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MEMORANDUM

Date: December 8, 2010
To: TRPA Governing Board
From: TRPA Staff
Subject: Revised Regional Plan Update Alternatives to Address the Tourist Accommodation Unit Issue

Requested Action: Governing Board direction on staff's revisions to the Regional Plan Update (RPU) alternatives to address the Tourist Accommodation Unit (TAU) issue.

Staff Recommendation: Governing Board member review of the revised range on alternatives addressing the TAU issue (*see Attachment A*) and direction to staff to make the necessary changes to the Project Description and the Implementation Measures to reflect staff's recommendations.

Requested Motion: The Board is requested to make a motion to approve the revised range of RPU alternatives to address the TAU issue. A majority straw vote of the Board is requested to provide staff with direction.

Background: At the May 26, 2010, Governing Board meeting in Incline Village, staff presented the Land Use Milestone. One of the "Major Issues" requiring discussion and direction from the Board was: **Land Use Issue #7: Should TRPA limit the size of Tourist Accommodation Units (TAUs) that are redeveloped?**

The following is an excerpt from FactSheet #3:

When TRPA developed the concept of Tourist Accommodation Units (TAU), TAUs were mostly represented by your typical 250-square foot motel room. The Code declares that no additional TAUs can be created without an allocation, but the relocation and redevelopment of a legally existing (pre-1987 plan) TAU is not considered additional. Today, with motel room TAUs being redeveloped as 3,000-square foot, five-bedroom timeshares, some stakeholders are saying that something must be done, that the increasing size of TAUs may have greater impacts than TRPA anticipated back in 1987, and that more development than was ever intended may now be possible. Other stakeholders are not concerned – TAU transfers undergo environmental review and must mitigate their impacts.

The staff proposal was to amend the definition of TAU as follows: "*One bedroom, ~~or a group of two or more rooms with a bedroom~~ with or without cooking facilities, primarily designed to be rented by the day or week and occupied on a temporary basis.*" The effect of this amendment would have been to make a TAU equivalent to one bedroom, so a developer of a new three-bedroom hotel suite would have to transfer in three (typical, motel room) TAUs in order to build the project.

While the environmental interest groups, such as the League to Save Lake Tahoe, went as far as to support this proposal in writing, a myriad of opponents were also energized to speak and write against it.

In most cases at Tahoe, the TAU transfer requirement has caused developers of tourist accommodations to buy old motels, demolish them, and remediate their sites (to restore the land's natural function and provide water quality benefits). Transferring TAUs into a new project can be expensive – often in the range of \$50,000 to \$75,000 per transferred TAU – and the staff proposal would have increased the cost. Since so many of today's tourist accommodation developments are based on two-room suites, the effective cost per unit would rise to something in the range of \$100,000 to \$150,000, it was argued.

The purpose of the TAU provisions in TRPA Code is twofold:

- Establish a cap on the total number of tourist units in the Basin
- Encourage redevelopment of tourist units to engender scenic, water quality, and other improvements

The argument against the staff proposal centered on the assertion that increasing the cost of TAU transfers would *dis*-encourage environmental redevelopment by making new projects too expensive to pursue.

The Governing Board voted on all of the major issues in the Land Use Milestone except the TAU issue. Instead, the Board tabled the discussion and directed staff to convene a TAU working group to help staff develop recommended policy and implementation strategies for consideration by the full Board.

The TAU Task Force – Makeup and Details

Staff convened what became known as the TAU Task Force, a temporary think tank/brainstorming group made up of Shelly Aldean (Chairperson), Mara Bresnick, Hal Cole, Lew Feldman, Leah Kaufman, Jennifer Merchant, Alex Mourelatos, Rochelle Nason, John Upton, and Ellie Waller (Participants) – *and* – John Hitchcock, Dennis Oliver, Nicole Rinke, and Harmon Zuckerman (TRPA Staff).

- The **Objective** was “To develop possible future solutions for regulating TAU.”
- The **Methodology** was “Brainstorming, collaboration, cooperative idea generation.”
- The **Ground Rules** were “Listen, don't be afraid to be creative, build on each others' ideas, be civil, don't pontificate, avoid plumbing the past and trying to 'resolve' perceived injustices, respect each others' opinions, ideas, and time – meetings will start and end on schedule.”
- The **Preferred Outcome** was “Staff will consider ideas generated by the Task Force as well as those generated in stakeholder meetings in making its recommendations to the Board.”

The Task Force met four times: July 22, August 30, October 15, and November 2.

