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MEMORANDUM

Date: February 16, 2012

To: TRPA Regional Plan Update (RPU) Committee

From: TRPA Staff

Subject: Recommendations for February 21 RPU Committee meeting

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**Summary:**

This Staff Summary addresses:

1. Updated Plan Materials
2. Action Sheets and Minutes
3. Continued Items from Prior Meetings
4. Implementation Element
5. Regional Plan Maps
6. Code Amendments

**Action Sheets and Minutes:**

A complete copy of the draft Regional Plan is distributed with this packet. The materials include a new Implementation Element and map set, along with all other elements updated to reflect prior Committee actions. This replaces all older materials.

**Action Sheets and Minutes:**

Draft Action Sheets and minutes are provided for the January 24, 26, 31 and February 1 RPU Committee meetings. Minutes are also provided for the January 10 meeting. Staff recommends the RPU Committee approve minutes and action sheets.

**Continued Items from Prior Meetings:**

The RPU Committee directed staff to address three specific topics at the February 21 meeting – Sign Policies, use of Air Quality Mitigation funds and a policy prohibiting certain biomass

REGIONAL PLAN UPDATE COMMITTEE  
February 13, 2012 Staff Summary

facilities that was proposed by a member of the public. Staff recommendations for each topic are outlined below:

**1. Policy CD-2.1 E related to Signs**

Background:

At their January 10, 2012 meeting, the Regional Plan Update Committee referred draft policy CD-2.1 E to the Local Government Committee for review, discussion, and recommendations back to the Regional Plan Update Committee.

At the January 26, 2012 Local Government Committee meeting, the committee members discussed the matter, but did not make a recommendation. The Local Government Committee is scheduled to make a recommendation on the topic at their February 17, 2012 meeting.

Sign standards relate primarily to TRPA's scenic threshold category. It is important to note that significant changes to current sign ordinances are not within the scope of the ongoing EIS analysis. Accordingly, substantive changes to sign ordinances will require additional environmental review.

Recommendation:

TRPA staff developed an alternative proposal, which is intended to address the need for environmental review of substantive changes, as well as concerns raised in prior meetings. The Local Government Committee recommendation will be reported at the RPU Committee meeting.

Staff recommends amendments to the Regional Plan making modest changes to the Regional Sign Policy (which do not require environmental review) and permitting alternative sign standards as a component of Area Plans (environmental review would occur with the Area Plan). Recommended Plan amendments are outlined below.

E. Signing:

Area Plans may include alternative sign standards. For Area Plans to be found in conformance with the Regional Plan, the Area Plan must demonstrate that the sign standards will minimize and mitigate significant scenic impacts and move toward attainment or achieve the adopted scenic thresholds for the Lake Tahoe Region.

In the absence of a conforming local plan that addresses sign standards, the following policies apply:

- 1) Off premise signs ~~are~~ should generally be prohibited; way-finding and directional signage may be considered where scenic impacts are minimized and mitigated.
- 2) Signs should be incorporated into building design
- 3) When possible, signs should be consolidated into clusters to avoid clutter
- 4) Signage should be attached to buildings when possible
- 5) Standards for number, size, height, lighting, square footage, and similar characteristics for on premise signs shall be formulated and shall be consistent with the land uses

permitted in each district.

## **2. Air Quality Implementation Measure for Distribution of Air Quality Mitigation Funds (AQ-2 IM)**

### Background:

TRPA code currently requires that Air Quality Mitigation Funds be spent within the jurisdiction where the funds are generated. Staff recommends amendments to the development code to permit 50% of air quality mitigation funds to be used for regionally significant air quality improvements, and not be required to be located in the jurisdiction where the funds are generated. On February 1, 2012, the RPU Committee continued the item to the February 21 meeting. The Local Government Committee is also scheduled to review the topic and provide a recommendation.

Staff believes this change is important because Southern Nevada Public Lands Management Act (SNPLMA) funding has declined to near zero, which has left a funding gap for regional air quality improvement projects. Without increased flexibility in the distribution of TRPA's Air Quality Mitigation Funds, regionally significant air quality improvement efforts could be under funded. The change will also permit mitigation funds to be used for air quality improvement projects that are located in jurisdictions with little or no development activities (e.g., Carson City), outside jurisdictions (e.g., waterborne transit) or are not directly tied to individual jurisdictions (e.g., wood stove replacement rebates).

