

TAHOE REGIONAL PLANNING AGENCY
DEVELOPMENT RIGHTS WORKING GROUP
NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the **TRPA Development Rights Working Group** will meet on **Tuesday, February 27, 2017, at 10:00 a.m.**, at the **Tahoe Regional Planning Agency** located at 128 Market Street, Stateline, NV.

The Working Group selected a recommended alternative in September of 2017, which includes creation of exchange rates for types of development rights, removal of the local government development rights transfer approval requirement, and additional changes to improve the existing development rights system. The purpose of this meeting is to discuss planning and implementation considerations for the recommended alternative and next steps for the Development Rights Strategic Initiative.

Joanne S. Marchetta
Executive Director

TAHOE REGIONAL PLANNING AGENCY	
DEVELOPMENT RIGHTS WORKING GROUP	
Tahoe Regional Planning Agency	February 27, 2018
Stateline, NV	10:00 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear and may, for good cause, be continued until a later date.

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All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated. The Chair of the Development Rights Working Group Committee shall have the discretion to set appropriate time allotments (3 minutes for individuals and 5 minutes for group representatives). No extra time for speakers will be permitted by the ceding of time to others. Written comments of any length are always welcome. So that names may be accurately recorded in the minutes, persons who wish to comment are requested to sign in by Agenda Item on the sheets available at each meeting.

“Teleconference locations for Working Group meetings are open to the public ONLY IF SPECIFICALLY MADE OPERATIONAL BEFORE THE MEETING by agenda notice and/or phone message referenced below.”

In the event of hardship, TRPA DRWG members may participate in any meeting by teleconference. Teleconference means connected from a remote location by electronic means (audio or video). The public will be notified by telephone message at (775) 588-4547 no later than 6:30 a.m. PST on the day of the meeting if any member will be participating by teleconference and the location(s) of the member(s) participation. Unless otherwise noted, in California, the location is 175 Fulweiler Avenue, Conference Room A, Auburn, CA; and in Nevada the location is 901 South Stewart Street, Second Floor, Tahoe Hearing Room, Carson City, NV. If a location is made operational for a meeting, members of the public may attend and provide public comment at the remote location.

TRPA will make reasonable efforts to assist and accommodate physically handicapped persons that wish to attend the meeting. Please contact Marja Ambler at (775) 589-5287 if you would like to attend the meeting and are in need of assistance.

AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. PUBLIC COMMENT – All comments may be limited by the Chair.

Any member of the public wishing to address the Development Rights Working Group on any item listed or not listed on the agenda may do so at this time. TRPA encourages public comment on items on the agenda to be presented at the time those agenda items are heard. Individuals or groups commenting on items listed on the agenda will be permitted to comment either at this time or when the matter is heard, but not both. The Development Rights Working Group is prohibited by law from taking immediate action on or discussing issues raised by the public that are not listed on this agenda.

III. APPROVAL OF AGENDA

IV. APPROVAL OF MEETING SUMMARY (September 27, 2017, DRWG Meeting #5) Page 3

V. CHAIR WELCOME

VI. DEVELOPMENT RIGHTS STRATEGIC INITIATIVE MATTERS

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| A. Background and Work Program Status Report | Informational Only | <u>Page 17</u> |
| B. Approach for Completing the Development Rights Strategic Initiative | Informational Only | <u>Page 23</u> |
| C. Presentation and Discussion of the Development Rights Exchange Rates | Discussion and Possible Direction To Staff | <u>Page 29</u> |
| D. Presentation and Discussion of Eliminating the Local Jurisdictional Transfer Approval | Discussion and Possible Direction To Staff | <u>Page 42</u> |
| E. Presentation and Discussion of Severing Development Rights from a Sending Site | Discussion and Possible Direction To Staff | <u>Page 50</u> |
| F. <i>(Optional)</i> Update on Mountain Housing Council's Policy Recommendations on Affordable Housing | Informational Only | |
| G. Review of Next Steps & Action Items | Informational and Possible Direction To Staff | |

VII. WORKING GROUP MEMBER COMMENTS

VIII. PUBLIC COMMENT

IX. ADJOURNMENT

MEMORANDUM

Date: February 13, 2018
To: Development Rights Working Group
From: TRPA Staff
Subject: Draft Meeting Summary – September 26, 2017, Meeting #5 (Agenda Item VI)

Meeting Attendees

Working Group: Mark Bruce (Regional Plan Implementation Committee - RPIC), Shelly Aldean (RPIC), Jim Lawrence (RPIC), Clem Shute (RPIC), Bill Yeates (RPIC) Melanie Shasha (Advisory Planning Commission - APC, El Dorado County), Jennifer Merchant (Placer County), Jesse Patterson (League to Save Lake Tahoe), Patrick Wright (CA Tahoe Conservancy - CTC), Nicole Rinke (CA State Attorney General's Office), Lew Feldman (Feldman, McLaughlin, Thiel), and Charlie Donahue (Nevada Division of State Land-NDSL)

Absent Working Group Members: Austin Sass (RPIC)

Tahoe Regional Planning Agency (TRPA) Staff: Jennifer Cannon, John Hester, Joanne Marchetta, John Marshall, Alyssa Bettinger, Ken Kasman, Rebecca Cremeen

Consulting Team: Steve Gunnells (PlaceWorks), Charlie Knox (PlaceWorks), Carson Bise (TischlerBise), Colin McAweeney (TischlerBise)

Meeting Goals

1. Receive presentations on the results of the Fiscal Impact Analysis completed by TischlerBise, and the results of the evaluation of Options A-E and economic and planning analysis prepared by PlaceWorks; evaluate options using the goals and criteria created by the Development Rights Working Group (Factsheet #8, Goals and Criteria for Evaluating Alternatives, www.trpa.org/development-rights/).
2. Receive presentation from TRPA staff and discuss the recommended alternative.
3. Discuss and provide direction on the recommended alternative and outline refinements to the recommendation. This direction will support the development of recommended policy, code, and operational changes to the TRPA development rights system.

Meeting Outcomes

TRPA staff presented a project status update and reviewed the five alternatives (options) that were analyzed. Carson Bise and Colin McAweeney (TischlerBise) presented the Fiscal Impact Analysis background and conclusions to take away regarding the results. Steve Gunnells (PlaceWorks) presented the results of the evaluation on Options A-E, including analysis of economic repercussions based on pro

forma analyses, a review of financial feasibility for different project scenarios, and suggestions for moving forward. The project team presented a recommendation that was a hybrid of all the options analyzed. The selection of a recommended alternative concluded Phase two of the Development Rights Strategic Initiative (DRSI) and work will now begin on Phase 3. With a few refinements, the Working Group endorsed the recommended alternative, emphasizing that it was a step in the right direction.

Meeting Summary

Introduction and Presentation on Agenda Item VI.A Background and Work Program Status (TRPA)

- Approval of meeting notes from Meeting 4.
- Work Program Status Update: Jennifer Cannon gave an update on the work program, tasks completed thus far, and the objective for the day's meeting. TRPA staff is on schedule and is nearing the end of Phase 2 of the Development Rights Strategic Initiative. Since the last Working Group meeting, the project team evaluated the options for fiscal, economic, and planning considerations and how well they achieve or don't achieve the various goals and criteria that the Working Group developed in an earlier working group meeting. At this meeting, TRPA staff needs guidance from the Working Group on selecting a recommendation to move forward with.

The Working Group has accomplished quite a bit in the last five meetings. Over 50 in depth interviews with stakeholders were held to hear community concerns which helped develop the work program and the working group approach. Thus far, the Working Group has defined the mission and scope of work or focus for DRSI. TRPA staff hired the leading national expert (Rick Pruetz) in transfer of development rights policy to showcase best practices and techniques that have worked in jurisdictions outside of the Tahoe Basin. Through this process, the Working Group developed a range of options that were analyzed over the summer of 2017. The options are as follows:

- A. Option A includes features to simplify the system by converting the eight current types of units into one common unit. In addition, this option calls for the removal of the local government veto for interjurisdictional transfers to allow development rights to move freely between jurisdictions to meet community demand.
- B. Option B allows for a more robust development rights banking system. This would give applicants the option to pay a fee instead of having to go through the process of acquiring development rights. This option would also allow the banks to shift pricing to meet goals and to charge an extra fee for individual single-family homes over a certain size.
- C. Option C includes procedural improvements in the permitting process to reduce the upfront requirements for development rights to a later stage in the development process.
- D. Option D is the combination of options A, B, and C.
- E. Option E targets redevelopment by allowing development rights from the TRPA bonus unit pools to be allocated freely in certain areas including town centers and within ¼ mile of primary transit routes. This option includes the single currency and the veto; however, the sending jurisdiction can demand reimbursement for property and transient occupancy tax losses for up to 3 years. It also includes additional restrictions for building new short-term vacation home rentals.

Presentation and Discussion on Agenda Item VI.B. Fiscal Impact Analysis results

Carson Bise and Colin McAweeney presented the framework, scenarios, results from the Fiscal Impact Analysis. The analysis used a marginal/average cost hybrid approach and considered two jurisdictions: Placer County and the City of South Lake Tahoe. A fiscal impact analysis determines whether revenues generated by development are sufficient to cover the resulting costs from public service and facility demands under the existing levels of service. It is intended to help guide policy decisions regarding levels of service and revenue enhancements and should not be viewed as a definitive budget-forecast and roadmap for action. The analysis includes the following three distinct land use development pattern scenarios over a 20-year timeframe. These scenarios are conceptual and should not be construed as development rights system alternatives.

- Scenario 1: Trend growth patterns. This scenario assumes no changes in the existing development patterns. They used historical permit data (development right allocations) and information gathered from interviews with staff members.
- Scenario 2: Mixed and Multi-Family Development. This scenario assumes that future growth will be contained within designated Centers consistent with the Regional Plan and local plans. This scenario keeps the number of housing units the same, but increases the number of multi-family housing units as well as mixed use, retail and hotel units. Please note that infill development tends to shift the cost burden for project-level infrastructure to the jurisdiction instead of developers building on greenfield land.
- Scenario 3: Less development. This scenario assesses reduction in development that could occur when a land bank buys and decommissions land that would alternatively be developed. This scenario retained half of the new development seen in the trend line, in the current spatial distribution.

Overall, the results of the analysis for all three scenarios showed a net positive fiscal impact for both jurisdictions. Over time as development increases, revenues increase concurrently. With the investment in additional capital facilities both jurisdictions have operating and infrastructure capacity to accommodate the assumed additional growth. The analysis for the City of South Lake Tahoe found that after a few years, the revenue would be sufficient to cover capital and operating costs for all the scenarios. In Placer County, all three scenarios experienced a boost in revenue after the Tahoe City Lodge is operational and the Less Development scenario has the highest net positive fiscal impact since additional growth requires new capital facilities and additional operating expenditures. Placer County has more financial obligations and higher expenditures in comparison to the City of South Lake Tahoe since the city has service support from El Dorado County.

Discussion

- John Hester noted that one of the reasons for seeking out the grant for this analysis was to ensure that the Working Group developed a system that didn't fiscally harm the local governments. Even with the baseline, the analysis shows a positive future. John Hester thanked Jennifer Merchant, from Placer County and Kevin Fabino, from the City of South Lake Tahoe for participating with our team on this project.

- Larry Sevison mentioned that development unit restrictions on multi-family residential brought apartment development to a standstill. He asked the Working Group if they were going to reinstitute improvements to get multifamily to a level playing field.
- Lew Feldman asked about how the parameters for the assumptions used in the analysis were formed. Colin McAweeney (TischlerBise) explained that housing units were used to generate population for residential units, and this was projected as steady growth through 20 years. Current square footage available in the local jurisdiction pools for commercial floor area was used to forecast growth of non-residential units at a 4% growth rate over the 20 years.

Presentation and Discussion on Agenda Item VI.C Economic Impact Analysis and Options Evaluation

Steve Gunnells began the presentation by explaining some of the terminology used throughout his presentation such as “residual land value”, “pro forma”, and “financially feasible.” Developers need to have a certain amount of cash equity in the project, and in general, the developer often gains finances from somewhere else (such as a real estate investment group), and is not the one putting money toward the project. The residual land value is the amount of money that is left over to buy the land for the project.

Pro forma analyses show all of the costs to develop a project and the revenue it will generate when it is built. A pro forma analysis determines if a development project is financially feasible by comparing the amount a developer can afford to pay for a site after all other costs and the target internal rate of return (IRR). The IRR is the rate of return after accounting for all other costs for a particular project. Investors typically require at least a 15% IRR or they will not fund the project.

If the amount the developer can afford to pay is more than the estimated average cost of the land (i.e., the residual land value is less than the anticipated revenues), the proposed development is financially feasible; if it is less than the estimated average cost of the land (i.e., the residual land value is greater than the anticipated revenues), the proposed development is not financially feasible. However, there are degrees to which development might not be financially feasible. Some projects may require a slight escalation in rents or sales prices to be feasible while others might not be financially feasible unless a site were available for significantly less than the estimated average cost. When the analysis identifies a development as financially feasible, it means developers should generally be able to develop the project on most available sites in the region.

This analysis used a basic Average Daily Traffic (ADT) development rights conversion method. These conversions were developed for analytical purposes and they would need to be modified and finalized if the Working Group moves forward with operationalizing the single currency recommendation. A key takeaway of the ADT conversion analysis is that multi-family housing has less average daily traffic than single-family housing, therefore, multi-family housing could have less of a development right cost than single-family. However, when the ADT conversion method is used, less conversion to commercial development is likely because commercial typically generates more trips in comparison to residential or tourist lodging development. It is more likely commercial development rights will be converted to other types of development rights.

The results include development scenarios from approved proposed projects as well as developed projects in the Lake Tahoe Region. The analysis breaks out average sale values and average rents. For Sale products refer to residential units. Under the current development rights system, the results show that it is feasible to build single, multifamily or commercial units when the product is for sale. Multi-family units that are for rent are almost not feasible. Developers can afford to pay about 5% of the average cost to acquire land (i.e., 95% of the residual land value cannot be covered by anticipated revenues). Commercial units that are for rent can expect to recover about 61% of the residual land value. Tourist accommodation development is only feasible when the average daily room rate is at least \$200, and there is a 65%-70% occupancy rate. Currently, for-rent units in mixed-use developments are not feasible. The following are the results for each option analyzed:

- Option A- Unitary Currency: Analyzing this option, the analysis shows the financial feasibility of for rent multi-family units increasing to cover more of the residual land value, but not enough to make it feasible, and commercial financial feasibility decreases significantly, likely due to the conversion assumptions previously discussed.
- Option B- Development Rights Fee/Banks: These organizations currently cannot sell development rights for less than fair market value. However, the analysis shows the residual land value that can be covered by revenues increases significantly when there is an outside source subsidizing the price of development rights for applicants. There are also some beneficial procedural changes that should be implemented, such as allowing development rights to be removed from a property and banked without having to commit them to a development project at another site.
- Option C- Deferred purchase of development rights: This option only modestly increases the numbers slightly over the baseline, but is a good step in making development more financially feasible.
- Option D- Combination of options A-C: The financial feasibility improves, but multifamily units are still challenging to develop.
- Option E-3- Interjurisdictional Compensation. This option would depend on the type of development, and if the receiving site would shift the cost burden of estimated property and transient occupancy tax losses to the developer.
- Option E-4- Maximum Development Potential. This option shows greater financial feasibility; however, it would give development rights away at no cost. These higher numbers would only remain as long as the pools of “no cost” development rights remain, and there would need to be some sort of mitigation since these rights might not be used for restoration of environmentally sensitive lands.

Discussion

- Shelly Aldean asked if ADT is considerably less when you can walk to commercial in mixed-use development and whether the assumptions made it mandatory that you use a vehicle to access commercial development? Steve Gunnells responded saying the analysis did not account for trip reductions that are typically found in mixed-use development. Moving forward, the ADT conversion could better account for mixed-use development trip reductions and it could be refined based on more specific data. Commercial space, even with residential units above it, doesn't always generate less ADT if it's isolated; it needs to be located in an area with ideal distances to destinations.

- Clem Shute asked about the difference between the conversion ratio PlaceWorks used in their analysis, and the conversion ratio TRPA used in the Commercial Floor Area-Tourist Accommodation Bonus Unit Conversion Pilot Program. TRPA staff responded by explaining how TRPA developed an environmentally neutral conversion ratio through a method that examined environmental threshold differences for commercial floor area and tourist accommodation units. Consequently, a conversions ratio was developed based on trip generation (ADT) that was weighted by the existing regional fabric of tourist and commercial development, vehicle miles traveled using our regional transportation plan model, and the average size differences of the different development units. PlaceWorks used a more simplified method for developing conversion ratios that relied only on ADT considerations.
- Steve Gunnells noted that the analysis assumed \$165 per square foot for construction costs. Lew Feldman responded saying the typical construction cost in the Basin is \$300-\$400 per square foot. For a duplex or triplex, costs would be about \$225 or \$260 per square foot.
- Steve Gunnells noted that lodging is challenging to analyze as it can be as large as a casino or as small as a bed and breakfast. The analysis assumed that the tourist lodging units were small.

Presentation on the Evaluation Criteria Results by Steve Gunnells

- The bonus incentive program helps provide an extra incentive for redevelopment in town centers and the restoration of Sensitive Environmental Zones (SEZs).
- Option B is attractive only because funding is coming from an outside source. There is an advantage of development rights banks because developers know how much development rights will cost, and where they can acquire them.
- Legal issues included in the analysis:
 - Because TRPA is not setting the price per unit, the unitary currency option could diminish the value of multi-family and tourist lodging units for existing holders of development rights, and add value to commercial units.
 - A feature of Option B is to create an additional funding source that could subsidize the price of development rights. This includes the application of a new fee for single-family development that is over a certain baseline floor area threshold. Legally, a nexus between the threshold, the fee amount, and where the funding from the fee was going would need to be provided.
- Currently, there are bonus unit incentives for transfer of development and the restoration of Stream Environment Zones (the most environmentally sensitive lands in the Tahoe Region). With Option E, the bonus unit development rights from the TRPA pools would now be available to developers not restoring sensitive land but building development within ¼ mile of primary transit routes or in Town and/or Regional Centers. Therefore, this policy shift could deplete the bonus unit incentive pool currently set aside for the restoration of environmentally sensitive lands, and could undermine the environmental impact analysis for the Regional Plan amendments adopted in 2012.

PlaceWorks Recommendations

- Move forward with a single currency.
- Eliminate the interjurisdictional veto. Use a monitoring process to track the rate of interjurisdictional transfers.

- Facilitate an active role for development rights banks.
- Defer the purchase of development rights to the final acknowledgment stage.
- Postpone changes to development rights incentives/requirements for one year or two to see long term impacts of the system.
- Use robust tracking and monitoring to evaluate the performance of the modifications.

