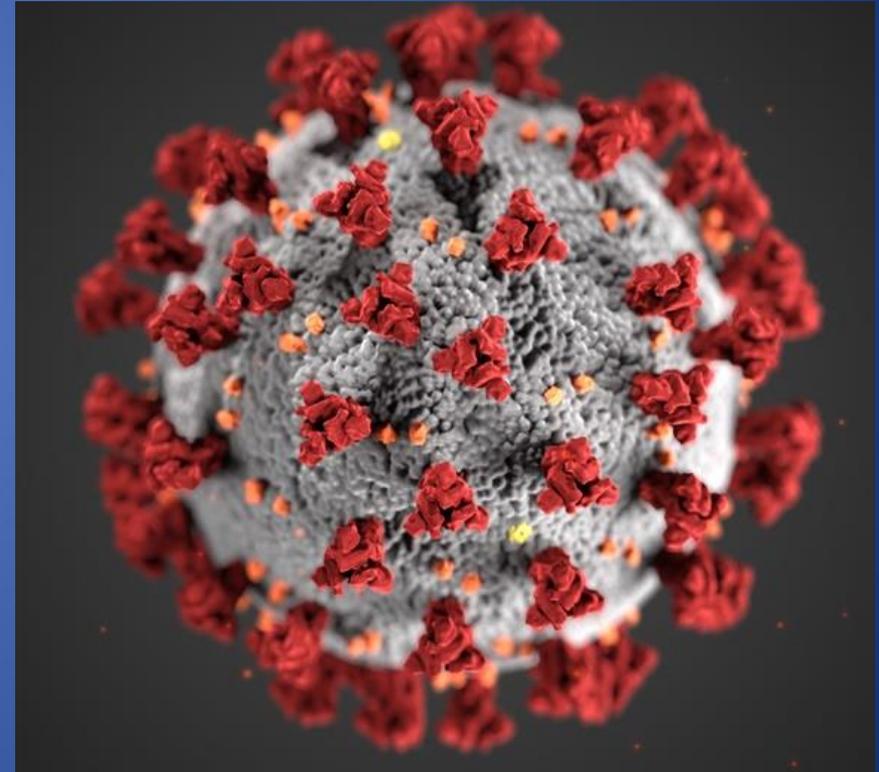


Background

Main Street Management Plan



COVID-19 Pandemic



Outdoor Dining Amendments

Discussion and Direction to Staff
Regional Plan Implementation Committee
November 18, 2020

Today's Discussion

- Why We're Here
- Current Regulations
- Potential Code Amendments
- Options for Moving Forward
- Questions
- Public Comment
- Discussion / Direction to Staff

Active Streetscapes

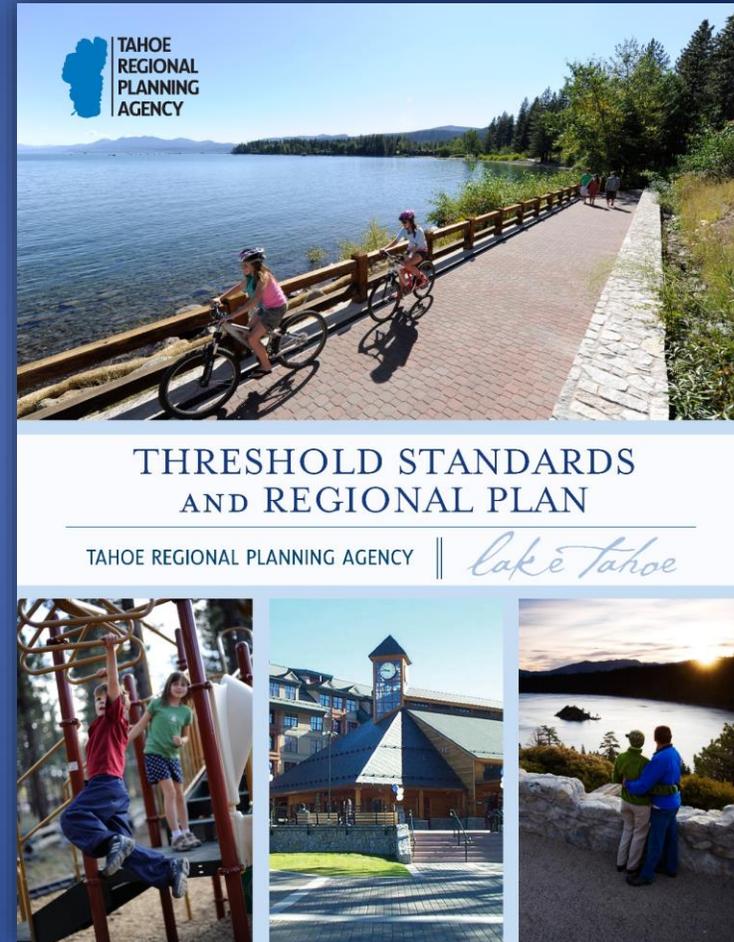
“Town Centers are targeted for redevelopment in a manner that improves environmental conditions, creates a more sustainable and less auto-dependent development pattern and provides economic opportunities in the Region.”