Attachment A summarizes how Air Quality Mitigation funds have been used in the past and current fund balance in each jurisdiction.

Staff from Douglass and Washoe Counties submitted input in opposition to the recommended change (Attachment B).

### Recommendation:

Staff continues to recommend that 50% of the Air Quality Mitigation Funds be used for regionally significant projects, which may be located outside the jurisdiction where the funds were generated. Staff further recommends that the change be phased-in so it does not affect existing fund balances and that TRPA and local governments coordinate on the selection of Regional Projects. Details of these recommendations will be discussed with the Local Government Committee before being presented to the RPU Committee.

## **3. Possible Policy prohibiting certain Biomass Facilities.**

### Background:

At the February 1, 2012 RPU Committee meeting, a member of the public recommended that Biomass facilities over 100 KW be banned in the Lake Tahoe Basin (Attachment C). The RPU Committee directed staff to agendize the topic for discussion and possible action on February 21, 2012.

### Recommendation:

Staff recommends that the proposed regulation related to Biomass facilities not be endorsed. This recommendation is based on the following considerations:

1. The existing Development Code has detailed provisions regulating emissions from new stationary sources of emissions, including Biomass facilities (Section 65.1.6 – copied as Attachment D). The code section establishes peak period emission limits for five pollutants and requires that new stationary sources that exceed the emission limits be denied. There is an exemption for certain Biofuel facilities, but only if the facilities reduce emissions compared to alternative vegetation management activities (pile burning), not accept fuels from outside the region and comply with other criteria.
2. The provision recommended by the member of the public would regulate facilities based on the amount of electricity generated with no consideration of emissions. This approach does not address environmental considerations and could prohibit future projects even if a proposed project would result in air quality improvement. Pile burning is a significant source of air pollution and new technologies that would reduce those impacts should not categorically be prohibited. Additionally, the proposed regulation would be in conflict with Regional Plan Policy AQ-1.6, which reads *“Promote technologies that reduce air quality impacts of prescribed burning, or non-burning methods of reducing hazardous forest fuels, where practical.”*
3. The existing Regional Plan and code provision prevented a proposed biomass facility from being approved based on environmental impacts which could not be mitigated as well as public input and other policy considerations. The current system works to screen out environmentally harmful action. There have not been any examples of an impactful biomass facility being approved under current ordinances.

**Implementation Element:**

Recommended changes to the Implementation Element are generally limited to the following categories:

1. Remove outdated text, including studies that have been completed, allocation releases that have expired, requirements for development of the IPES program and similar matters;
2. Modernize language to better reflect current documents and programs (ie. Environmental Improvement Program replacing “Capital Improvement Program”);
3. Modernize text to reflect ongoing regional partnerships and programs;
4. Text revisions to reflect endorsed policy changes in other plan elements; and
5. Outline a work program for topics that have been identified for further study through the Regional Plan update process.

There are no changes to the Implementation Element that would have regulatory impact upon adoption. Topics in the future work program will be analyzed and considered after adoption of the updated Regional Plan.

**Regional Plan Maps:**

As a companion to the Implementation element, seven maps are proposed to be included in the Regional Plan.

Maps include:

Map 1 – Draft Regional Land Use Map

- Map 2 – Draft Ratios for Transfer of Existing Development
- Map 3 – Draft Ratios for Transfer of Development Rights
- Map 4 – Draft Transit Service
- Map 5 – Draft Bicycle and Pedestrian Facilities
- Map 6 – Stream Restoration Priorities

The land use map (Map 1) was previously endorsed - several mapping corrections have been made to more accurately reflect existing Plan Area Statements that are not proposed to be changed.

Maps 2 and 3 depict the draft development right transfer ratios that were endorsed with the LU-3 Implementation Measures.

Maps 4 and 5 depict transportation facilities that are also identified in the Regional Transportation Plan.

Map 6 depicts Stream Restoration Priority areas in accordance with Policy SEZ-1.7 in the Stream Environment Zone Subelement.

Maps 2-6 reflect the geographic consequence of endorsed plan policies and ordinances. These maps are included to assist with Plan readability and have no regulatory impact beyond the policies and ordinances that they depict.

