



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

**PLANNING
SERVICES DIVISION**

Paul Thompson, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

DATE: April 23, 2013

**SUBJECT: UPDATE - TAHOE REGIONAL PLANNING AGENCY REGIONAL PLAN, AREA
PLANS AND CONFORMANCE REVIEW**

ACTION REQUESTED

Tahoe Regional Planning Agency Regional Plan Update – Update on the TRPA Regional Plan specifically related to the Area Plan provisions and how the Update may directly and indirectly impact the County. No Board action is requested.

BACKGROUND

At the January 22, 2013 Board Meeting, County staff presented the Board with a status update on the Tahoe Community Plans and the recent approval of the Tahoe Regional Planning Agency (TRPA) Regional Plan Update. In addition to an update on the adoption of the Regional Plan, staff identified the next steps for the County's continued coordination with TRPA staff for addressing the outstanding concerns Placer County has with the Regional Plan. Many of those concerns were included as part of the "To-Do List" items which were to be prioritized by the TRPA Governing Board at its March 2013 Governing Board meeting. Prior to the deadline to legally challenge the adoption of the Regional Plan, a lawsuit was filed by Friends of the Westshore and the Sierra Club. Subsequent to the lawsuit, TRPA has indicated that the new plan remains in effect and that TRPA intends to move forward with Plan implementation unless TRPA receives other direction from the Courts.

In this effort to move forward, TRPA began the process of prioritizing the "To-Do List", understanding the list had grown to a point that it would not be feasible to complete all items in the 2013 calendar year. At the February Advisory Planning Commission Meeting, the APC provided the following recommendation to the Governing Board on the prioritization of the "To-Do List" items.

1. Evaluate the coverage management system;
2. Review coverage transfers across hydrologic zones;
3. Monitoring & measurement program;
4. Affordable and moderate income housing;
5. Reductions in GHG emissions;
6. Evaluate Individual Parcel Evaluation System (IPES) program (tie);
6. Evaluate SEZ restoration strategies (tie);
8. Review efficacy of development transfer ratios;
9. Incentives for transfer of development to areas outside of centers; and
10. BMP compliance committee.

The Governing Board considered the recommendation of TRPA staff, the recommendation of the APC, and public comment (which included comments from Placer County staff related to the direction your Board has provided on the RPU, in particular the lowering of the Placer County IPES and the issues related to the nonconforming properties along the Highway 89 river corridor). The Governing Board directed TRPA staff to focus on the Mitigation Measures of the RPU, review the Coverage Transfers Across Hydrologic Zones, Update and Implement the Shorezone Ordinance, establish a BMP Compliance Committee, and review Incentives for Transfers Outside Town Centers as the priority projects for 2013.

As part of the previous discussion related to the Tahoe Community Plan Updates at the January Board Meeting, County staff indicated that it would return to your Board with more information related to the Conformance Review by TRPA for the adoption of the Area Plans (for Placer County purposes, these would include the Tahoe Community Plans).

ANALYSIS

The newly adopted Regional Plan contains a provision that allows local, state, federal, and tribal governments the ability to prepare individual and unique Area Plans, provided that the plans “conform with and further the goals and policies of the Regional Plan.” When properly prepared, Area Plans will fold the regulatory requirements of TRPA and the local jurisdiction into a single, easy-to-navigate document. Chapter 13 of the TRPA Code of Ordinances provides guidance to the Area Plan processes and allowances. Certain alternative coverage, height, and development standards can be provided for under this process. With the exception of certain scales and types of development, the Area Plans will allow the local jurisdictions to review and approve of projects for both that jurisdiction as well as for TRPA. The goal is to reduce some of the redundant review that can occur where the duplication does not add any additional benefit. As a security measure, the Bi-State Agreement that bridged the gap to gain consensus on the Plan (which allowed for the plan to be approved on schedule) included detailed discussion on the process for appeals of a decision made by the local jurisdiction related to the Regional Plan (by way of the Area Plan).

Area Plans can be used:

- As a mechanism to rezone parcels (since parcel rezone, with the exception of a couple properties, was not considered as part of the Regional Plan Update),
- Allow for increased capacity in Centers,
- Allow for area-wide Best Management Practices (BMPs) in addition to or in lieu of parcel specific BMPs,
- Area wide coverage management,
- Alternative parking systems such as shared or off-site parking,
- And substitute development standards as long as the standards fit within the sideboards identified in the Regional Plan.

An Area Plan may propose a comprehensive coverage management system. Such a system will be a shift from the current method of addressing coverage on the parcel level and would allow for coverage allowances to be allocated over a much larger area, neighborhood, or region. There is a provision within the new Regional Plan that provides incentives to transfer coverage out of sensitive areas and into Centers (which are defined as Town Center, Regional Center, or High Density Tourist District by TRPA for the purposes of Area Plan land designations). However, this provision excludes areas within 300 feet of the high water mark of Lake Tahoe as receiving areas. Significant portions of the “Centers” within Placer County, such as Tahoe City and Kings Beach areas, lay within 300 feet of the high water mark of Lake Tahoe, which limits the utilization of this incentive for Placer County. Copies of maps depicting Town Centers, transfers, and the 300 foot area inland of the high water mark can be found at <http://www.placer.ca.gov/departments/communitydevelopment/planning/tahoeplanning>

In order for the Regional Plan to stay on track for adoption in December 2012, a conscious decision was made by TRPA to not consider area wide rezones of parcels through the Regional Plan Update process. As such, local jurisdictions were advised that the future adoption of Area Plans would be the appropriate method to evaluate the need for rezoning of parcels. A perfect example of where this would be applicable in Placer County would be the properties along State Route 89 in the Tahoe City area. Many of these properties have contained nonconforming uses for at least the last 20 years. The unsuccessful goal from the 1987 Regional Plan was to move development out of this area by making it nonconforming to zoning standards. What the County has experienced instead was little to no improvement of these properties, nor the transfer of the uses away from these properties. Staff believes this has occurred because the current system does not contain sufficient incentives that would make it economically viable for an owner to relocate the existing uses out of this area. As such, it could be argued that any change would negatively impact a property owner in a nonconforming use situation such as the properties on State Route 89.