“Site and building designs... shall promote pedestrian activity and provide enhanced design features.”



Commercial Floor Area (CFA)

- Development rights system originally established in 1987 Regional Plan
 - CFA required for all commercial uses
- 2012 Regional Plan Update maintained the development rights system



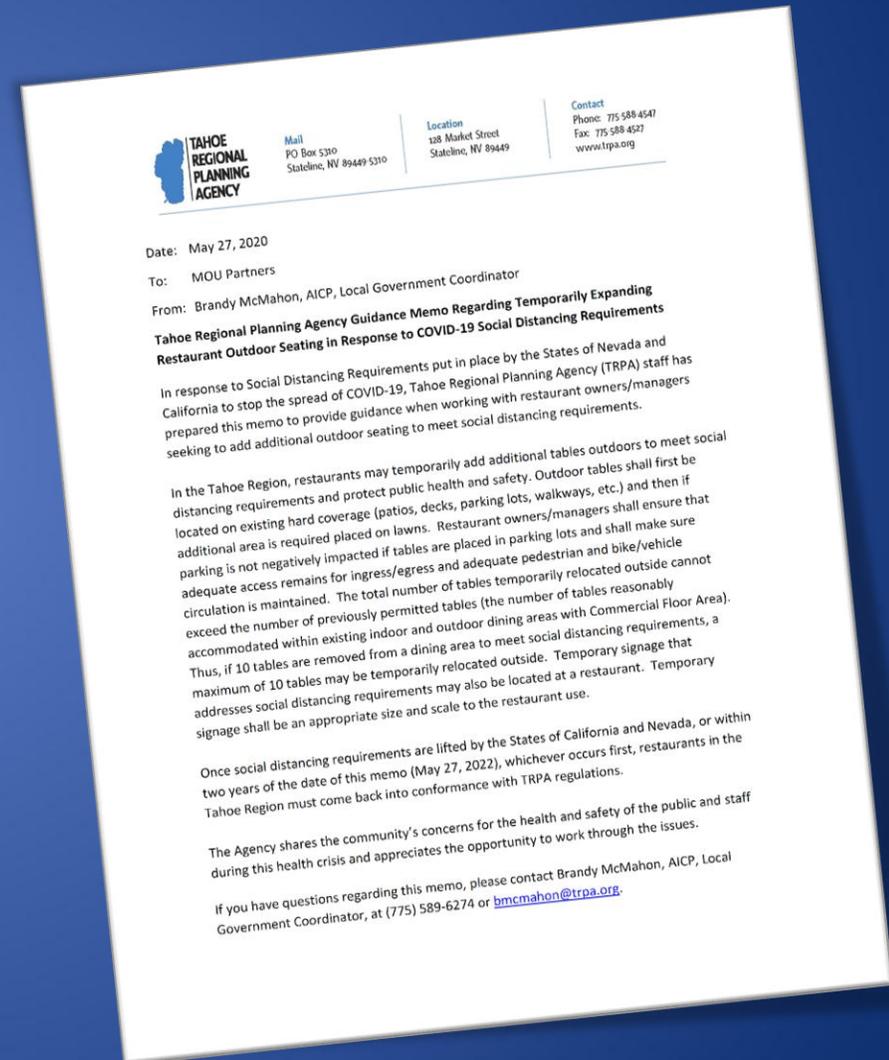
Uncertainty



- **PERMITTING** – when is a TRPA permit triggered?
- **COVERAGE** – when is additional coverage required?
- **COMMERCIAL FLOOR AREA** – when is additional commercial floor area required?