### **Additional Code Amendments:**

Review of code amendments related to the endorsed Regional Plan Policies and Implementation Measures has begun through the Technical Working Group that was established by the RPU Committee. Recommendations for these code amendments are scheduled for RPU Committee review in early March.

Numerous additional code amendments were initially recommended during the “Phase 1” code update work. Many of the proposed amendments were deferred to “Phase 2” of the code update.

Staff reviewed the list of “Phase 2 amendments”. Most of the items are addressed with the Policy Amendments and Implementation Measures that have previously been endorsed. Of the topics not already reviewed, staff identified seven topics that are priorities for timely implementation. Recommendations for these topics are outlined below. Staff recommends that the RPU Committee endorse these priority code amendments. Following RPU Committee action, endorsed amendments will be incorporated into documents that are being reviewed by the Technical Working Group.

#### **1. TRPA Certified Contractor Program**

Background:

Before most project applications can be submitted, parcel-level verifications are required for land capability, land coverage, and existing development. These verifications are completed by staff to establish the existing baseline parcel information and development potential and sometimes take staff several months to complete. The verifications have become a bottleneck in the development review process.

Recommendation:

Staff recommends the following Implementation Measure:

- Amend the Code of Ordinances to permit the development and implementation of a Certified Contractor program that would allow qualified professionals certified by TRPA to conduct verifications for land capability, land coverage, and existing development. Details of the Certified Contractor program shall be developed following adoption of the Regional Plan update and shall require Governing Board approval.

**2. Relocation of Accessory Commercial Uses**

Background:

TRPA does not require Commercial Floor Area (CFA) for accessory commercial uses provided a number of criteria are met (see criteria in code excerpt below).

The criteria related to separate entrances and signs have discouraged the relocation of existing accessory commercial uses, particularly restaurants, to street level where they would contribute positively towards pedestrian activity in tourist areas.

Recommendation:

Staff recommends the following code amendment to promote the relocation of existing accessory commercial areas to street level:

***50.5.1. Requirement of Allocation***

*No person shall construct a project or commence a use that creates additional commercial floor area without first receiving an allocation approved by TRPA. In order to construct the project or commence the use to which the allocation pertains, the recipient of the allocation shall comply with all other applicable provisions of this Code.*

***A. Applicable Commercial Uses***

*The commercial uses identified in Chapter 21: Permissible Uses, contain commercial floor area. The allocation of additional commercial floor area pursuant to this chapter also applies to commercial activities that are not*

primary commercial uses, except that accessory uses shall be deemed not to contain additional commercial floor area provided that TRPA makes the following findings:

1. The accessory use meets all criteria specified by Chapter 21 for an accessory use; and
2. The accessory use is designed to serve the noncommercial primary use, as determined by reference to the following criteria:
  - a. There is no separate entrance for the accessory use, except separate entrances may be established for the relocation of existing accessory commercial uses (uses legally established prior to January 1, 2013) to street level;
  - b. The accessory use is compatible with the size and patronage of the primary use;
  - c. The accessory use does not rely on separate parking;
  - d. The accessory use is not separately advertised, except one 20 square foot building sign may be constructed with the relocation of existing accessory commercial uses (uses legally established prior to January 1, 2013) to street level;
  - e. The use season of the accessory use corresponds to that of the primary use; and
  - f. In applicable instances, the accessory use is principally for service or repair rather than sales.

### **3. Eliminate the Requirement for Original Signatures on Documents**

#### Background:

Section 5.11 of Code of Ordinances requires original signatures on applications, authorizations, and other documents submitted to TRPA. Electronic signatures are widely accepted today and eliminating the requirement for original signatures would streamline processes.

#### Recommendation:

Staff recommends the following code amendment to streamline application submittal procedures:

#### **5.11 Correct Information/Names ~~and Originals~~ Required**

*All applications, authorizations, and other information or documents filed with TRPA by applicants or their agents, shall be truthful and accurate. No applicant or agent shall sign a false or incorrect name, or shall forge another's name. No applicant or agent shall knowingly, intentionally, or recklessly provide any untrue information on an application, authorization, or other document. Each false, untrue name or forged name on any application, authorization or other*

document filed with TRPA shall be a separate violation of this Code. Each piece of false information provided knowingly, intentionally, or recklessly on an application, authorization or other document filed with to TRPA shall be a separate violation of this Code.

