

Governing Board
Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89448

May 21, 2010

Re: Land Use Section of the Regional Plan Update

Dear Chairman Biaggi and Members of the Governing Board,

This letter is submitted on behalf of the eight conservation organizations that are collectively known as the ‘Conservation Community’ of Lake Tahoe. First, we want to thank the TRPA staff for their thoughtful analysis of stakeholder concerns about the Regional Plan Update, as contained in the RPU fact sheet.

The staff alternative is a plan to substantially increase height, density, coverage and building allocations for tourist, residential and commercial uses on many hundreds of acres throughout Lake Tahoe. If the plan is successful, the look and feel of many Lake Tahoe communities will change dramatically to that of a much more urbanized setting, such as that currently offered at the mixed-use Heavenly Village redevelopment project. We are also not convinced that this plan will achieve its stated environmental restoration goals.

The Conservation Community supported the Heavenly Village redevelopment project, and the gondola that is its centerpiece, just as we supported the construction of the Embassy Suites hotel and the timeshare at the foot of Ski Run now known as the Lake Tahoe Vacation Resort. We view these South Lake Tahoe redevelopment projects as having been generally successful in replacing severely blighted conditions, and in contributing to environmental quality as well as economic vitality.

We also recognize that this type of development – characterized by tall and massive buildings above shops – is environmentally preferable to the pattern of suburban sprawl served by ‘big box’ retail that has unfortunately become typical of new development in much of the developed world. Where significant population growth is desirable and/or inevitable, such a pattern, known as “smart growth” can have significant benefits for ecosystems as well as communities.

Nevertheless, we strongly oppose the extension of this concept to areas of Lake Tahoe beyond South Stateline, for several reasons. First and foremost, such a development pattern is inconsistent with the achievement and maintenance of the environmental threshold carrying capacities of the Lake Tahoe Basin. Second, such a development pattern is inconsistent with the desires of Basin residents and visitors who choose to live or lodge in locales other than South Stateline. Third, “smart growth” is a tool designed to accommodate the needs of growing populations; its use as a tool to stimulate tourism, in an area where the dominant use of residential units is for second homes, seems highly questionable at best. It is simply not the case

that “if we build it they will come.” As we have all learned to our sorrow in the cases of the South Lake Tahoe Airport and the Convention Center, tradeoffs of environmental quality for economic benefits that fail to materialize can leave us with deterioration rather than improvement in both areas.

For this plan, it’s important that the board ask these questions of staff: How much coverage reduction will this plan achieve? At full buildout, how much new coverage on raw land will be created? How many new building allocations will be created for residential, tourist and commercial uses? How much will the plan increase resident and peak visitor capacity, and associated traffic? What are the cumulative environmental impacts of the height and density changes proposed? What are the height limits that protect scenic views and does this plan adhere to them? What kind of analysis has staff done to take into account the unique living, working and playing patterns of Tahoe’s people? How does this plan acknowledge Tahoe’s unique layout?

For all of the these reasons, we urge the Governing Board to task the TRPA staff with the development of at least one alternative that includes the points in our Attachment A. Also, we provide a more detailed and specific critique of the plan’s major points, and respond to the Fact Sheet, in Attachment B.

We would be pleased to work with the TRPA staff and with other stakeholders towards the development of an alternative that incorporates these principles.

Thank you again for your consideration of these comments.

Sincerely,

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Attachment A:

We urge the Governing Board to task the TRPA staff with the development of at least one alternative based on the following principles:

1. The centrality of threshold attainment (including proposals for the adoption and achievement of thresholds in emerging areas of environmental and public health concern, including but not limited to near-shore clarity, aquatic invasive species, and wildfire risk reduction).
2. Incentivizing the use of existing capacities, rather than increasing capacities to meet peak demands. Examples could include: providing affordable housing within the existing housing stock of single-family residential units rather than building new apartment buildings; prohibiting residential design for tourist accommodation units (TAUs) so that visitors with a strong preference for kitchens are incentivized to use existing vacation rentals, and so that new tourist facilities support the patronage of nearby restaurants; eliminating the issuance of new units of use and tightening requirements for transfer of units of use (we applaud the staff's proposal in this direction with respect to TAUs, but we would support stronger measures with respect to TAUs and additional measures with

respect to other units of use as well as the elimination of additional allocations for all types of units of use);

3. Reinstating and revitalizing the community planning process to assure that local communities have a meaningful voice in their own future;
4. Redevelopment that maximizes the removal of deteriorated units of use from truly blighted areas, with a particular focus on the removal of units of use from sensitive areas and of units of use that constitute sprawl and visual blight. We recognize from the materials provided that the TRPA staff shares this goal, but the means for achieving it require clarification. In the case of South Lake Tahoe's redevelopment, local and state public investment was an essential part of achieving this objective, and we are concerned it may not be realistic to rely solely on private parties to achieve this goal.
5. Coverage, both potential and actual, should be quantified basin-wide, and a plan to achieve and maintain the coverage threshold must be developed. The extra-legal "verification" of coverage that is currently occurring is profoundly dangerous to the integrity of the agency as well as to its ability to achieve its thresholds. The removal of soft coverage is a best management practice that should already have been implemented basin-wide (except in those exceptional cases where the owner currently possesses persuasive evidence that such coverage existed on February 12, 1972). The amount of legal coverage and procedures with respect to verification should be clearly determined basin-wide before new rules for transfers (such as soft coverage transfers and transfers across hydrological areas).