The TAU Task Force – Areas of Consensus

1. The **PROBLEM** – almost all members of the Task Force agreed that some of the newer TAUs are too large. Allowing a TAU transfer from a 250-square foot motel room to a 3,000-square foot, five-bedroom timeshare is an abuse of TRPA Code – though

doing so under today's Code is, in fact, permissible. There was a perception that the impact of some new developments has not been mitigated by the transfer of older, smaller TAUs.

2. The GOALS/PURPOSES of the TAU system – among Task Force members, there was general agreement on the goals and purposes of the TAU system:
 - A. To incentivize “environmental redevelopment” by facilitating the elimination of blighted motel product and the construction of new, TMDL-compliant product that also results in reduced carbon footprint.
 - B. To rectify past land-use planning mistakes by removing development from sensitive lands and scenic corridors; and, where appropriate, by concentrating units in places where tourists can access amenities on foot or by transit (i.e., reversing existing sprawl).
 - C. To improve the economy in over-covered Community Plan areas, which would help them pay for area-wide water quality systems and achieve stormwater goals (and other contributions to the attainment of Thresholds).
 - D. To improve economic viability of the community by improving the variety and quality of accommodations, especially by offering updated, environmentally-friendly units that appeal to the contemporary “geo-tourist.”

3. Potential SOLUTIONS to the TAU Issue – the Task Force discussed the following solutions to resolve the TAU issue:
 - A. Incentivize the conversion of older, outdated TAUs to residential uses by permitting the substitution of Residential Bonus Units for TAUs.
 - B. Limit the number of Bonus TAUs to encourage renovation of existing stock.
 - C. Encourage environmental redevelopment by lowering the cost of TAU transfer; multiple Bonus TAUs could be awarded per transferred unit, commensurate with the environmental benefit of the transfer.

Contact Information: If you have any questions, please contact Harmon Zuckerman, Director, Regional Plan Update, at hzuckerman@trpa.org or (775) 589-5236, or John Hitchcock, Land Use Team Lead, Regional Plan Update, at jhitchcock@trpa.org or (775) 589-5220.

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Attachment A

Tourist Accommodation Units Issue

Staff-Recommended Solutions

Staff's Recommendations on Revised RPU Alternatives to Address the TAU Issue

Staff conducted extensive research and engaged in multiple discussions with the TAU Task Force as a whole and with individual members off-line. The result of this effort is a revised range of RPU alternatives that are designed to better address the TAU issue.

Alternative 1: No project.

1. *Definition of TAU, rules for transfer, and other Code provisions remain the same as today (this is the same as the current Alternative 1).*
2. *Retain the existing 347 TAU Bonus Units (this is the same as the current Alternative 1).*

Rationale: Alternative 1 is the “no project” alternative, and therefore no changes are proposed.

Alternative 2: The staff-proposed alternative, it is a hybrid of regulation and incentives designed to most effectively achieve real environmental gain.

The following are the proposed revisions to Alternative 2:

1. *Revise the definition of a TAU as follows: “A unit, ~~One bedroom or a group of two or more rooms with a bedroom~~ with or without cooking facilities, primarily designed to be rented by the day or week and occupied on a temporary basis.”*

Rationale: The current TAU definition can be parsed in different ways. While the conventional interpretation is that of a unit with one or more bedrooms, there are some people who interpret the definition as meaning only one bedroom with any number of other rooms. Simply defining the TAU as “a unit” and leaving the size limit to the transfer and rebuild requirements resolves the interpretation problem.

2. *Limit size of a TAU to 1,200 square feet of floor area.*

Rationale: Currently, the Code does not impose any maximum limits on the square footage of a TAU. The governing factors to size are coverage, height, and density limitations – and the requirement that all impacts be fully mitigated.

Staff analyzed the TAUs that have been built or planned over the last ten years in projects such as:

- Round Hill Vacation Resorts
- Hyatt Vacation Club
- Marriott Timber Lodge
- Marriott Grand Resort
- Lake Tahoe Vacation Resort (Ski Run)
- Embassy Suites (Stateline)
- Sierra Shores
- Tonopalo
- Villas at Harborside
- Boulder Bay

The data indicate that the size of units ranges from 400 square feet without kitchens to 3,000 square feet with kitchens. The units studied are found in conventional hotel structures and free-standing residential-type structures.

Generally, the larger units can be found in the residential-type structures. The trend towards larger units has been a result of a market demand for higher quality product with built-in amenities that can cater to families and larger groups.

