MEMORANDUM

Date: November 9, 2011

To: TRPA Regional Plan Update (RPU) Committee

From: TRPA Staff

Subject: Regional Plan Update Recommendations for November 15 & 16 RPU Committee meetings

Requested Action: Direct staff to include the Regional Plan Amendments (by goal, policy and implementation measure) in the Draft Regional Plan for future review by the TRPA Governing Board; and direct staff to prepare draft code amendments for implementation items.

Staff Recommendation: Staff recommends that the RPU Committee direct staff to include the Regional Plan Amendments (by goal, policy and implementation measure) in the Draft Regional Plan for future review by the TRPA Governing Board; and direct staff to prepare code amendments for implementation items.

Required Motions: The RPU Committee should make the following motion:

A “Straw Vote” motion to direct staff to include the Regional Plan Amendments (by goal, policy and implementation measure) in the Draft Regional Plan for future review by the TRPA Governing Board; and direct staff to draft code amendments for implementation items for future review by the RPU Committee.

This action is advisory only and is intended to provide staff with policy direction regarding how various topics should be addressed in Draft Regional Plan and draft Code amendments. All draft material will be presented to the TRPA Governing Board for action at a later date.

In order for the motions to pass, an affirmative vote by the majority of committee members who are present is required.
Summary:

This Staff Summary outlines recommended Regional Plan amendments in the Land Use, Community Design and Housing Plan Elements. Specific amendments are identified in the enclosed three-ring binder.

The portions of this staff summary pertaining to Land Use Goals LU-1, LU-4 and LU-5 repeat some information from the November 2 Staff Summary. Material is repeated so Committee members can reference a single document when reviewing staff’s rationale for recommended Goal and Policy amendments within these Plan Elements.

Staff recommends that committee members utilize the enclosed binders to organize and track Plan amendments. When the Committee takes action on specific goals, policies and implementation items, applicable replacement pages will be distributed by staff. Similarly, when new sections are drafted, those sections can be inserted in the binder.

Background:

At the September 26, 2011 RPU Committee meeting, actions were taken regarding specific Threshold amendments.

At the October 26, 2011 Governing Board meeting, staff presented an overview of recommended Regional Plan Update priorities, which include:

1. Focusing TRPA on Regional Environmental Gain;
2. Promoting Sustainable Redevelopment in Town Centers; and

Recommended changes to the Land Use Planning system were also summarized, including a transition towards a more regionally-focused system of regional planning (“conformance review” model).

At the October 27, 2011 Local Government Committee meeting, committee members voted unanimously to pursue a transition towards the “Conformance Review” model of regional planning and directed staff to work with local government staffs on details of the system.

At the November 2, 2011 RPU Committee meeting, Committee members discussed the October 26 Governing Board presentation and reached consensus to pursue and continue developing the recommended “Conformance Review” regional planning model, with an understanding that a lot of details need to be worked out.
Additionally at the November 2 RPU Committee meeting, the Committee voted unanimously to support Goal LU-1, Policies LU-1.1 through LU-1.3 and Goal LU-4, with specified amendments.

Material in the enclosed binder reflects Committee actions (identified with grey shaded text) and recommended changes to Policy LU-4.1. The draft Regional Land Use map is also modified to better reflect approved Plan Area Statements. Corrections involve Northstar Ski Area property and the land use and Town Center designations near the Hyatt in Incline Village.

**Discussion of Proposed Amendments – Land Use Framework:**

In the November 2 RPU Committee meeting packet, draft plan amendments for Land Use Goals LU-1, LU-4 and LU-5 were distributed. These sections cover general land use topics and an integrated system of Regional and Local planning. These sections are being redistributed in the enclosed binder with modifications reflecting Committee Actions and recommendations.

Additionally, the remainder of the Land Use element is enclosed, along with the Community Design and Housing elements.

This material includes many of the significant amendment topics and will likely take a number of committee meetings to work through. Staff recommends that the Committee continue review of Goal LU-4, then proceed to Goal LU-5, Goal LU-2, Goal LU-3, the Community Design Element, then the Housing Element.

Topics and recommended amendments under each Goal/Element are summarized below in the recommended review order:

**Land Use Element:**
Recommended amendments include reorganizing the Land Use Element to better align policies with the associated goals. The proposed organization is:

- **LU-1:** Overall Land Use Goal
- **LU-2:** Growth Management System, including carrying capacity, development rights, allocations, subdivision restrictions, non-conformance, coverage and rehabilitation.
- **LU-3:** Land Use Distribution – Policies directing allowed development away from sensitive areas and towards preferred locations.
- **LU-4:** Integrated Regional/Local planning system.
- **LU-5:** Coordination outside the region.