Discussion

- Jennifer Merchant suggested that developers pay a reduced fee or no fee if under a certain baseline floor area.
- Steve Gunnells reminded the group that a development rights bank could be implemented for affordable housing, but it would need to be through a partnership process with the land banks to deliver a subsidy to certain types of development rights. Setting the price of units is outside of TRPA's purview.
- Patrick Wright prefers to partner with TRPA through an Memorandum of Understanding (MOU) to decide on the priorities for land banks.
- Steve Gunnells mentioned that the analysis looked mostly at apartments in terms of multi-family housing.
- Jesse Patterson noted that it is significantly less than \$200 per night to stay in short term vacation rentals in the Lake Tahoe Region. He suggested that the analysis consider average daily rates in competing mountain towns.
- Steve Gunnells reminded everyone that revamping the development rights process alone will not solve all the issues with affordable housing. The Working Group would need to work in conjunction with parallel processes that target affordable housing.
- Shelly Aldean is concerned with how to explain the square foot conversion factor to the developers that currently own development rights.

Presentation on Recommended Alternative

TRPA staff presented the recommended alternative; a hybrid of all the options, including elements from Options A, B, C, D, and E. The recommendation consists of five main components: 1) Establish a single currency, 2) Eliminate local government veto of interjurisdictional transfers of development rights, 3) Enhance the development rights banking system, 4) Simplify requirements, and 5) Consider any additional changes in incentives and/or requirements in the future. Each of these components is outlined in more detail below.

1. Move to a single currency:

- a. Moving to the use of a single currency would simplify the system. The use of multiple types of development rights increases the complexity. This is a unique feature in Tahoe, as discussed in the Best Practices report, other jurisdictions do not have the complication of multiple types of development rights.
- b. Recommend using square feet since this is already required with our land coverage and mitigation fee requirement.

- c. The conversions should be environmentally neutral, similar to the way CFA-TAU bonus unit conversions were developed.
 - d. TRPA track the conversions and different development right transactions. TRPA will continue to advance the tracking and monitoring systems through LTInfo.
2. **Modify interjurisdictional transfer veto:**
 - a. The veto would be eliminated and then automatically reinstated if the net transfer from a jurisdiction exceeds 20%.
 3. **Allow others to establish development rights (DR) banking systems:**
 - a. California Tahoe Conservancy (CTC), Nevada Division of State Lands (NDSL), local governments, etc. can set up banks where development rights are held, sold, purchased, conveyed, or donated.
 - b. DR banks can set the price of development rights and subsidize fees for priorities (such as environmentally beneficial redevelopment projects).
 4. **Procedure simplification:**
 - a. Development rights required by TRPA at final permit acknowledgement versus upfront, in the beginning of the permitting process.
 - b. Allow Development Rights banks to “finance” the purchase of development rights to defer requirements to a later point in the development process such as after the development is built and is generating transient occupancy tax revenue.
 5. **Allow for incentives and requirements improvements to be added to make the system perform better and implement the Regional Plan:**
 - a. Extensive monitoring is recommended to build understanding of the program outcomes.
 - b. To communicate the changes effectively, ongoing engagement and education delivered in a user-friendly way is proposed.

Discussion

- For interjurisdictional transfers, TRPA staff clarified that there is no compensation to the sending site jurisdictions in the recommendation.
- John Hester noted that TRPA needs to partner with these DR banks to implement the Regional Plan. He suggested the Working Group should entertain strategies for TRPA to support agencies such as CTC and NDSL gaining funding.
- Patrick Wright noted that many agencies have existing banks, the question is how to expand these banks. TRPA needs to emphasize to the States of NV and CA that Development Rights land banks are a priority. Banks will likely need legislative action to subsidize the commodities.
- Jim Lawrence reminded the group that gaining additional funding for banks may be tough on the Nevada side, as the market for Development Rights is not as robust. He questioned whether this would be considered a priority in the legislative process when ranked against AIS, TMDL improvements, forest health, etc.
- Patrick Wright recommended that the bonus incentive system should be simplified. He also stated that the CTC would want to partner with TRPA and the local jurisdictions to decide on development priorities.

- John Hester asked if the Working Group is ready to move forward and turn this into draft changes and code amendments in the next few months.

1. Single Currency

- Clem Shute reiterated that the Working Group was not working to solve affordable housing or vacation home rental issues, and that the options could be evaluated down the road to target those specific issues.
- Lew Feldman asked how those owning existing development rights would be economically impacted with different possible conversion ratios.
- Larry Severson asked if there was an opportunity through this recommendation to bring substandard housing on the North Shore up to standard conditions (*with safe and adequate infrastructure*).
- John Hester responded saying that this recommendation may not make redevelopment feasible, but it is a step toward making investors and developers consider building projects in the Basin.
- Joanne Marchetta suggested sending the affordable housing issues to the housing policy forums such as the South Shore Housing Task Force and Mountain Housing Coalition, and that we work in conjunction with them. Jennifer Merchant recommends TRPA participation in these groups; housing is complex and varied and we are not going to solve it here.
- Nicole Rinke is concerned about using ADT as the method for conversion and she was concerned about whether it captures environmental neutrality. She is also concerned that certain commodity pools will be lost if the group decides to move to a single currency in a way that would require the different pools with different types of development rights (such as Residential Bonus Units, Tourist Accommodation Units) to be converted to a single currency (such as development square feet).
- Jim Lawrence supports moving to a single currency for simplification purposes but also because it updates the system from the 1970's.
- Shelly Aldean supports moving to a single currency because it enables the developer to make decisions on what is profitable based on the market.
- Steve Gunnells noted that going to a single currency helps the market fill the gap. For example, if CFA is being converted to residential, it is likely because the existing CFA is not profitable. This might not be a net loss, because the loss would flow to other businesses.
- Clem Shute stated that ADT shouldn't be solely used for the conversion ratios. The single currency should not be expressed in terms of square feet, but in terms of equivalencies between different types of development rights (such as exchange rates).
- Jennifer Merchant and other Working Group members expressed the need to limit the amount of square feet that could be developed with a development right.
- John Hester added that there would be a nexus issue in order to charge an added fee or require an additional development right for larger homes.
- Clem Shute proposed moving forward with the single currency, but instead of using development square feet as the single currency use conversion exchange rates. He also suggested that we not

deal with the size of the home as long as it is environmentally neutral. The group agreed to move forward in that way.

- Jennifer Merchant, Shelly Aldean and a few other Working Group members suggested implementing the recommendation as a “pilot project” for a set amount of years, to keep monitoring and tracking and make any changes to the conversion ratios or exchanges if necessary. In response, Lew Feldman and Patrick Wright opposed this idea, saying that developers want certainty, and changing the project in five years does not allow for certainty. In order to get money from the State, they will need to propose a solid change to the project, not a pilot project. Clem Shute asked for consensus on moving forward with not implementing a pilot program and the consensus of the working group was to move forward with the recommendation without a pilot program.
- Shelly Aldean suggested that the project team meet with developers to discuss potential conversion exchange rate options.

2. Modify Interjurisdictional Transfer Veto

- John Marshall stated that we would remove the interjurisdictional transfer veto, not modify it, but would reinstate it if the net transfers exceeded 20% of the total supply of development rights in the sending site jurisdiction.
- Jim Lawrence and TRPA staff clarified that the reinstated veto would go only to the sending site jurisdiction.
- Shelly Aldean asked who would be the arbiter in reinstating the veto.
- Jennifer Merchant requested more information on the 20% value.
- In response, Steve Gunnells said that 20% seemed to be at a level that would impact the local jurisdiction, but he pointed out that this could be based on more solid information. He suggested that the jurisdictions monitor and analyze the values. They could ask TRPA to reinstate the veto if the threshold is exceeded.
- John Hester clarified that the net outflow from one jurisdiction divided by the total transfers in a year exceeds 20%, that jurisdiction could approach TRPA’s Governing Board with justification for why they would like to reinstate the veto.
- Bill Yeates suggested that TRPA staff decide on what a reasonable percentage of the total losses would need to be to reinstate the veto.
- John Hester clarified that TRPA will come up with a reasonable percent, for example if 5% of the total development rights in a jurisdiction are moved out, they can come to TRPA and ask for reinstatement of the veto.

3. Development Rights Banking System

- Patrick Wright stated that legislative clarification of the reason for development rights being sold below market value would be important.
- Jesse Patterson asked what the benefit is of using private entities as land banks.
- A few members of the Working Group mentioned that private entities may have more money to subsidize development rights for certain priorities; the allowance of private parties to participate

provides more flexibility. There have been instances of groups who have wanted to buy development rights for environmental benefits.

- Jim Lawrence mentioned that there are groups that are interested in the environmental commodity business and investing in wetlands mitigation banking, etc. This may not be a bad thing.
- Nicole Rinke is uncomfortable that private entities could play a large role in setting priorities for the basin.
- Shelly Aldean is concerned that private companies would sit on development rights.
- Jennifer Merchant suggests that the DR banks be monitored.
- Charlie Donoghue suggests TRPA Governing Board write to California and Nevada proposing this recommendation, and that it is a priority among other projects like AIS, Stormwater, etc.
- Clem Shute proposes moving forward with the DR banking part of the recommendation if those participating are subject to a Memorandum of Understanding (MOU) with TRPA. In addition, he suggested that we only allow the CTC, NDSL, local governments, and non-profits to hold, sell, purchase, convey, and donate development rights. The group agreed to move forward with this refined part of the recommendation.
- John Marshall noted that TRPA will look at conversion ratios in the code.

4. Procedure Simplification

- Nicole Rinke requested clarification about the deferral past the permit acknowledgement. Would TRPA be involved in this contract?
- In response, John Hester clarifies that at final permit acknowledgement, TRPA would require the Development Right(s). In the MOUs with the DR banks, TRPA would give them the authority to finance Development Rights to TRPA. This would give DR banks the ability to reduce the upfront burden of applicants to provide development rights even later in the process.
- The Working Group agreed to move forward with this part of the proposed recommendation (without changes).

5. Future Incentives and Requirements

- Patrick Wright would like to work with the City and TRPA to develop guidance on where the DR bank commodities or development rights should go, so it's not allocated simply on a "first come, first served" basis, but at the same time it's not completely up to the state on how to allocate development rights. In response, John Hester asked if this prioritization could be worked out periodically and be written out in the MOU.
- Lew Feldman suggested that half of the remaining residential bonus units be freely allocated for workforce housing that is around 120% of the average median income. He said this would accelerate on the ground development of workforce housing.
- Clem Shute asked the group to discuss Lew Feldman's request to use up to half of the residential bonus units towards "workforce housing" projects.
- Jennifer Merchant mentioned that the Mountain Housing Council is recommending 180% of the Area Median Income (AMI) for "achievable housing" options for the region.

- Lew Feldman clarified that there is no harm in declaring that the units in the bonus pool could be used for up to 150% or 180% of the area median income. He is fine with getting a more refined recommendation based on the Mountain Housing Council data.
- TRPA staff will look at average numbers from the Mountain Housing Council for the region and offer a recommendation for how to define “workforce housing” and implement the recommendation for using up to half of the remaining residential bonus units for workforce housing.
- Lew Feldman mentioned that it would be useful to understand the impact on current values with the updated exchange rates and any other recommended exchange rates.
- Patrick Wright noted it would be helpful to have a ballpark timeframe for the implementation of each part of the recommendation.

TRPA staff summarized the changes for the recommendation:

1. Conversion Exchange Rates

- Add mixed-use trip generation reduction considerations in the conversions or exchange rates.
- Use equivalencies between different types of development rights (i.e., exchange rates or conversions) instead of development square feet (or converting all the different types of units to a single currency).

2. Modify Interjurisdictional Transfer Veto

- Veto reinstatement ability only applies to the jurisdiction sending a certain net percent of their total development rights.
- The project team will work together to provide a recommendation on the percentage for when local jurisdictions (sending development rights) can request that TRPA reinstate the veto authority. If net transfers exceed a to-be-determined percentage of the total development rights in a respective jurisdiction, the respective local jurisdiction can request that TRPA reinstate the veto authority for that jurisdiction. Reinstatement of the veto authority requires that the local jurisdiction requesting the reinstatement of the veto authority provide sufficient evidence to prove significant economic or fiscal impact and gain approval from the TRPA Governing Board. A recommendation on the specific percent economic/fiscal loss for a local jurisdiction will be provided as part of the next phase of this initiative.

3. Development Right Banking System

- TRPA will support CTC and NDSL in their quest for legislative changes and other adjustments to enable development rights sales below “fair market value” if they support the Regional Plan priorities.
- TRPA will create new or update existing MOUs with CTC, NDSL, and local governments to identify local goals and priorities for development rights banking. TRPA will work with CTC and NDSL to identify specific priorities for below “fair market value” sales on an as-needed basis and, if applicable, will consider adding documentation on these recommended priorities in the respective MOUs with the CTC and NDSL.

- In addition, TRPA will examine opportunities to streamline the bonus unit delivery process by adding clarifications in the TRPA Code of Ordinances.
- DR banks will be allowed to move or hold the development rights separate from the original sending site parcel even if there is no receiving site. These units must be recorded to TRPA requirements. The original sending site information and all transactions will need to be tracked within the TRPA development rights database.
- Subject to a Memoranda of Understanding (MOU) with TRPA, non-profit organizations or non-government organizations will be given the ability to operate as DR banks in the region.

4. Procedure Simplification: No changes identified at this time.

5. Future Incentives and Requirements

Determine a percentage of area median income that could use up to half of the Residential Bonus Unit Pool (currently set aside for affordable housing) and derive a recommendation that is informed by the Mountain Housing Council data (or best available information).

Action Items

1. The project team will work together to provide a recommendation on a reasonable percentage of the total loss for when local jurisdictions (sending development rights) can request that TRPA reinstate the veto authority for interjurisdictional transfers. If net transfers exceed a certain to-be-determined percentage of the total development rights in a respective jurisdiction, the respective local jurisdiction can request that TRPA reinstate the veto authority for that jurisdiction. Reinstatement of the veto authority requires that the local jurisdiction requesting the reinstatement of the veto authority provide sufficient evidence to prove significant economic or fiscal impact and gain approval from the TRPA Governing Board. A recommendation on the specific percent economic/fiscal loss for a local jurisdiction will be provided as part of the next phase of this initiative.
2. TRPA staff and members of the project team will look at the data from the Mountain Housing Council and offer a more refined recommendation for how to define “workforce housing” and implement the recommendation that would allow the use of up to half of the remaining residential bonus units for workforce housing. TRPA will need to determine what percent of the area median income would be eligible for this workforce housing incentive by considering the cost of living, relevant available data, and other local context considerations.
3. The project team will work on how development rights held separate from the original sending site parcel shall be recorded. The original sending site information and all transactions will need to be tracked within the TRPA development rights database.
4. In addition, TRPA will examine opportunities to streamline the bonus unit delivery process by adding clarifications in the TRPA Code of Ordinances.

5. The project team will further refine the exchange rates or conversions between development rights. They will follow up on the addition of mixed-use trip generation reduction considerations in the conversion exchange rates. In addition, the project team will consider meeting with developers or other real estate stakeholders to discuss potential conversion exchange rate options and different implications.
6. The project team will develop a schedule, scope of work, and list of deliverables for Phase 3, the implementation of the recommendation. The schedule will include meetings with the land banks to work out MOU amendment details.

Next Steps

TRPA staff and consultants presented the status of the initiative and the recommendation to the TRPA Advisory Planning Commission and TRPA Governing Board in October. TRPA finalized the Phase 3 Scope of Work in October and will begin this work in November 2017.

TRPA will work on responding to the above action items and provide draft policy, code, and MOU changes early in 2018. This work will be presented to the working group in February 2018. This will be the sixth working group meeting for the DRSI.

The intent is to move forward with only an environmental checklist. The project team will finalize the code, plan, operational changes, and environmental documentation in the late summer, or early fall 2018. This too will be reviewed by the Working Group prior to moving forward with the hearings to adopt these changes.



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MEMORANDUM

Date: February 13, 2018
To: Development Rights Working Group
From: TRPA Staff
Subject: Background & Work Program Status Report (Agenda Item VI.A)

Requested Action

No action is required. This is an informational item.

Summary

TRPA staff will present a status report of Work Program tasks and accomplishments at each Development Rights Working Group (DRWG) meeting. The TRPA Governing Board approved the Work Program on July 27, 2016.

DRSI’s mission is to consider alternatives to the current development rights system (a.k.a., commodities system) that better manage growth, support environmentally beneficial and economically feasible redevelopment, and improve the effectiveness and predictability of the current development rights system within the Lake Tahoe Basin. DRSI employs a stakeholder and working group process to clarify issues, formulate strategic approaches, and develop a recommended alternative that aligns with the Lake Tahoe Regional Plan.

The approved DRSI Work Program includes four key phases to be completed by the end of 2018:

DRSI WORK PROGRAM SUMMARY		
Phases	Schedule	Tasks
Phase 1	Oct 2015 - Aug 2016	<ul style="list-style-type: none"> o Completed stakeholder assessment. o Developed work program and process. o Formed a working group and outreach strategy. o Developed educational materials. o Updated online development rights data.
Phase 2	Aug 2016 - Oct 2017	<ul style="list-style-type: none"> o Documented existing conditions and policies. o Defined scope of the initiative. o Identified desired system behavior. o Completed assessment of best practices. o Identified and evaluated preferred alternatives.
Phase 3	Nov 2017 - Oct 2018	<i>See below.</i>
Phase 4	TBD	TBD (contingency)

DRSI now in Phase 3 of the initiative. The goals of Phase 3 are to refine criteria for the adoption and implementation of preferred alternatives identified in Phase 2, complete environmental review, and ensure these alternatives adhere to the overall DRSI mission.

Phase 3 specific tasks as outlined within the work program include:

- 3.1 Develop policy, code, and procedural amendments.
- 3.2 Complete environmental review.
- 3.3 Gain formal approval for proposed alternatives and amendments through a public hearing process.
- 3.4 Secure funding, if needed, to implement alternatives and amendments.