COVID-19 Pandemic

- Reductions on indoor capacity = demand for additional outdoor capacity.
- To address uncertainty, TRPA put out a guidance memo in May 2020.
 - Existing indoor capacity may be moved outdoors while public health mandates in effect.



Current Regulation



- Commercial uses require CFA
- Interpretations establish that CFA is not required when:
 - No commercial activities (e.g. waitstaff service) occur outdoors; and
 - No enclosed structures are involved.

Example: takeout dining with no structures does not need CFA

Approach

- Take the first step to address uncertainty
 - Promote clear communication to the public and our MOU partners
- Act rapidly
 - Avoid changes to the Regional Plan
 - Avoid water quality or capacity impacts

The Regional Plan



Potential Amendment Package

- Clarify existing policy on CFA
 - Define *outdoor dining, outdoor seating, and enclosed structural improvement.*
 - Exclude outdoor seating from CFA
- Establish a Qualified Exemption
 - For outdoor seating
- Allow restaurants to shift existing capacity outdoors
 - Exclude from CFA and allow as QE



Potential Amendment Package

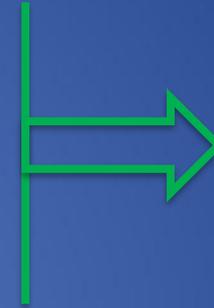
- Clarify existing policy on CFA
- Establish a Qualified Exemption
- Allow restaurants to shift existing capacity outdoors

BENEFITS

- **Reduced uncertainty.** Clear standards for the public and MOU partners on permitting, CFA, and coverage
- **Enhanced tracking.** Qualified Exemption results in a record to help with tracking/enforcement
- **More flexibility.** Restaurants get flexibility to shift operations outdoors

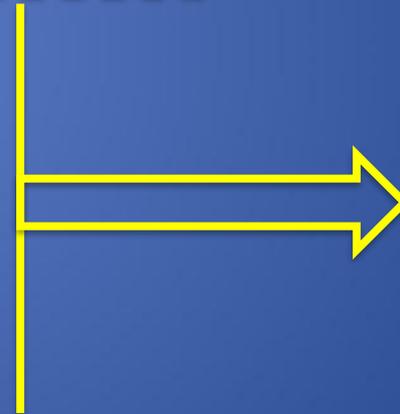
Scope

- Formalize existing policy on CFA
- Create a qualified exemption
- Allow shifting of capacity to outdoors w/o CFA



Included in package

-
- Create a full exemption
 - Create coverage exemptions
 - Create a new CFA exclusion
 - Create a pool of CFA for outdoor dining



Requires additional staff time and budget

Recommendation

- Move forward with outlined amendment package.

Alternatives

1. No action
2. Expand scope before moving forward
3. Second phase when additional resources are available (phased approach)

Questions?





Public Comment



Discussion / Direction



ADDITIONAL SLIDES FOR DISCUSSION

Commercial Floor Area

- The gross square footage of floor area within the outer wall of a commercial building, not including stairwells and airshafts. The square footage of other facilities relating to such building, including but not limited to decks that are designated for commercial use under a permit, shall be considered commercial floor area. Square footage for the following shall not constitute commercial floor area:
 - A. Parking areas, driveways, parking structures, outside stairways, and walkways;
 - B. Accessory uses determined by TRPA not to contain additional commercial floor area pursuant to subparagraph 50.6.1.A;
 - C. Temporary projects pursuant to Chapter 22: Temporary Uses, Structures, and Activities; and
 - D. The area of play in an indoor tennis court, the area of water in an indoor swimming pool, and the area for skating in an indoor roller or ice skating rink, provided these are the permanent primary uses and otherwise meet the definition of commercial use.

Commercial Floor Area

- The gross square footage of floor area **within the outer wall of a commercial building,** not including stairwells and airshafts. The square footage of **other facilities relating to such building, including but not limited to decks that are designated for commercial use** under a permit, shall be considered commercial floor area. Square footage for the following shall not constitute commercial floor area.