The Housing and Community Design Plan Elements are closely related to the land Use Element.
Goals and associated policies are described in more detail below.

Goal LU-1:
Goal LU-1 outlines overarching land use priorities. Amendments clarify and modernize the text. The RPU Committee voted unanimously to support amendments (with modifications) at the November 2 meeting.

Goal LU-4:
Goal LU-4 and related Policies describe Regional Land Use designations and establish the new Conformance Review Framework.

Goal LU-4 implements the Regional Plan using an integrated system of Regional and Local Planning.

Rationale: Establishes a focused system to better coordinate regional and local planning, and to reduce duplicative government functions.

The RPU Committee supported Goal LU-4 at the November 2 meeting.

Policy LU-4.1 (and Regional Land Use Map):
Policy LU-4.1 identifies and describes the seven Regional land Use Classifications for the region and the two Special Districts where redevelopment should be focused.

Rationale:
1. Adds two new public land classifications (Backcountry and Wilderness) to mirror federal plans. This should be non-consequential.
2. Renames “Commercial” to “Mixed Use” and supports residential development in combination with non-residential. This is consistent with modern planning practice and sustainable planning principles. With related policies in other plan sections, this change should significantly reduce automobile dependency and improve air quality.
3. Identifies Town Centers and the High Density Tourist District as areas most appropriate for redevelopment. These are the areas that were intensively developed prior to Regional Planning at Lake Tahoe and contain high concentrations of “grandfathered” non-conforming development. These areas are also the core of each community and should be the focus of community sustainability improvements. Areas outside Town Centers and the High Density Tourist District are proposed to remain largely unchanged.
4. The Map reflects adopted Plan Area Statements with targeted amendments to reflect public acquisitions, to correct certain property boundary errors, to expand the recreation area adjoining the High Density Tourist District and to re-designate two highly sensitive stream environment areas to “Conservation”. Existing development in the Stream Environment Zones is non-conforming and would remain so. The intent of this change and expanded redevelopment incentives (under Goals LU-2 and LU-3) is to provide meaningful restrictions and incentives that would encourage the non-
conforming developments in critically-important stream corridors to relocate to less sensitive areas.

Policies LU-4.2 through LU-4.4:
These Policies identify existing planning documents, verify that they remain in effect until superseded by conforming Local Plans, and require that any new Regional Plan provisions that directly conflict with these plans prevail.

Rationale: These policies are necessary to transition from the current planning system to the proposed system. The recommended process of approving regional plan amendments, then updating detailed local plans to be in conformance with the Regional Plan is commonly used in Conformance Review systems. The process is much more responsive to community issues and public input than attempting to update all local plans, parcel level zoning designations and other detailed matters together with Regional Plan policy changes.

Policy LU-4.5:
Policy LU-4.5 establishes a process to evaluate implementation of the new planning framework and update plans if desired.

Rationale: 2 years is a reasonable time period for an evaluation of how the transition is proceeding.

Policies LU-4.6 and LU-4.7:
These Policies establish the system of Local Plans and Regional Conformance Review
Rationale: This is a necessary part of the recommended system. Notably, staff recommends that the conformance review process evaluate zoning and codes within Local Plans, not just the actual plans.

Policies LU-4.8 through LU-4.10:
These Policies establishes conformance review criteria for all Local Plans along with additional criteria for Local Plans that contain Town Centers or the High Density Tourist District.

Rationale: These are important policies containing safeguards to verify that Local Plans, and all development permitted under Local Plans, support and implement the Regional Plan and help achieve and maintain environmental Thresholds. Some criteria are specific to important issues (eg BMP compliance), while others require overall consistency with the Regional Plan. Due to the higher intensity of land use, focused incentives for redevelopment, and sustainability requirements, additional criteria are recommended for Town Centers and the High Density Tourist District.

Policies LU-4.11 and LU-4.12:
These Policies enable conforming Local Plans and local development review procedures to modify TRPA ordinances and review procedures, with limitations to ensure that local
plans are equal to or better than TRPA requirements. LU-12 also establishes regionally-significant project categories that would require TRPA review and approval.

*Rationale:* This delegation will greatly reduce redundant development review activities, while providing for TRPA review of regionally-significant projects. Staff also recommends an annual evaluation and re-certification of Local Plans.

Policy LU-4.13:
Policy LU-4.13 outlines a cooperative approach for Local Plan development.