Work Program Status Update

Tasks		Status	Date Task Discussed at DRWG Meeting
1.1.1-1.1.4	Stakeholder preparation, interviews, presentation to APC and GB, and distribution of final stakeholder assessment report	Complete	9.7.16
1.2.1 – 1.2.2	Prepare work program, present work program and obtain GB approval	Complete	9.7.16
1.3.1-1.3.3	Identify working group membership, GB approval of working group members, APC selection of two working group members	Complete	9.7.16
1.4.1-1.4.2	Enhance online development rights data and prepare report on current development rights inventories	Complete	9.7.16
1.5.1 and 2.1.1	Outline development rights policies, programs, regulations, permitting process; compare original intent to current situation; and identify areas for potential improvements. Present information sheets.	Complete	9.7.16
1.5.2 – 1.5.3	Add website improvements and materials to www.trpa.org/development-rights/ based on 1.5.1 and as new information is released. Provide updates to project email list and as new information is released.	Ongoing (two email list updates were sent prior to DRWG meetings, another to be sent prior to 2.24.17 meeting)	9.7.16, 10.25.16, 2.24.17, 4.26.17, Ongoing
2.1.2	Work group will determine “sideboards” and APA PAS inquiry specifications, staff will contact schools and post a Request for Proposals (RFP) for consultants	Complete: Revised Factsheet #6 includes the approved scope of work and mission, staff submitted inquiry and received information, and staff hired a consultant team	9.7.16, 10.25.16, 2.24.17

		after interviews and posting a RFP.	
2.2.1	Document existing policies and code, and present to working group	Complete: Factsheet #7 provides this information.	10.25.16
2.3.1	Working group will determine criteria for selection of best alternative(s)	Complete: Factsheet #8 provides the results of the working group's decision on goals and criteria.	10.25.16
2.3.2	Present best practices research plan to working group	Complete: This was presented at the 10.25.16 DRWG meeting.	10.25.16
2.4.1	Engage California and Nevada university planning programs in research	Complete: Staff engaged and did not acquire adequate participation to implement this activity.	8.16 to 11.16
2.4.2	Engage consultant or consultants (e.g., planning, legal, development economics, and/or financing) to synthesize APA PAS, universities, and original research, and to prepare best practices findings and alternatives	Complete: Staff posted RFP, panel interviewed 3 consulting teams, and hired the top-ranking candidate.	10.16 to 12.16
2.4.3	Present best practices findings and preliminary alternative ideas, and solicit feedback from working group, APC, and GB	Present and discuss at the 2.24.17 DRWG meeting. Present to APC on 3.8.17 and GB on 3.22.17.	2.24.17, 3.8.17, and 3.22.17
2.5.1	Identify and present the range of alternatives and solicit feedback from working group, APC, and GB	Complete: Presented and discussed at the 4.26.17 DRWG meeting and June 2017 APC and GB.	4.26.17, 6.14.17, and 6.28.17
2.5.2	Evaluate alternatives using results from 2.3.1.	Complete	9.26.17
2.5.3	Present recommended alternative to working group for their recommendation with changes, if any.	Complete: Presented at the 9.26.17 DRWG meeting.	9.26.17

2.5.4	Present working group recommendation on alternatives to APC and GB for feedback and approval (GB)	Complete: Presented to APC on 10.11.17 and GB on 10.25.17.	10.11.17 and 10.25.17
3.1.1	Completed a crosswalk of policy, code, and procedural changes.	Complete	5.22.18 and 8.21.18
3.1.2	Refine criteria and analyze planning considerations for the recommended alternative.	In progress	2.27.18, 5.22.18 and 8.21.18
3.1.3	Met with land banks to discuss coordination and TRPA support.	Complete	5.22.18
3.1.4	Presented the recommended alternative to local realtor groups and Tahoe Chamber of Commerce.	Complete	2.27.18
3.1.6	Present status update to APC and GB for approval.	Upcoming	3.14.18 and 3.28.18

Contact Information

If you have questions regarding the work program, please contact Jennifer Self, Senior Planner, at (775) 589-5261 or jself@trpa.org or John Hester, AICP, Chief Operating Officer, at (775) 589-5219 or jhester@trpa.org.

Attachment A: 2016-2018 DRSI Work Program Schedule

Attachment B: Proposed 2018 Meeting Calendar

Attachment A: 2016-2018 DRSI Work Program Schedule

Tasks		2016 (July – December)						2017 (January – December)												2018 (January – December)																					
		J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D										
1.1.1-1.1.4	Stakeholder interviews preparation, interviews, presentation to APC and GB, and distribution of final stakeholder assessment report	Completed																																							
1.2.1	Prepare work program	█																																							
1.2.2	Present work program and obtain GB approval	█																																							
1.3.1	Identify working group membership	█																																							
1.3.2	GB approval of working group membership	█																																							
1.3.3	APC selection of two working group members	█																																							
1.4.1	Enhance online development rights data	█																																							
1.4.2	Prepare report on current development rights inventories	█																																							
1.5.1	Outline development rights policies, programs, regulations, permitting process; compare original intent to current situation; and identify areas for potential improvements	█																																							
1.5.2	Add website improvements based on 1.5.1	█																																							
1.5.3	Provide results from 1.5.1 to working group and listserv	█																																							
2.1.1	Present information sheets to working group	█																																							
2.1.2	Working group will determine “sideboards” and APA PAS inquiry specifications; staff will contact schools and post an RFP for consultants		█	█																																					
2.2.1	Document existing policies and code, and present to working group			█	█																																				
2.2.2	Submit APA PAS inquiry			█	█																																				
2.3.1	Working group will determine criteria for selection of best alternative(s)			█	█																																				
2.3.2	Present best practices research plan to working group			█	█																																				
2.4.1	Engage California and Nevada university planning programs in research			█	█	█																																			
2.4.2	Engage consultant or consultants (e.g., planning, legal, development economics, and/or financing) to synthesize APA PAS, universities, and original research, and to prepare best practices findings and alternatives			█	█	█																																			
2.4.3	Present best practices findings and preliminary alternative ideas, and solicit feedback from working group, APC, and GB					█	█	█																																	
2.5.1	Identify range of alternatives							█	█																																
2.5.2	Evaluate alternatives using results from 2.3.1									█	█																														
2.5.3	Present recommended alternative to working group for their recommendation with changes, if any											█	█																												
2.5.4	Present working group recommendation on alternatives to APC and GB for feedback and approval (GB)													█	█																										
3.1	Develop policy and code amendments																																								
3.2	Perform environmental review																																								
3.3	Obtain formal approval through APC, RPIC, and GB public hearing process																																								
3.4	Implementation of approved recommendations																																								
4.1-4.9	Additional sort and long-term projects to be determined																																							TBD	

█ Completed Tasks

█ Phase 3 Tasks

Attachment B: Proposed 2018 Meeting Calendar

Date	Group	Topic
Feb. 27	Working Group	<i>Meeting #6</i> <ul style="list-style-type: none"> ○ Exchange Rates ○ Remove Jurisdictional Veto, ○ Severe from Sending Site (Holdings/Banking) ○ (<i>Optional</i>) Mountain Housing Council Update on Workforce Housing
Mar. 27	Technical Code Team	<i>Policy, Code, and Procedural Amendments</i> <ul style="list-style-type: none"> ○ Exchange Rates ○ Remove Jurisdictional Veto, ○ Severe from Sending Site (Holdings/Banking)
Mar. 14	APC	Phase 3 Update
Mar. 28	GB	Phase 3 Update
Apr. TBD	TRPA Development Customer User Group	TDR Process Improvements
May 22	Working Group	<i>Meeting #7</i> <ul style="list-style-type: none"> ○ Land Bank MOUs ○ Workforce Housing Bonus Units ○ Process Improvements ○ Amendment Recommendations (Exchange Rates, Veto Removal, and Severe from Sending Site)
Jun. 26	Technical Code Team	<i>Policy, Code, and Procedural Amendments</i> <ul style="list-style-type: none"> ○ Land Bank MOUs ○ Process Improvements & Monitoring ○ Workforce Housing Bonus Units
Jul. 24	Technical Code Team	Review proposed policy, code, and procedural draft amendments prior to DRWG Meeting #8 recommendations.
Aug.21	Working Group	<i>Meeting #8</i> <ul style="list-style-type: none"> ○ Environmental Analysis (IEC) & Monitoring ○ Amendment Update (Land Banks, Workforce Housing Bonus Units)
Sep. 12	APC	Approval/Adoption
Sep. 26	RPIC	Approval/Adoption
Oct.24	GB	Approval/Adoption

MEMORANDUM

DATE February 13, 2018

TO Development Rights Working Group

FROM DRSI Team – John Hester, Jennifer Self, Alyssa Bettinger, Tahoe Regional Planning Agency (TRPA); Ashley James and Charlie Knox, PlaceWorks

SUBJECT Approach for Completing the Development Rights Strategic Initiative (DRSI)
(Agenda Item VI.B)

Requested Action

No action is required. This is an informational item.

Purpose

The purpose of this memo and three companion memos is to provide: (1) background on the Development Rights Working Group (aka Working Group) recommended alternative, (2) an update of research and analysis (i.e. action items) requested by the Working Group during the last meeting, (3) planning considerations and implementation strategies for the recommended alternative selected by the Working Group, and (4) recommendations and next steps for completing the DRSI work program.

Background

In August of 2017, the DRSI team (i.e., TRPA staff and consultants) completed economic and planning analysis of five options (i.e., Options A-E) developed by the Working Group. Each option and the “features”, or components, within each option reflected different strategic approaches to improve the existing development rights system. The DRSI team further evaluated those options using the goals and criteria created by the Working Group specifically for this initiative (Factsheet #8, Goals and Criteria for Evaluating Alternatives, <http://www.trpa.org/about-trpa/how-we-operate/strategic-plan/development-rights/>).

Based on the analyses and stakeholder input, the Working Group selected a recommended alternative in September of 2017, which was a hybrid of the five options. (Meeting Summary #5, September 26, 2017; Agenda Item IV). The DRSI team presented the results of the analyses and the recommended alternative to the TRPA Advisory Planning Commission on October 11, 2017 and the TRPA Governing Board on October 25, 2017.

The **recommended alternative** selected by the Working Group consists of five main components:

- (1) establish exchange rates between commercial floor area (CFA), tourist accommodation units (TAU), and residential units of use (RUU);
- (2) eliminate local jurisdictional approval of development right transfers;
- (3) support land banks in their efforts to increase their development rights inventories and change their operating constraints which prevent them from better implementing the Regional Plan;
- (4) implement process improvements to streamline the development right system (including banking and transfer activities) and make it more user-friendly; and,
- (5) expand eligibility criteria for “workforce housing” bonus units.

The approval and adoption of the recommended alternative (including any necessary Regional Plan and Code of Ordinance amendments) and the expanded Initial Environmental Checklist (IEC) is scheduled for TRPA Advisory Planning Commission (APC) September 12, Regional Plan Implementation Committee (RPIC) September 26, and the Governing Board October 24, 2018. (For a complete 2018 meeting calendar, see “Background & Work Program Status Report” Attachment B.)

Phase 3 Status Update

The goals of Phase 3 are to refine the recommended alternative for approval, adoption, and implementation; complete environmental review; and ensure the recommended alternatives adhere to the overall DRSI mission.

Phase 3 includes four tasks as outlined within the work program to be completed between November 2017 and December 2018:

- 3.1 Develop policy, code, and procedural amendments.
- 3.2 Complete environmental review.
- 3.3 Gain formal approval for proposed alternatives and amendments through a public hearing process.
- 3.4 Secure funding, if needed, to implement alternatives and amendments.

To aid in the development of policy, code, and procedural amendments (Task 3.1), the DRSI team is preparing a memo series for the Working Group to better understand planning considerations and implementation strategies for each component of the recommended alternative. These considerations and strategies will be presented and discussed during three Working Group Meetings scheduled for February, May, and August. The **desired outcome** for each meeting is to set forth a final implementation strategy for the recommended alternative, refine each component, and provide specific direction on necessary planning considerations.

Technical Code Team

TRPA staff completed a policy, code, and procedural “crosswalk” to identify sections and processes that could be potentially impacted by the implementation of the recommended alternative. TRPA’s Executive Director has appointed a six-member team to advise staff of necessary policy, code and procedural amendments for the implementation of the recommended alternative. The Technical Code Team will recommend redline changes and specific language to be incorporated into TRPA’s Regional Plan Goals and Policies, Code of Ordinances, and Rules of Procedure.

Recommendations provided by the Technical Code Team will be reviewed by TRPA staff and the Working Group prior to the public hearing process. To provide recommended amendments in a timely manner and in conjunction with the environmental review process, TRPA proposes to have the team meet three times between February and August.

Phase 3 Action Items

At the September 2017 meeting, the Working Group identified six action items to be completed by the DRSI Team in Phase 3.

1. Local Jurisdiction Veto

Action Item: Provide a recommendation on a reasonable percentage of net loss for when local jurisdictions can request that TRPA reinstate the veto authority for interjurisdictional transfers.

Update: For information on this item, please refer to “Eliminating the Local Jurisdictional Transfer Approval” memo in this packet. (Agenda Item VI.D)

2. Workforce Housing & Bonus Units

Action Item: Provide a recommendation for defining “workforce housing” and implement the recommendation to allow for 50% of residential bonus units be used for “workforce housing”.

Update: TRPA has coordinated with the Mountain Housing Council and the Tahoe Prosperity Center to define “workforce housing”. Findings from the Mountain Housing Council and the Tahoe Prosperity Center will be presented, if time allows, at the February Working Group Meeting. Recommendations specific for DRSI will be covered at the May Working Group meeting.

3. Severing Ties from the Sending Site

Action Item: Identify a process for tracking and recordation of development rights that are no longer tied to a sending parcel (i.e. how to notify the current or future property owner or interest party that a transaction has occurred).

Update: For more information on this item, please refer to the “Development Rights Banking and Transfer” memo in this packet. (Agenda Item VI.E) Process improvements and procedural changes will be further discussed at the May Working Group meeting.

4. Clarify the TRPA Code of Ordinances for Bonus Unit Allocations

Action Item: Examine opportunities to streamline the bonus unit delivery process, or allocations, by adding clarifications and revisions to the TRPA Code of Ordinances.

Update: This item will be addressed through the Technical Code Team and facilitated workshop of a Development Customers User Group. Recommendations for clarifying bonus unit allocations and process improvements will be discussed at the May Working Group meeting.

5. Exchange Rates

Action Item: Refine the recommendation on exchange rates between development rights and follow up with the possible addition of mixed-use exchange rates.

Update: For more information on this item, please refer to the “Exchange Rates” memo in this packet. (Agenda Item VI.C)

6. Phase 3 Schedule and Deliverables

Action Item: Develop a schedule, scope of work, and a list of deliverables to be accomplished during Phase 3 of the Work Program.

Update: Please refer to the 2018 Calendar and work program update in the staff summary for a full status report and more information on this item. (“Background & Work Program Status Report”, Attachment B.)

February Working Group Meeting

The DRSI Team recommends covering the following topics at the February 27, 2018 Working Group meeting:

- Exchange Rates (Component 1 of the Recommended Alternative)
- Removal of the Local Jurisdictional Approval for Transfers (Component 2)
- Severing Development Rights from a Sending Site (part of Component 4)
- *(Optional)* Mountain Housing Council Update on Workforce Housing (part of Component 5)

Separate discussions on land banks (Component 3), process improvements (Component 4), and workforce housing and bonus unit allocations (Component 5), as well as a presentation on the environmental review process, are scheduled for the May Working Group meeting.

The attached companion memos discuss Components 1 and 2 and part of Component 4 (severing development rights from a sending site) of the Working Group recommended alternative. The Exchange Rates memo provides an analysis and recommendation for proposed exchange rates that are environmentally neutral. The Elimination of Local Jurisdiction Approval memo evaluates and recommends changes to the existing system to allow development rights to be transferred freely between jurisdictions. The Development Rights Banking and Transfer memo recommends changes to the existing approval process for the transfer and banking of development rights based on discussions and direction of the Working Group.

Next Steps

To aid in the development of policy, code, and procedural amendments, the DRSI team will need Working Group direction on the final implementation strategy for each component of the recommended alternative. Each component, planning and implementation considerations, and criteria or recommendations will be presented by the DRSI team at the Working Group meetings scheduled for February and May.

Date	Topics
Feb. 27	<p><i>Meeting #6</i></p> <ul style="list-style-type: none"> ○ Exchange Rates (Component 1) ○ Remove Jurisdictional Veto (Component 2) ○ Severe from Sending Site (Holdings/Banking) (part of Component 4) ○ (<i>Optional</i>) Mountain Housing Council Update on Workforce Housing (part of Component 5)
May 22	<p><i>Meeting #7</i></p> <ul style="list-style-type: none"> ○ Land Bank MOUs (Component 3) ○ Process Improvements (Component 4) ○ Workforce Housing Bonus Units (Component 5) ○ Amendment Update (Exchange Rates, Veto Removal, and Severe from Sending Site)
Aug.21	<p><i>Meeting #8</i></p> <ul style="list-style-type: none"> ○ Environmental Analysis (IEC) ○ Monitoring Requirements (Components 1-5) ○ Amendment Update (Land Banks, Workforce Housing Bonus Units)

In addition to these Working Group meetings, TRPA’s Executive Director appointed a six-member team to advise staff of necessary policy, code and procedural amendments for the implementation of the recommended alternative. The Technical Code Team will recommend redline changes and specific language to be incorporated into TRPA’s Regional Plan, Code of Ordinances, and Rules of Procedure. The team would likely need to meet three times between February and August.

Between June and August, the DRSI team will complete environmental analysis for the recommended alternative selected by the Working Group. The intent is to complete an expanded

initial environmental checklist (IEC) for this analysis in compliance with TRPA Code of Ordinances and the Lake Tahoe Regional Plan.

Land Bank Funding & Strategic Study (Optional)

During the September Working Group meeting, representatives from California Tahoe Conservancy (CTC) and Nevada Division of State Lands (NDSL) were both in favor of identifying specific goals and priorities for each land bank in the Lake Tahoe Basin as those relate to the Development Rights system. Between November 2017 and January 2018, the DRSI Team met with the local land banks to better understand their interests and the existing capacity and demand of the land banks. **(A complete discussion of the land banks role in the Development Right System and their Memorandums of Understanding with TRPA will be covered at the May Working Group meeting.)**

While NDSL supported expanding the role of land banks in the Development Rights system moving forward, NDSL does not currently have the need, demand, or resources for an expansion. On the other hand, CTC expressed a strong interest in expanding the role of their land bank with a focus on acquiring and restoring existing developed parcels on sensitive lands and transferring development rights into Town Centers. This would help to increase the supply of available development rights to meet the goals of the Regional Plan. During this discussion, CTC noted two key challenges in making their expanded role a success: (1) funding to acquire additional lands and existing development and (2) being bound by state law to sell development rights at market value. CTC also expressed an interest in establishing a set of priorities that align with both the Regional Plan and Statewide goals to guide management decisions of the land bank.

The DRSI team and CTC agreed it would be beneficial for CTC to complete a study in consultation with PlaceWorks to examine potential funding sources, determine potential impact or outcomes based on a range of potential funding amounts, and develop a strategic approach for legislative changes.

Development Customer User Group (Optional)

The Working Group recommended that the DRSI team meet with the development community to discuss potential changes and process improvements to the Development Rights system. During Phase 2 and 3 of this initiative, the DRSI team met with several local real estate groups and the Tahoe Chamber to present the Working Group recommended alternative and solicit feedback.

