate the requirement to have an approved project on a receiving site prior to a transfer of development rights.

Implementation of these recommendations would require amending the Regional Plan Goals and Policies LU-2.1 and DP-3.7 and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90. The DRSI also includes adopting a revised Memorandum of Understanding (MOU) with the California Tahoe Conservancy (CTC) and a resolution with the CTC and Nevada Division of State Lands to reaffirm their land bank authority. (Agenda Item Number IV)

The purpose of this staff report is to provide background on the DRSI, the intent and criteria for each of the five recommendations, findings from the environmental analysis, an overview of policy and code amendments necessary to implement the proposed changes, and action items completed since the last Working Group meeting on August 23, 2018. Supplemental materials attached to this report include the environmental findings and findings of no significant effect, Initial Environmental Checklist, threshold evaluation, compliance measures evaluation, and policy and code amendments.

Background:

The development rights system is a central part of the Lake Tahoe Regional Plan and maintaining environmental thresholds within the basin. This system is designed to manage growth by limiting the total amount of development potential, encouraging environmentally beneficial redevelopment, incentivizing sensitive land restoration, and concentrating a mix of land uses within town centers.

Development rights (also referred to as commodities) were initially integrated into TRPA's land use and growth management policies as part of the 1987 Regional Plan. This plan focused on managing growth by allocating a limited supply of commercial, tourist, and residential development rights required for new development in the Lake Tahoe Region. Individual Plan Area Statements, Community Plans, and Area Plans establish localized zoning, density, and development standards to guide the location of development and establish other planning standards.

TRPA designed the development rights system and permitting processes for growth management needs of the 1960s, 70s, and 80s. While the Regional Plan maintains the overall development caps, the amendments made in 2012 acknowledge a key mechanism to realize environmental improvements on the ground and accelerate threshold attainment is through voluntary and incentive-based redevelopment, movement of development, and infill development.

The amendments to the Lake Tahoe Regional Plan in 2012 included significant policy changes designed to alter the land development "footprint" in the Lake Tahoe Region. These amendments were intended to accelerate redevelopment of town centers by incentivizing the transfer of development from sensitive lands and remote areas into town centers. Transferring development from sensitive lands would reduce damage caused by increased impervious surface and stormwater runoff, intrusion into sensitive vegetation and wildlife habitats, and scenic degradation. Removal of remote development and development rights was intended to reduce vehicle miles travelled per capita in the Region, along with the resulting emissions and air pollution. The incentives took the form of increased bonus units available with the transfers and were intended to encourage private investment in environmentally beneficial redevelopment.<sup>1</sup>

The impetus behind the Development Rights Strategic Initiative stems from an adaptive management approach – to evaluate plan effectiveness of the development rights system and consider changes where appropriate to accelerate the Regional Plan Goals and Policies. In 2014 and 2015, two assessment reports found that elements of the existing system were inhibiting the environmentally beneficial redevelopment called for in the Regional Plan and contributing to the lack of attainable and diverse housing needed for full-time residents and the workforce.<sup>2</sup>

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<sup>1</sup> Tahoe Regional Planning Agency, [\*Lake Tahoe Sustainable Communities Program Documents Series #7: Development Commodities Transfer Policies Analysis\*](#), Dec. 2013.

<sup>2</sup> BAE Urban Economics, *Tahoe Regional Housing Needs Program Report: Needs Assessment Background Report and Priority Policy and Program Evaluation*, May 28, 2014.

Additionally, TRPA also began seeing the positive implications and environmental benefits that could be accrued by allowing a flexible development rights system, but still maintaining the overall development caps for the Lake Tahoe Region. Adopted by the Governing Board in 2012 and 2016, two pilot programs allowed for the conversion of Tourist Accommodation Units (TAUs), Residential Units of Use (RUUs), and Commercial Floor Area (CFA), but were limited in application such as requiring a transfer from sensitive lands, removal of a non-conforming use, construction of affordable housing, or other provisions allowed by TRPA Code Sections 50.10.2 and 50.10.8.

