

California-Nevada Consultation

Regional Plan Update Recommendations

July 25, 2012

Level of Local Delegation and Appeal Process

The group recommends the following language and process:

I. Once an Area Plan, and Zoning and Development Codes with the Plan, have been found in conformance with, and incorporated into, the Regional Plan, Local Governments may assume development review authority by Memoranda of Understanding with TRPA, subject to the following limitations:

A. The TRPA Governing Board shall annually review a sample of permits issued within each Area Plan, and shall certify that the Area Plans are being implemented in Conformance with the Regional Plan. If the TRPA Governing Board finds that development permitted within an Area Plan does not comply with the conforming Area Plan, TRPA may retract delegation of certain permitting authority and implement the conforming Area Plan.

B. Approval of projects within Area Plans shall require TRPA review and approval if the project includes any of the following criteria, except for minor improvements as further specified in the code of ordinances:

- a. All development within the High Density Tourist District;***
- b. All development within the Shorezone of Lake Tahoe;***
- c. All development within the Conservation District;***
- d. All development within the Resort Recreation designation;***
- e. All development meeting criteria on the following table:***

	Regional Center	Town Center	Not in Center
Residential	100,000 sq.ft.	50,000 sq. ft.	25,000 sq. ft.
Non-Residential	80,000 sq. ft.	40,000 sq. ft.	12,500 sq. ft.

C. The limitations specified in the Table above may be increased or decreased by the TRPA Governing Board if the Board finds that local governments, based on ongoing monitoring, reporting and performance review, are acting on projects consistent with the Area Plan and that the terms and conditions of the Area Plan are being met. After four years

there will be a discussion on increased levels of delegation moving forward.

II. Local Government decisions on delegated project applications may be appealed to the TRPA subject to the following criteria and process:

- A. *Appeals shall be limited to whether the decision by a local government is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.*
- B. *Appeals can only be filed by an “aggrieved person” as defined in the Compact [Article VI (j) (3)].*
- C. *Appellants who would be subject to the Compact’s exhaustion provision (see Article VI (j) (3)) must demonstrate that they have exhausted all administrative remedies prior to appealing a decision to TRPA. It is recognized that public agencies have a specific role defined in the Compact; however, public agencies are encouraged to engage lead agencies as early as possible when projects are being processed pursuant to approved Area Plans.*
- D. *An appellant must file an appeal application to TRPA within 15 calendar days of the last local government decision.*
 - a. *The application to TRPA must include:*
 - i. *A clearly written statement explaining the grounds for appeal.*
 - ii. *A \$1,000 TRPA appeal fee (with the local government appeal fee not to exceed the TRPA fee for appeals.)*
 - iii. *Appellants are required to provide documentation to support their claims, and the applicant or lead agency may also augment the record.*
- E. *Once an application is received by TRPA, the project approved by the local government is stayed pending the outcome of the appeal.*
- F. *Within 60 days after receipt of an appeal, TRPA staff will make a recommendation on whether the appeal is frivolous as defined in II A, B, and C. This recommendation will serve as the basis for the TRPA Governing Board in its decision to proceed with an appeal hearing. The voting structure for appeal decisions will be the same as project votes before the Governing Board as defined in the Compact.*

G. *The TRPA Governing Board may take action the first time the appeal is presented to the board or, after hearing the appeal, defer action to the next Governing Board meeting.*

a. *Appeal review and action by the TRPA Governing Board is limited to whether the decision by a local government is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.*

b. *If no action is taken by the TRPA Governing Board at the initial meeting at which the appeal is presented, the Governing Board must take action at the Governing Board meeting the following month.*

H. *Appeals upheld by the TRPA Governing Board nullify the local government decision and the project applicant would be required to re-apply to the local government.*

I. *In very limited circumstances, consistent with Goal III. C below, the TRPA Governing Board may modify a local government decision on a project to make the decision consistent with the Area Plan.*

III. Appeal Process Goals

A. *Eliminate frivolous appeals and appellants “laying in wait” by encouraging early and consistent engagement.*

B. *Increase procedural certainty and timeliness (irrespective of outcomes).*

C. *Establish that project-by-project negotiation should not be the Governing Board’s default position.*

Commodities

The group supports the commodities reflected in DEIS Alternative #3, with clarifying language below in italics:

Residential Allocations:	2600	
Residential Bonus Units:	600	<i>(to be used in centers)</i>
Commercial Floor Area:	200,000	<i>(provided existing 383,000 available CFA square footage is first exhausted)</i>
Tourist Accommodation Units:	-0-	

There is no automatic recharge of commodities; however, the group recognizes that in the event commodities are exhausted the TRPA Governing Board may consider additional allocations.

