



Tahoe Regional Planning Agency
128 Market Street
Stateline, NV 89449

May 25, 2015

Subject: Update on the Commercial Floor Area/Tourist Bonus Unit Conversion Pilot Program

Dear Members of the Regional Plan Implementation Committee:

The Friends of the West Shore (FOWS) appreciates the opportunity to provide comments regarding the proposed Commercial Floor Area (CFA)/Tourist Accommodation Unit (TAU) Bonus Unit pilot program. We first thank the RPIC and staff for not recommending the Pilot Project 2, as discussed at the April GB hearing. However, we remain concerned the proposed Pilot Program 1 (Pilot Program) will lead to substantially more growth in the Basin which was not analyzed by the RPU EIS.

Increases in people, number of vehicles, coverage/floor area, and parking spaces (which increases pavement and vehicle use) may range from 400-2400% (see detailed review below).

Further, during the March 2015 RPIC discussion, TRPA staff indicated an environmental analysis would be performed.¹ This should be provided to RPIC and the public along with the staff report, but we did not locate this in the packet.

I. Environmental Impacts of Proposed Project:

Trip generation is only one of the environmental impacts that will occur from the proposed Pilot Program. The use of Bonus Units increases the total number of people in the Basin. In addition, there are numerous environmental impacts associated with the conversions of Bonus Units that were not considered by the staff report (including impacts from TAU morphing; see evaluation below).

Impacts include, but are not limited to:

- Increased coverage;
- Increased vehicle trips/VMT;
- Increased demand for water (total demand by all overnight guests may be greater than the demand by commercial uses);
- Increased demand on utilities, including water companies, power providers, sewer systems and infrastructure, natural gas providers, and other utilities;
- Increased demand for public services, including emergency care, fire departments, law-enforcement officers, and other public services;
- Increased water, air, and noise pollution from the increased vehicle trips and VMT; and
- Increased demand on nearby recreational lands from more overnight guests.

TRPA must consider the full capacity of the Lake Tahoe Basin, for residents, day, and overnight visitors. This point was reiterated by Board member Bill Yeates during the March 25th discussion (RPIC minutes, p. 18):

“[Mr. Yeates] does not want to reduce access to Lake Tahoe, but at the same time these are evolving things and as a regulatory agency dealing with the number of people we want to have around the Lake and their impact on the Lake, how we are going to accommodate all of that in trying to address the commodities.”

The full impacts of the proposed Pilot Program must be comprehensively addressed, including the potential impacts to TRPA’s environmental thresholds, before such amendments are approved.

¹ <http://www.trpa.org/wp-content/uploads/May-27-2015-Governing-Board-Packet.pdf>; RPIC Minutes, p. 16.

Available information is not adequate to support the threshold findings (Code Chapter 4) TRPA will be required to make because there has been no adequate environmental analysis.

II. Impacts from TAU “morphing:”

A conversion formula based on a simple comparison of estimated vehicle trips from an average trip number derived by averaging all commercial uses in the Basin does not adequately analyze the variety of other impacts that will result from the proposed Pilot Program. As noted in our previous comments and reiterated by Board Member Hal Cole, the proposed transfer ratio incentivizes conversion of CFA to TAU, but not the other way.² We are most concerned about the impacts of conversion of CFA to TAUs. The morphing of TAUs allowed by the RPU allows significant increases in development – even before Bonus Units are awarded. The following information evaluates the impacts of TAU morphing, first without Bonus Units, then with Bonus Units. *The difficulty of reading through the numbers in this assessment exemplifies why a simple trip generation analysis will not suffice, and why the TAU morphing issue must be considered by TRPA.*

A. New development as a result of TAU morphing:

As noted in our previous detailed comments, even before bonus units and other incentives are applied to a situation involving the transfer of existing TAU units, the maximum potential increased growth due to the morphing allowed by the RPU is as follows:

	Existing TAUs		New TAUs			
	Existing TAU	Total: 30 existing TAUs	New TAU – people/unit	# with 30 new TAUs	# with 60 new TAUs	# with 90 new TAUs
People/unit	1-2	30-60	6-8	180-240	360-480	540-720
Total size (sq. ft.)	300	9,000	1,200 (80%) ^a 1,800 (20%)	39,600 ^b	79,200 ^c	118,800 ^d
No. Vehicles	1	30	3-4	90-120	180-240	270-360

a. Code 51.5.2.K.2. Note: Table has been updated from previous versions in order to account for the 80/20% split in this Code section.

b. 80% (24) of the units can be 1200 sq. ft. = 28,800 sq. ft. and 20% (6) can be 1800 sq. ft. = 10,800 sq. ft. for a total of 39,600 sq. ft. *Compared to 9,000 sq. ft., this is a 440% increase in floor area.*

c. 80% (48) new units at 1200 sq. ft. = 57,600 sq. ft. and 20% (12) at 1800 sq. ft. = 21,600 sq. ft. for a total of 79,200. *Compared to 9,000 sq. ft., this is an 880% increase in floor area.*

d. 80% (72) new units at 1200 sq. ft. = 86,400 sq. ft. and 20% (18) new units at 1800 sq. ft. = 32,400 sq. ft. for a total of 118,800 sq. ft. *Compared to 9,000 sq. ft., this is a 1320% increase in floor area.*

This table illustrates that if 30 units are torn down in one location and merely used to build 30 new TAU units elsewhere, the following increases may occur under existing rules:³

- i. **800%** increase in total number of people in the accommodation;
- ii. **440%** increase in floor area for the accommodation;

² RPIC minutes, p. 16.

³ 800% in people: from 30-60 people to 180-240 people; 600% in floor area: from 9,000 sq. ft. to 54,000 sq. ft.; and 400% increase in number of vehicles: from 30 to 120 vehicles.

- iii. **400%** increase in total number of vehicles associated with guests of the accommodation.

Although the new units may be built ‘up,’ thereby the increase in coverage may be less than the increase in floor area, some portion of the increased floor area may require more coverage on the land. The need for additional parking spaces to accommodate larger numbers of people and their vehicles, however, will also require additional coverage.

B. New development as a result of TAU morphing *plus* TAU Bonus Units:

When the Bonus Units are applied to this 30-unit transfer, the developer may build up to 90 new units in the new location. With the TAU morphing noted above, impacts are now increased yet again. The net increase from tearing down an old 30-unit motel room to building 90 new tourist units to the sizes allowed by the TRPA RPU may result in the following:⁴

- i. **2400%** increase in total number of people in the accommodation;
- ii. **1320%** increase in floor area for the accommodation;
- iii. **1200%** in total number of vehicles associated with guests of the accommodation.

Meanwhile, the RPU’s existing conversions associated with CFA are based on converting one square foot to one square foot. There is no morphing potential. At most, with incentives that may award three times the CFA for transfers, there could be a net increase in CFA of 300%. This is a far cry from the 1320% increase in floor area that may result from TAU morphing combined with the Bonus Unit programs.

In addition, the proposed conversion ratio of 454 sq. ft. CFA to one TAU does not change. In other words, the conversion of 80,000 sq. ft. of CFA into TAUs from the Bonus Unit pool, as proposed in staff’s recommendation, would equate to roughly 176 TAUs (p. 441 in packet). The total floor area of the new TAUs could be as high as 232,000 sq. ft.⁵ - **three times the floor area** that would have been converted (80,000 sq. ft.). There is clearly a net increase in development potential from these transfers.

III. Use of Commercial Trip Generation to develop Ratio:

We appreciate the efforts taken by staff to accumulate information regarding the numbers and types of commercial establishments throughout the Basin (p. 447-449), however, there is clearly a wide range of trip generation associated with different uses. For example, while commercial uses such as drinking places, high-turnover sit down restaurants, or supermarkets may generate over 100 trips per 1,000 GFA, other uses such as furniture stores, light industrial uses, or wholesale market generate only 5-7 trips per 1,000 GFA. It is impossible to ‘compare’ the change in trips from conversion of CFA into TAUs, or vice versa, without looking at the type of commercial use that is being transferred or constructed. There is simply too much variation to account for. It is inappropriate to derive one transfer ratio from adding up these uses and developing one averaged value. These impacts would need to be examined on a project-by-project basis.