In 2017, TRPA formed a Development Customer User Group under the Welcome Mat initiative to receive input from the local business and development community and help the agency improve our permitting processes. The group is comprised of six to ten community members from the real estate, development, consulting, and community revitalization sectors. To date, the group has met several times and provided feedback on specific application updates or revisions, access to online parcel information, and educational materials.

The DRSI team recommends facilitating a workshop with the Development Customer User Group in April or May 2018 to (1) identify development right transferring and banking process improvements and (2) prioritize those process improvements moving forward.

MEMORANDUM

DATE February 13, 2018
TO Development Rights Working Group
FROM Ashley James and Charlie Knox, PlaceWorks
SUBJECT Development Rights Exchange Rates (Agenda Item VI.C)

Requested Action

DRSI team requests that the Working Group provide direction on the implementation strategy for the recommended alternative in preparation of policy, code, and procedural amendments for the TRPA development rights system.

Summary

As part of the Development Rights Strategic Initiative (DRSI), the Development Rights Working Group (DRWG) has recommended establishing an exchange rate for converting development rights between different land use types in a manner that can be consistently and feasibly implemented across the Lake Tahoe Basin.

A stakeholder assessment completed in 2016 sought to better understand the issues with TRPA's development rights system (aka commodities) and permit processes. A few of the central findings and key takeaways from the assessment shed light on the rigidity and adverse impact of the existing system:

- TRPA commodities and permitting process are directly inhibiting environmentally beneficial redevelopment. The scarcity of redevelopment over the past several decades is a consequence of too many “sticks”, such as costs and regulation complexity, and lack of “carrots” such as incentives and support previously provided through redevelopment agencies.
- Applicants need improved access to information to better understand terminology, processes, commodities supplies, how to navigate through regulatory systems, and the purpose behind land use regulations in the Lake Tahoe Region.
- The overly complicated regulations have made it difficult for applicants to develop and implement “good projects”, or those projects that place environmental improvements on the

ground and/or provide community benefits. Policies, the Code of Ordinances, programs, and processes should be straightforward and more user-friendly.¹

- Applicants find it challenging to obtain needed development rights within the limitations of the existing system, especially for the construction of tourist and commercial uses. (For a report of development right transactions since 2012, see Attachment A.)

Since the 2012 Regional Plan, the TRPA Governing Board has adopted two pilot programs for the conversions of development rights. The first of these pilot program, adopted in 2012, allowed for the conversion of Tourist Accommodation Units (TAUs), Residential Units of Use (RUUs), and Commercial Floor Area (CFA); but only when the transaction included a transfer from sensitive lands, removal of a non-conforming use, construction of affordable housing, or other provisions. (TRPA Code Section 50.10.2)

Existing Conversion Programs

TRPA Code Section 50.10.1

RUUs can be converted to TAUs or CFA if...

- Transferred from sensitive lands;
- Removal of non-conforming use; or,
- Included as part of a designated Environmental Improvement Program project.

TAUs can be converted to single-family RUUs or CFA if...

- Transferred from sensitive lands;
- Removal of non-conforming use; or,
- Included as part of a designated Environmental Improvement Program project.

TAUs can be converted to multi-family RUUs if...

- Conversion must occur on the same parcel.²

In 2016, the TRPA Governing Board adopted a pilot program to increase the flexibility of bonus unit pool specifically for TAUs to CFA. The program allowed for the conversion between CFA remaining from the TRPA Special Project/Community Enhancement Project Pool and Tourist Accommodation Bonus Units remaining from the 1987 Plan. While this program expanded eligibility for conversions, it too was limited in scope and is set to expire in 2019.

¹ TRPA Commodities Strategic Initiative and Permitting Assistance Initiative, Stakeholder Assessment Results, April 2016: http://www.trpa.org/wp-content/uploads/StkhldrAssess_Report_5_16_Final.pdf

² As part of the TAU to multi-family RUU conversion pilot program, the total number of TAUs and residential units converted were each limited to 200 units within a calendar year. Additionally, conversions under this pilot program would be limited to a maximum of 1,250 square feet of residential floor area per TAU. The 1,250 square feet was determined to be a reasonable amount for a residential unit within a multi-family complex. (Correspondence with Paul Nielsen and John Hitchcock, January 25, 2018.) For a report of conversions and transfers, see Attachment A.

As part of the recommended alternative, the exchange rates would supersede the two existing development rights conversion pilot programs. Allowing the conversion, or exchanging, of one type of development to another provides greater flexibility, significantly simplifies the system, and expands the available supply for needed development rights. (i.e. a lodging developer in need of tourist accommodation units would be able to acquire and convert commercial floor area or residential units if there were no available tourist units on the market) Furthermore, by creating a more flexible development rights system the exchange rates increase the financial feasibility of development or redevelopment and allows the system to be more responsive to changing market demands. No longer would the system have rigid “silos” of development types.

A development rights conversion system requires a valid, common exchange factor between the different types of land uses. **We considered average daily trips (ADT), vehicle miles traveled (VMT), and localized trip generation as potential bases for the conversion system and are recommending exchange rates based on localized trip generation.** The purpose of this memorandum is to explain how we arrived at and calculated the recommended exchange rates.

Exchange Rate Methodology

The adopted 1987 Regional Plan focused on managing growth by establishing a limited supply of development rights (referred to as “commodities”) required for new development in the Lake Tahoe Region. These Basin-wide development caps remain in place today. The development rights system is a central part of TRPA’s growth management system and an important strategy used to attain multiple environmental thresholds. In addition to the development rights system, growth is also managed by individual Plan Area Statements, Community Plans, and Area Plans which establish zoning and development standards.

Accordingly, a major requirement for allowing conversion of development rights among different land use types is to choose an exchange ratio that is environmentally neutral. In 2015, TRPA established a sound methodology to ensure environmental neutrality for converting development rights, in that case between CFA and “Tourist Bonus Units” for the Pilot Program approved by the Governing Board in 2016.³ (For a report of conversions and transfers since 2012, see Attachment A.) Table 1, which was prepared for the Pilot Program, indicates that Localized Trip Generation (highlighted in **bold** on the table) was the most feasible common metric among the environmental thresholds. It should be noted that TAUs (including Bonus Units) are a valid trip-generation proxy for residential units, as further explained below.

For the 2016 Pilot Program, comparison of typical developments using CFA vs. TAUs (and therefore housing as well), differences in localized trip generation rates, VMT, and commodity

³ January 27, 2016 TRPA Governing Board Meeting, Agenda Item No. VII.B, page 21: <http://www.trpa.org/wp-content/uploads/January-27-2016-Governing-Board-Packet.pdf>. TRPA Code of Ordinance 50.10.8.

floor area (tourist units vs. square footage of a business) were analyzed further for consideration in the development of the conversion ratio. The goal was to develop an environmentally neutral conversion ratio based on regional variations rather than project level differences in hypothetical projects.

Table 1. Examination of Regional Impact Differences Between Bonus CFA and Tourist Bonus Units and Representative Indicators by Threshold Category			
Threshold Category	Type of Impact	Indicator <i>(Examination Notes)</i>	Indicators with a Potential Regional Difference, Not Addressed through Project Level Permitting/Mitigation
Air Quality	Emissions from additional vehicle trips	Localized Trip Generation <i>(Mitigated through Air Quality Mitigation Fee)</i>	–
Noise	Noise from additional trips	Localized Trip Generation	Localized Trip Generation
Recreation	Indirect effects on recreation quality or access from additional vehicle trips for re/development in close proximity to recreation facilities	Localized Trip Generation <i>(Depends on project)</i>	Localized Trip Generation
Water Quality	Stormwater runoff from impervious surfaces	Stormwater Best Management Practices (BMPs) Certificate <i>(Required for new projects),</i> Localized Trip Generation* <i>(Mitigated through the Water Quality Mitigation Fee)</i>	–
Soil Conservation	Coverage associated with each commodity	Building Footprint <i>(Coverage is mitigated, commodity size can vary)</i>	Commodity Size
Vegetation	Indirect effects on vegetation from coverage	Building Footprint <i>(Same as above)</i>	Commodity Size
Fisheries	Indirect effects from stormwater runoff	BMP infrastructure Certificate <i>(required),</i> Localized Trip Generation*	Localized Trip Generation
Wildlife	Indirect effects on habitat from coverage	Building Footprint <i>(Coverage is mitigated, commodity size can vary)</i>	Commodity Size
Scenic	Indirect effects on scenic quality associated with the size of each commodity	Building Setbacks, Building Height, and Site Design <i>(new project requirements mitigate these impacts)</i>	–

**Both commercial and tourist uses fall in the same TMDL pollutant loading land use category (Lake Tahoe TMDL Technical Report, 2010, California Regional Water Quality Control Board, Lahontan Region and NDEP). In general, these uses are assumed to have comparable pollutant loading.*

Average commercial (31.7 trips per day) and tourist lodging (9.6 trips per day) vehicle trip generation rates at a localized scale were derived. These rates were based on the typical area of different business types and the weighting of the actual number and type of commercial establishments and tourist lodging facilities in the Tahoe Region.⁴ Localized trip generation values were compared to determine the amount of CFA that would generate the same number of trips as an occupied TAU. This approach, which resulted in a conversion ratio of 1 TAU = 302 square feet of CFA (and vice versa), is summarized in Table 2 for all categories of land uses eligible for development rights.⁵

Table 2. Non-Adjusted Trip Generation by Land Use				
Existing Development Right	Equivalent Development Rights			
	CFA	TAU	SF*	MF*
1000 sq. ft. Commercial Floor Area (CFA)	1000 sq. ft.	3.29 units	3.32 units	4.76 units
1 Tourist Accommodation Unit (TAU)	304 sq. ft.	1 unit	1.01 units	1.45 units
1 Single Family Detached Dwelling Unit (SF)	302 sq. ft.	0.99 units	1 unit	1.43 units
1 Multi-Family Attached Dwelling Unit (MF)	210 sq. ft.	1.45 units	0.70 units	1 unit

* Single family and multi-family RUUs were not part of the 2016 pilot study, but were included in the table above for comparison with the new exchange rates.

For the Pilot Program, staff then examined the comparative differences of VMT for CFA and TAUs. As a part of the 2012 Regional Plan and Transportation Plan updates, model validation tests for the Tahoe Region Transportation Model were conducted that involved loading specific Traffic Analysis Zones with additional CFA to ensure that the model would produce expected outputs. Staff used these tests and the resultant VMT outputs as an additional way to create a conversion ratio based on region-wide VMT impacts associated with new TAUs and CFA. The outcome of the VMT approach for comparing TAU and CFA was the following conversion ratio: 1 TAU = 659 square feet of CFA (vice versa).

⁴ Average square footage of businesses was generated from the U.S. Energy Information Administration, www.eia.gov/consumption/commercial, Table B1. Summary table: total and means of floor space, number of workers, and hours of operation, 2012. The Average Daily Trip Generation Rates published by the Institute of Transportation Engineers (ITE) were used to determine the localized trip generation rates for different commercial and tourist lodging facilities. A combination of sources were used including the TRPA Trip Table (rates published in the ITE Trip Generation Manual, 7th Edition, 2003 are included) and trip rates provided in the 2008 Trip Generation, an ITE Informational Report, 8th Edition. The Infogroup business data comprehensively captures the amount and mix of businesses, pinpoints businesses within the same parcel and located jointly within the same building and provides more extensive business descriptions in comparison to other available data sources.

⁵ Formula: Weighted Average Trip Generation Rate for CFA / 1,000 square feet = Weighted Average Trip Generation Rate with Occupancy for TAU/X where X is square feet.

Lastly, staff compared these findings to commodity size differences since they are indicative of floor area and development intensity variations. Previous TRPA research reported that the median average for a typical hotel room without kitchen facilities is 450 square feet and 800 square feet with a kitchen. However, two decades ago, a typical room size was 250 square feet and much of the Lake Tahoe Region includes aging motels from this era.⁶ Therefore, the median tourist unit size for the Lake Tahoe Region, 450 square feet, was considered most representative of a typical tourist room size in Tahoe. Accounting for this floor area in the conversion ratio helps to neutralize floor area/development intensity differences. This approach resulted in the following conversion ratio: 1 TAU = 450 square feet of CFA (vice versa).

In review of these different approaches, the Governing Board approved using the 1 TAU = 450 square feet CFA conversion ratio for the Pilot Program. This conversion ratio is believed to best capture localized trip generation differences, account for commodity floor area differences, help mitigate VMT, and promote the economic viability of these projects for implementers. As a part of the 2012 Regional Plan Update DEIS regional modeling, regional VMT impacts were addressed through mitigation measures. In addition, VMT impacts and the associated mitigation are detected through regional modeling, regularly occurring every four years. Applying the Board-approved adjusted, localized TAU/CFA rate to all commodities and rounding values for ease of administration and use results in the exchange rates in Table 3, which we recommend be considered by the DRWG for updating the Code of Ordinances.

In practice, applying these conversion ratios would result in fractions of development rights remaining from a transaction. These remainder development rights would be automatically banked on either the receiving or sending site. **The recommended ratios in Table 3 are rounded to the nearest tenth. Although rounding to the nearest half would produce a simpler number to administer, rounding to the nearest tenth provides a more accurate representation of the methodology discussed above and thus yields a truer environmentally neutral ratio.**

⁶ December 8, 2010 TRPA Governing Board Staff Memo for Addressing TAU Issue: http://www.trpa.org/wp-content/uploads/dec_2010_gb_packet.pdf

Table 3. Recommended Exchange Rates				
Existing Development Right	Equivalent Development Rights			
	CFA	TAU	SF	MF
450 sq. ft. Commercial Floor Area (CFA)	450 sq. ft.	1	1	1.5
1 Tourist Accommodation Unit (TAU)	450 sq. ft.	1	1	1.5
1 Single Family Detached Dwelling Unit (SF)	450 sq. ft.	1	1	1.4
1 Multi-Family Attached Dwelling Unit (MF)	300 sq. ft.	0.7	0.7	1

It is important to recognize that the environmental analysis used to develop the exchange rates would not replace project level permitting environmental review and mitigation that would be required for transfer of existing development projects.

Additional Planning Consideration

The DRWG discussed the possibility of further incentivizing development of CFA, particularly in mixed-use development settings. Nationwide research indicates moving development from remote single-family lots to sites that encompass housing plus one or more nonresidential land uses (i.e. commercial or offices) along more heavily used thoroughfares can reduce vehicle trips by as much as 20 percent, as compared to separated development of the same land uses.

Thus far, research by Staff and consultants indicates that establishing a value for trip reduction for mixed-use development would need to be project-specific to be accurate. Localized trip generation for mixed-use relies on a variety of factors, such as proximity and frequency of transit service, type and density of use, distance to employment centers, and size and location of development, among others. Applying one exchange rate for two and three mixed-uses would not accurately account for the differing factors for developments within this category. In addition, tying project-specific requirements to approval of transfers of development rights would not support the DRWG direction to simplify the development rights system. **Based on these findings, we would not recommend including mixed-use exchange rate to this conversion program.**

Attachment A: Report of Development Right Transactions & Available Development Rights within the Lake Tahoe Basin

The following information provides a summary of known development right conversions, transfers, allocation pools, and banked inventories.¹ TRPA staff gathered this information from LakeTahoeInfo.org database between November 2017 and January 2018. Land coverage is not included within this report since it is not within the scope of the Development Rights Strategic Initiative.

Transactions

The following tables provide an overview of the development right transactions in the Tahoe Basin from January 2013 to December 2017. Transactions refer to any time action is taken to approve a development right transfer, conversion, or conversion with transfer. A transaction could include one or more development rights. The majority of activity in the Basin is occurring with the City of South Lake Tahoe (i.e. either within, transferring to or transferring from the City).

Table 1: Approved and Proposed Development Right Transactions ¹						
	City of South Lake Tahoe	El Dorado County	Douglas County	Placer County	Washoe County	TOTAL
Transfers						
Individual Transactions	76	3	7	9	1	96
Conversions without a Transfer						
Individual Transactions	1	0	0	0	0	1
Conversions with Transfers						
Individual Transactions	7	0	0	3	0	10
TOTAL TRANSACTIONS	84	3	7	12	1	104

¹Transactions by sending jurisdiction. Transactions include those within, transferring to or transferring from a jurisdiction.

Conversions without Transfers

There was only one on-site conversion transaction (i.e. conversion occurring on the same parcel) in the database. In June 2014, one Tourist Accommodation Unit (TAU) unit was converted to an Existing Residential Unit (ERU) within the City of South Lake Tahoe.

Conversions with Transfers

Most conversions with transfers occurred within the City of South Lake Tahoe or Placer County.

¹ TRPA reports, tracks, and monitors development right transactions to the best of our knowledge. Data in this attachment is the most up-to-date available through the LakeTahoeInfo.org database. This database is subject to change if staff discovers previously unrecorded conversions or transfer transactions that may have occurred as part of a past project or approved through a local jurisdiction under their TRPA delegated MOU or through a recent transaction approval.

There was one conversion with interjurisdictional transfer from the City of South Lake Tahoe to Washoe County. Development rights were most commonly converted from tourist accommodation units to existing residential units.

Table 2: Approved and Proposed Conversions with Transfers by Type	
Tourist Accommodation Unit (TAU) to Existing Residential Unit (ERU)	
Number of Transactions	7
Number of Sending Units / Number of Receiving Units	65 / 65
Existing Residential Unit (ERU) to Commercial Floor Area (CFA)	
Number of Transactions	1
Number of Sending Units / Number of Receiving Square Feet	4 / 5,942
Existing Tourist Accommodation Unit (TAU) to Existing Commercial Floor Area (CFA)	
Number of Transactions	1
Number of Sending Units / Number of Receiving Square Feet	27 / 8,958
Existing Commercial Floor Area (CFA) to Tourist Accommodation Unit (TAU)	
Number of Transactions	1
Number of Sending Square Feet / Number of Receiving Units	7,320 / 16
TOTAL TRANSACTIONS	10

Transfers

The majority of transfers (without conversion) occur within the City of South Lake Tahoe, and the most common type of development right being transferred are residential units of use (RUUs). This is most likely due to the high demand of residential allocations in the City for single family dwellings. Transfers of commercial floor area or residential development rights are not common across jurisdictions. This could be due to a number of different factors; such as, scarcity of supply, redevelopment or reuse of previously existing development, etc.

Interjurisdictional Transfers

In total, there have been 16 interjurisdictional transfer transactions since 2012. Of those, eight transactions have been for the interjurisdictional transfer of TAUs (all *from* the City of South Lake Tahoe); four transfer transactions of RUUs (all *transferring to* the City of South Lake Tahoe); and four transfer transactions of residential development rights (all *from* the City of South Lake Tahoe).