In addition to the ability for the Area Plan process to rezone parcels, the Regional Plan also contains provisions for the expansion of Town Centers in certain circumstances. Town Centers are areas that are targeted for redevelopment and that have most of the region's non-residential services. In Placer County, Town Centers are located in Tahoe City, Kings Beach, and North Stateline. Area Plans may consider the expansion of Centers for parcels that have at least three sides developed, or 75 percent of their boundary adjacent to developed parcels. Developed parcels are defined as 30 percent or more of the allowed coverage already existing on-site or an approved but unbuilt project that proposed to meet this coverage standard. Some of the areas identified where this transfer *may* be feasible are an area in Tahoe Vista and the Tahoe City Golf Course property.

County staff anticipates that the allowance for substitute development standards as part of the Area Plans will prove to be a valuable tool to account for the unique characteristics that define Placer County's "Centers". The substitute standards provide an opportunity for community gains (such as trails, pedestrian paths, bicycle paths, or improved transit use) while allowing for certain increases such as height and density. In order to allow for such increases, certain provisions need to be built into the design of a project such as bicycle, pedestrian and transit facilities, protection of Lake views, height and density variations, enhanced design features along roadways, and sensitive land protection and/or open space connectivity. Allowances for increased height will require certain findings be made such as the limitations for maximum height provided for in the Table 13.5.3-1 of the TRPA Code of Ordinances, transitional height limits, and viewshed protection including a restriction to not extend above the forest canopy or ridgeline.

Conformance Review

As part of the approval process for Area Plans, the government entity preparing the Area Plan will need to present the plan(s) to TRPA for a determination of conformity with the Regional Plan. Although the checklist for this review has not been finalized, some of the findings staff anticipates TRPA will need to make will be relative to development standards. TRPA will be verifying that the standards developed in the County's plans are consistent with the limitations identified in the Code of Ordinances. The coverage management systems (alternative system to the parcel-level coverage requirements outlined in the TRPA Code of Ordinances Sections 30.4.1 and 30.4.2) will be evaluated to ensure consistency with the Code as well as to determine whether the coverage management system will be effective and/or feasible. Height, alternative transfer ratios, parking strategies, and complete streets will all be analyzed for consistency with the sideboards outlined in Chapter 13 (Area Plans) of the Code of Ordinances.

Additionally, TRPA's conformance review will look at how the plan implements the Environmental Improvement Program (EIP) projects. As described in the Code of Ordinances, the EIP is a process for identifying and implementing threshold improvements. The success of the EIP projects will play a role in the release of commodities. Of particular concern will be the release of Commercial Floor Area

(CFA). The Plan provides for a total of 200,000 square feet of CFA. The question will be how the CFA is divided among all jurisdictions and at what rate will the CFA be released. While 200,000 square feet sounds like a substantial pool of CFA, it equates to only 10,000 square feet per year for each of the five jurisdictions surrounding the Tahoe Basin. Included in the Regional Plan is a requirement that the CFA not be allocated to a jurisdiction until the existing pool is first exhausted. For Placer County this could be problematic because the current system has the pool of CFA broken out into Community Plans. For instance, the Kings Beach pool could be completely depleted and because the Tahoe City pool contains unused CFA, the County would not be able to obtain new CFA. This could be an issue should new larger projects such as the Homewood project come forward. Fortunately for Homewood, the approximately 15,000 square feet of CFA required for the project has already been reserved out of the special projects pool with TRPA. As such, the Homewood project will not impact the existing CFA bank the County has, nor will the Homewood project impact the future release of CFA. However, if this weren't the case and the County did not have CFA available to allocate to this project, the developer would be left with the option to privately purchase CFA to transfer to the proposed project site.

Similarly, there is a limited supply of Residential Allocations that were approved through the Regional Plan. The new Regional Plan provides an allowance for 2,600 new residential units to be allocated over the life of the plan (anticipated to be 20 years). This equates to an average of 130 new residences per year to be divided among the five jurisdictions within the Basin. Placer County may receive 15 base allocations, with an opportunity to earn 14 more if the County meets environmental/permit review targets under the new Regional Plan. This is a substantial reduction from the 1987 Regional Plan that allowed a maximum of 34 base allocations to the County with the opportunity to earn 32 more if the County met the same environmental/permit review targets.

The Allocation System is anticipated to follow a process similar to the previous model as a performance-based system. The performance-based system includes an audit and scoring by TRPA staff on the work performed by local government staff under the Memorandum of Understanding. The local jurisdictions are scored on field audits, the TRPA project portion of building permits, implementation of EIP projects, and transportation level of service improvements. The results of the scoring would then determine the number of Allocations released to each jurisdiction for that year.

There are a number of issues that surround the current performance-based Allocation System (such as the percentage division of Allocations where the original percentages were based on the development rates between 1987 and 1997, and the Transit Level of Service improvement linkage) and how the system is designed will certainly have an impact on Placer County. County staff intends to follow this issue closely to make certain the concerns already identified by your Board are addressed as the Governing Board directs TRPA staff on how this process should be implemented. Again, of particular concern is the Homewood project. Phase 1 of that project will be looking to secure 20 Residential Allocations from Placer County. The County currently has approximately 35 Allocations held over from the 1987 Regional Plan. More Allocations will be released later this year under the base and incentive numbers under the new Regional Plan. This could result in a significant short term impact to the new residential construction within the Basin for Placer County.

The process for Conformance Review will incorporate some of the exercises the County is already implementing. Similar to the performance review audits the County currently has for the review of TRPA projects as part of the County's Building Permit issuance, TRPA staff will be working off a checklist (currently being developed) that will make certain that the relevant portions of the Regional Plan, Goals and Policies and Code of Ordinances are being properly addressed. From there, the Area Plans will be brought before the Advisory Planning Commission (APC) for a recommendation to the Governing Board who will make the final decision of Conformance based on the findings for Conformance Review. Conformance Review will look at making certain the Area Plans are consistent with the Regional Plan, whether the Thresholds are being properly addressed, consistency with the

Land Use Map, and whether the Area Plan will effectively implement Regional Plan Policies resulting in Threshold gain.

