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## STAFF REPORT

Date: March 30, 2022

To: Tahoe Living Working Group

From: TRPA Staff

Subject: Update on Development Rights and Accessory Dwelling Units

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### Summary and Staff Recommendation:

Staff will review input received from the local jurisdictions on making it easier to obtain development rights for accessory dwelling units and provide an overview of next steps in this process.

### Background

The Phase 1 Housing Amendments approved in July of 2021 allowed accessory dwelling units (ADUs) on all residential parcels on the California side of the basin and are intended to accelerate the development of ADUs as a workforce housing type. Since the amendments were approved, TRPA has acknowledged three ADU permits, issued conditional permits for another three ADUs, while an additional eleven ADU applications are incomplete or are under review.

During the approval process for the Phase 1 amendments, Working Group and Advisory Planning Commission members noted the need to continue to evaluate development rights for ADUs. Working Group and APC members expressed concern over the fact that residential development rights are not related at all to the size of the unit, meaning that a one-bedroom ADU requires the same development right as a 5-bedroom house, making it hard for smaller units to compete for these market commodities. Further, Working Group members were concerned that the Bonus Unit pool could end up being used primarily for small ADUs, and the region would lose out on the opportunities for more housing that would have been provided if the units were used for 2- and 3-bedroom homes. Further, jurisdictions and developers note that Residential Units of Use are extremely hard to find on the open market, and their lack of availability may prevent the construction of ADUs and other workforce housing types.

As TRPA has been receiving ADU applications, we have been able to track the success of ADU applicants in obtaining development rights and the rate of use of Bonus Units for ADUs. TRPA has noted the following statistics:

- Since November 2020, TRPA has received 17 ADU applications.

- TRPA has acknowledged three of these ADU permits and has issued another three conditional permits. Of these six permits, four were for deed-restricted ADUs that were assigned Bonus Units, and two were for non deed-restricted ADUs.
- Of the remaining eleven permit applications, three propose deed-restricted units, three propose non deed-restricted units, and five have not specified whether the unit will be deed-restricted or not.
- Of the applications, one is for an ADU in El Dorado County, three are located in the City of South Lake Tahoe, and the remaining thirteen are located in Placer County.

Initially, applicants who wanted to build non deed-restricted units reported difficulty in finding residential units of use on the open market. The City of South Lake Tahoe has been able to offer a solution to that problem for applicants within the City by making some of its banked commercial floor area (CFA) available for sale for a reduced rate at the discretion of the City Manager. This CFA can then be converted to a Residential Unit of Use and used to construct an ADU.

At one-on-one meetings in January and February of 2022, TRPA and local jurisdiction staff discussed options for addressing the issues of scaling development rights and making banked development rights available.

#### Discussion

During the one-on-one meetings, jurisdictions expressed support for the following avenues to make it easier to obtain development rights for ADUs.

- **Formalize processes for distributing banked development rights at the local level.** El Dorado County, Placer County, and Washoe County stated that they are in various stages of proposals to their boards of commissioners to formalize processes for disposition of banked development rights. This may open up pools of development rights that could be used for ADUs and other workforce housing. However, the jurisdictions noted that since their boards are interested in encouraging commercial development, they could be hesitant to allow much or all of the banked CFA to be used for residential development without assurance that the CFA could be replenished in a timely manner from the TRPA pool.
- **Clarify use of 200,000 square feet of CFA banked with TRPA.** The TRPA code states that a pool of 200,000 square feet of CFA shall only be made available after the 383,579 sf of remaining CFA is exhausted (Section 50.4.1). Jurisdictions requested that TRPA provide guidance about how this 200,000 square feet of CFA will be distributed, and clarify whether all 383,579 must be used up before the 200,000 can be tapped, or whether a jurisdiction can access the 200,000 square foot pool when only its own allocation is exhausted. Jurisdictions would be more likely to use their own banked CFA if they knew that they could draw from the TRPA pool without having to wait for all the other banked CFA in the basin to be utilized first. One option for the 200,000 square foot pool of CFA would be to make it available to replenish the Bonus Unit pool.

- **Remove the requirement for an allocation to be matched one-for-one with a Potential Residential Unit of Use (PRUU) for multifamily development.** City staff pointed out that they have routinely reserved allocations for use only as multi-family development. However, due to the lack of availability of PRUUs on the market, these allocations have gone unused, and the City has released some of them back for use as single-family development.
- **Use a portion of Regional Early Action Planning 2.0 (REAP) funding to analyze benefits and impacts of the current, one-size-fits all development rights system.** REAP 2.0 funding, which will be available in July 2022 on the California side, could be used to better illustrate how the current, one-size-fits all development rights system impacts Regional Plan goals such as housing, walkable development, and environmental thresholds, including water quality and vehicle-miles traveled per capita. The results of this study would inform future recommendations related to scaling development rights by size.

#### Next Steps

TRPA will issue a memo for local jurisdictions to use that clarifies how the 200,000 CFA will be distributed, and under what circumstances the pool may become available to local jurisdictions. TRPA will also develop an RFP to be ready for release by early summer for further analysis of the development rights system and how it may be modified to account for current impacts to workforce housing, Regional Plan Goals, and environmental thresholds.

#### Contact Information:

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