Since 2012, there have been four projects permitted under the pilot programs: Peak 10, Woodvista, Tahoe Cedars, and the Tahoe City Lodge. These projects, while relatively small compared to the total number of projects during that time period, demonstrate how development rights conversion projects help to accelerate environmental thresholds attainment and align with the Regional Plan Goals and Policies. All four projects included the redevelopment of legacy motels and commercial buildings in Placer County that had seen little to no improvements since the 1950s to 1970s. These projects, which included conversions of development rights, met all current development code requirements and environmental standards.

These requirements and the resulting development are more environmentally beneficial (or less harmful) than older projects built under previous, less restrictive environmental requirements. Environmental improvements that will be fully realized when the pilot projects are completed include reductions in land coverage and daily vehicle trips; installation of stormwater systems; streetscape, scenic, and transportation improvements; and installation of energy efficient building systems.

Following the assessment reports and pilot programs mentioned above, the TRPA Governing Board launched the multi-year Development Rights Strategic Initiative in 2015. The DRSI used a stakeholder and working group process to establish the mission, goals, and criteria for the initiative; clarify issues; guide best practices; formulate strategic approaches; and develop recommendations that align with the Lake Tahoe Regional Plan. The mission of the initiative was three-fold:

- Identify barriers to environmentally beneficial redevelopment;
- Consider changes to the existing development rights system to better manage growth, implement the Regional Plan, support environmentally beneficial and economically feasible redevelopment, and accelerate sensitive land restoration; and
- Improve the effectiveness and predictability of the existing development rights system.

During this process, the Development Rights Working Group (or “Working Group”) identified and analyzed 24 potential options for alignment with the established goals and criteria as well as potential economic, legal, and planning impacts to the system.<sup>3</sup> The Working Group and TRPA staff provided opportunities for public participation and comment through the 2015 stakeholder assessment (as

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<sup>3</sup> TRPA, *Factsheet#8: Goals and Criteria for Evaluating Alternatives*, Nov. 2016. [http://www.trpa.org/wp-content/uploads/Factsheet-8-GoalsCriteriaforAlternativeEvaluation\\_11.9.16.pdf](http://www.trpa.org/wp-content/uploads/Factsheet-8-GoalsCriteriaforAlternativeEvaluation_11.9.16.pdf)

mentioned above), a meeting with a development customers user group, eight public meetings with the Working Group, five community outreach presentations, and five public hearings.

Recommendation:

Based on the process discussed within the “Background” section above, the **Working Group recommended approval and adoption of the following five changes to the development rights system and residential bonus unit program on August 23, 2018:**

- (1) allow conversions between different types of development rights – commercial floor area (CFA), tourist accommodation units (TAU), and residential units of use (RUU) – using environmentally neutral exchange rates;
- (2) expand the eligibility of the residential bonus unit incentive program;
- (3) enhance the development right banking system through partnerships with the local land banks;
- (4) eliminate overlapping, multi-jurisdictional approvals of development rights transfers; and
- (5) eliminate the requirement to have an approved project on a receiving site prior to a transfer of development rights.

The subsections below provide the criteria and intent, or rationale, for each of the five recommendations above.

*1. Conversion Exchange Rates*

Conversion exchange rates would allow a project proponent to convert one land use type, or development right, to another through a TRPA application process. Such conversions would be applicable to commercial floor area (CFA), tourist accommodation units (TAUs), and residential units of use (RUUs). The Working Group recommended the following conversion exchanges rates:

Table 1: Recommended Conversion Exchange Rates

Existing Development Right	Equivalent Development Rights			
	CFA	TAU	SF	MF
300 sq. ft. Commercial Floor Area (CFA)	300 sq. ft.	1	1	1.5
1 Tourist Accommodation Unit (TAU)	300 sq. ft.	1	1	1.5
1 Single Family Detached Dwelling Unit (SF)	300 sq. ft.	1	1	1.5
1 Multi-Family Attached Dwelling Unit (MF)	200 sq. ft.	0.75	0.75	1