County staff anticipates that TRPA staff will be following the Community Plan process to ensure that concerns about conformance are addressed early in the process. Similarly, County staff will coordinate with TRPA staff as they prepare their recommendation to the TRPA Governing Board on the County Area Plan Conformance Review. The Areas where concern may arise would be any requested amendments to the Regional Plan. The framework of Area Plans was established to provide certain design standards for the Area Plans. But where alternative Design Standards are proposed, amendments to the Regional Plan are the mechanism to consider such standards. While much of the rest of the conformance review appears straight forward, this is an area where the County may differ from the opinions of TRPA. It will be up to the TRPA Governing Board to decide in the event such a situation presents itself.

FISCAL IMPACT

None.

CONCLUSION

No action is necessary as this update is strictly informational.

ATTACHMENTS

Attachment 1 – Chapter 13 of the TRPA Regional Plan Update

cc: David Boesch, County Executive Officer
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CHAPTER 13: AREA PLANS

13.1. PURPOSE

- 13.1.1. In order to be responsive to the unique circumstances of communities of the region, the Agency finds that there is a mutually beneficial need to provide local, state, federal, and tribal governments with the option to prepare Area Plans, provided such Area Plans conform with and further the goals and policies of the Regional Plan.
- 13.1.2. This chapter defines the required content of Area Plans and establishes that Area Plans may be approved by TRPA if they contain policies and development ordinances that are consistent with and further the goals and policies of the Regional Plan. The development of Area Plans is intended to support the update and consolidation of planning documents in the region.
- 13.1.3. This chapter also establishes a conformity program that enables the Agency to transfer limited development permitting authority to local governments with Conforming Area Plans. Furthermore, this conformity process defines which development activities will not have a substantial effect on the natural resources in the region and may be delegated from TRPA review and approval, subject to appeal provisions. This program will enable TRPA to focus its resources on projects of regional concern, while still maintaining an active and effective oversight role in the implementation of all Area Plans to ensure that Area Plans and activities governed by Area Plans maintain conformity with the Regional Plan.

13.2. APPLICABILITY

All local governments in the region may prepare Area Plans pursuant to this chapter. This includes Carson City, Douglas, El Dorado, Placer, and Washoe counties, and the City of South Lake Tahoe. Any city located in the region that incorporates after the adoption of this Code may also prepare Area Plans pursuant to this chapter. TRPA and state, federal, and tribal governments in the region may prepare Area Plans pursuant to this chapter. Quasi-governmental entities, such as service or utility districts, may not prepare Area Plans pursuant to this chapter.

13.3. RELATIONSHIP TO EXISTING REGULATIONS

- 13.3.1. All plans, policies, and regulations in the Regional Plan and this Code shall remain in effect unless superseded by the provisions of an Area Plan. The extent and nature of the superseded requirements of the TRPA Code shall be identified in the Area Plan.
- 13.3.2. No Area Plan may limit TRPA's responsibility to enforce the Compact and to ensure that approved Area Plans are maintained in full compliance with the Regional Plan.
- 13.3.3. A Conforming Area Plan shall be considered a component of the Regional Plan.

13.4. DEVELOPMENT OF AREA PLANS

13.4.1. Development of Area Plan is Optional

A government may adopt an Area Plan with plans and development ordinances that supersede TRPA plans and ordinances if the Area Plan is found to be in conformance with the Regional Plan, in accordance with the requirements of this chapter. A government may adopt an Area Plan that applies to only a portion of the land area within its jurisdiction. Jurisdictions that do not adopt an Area Plan shall continue to be subject to all plans, policies, and regulations in the Regional Plan and this Code.

13.4.2. Initial Statements of Intent to Develop an Area Plan

All local, state, federal, and tribal governments in the region shall provide TRPA written statements indicating their intent to prepare Area Plans and their anticipated schedule for completion of Area Plans. For TRPA planning purposes, initial statements of intent shall be provided to TRPA no later than December 31, 2013. This shall not preclude the earlier or subsequent development of additional or modified Area Plans, pursuant to this chapter. The TRPA Governing Board shall review the initial statements of intent and develop an action plan for incorporation into the annual TRPA work program by April 30, 2014. The action plan may include the replacement of plan area statements, community plans, and other plans with TRPA-approved Area Plans for properties that other governments do not include in their Area Plans.

13.5. CONTENTS OF AREA PLANS

13.5.1. General

An Area Plan shall consist of applicable policies, maps, ordinances, and any other related materials identified by the lead agency, sufficient to demonstrate that these measures, together with TRPA ordinances that remain in effect, are consistent with and conform to TRPA's Goals and Policies and all other elements of the Regional Plan. In addition to this Section 13.5, additional specific requirements for the content of Area Plans are in subsection 13.6.5.A. The Memorandum of Understanding (MOU) that is associated with an approved Area Plan is a separate, but related, approval and is not part of the Area Plan.

13.5.2. Relationship to Other Sections of the Code

This section is intended to authorize development and design standards in Area Plans that are different than otherwise required under this Code. In the event of a conflict between the requirements in this section and requirements in other parts of the Code, the requirements in this section shall apply for the purposes of developing Area Plans.

13.5.3. Development and Community Design Standards for Area Plans

A. Minimum Development Standards

Area Plans shall have development standards that are consistent with those in the table below.