CFA not required for unenclosed non-commercial structure (1996)

CFA not required for outdoor areas where no commercial activity occurs (1987)

- D. The area of play in an indoor tennis court, the area of water in an indoor swimming pool, and the area for skating in an indoor roller or ice skating rink, provided these are the permanent primary uses and otherwise meet the definition of commercial use.

Amendment Language

CFA Exclusions

- h. Creation or expansion of outdoor seating areas that do not include enclosed structural improvements; and
- i. The relocation of a legally established eating and drinking place's dining capacity to outdoor dining areas when such use does not result in a net increase in the permitted dining capacity.

Definitions

Enclosed Structural Improvement

A structure, including a deck or gazebo, that is enclosed by walls, removable partitions, screens, canvas, drapery, or similar materials on more than two sides.

Outdoor Dining

The commercial use of an outside area by an eating or drinking place for the same activities that occur within the establishment. Unenclosed facilities that are not served by waitstaff and where no commercial transactions occur are instead considered "Outdoor Seating."

Outdoor Seating

The non-commercial use of unenclosed outdoor areas for seating, picnicking, or informal consumption of food brought from home or obtained from a nearby business. Commercial dining in outdoor or enclosed areas is instead considered "Outdoor Dining."

New Qualified Exemption

12. Outdoor Dining and Outdoor Seating Areas

The creation or expansion of outdoor dining areas associated with a legally established eating or drinking place, or the creation or expansion of accessory outdoor seating areas, where all of the following criteria are met:

- a. The site has a BMP certificate in good standing from TRPA; or an approved BMP retrofit plan and compliance schedule as set forth in Chapter 60: *Water Quality*.
- b. The use will occur in areas of existing verified coverage unless the use itself and related improvements cannot feasibly be accommodated in areas of existing coverage. Improvements shall be located on the following surfaces, in the order of preference, until all such areas are exhausted:
 - (i) Hard land coverage;
 - (ii) Soft land coverage;
 - (iii) Gravel associated with a BMP;

(iv) Mulched landscaped areas; and

(v) Lawns

Use of areas without existing land coverage shall be limited to Land Capability Districts 4 through 7, and shall only occur when these areas are dry and any snow has naturally melted.

- c. The placement of improvements and the operation of the use shall not result in the creation of additional land coverage.
- d. The operator shall obtain all necessary state and local permits and entitlements before commencing the use.
- e. The use shall not result in the creation of additional Commercial Floor Area. See Subparagraph 50.6.1.B.2.
- f. Development within scenic highway corridors shall meet the siting criteria established in Subparagraph 66.2.4.C

Qualified Exemption

- Exempt from TRPA permits if it meets certain criteria:
 - No CFA or coverage created
 - Must be on existing verified coverage, except in limited circumstances
 - Needs BMP certificate, or approved plan and schedule
 - Must be consistent with scenic standards

The process

- File 3 days before initiating work
- Include required documentation
- No cost at this time

Current Requirements

	Commercial Use	Not Commercial Use
Commercial Activities	May include waitstaff service, settlement of bills, etc.	No commercial activities occur.
Structures	May include enclosed structures	May include structures, but only when enclosed on no more than two sides
CFA	Required	Not Required
New Terminology	“Outdoor Dining”	“Outdoor Seating”

Feedback: Scope

OPTIONS	PROS	CONS
<ul style="list-style-type: none"> • Move forward with current proposal 	<ul style="list-style-type: none"> • Immediate response to COVID restrictions. • No environmental analysis needed. • Activates streets where capacity and coverage exist. 	<ul style="list-style-type: none"> • Not all circumstances are addressed (e.g. changes to coverage and CFA).
<ul style="list-style-type: none"> • Expand the proposal – further reduce regulatory barriers while maintaining alignment with the Regional Plan 	<ul style="list-style-type: none"> • Further streamlines the process. 	<ul style="list-style-type: none"> • May involve further environmental analysis.
<ul style="list-style-type: none"> • Take a comprehensive approach – look into coverage exemptions, CFA exclusions, creation of a CFA pool (may include Regional Plan amendments) 	<ul style="list-style-type: none"> • Can address all issues in a more comprehensive manner. 	<ul style="list-style-type: none"> • Requires substantial environmental analysis. (staff and budget limitations)