Attachment B:

Our responses to the points raised in the Fact Sheet and Alternative 2 are as follows:

1. **Overarching smart growth logic.** Tahoe's residents and visitors have unique living, working, and playing patterns. For instance, entertainment in urban areas might consist of shopping and attending movies, amenities that are available through the built environment. In Tahoe, residents and visitors more frequently recreate in the natural environment. Tahoe also has a unique layout. Unlike Boulder and Vail, Tahoe is a set of small communities located around a 72-mile ring road. We are concerned that the plan does not acknowledge that Tahoe's people inherently recreate and work away from town centers: at multiple ski resorts, on mountain trails, and on the water or beaches. If public transportation is the proposed solution to this conundrum, will it accommodate

cumbersome recreational equipment such as kayaks, mountain bikes and coolers, and be convenient enough for a cart-load of groceries? Outside the casino corridor and Heavenly gondola, we believe “smart growth” is not appropriate for most of Tahoe’s low-density communities.

2. **Smart growth and traffic.** Because of dependence on the private automobile to travel to and from Tahoe, and the plan’s proposed increase in building allocations, the plan is more likely to increase traffic than reduce it. Millions of people each year drive to and from Tahoe, not just within it. An increase in peak visitor capacity is likely to increase traffic, air and water pollution, and cumulative damage to the lake’s environment.
3. **Total area.** On Page 19, staff writes “Total area affected: 659 acres, or 0.34 percent of the land in the region.” We would like to request what percentage of privately-owned land will be affected. Also, it is our understanding, based on information from TRPA staff, that including roads, this plan affects 803 acres. We believe the total acreage affected constitutes a substantial increase in height and density, and warrants an analysis of the associated negative impacts to the threshold standards. Higher buildings will block mountain views and impact the scenic threshold. The associated increases in peak visitor capacity will impact air and water quality threshold standards.
4. **Development transfer from sensitive lands.** Staff writes on Page 13, that “This increased height and density would be tied to environmental performance standards and would *only be available if coupled with transfer of development from sensitive lands.*” We would like clarification on this. We have not been able to locate such a requirement in the proposed alternative. Staff at the stakeholder meetings confirmed that development transfer is an option among the many incentives, but not a requirement.
5. **Growth and environmental damage.** We believe the preferred alternative will result in additional growth and its associated impacts, particularly because it does not cap residential, tourist and commercial building allocations. The soft coverage transfer regime may also cause unintended growth. Studies have shown that smart growth can reduce per-person environmental damage, but as a whole, population growth is likely to cause cumulative environmental damage.
6. **Rules versus incentives.** Many rules in Tahoe remain unenforced. The preferred alternative proposes to incentivize many practices which may already be required.
7. **Cost-benefit analysis.** We support an environmental cost-benefit analysis of the preferred plan, in particular its coverage transfer strategy.

8. **Threshold-first approach.** We seek clarification on how Tahoe will meet the thresholds under this plan. The alternative identifies how much acreage will be urbanized, but fails to identify how much will be restored.
9. **TAUs.** We appreciate staff's effort to re-examine TAU transfers, but we feel that the proposal does not fully remedy the problem. We support TAU transfers that are based on square footage and bedroom limitations identical to the sending unit's to prevent environmental impacts from TAU morphing. While staff's proposal will eliminate a developer's ability to trade a 300-square-foot hotel room unit for a five-bedroom, 4,000-square-foot timeshare, it will not prevent a developer from trading five 300-square-foot hotel room units (1,500 square feet total) for a five-bedroom, 4,000-square-foot timeshare. Furthermore, although not listed in the Fact Sheet, we oppose the conversion of TAUs to commercial floor area (CFA) as proposed in the Project Descriptions/Matrix. We feel there is adequate CFA available. Also, we oppose the transfer of TAUs across jurisdictions because of the risk of transferring development from more developed areas to less developed areas. In Tahoe, we must aim for the opposite and transfer development from less developed areas to more developed areas.
10. **Affordable housing.** While we support expanding affordable housing options, we strongly oppose removing the allocation requirement to build affordable and moderate-income housing. Rights to build affordable housing should come from the current housing stock. Not requiring an allocation for any type of development could create unintended consequences, and allow an increase in peak capacity and associated environmental impacts. Currently, there is no shortage of empty buildings or affordable housing. We should find creative ways to incentivize making more of those buildings available for affordable housing to meet existing needs. New moderate-income housing can be sold for as high as \$450,000 in Tahoe, while there are currently condominiums for sale in South Shore for \$100,000 and homes for \$150,000.
11. **Soft coverage.** We oppose expanding opportunities for soft coverage transfer. While we support restoration of stream environment zones (SEZ), the proposed plan would result in a cumulative increase of hard coverage and pavement in Tahoe. More importantly, the proposed expansion to the soft coverage transfer regulations would likely dilute demand for hard coverage transfers out of SEZs. Given the uncertainty over the quantity of existing legal soft coverage in the basin, loosening the rules regarding soft coverage transfer could open the door to significant unintended consequences and encourage incorrect inflation of legal coverage rights. Under current regulations, a project at Homewood proposes to transfer miles of soft coverage from the backcountry to hard coverage closer to the lake, creating a doubtful environmental net gain. This plan would