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TABLE 13.5.3-1: MINIMUM DEVELOPMENT STANDARDS FOR AREA PLANS

Regional Land Use Districts	Wilderness	Backcountry	Conservation	Recreation	Resort Recreation	Residential	Mixed-Use	Tourist	Town Center Overlay	Regional Center Overlay	High-Density Tourist District Overlay	
Height [3]	N/A	Sec. 37.4							Up to 4 stories (56 ft) max. [1]	Up to 6 stories (95 ft) max. [1]	Up to 197' max. [2]	
Density SFD	Sec. 31.3											
Density MFD [3]	N/A	Sec. 31.3							With adoption of an Area Plan: - Residential: 25 units/acre (max.) - Tourist: 40 units/acre (max.)			
Land Coverage	Sec. 30.4 or Alternative Comprehensive Coverage Management System [See 13.5.3.B.1]											
Complete Streets	Sec. 36.5								[4]			

[1] With adoption of an Area Plan. To ensure compatibility with adjacent uses and viewshed protection, the findings in Sec. 37.7.16 shall apply.
 [2] 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. Such structures shall also comply with Sec. 37.7.17.
 [3] Areas of Community Plans outside of Centers shall not be eligible for the alternative height and density allowances authorized in Area Plans for Centers.
 [4] Plan for sidewalks, trails, and other pedestrian amenities providing safe and convenient non-motorized circulation within Centers, as applicable, and incorporating the Regional Bike and Pedestrian Plan.

B. Alternative Development Standards and Guidelines Authorized in Area Plans

1. Alternative Comprehensive Coverage Management Systems

An Area Plan may propose a comprehensive coverage management system as an alternative to the parcel-level coverage requirements outlined in Sections 30.4.1 and 30.4.2, provided that the alternative system shall: 1) reduce the total coverage and not increase the cumulative base allowable coverage in the area covered by the comprehensive coverage management system; 2) reduce the total amount of coverage and not increase the cumulative base allowable coverage in Land Capability Districts 1 and 2; and 3) not increase the amount of coverage otherwise allowed within 300 feet of high water of Lake Tahoe (excluding those areas landward of Highways 28 and 89 in Kings Beach and Tahoe City Town Centers within that zone). For

purposes of this provision, "total" coverage is the greater of existing or allowed coverage.

Alternative Comprehensive Management System: Process for Establishing Maximum Coverage

Step 1 – Document coverage information for each parcel in the coverage management area.

- A. Document base allowable land coverage (Sec. 30.4.1).
- B. Document maximum allowable land coverage (Sec. 30.4.2).
- C. Document TRPA verified existing land coverage (Sec. 30.3).
- D. Document total allowable land coverage — greater of B or C.
- E. If a parcel contains Land Capability District 1 or 2, calculate A–D separately for each LCD.

Step 2 – Calculate base allowable coverage and total allowable coverage for the management area.

- A. Calculate base allowable land coverage for management area (total of answer 1A for all parcels).
- B. Calculate base allowable land coverage for Land Capability Districts 1 and 2 (total of answer 1A for districts 1 & 2).
- C. Calculate total allowable land coverage for management area (total of answer 1D for all parcels).
- D. Calculate total allowable land coverage for Land Capability Districts 1 and 2 (total of answer 1D for districts 1 & 2).

Step 3 – Demonstrate that coverage limitations for the management area are consistent with Code requirements (Sec. 13.5.3.B.1).

- A. Base allowable land coverage for the management area shall not exceed answer 2A.
- B. Base allowable land coverage for Land Capability Districts 1 and 2 shall not exceed answer 2B.
- C. Total allowable land coverage for the management area shall be less than answer 2C.
- D. Total allowable land coverage for Land Capability Districts 1 and 2 shall be less than answer 2D.
- E. Total allowable land coverage shall not exceed 70%.
- F. Total allowable land coverage shall not increase the amount of coverage otherwise allowed within 300 feet of high water of Lake Tahoe (excluding those areas landward of Highways 28 and 89 in Kings Beach and Tahoe City Town Centers within that zone).

Final Requirement: Coverage Management System shall comply with items A-F.

2. Alternative Parking Strategies

Shared or area-wide parking strategies are encouraged in Area Plans to reduce land coverage and make more efficient use of land for parking and pedestrian uses. Shared parking strategies may consider and include the following:

- a. Reduction or relaxation of minimum parking standards;
- b. Creation of maximum parking standards;
- c. Shared parking;
- d. In-lieu payment to meet parking requirements;

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- e. On-street parking;
- f. Parking along major regional travel routes;
- g. Creation of bicycle parking standards;
- h. Free or discounted transit;
- i. Deeply discounted transit passes for community residents; and
- j. Paid parking management.

3. **Area-wide Water Quality Treatments and Funding Mechanisms**

An Area Plan may propose to establish area-wide water quality treatments and funding mechanisms in lieu of certain site-specific BMPs, subject to the following requirements:

- a. Area-wide BMPs shall be shown to achieve equal or greater effectiveness and efficiency at achieving water quality benefits than certain site-specific BMPs. For registered catchments, the water quality benefits of area-wide BMPs shall comply with applicable TMDL requirements. BMPs for unregistered catchments shall be shown to infiltrate the 20 year one hour storm (or address requirements in Code Section 60.4.8 (Special Circumstances));
- b. Plans should be developed in coordination with TRPA and applicable state agencies, consistent with applicable TMDL requirements;
- c. Area-wide BMP project areas shall be identified in Area Plans and shall address both installation and ongoing maintenance;
- d. Strong consideration shall be given to areas connected to surface waters;
- e. Area-wide BMP plans shall consider area-wide and parcel-level BMP requirements as an integrated system; and
- f. Consideration shall be given to properties that have already installed and maintained parcel-level BMPs, and financing components of area-wide BMP plans shall reflect prior BMP installation in terms of the charges levied against projects that already complied with BMP requirements with systems that are in place and operational in accordance with applicable BMP standards.
- g. Area-wide BMP Plans shall require that BMPs be installed concurrent with development activities. Prior to construction of area-wide treatment facilities, development projects shall either install parcel-level BMPs or construct area-wide improvements that provide equal or greater water quality benefits than parcel level BMPs.

4. **Alternative Transfer Ratios for Development Rights**

Within a Stream Restoration Plan Area as depicted in Map 1 in the Regional Plan, an Area Plan may propose to establish alternative transfer ratios for development rights based on unique conditions in each jurisdiction, as long as the alternative transfer ratios are determined to generate equal or greater environmental gain compared

to the TRPA transfer ratios set forth in Chapter 51: *Transfer of Development*.