⁴ 2400% in people: from 30-60 people to 540-720 people; 1320% in floor area: from 9,000 sq. ft. to 118,800 sq. ft.; and 1200% increase in number of vehicles: from 30 to 360 vehicles.

⁵ At 1200 sq. ft. for 80% (141) of the new units converting to 169,200 sq. ft. in TAUs, and 1800 sq. ft. for 20% (35) converting to 63,000 sq. ft. in TAUs, this would result in a total new floor area of 232,200 sq. ft. associated with the TAUs.

In addition, Table B-3 on page 450, titled: “Conversion Ratio Approach,” notes that the conversion formula is based on generation of a one-room TAU. As noted in our comments on TAU morphing, new TAU accommodations can be much larger and are apt to have more than one room (which means more guests and more trips). Any comparisons must be based on the type of TAU units that will be constructed, not those that will be torn down.

IV. Moving Target for “Build-out:”

We are very concerned with the ongoing proposals to amend the RPU. First, the RPU has been in effect for barely over two years. Second, changes are being considered without the benefit of the full, comprehensive review promised during RPU deliberations (more information in attached comments) and required by the Goals and Policies (Policy DP-2.1⁶). Third, with so many efforts to amend the RPU underway, it is becoming impossible for the public, let alone TRPA, to figure out what the maximum development potential actually will be.

A. Insufficient implementation period:

The RPU has been in effect since February 2013 – just over two years. The first Area Plan was not adopted until the summer of 2013 (the South Shore Area Plan in Douglas County), and the second, the fall of 2013 (the Tourist Core Area Plan in the City of South Lake Tahoe). Other Area Plans are still under development. As a result, the RPU’s presumed benefits of the transfer program – which heavily rely on the adoption of Area Plans in order for the new ‘incentives’ in Town Centers to apply – have not been adopted in most “Centers” identified in the RPU. Those that have been approved have been in effect for less than two years. There has simply not been adequate time to assess whether the transfer program will work as intended.

B. Lack of full assessment of all information as intended upon RPU adoption:

Prior to the RPU’s adoption in December 2012, numerous discussions with the Board and public occurred regarding TRPA’s target to evaluate the thresholds and consider needed policy amendments every four years. This process would allow information regarding threshold status and trends to guide policy changes that may be necessary in order to achieve and maintain the environmental thresholds. However, changes to the commodity limits, bonus unit program, coverage transfers across hydrologically-related areas, excess coverage mitigation program, BMP compliance, and other RPU amendments have been made and/or proposed in the two years since the RPU took effect. We believe changes should not be made without the benefit of the next environmental threshold report, which will also include the tracking information necessary to compare policies to outcomes.

C. Rushed and ongoing list of amendments and maximum build-out potential:

As noted above, ongoing amendments to the RPU have been underway since the RPU’s adoption. These changes, acted on separately and without the benefit of any comprehensive environmental analysis, have created a situation where due to conversions, transfers, morphing, relaxed coverage standards, relaxed compliance standards, and other changes, it is virtually impossible to know what the maximum development of the Basin will be. TRPA should be examining the Basin’s maximum capacity and assessing how these changes fit within that

⁶ DP-2.1 EVERY FOUR YEARS, TRPA SHALL CONDUCT AN IN DEPTH EVALUATION OF THE REGIONAL PLAN IN COMPARISON WITH PROGRESS TOWARD MEETING THE ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES.

capacity. Prior to the RPU, staff indicated a desire to consider changes at the four-year intervals;⁷ yet in the period since, there appears to be an open door policy to amend the RPU. This begs two questions: *What is the rush? Why can TRPA not wait until 2016 to consider RPU amendments, as was originally intended?*

We have attached our previous comments on the Pilot Program, which we note include many of the details and references associated with our comments herein.