Allowing the conversion, or exchange, of one type of development to another is intended to provide greater flexibility, significantly simplify the system, and expand the available supply for needed development rights while still maintaining the overall development cap set forth in the Lake Tahoe Regional Plan. As mentioned within the “Project Description” and “Background” sections above, the development rights system is a central part of the Regional Plan’s growth management system and an

important strategy used to attain multiple environmental thresholds. Therefore, the key objective in establishing conversion exchange rates above was to determine a valid, common exchange ratio between types of development rights that could be consistently implemented across the region and that is environmentally neutral. (e.g., Using the table above, 300 square feet of CFA would have the same environmental impact as 1 TAU, 1 single-family residence, or 1.5 multi-family residences.)

In addition to the exchange rates above, this change includes the following criteria and eligibility requirements to convert development rights:

- Existing development rights verified as legally existing and development rights held in allocation pools would be eligible for conversion.
- Bonus units awarded to a project are eligible for conversion provided all requirements for awarding of the bonus unit (i.e. retirement of sending site development rights, use within a town center, or affordable housing criteria) have been and continue to be met.
- On-site conversions will be limited to existing development located on high capability lands unless the associated project includes the following environmental benefit: reduction in land coverage and no increase in vehicle trips, parking, cubic volume of structures, or adverse impacts as part of the project.
- All conversions will be reviewed and approved by TRPA, unless otherwise authorized by delegation to the local government through a Memorandum of Understanding.
- All development right conversion transactions and activities will be monitored in accordance to the TRPA Code of Ordinance Chapter 6: *Tracking, Accounting, and Banking*.

## 2. *Residential Bonus Unit Incentive Program*

The Working Group recommended expanding the existing residential bonus unit incentive program for housing targeted for local residents in the Lake Tahoe Basin consistent with the Regional Plan Goals and Policies. The TRPA Code of Ordinances currently allows bonus units to be awarded for affordable and moderate-income housing. The Code defines affordable housing as accommodating households earning below 80 percent of the respective county's area median income (AMI), and moderate-income as accommodating households earning between 80% and 120% of AMI.

Similar to market-rate housing, affordable and moderate-income units are required to obtain the necessary development rights (e.g., a new residential unit of use consisting of a unit and an allocation) prior to construction, however there are currently incentives in place to encourage these types of housing developments. TRPA Code section 52.3.1 designates up to 1,400 residential bonus units that may be awarded to affordable or moderate-income multi-family residential projects. (As of July 2018, there were 1,124 remaining residential bonus units available within the TRPA pool.) Bonus units are awarded at no cost to the applicant and replace otherwise required development rights either wholly or in part, as seen in Table 2 below. In order to receive a residential bonus unit, the property owner or tenant is required to earn at or below the specified AMI for the appropriate category. To further

incentivize affordable housing (below 80% AMI), TRPA does not require residential allocations for these types of housing developments.

Table 2. Existing Bonus Unit Incentives for Affordable and Moderate-Income Housing Developments

<b>Residential Bonus Unit + Allocation = Residential Unit of Use</b>		
	<b>Affordable &lt; 80% AMI</b>	<b>Moderate-Income 80% - 120% AMI</b>
<b>Bonus Unit Development Right</b>	●	●
<b>Allocations</b>	<i>Exempt</i>	

● = Awarded at the time of project

The Working Group recommended the following amendments to the existing residential bonus unit incentive program:

- Adopt the term “achievable” to refer to those earning more than 120% of the area median income yet too little to afford a median home price, also referred to as the “missing middle”.
- Expand eligibility of the residential bonus unit program to include three income tiers for both single and multi-family housing: affordable (up to 80% AMI), moderate (80-120% AMI), and achievable (120-435% depending on the type of residential unit, single family or multi-family, and jurisdiction of the housing development).<sup>4</sup>
- Half of the remaining TRPA bonus unit pool be reserved for affordable. The other half be reserved for moderate and achievable residential development.
- All residential units awarded a residential bonus unit (affordable, moderate, or local achievable) are exempt from having to obtain a residential allocation. (See Table 3 below.)
- Residential development awarded a bonus unit must be located within ½ mile of a transit stop.
- Residential development awarded a bonus unit cannot be used as a vacation rental as defined by the TRPA Code of Ordinances.
- Multi-family and single-family residential development are eligible for residential bonus units.
- Every two years, TRPA will prepare a report on bonus units allocated and update the eligibility criteria (i.e. AMI and median home price) as needed.