C. Development Standards and Guidelines Encouraged in Area Plans

1. Urban Bear Strategy

In Area Plans, lead agencies are encouraged to develop and enforce urban bear strategies to address the use of bear-resistant solid waste facilities and related matters.

2. Urban Forestry

In Area Plans, lead agencies are encouraged to develop and enforce urban forestry strategies that seeks to reestablish natural forest conditions in a manner that does not increase the risk of catastrophic wildfire.

3. Development on Resort Recreation Parcels

In addition to recreation uses, an Area Plan may allow the development and subdivision of tourist, commercial, and residential uses on the Resort Recreation District parcels depicted on Map 1 of the Regional Plan and subject to the following conditions:

- a. The parcels must become part of an approved Area Plan;
- b. Subdivisions shall be limited to "air space condominium" divisions with no lot and block subdivisions allowed;
- c. Development shall be transferred from outside the area designated as Resort Recreation; and
- d. Transfers shall result in the retirement of existing development.

D. Community Design Standards

To be found in conformance with the Regional Plan, Area Plans shall require that all projects comply with the design standards in this subsection. Area Plans may also include additional or substitute requirements not listed below that promote threshold attainment.

1. Site Design

a. Development in All Areas

All new development shall consider, at minimum, the following site design standards:

- (i) Existing natural features retained and incorporated into the site design;
- (ii) Building placement and design that are compatible with adjacent properties and designed in consideration of solar exposure, climate, noise, safety, fire protection, and privacy;
- (iii) Site planning that includes a drainage, infiltration, and grading plan meeting water quality standards; and
- (iv) Access, parking, and circulation that are logical, safe, and meet the requirements of the transportation element.

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b. Development in Regional Center or Town Center

In addition to the standards in 13.5.3.D.1.a, development in a Regional Center or Town Center shall address the following design standards:

- (i) Existing or planned pedestrian and bicycle facilities shall connect properties within Centers to transit stops and the Regional Bicycle and Pedestrian network.
- (ii) Area Plans shall encourage the protection of views of Lake Tahoe.
- (iii) Building height and density should be varied with some buildings smaller and less dense than others.
- (iv) 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.
- (v) 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.

2. Building Height

- a. Area Plans may allow building heights up to the maximum limits in Table 13.5.3-1 above.
- b. Building height limits shall be established to ensure that buildings do not project above the forest canopy, ridge lines, or otherwise detract from the viewshed.
- c. Area Plans that allow buildings over two stories in height shall, where feasible, include provisions for transitional height limits or other buffer areas adjacent to areas not allowing buildings over two stories in height.

3. Building Design

Standards shall be adopted to ensure attractive and compatible development. The following shall be considered:

- a. Buffer requirements should be established for noise, snow removal, aesthetic, and environmental purposes.
- b. The scale of structures should be compatible with existing and planned land uses in the area.
- c. Viewsheds should be considered in all new construction. Emphasis should be placed on lake views from major transportation corridors.
- d. Area Plans shall include design standards for building design and form. Within Centers, building design and form standards shall promote pedestrian activity.

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4. Landscaping

The following should be considered with respect to this design component of a project:

- a. Native vegetation should be utilized whenever possible, consistent with Fire Defensible Space Requirements.
- b. Vegetation should be used to screen parking, alleviate long strips of parking space, and accommodate stormwater runoff where feasible.
- c. Vegetation should be used to give privacy, reduce glare and heat, deflect wind, muffle noise, prevent erosion, and soften the line of architecture where feasible.

5. Lighting

Lighting increases the operational efficiency of a site. In determining the lighting for a project, the following should be required:

- a. Exterior lighting should be minimized to protect dark sky views, yet adequate to provide for public safety, and should be consistent with the architectural design.
- b. Exterior lighting should utilize cutoff shields that extend below the lighting element to minimize light pollution and stray light.
- c. Overall levels should be compatible with the neighborhood light level. Emphasis should be placed on a few, well-placed, low-intensity lights.
- d. Lights should not blink, flash, or change intensity except for temporary public safety signs.

6. Signing

a. Area Plans may include alternative sign standards. For Area Plans to be found in conformance with the Regional Plan, the Area Plan shall demonstrate that the sign standards will minimize and mitigate significant scenic impacts and move toward attainment or achieve the adopted scenic thresholds for the Lake Tahoe region.

b. In the absence of a Conforming Area Plan that addresses sign standards, the following policies apply, along with implementing ordinances:

- (i) Off-premise signs should generally be prohibited; way-finding and directional signage may be considered where scenic impacts are minimized and mitigated;
- (ii) Signs should be incorporated into building design;
- (iii) When possible, signs should be consolidated into clusters to avoid clutter;
- (iv) Signage should be attached to buildings when possible; and
- (v) Standards for number, size, height, lighting, square footage, and similar characteristics for on-premise signs shall be formulated

and shall be consistent with the land uses permitted in each district.

E. Modification to Centers (Town Center, Regional Center and High Density Tourist District Boundary)

When Area Plans propose modifications to the boundaries of a Center, the modification shall comply with the following:

1. Boundaries of Centers shall be drawn to include only properties that are developed, unless undeveloped parcels proposed for inclusion have either at least three sides of their boundary adjacent to developed parcels (for four-sided parcels), or 75 percent of their boundary adjacent to developed parcels (for non-four-sided parcels). For purposes of this requirement, a parcel shall be considered developed if it includes any of the following: 30 percent or more of allowed coverage already existing on site or an approved but unbuilt project that proposes to meet this coverage standard.
2. Properties included in a Center shall be less than 1/4 mile from existing Commercial and Public Service uses.
3. Properties included in a Center shall encourage and facilitate the use of existing or planned transit stops and transit systems.

13.6. CONFORMITY REVIEW PROCEDURES FOR AREA PLANS

13.6.1. Initiation of Area Planning Process by Lead Agency

The development of an Area Plan shall be initiated by a designated lead agency. The lead agency may be TRPA or a local, state, federal, or tribal government. There may be only one lead agency for each Area Plan.