*Rationale:* It is staff’s recommendation and intent to be actively engaged in the development and preparation of Local Plans. TRPA has also secured grant funding and consulting contracts to assist with the development of “Pilot Plans” and codes. Preparing detailed plans in cooperation with all involved governments and interested citizens should produce high-quality documents that are responsive to local issues and in conformance with the Regional Plan.

LU-4 Implementation Measures:
Implementation measures identify the topics and general content of code amendments that will be necessary to implement the Policies under Goal 4.

*Rationale:* Code amendments are recommended to be specific enough to promote Regional Plan policies, but flexible enough to permit a range of innovative planning approaches.

Goal LU-5 and Policies LU-5.1 and LU-5.2:
These provisions encourage coordination with land uses outside the region. No changes are recommended.

*Rationale:* This is appropriate regional planning policy and remains applicable.

Goal LU-2 and Policy LU-2.1:
These provisions direct growth in accordance with Environmental Carrying Capacities.

*Rationale:* Maintains existing plan language and leaves the overall growth management system in place. Out-dated language is removed.

Policy LU-2.2:
Policy LU-2.2 outlines Development Rights, along with allocations and bonus units for the next 20 years. Please note that the status of remaining allocation and bonus units is summarized under the Goal LU-2 implementation box for clarity.

*Rationale:* Changes remove outdated allocation and bonus unit statistics. The same topics are covered in code. Changes also add “Conforming Local Plans” to receiving areas for certain commodities.
Removed/Relocated Text between LU-2.2 and LU-2.3:
Existing text prescribes in great detail how Plan Area Statements and Community Plans must be prepared. These topics are proposed to be addressed with more outcome-oriented criteria for Local Plans under Goal LU-4.

Rationale: Public Feedback has identified the highly prescriptive plan development requirements for Plan Area Statements and Community Plans as a barrier to responsive planning efforts and more frequent plan updates. Staff believes it will be more effective to focus on plan outcomes more than specific planning procedures that Local Governments must employ. Legally-required plan development requirements will still apply.

Policy 2.3 through LU-2.10:
These Policies address subdivision restrictions, non-conformance, restoration, redevelopment and gaming. No changes are recommended.

Rationale: These policies are fundamental aspects of TRPA’s system of balancing growth management objectives with private property rights.

Policy 2.11 and 2.12:
These Policies address overall coverage requirements coverage using the “Bailey” system. No changes are recommended.

Rationale: These policies are fundamental to the TRPA growth management system.

Policy 2.14:
Policy 2.14 addresses coverage transfers. Changes are proposed to more effectively encourage environmentally-beneficial redevelopment within priority development areas.

Rationale:
1. A consistent coverage requirement of 70% (base + transfer) is proposed in Town Centers. Currently some development types can cover 70% while others can cover 50%. In reality, most existing development in Town Centers has non-conforming coverage in excess of 70%. The change will lessen an existing regulatory barrier to redevelopment, while promoting environmental improvement.
2. Town Centers and the High Density Tourist District are added as receiving areas for coverage transfers to reflect modifications to the planning designations.
3. Subsection H proposes to allow the relocation of existing non-conforming coverage to Town Centers and the High Density Tourist District. This change will help encourage the relocation of non-conforming coverage from sensitive lands and other outlying areas to preferred redevelopment areas. Currently, TRPA coverage transfer requirements result in a significant economic impact.
when property owners consider moving existing development out of sensitive areas.

4. Subsection I enables Local Plans to manage coverage at the community scale rather than parcel by parcel if the community strategy is demonstrated to be better than parcel-level regulations. This change will allow creative and customized community strategies for coverage reduction, which will better address existing conditions, cumulative impacts, etc. Significant water quality improvements should result.

Policy LU-2.15:
Policy LU-2.15 addresses rehabilitation of existing development. Changes allow bonus units to be awarded for removing and retiring non-conforming coverage.

Rationale: Since adoption of the 1987 Regional Plan, the regulation-focused coverage reduction strategy has not resulted in significant removal of excess coverage in Town Centers. This recommended change and other related changes (including amendments under LU-2.14) would complement strict regulations with incentives to reduce coverage.

Some individuals have promoted stricter enforcement as an alternative to new redevelopment incentives. This topic will be addressed in more detail in other Plan Elements, but it is one of the fundamental differences that exist among stakeholders. Staff’s view is that a package of regulations and incentives will be more effective at achieving environmental gain than a regulation-only approach. Additionally, many local businesses are currently experiencing financial difficulties due to the global economic downturn. Burdening businesses with substantial new expenses without providing any compensating economic opportunity would create significant negative social and economic impacts, could cause businesses to fail, and would likely create a lot of litigation that TRPA is not adequately funded to address. Overall, the introduction of incentives is expected to be a more effective environmental strategy with greatly reduced social and economic consequences.