<sup>4</sup> Achievable AMI percentage is specific to each county within the Tahoe Basin. This percentage is calculated using median income, median home price, and buying power (a defined multiplier for how much a household can afford) for the respective jurisdiction. For the full calculation of achievable AMI percentage by county, see the definition of achievable housing in Attachment C, Exhibit 1.

Table 3. Recommended Bonus Unit Incentives for Affordable, Moderate, and Achievable Housing Developments

Residential Bonus Unit + Allocation = Residential Unit of Use			
	Affordable < 80% AMI	Moderate-Income 80% - 120% AMI	Achievable*
<b>Bonus Unit Development Right</b>	●	●	●
<b>Allocation</b>	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>

\* AMI eligibility criteria for achievable is determined by the type of unit (single family or multi-family), the respective county's AMI and median home price, and the ratio between AMI and rent or home price.

● = Awarded at the time of project

The Working Group's recommendation to expand the eligibility of the residential bonus unit incentive program also includes an enforcement strategy to ensure bonus units awarded will be used as intended and meet all criteria listed above. This strategy includes deed restrictions, disclosure forms, guidelines and education, and annual compliance reporting.

The Working Group also recommended that TRPA staff report to the Governing Board biennially on the implementation of the residential bonus unit program for affordable, moderate, and achievable housing development. This report will include, but is not limited to, the number of housing developments and units that received and were constructed using bonus units, number of bonus units received and constructed in each income category, number of bonus units received and constructed in single and multi-family housing developments, location of housing developments, and compliance with the program.

### 3. *Development Right Banking*

Throughout the DRSI process, Working Group members and stakeholders vocalized broad-based support to reaffirm the partnership between TRPA and the local land banks in California and Nevada to facilitate land acquisition. These acquisitions help accelerate the pace of sensitive lands restoration and provide a reliable and steady inventory of development rights for project proponents. Since the adoption of the 1987 Lake Tahoe Regional Plan, local land banks in California and Nevada have played a crucial role in mitigating the environmental impacts associated with urbanization in the Lake Tahoe Basin. The local land banks help to accelerate threshold attainment by carrying out the following functions: (1) acquiring land and development rights from sensitive or underused properties; (2) transferring development rights to less sensitive areas; (3) creating a repository of available development rights for project proponents; (4) permanently retiring land coverage; and (5) restoring sensitive land.

As part of their Memoranda of Understanding (MOU) with TRPA, the land banks can create a revolving or cyclical banking function. Using resources made available from sources like state or federal funds the land banks acquire development rights. They can then provide the necessary rights to develop a property in return for some sort of payment from project applicants. As the payment is received,



additional development rights are acquired. The newly acquired development rights are then provided in return for payment, continuing the cycle. The cycle is repeated over and over. However, unlike a for-profit bank, the development rights bank may or may not receive a full return on the rights it provides because its mission is restoration, redevelopment, provision of affordable housing, etc. The land banks have the ability to seek additional funding to augment this development rights banking role, whether to subsidize development rights for desired types of development or to provide additional development funds to support desired ends, such as workforce housing.