13.6.2. Initial Approval of Area Plan by Lead Agency

A. When TRPA is Not the Lead Agency

If the lead agency is not TRPA, then the Area Plan shall be approved by the lead agency prior to TRPA's review of the Area Plan for conformance with the Regional Plan under this section. In reviewing and approving an Area Plan, the lead agency shall follow its own review procedures for plan amendments. At a minimum, Area Plans shall be prepared in coordination with local residents, stakeholders, public agencies with jurisdictional authority within the proposed Area Plan boundaries; and TRPA staff.

B. When TRPA is the Lead Agency

If the lead agency is TRPA, the Area Plan shall require conformity approval under this section by TRPA only. No approval by any other government, such as a local government, shall be required.

13.6.3. Review by Advisory Planning Commission

The TRPA Advisory Planning Commission shall review the proposed Area Plan and make recommendations to the TRPA Governing Board. The commission shall obtain and consider the recommendations and comments of the local government(s) and other responsible public agencies, as applicable.

13.6.4. Approval of Area Plan by TRPA

For Area Plans initiated and approved by a lead agency other than TRPA, the Area Plan shall be submitted to and reviewed by the TRPA Governing Board at a public hearing. Public comment shall be limited to issues raised by the public before the Advisory Planning Commission and issues raised by the Governing Board. The TRPA Governing Board shall make a finding that the Area Plan, including all zoning and development Codes that are part of the Area Plan, is consistent with and furthers the goals and policies of the Regional Plan. This finding shall be referred to as a finding of conformance and shall be subject to the same voting requirements as approval of a Regional Plan amendment.

13.6.5. Findings of Conformance with the Regional Plan

In making the general finding of conformance, the TRPA Governing Board shall make the general findings applicable to all amendments to the Regional Plan and Code set forth in Sections 4.5 and 4.6, and also the following specific review standards:

A. General Review Standards for All Area Plans

The submitted Area Plan shall:

1. Identify all zoning designations, allowed land uses, and development standards throughout the plan area;
2. Be consistent with all applicable Regional Plan Policies, including but not limited to the regional growth management system, development allocations and coverage requirements;
3. Demonstrate how the Area Plan is consistent with the Conceptual Regional Land Use Map, including any amendments to the Conceptual Regional Land Use Map that are proposed to be part of the Area Plan in order to more effectively implement the Regional Plan Policies and provide Threshold gain;
4. Recognize and support planned, new, or enhanced Environmental Improvement Projects. Area Plans may also recommend enhancements to planned, new, or enhanced Environmental Improvement Projects as part of an integrated plan to comply with Regional Plan Policies and provide Threshold gain;
5. Promote environmentally beneficial redevelopment and revitalization within Centers;
6. Preserve the character of established residential areas outside of Centers, while seeking opportunities for environmental improvements within residential areas;
7. Protect and direct development away from Stream Environment Zones and other sensitive areas, while seeking opportunities for environmental improvements within sensitive areas. Development may be allowed in Disturbed Stream Environment zones within Centers only if allowed development reduces coverage and enhances natural systems within the Stream Environment Zone; and

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13.6 Conformity Review Procedures for Area Plans
13.6.5 Findings of Conformance with the Regional Plan

8. Identify facilities and implementation measures to enhance pedestrian, bicycling and transit opportunities along with other opportunities to reduce automobile dependency.

B. TRPA Utilization of Load Reduction Plans

TRPA shall utilize the load reduction plans for all registered catchments or TRPA default standards when there are no registered catchments, in the conformance review of Area Plans.

C. Additional Review Standards for Area Plans with Town Centers or Regional Center

In addition to the requirements of subparagraphs A and B above, submitted Area Plans that contain Town Centers or the Regional Center shall include policies, ordinances, and other implementation measures to:

1. Include building and site design standards that reflect the unique character of each area, respond to local design issues, and consider ridgeline and viewshed protection;
2. Promote walking, bicycling, transit use, and shared parking in Town Centers and the Regional Center, which at a minimum shall include continuous sidewalks or other pedestrian paths and bicycle facilities along both sides of all highways within Town Centers and the Regional Center, and to other major activity centers;
3. Use standards within Town Centers or the Regional Center addressing the form of development and requiring that projects promote pedestrian activity and transit use;
4. Ensure adequate capacity for redevelopment and transfers of development rights into Town Centers and the Regional Center;
5. Identify an integrated community strategy for coverage reduction and enhanced stormwater management; and
6. Demonstrate that all development activity within Town Centers and the Regional Center will provide for or not interfere with Threshold gain, including but not limited to measurable improvements in water quality.

D. Additional Review Standards for Area Plans within the High-Density Tourist District

In addition to the requirements of subparagraphs A, B, and C above, submitted Area Plans that contain the High-Density Tourist District shall include policies, ordinances, and other implementation measures to:

1. Include building and site design standards that substantially enhance the appearance of existing buildings in the High-Density Tourist District;
2. Provide pedestrian, bicycle and transit facilities connecting the High-Density Tourist District with other regional attractions; and
3. Demonstrate that all development activity within the High-Density Tourist District will provide for or not interfere with Threshold gain, including but not limited to measurable improvements in water quality.

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13.7 Procedures for Adoption of Memorandum of Understanding
13.6.6 Conformity Review for Amendments to Area Plans

If necessary to achieve Threshold gain, off-site improvements may be additionally required.

13.6.6. Conformity Review for Amendments to Area Plans

Following approval of an Area Plan, any subsequent amendment to a plan or ordinance contained within the approved Area Plan shall be reviewed by the Advisory Planning Commission and Governing Board for conformity with the requirements of the Regional Plan. Public comment before the Governing Board shall be limited to consideration of issues raised before the Advisory Planning Commission and issues raised by the Governing Board. The Governing Board shall make the same findings as required for the conformity finding of the initial Area Plan, as provided in subsection 13.6.5; however, the scope of the APC and Governing Board's review shall be limited to determining the conformity of the specific amendment only. If the Governing Board finds that the amendment to the Area Plan does not conform to the Regional Plan, including after any changes made in response to TRPA comments, the amendment shall not become part of the approved Area Plan.