make such projects even easier, while disincentivizing transfer of actual development -- like Meek's Lumber -- out of SEZ.

Only soft coverage that was verified before February 12, 1972, is eligible for transfer. The TRPA should evaluate whether it can reach the soil conservation threshold if it enforced current regulations requiring restoration of illegal soft coverage created after 1972. Also, in the Fact Sheet, Page 9, under a discussion of soft coverage, staff asserts that "new incentives to transfer development out of sensitive lands are needed." We agree. However, we are concerned that staff may have equated "development" with "soft coverage" and "sensitive lands" with "SEZ." We support prioritizing transferring hard coverage and development from SEZ lands.

12. Ongoing community-based planning. Residents want walkable communities. But it is not clear that residents want their communities converted to denser, taller town centers. In fact, many residents and visitors may have expected "walkable" to mean something as simple as installing sidewalks and improved pedestrian facilities, which are still lacking along many of Tahoe's main roadways.

13. Proposed community plan process changes. We are concerned with the new proposal to change the community plan process as described on Page 13 of the Fact Sheet. The proposal appears to place the burden of threshold achievement onto communities and community plans. Communities may become dependent on agreeing to substantial development in order to achieve the environmental gain that will be required by their community plan. Also, staff implies this regional plan can be tailored or downsized to each community's desires. We do not agree it is realistic to assume communities will be able to resist the development pressure this regional plan may produce. We must assume that communities will be built to the capacities allowed in the regional plan.

14. Two-step subdivision process. We agree with the California attorney general that projects that look like a suburban subdivision should be not be permitted. On Page 24 of the Fact Sheet, staff asserts that lot-and-block subdivisions are not allowed. However, there is no change to the current subdivision rules, so we are concerned that projects like Sierra Colina will continue to be proposed and built under this plan.

15. Linking CFA to environmental performance. The plan does not make clear why additional CFA should be created. Empty CFA is prevalent throughout the Basin. We are concerned about allocating additional CFA when so many current store fronts remain empty. The new soft coverage transfer regime may also exacerbate the oversupply of CFA.

16. **Excess Land Coverage Mitigation Program (ELCMP).** We support requiring large projects to remove excess coverage on or off site instead of paying in-lieu fees.
17. **Coverage transfers across hydrologically related areas.** We do not support transferring coverage across the hydrologically related area boundaries. Although we understand staff's intent in this proposal, we are concerned that it could create unintended consequences such as allowing coverage transfer from very developed areas of South Lake Tahoe to less developed areas such as Homewood.
18. **Transect zoning versus plan area statements.** We have concerns about transect zoning. Transect zoning is a cookie-cutter approach to planning, as opposed to plan area statements, which respect site-specific constraints such as scenic corridors.
19. **Urbanization as referred to in the Compact.** For comparison purposes, this plan proposes taller buildings than exist today in Carson City and buildings as tall as those found in downtown Berkeley. We believe people visit and live in Tahoe to be around natural landscapes, and to escape the urbanization they have at home. Urbanization can occur without expanding urban boundaries. Manhattan Island has not expanded its urban boundary for a while, yet over the past century, taller and taller buildings have been erected, which accommodated more people and substantially increased the city's environmental footprint.

For this plan, we support walkable, bikeable and accessible communities. We seek responsible redevelopment that concentrates on built areas instead of raw land. We seek height limits that protect Tahoe's scenic views. We support density changes that reduce traffic into and within Tahoe, and that acknowledge Tahoe's unique driving, living, working and recreating patterns. We seek plans that allow low-impact recreationists to enjoy Tahoe. We seek a near-shore clarity standard so beachgoers don't have to wade through wads of algae. We seek ongoing community-based planning so that communities are not caught off-guard by specific projects. Finally, Tahoe needs a Basin-wide analysis of just how much pollution and high-impact activities the Lake can sustain before it is loved to death.

We look forward to cooperating with the TRPA staff and other stakeholders to find a solution.