The Working Group recommended reaffirming these partnerships with the local land banks to further enhance the development right banking system and ensure each MOU provides the flexibility to achieve the land bank goals. This reaffirmation would include a policy resolution with the California Tahoe Conservancy (CTC) and the Nevada Division of State Lands land banks and a revised MOU with CTC. The resolution would provide support for CTC to pursue legislative flexibility for disbursing acquired development rights and subsidizing development rights (i.e. donations, selling below fair market value, trade, etc.) for desired projects such as town center redevelopment and affordable housing. The revised MOU serves to better align CTC's local land bank role with the authority granted to the agency by the State of California. TRPA will still have the responsibility to track and monitor transactions and ensure that the development rights system continues to support the Lake Tahoe Regional Plan Goals and Policies.

Additionally, the Working Group recommended allowing other entities, specifically local governments and philanthropic non-profit organizations, to form land banks under an MOU with TRPA in order to acquire, disburse, and transfer all development rights (CFA, TAUs, and RUUs) and land coverage. At this time, the only active land banks within the region are CTC and the Nevada Division of State Lands; however, the recommendation allows other entities to come forward at a later time.

#### 4. *Transfer Requirements*

The Working group recommended the following process improvements to the existing Transfer of Development Rights (TDR) program:

- Eliminate the requirement to have an approved project prior to the transfer of development rights.
- Maintain that a developer and/or property owner does not have to acquire development rights until the final permit stage (or acknowledgement).
- Allow public development right banks to sever development rights from properties and hold or sell those rights.

The emphasis behind the TDR program is to accelerate environmental threshold attainment by redirecting (or transferring) development from sensitive lands to walkable, bikeable, and transit-oriented town centers. While the overall outcomes of the TDR program have been positive and are effective in meeting Regional Plan goals, the *pace* has not been what is desired. The improvements

recommended by the Working Group are intended to increase the effectiveness of the TDR program, simplify the development rights system, and remove excessive requirements to encourage environmentally beneficial redevelopment called for in the Regional Plan.

The first and second process improvements, removing the project requirement and allowing flexibility as to when the development rights need to be obtained, would apply only to the transfer of commercial floor area (CFA), tourist accommodation units (TAUs), and residential units of use (RUUs). This provision would not apply to land coverage or other units. (e.g. people at one time) These improvements would allow individuals to sever development rights from a sending site and transfer those to a receiving site at any time during the development planning and permitting phase. Project proponents would still be required to obtain the necessary development rights prior to final approval (or “acknowledgment”).

The third process improvement, allowing public land banks to sever development rights from properties to hold and sell those rights, is intended to support land banks and increase their efficiency in meeting the functions discussed in the subsection above “Development Right Banking.” Public entities allowed to sever development rights from a property would be limited to land banks, local governments, and philanthropic non-profits.

#### 5. *Transfer Approvals*

The Working Group recommended eliminating overlapping multi-jurisdictional approval processes for the transfer of development rights between jurisdictions. As mentioned in the “Background” section above, development rights were initially integrated into TRPA’s land use and growth management policies as part of the Regional Plan in 1987. Under the existing TRPA Code of Ordinances, interjurisdictional transfers of development rights require approval from both TRPA and the local jurisdictions.

Eliminating the local approval alleviates constraints and the complexity of the development rights system and allows the system to better respond to market demands and community needs. As part of the Working Group’s recommendation, local jurisdictions will have the option to come before the TRPA Governing Board to request the establishment of a local approval process if there is a net loss of 5% in the existing development rights over a two-year period in that jurisdiction (See Section 51.6 of Attachment C, Exhibit 1). Additionally, TRPA will track development right transfer transactions in accordance with TRPA Code Chapter 6: *Tracking, Accounting, and Banking* and prepare an annual report. This report will include the total net changes in development rights for each jurisdiction over the previous two years and be presented to the Governing Board starting two years after the effective date of the adoption of the recommendation.

#### Regional Plan Policy & Code of Ordinance Amendments:

TRPA’s Executive Director appointed a Technical Code Team to prepare and review in detail the necessary policy and code amendments for the implementation of the Working Group’s recommended

changes to the development rights system and residential bonus unit program. This team consisted of Working Group members Nicole Rinke (California Attorney General’s Office), John Marshall (TRPA), Lew Feldman (community developer affiliate), and Marissa Fox (League to Save Lake Tahoe), and DRSI team members John Hester, Jennifer Self, Alyssa Bettinger (TRPA), and Charlie Knox (PlaceWorks).