TAU Transfer Policy

The group recommends the following related to TAUs:

Transferred TAUs may be used to entitle, on a one-to-one basis, unit sizes described in subparagraph (b) below, provided the proposed project (receiving site) will be a professionally managed tourist accommodation facility containing three or more of the following on-site guest amenities or services:

- a. On-site guest amenities or services:
 - (i) front desk/check-in/lobby
 - (ii) business center
 - (iii) spa services
 - (iv) fitness facility
 - (v) restaurant
 - (vi) bar
 - (vii) conference space
 - (viii) concierge's services
 - (ix) pool or other resort recreation facilities
 - (x) valet/below structure parking
 - (xi) housekeeping
 - (xii) bell desk

- b. Providing three or more of the on-site guest amenities or services in subparagraph (a) are provided, 80% of the tourist accommodation units may be up to 1,200 square feet, with kitchens, and no more than 20% of the project's floor area may contain units not to exceed 1,800 square feet, with kitchens.

- c. When transferred TAUs are utilized for smaller tourist accommodation facilities that are not operated as destination resorts, the facility must be professionally managed, units shall not be rented for a period longer than 29 days, and TAUs may be up to 850 square feet in size.

- d. This transfer policy applies to hotels or timeshares and fractional units within a professionally managed tourist accommodation facility.

- e. The group supports the creation of a pilot program allowing the conversion of a limited number of TAUs to ERUs for multi-unit projects. Each TAU can be used for a maximum of 1,250 sq. ft. of residential floor area on the same parcel.

Site Specific Transfer Ratios

For site specific transfer ratios, the group recommends the following:

- a. Add to the TRPA “to do” list a review of the efficacy of the ratios;
- b. Remove references to increased ratios in the area plans in proposed Code Section 13.5.3.B.4 except for Stream Restoration Plan Areas;
- c. Leave the designation of Meeks and Motel 6 and add the Tahoe City golf course in Stream Restoration Plan Areas.

New “Resort Recreation” Designation

The group recommends replacing the Draft RPU provisions regarding additional uses and subdivisions in recreation districts by establishing a new “Resort Recreation” designation and limiting the new development and subdivision allowances to this new district. The group further supports mapping the Heavenly California Base parcels and the Edgewood Mountain parcels with this new “Resort Recreation” designation in which TAUs, residential and commercial development could be allowed (including appropriate accessory uses). The designation of those mapped Heavenly and Edgewood parcels is subject to the following conditions 1) the parcels must become part of an approved area plan; 2) subdivisions will be limited to “air condos” (no lot and block subdivisions); 3) development is transferred in from outside the designated area; and 4) transfers result in the retirement of development. All areas currently designated “Recreation” in the existing Regional Plan would remain unchanged.

High Density Tourist District: Maximum Height

The group agreed upon the following definition for maximum height in the high density tourist district:

A maximum of 197 feet of building height may be permitted within the high density tourist district, limited to replacement structures, provided, the structures to be demolished and replaced are an existing casino hotel, with existing structures of at least eight stories, or 85 feet of height as measured from the lowest point of natural grade.