Table 3: Transfer Transactions of Commercial Floor Area (CFA) by Jurisdiction

		RECEIVING				
SENDING		City of SLT	El Dorado County	Douglas County	Washoe County	Placer County
	City of SLT	3 (30,449 sf)	0	0	0	0
	El Dorado County	0	0	0	0	0
	Douglas County	0	0	0	0	0
	Washoe County	0	0	0	1 (2,801 sf)	0
	Placer County	0	0	0	0	0

Table 4: Transfer Transactions of Tourist Accommodation Units (TAU) by Jurisdiction

		RECEIVING				
SENDING		City of SLT	El Dorado County	Douglas County	Washoe County	Placer County
	City of SLT	5 (5 units)	0	5 (194 units)	3 (70 units)	0
	El Dorado County	0	0	0	0	0
	Douglas County	0	0	0	0	0
	Washoe County	0	0	0	0	0
	Placer County	0	0	0	0	0

Table 5: Transfer Transactions of Residential Unit of Use (RUU) by Jurisdiction

RECEIVING						
SENDING		City of SLT	El Dorado County	Douglas County	Washoe County	Placer County
	City of SLT	48 (70 units)	0	0	0	0
	El Dorado County	1 (1 unit)	0	0	0	0
	Douglas County	2 (2 units)	0	4 (4 units)	0	0
	Washoe County	0	0	0	0	0
	Placer County	1 (1 unit)	0	0	0	1 (1 unit)

Table 6: Transfers of Residential Development Rights (RDR) by Jurisdiction

RECEIVING						
SENDING		City of SLT	El Dorado County	Douglas County	Washoe County	Placer County
	City of SLT	15 (15 units)	1 (1 unit)	2 (2 units)	1 (1 unit)	0
	El Dorado County	0	2 (2 units)	0	0	0
	Douglas County	0	0	1 (1 unit)	0	0
	Washoe County	0	0	0	0	0
	Placer County	0	0	0	0	7 (7 units)

Available Development Rights

The following tables provide an overview of available development rights in the Tahoe Basin as of December 2017. “Available” refers to development rights being held in allocation pools or banked on private or public property.

Table 7: Total Available Development Rights			
	Allocation Pools	Banked	TOTAL
Commercial Floor Area (CFA) (sf)	556,726	123,992	680,718
Tourist Accommodation Unit (TAU)	302	1,011	1,313
Residential Unit of Use (RUU or ERU)	N/A	113	113
Residential Allocation	561	N/A	561
Residential Development Right	N/A	212	212
Residential Bonus Unit	1,469	N/A	1,469
Residential Floor Area (sf)	N/A	7,162	7,162

Table 8: Total Development Rights Dispersed by TRPA to Local Jurisdiction Allocation Pools							
	City of SLT	El Dorado County	Douglas County	Placer County	Washoe County	TRPA	TOTAL
Commercial Floor Area (CFA) (sf)	33,097	33,395	33,520	63,130	10,000	383,584 ²	556,726
Tourist Accommodation Unit (TAU)	25	10	25	37	33	172	302
Residential Allocation	108	71	49	181	122	30	561
Residential Bonus Unit	109	0	67	49	120	1,124	1,469

² 200,000 sf of CFA shall only be made available after the 385,579 sf of remaining CFA is exhausted (TRPA Code Section 50.4.1).

Table 9: Total Banked Development Rights by Jurisdiction						
	City of SLT	El Dorado County	Douglas County	Placer County	Washoe County	TOTAL
Commercial Floor Area (CFA) (sf)	46,949	0	9,289	19,004	48,750	123,992
Tourist Accommodation Unit (TAU)	919	0	0	87	5	1,011
Residential Unit of Use (RUU)	43	20	29	14	7	113
Residential Development Right (RDR)	45	82	12	70	3	212
Residential Floor Area (sf)	7,162	0	0	0	0	7,162

MEMORANDUM

DATE February 13, 2018
TO Development Rights Working Group
FROM Ashley James and Charlie Knox, PlaceWorks
SUBJECT Development Rights Strategic Initiative (DRSI) Eliminate Local Jurisdiction Approval of Development Right Transfers (Agenda Item VI.D)

Requested Action

DRSI team requests that the Working Group provide direction on the implementation strategy for the recommended alternative in preparation of policy, code, and procedural amendments for the TRPA development rights system.

Background

As part of the Development Rights Strategic Initiative (DRSI), the Development Rights Working Group (DRWG) recommended eliminating the local jurisdictional approval (a.k.a. veto authority) as part of the development rights transfer process. Eliminating the local approval is intended to alleviate undue constraints and complexity of the development rights system and to allow the system to better respond to market demands and community needs.

The existing development rights system allows for the transfer of development rights from one parcel (“sending parcel”) to another (“receiving parcel”) so long as certain criteria are met:¹

- The sending parcel shall have legally verified development rights and the amount transferred is limited to this verified amount;
- All facilities, including buildings and structures, on the sending parcel that contain the development rights to be transferred must be removed or modified through a permit to no longer contain that use;
- At the time of a transfer and as a condition of approval, the sending parcel shall be deed restricted as set forth in Code Section 51.6;
- The receiving parcel shall comply with the applicable planning area, permissible use, site development, and density requirements;
- The proposed transfer shall be evaluated for adverse environmental impacts;

¹ Transfer criteria of existing development rights, TRPA Code of Ordinances Section 51.5. Transfer criteria for residential development rights, Section 51.3; transfers of residential allocations, Section 51.4; and conversions of use criteria, Section 50.10.

- The receiving parcel is on high land capability (Classes 4,5,6, or 7 or with an IPES score of 726 or greater)²; and,
- **Approval of the affected local governments shall be obtained.**

As identified in the Options Evaluation, eliminating the local jurisdictional approval has several key benefits and meets the goals and criteria established by the Working Group for DRSI:³

- **Streamline the existing transfer process and reduce this complexity and associated fees, while maintaining the overall development potential (or cap) for the Lake Tahoe Basin as part of the Regional Plan.**

The last criterion for the transfer of existing development (as listed above) – *approval of the affected local governments* – can have a particularly large impact on the development rights system; far greater than the language may insinuate. Under these current requirements, a property owner must receive approval from both TRPA and the affected local jurisdictions to transfer development rights. (For more information on the existing and proposed transfer process, see the “Existing & Proposed Process” below.) According to a stakeholder assessment completed in 2016, this parallel approval process increases the burden and complexity for applicants and can cause friction between local governments when a development right is being transferred across jurisdictional boundaries. Approval from the local jurisdictions results in additional application fees, review times, and potentially a “veto” (or denial) of the transfer if the jurisdiction of the sending parcel deems that the transfer could have a negative impact on revenue (i.e. Transient Occupancy Tax or property tax) or is not in their best interest. Under the current system, it is left to the discretion of the local jurisdiction to define their own transfer approval process and associated policies.

Eliminating the local jurisdictional approval would significantly simplify the existing transfer permitting process and reduce associated fees. While the exchange rate component of the recommended alternative would only apply to commercial floor area (CFA), tourist accommodation units (TAUs), and residential units of use (RUUs); eliminating the local approval would apply to all development rights, including residential development rights, residential allocations, and coverage. It is important to note eliminating the local jurisdictional approval would remove any and all “veto” authority provided to the local jurisdictions under TRPA Code of Ordinances.⁴

² There are some circumstances where existing development rights could be transferred to sensitive lands; for example, if there was a 25% reduction in land coverage on the receiving parcel with no increase to environmental impacts. (TRPA Code Section 51.5.2.1)

³ PlaceWorks, Development Rights Strategic Initiative Options Evaluation, Sept. 15, 2017.

⁴ Local jurisdictions would be allowed to hold and transfer (including the approval or denial of such transfers) if that jurisdiction became a development right bank. Development right banks, as well as any associated policies and procedural changes, will be discussed as part of the recommended alternative at the May 2018 Working Group Meeting.

Existing and Proposed Transfer Permitting Process

Case study: City of South Lake Tahoe

Under the existing regulations, the City of South Lake Tahoe administers a transfer approval process in parallel to TRPA for development right transfers occurring both within the City and transferring to another jurisdiction. This parallel process charges additional fees, increases review times, and adds complexity to the development rights system. Since the review process at the City and TRPA are independent of one another, it can often place the applicant in a position where he or she is being bounced back and forth between two regulatory agencies.

All transfers processed by TRPA are reviewed at the staff level with a base application fee of \$618.00, regardless of the number of development rights being transferred. Fees and the review level of a transfer processed by the City varies depending on the type of development right being transferred and whether or not the right is remaining within the City or transferring to another jurisdiction.⁵

Review Level for the City's Transfer Process

- Staff Level
 - Development right transfers within the City or into the City from another jurisdiction.⁶
 - Transfer of land coverage.
- City Council Level
 - Transfers of CFA or TAUs from within the City to another jurisdiction.

Application Fees for the City's Transfer Process⁷

- | | |
|-----------------------------|------------------------|
| • CFA, within the City | \$354 (per transfer) |
| • CFA, outside of the City | \$3,941 (per transfer) |
| • TAUs, within the City | \$354 (per unit) |
| • TAUs, outside of the City | \$4,034 (per unit) |
| • RUU, within the City | \$354 (per unit) |
| • RUU, outside of the City | \$3,941 (per unit) |

⁵ The City's policy framework for transfer approval authorized under the existing TRPA Code of Ordinance is based on a 2007 study conducted by Solimar Research Group, which examined whether the potential benefits of a transfer exceed the forfeited tax revenue, limit the ability to provide future housing, and/or result in potential loss of economic vitality. The study recommended a policy framework and actions to condition the approval of transfers, and in 2011, the City adopted such policies and standards in its General Plan and Municipal Code.

⁶ The City does not allow the transfer of RUUs outside of the City limits to any jurisdiction other than El Dorado County.

⁷ City of South Lake Tahoe Master Fee Schedule. Adopted April 4, 2017.

- Res. Development Right, within the City \$354 (per unit)
- Res. Development Right, outside of the City \$3,941 (per unit)
- Land Coverage, within or outside of the City \$354 (per transfer)

In addition to application filing fees, the City also requires mitigation fees when the Council approves a transfer of development rights to a receiving site located in another jurisdiction. According to City staff, mitigation fees can range from \$15,000 to \$30,000 per unit.⁸

With the adoption and implementation of the recommended alternative, an applicant would only be subject to the TRPA transfer process - staff level review with a base application fee of \$618.00.

- **Ease market constraints that can discourage investment and development. And, allow development rights to move freely and more closely follow market demand.**

Due to market variations throughout the basin and the inability for development rights to move freely among jurisdictions, the existing system is highly susceptible to development right scarcity for particular uses that are in high demand. This scarcity can have a ripple effect that contributes to development becoming financially infeasible. Development rights in high demand can lead to price gouging or even hoarding. The perception of development right scarcity or the possibility of interjurisdictional veto may be discouraging development even where there is market support for a particular land use because the investor may be forced to take on additional risk.

Under the current system, the availability of development rights across the Lake Tahoe Basin does not align with the market demand. For example, one jurisdiction may have a stockpile of unused development rights when a particular use is in low demand, while another jurisdiction may have a higher demand and scarce supply of the same type of development right. Placer County is currently in short supply of existing tourist accommodation units (TAUs), whereas the City of South Lake Tahoe has an overabundance of legacy motel development. Likewise, Washoe County and El Dorado County currently have a surplus of residential allocations, whereas property owners in the City of South Lake Tahoe may have to wait several years to build single family residential development due to a short supply within that jurisdiction. Without the local jurisdiction approval process, property owners would be allowed to harvest needed development rights from anywhere in the Basin.

⁸ Meeting with City staff, December 19, 2018.

- **Improve the profitability of development and accelerate environmentally beneficial redevelopment called for in the Regional Plan.**

Dissolving jurisdictional barriers would also help to redirect where development or redevelopment occurs. This could potentially incentivize the removal and demolition of *underutilized* development. Development rights could be transferred by removing blighted legacy development and restoring those parcels. Should the underlying development rights become more profitable than the rental margin from an underperforming or underutilized commercial space, then there would likely be incentive to remove that development and sell off those rights.

If there is truly excess building space of a particular type that is greater than what the market demands, this relocation of development could be favorable for a community over a longer time horizon. A reduction of building space would allow the owners of the remaining properties to reduce vacancies, increase rents, and reinvest in their properties.

Methodology

Eliminating the local jurisdictional approval as part of the development rights transfer process is straight-forward to implement, with only a few code and procedural amendments.⁹ At the September 2017 meeting, the Working Group requested that the DRSI team determine and recommend a reasonable “trigger,” or point at which a local jurisdiction could request a “veto” reinstatement. For example, if net transfers exceed a certain percentage of the total development rights in a respective jurisdiction, that jurisdiction could request transfer approval reinstatement.

The challenge of determining that reasonable trigger is three-fold: (1) it would need to be specific to various Lake Tahoe communities and associated market demands, and thus increase complexity by adding location-specific requirements;¹⁰ (2) would inevitably reflect the current inventory of development rights within a given jurisdiction prior to the Working Group’s recommended alternative taking effect, which may not accurately reflect market demand 10 or 20 years from now or realities under the new development right system; and (3) with the implementation of exchange rates as part of the Working Group recommended alternative, the inventory of available development rights increases exponentially.¹¹ (For a current inventory of available development rights within each jurisdiction, see Agenda Item VI.C Attachment A).

⁹ With the implementation of the recommended alternative, any and all regulations within the TRPA Code of Ordinance requiring the approval of the local jurisdiction to transfer development rights would be removed. (Sections 51.3.5, 51.4.6, 51.5.2, and 51.5.3)

¹⁰ The DRSI Team met with City of South Lake Tahoe staff on December 19, 2017 to determine if the City could easily identify an appropriate trigger or safety valve for reinstating the local jurisdictional approval (aka veto). At the time, the City did not have a recommendation.

¹¹ “Available” development rights generally refer to banked development rights or rights within existing allocation pools.

Rather than determine a location-specific trigger for each jurisdiction, **we recommend erring on the side of caution and allowing for flexibility within the system.** Today and in the future, local governments may go before the TRPA Governing Board to request policy, code, or procedural amendments. This provision could be applied as a safeguard to help mitigate significant or detrimental loss of development rights outflowing from a jurisdiction without placing undue complexity or rigidity on the development rights system. If a local jurisdiction requests local approval reinstatement of development right transfers (as a code or procedural amendment), that jurisdiction would be required to provide sufficient evidence or justification at the time as to why the reinstatement is needed (such as economic impact). In the case that the Governing Board reinstates the local jurisdiction transfer approval, this would only be applicable for the jurisdiction of the sending parcel. (Under the current regulations, approval is needed from both the sending and receiving jurisdictions.)

Planning Considerations

Monitoring

There will need to be tools in place to continue monitoring and tracking development right transactions and the movement of development rights throughout the Lake Tahoe Basin. These tools would help determine if further safeguards are needed in the future and mitigate significant loss of development rights from jurisdictions. (i.e. if development rights were outflowing from a particular jurisdiction without the respective inflow).

We recommend on-going monitoring and annual reporting of: (1) transfers into and out of each jurisdiction, (2) transfers within jurisdictions, and (3) conversion of development rights to understand the comprehensive impacts of the recommended alternative. This monitoring may also include the following information pertaining to each jurisdiction:

- Total amount of demolitions;
- Vacancies;
- Retirement of sensitive parcels;
- Removal of development rights on buildable land;
- Changes in local jurisdictional sales tax, transient occupancy tax, property tax; and
- Costs or cost fluctuations of development rights.

This monitoring and reporting could reside on the existing LakeTahoeInfo.org web platform and should be made available to local jurisdictional partners and the general public.¹²

¹² Additional monitoring requirements of the Working Group's recommended alternative, will be discussed at the August Working Group meeting as part of the environmental review process.

Transfer Mitigation Fees

As discussed within this memo, eliminating the local jurisdictional approval will likely redirect where development and redevelopment occur. This could result in a temporary or permanent loss of revenue at a project-specific level for a local jurisdiction. (i.e. Transfer of TAUs results in a loss of Transient Occupancy Tax – TOT.) One possible solution would be to require compensation (or transfer mitigation fee) for any loss in property tax or transient occupancy tax; however, this could greatly undermine the goals and intent of the recommended alternative by adding complexity to the system and negatively impacting the financial feasibility of development. The hypothetical case study below demonstrates the financial burden that may impact the financial feasibility of development if a transfer mitigation fee were imposed:

Case Study: Mitigation Fee for the Transfer of TAUs¹³

For a new 45-room hotel development on a vacant site with one banked TAU, the investor would be required to transfer in 44 TAUs. If these TAUs were acquired from aging motels with an average daily rate of \$70 and an occupancy rate of 40 percent, the gross annual room revenue would be \$482,000. In the City of South Lake Tahoe, this revenue would generate an annual transient occupancy tax (TOT) of \$57,800 and an annual tourism improvement district (TID) payment of \$19,200. If these TAUs were transferred to a different jurisdiction, the City could request three years of compensation, \$231,000.

It is important to evaluate the potential loss and benefit as a result of development relocation from a holistic perspective. Compensation for the loss of revenue could be required from either (1) the jurisdiction where the receiving site is located or (2) the developer of the receiving site, which, in both cases, would be paid to the jurisdiction where the sending site is located. If the developer is required to pay for a loss of TOT revenue, this cost burden would likely narrow the profitability margins, make new development financially infeasible, and discourage transferring development rights from properties that jurisdictions may request compensation from (i.e. commercial or tourist uses). On the other hand, requiring compensation from the jurisdiction of the receiving site would likely result in longer review times, higher costs, and a cumbersome application process for the developer.

Another factor to consider is that the exchange rate component of the recommended alternative could lessen the potential demand of interjurisdictional transfers. (See Agenda Item VI.C) The exchange rates could result in more conversions occurring within a jurisdiction rather than acquiring development rights elsewhere. In the example of the lodging developer, he or she would no longer be constrained to acquiring only TAUs, CFA or residential development rights, these units could be converted within the same jurisdiction.

¹³ PlaceWorks, Development Rights Strategic Initiative Options Evaluation, Sept. 15, 2017.

It should be noted that the fiscal analysis completed in 2017 by Tischler Bise, warned that calculating the true fiscal impact of a particular property or loss of development rights (especially if the property is still buildable for future development) can be a cumbersome process; so much so that the resources required for the analysis and its costs may outweigh the benefit. **Therefore, we would not recommend requiring or allowing a mitigation fee of interjurisdictional transfers.** If the Working Group wants to consider mitigation fees for interjurisdictional transfers, we recommend that the compensation reflect the potential *decrease* in the fiscal costs associated with public services and facilities (rather than lost revenue alone) and take into consideration whether or not the sending site remains buildable after the development right transfer. For example, the costs incurred for public safety, road maintenance, or code enforcement would be greatly reduced if a development were removed and the site restored.