13.6.7. Conformity Review for Amendments Made by TRPA to the Regional Plan that Affect an Area Plan

- A. TRPA shall provide lead agencies with reasonable notice of pending amendments that may affect Area Plans. TRPA also shall provide lead agencies with notice of Area Plan topics that may require amendment following adopted Regional Plan amendments pursuant to this section.
- B. If TRPA approves an amendment to the Regional Plan that would also require amendment of an Area Plan to maintain conformity, the lead agency shall be given one year to amend the Area Plan to demonstrate conformity with the TRPA amendment. The Governing Board shall make the same findings as required for the conformity finding of the initial Area Plan, as provided in subsection 13.6.5; however, the scope of the Governing Board's review shall be limited to determining the conformity of only those amendments made by the lead agency to conform to the TRPA amendment. If the Governing Board finds that the other government fails to demonstrate conformity with the TRPA amendment following the one-year deadline, then the Board shall identify the policies and/or zoning provisions in the Area Plan that are inconsistent and assume lead agency authority to amend those policies and provisions.

13.6.8. Effect of Finding of Conformance of Area Plan

By finding that an Area Plan conforms with the Regional Plan pursuant to the requirements of this chapter and upon adoption of an MOU pursuant to Section 13.7, the Area Plan shall serve as the standards and procedures for implementation of the Regional Plan. The standards and procedures within each Area Plan shall be considered and approved individually and shall not set precedent for other Area Plans.

13.7. PROCEDURES FOR ADOPTION OF MEMORANDUM OF UNDERSTANDING

13.7.1. Memorandum of Understanding (MOU) Required

After TRPA finds that an Area Plan is in conformance with the Regional Plan, TRPA and the lead agency shall enter into a Memorandum of Understanding (MOU) that clearly specifies the extent to which the activities within the Area Plan are delegated or

exempt from TRPA review and approval, and describes all procedures and responsibilities to ensure effective implementation of the Area Plan. Concurrent review of the Area Plan and the MOU is encouraged.

13.7.2. Contents of MOU

An MOU for an Area Plan shall contain, at minimum, the following elements:

- A.** A comprehensive statement of the type and size of all activities within the Area Plan that are delegated or exempt from TRPA review and approval;
- B.** A clear statement defining the projects over which TRPA will retain development review responsibility;
- C.** An agreement to make all findings required by the Compact, Regional Plan, Area Plan and Code for project approval and inclusion of special conditions not inconsistent with the Area Plan;
- D.** Identification of the types of proposed activities for which TRPA will receive notification pursuant to subsection 13.8.1;
- E.** Identification of the type and extent of procedures the lead agency government will use to notify TRPA of proposed local development activities and include TRPA in development review proceedings;
- F.** A description of how the Area Plan will be modified to reflect amendments by TRPA to the Regional Plan, as well as assurances to enforce and maintain conformance with the Regional Plan amendments prior to amendment of the Area Plan;
- G.** Statement of how the MOU for the Area Plan will relate to any existing MOUs that the lead agency government has with TRPA; and
- H.** If necessary, additional clarification of any requirements of this chapter, provided that all such clarifications are consistent with the intent and substance of this chapter and the Regional Plan.

13.7.3. Activities Requiring TRPA Approval

- A.** Projects and matters that meet one of the following criteria and that are also identified in Section 2.2.2 as requiring approval by the Governing Board or Hearings Officer shall not be delegated by TRPA under this chapter:
 - 1.** All development within the High-Density Tourist District;
 - 2.** All development within the Shorezone of Lake Tahoe;
 - 3.** All development within the Conservation District;
 - 4.** All development within the Resort Recreation designation and
 - 5.** All development meeting the criteria in the following table:

TABLE 13.7.3 -1: THRESHOLDS FOR GOVERNING BOARD REVIEW OF PROJECTS IN CENTERS			
(All measurements are new building floor area.)			
	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.

- B. The limits on delegation in Table 13.7.3-1 may be increased or decreased by the TRPA Governing Board. The levels of delegation may be increased or decreased based on the lead agency’s ongoing monitoring, reporting, and performance review, whether the lead agency’s actions on projects are consistent with the Area Plan, and whether the Area Plan’s terms and conditions are met.

13.7.4. Concurrent Review of Area Plan and MOU

By agreement between TRPA and the lead agency, the Area Plan and associated MOU may be reviewed concurrently at a single meeting, or sequentially at separate meetings. In all cases, the Area Plan and the MOU shall receive separate votes from the Governing Board based on the applicable criteria in this chapter. In all cases, the Area Plan shall be approved first, followed by approval of the MOU. Activities that are delegated or exempt from TRPA review shall be prescribed by ordinance immediately following MOU approval.

13.7.5. Deadline for MOU Approval and Suspension

TRPA shall work with the lead agency and make a good-faith effort to finalize the MOU in a timely manner. An MOU between TRPA and the lead agency shall be completed within six months of the Governing Board’s finding of conformity of the Area Plan. Reasonable time extensions beyond six months may be approved by TRPA for good-faith cause. An approval of an Area Plan that does not receive MOU approval within the required six-month period, including any approved time extensions, shall be suspended and have no effect for purposes of this Code. Suspended Area Plans may be resubmitted for approval by administrative action if the Area Plan has not been amended since Governing Board approval.

13.8. MONITORING, CERTIFICATION, AND ENFORCEMENT OF AREA PLAN

13.8.1. Notification to TRPA of Proposed Activities Requiring Public Notification in Area Plans

Lead agencies with approved Area Plans shall send to TRPA notice of all proposed activities that require public notification as specified in the MOU, and all applications to amend a policy or ordinance that is part of the Area Plan. The notice shall be sent pursuant to local notification procedures; however, in all cases the notice shall be sent no less than 10 days prior to the hearing in order to provide TRPA with adequate time to review and comment, if desired, on the project.