Community Character

I. Community Design

The group recommends the following community design standards (reference 13.5.3 D 1.):

Area Plans that include the Regional Center or Town Centers shall address the following design standards:

- a. Existing or planned pedestrian and bicycle facilities shall connect properties within Centers to transit stops and the Regional Bicycle and Pedestrian network.*
- b. Area Plans shall encourage the protection of views of Lake Tahoe.*
- c. Within town and regional centers, building height and density should be varied with some buildings smaller and less dense than others.*
- d. Site and building designs within Centers shall promote pedestrian activity and provide enhanced design features along public roadways. Enhanced design features to be considered include increased setbacks, stepped heights, increased building articulation, and/or higher quality building materials along public roadways.*
- e. Area Plans shall include strategies for protecting undisturbed sensitive lands and, where feasible, establish park or open space corridors connecting undisturbed sensitive areas within Centers to undisturbed areas outside of Centers.*

The group also recommends the following language as an addition to the community design standards (reference the addition of an E. to 13.5.3):

Town Center, Regional Center and High Density Tourist District Boundaries

When Area Plans propose modifications to the boundaries of a Town Center, Regional Center, or High Density Tourist District, the modification shall comply with the following:

- a. Boundaries of centers shall be drawn to include only properties that have been developed. Any undeveloped parcels that are included in Centers shall have at least three sides adjacent to developed parcels.*
- b. Properties included in a Center shall be less than 1/4 mile from existing Commercial and Public Service uses.*

c. Properties included in a Center shall encourage and facilitate the use of existing or planned transit stops and transit systems.

The group further recommends that (reference CD2.1B.1) TAUs and affordable housing be deleted; that a footnote (reference Table 13.5.3-1 [2]) be deleted that reads: "*Except Area Plans may identify higher-density areas adjacent to town centers, regional centers, and the High-Density Tourist District and in other areas permitted by the Regional Plan*"; and that a statement be included that "*Community Plans outside of Town Centers shall not be eligible for additional height and density.*"

II. Level of Service

The group recommends language (to replace the final bullet in T-10.7) to read:

These vehicle LOS (Level of Service) standards may be exceeded when provisions for multi-modal amenities and/or services (such as transit, bicycling and walking facilities) are adequate to provide mobility for users at a level that is proportional to the project generated traffic in relation to overall traffic conditions on affected roadways.

Land Coverage Transfers, Mitigation and Allowances

I. Transfers Across Hydrologic Zones – Excess Coverage Fees

The group supports a change to allow for the use of excess coverage mitigation fees outside the hydrologic zone in which the fees are collected to achieve more strategic environmental benefit.

II. Transfers Across Hydrologic Zones – Land Coverage Transfers

Add to the TRPA "to do" list a detailed review of coverage transfers across hydrologic zones. This review will include presentations from the California Tahoe Conservancy and the Nevada Land Bank/Nevada Division of State Lands.

III. Offsite Land Coverage Mitigation

The group supports a change to allow for offsite restoration across hydrologic boundaries for excess coverage mitigation purposes, provided the restoration occurs on more sensitive lands than the project area.

IV. Land Coverage Allowances

The group supports the coverage allowances and exemption proposed in the regional plan update for decks, sheds, and pervious coverage. The group further supports the proposed regional plan update exemptions for bike paths and ADA compliance.

V. Areawide Coverage Management Plans

The group supports the position that the benefits of a comprehensive area wide coverage management plan shall not accrue to the areas within 300 feet from the high water mark and coverage in that zone shall be governed by the current Regional Plan. Property owners that elect not to participate in areawide coverage management plans shall continue to be subject to the coverage provisions under the 1987 Regional Plan.

TMDL

The group recommends inclusion of the following language:

TRPA will utilize the water quality improvement plan for registered catchments, or TRPA default standards when there are no registered catchments, in the conformance review of area plans.

The TMDL regulatory agencies will, through the TMDL adaptive management system, provide to TRPA:

*Annual progress reporting and analysis;
Copies of all MOAs and NPDES permits;
Notification of all breaches or violations of MOAs or NPDES permits.*

Further, the Regional Plan Update provides for annual audits of each local jurisdiction's permitting actions under its approved area plan.

TRPA will use catchment data and all reporting to inform area plan re-certification every four years.

Air Quality

The group recommends, and affirms its support, for the proposed RPU in relation to 8 hour ozone standards, disbursement of air quality mitigation fees, and the prohibition of biomass facilities as described.

Additional Recommendations

The group recommends that TRPA create a subcommittee of the TRPA Governing Board, along with interested parties, to explore options related to BMP compliance.

The group recommends TRPA develop and adopt a pilot program for drive-up pharmacy windows in the City of South Lake Tahoe, to be monitored for environmental impacts and evaluated for further opportunities in the Basin.