All applications, authorizations and other documents filed with TRPA by applicants or their agents shall be originals. ~~However, or accurate photocopies or facsimiles of such applications, authorizations, or other documents may be submitted (along with the requisite filing fee) as long as the originals are received by TRPA within fourteen (14) days of filing such photocopies or facsimiles. If the originals are not received within fourteen (14) days of filing the photocopies or facsimiles, the application, authorization, or other document shall be deemed in complete and shall not be processed until the original is received.~~

#### **4. Allow Removal of Large Trees if Necessary for EIP Projects**

##### Background:

Environmental Improvement Program (EIP) projects sometimes require the removal of large trees in order to construct projects benefiting threshold areas when no feasible alternative exists. EIP projects are generally not identified in TRPA Approved Master Plans, which is currently a requirement for the removal of large trees for EIP projects. This requirement has been an impediment to bike trails and other EIP projects. This amendment is being evaluated in the Environmental Impact statement, but was inadvertently omitted from Implementation Measures for the Vegetation Subelement.

##### Recommendation:

Staff recommends the following code amendment to facilitate EIP projects:

##### **61.1.4. Old Growth Enhancement and Protection**

*The standards in this subsection shall govern forest management activities and projects.*

##### **A. Standards for Conservation and Recreation Lands or SEZs**

*Within lands classified by TRPA as conservation or recreation land use or SEZs, any live, dead, or dying tree larger than 30 inches diameter at breast height (dbh) in westside forest types shall not be cut, and any live, dead or dying tree larger than 24 inches diameter at breast height in eastside forest types shall not be cut, except as provided below.*

*(break)*

#### **7. EIP Projects**



~~For activities that are consistent with a TRPA-approved master plan,~~  
Trees larger than 30 inches dbh in the westside forest types and larger than 24 inches dbh in eastside forest types may be removed when it is demonstrated that the removal is necessary for the activity.

## 5. Require Tapered Transition for Single-Family Home Driveway Widths

### Background:

Driveways serving single-family dwellings are required to be as wide as garage doors for 15 feet and ten feet wide for remaining areas. In order to minimize the use of coverage for driveways, new driveways are sometimes constructed with an abrupt transition between different driveway widths. This often creates compacted soils from regular vehicular movement.

### Recommendation:

Staff recommends the following code amendment to discourage soil compaction:

#### **34.3.4. Width of Driveways**

*Driveway widths shall conform to the following standards:*

##### **A. Single-Family Homes**

*Driveways serving single-family homes shall have a minimum width of ten feet. Where the single-family home includes a garage, the driveway shall be at least as wide as the garage door opening for a distance of 15 feet from the front of the garage. New driveways shall include a transition between the garage door opening width and minimum driveway width to accommodate reasonable vehicular movement without compaction of unpaved soils adjoining the driveway.*

## 6. Reorganize Rules of Procedure

### Background:

Presently, the Code of Ordinances and Rules of Procedure are contained in two separate documents. The Rules of Procedures includes some topics that are typically contained in code (e.g., public notice requirements, project review procedures, etc) and other topics that are subject to frequent modification and are typically contained in administrative manuals (e.g., fee schedules, submittal requirements, etc.).

### Recommendation:

To improve the code's organization and responsiveness to changing needs, Staff recommends the following actions:

1. Integrate the Rules of Procedure into the Code of Ordinances;
2. Establish a separate administrative manual outlining fee schedules, submittal

requirements, etc.

3. Reference the administrative manuals in procedural section of the Code of Ordinances along with procedural requirements to amend the administrative manuals.

This organizational work has already been completed by the Code consultants, but the changes were removed from the “Phase 1” update effort to allow additional public review.

## **7. Assorted Clarifications of Text**

### Background:

Numerous clarifications of text were initially proposed during the “Phase 1” code update. Some of the clarifications were removed from the “Phase 1” update to allow additional public review. These clarifications have already been drafted by the code consultants.

### Recommendation:

To clarify certain code provisions the code, Staff recommends that deferred “Phase 1” code clarifications be included in the draft document.

(end)

If you have any questions regarding this staff summary, please contact Arlo Stockham, at (775) 589-5236 or [astockham@trpa.org](mailto:astockham@trpa.org).