The Technical Code Team met on April 10 and July 10, 2018 to discuss redline changes and specific language to be incorporated into TRPA’s Regional Plan Goals and Policies and Code of Ordinances. The Technical Code Team presented their endorsed policy and code amendments at the May and August Working Group meetings. The Technical Code Team and the Working Group recommended approval and adoption all proposed policy and code amendments as provided within this packet.

Implementation of the DRSI recommendations would require amending the TRPA Regional Plan Goals and Policies LU-2.1 and DP-3.7 and TRPA Code of Ordinances Chapters 1, 3, 6, 11, 21, 31, 39, 50, 51, 52, and 90. The attached documents show the amendments recommended for approval and adoption by the Technical Code Team and Working Group. Attachment B provides the rationale for each policy and code section proposed for amendment. Attachment C, Exhibit 1 provides the proposed amendments in-context within the policy or code chapter.

The following outline provides a summary of the amendments recommended for approval and adoption:

- **DRSI Recommendations and Criteria<sup>5</sup>**
  - (1) allow conversions between different types of development rights – commercial floor area (CFA), tourist accommodation units (TAU), and residential units of use (RUU) – using environmentally neutral exchange rates;
  - (2) expand the eligibility of the residential bonus unit incentive program;
  - (3) enhance the development right banking system through partnerships with the local land banks;
  - (4) eliminate overlapping, multi-jurisdictional approvals of development rights transfers; and
  - (5) eliminate the requirement to have an approved project on a receiving site prior to a transfer of development rights.
  
- **Code of Ordinances Chapter and Section Numbering and References**
  
- **Title Change-- Chapter 51: *Banking, Conversion, and Transfer of Development Rights***

Conversions of development rights are currently located in Chapter 50: *Allocation of Development*. The amendments recommended for approval and adoption include relocating conversions to Chapter 51: *(currently) Transfer of Development*. This chapter also contains a new code section regarding the banking of development rights. Co-locating provisions covering activities or transactions associated with existing development rights is intended to

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<sup>5</sup> Criteria for the DRSI recommendations are summarized in “Working Group Recommendations” section above.

improve the usability of the Code and increase predictability.

- **Terminology Changes**

- **“Commodities” → “Development Rights”**

- “Commodities” currently refer to transferrable land use units, such as: land coverage, commercial floor area (CFA), residential units of use (RUUs), tourist accommodation units (TAUs), residential development rights, residential allocations, and restoration credits.

- As part of the DRSI, the Working Group recommended adopting the new term “development rights” to refer exclusively to CFA, RUUs, and TAUs. This change is intended to align with industry standards for the authority to develop a parcel.

- **“Residential Development Right” → “Potential Residential Unit of Use”**

- A “residential development right” currently refers to the land use unit attached to certain parcels in the region and is half of what is needed to construct a residential unit.

- As part of the DRSI, the Working Group recommended use of an alternative term to avoid confusion with “development rights”, as discussed above. The DRSI team recommends using the term “potential residential unit of use.” A potential residential unit of use paired with a residential allocation creates a residential unit of use.

- **“Multi-Residential Bonus Unit” → “Residential Bonus Unit”**

- As part of the DRSI, the residential bonus unit incentive program is no longer restricted to only multi-family housing development. As such, many of the edits shown in the attached document remove the “multi” from “residential bonus units”.

Environmental Review & Regional Plan Compliance:

TRPA staff and PlaceWorks, the planning consultant for DRSI, analyzed the potential environmental effect of the recommended changes to the development rights system and residential bonus unit program, as summarized within the “Working Group Recommendation” section above as a plan-level environmental review. The environmental documentation for the recommended changes and the policy and code amendments consists of the Initial Environmental Checklist (IEC), environmental findings and finding of no significant effect, thresholds evaluation, and compliance measures evaluation. The IEC is a stand-alone document that determines whether there are anticipated environmental impacts of the recommendations (or plan). Per Article V and VI of the TRPA Bi-State Compact and Chapter 3: *Environmental Documentation* of the TRPA Code of Ordinances, the environmental documentation serves to analyze whether the policy and code amendments will cause environmental threshold carrying capacities to be exceeded.