Interval-ownership TAUs built in the conventional, high-density hotel structures are typically between 1,000 and 1,200 square feet of floor area per unit. Examples include the Hyatt Vacation Club, the Lake Tahoe Vacation Resort, and both Marriot hotels at Heavenly Village. Operators of these facilities report that this product caters to the family segment and enjoys a higher annual occupancy rate than older, smaller units that do not have amenities.

When a developer is forced to buy old motels, demolish them, and remediate their sites in order to transfer TAUs to a new project, the transferred units are usually smaller than the 1,200 square feet proposed in Alternative 2. However, the fact that no floor area limitations exist today makes the proposed limitation to 1,200 square feet a significant compromise for the development community.

3. *Each unit with a floor area of 1,200 square feet or less would count as one TAU; to calculate the number of TAUs required for units greater than 1,200 square feet in a project, you must aggregate, average, and round up.*

Rationale: Each new TAU of 1,200 square feet or less in a project would require one TAU. That is a baseline. But requiring a second TAU as soon as unit size exceeds 1,200 square feet could have negative consequences. For instance, a developer might reason that if a 1,201-square foot unit requires two TAUs and a 2,400-square foot unit also requires two TAUs, then why not “max out” the size of the units? Therefore, when a project has new units of over 1,200 square feet, the oversize units’ total area would be aggregated, averaged, and rounded up.

EXAMPLE: a project is proposed with ten 800-square foot rooms and four 1,750-square foot suites. The ten 800-square foot rooms would require ten TAUs. The four 1,750-square foot suites would require six TAUs. The calculation would be as follows:

- 1,750 square feet per suite x 4 suites = 7,000 aggregate square feet.

- 7,000 aggregate square feet ÷ 1,200 square feet per TAU = 5.83 average 1,200-square foot TAUs.
 - Rounding up, this would require six TAUs for the four oversize suites.
4. *Retain the existing 347 and add an additional 200 TAU Bonus Units to the pool (this is the same as the current Alternative 2).*

Rationale: The 347 existing units already exist under the current Regional Plan, so their impacts have already been analyzed. Bonus Units are the primary tool designed to stimulate environmental redevelopment and restoration. The additional 200, consistent with Alternative 2, would allow for the incentivization of projects while limiting growth to a reasonable amount.

5. *Delete the Bonus provisions in Chapter 35 and amend the Bonus provisions in Chapter 33 to allow:*
- a. *one TAU Bonus Unit per unit transferred.*
 - b. *two TAU Bonus Units per unit transferred from sensitive lands.*
 - c. *three TAU Bonus Units per unit transferred from Stream Environment Zones.*

Rationale: TRPA is dedicated to streamlining processes and being solution-oriented. Therefore, staff proposes to delete the bonus unit provisions in Chapter 35. The current approach has not created an effective incentive to remove past development harms. Since the inception of the 1987 Regional Plan, only 25 of the 200 units provided have been used. The 200 TAU Bonus Units were meant to stimulate the redevelopment of Tahoe's aging, unattractive, and non-environmentally friendly hotel/motel room base.

Two hundred more bonus units were added in 1996, and these units were limited to special projects that transferred existing units out of sensitive lands. Again, the current approach has not been fully effective. After 14 years, only 28 of these units have been used.

In all, of the 400 bonus TAUs in the Regional Plan, 347 remain. Under Alternative 2, all of the existing Bonus Units plus an additional 200 new units would be available to all new projects proposing to transfer TAUs. Allowing bonus units to be used for all projects could stimulate the redevelopment of TAUs – something that, based on empirical knowledge, is hardly happening today.

Any new tourist accommodation project requiring the transfer of TAUs would be awarded one bonus TAU for every unit that the project transferred in. If the transferred units were drawn from sensitive lands, the ratio would be increased to two bonus TAUs per unit transferred. If the transferred units came from Stream Environment Zones, the ratio would be increased to three bonus TAUs per unit transferred. This stepped scale represents TRPA's environmental redevelopment priorities.

6. *Allow Residential Bonus Units to be substituted for TAUs.*

Rationale: Today, there are many old motels being used as *de facto* affordable housing units. As the Governing Board saw firsthand in its 2009 tour of Kings Beach, many of these units are substandard. By allowing Residential Bonus Units to be substituted for TAUs, TRPA could incentivize the rehabilitation of some of these substandard units.