13.8.2. Monitoring

On at least a quarterly basis, lead agencies with approved Area Plans shall send to TRPA copies of all building permits issued in the Area Plan. At minimum, such building

permits shall contain and make clear the necessary development information that TRPA needs to measure compliance with the terms of the Area Plan, such as additional land coverage, commercial floor area, residential units, or tourist accommodation units (TAUs). In addition, TMDL regulatory agencies shall, through the TMDL adaptive management system, provide TRPA annual progress reports and analysis, copies of all MOAs and NPDES permits, and notifications of all breaches or violations of MOAs and NPDES permits.

13.8.3. Annual Review

TRPA shall annually select and review a sample of development permits issued within each Area Plan area in order to certify that the permits are issued in conformance with the Area Plan. The scope of this review is limited to determining the conformity of the sample developments to the Area Plan and shall not include a reconsideration of the conformity of the Area Plan to the Regional Plan. If TRPA determines that certain local development permits were issued in apparent conflict with the Area Plan, it shall notify the lead agency in writing of all specific discrepancies, including recommendations for remedying the discrepancies. The lead agency shall have thirty days to provide comments and suggest corrective actions, if necessary. After review of the comments, if any, from the lead agency, TRPA shall follow one of the procedures below.

13.8.4. Effect of Annual Review; Annual Report

A. Certification

If, based on its review of sample permits, including any responses and remedies already implemented by the lead agency, the Governing Board determines that development has been permitted in conformance with the Area Plan, then it shall certify that the permits are being issued in conformance with the Area Plan.

B. Certification Conditionally Granted

In response to TRPA comments in the annual review, the lead agency may identify corrective actions that are necessary to ensure that permits are being issued in conformance with the Area Plan. The lead agency shall have a maximum of six months to complete the identified corrective actions and provide a written response to TRPA. If TRPA determines that the lead agency has either failed to respond or has failed to respond adequately to the issues identified in the annual review, then TRPA shall take action pursuant to subparagraph C below.

C. Revocation of Part or All of MOU

If the Governing Board determines that development is not being permitted in conformance with an Area Plan, the Board shall revoke all or part of the implementation authority transferred to the lead agency government in the MOU and related ordinances. After this revocation, TRPA shall assume primary permitting responsibility for the activities related to the revoked items in the MOU.

13.8.5. Four-Year Recertification

As part of each four-year evaluation of the Regional Plan under Goals and Policies DP-2.1, TRPA shall review the conformance of each Area Plan with the load reduction plan

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13.9 Appeals

13.9.1 Purpose

for registered catchments, or TRPA default standards when there are no registered catchments. TRPA shall use catchment data and all reports to inform the four-year Area Plan recertification.

13.9. APPEALS

13.9.1. Purpose

The intent of the appeal process is to provide a mechanism for projects delegated to lead agencies to be brought before the TRPA Governing Board consistent with requirements of the Compact, eliminate frivolous appeals, deter appellants "laying in wait" by encouraging early and consistent engagement, increase procedural certainty and timeliness irrespective of outcomes, and to minimize project-by-project negotiation before the Governing Board.

13.9.2. Appeal Allowed

Final decisions on projects delegated to a lead agency may be appealed to the TRPA. An appeal may only be filed by an "aggrieved person" as defined in Article VI(j)(3) of the Compact. Decisions by the lead agency under independent local, state, or federal law are not the subject of this appeal process.

13.9.3. Basis of Appeal

The basis for an appeal under this section shall be limited to whether the decision by a lead agency is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.

13.9.4. Exhaustion Required

Appellants who are subject to the exhaustion provision in Compact Article VI (j) (3) shall exhaust all administrative remedies provided by the lead agency prior to appealing a decision to TRPA.

13.9.5. Deadline

An appellant shall file an appeal application to TRPA within 15 calendar days of the final lead agency decision.

13.9.6. Content of Appeal

An application for appeal shall contain the following:

- A. A clearly written statement explaining the grounds for appeal;
- B. Documentation to support the appeal claim; and
- C. Additional documentation may be provided by the applicant or lead agency to augment the record.

13.9.7. Fee

The appellant shall pay a fee of \$1,000 to TRPA for each appeal. A lead agency's fee for its internal appeals of delegated decisions shall not exceed the TRPA fee for appeals.

13.9.8. Stay of Lead Agency Decision

Once an appeal application is received by TRPA, the project approved by the lead agency shall be stayed pending the final outcome of the appeal.

13.9.9. Review of Appeal

A. Staff Recommendation and Hearing

Within 60 days after receipt of an appeal, TRPA staff shall make a recommendation to the Governing Board on the merits of the appeal, including whether the appeal is frivolous as defined in subsections 13.9.2 through 13.9.4. The Governing Board shall consider the recommendation concerning whether the appeal is frivolous in determining whether to proceed to consider the merits of an appeal and if it hears the merits it shall consider the recommendation concerning the merits. A hearing on the appeal shall be scheduled for the first Governing Board meeting after issuance of the staff recommendation.

B. Governing Board Action

1. The voting structure for the Governing Board for appeal decisions shall be the same as project votes before the Governing Board as defined in the Compact.
2. The Governing Board may take action the first time the appeal is presented to the Board or, after hearing the appeal, continue the action to the next Governing Board meeting.
3. If no action is taken by the Governing Board at the initial meeting at which the appeal is presented, the Governing Board shall take action at the next Governing Board meeting.

C. Standard of Review

Appeal review and action by the Governing Board shall be limited to whether the decision by a lead agency is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.

13.9.10. Effect of Decision

Appeals upheld by the Governing Board shall nullify the lead agency decision. If the project applicant desires to continue review of the application by the lead agency, they shall re-apply to the lead agency according to the same procedures required for the original application. The Governing Board may deny the appeal thereby affirming the lead agency's decision. The Governing Board may also modify a lead agency's decision on a project to make the decision consistent with the Area Plan. The Governing Board shall limit the use of its authority to modify lead agency decision's in order to minimize the filing of appeals to further negotiate permit conditions.