This analysis is tiered from the TRPA 2012 *Regional Plan Update* (RPU) Environmental Impact Statement (EIS) and the TRPA *Mobility 2035: Regional Transportation Plan/Sustainable Communities Strategy* (RTP) EIS/Environmental Impact Report (EIR) in accordance with Sections 6.12j of the TRPA Rules of

Procedure.<sup>6</sup> The RPU and RTP EISs are program EISs that were prepared pursuant to Article VI of TRPA Rules of Procedure and Chapter 3: *Environmental Documentation* of the TRPA Code of Ordinances.

The Regional Plan and RTP are comprehensive land use and transportation plans that guide physical development within the Lake Tahoe Region through 2035. The RPU EIS and RTP EIR/EIS are program-level environmental documents that include a regional scale analysis and a framework of mitigation measures and provide a foundation for subsequent environmental review. These documents serve as first-tier documents for the TRPA review of the proposed recommendations. Meaning, the RPU EIS and RTP EIR/EIS analyzed total development potential of the two plans; the DRSI recommendations operate within that potential but allow for greater flexibility (e.g. conversion of types of development) while maintaining the overall constraints and caps as called for in the Regional Plan and RTP.

Due to the extent that the recommendations are consistent with the Regional Plan and the RTP, for which the program EISs were prepared, the recommendations were found to be within the scope of the program EISs, or in the context of tiering. Under the proposed recommendations, the background, overall development caps, and growth control programs as analyzed in the RPU and RTP remain in place with no changes. The DRSI and resulting recommendations are intended to better implement the programs within the Regional Plan.

By tiering from the RPU EIS and RTP EIR/EIS, the attached Initial Environmental Checklist (IEC) relies on those analyses for the following:

- a discussion of general background and setting information for environmental topic areas;
- overall growth-related issues;
- assessment of the development rights system; and
- assessment of cumulative impacts of allowed growth.

In the IEC, TRPA examines the unanalyzed impacts that could arise from the movement, conversion, and flexibility of transfer of development rights within the previously assessed development rights system, if any.

### *Findings*

Based on the analysis contained in the attached IEC, the robust monitoring and tracking standards discussed within the IEC, and the environmental findings document, TRPA and PlaceWorks determined that **the proposed recommendations would not have significant effects or adverse impacts on the environment**. Therefore, TRPA staff prepared a Finding of No Significant Effect for the Development Rights Strategic Initiative recommendations. (Attachment A)

Furthermore, based on the analysis within the thresholds and compliance measures evaluations, **the Regional Plan as amended through the proposed policy and code amendments will continue to achieve and maintain thresholds**. The intent of the recommended changes is to remove identified

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<sup>6</sup> The TRPA Governing Board certified the RPU EIS and RTP EIR/EIS on December 12, 2012.

barriers of the development rights system, maintain overall development and growth caps for the Tahoe region, and help to accelerate achievement of the environmental thresholds. Project-level review of environmental and threshold impacts shall remain in place as part of the recommended changes.

Contact Information:

For questions regarding this agenda item, please contact Jennifer Self, at (775) 589-5261 or [jself@trpa.org](mailto:jself@trpa.org).

Attachments:

- A. Environmental Findings & Finding of No Significant Effect (FONSE)
  - Exhibit 1: Initial Environmental Checklist (IEC)
  - Exhibit 2: Thresholds Evaluation
  - Exhibit 3: Compliance Measures Evaluation
- B. Table of DRSI Amendments and Rationale
- C. Adopting Ordinance for Amendments to the TRPA Regional Plan and TRPA Code of Ordinances
  - Exhibit 1: DRSI Amendments in Context