MEMORANDUM

DATE February 13, 2018
TO Development Rights Working Group
FROM Ashley James and Charlie Knox, PlaceWorks
SUBJECT Development Rights Strategic Initiative (DRSI) Transferring and Banking of Development Rights (Agenda Item VI.E)

Requested Action

DRSI team requests that the Working Group provide direction on the implementation strategy for the recommended alternative in preparation of policy, code, and procedural amendments for the TRPA development rights system.

Background

The transfer of development rights (TDR) Program is a central part of TRPA's growth management system and is an important strategy used to attain multiple environmental thresholds. In Tahoe, transferable development rights are those that can be banked and/or verified as legally existing by TRPA. To be verified, the development or use must have been constructed prior to 1987 (and continued until the present day) or thereafter with a permit.¹

The 1987 Regional Plan included three focused growth control strategies: (1) allocating a limited supply of development rights required for new development, (2) acquiring land for conservation such as Stream Environment Zones with meadows and regular flooding, and (3) redirecting (or transferring) development to less sensitive lands. To help implement these strategies and uphold the constraints of the Region's carrying capacity, the TRPA Governing Board adopted a system of transferrable development rights and land coverage regulations.

In the 2000s, the agency and local partners recognized the impact of "legacy development" constructed prior to 1987 was adversely impacting the Region, both in terms of economic redevelopment and environmental protection. Pollutant source analysis conducted by the California State Water Resources Control Board (Lahontan) and Nevada Division of Environmental Protection on the Lake Tahoe Total Maximum Daily Load (TMDL) showed that 72% of fine sediment particles were from urban stormwater runoff.

To better address water quality issues, one of the primary goals of the 2012 Regional Plan Update was to accelerate private investment in environmentally beneficial redevelopment. Primarily, the

¹ TRPA Code of Ordinances 51.5.5.B.1. The 1987 date corresponds to when development rights were first established under the Regional Plan.

implementation strategies of the Regional Plan focus on Town Centers, since these areas contain the concentration of “legacy development”. The TDR program was also improved to provide a range of incentives to transfer development from remote, sensitive areas and into the more desirable, higher density, mixed-use, and walkable areas. The suitability of a receiving parcel is generally determined by the applicable planning area, land capability, and location.

Benefits and Issues with the Existing TDR Program

Overall, policies of the TDR program seek to steer new development and growth away from remote areas and into more appropriate compact development centers. This helps to reduce vehicle miles traveled and greenhouse gas emissions and achieve TRPA’s environmental thresholds. **Other benefits from the TDR program include:**

- Contributes to more compact, walkable development patterns.
- Allows property owners to realize use and value through sales of transferable rights from their parcels.
- Helps manage growth through caps on development right units and bonus units.
- Transfers development from environmentally sensitive lands to less sensitive lands.
- Helps to restore and conserve sensitive land useful for treating water runoff.
- Retires and restores previously developed sites, which typically lack modern stormwater best management practice infrastructure, contain excess coverage, and do not meet modern design standards (“legacy development”).
- Requires installation of Best Management Practices (BMPs) on the affected parcels.

While the overall outcomes of the TDR program have been positive and are effective at meeting Regional Plan goals, the *pace* of that progress has not met desired benchmarks. Additionally, stakeholders and the development community claim that system complexity and excessive requirements have directly hindered the environmentally beneficial redevelopment called for in the Regional Plan. **The 2016 stakeholder assessment and on-going monitoring identified specific issues with the existing TDR program, including:**

- Innovative projects which would accelerate threshold attainment and meet Regional Plan goals are stifled because of rigid upfront requirements and regulations.
- There is a high barrier of entry for development and redevelopment due to excessive costs and uncertainty of needed capital with the existing permitting process.
- Costs, particularly associated with acquiring commodities, and barriers to environmental redevelopment are greater than the existing incentives.
- Acquiring development-related guarantees, such as commodities, prior to project approval causes significant burden to applicants by increasing financial risks and complexity.

- There is currently only a low percentage of transfers to Town Centers that are coming from sensitive lands.
- The issuance of Best Management Practices (BMP) certificates in conjunction with property improvements and area-wide BMP installations were slightly below the desired benchmark in 2015.
- The lack of certainty about development right availability discourage property owners from removing legacy development from sensitive lands, restoration of SEZs, and redevelopment within Town Centers. (i.e. development right hoarding)
- Lack of a regional redevelopment agency or a project liaison has left a void needed to facilitate these public-private partnerships.
- Program users have difficulty understanding the transfer ratios and how the program works.
- Inability to acquire development rights early in the process causes uncertainty and increases financial risks.

TDR Program Process Improvements

The most significant process improvement would be to simplify and reduce the upfront requirements of the TDR program. As discussed within the Approach memo (Agenda Item VI.B), **we recommend TRPA facilitate a customer user group to help staff identify a comprehensive list of desired process improvements related to the recommended alternative.** These improvements can be presented and discussed at the May Working Group meeting. Aside from this comprehensive list, **we recommend the following process improvements to be implemented as part of the recommended alternative:**

- Remove requirement to have an approved project prior to the transfer of development rights.
- Maintain that a developer and/or property owner does not have to acquire development rights until the final permit stage (or acknowledgement).
- Allow public development right banks to sever development rights from properties and hold or sell those rights.

Removing the upfront requirement of having an approved project allows individuals to sever development rights from a sending site and transfer those to a receiving site. They would still be required to obtain the necessary development rights prior to the final permit stage (or acknowledgement) but would be afforded more flexibility to transfer those rights over a longer time period. They would have the option to either acquire and transfer development rights before or after a project is approved. If the developer decided to wait to transfer development rights until the project is approved, he or she would have three years to acquire the necessary rights and break ground on development. Removing the project approval requirement would reduce uncertainty, encourage a wider circulation of development rights and allow a property owner to “pre-load” development rights to make land sales more desirable.

Overview of the Permitting Process & Requirements

The existing and proposed TRPA process and requirements for completing a transfer of development rights are provided on the following pages. It is important to note that the existing process and requirements can vary depending on the agencies approving a project or transfer (i.e. City of South Lake Tahoe or counties), as discussed in the Eliminating Local Jurisdictional Transfer Approval memo (Agenda Item VI.D).

Existing Process & Requirements for a Development Right Transfer ²	Proposed Process & Requirements for a Development Right Transfer
<ul style="list-style-type: none"> • Development rights or use are always associated with and tied to a property, either a sending site or receiving site. • Sending site shall have a verified development right. (TRPA use verification application)³ • Applicant receives consent from all interested parties associated with the property. (i.e. lienholders, co-owners, etc.) • Applicant must demonstrate proof of a proposed project. (i.e. building permit or application submitted to the local jurisdiction)⁴ The applicant can receive conditional approval for a transfer once a project is reviewed on the receiving site; however, the transfer will not be recognized, or acknowledged, until the proposed project is approved. • The transfer of development rights is limited to the number of units or square feet existing on the sending parcel that were physically removed and banked. • Transfers shall occur within the same use classification (i.e. RUU to RUU) unless otherwise specified under the existing pilot programs. (Discussed in the Exchange Rate Memo, Agenda Item VI.C) 	<ul style="list-style-type: none"> • Development rights or use are always associated with and tied to a property, either a sending site or receiving site; unless the transfer includes a public entity. Public entities (i.e. land banks or local governments) can sever development rights from a property and maintain a development right bank. • Sending site shall have a verified development right. (TRPA use verification application) • Applicant receives consent from all interested parties associated with the property. (i.e. lienholders, co-owners, etc.) • Development rights can be transferred at any time up to the point of acknowledgment regardless of a proposed project. This would also include land coverage. • The transfer of development rights is limited to the number of units or square feet existing on the sending parcel that were physically removed and banked. • Development rights can be converted to other use classifications consistent with the exchange rates. (See Exchange Rate Memo, Agenda Item VI.C)

² TRPA Code of Ordinance 51.5.2.

³ During the verification process, TRPA determines if an existing development or use was legally established. To be verified, the development or use had to have been developed prior to 1987 (date corresponds to when development rights were first established under the Regional Code) or thereafter with a permit. 51.5.5.B.1

⁴ In the case of transferring land coverage, the proposed project on the receiving site must be approved prior to transfer. TRPA will not approve a transfer greater than what is required as part of the project on the receiving site.

Existing Requirements for a Development Right Transfer ⁵ (cont.)	Proposed Requirements for a Development Right Transfer (cont.)
<ul style="list-style-type: none"> • Receiving parcel shall comply with site development standards. (i.e. permissible use, density, special planning policies, and design guidelines) • Approval of the local jurisdiction shall be obtained. • Sending parcel is deed restriction in one of several ways depending on land capability of the sending parcel and the amount of existing development rights transferred. This could include permanent restriction to open space, recognizing the use and density on the sending parcel can no longer be expanded to what it once was, or recognizing that a use has been removed and can be transferred back in the future.⁶ • Proposed transfer to the receiving parcel is evaluated for adverse impacts using an Initial Environmental Checklist (IEC). • The building site on the receiving parcel shall be located on high land capability (Class 4-7, or IPES score of 726+). There are some circumstances where development could be transferred to a lower land capability; for example if there was a reduction in land coverage.⁷ (TRPA application required for land capability verification on the sending and receiving site.) 	<ul style="list-style-type: none"> • Receiving parcel shall comply with site development standards. (i.e. permissible use, density, special planning policies, and design guidelines) • Applicant does not have to obtain approval from the local jurisdiction. (See Eliminating Local Jurisdictional Transfer Approval memo, Agenda Item VI.C) • Sending parcel is deed restriction in one of several ways depending on land capability of the sending parcel and the amount of existing development rights transferred. (See existing process for details.) • Proposed transfer to the receiving parcel is evaluated for adverse impacts using an Initial Environmental Checklist (IEC). • The receiving parcel must have a potential building site on high land capability (Class 4-7, or IPES score of 726+). There are some circumstances where development could be transferred to a lower land capability; for example if there was a reduction in land coverage. (TRPA application required for land capability verification on the sending and receiving site.)

For an on-site conversion transaction as part of a project, TRPA or local government that has the delegated authority to do so, will determine the conversion outcome using the exchange rates. (See Exchange Rate Memo, Agenda Item VI.C) When a transaction involves transferring a development right off a property for use on another property or banking, TRPA will process the permit for that transaction. All transactions will be recorded and tracked in the TRPA database. Prior to banking, converting, or transferring development rights, the owner will be required to complete a verification of development rights with TRPA.

⁵ TRPA Code of Ordinance 51.5.2.

⁶ TRPA Code of Ordinances 51.6.

⁷ TRPA Code of Ordinances 51.5.2.I.

The third recommendation – *allowing public development right banks to sever development rights from properties to hold and sell those rights* – would help to improve the effectiveness of the TDR program and the Working Group’s recommended alternative. According to Patrick Wright, Executive Director of the California Tahoe Conservancy, expanding the roll of the existing land banks to acquire, hold, sell, transfer, and potentially donate development rights would help to (1) accelerate Regional Plan goals and policies by removing existing development in sensitive areas and increasing environmental restoration and (2) create a reliable source, or central repository, of development rights to better serve the demand by expanding land bank holdings.⁸ Public entities allowed to sever development rights from a property would be limited to land banks, local governments, and philanthropic non-profits. The following case study provides an example of a development right bank success story.

Severing from a Sending Site

Case Study: Palm Beach County, FL

As described within the Best Practices Report completed in 2017, Palm Beach County in Florida has one of the most successful programs for preserving environmentally sensitive lands. By acquiring development rights and severing those from the sending site, Palm Beach County was not only able to achieve their goals of land protection, but they were also able to leverage proceeds to accelerate those goals.

The Palm Beach County, FL, TDR bank was stocked with 9,000 TDRs severed from environmentally sensitive land acquired with a \$100 million voter- approved bond. With this sizeable inventory, the Palm Beach County TDR bank uses TDR sales proceeds to achieve various goals, such as incentives for maximizing density in redevelopment areas, promoting mixed-use projects with multiple-family residential dwellings, and motivating the development of workforce and affordable housing units.

A full discussion of component 3 of the recommended alternative – *supporting land banks in their efforts to increase their development rights inventories and change their operating constraints which prevent them from better implementing the Regional Plan* – will be discussed at the May Working Group meeting.

Planning Considerations

Individual Holdings

At the September meeting, the Working Group was supportive of allowing public entities (i.e. land banks, local government, and philanthropic non-profits) to acquire, hold, sell, transfer, and potentially donate development rights as an implementation strategy of the recommended alternative. **We recommend that the Working Group consider allowing *private individuals* the same privileges.** This would provide even greater flexibility in the development rights system and allow

⁸ Meeting with Patrick Wright and Kevin Prior (CTC), January 16, 2018.

for developers and private property owners to sever development rights from a property. Allowing individual holdings would be a significant departure from the existing development rights system (which requires a development right to remain attached to a parcel) but could potentially improve the tracking and accountability of development right transactions.

As presented in the “Overview of the Permitting Process” section above, development rights are held (or banked) on a sending site until a project and transfer are approved for the receiving site. For larger development projects, investors may be required to obtain the needed development rights from numerous sites. This can cause significant time delays for a project and force the investor to enter into multiple legal agreements to secure those rights. Most often, a developer will enter into a binding power of attorney agreement to secure the rights needed for a project before he or she may have all the requirements in place to apply for a project or development right transfers. These agreements do not require TRPA approval and are essentially serving as de facto individual holding records. Without TRPA approval, these transactions are not currently tracked or monitored in the TRPA database. In fact, TRPA will have no knowledge that a power of attorney agreement exists on a property until a title report is presented with a transfer application. The following case study presents a potential model for individual holdings.

Individual Holdings in Practice

Case Study: Nevada Water Rights

The Nevada Water Rights system and application process could serve as model should the Working Group take an interest in pursuing an individual holdings implementation strategy.

Under Nevada Statutes, water rights are considered “real property”, as with land, and there are procedures in place to allow property owners to transfer, or convey, that ownership. Water rights are presumed to transfer with the land, unless a property owner specifically reserves the water rights. A conveyance document then allows for the legal transfer of ownership of the water rights. Documents conveying title to the water rights are required to be recorded in the County Recorder’s Office and filed with the State Engineer’s Office.

These conveyance documents are essentially a record of title and are tracked within a state database, along with associated permits. TRPA could easily develop an online transfer application and tracking database for individual holdings similar to this program. (See Attachment A for a copy of the Nevada Water Rights application packet.)

The Best Practices report completed in 2017 presented several examples of TDR programs with individual holdings that could also serve as a model. These included Collier County, FL, and the City of Irvine, CA in which the majority of severed development rights are held by and sold between private parties. Both of these TDR programs have been highly successful to ensure the programs reflect market demands.

Irvine does provide a note of caution, however. Over the years, as the supply of development rights has been used, the remaining severed development rights have become concentrated in

fewer and fewer hands. This has made it difficult for small projects to get the development rights they need, and it has made it increasingly difficult for the city to help existing businesses trying to get small additions and alterations approved. The City of Irvine has been exploring the possibility of establishing a sunset clause so that development rights not used within a certain number of years would revert to the city and be reallocated.

Members of the Working Group and stakeholders have expressed similar concerns stating that since there is an overall development cap in the Basin allowing individual holdings may incentivize larger private entities with sufficient capital to purchase available development rights and sell those for a higher price, and thus inflating the market value. There is also a concern that a private individual may sit on those rights and thus reduce the available supply within the market. Should the Working Group consider individual holdings, the group may want to establish a sunset clause similar to the City of Irvine.

Attachment A: Nevada Water Rights application packet.



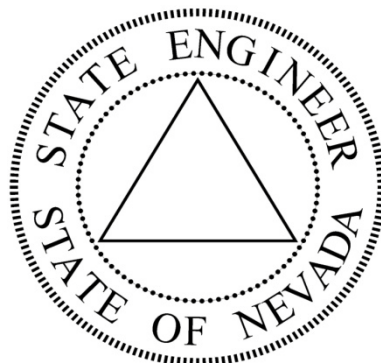
STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

GUIDELINES FOR TRANSFERRING OWNERSHIP OF WATER RIGHTS

STATE ENGINEER'S OFFICE

JASON KING, P.E., STATE ENGINEER



<http://water.nv.gov>

NEW SIMPLIFIED INSTRUCTIONS AND FORMS!

Revised: September 2016

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<http://water.nv.gov>

AUTHORITY AND PURPOSE

The State Engineer is authorized and is responsible for maintaining water right files and accompanying documents as per Nevada Revised Statutes Chapters 111, 240, 375, 532, 533 and 534.

By Nevada Revised Statute 111.167, *water rights are presumed to transfer with the land to which appurtenant*, unless the Grantor in conveyance documents *specifically reserves the water rights*. A conveyance document is any instrument that legally transfers ownership of property. It may be a Quitclaim Deed; Grant, Bargain and Sale Deed; a final Decree of Distribution; or a Certificate of Incorporation from the Secretary of State, etc. As with land, water rights are considered “real property” and similar procedures are required to convey ownership. Although documents conveying title to land and water are required to be recorded in the County Recorder’s Office, the County Recorder does not forward copies of such documentation to the State Engineer’s Office. It is the new owner’s responsibility to file such documents with the State Engineer’s Office in a timely manner according to law.

A *Report of Conveyance* (R.O.C) provides water right holders, agents, etc. a method and means to organize document submittals that will expedite processing in the Office of the State Engineer in accordance with NRS requirements. The reporting process requires the party requesting a change of title from the currently recognized holder to submit a complete conveyance packet consisting of:

1. A notarized *Report of Conveyance* form that identifies the application, permit, proof, or claim information,
2. An *Abstract of Title* that catalogues the deeds or other documents which support a valid chain of title from the current holder to the new holder, (this requirement is waived when submitting only one deed) and
3. Copies of all documents listed on the *Abstract of Title* that have not been filed previously with the Office of the State Engineer and any other pertinent information as required. Documents filed previously may be shown as “A.o.F.”(already on file) with the file number first submitted to eliminate excessive copying. Please note that when submitting several reports of conveyance for water rights having the same chain of title, only one copy of each submitted document is needed. Do not submit more than one copy of a document at a time.
4. Payment of statutory fees of a one-time \$120 filing fee and \$20 per document per water right file number.

The Office of the State Engineer will not consider or treat a person as an owner of the water right until the report is confirmed, including notifications, in granting of permits to change the point of diversion, place of use, or manner of use, etc. The State Engineer is not required to confirm a new owner of record where conflicts in the chain of title exist and/or if the duty or rate of diversion cannot be determined from the documentation filed. Reports returned with a notice of any deficiencies will be rejected unless the required information is supplied to cure the deficiency within the required period. The Office of the State Engineer may waive specific requirements and may require additional supporting information, if circumstances warrant.