This is how it might work: there is an overcrowded (hypothetical) 20-unit motel that is being used as permanent housing, but the units have no kitchens and are substandard in a variety of other ways. The owner would bring the building up to current development standards (e.g., scenic, parking, BMPs, safety, etc.) and convert it into a ten-unit condominium or apartment complex. The ten units would be deed-restricted as affordable housing, and therefore, they would receive Residential Bonus Units. To give the motel owner an incentive to do this project, TRPA would allow the owner to bank the 20 existing units of use. The owner could sell them to defray the costs of the improvements and the loss of the ten units that were also bringing in monthly rent.

Alternative 3: Continuation of the current development pattern and pace of development.

1. *Limit size of a TAU for timeshares and partial-ownership units to 1,500 square feet of floor area.*

Rationale: The concept behind Alternative 3 is not to preserve the regulatory *status quo*. It is to allow regulation to change with the times in order to continue today's development pace and pattern while implementing environmental improvements.

The atypical timeshare is the 3,000-square foot unit that has caused the TAU issue to come to the forefront. However, the typical timeshare today is only about 1,500 square feet. Three more reasons for the proposed limitation are:

- Traffic studies show that these timeshares produce the same number of vehicle trips as a single motel room.
- Timeshare projects (like all other projects in the Basin) must fully mitigate their impacts.
- Fifteen hundred square feet is widely acknowledged to be a size that satisfies most timeshare buyers

2. *Limit size of a TAU for hotel rooms with kitchen facilities to 800 square feet of floor area.*

Rationale: The typical hotel room with kitchen facilities today is about 800 square feet. Three more reasons for the proposed limitation are:

- Traffic studies show that these rooms produce the same number of vehicle trips as a single motel room.

- Hotel projects (like all other projects in the Basin) must fully mitigate their impacts.
- Eight hundred square feet is widely acknowledged to be a size that satisfies the tourist looking for a hotel suite.

3. *Limit size of a TAU for hotel rooms without kitchen facilities to 450 square feet of floor area.*

Rationale: The typical hotel room without kitchen facilities today is about 450 square feet. Three more reasons for the proposed limitation are:

- Traffic studies show that these rooms produce the same number of vehicle trips as a single motel room.
- Hotel projects (like all other projects in the Basin) must fully mitigate their impacts
- Four hundred and fifty square feet is widely acknowledged to be a size that satisfies the tourist looking for a hotel room.

4. *Retain the existing 347 and add an additional 400 TAU Bonus Units to the pool (this is the same as the current Alternative 3).*

Rationale: The 347 existing units already exist under the current Regional Plan, so their impacts have already been analyzed. Bonus Units are the primary tool designed to stimulate environmental redevelopment and restoration. The additional 400, consistent with Alternative 3, would promote the current pace of development.

Alternative 4: A predominantly regulatory approach and a contraction of the land use development pattern to achieve environmental gain.

1. *Revise the definition of a TAU as follows: “One bedroom, ~~or a group of two or more rooms with a bedroom~~ with or without cooking facilities, primarily designed to be rented by the day or week and occupied on a temporary basis”.*

Rationale: Defining a TAU as a bedroom represents a regulatory approach consistent with Alternative 4. It removes uncertainty in the definition’s interpretation and, because a new three-bedroom hotel suite would have to transfer in three TAUs (as opposed to one in the current system), it could accelerate retirement of TAUs and restoration of sending parcels.

2. *Limit TAU size to 400 square feet without kitchens and 1,200 square feet with kitchens (this is the same as the current Alternative 4).*

Rationale: Along with the definition of a TAU as one bedroom, this would control bulk and mass.

3. *Remove the existing Implementation Measure that would have allowed conversions of all uses based on floor area.*

Rationale: Today’s Code allows “conversions of use” from TAU to Commercial Floor Area (CFA) and to Residential Units of Use (RUU). It also allows RUU to be converted to CFA and TAU. Though it does not allow CFA to be converted to TAU or RUU, Code still allows a large degree of flexibility. The flexibility that would be allowed if TRPA were to implement the concept of “universal floor area” that would be fungible across all uses does not jibe with the predominantly regulatory approach that characterizes Alternative 4.

4. *Retain the existing 347 TAU Bonus Units (this is the same as the current Alternative 4).*

Rationale: The 347 existing units already exist under the current Regional Plan, so their impacts have already been analyzed. Bonus Units are the primary tool designed to stimulate environmental redevelopment and restoration.