Policy LU-16:
Policy LU-16 addresses coverage in redevelopment plans. No changes are proposed.

Rationale: The recommended Policy LU-2.15 applies the existing coverage approach for Redevelopment Districts more broadly to areas that are in need of redevelopment, but are not in official Redevelopment Districts.

LU-2 Implementation measures:
First, certain implementation measures identify the topics and general content of code amendments that will be necessary to implement the Policies under Goal 2. Second, the status of commodities remaining from the 1987 plan and new commodities are summarized. Third, code amendments that are not addressed in Goals and Policies are
outlined. These include more flexible coverage transfer provisions for soft coverage, re-locatable coverage and permeable pavement – all of which are designed to expedite environmental gain. Lastly, site-specific land capability mapping is required with limited exceptions.

**Rationale:**
1. Code amendments are needed to implement policy changes.
2. Commodities remaining from the 1987 plan are increasingly limited – no new residential allocations remain. Some new allocations are needed to continue the measured pace of single family development and allow property owners to realize some value from their property. Residential allocations are recommended to be released at a pace mirroring the current pace of single family development (130 homes/year) under the current system. New Residential Bonus Units and non-residential allocations are proposed to be used for transfer matches to promote redevelopment, affordable housing and related planning priorities.
3. Coverage relocation provisions and permeable coverage incentives are recommended to increase the pace of coverage removal on sensitive lands and encourage permeable paving. Exempting re-locatable coverage with limitations removes a burdensome and ineffective regulation.

**Goal LU-3 and Policies LU-3.1 and LU-3.2:**
These provisions are relocated from Goal LU-4 and are proposed to remain unchanged. **Rationale:** The emphasis of these provisions involves public well-being and enjoyment within limits of carrying capacities and health, safety and welfare considerations. The concepts remain applicable.

**Policies LU-3.3 through LU-3.6:**
These Policies identify the recommended regional development pattern, including preferred development areas (Town Centers and High Density Tourist District), areas of stability (residential neighborhoods) and protected areas (sensitive lands).

**Rationale:** Changes are more direct in attempting to shape development patterns to be more sustainable and to minimize environmental impacts. Many other Policies and regulations are based on these designations. Overall, restoration of sensitive lands and relocation of development rights to Town Centers is more actively promoted. Existing residential neighborhoods would remain largely unchanged.

**Policies LU-3.7 and LU-3.8:**
Policies LU-3.7 permits bonus units to be used to encourage the transfer of development from sensitive areas and the most distant neighborhoods to preferred development areas.

**Rationale:** The environmental impact of available bonus units is expected to be significantly less than the environmental benefit resulting from transfers of
development rights. This balance is the subject of ongoing study through the SCS Grant. Preliminary ratios are outlined under implementation measures. These may be refined after studies are completed (expected by January 2012).

**LU-3 Implementation Measures:**
Most implementation measures codify policy recommendations. Additionally, limited resorts are proposed to be permitted in recreation areas. Proposed transfer ratios are identified in the table. Lastly TAU transfer restrictions reflecting the most recent policy guidance from the Governing Board are outlined.

**Rationale:**
1. Code amendments are needed to implement policy changes.
2. Integrated resort establishments are commonly developed and appropriate within large ski areas and other major recreational attractions. The recommended code amendment is preferred to spot-zoning resort map designations within recreation areas. Staff proposes to develop code amendments with adequate safeguards to prevent unmitigated impacts on nearby properties.
3. Increased transfer ratios have been identified in studies as an important strategy to promote redevelopment and encourage removal of coverage from sensitive areas. Proposed ratios are based on the best available science and are the subject of further study over the next 2 months.
4. TAU transfer limitations are a major topic of debate. Proposed amendments reflect the most recent policy direction from the board.

**Housing Element:**
The Housing Element is a short plan section focused exclusively on housing types and needs. Two significant changes are proposed: 1) Goal HS-1 is reworded to reflect all housing types, not just “Affordable Housing”; and 2) A new Goal (HS-3) and Policy (HS-3.1) are proposed to regularly evaluate housing needs and adjust plans and codes if necessary.