Conveyance deeds must be recorded at the proper county recorder’s office(s) before acceptance by the Division. Any deed not recorded with a county recorder is deemed void after October 1, 1995 against a subsequent purchaser who in good faith purchased the same water right and recorded his deed with the county recorder according to state law. The recording requirement establishes proof of constructive notice for valid recognition in the Office of the State Engineer to facilitate orderly processing. County recorder offices usually require several weeks to return original documents after submittal for recording. Please submit only copies of recorded originals and not conformed copies that can render some text unreadable.

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The Office of the State Engineer, Division of Water Resources, reviews only the information that has been filed and may amend or update water right ownership upon receipt of additional information. All forms used by the Division of Water Resources are now available for downloading from our website at <http://water.nv.gov>. This website includes both a **Titles database** useful for tracking progress of ROC submittals and a **Permits database** with ownership information, *.pdf certificates, abrogations, relinquishments, etc. Any questions pertaining to deeds and R.O.C. submittals can be directed to the Deeds Section of the Division of Water Resources, 901 S. Stewart St. Ste. 2002, Carson City, NV 89701-5250, or call 775-684-2800.

*Effective July 1, 2003 NRS 111.312 and 247.110 recording requirements have been limited to paper size 8½” x 11”, requires 1” margins, APN’s on upper left corner of first page, Grantee address, and blank 3” x 3” recording block in upper right hand corner of first page. Documents not conforming to this criterion are subject to a \$25.00 surcharge in addition to regular recording charges.

INSTRUCTIONS FOR COMPLETING THE REPORT OF CONVEYANCE

A complete and accurate *Report of Conveyance* packet with accompanying documents and fees constitutes a valid water right transfer of ownership request when submitted to the State Engineer. Please note that the *notary stamp and signature must be original on each form* and not a facsimile. Please reference the *Report of Conveyance* blank form and the example form in Exhibit A. An explanative example and a completed example of abstract of title forms are found in Exhibits B and C. Note: Items 7 to 11 may be left blank if filing only a *Notice of Pledge* and/or *Deed of Trust*.

Item 1. *Each Application, Permit, Proof or Claim requires a separate Report of Conveyance and Abstract of Title.* Enter the “Application/Permit” Number on the first blank line or “Proof” or the decreed “Claim” number in the second blank. The Office of the State Engineer permanently assigns the Application Serial Numbers upon receipt of all new applications. ... ***Do not use Certificate Numbers.*** See the *Frequently Asked Questions* section for an explanation of the different *status* meanings.

- Specify the **Status** as an *Application, Permit, Certificate, Proof, Decreed, Vested Right, Protested, Forfeited, Abrogated*, etc. Please note, if a subsequent permit has changed a water right, the *new* permit serial number is the appropriate water right on which to request an assignment rather than the earlier, abrogated right.
 - Specify the **Use** as Irrigation, Quasi-Municipal, Stock Water, Commercial, etc.

Item 2. Current holders: List all owners’ names *exactly* as shown in the water rights files in the office of the State Engineer. If the conveyance packet submitted is only transferring a portion of a permit, proof or claim, list only those previous owners relevant to that portion being conveyed.

Item 3. New Owners: List all names *exactly* as listed on transfer documents being submitted along with current mailing address(es), phone number(s) and percentage(s) or portion(s). Do not use abbreviations or *et. al.* or *et. ux.* unless specifically stated that way in the transfer documents. **New Beneficiary’s:** List the lender’s name on Deed of Trust documents with contact information. If filing this ROC for both purposes, then one additional \$120 Filing Fee is required. If more space is needed, use remarks *Item 15* or an attachment sheet for multiple owners and addresses.

Item 4. Copies of recorded documents are required. The recording number and time/date stamp must be included on each document. Documents must be on 8½” x 11” paper, legible, arranged in chronological order and labeled with deed numbers to match the abstract. **Only a single copy of each document needs to be submitted when they are referenced in multiple abstracts.** These documents are then normally filed under the lowest permit, proof or claim number relevant to the submittal. Documents already on file in

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the Office of the State Engineer need not be duplicated or resubmitted, but will be assessed a document filing fee when listed in the abstract for another water right. Abstracts should reference such documents as "A.O.F." (Already On File) and state the deed number and water right under which the deed was previously filed. No documents can be returned once the assignment is completed.

- **Affidavits of Identity.** Any differences in names (for example, Richard W. Carson, Sr. versus Richard W. Carson versus Richard Carson versus Dick Carson, etc.) of the Grantors and Grantees in the chain of title must be reconciled. An *Affidavit of Identity* may be used to reconcile differences listing all aliases. The affidavit must have an original notarized signature and notary stamp. No filing fee will be charged for *Affidavits of Identity* supporting chain of title documents. A model *Affidavit of Identity* has been included with these guidelines. Two variations of these exist, one for individual capacity and one when acting on behalf of a non-natural legal person (Representative). See Exhibit B, Line 6 for proper entry of an affidavit on the abstract.
- **Notice of Pledge & Deed of Trust** documents are filed "for security purposes only" to recognize collateral interests of beneficiaries, lenders, etc. See more complete information in the separate *Guidelines for Encumbering Water Rights- Notice to Lenders* on how to file liens. A model *Notice of Pledge* has been included with these guidelines that can be completed on-line, saved, and printed.
- .. An expedient and lower cost alternative to filing security instruments using the *Report of Conveyance* method is available by using the *Instrument Filing Fee* method. This method uses our blank form customized to your specific information. See the exemplary form in our Forms Room. Provide us one additional copy over the number of water rights to be encumbered plus \$10.00 for each. The additional copy with a SASE will be returned as your conformed copy, while one copy is placed in each water right file. This method is more convenient, less costly and provides the same assurances as does filing it with the ROC except we do not send a confirmation letter. Note that we require original signatures of both borrower and lender on the two duplicate originals before copying
- .. Please contact the Deeds Section for more information concerning this alternative.
- Agreements, leases, liens, rental options, contracts, ditch rights or shares, etc. are not recognized as conveying ownership interest, however, such information may be submitted along with the appropriate deed(s) for purposes of clarification and are chargeable documents when submitted as a part of the abstract with a *Report of Conveyance*.
- A copy of a *Death Certificate* may be accepted to recognize the surviving joint tenant when an **Affidavit Terminating Joint Tenancy** is unavailable. The affidavit should be procured whenever possible.

Item 5. A \$120 filing fee plus \$20 for each chargeable document must accompany the *Report of Conveyance*. Checks should be made payable to "Nevada State Engineer."

..**NOTE:** Only one \$120.00 filing fee is required for related Reports of Conveyance submitted at the same time and using an identical chain of title (i.e. same documents listed to transfer different water rights). A \$20.00 fee is still required for each document per each water right (Example - 2 documents filed in 3 permits = \$120.00 plus \$120.00 for the filing fee.) The \$120.00 fee should be charged to the lowest water right number to which the chain applies. The \$120 filing fee becomes non-refundable after expiration of a 60-day response time limit to submit additional information. See the long form titled *Chain of Title Document Key* for indications of how we may interpret each document style and fees associated with them.

Item 6. Each item of the abstract must be completed.

- Use the standard letter size abstract form unless the conveyance transfers a Truckee River Decree Claim. There is a separate legal size *Abstract of Title* form for these and other decreed claims that can be obtained through our website.

- List each deed chronologically by recording date, numbering the deeds consecutively, with the oldest deed listed first.
- List all grantors and grantees, exactly as they appear on each document. **Note:** Trusts and Estates are the legal owners. Do not list trustees or administrators as grantees or grantors without the specific name of the trust. *Substitution of Trustee* documents must be included when necessary to show the transfer of authority.
- Specify the diversion rate (except for transfers under claims in the Carson River Decree), the Duty, and Units or Acres. List only the acreages covered by the appurtenant water rights. See **Item 9** for units of diversion rate and duty. These items must agree with the records of the State Engineer.
- When utilizing the Decreed Abstract of Title form for Truckee River Decree claims, list the Place of Use being transferred in each conveyance document specifying the water righted acreages within each applicable 40 acre subdivision (quarter-quarter) of each section, township and range.
- List the serial number assigned and the date recorded by the county recorder for each document. Common document description examples are depicted on the example abstract. The recorder's information must be legible on all transfer documents.
- Identify maps by assessor's number, water right, parcel, subdivision, etc. with document numbers. Maps are considered to be a part of the transfer document.

Item 7. Supplemental Water Rights share a place of use or a portion thereof and should be transferred together. State the application, permit, proof or claim numbers for all the supplemental water rights. Separate Report of Conveyance forms need to be submitted for each water right.

Item 8. Indicate the county(s) where the **Point(s) of Diversion** is/are located. Also indicate the county(s) of the **Place(s) of Use**, or if the place of use is in more than one county, indicate all counties. If the point of diversion is in a different county than the place(s) of use, state law requires conveyance documents be recorded in each respective county. Recording serves to notify the public that a title transfer has occurred. The recording numbers and recorders stamp from each county must be legible on your transfer documents and all county numbers are to be included on the abstract of title.

Item 9. Duties indicated must be verifiable in the Office of the State Engineer or no *confirmation of assignment* letter will be issued. Include a diversion rate in CFS and/or volume in acre-feet. If the diversion rate is not stated, it will be calculated to be proportional to the volume in the permit or certificate:

diversion or flow rate

CFS = cubic feet per second (1 CFS = 448.83 gallons per minute)

volume or duty

AFA = acre feet annually

AFS = acre feet per season

(723.97 AFA = 1 CFS flowing for 1 year)

(1 AFA = 0.325851 MGA)

MGA = million gallons annually

MGS = million gallons per season

(235.906 MGA = 1 CFS)

(1 MGA = 3.0689 AFA)

Item 10. If an **Application to Change** the P.O.D., P.O.U., or M.O.U. is already filed; mark the "Yes" box. If the water is to be used under the current permit or certificated terms, mark the "No" box.

P.O.D. stands for Point of Diversion; **P.O.U.** stands for Place of use and **M.O.U.** stands for Manner of use.

Item 11. Indicate the new **Application to Change** number.

Item 12. List any other permits utilizing the same abstract/chain of title. *Report(s) of Conveyance* can be supported by deed(s) already on file or submitted in other reports, if correlation is established and referenced properly in the abstract as "**A.O.F.**" citing filed locations, such as *A.O.F. under Permit 12345*.

Item 13. Remarks: Use this section to explain items above where more space is needed before using an attachment page

Item 14. Affidavit Section. The notary will complete and print the name for the person being notarized at the BY:_____and must sign this form below at the ___ line and stamp the form in the area indicated. Owners, agents or representatives attesting to the facts must sign at the signature line *only in the presence of the notary public*. Fill in the current contact information for the mailing address and phone number and check the correct box as agent or owner. Our office provides notary service at no charge for water right related documents. Please allow 1 to 6 months processing time from submittal date to receive a response from our office. If in the review process, deficiencies are detected, follow-up letters to owners or their representatives requesting additional information will be sent which will allow sixty (60) days for compliance. After this time frame the Conveyance Packet(s) become subject to rejection.

The submitting agent or owner will be mailed the original Confirmation of Assignment letter by First Class Mail (FCM) along with a statement mentioning verification is available by visiting our website. Certain agents or representatives on record will receive a copy of the confirmation letter. An option to receive correspondence by electronic means and not by FCM is outlined below and indicated by a checkbox on Item 3 of the ROC when the consent form is on file.

NOTE: It is the responsibility of owners to file changes of address with this office.

F R E Q U E N T L Y A S K E D Q U E S T I O N S :

How and when will I receive a confirmation that my rights have been changed into my name?

Answer. Please allow our office anywhere from one to six months to process depending upon our workload. If you prefer to receive your correspondence by email instead of a hard copy by USPS, please check the box under **Item 3** and include the [CONSENT TO ELECTRONIC DELIVERY OF DOCUMENTS](#) form from our website. Addressee will be the affiant on the R.O.C.

Why do I need to file a Report of Conveyance to update the title records in the State Engineer's Office?

Answer: State Statutes require submittal of all conveyances of water rights taking place after October 1, 1995 to be filed in our office. Timely filing helps prevent future title conflicts created by insufficient or incorrect documentation that become difficult and costly to resolve later. As more water rights are changed and ownership is divided and transferred frequently, it is increasingly important for all the conveyance documents involved in the chain of title be on file in our office to allow equitable and accurate decisions affecting those rights and proper noticing of actions related to the subject water rights. As water rights are changed or sold, the State Engineer's staff provides reviews to validate and "confirm" those rights to the proper owners.

How can I determine what my water rights really are?

Answer: The public records and staff in the Division of Water Resources are available to citizens and professionals to help research, evaluate, and establish ownerships and resolve other water right issues. The State Engineer's website contains many searchable databases that are accessible online but information obtained is subject to our disclaimers and should be verified against the actual water right files.

What does the *status* of a water right mean?

Answer: The status indicates the point in the administrative process reached towards perfecting a water right *application*. The usual sequence is *application, ready for action (RFA), permit*, and finally a *certificate*. Applications are assigned a permanent serial number. An *application* becomes RFA 30 days after the last date of publication. *Permit* status is obtained only when the State Engineer approves it. The permit terms set forth conditions, submittals and time frames that must be met. A Permit's "duty" is only a temporary allowance and the final duty under a Permit will be dependent upon the amount of water actually placed to beneficial use. A *Certificate* may be issued when a water right's *Proof of Application of Water to Beneficial Use* has been verified.

Proofs are claims of vested rights filed by notarized Affidavit attesting to perpetual historical usage beginning prior to the first water law statutes. They are assigned a permanent serial number. The adjudication process is an orderly statutory procedure by which a court "takes proofs" to determine owners, priorities and amounts of water usage. It then issues a court

order to “decree” the rights to a source of water. After a court order is issued, the *proof* status may change to a *decreed* right.

What does the term supplemental rights and Total Combined Duty mean?

Answer: Supplemental rights share the same or an overlapping place of use. Multiple sources of water or Points of Diversion may be used and/or multiple applications may be filed on a single point of diversion to satisfy all the demand required within the place of use. Often, supplemental rights will reference other permit numbers and a maximum total combined duty that can be used to satisfy the demand. Other supplemental rights don’t state their complementary permits but are supplemental due to a shared place of use. The total combined duty may be stated in the terms of the permit to be the total amount of water that can be diverted to meet the maximum allowed under all of the supplemental permits. Groundwater supplemental rights issues can be determined through a review of the records in the S.E. office or as indicated in our Permits Database under Abrogation, Ruling, and Protest Info (Page 4) for each water right record.

Why do I need to indicate the County in two places on the form for question 8?

Answer: If the point of diversion is in a different county than the place(s) of use, state law requires conveyance documents be recorded in each respective county. Recording serves to notify the public that a title transfer has occurred. The recording numbers and recorders stamp from each county must be legible on your transfer documents and all county numbers are to be included on the abstract of title.

If there is a change application involved, how do I know which application or permit to file my Report of Conveyance on?

Answer: The important thing to remember is the names have to match between the earlier right and the changed right- you must own the earlier base right before you can change it. If the change application is in the new owner name, then file the *Report of Conveyance* on the base right. If the base right is in the previous owners name, then file the *Report of Conveyance* on the base right and file any new change application in the new owners name. Otherwise, you may need to file a *Report of Conveyance* on both rights. Once the change application is pending, it is best if a deed mentions both rights so that it can work to transfer either one or both rights.

Why and when do I have to file a map?

Answer: If a map is referenced in any of the transfer documents listed on the abstract of title form the map must be included in the conveyance packet, unless the property conveyed therein is fully defined in the transfer document with a legal description. Such a description would contain survey information to the nearest 40-acre subdivision shown such as SE¼ SE¼ Sec. 1, T12N R19E, M.D.B.&M. When a transfer document references property with Lot and Block numbers, a copy of the applicable subdivision map from the county assessor’s office must be submitted. If maps are already on file in this office, they may be noted in Remarks as “A.O.F.” with the file number referenced. Other GIS or topographic maps may be requested if not submitted for depicting the Points of Diversion and grazing allotment boundaries for extensive range users.

How will I know that your records have been updated to show my name as an owner?

Answer: You will receive a *letter of confirmation* showing the name(s) of the new owner(s) by diversion rate, duty amounts and/or acres or units along with a statement directing you to verify this online at our Permits database at <http://water.nv.gov> Please review the confirmation letter carefully for accuracy, as these documents become the official records of ownership in the files of the State Engineer. Please notify this office of any discrepancies noted.

I have a lot of Permits. Can I do these forms on my computer?

Answer: Yes. Computerized forms are available on-line at <http://water.nv.gov> in user fill-able Adobe Reader .pdf formats. Contact our office for more information.

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RELATED STATUTES

Chapter 533.382 of NRS. Forms, acknowledgment and recording of conveyance.

Except as otherwise provided in Chapter 533.387 every conveyance of an application or permit to appropriate any of the public waters, a certificate of appropriation, an adjudicated or unadjudicated water right or an application or permit to change the place of diversion, manner of use or place of use of water must be:

1. Made by a deed.
2. Acknowledged in the manner provided in NRS 240.161 to 240.168, inclusive; and
3. Recorded in the office of the county recorder of each county in which the water is applied to beneficial use and in each county in which the water is diverted from its natural source.

Chapter 533.383 of NRS. Effect of recording or failing to record deed of conveyance.

1. The recording of a deed pursuant to NRS 533.382 shall be deemed to impart notice of the contents of the deed to all persons at the time the deed is recorded, and a subsequent purchaser or mortgagee shall be deemed to purchase and take with notice of the contents of the deed.

2. The deed of:

- .. (a) An application of permit to appropriate any of the public waters;
- .. (b) A certificate of appropriation;
- .. (c) An adjudicated or unadjudicated water right; or
- (d) An application or permit to change the place of diversion, manner of use or place of use water, that has not been recorded as required

Chapter 533.382 shall be deemed void as against a subsequent purchaser who in good faith and for valuable consideration purchases the same application, right, certificate or permit, or any portion thereof, if the subsequent purchaser first records his deed in compliance with Chapter 533.382.

Chapter 533.384 of NRS. Filings required by person to whom conveyance is made.

1. A person to whom is conveyed an application or permit to appropriate any of the public waters, a certificate of appropriation, an adjudicated or unadjudicated water right or an application or permit to change the place of diversion, manner of use or place of use of water, shall:

(a) File with the State Engineer, together with the prescribed fee, a report of conveyance which includes the following information on a form provided by the State Engineer:

(1) An abstract of title;

(2) Except as otherwise provided in subsection 2, a copy of any deed, written agreement or other document pertaining to the conveyance; and

(3) Any other information requested by the State Engineer.