Ideas That Were Considered and Discarded

1. *TAU transfer “matrix concept.”*

Number of TAUs That Would Have to Be Transferred Based on						
1) Environmental Performance Rating of the Transfer						
And						
2) Number of Square Feet in the Receiving Unit						
Environmental Performance Rating	5	0.2	0.4	0.6	0.8	1.0
	4	0.4	0.8	1.2	1.6	2.0
	3	0.6	1.2	1.8	2.4	3.0
	2	0.8	1.6	2.4	3.2	4.0
	1	1.0	2.0	3.0	4.0	5.0
		< 500	< 1,000	< 1,500	< 2,000	< 2,500
Receiving Parcel: # of square feet per unit						

Rationale: Staff presented the concept of a TAU transfer matrix to the TAU Task Force. The concept was that any new tourist accommodation project would be given an “Environmental Performance Rating.” The higher the rating, the larger the project would be allowed to be given the same number of transferred TAUs. The rating would be based on a large variety of factors, such as:

- Coverage reduction (for redevelopment projects)
- Environmental design (LEED certification?)
- Solar orientation
- Location near transit
- Walkability
- Amenities on site
- Vehicle trip reduction
- Water quality improvements

Despite the interest shown by Task Force members, the transfer matrix concept was discarded based on the possibility that the matrix would be deemed too subjective.

2. *Get rid of the existing 347 TAU Bonus Units from the 1987 Regional Plan.*

Rationale: What brought about this discussion with the Task Force was the census of existing TAUs that staff performed. The results are in the table below:

SOURCE	EXISTING TAUs	BANKED TAUs	BANKED CEP TAUs
Douglas County	2,541		
El Dorado County	7,123		
Placer County	1,320		
Washoe County	703		
California Tahoe Conservancy		25	
City of South Lake Tahoe		62	
Project 3		572	
Boulder Bay			42
Homewood			160
TOTALS	11,687	659	202

Based on TRPA permitting data and information provided by the local jurisdictions' Assessor's Offices, there are 12,548 TAUs in the Basin. Data provided in the Lake Tahoe Basin Prosperity Plan indicates that occupancy rates are at all-time lows. There is clearly more supply than demand. In fact, TRPA documents from as far back as the 1980s acknowledge this point. Initially, some Task Force members did not see a basis for providing any additional TAUs.

One of the two main purposes of the TAU system is to encourage redevelopment of tourist units to engender scenic, water quality, and other environmental improvements. The idea of getting rid of the bonus TAUs was discarded because these units can be leveraged to stimulate environmental redevelopment and restoration. In fact, very few tourist accommodation projects have been built in the last decade without some form of public funding or other incentive.

3. *"Universal Floor Area" concept.*

Rationale: Under today's Code, the following "conversions of use" are allowed:

- TAU to CFA at a 1:1 square footage ratio
- TAU to Residential Units of Use (RUU) at a 1:1 unit ratio
- RUU to CFA at a 1:1 square footage ratio
- RUU to TAU at a 1:1 unit ratio

CFA may not be converted to TAU or RUU.

TRPA staff and many members of the TAU Task Force were very supportive of the concept of allowing conversion and transfer based on floor area, not units of use or use type. The idea was to deal in “universal floor area” that would be a fungible commodity across all use types.

TRPA Code sets the number of TAUs in the Basin as the number that existed at the time of adoption of the 1987 Regional Plan. Even in 1987, average hotel occupancy rates were below 50%, and TRPA documents acknowledge that the supply of TAUs exceeded the demand. Questions arose, such as:

- “Why should TRPA be holding the number of TAUs at a level that was known to be excessive twenty years ago and is even more excessive today?”
- “Why does TRPA determine the mix of uses, when the market would do a better job of deciding where and when, for example, more retail stores or more overnight accommodations are needed?”

Also, if fear of vastly increased bulk and mass was what raised the TAU issue in the first place, the universal floor area concept could allay that fear. It would do so by effectively capping the total amount of floor area available in the Basin – whether that floor area is in residential, commercial, or tourist use.

In the end, the universal floor area concept was discarded for three reasons:

1. Code already allows “conversions of use.”
2. The feasibility of adequately and accurately tracking the floor area of all built uses and transfers in the Basin would be questionable, given the required additional time, resources, and funding.
3. TRPA would have to determine how to transfer floor area from one use to another. Inherently, uses do not create the same amount of impact per square foot. For example, a 3,000-square foot house creates an average of between nine and ten vehicle trips per day, while a 3,000-square foot “quality” restaurant creates 267 vehicle trips per day. So converting at a 1:1 ratio is not appropriate, and determining “proper” ratios may be an overly contentious and costly enterprise.