V. Changes regarding current vs. historical SEZs

Although we strongly support increased restoration of all SEZs, and have previously raised concerns regarding actions which have reclassified historical SEZs to non-SEZ land capabilities,⁸ we are concerned about the proposed ‘re-interpretation’ of how the Bonus Unit/Transfer of Existing Development Programs will apply to SEZs. On its face, the proposed change in how TRPA considers which parcels are eligible for transfer incentives would appear to result in more restoration of historical SEZs; we certainly support the restoration of more SEZs. However, the language in the staff summary is unclear. It is also unclear whether staff has made this decision, or is seeking RPIC’s advice. We believe more information is needed to assess this change, and have the following questions:

- What SEZ lands existing today that were historically SEZs have been reclassified as non-SEZs? Why were they reclassified?
- What are the amounts and locations of such lands both within and outside of Centers?
- What is meant by “currently verified SEZ” versus “restored SEZ?” Will this new interpretation only apply to areas historically classified as SEZ, but currently ‘verified’ as non-SEZ, that have already been restored? If so, as of what date?
- What is meant by “verified prior to or after restoration?”
- If historical SEZ lands (now verified as non-SEZ lands) have already been restored (we presume this would be “after restoration”), how would providing incentives after the fact encourage more restoration? It would already have been completed.
- As TRPA’s RPU also relies on the *rate* of growth,⁹ and the implementation of other improvements (e.g. EIP projects) in order to approve more development (for example, through the IPES program and residential allocation system¹⁰), would the timing of restoration no longer matter, as suggested

⁷ “The performance benchmark reporting system is something that we have started a conversation with the California Legislative staff. There are more requirements and needs for regular annual reporting than only the Threshold indicators, here are all the different types of regional plan performance benchmarks; four of the five categories are new requirements under the regional plan update. In addition to our Threshold monitoring all five of these annual reports will roll up into the Agency’s four-year Threshold Evaluation and will be the basis of consideration when reprioritizing our annual budgets, as well as making changes to the policies and strategies of the Regional Plan.” (Nov. 2012 GB minutes, p. 26) [Emphasis added].

⁸ May 2009, TRPA Hearings Officer Hearing. See: Objections of Friends of the West Shore and Homewood Residents James & Susan Gearhart to Request for Land Capability Challenge of Homewood Village Resorts, LLC, APN 097-130-05, 5145 West Lake Blvd., Placer County, California.

⁹ “[Alternative 3] combines a reduced rate of development with strong incentives for redevelopment, along with other regulatory changes.” (RPU DEIS, p. S-8)

¹⁰ “The IPES system is similar to the Bailey system, except that it permits additional development in some sensitive areas in conjunction with retirement of sensitive parcels and other water quality improvements in the vicinity... TRPA awards residential allocations to local jurisdictions annually. The number awarded is based on the performance of each jurisdiction in implementing EIP projects, achieving compliance with Best Management Practice (BMP) retrofit requirements, monitoring project permit conditions, and increasing transit levels of service. The current program for distributing and allocating residential development is an interim system that began on

in the staff summary?

- If incentives will be awarded for the restoration of lands no longer verified as SEZ, but which were SEZs historically, will new development on lands historically classified on SEZs now be limited to 1% coverage as defined by the Bailey limits - a possible outcome if the same logic is applied?
- The dilemma of picking which science is desirable in terms of development interests is a new element in TRPA planning, and should be clearly described and analyzed for beneficial impacts on the contributions of SEZ processes to water quality.

In conclusion, we request the RPIC recommend the Pilot Program be set aside for now until the bigger questions are answered. We appreciate staff's efforts with the comparison of trip generation, but the project as a whole needs serious work. It can be reconsidered in 2016 or later, after complete information (including the threshold evaluation report) is available. We also believe staff's new interpretation regarding the application of the alternate incentives to historical SEZs be thoroughly discussed and carefully thought out in a public process.

Thank you for your consideration. Please feel free to contact Jennifer Quashnick at jqtahoe@sbcglobal.net if you have any questions.



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