**Rationale:** It is generally recognized that housing in the Tahoe Basin is largely unaffordable for many full-time residents and workers. This situation has caused many full time residents to relocate outside the basin over the last 10-20 years. Many of these people now commute to the Tahoe Basin for work, which undermines sustainability objectives. Closing of Rideout Elementary School in Tahoe City demonstrates the social cost of the housing affordability issue. Strategies to address the situation are complex and require further study. At one point, an expanded incentive for moderate income housing was proposed (it remains in the EIS under Alt 4). Many stakeholders have expressed a concern that the Moderate Income Housing Incentive would be ineffective due to economic considerations related to that level of housing.
**Community Design Element:**
Community Design provisions are closely related to the Land Use element. Several amendments are recommended to better address sustainability objectives and support scenic Threshold gains:

- Goal CD-1 is amended to remove outdated text from the 1980’s.
- Policy CD-2.1 is amended to require that Local Plans address all Regional Plan policies for Design.
- Policy CD-2.1(B) is amended to permit taller buildings in Town Centers (4 stories) and the High Density Tourist District (197) feet.

*Rationale:* Additional height improves community walkability and provides capacity for development rights to be used in Town Centers instead of Sensitive areas. Significant planning and design restrictions are required in order to realize the additional height. Four stories is an appropriate intensity of development in established town centers with appropriate design restrictions. Existing hotel casinos in the High Density Tourist District reach 197 feet in height. Recommended amendments in that area permit redevelopment to occur at the same height as existing buildings.

In general, permitting environmentally beneficial redevelopment projects without requiring the removal of existing development is expected to significantly increase the rate of redevelopment. Other plan provisions require significant water quality improvements with all redevelopment projects. This recommendation is part of a focused strategy to encourage environmentally-beneficial redevelopment and remove economic barriers that have prevented widespread redevelopment in established town centers.

- Policy CD-2.1(C) includes amendments for improved consideration of Fire protection and Stormwater runoff in landscape plans.

*Rationale:* These are important landscaping considerations that are not currently addressed in the Regional Plan. Improved consideration will better protect and improve the environment and public safety.

- Policy CD-2.1(D) includes amendments to require that outdoor lighting utilize modern “dark-sky” design features.

*Rationale:* Since the 1990’s, dark-sky lighting requirements have become very common in local government plans and ordinances. The new requirements will improve Scenic quality during the night with negligible economic impacts.

- Community Design Implementation Measures will codify policy changes.

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**REGIONAL PLAN UPDATE COMMITTEE**
**Agenda Item #3**
**November 15/16, 2011 Staff Summary**

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Public Input:

Public Input since the November 2 Committee meeting has generally reflected public comments at the meeting. More specifically:

Staff has been contacted by many local residents and property owners.

Local Businesses have been overwhelmingly supportive of the amendment priorities and approaches. Local government staff members have also been generally supportive. Redevelopment incentives, greater local flexibility (within environmental constraints) and the reduction in duplicative government review functions have been the primary areas of support.

Local preservation advocacy groups have been generally unsupportive of Redevelopment and generally oppose any incentives. A tighter regulatory scheme is generally recommended by the preservation groups.

Additional individuals have advocated that all projects in the Region be appealable to TRPA. This is an important topic. Staff does not support this approach for several reasons:

1. It would create a more cumbersome and duplicative development review process and would undermine the process improvements being recommended.
2. With the proposed Local Plan review, approval and monitoring requirements, appeals to the TRPA Governing Board would not help with Threshold Attainment and would only complicate the permitting process. As proposed, significant projects would already require TRPA conformance review. Additionally, before any development can be approved under a Conforming Local Plan, the TRPA Governing Board must review the Local Plan and make a determination that the Plan, and development permitted under the Local Plan, conforms with the Regional Plan and helps achieve Threshold gain. An additional layer of processing will not add value and would only divert TRPA’s limited resources away from regionally-significant topics and towards project level design considerations that do not relate to environmental improvement.
3. The TRPA Compact does not identify TRPA as an appeal body. Instead, the compact clearly anticipates that TRPA would limit regulations to those of regional significance and prescribe which projects do not require direct TRPA review in order to protect natural resources. The proposed system implements the TRPA compact. Local Plan approval criteria require that smaller developments within Local Plans will not have a substantial effect on applicable natural resources. Additionally, focusing TRPA review on Plans and large projects will better identify and address potential cumulative impacts compared with the current system. Applicable Compact provisions are copied below (emphasis added):
(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavation, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective States, counties and cities the enactment of specific and local ordinances, and rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

In conclusion, the enclosed material contains a lot of important policy issues. The RPU Committee should dedicate significant time to review, discuss and provide policy guidance regarding the proposed amendments.

If you have any questions, please contact Arlo Stockham, at (775) 589-5236 or astoreham@trpa.org.