(b) If the place of use of the water is wholly or partly within the boundaries of an irrigation district, file with the irrigation district:

(1) An abstract of title;

(2) Except as otherwise provided in subsection 2, a copy of any deed, written agreement or other document pertaining to the conveyance.

2. The governing body of any local government of this state and any public utility which is a purveyor of water within the state may submit an affidavit or other document upon oath in lieu of the documents otherwise required by subparagraph (2) of paragraphs (a) and (b) of subsection 1, if the State Engineer finds that:

(a) The affidavit clearly indicates that rights for diverting or appropriating water described in the affidavit are owned or controlled by the governing body or utility; and

.. (b) The affiant is qualified to sign the affidavit.

Chapter 533.386 of NRS. Duties of State Engineer concerning conveyances.

1. The State Engineer shall confirm that the report of conveyance required by paragraph (a) of subsection 1 of Chapter 533.384 includes all material required by that subsection and that:

(a) The report is accompanied by the prescribed fee;

(b) No conflict exists in the chain of title that can be determined by the State Engineer from the conveyance documents or from other information on file in the office of the State Engineer; and

(c) The State Engineer is able to determine the rate of diversion and the amount of water conveyed in acre-feet or million gallons from the conveyance documents or from other information on file in the Office of the State Engineer.

2. If the State Engineer confirms a report of conveyance pursuant to subsection 1, he shall in a timely manner provide a notice of the confirmation to the person who submitted the report of conveyance. The notice must include, without limitation:

(a) A statement indicating that neither the confirmation of the report of conveyance nor the report of conveyance, if the report sets forth the amount of water conveyed, guarantees that:

.. (1) The water right is in good standing with the Office of the State Engineer; or

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(2) *The amount of water referenced in the notice or in the report of conveyance is the actual amount of water that a person is entitled to use upon the conveyance of the application or permit to appropriate any of the public waters, the certificate of appropriation, the adjudicated or unadjudicated water right, or the application or permit to change the place of diversion, manner of use or place of use of water.*

(b) *A statement that the confirmation of the report of conveyance is not a determination of ownership and that only a court of competent jurisdiction may adjudicate conflicting claims to ownership of a water right.*

3. *If the State Engineer determines that the report of conveyance is deficient, he shall reject the report of conveyance and return it to the person who submitted it with:*

(a) *An explanation of the deficiency; and*

(b) *A notice stating that the State Engineer will not confirm a report of conveyance that has been rejected unless the report is resubmitted with the material required to cure the deficiency. The notice must also include a statement of the provision of subsection 5.*

4. *If, from the conveyance documents or other information in the Office of the State Engineer, it appears to the State Engineer that there is a conflict in the chain of title, the State Engineer shall reject the report of conveyance and return it to the person who submitted it, together with:*

(a) *An explanation that a conflict appears to exist in the chain of title; and*

(b) *A notice stating that the State Engineer will not take further action with respect to the report of conveyance until a court of competent jurisdiction has determined the conflicting claims to ownership of the water right and the determination has become final or until a final resolution of the conflicting claims has otherwise occurred. The notice must also include a statement of the provisions of subsection 5.*

5. *The State Engineer shall not consider or treat the person to whom:*

(a) *An application or permit to appropriate any of the public waters;*

(b) *A certificate of appropriation;*

(c) *An adjudicated or unadjudicated water right; or*

(d) *An application or permit to change the place of diversion, manner of use or place of use of water, is conveyed as the owner or holder of the application, right, certificate or permit for the purposes for this chapter, including, without limitation, all advisements and other notices required of the State Engineer and the granting of permits to change the place of diversion, manner of use or place of use of water, until a report of the conveyance is confirmed pursuant to subsection 1.*

6. *If the State Engineer is notified that a court of competent jurisdiction has entered a judgment confirming ownership of a water right or resolving a conflict in a chain of title, and that the judgment has become final, the State Engineer shall take such administrative action as is appropriate or necessary to conform the records of the Office of the State Engineer with the judgment of the court, including, without limitation, amending or withdrawing a permit or certificate that was previously approved by the State Engineer.*

Chapter 533.387 of NRS. Inapplicability of certain provisions to conveyance of shares of stock in ditch company.

The provisions of Chapter 533.382 to 533.386, inclusive, do not apply to the conveyance of shares of stock in a ditch company which owns:

1. *An application or permit to appropriate any of the public waters;*

2. *A certificate of appropriation;*

3. *An adjudicated or unadjudicated water right; or*

4. *An application or permit to change the place of diversion, manner of use or place of use of water.*

Chapter 533.435 of NRS. Fees of state engineer.

1. *The State Engineer shall collect the following fees:*

For examining and filing a report of conveyance filed pursuant to paragraph (a) subsection 1 of NRS 533.384

.. Report of conveyance \$120.00

Plus \$20.00 per conveyance document.

For filing any other instrument \$10.00

Chapter 111.167 of NRS. Presumption of conveyance with land: Water rights, permits, certificates and applications appurtenant to land.

Unless the deed conveying land specifically provides otherwise, all:

1. *Applications and permits to appropriate any of the public waters;*

2. *Certificates of appropriation;*

3. *Adjudicated or unadjudicated water rights; and*

4. *Applications or permits to change the place of diversion, manner of use or place of use of water, which are appurtenant to the land are presumed to be conveyed with the land.*

Chapter 375.010 of NRS. Definitions.

The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

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1. "Deed" means every instrument in writing, except a last will and testament, whatever its form, and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, but does not include a lease for any term of years or an easement.

2. "Value" means:

(a) In the case of any deed not a gift, the amount of the full, actual consideration paid or to be paid, excluding the amount of liens assumed.

(b) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the real property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Practical tips for Agents and buyers and sellers in real estate transactions and filing of the *Report of Conveyance*.

1. Always check your property descriptions, grantors/grantees, etc. for accuracy by proof reading every word in the conveyance documents.
2. Always check the legal names of corporate entities with the Nevada Secretary of State's website at <http://nvsos.gov/sosentitysearch/>
3. It's usually best to use a full description of each water right involved by naming them specifically with both Permit and Certificate numbers and Proof or Claim Nos. in deed or conveyance document.
4. Check the page formatting requirements to avoid the \$25.00 non-conforming document charge assessed at the county.
5. Deeds that sell land without describing any appurtenant water rights still convey them if no reservations are declared but can leave them open to interpretation and ambiguity.
6. Title companies do not insure water rights as part of their title insurance policy and therefore often separate the water rights from a land deed without first reserving them and then create a redundant water right deed recorded simultaneously as the next consecutive recorded document.
7. Deeds constructed for a base property with grazing rights on public land should enumerate the intent to include the range and stock water rights in the deed or specifically reserve them rather than leave them unstated and the intent unclear.
8. Chains of title must be complete starting from the current holder of record in our office to the most current recorded deed. Records are updated daily but only records having ROC's filed since 2002 have ownership records updated in our Permits database. The legal record is not our database but the actual hard copy of each water right file and should be researched along with county records to perform due diligence.
9. When deeds or changes of address are not filed in a timely manner with our office, it can put ownership at risk of loss from various actions that arise involving the mailing of notices that go undelivered or other unforeseen circumstances.
10. See NRS 111.167 above! A thorough understanding of the doctrine of appurtenance, Nevada water law, the language of deeds, and more is essential to engaging in property transactions and avoiding disputes to be settled in a court of competent jurisdiction.

When in doubt, don't hesitate to hire an expert!

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State of Nevada
REPORT OF CONVEYANCE
of a water right to

Department of Conservation and Natural Resources, Division of Water Resources, Office of the State Engineer

ITEM

1 APPLICATION / PERMIT No.: 12345 or PROOF/CLAIM No.: N/A STATUS: Cert. USE: Irr.

2 CURRENT HOLDER(S) SHOWN BY THE STATE ENGINEER.: John Q. Doe and Jane R. Doe

If any item requires additional space, please use Item 13 Remarks: or attach 8 1/2" X 11" sheets referencing appropriate item number.

3 NEW OWNER(S): The Ponderosa Ranches, Inc. NEW BENEFICIARY(S): Tahoe National Bank
ADDRESS: 1900 Highway 28 ADDRESS: 3456 Main Street
CITY: Incline Village STATE: NV ZIP: 89450 CITY: Truckee STATE: CA ZIP: 96160
Email confirmation OK? See below YES Email confirmation OK? See below YES

4 INVENTORY DOCUMENTS BY CATEGORY AND NUMBER OF EACH IN CHAIN OF TITLE. See Guidelines Page 2

DEED(S).....	4	CORRECTION DEED(S).....		OTHER:		
DEED(S) OF TRUST.....	1	RECONVEYANCE at no charge	1	TOTAL ## OF \$\$ Documents =>		7
NOTICE(S) OF PLEDGE.....	1	MAP(S) at no charge.....		TOTAL # x \$20 each =	140	\$ 140.00
DEATH CERTIFICATES.....	1	AFF OF ID at no charge.....		Report filing fee = \$120.00*		\$ 240.00
DECREE(S) OF DISTR.....		OTHER:		TOTAL FEES SUBMITTED*		\$ 380.00

5 ONE, ONE-TIME \$120 FILING FEE MUST ACCOMPANY THESE REPORTS + \$20 PER CONVEYANCE DOCUMENT LISTED ABOVE. *WHEN INCLUDING ENCUMBERING DOCUMENTS IN ADDITION TO CONVEYANCE DOCUMENTS, AN ADDITIONAL FILING FEE OF \$120 IS REQUIRED. SEE GUIDELINES FOR MORE INFORMATION.

6 This REPORT may require an ABSTRACT OF TITLE listing the above documents in chronological order. A copy of the map referred to in said deed(s) may be required. Copies of maps should be letter or legal size. Refer to Guidelines sheet for details.

7 LIST SUPPLEMENTAL RIGHTS: none

8 COUNTY: POINT OF DIVERSION: Washoe COUNTY: PLACE(S) OF USE: Washoe

9 AMOUNT (DUTIES) TO BE ASSIGNED: 0.20 CFS 80 ACRE-FEET 20 ACRES or UNITS

10 IS AN APPLICATION TO CHANGE THE P.O.D., P.O.U., OR M.O.U. OF THIS RIGHT TO BE FILED? YES NO

11 IF AN APPLICATION TO CHANGE THE P.O.D., P.O.U., OR M.O.U. IS ALREADY FILED, INDICATE THE NUMBER: _____

12 List any other water rights relating to this Report of Conveyance that has been filed using the same abstract and chain of title.

13 Additional Space/Remarks: See the abstract titled Typical Progression of Title Transfers associated with this example and the Generic Data Entry By Document Type Examples (Exhibits B and C)

14 "I swear under penalty of perjury, that this represents a complete and thorough search of the records of the county recorder of each county in which the water is placed to beneficial use or diverted from its natural source and the records on file in the office of the state engineer."

STATE OF Nevada

COUNTY OF Carson City

SUBSCRIBED AND SWORN TO BEFORE ME ON Oct. 3, 2016

BY: Kit Carson, Jr.
Print name of Permittee or Agent signing form

SIGNATURE: Kit Carson, Jr.
PRINT NAME: Kit Carson, Jr.

FIRM NAME: Carson Engineers, Inc.

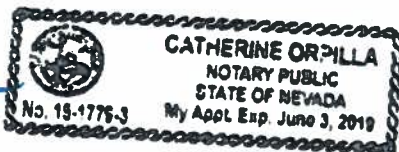
MAILING ADDRESS: 901 S. Capital Street

CITY: Carson City STATE: NV ZIP: 89701

PHONE: 775 OWNER?

E-MAIL: someone@carsonengr.com AGENT?

Catherine Orpilla
Signature of Notary Public Required



Notary Stamp or Seal Required

Is a consent to receive email correspondence already on file? YES

If not, please download from our website and include.

EXHIBIT B
ABSTRACT OF TITLE
Typical Progression of Title Transfers

PERMIT 12345
PAGE 1 of 1

DEED NO.	GRANTOR	GRANTEE	CFS	AFA	ACRES	FILED UNDER	DOC #	DOCUMENT DESCRIPTION/REMARKS
						DATE	DATE	
1	John Q. Doe and Jane R. Doe	Ben Cartwright, Jr. aka Benny Cartwright aka "Centle Ben" Cartwright	0.20	80.0	20.0		11222	G.B. and S. Deed NW¼SE¼ Sec. 23, T.16N. R.18E. M.D.M.B&M.
							6/1/1950	
2	Benny Cartwright, Jr. Trustor	First National Bank Beneficiary A1 Title Company, Trustee	---	---	---		23444	Deed of Trust security interest only
							1/1/1952	
3	First National Bank Beneficiary A1 Title Company, Trustee	Benny Cartwright, Jr. Trustor	---	---	---		54445	Deed of Reconveyance security interest only
							1/1/1958	
4	Ben Cartwright, Jr.	Ben Cartwright, Trustee of the Cartwright Family Trust dated Oct. 2, 1985	0.20	80.0	20.0		12388	Q.C. Deed
							12/31/1976	
5	Ben Cartwright, Trustee of the Cartwright Family Trust dated Oct. 2, 1985	Kit Carson and Kitty Carson, h&w as JTWROS	0.20	80.0	20.0		236667	G.B. and S. Deed NW¼SE¼ Sec. 23, T.16N. R.18E. M.D.M.B&M.
							12/31/1988	
6	Kit Carson deceased JT	Kitty Carson surviving JT	0.20	80.0	20.0		25777	Death Certificate w/ Affidavit Terminating JT
							1/1/1990	
7	Kitty Carson Trustor	Tahoe National Bank Beneficiary A to Z Title Company, Trustee	---	---	---		Orig. Doc.	Notice of Pledge referencing DOT doc# 28678
							1/1/1992	
8	A to Z Title Company	The Ponderosa Ranches, Inc.	0.20	80.0	20.0		612333	Trustee's Deed Upon Sale (or in lieu of foreclosure)
							6/1/1995	

EXHIBIT C
ABSTRACT OF TITLE
(Generic Data Entry by Document Type)

PERMIT 12345
PAGE 1 of 1

DEED NO.	GRANTOR	GRANTEE	CFS	AFA	ACRES	FILED UNDER	DOC #	DOCUMENT DESCRIPTION/ REMARKS
						DATE	DATE	
1	Sellers	Buyers	numerical value	numerical value	numerical value		Doc. No.	Grant, Bargain, and Sale Deed QuitClaim Deed Warranty Deed
							Date of Rec	
2	Trustor (buyers, payors)	Beneficiaries (lenders or payees) and Trustees	---	---	---		Doc. No.	Deed of Trust
							Date of Rec	
3	Trustor (buyers, payors)	Beneficiaries (lenders or payees) and Trustees	---	---	---		Doc. No.	Notice of Pledge w/ D. of Trust Doc. No. referenced
							Date of Rec	
4	Lien Holder Beneficiaries (lenders or Payees) and Trustees	Property Owners Trustors (buyers, payors)	---	---	---		Doc. No.	Deed of Reconveyance (releases lien or encumbrance)
							Date of Rec	
5	Trustees (Defaultors)	New Buyers	numerical value	numerical value	numerical value		Doc. No.	Trustee's Deed Upon Sale
							Date of Rec	
6	Identifior (John Q. Doe)	Identifiees (Jane A. Doe) (aka Jane Doe)	---	---	---		Doc. No.	Affidavit of Identity
							Date of Rec	
7	Estate of (deceased)	Inheritors	numerical value	numerical value	numerical value		Orig. Doc.	Decree of Distribution Executors Deed or other court document
							Date of Rec	
8	Party One Party Two (Deceased)	Party One	numerical value	numerical value	numerical value		Doc. No.	Affidavit Terminating Joint Tenancy w/ Death Cert.
							Date of Rec	

NOTICE OF PLEDGE

State of Nevada
Division of Water Resources
901 S. Stewart Street
Carson City, Nevada 89701

Attn: State Engineer

Please be notified that the undersigned have this date executed a DEED OF TRUST in favor of _____
_____ covering certain land in _____ County, Nevada
together with all of the Trustor's right to any and/or all water rights, ditch and ditch rights, appurtenant to the
described land, including, but not limited to, water from an underground source as listed below:

(See attached legal description and water right information in Exhibit A.)

The said DEED OF TRUST, given to secure a promissory note of even date, was recorded _____
in the Office of the County Recorder of _____ County as Instrument No. _____
in Book No. _____, Page(s) _____

Please file this notice with your records of the above-referenced water rights and direct any notices of the intended
change of the Place of Use (P.O.U.), Manner of Use (M.O.U.), or Point of Diversion (P.O.D.), or any other matter
which materially affects the beneficiary's security interest in the said rights to _____

Dated this ____ day of _____, 20 ____

Institutional Officer's Signature or Beneficiary and Title

Trustor's Signature and Typed Name

Trustor's Signature and Printed Name

Trustor's Signature and Printed Name

Receipt of this **Notice of Pledge** is hereby acknowledged with the signature of a duly qualified employee of the Division of
Water Resources. An original copy, signed by Trustor's and Beneficiary's listed above, of this notation of the _____%
security interest in the above referenced water rights will be placed in the files of the Division of Water Resources. After
DWR signing of both *duplicate original* copies, please return one original copy to _____
_____. Beneficiary hereby agrees to keep the DWR office notified of any changes of address and to
forward any reconveyances within 30 days of proper recording dates to release the above encumbrance in the ownership
records.

Date

DWR Employees Signature

Title

AFFIDAVIT OF IDENTITY - REPRESENTATIVE

State of _____)
)
)
County of _____)

Affiant, _____, being first duly sworn on his/her oath, states
Print Name
that (s)he is familiar with _____ and acknowledges that (s)he
is one in the same person as _____, who is also known as
_____ and _____.

Affiant Signature before Notary Public

This instrument was acknowledged before me on _____
Date
by _____ as _____ of
Name of Person(s) Type of Authority, e.g. Officer, Trustee, etc.

Name of party on behalf of whom instrument was executed

Signature of notarial officer

Title and rank (optional)

My commission expires:

Month, Day, Year

Notary Stamp

State of Nevada
Division of Water Resources
CONSENT TO ELECTRONIC DELIVERY OF DOCUMENTS

I, the undersigned, consent to receive electronic delivery of documents from the Division of Water Resources (Division). This consent does not apply to any notice, disclosure or other communication that the Division is required by Nevada Revised Statute to send in hard copy through the postal mail. The consent granted herein will continue indefinitely, unless it is revoked in accordance with the terms set forth below.

If you would like to withdraw your consent for electronic delivery of all eligible documents and receive paper copies, please send a Request to Withdraw Consent for Correspondence form to; State of Nevada, Division of Water Resources, 901 S. Stewart St., Ste. 2002, Carson City, NV 89701 or fax at (775) 684-2811.

“Electronic Delivery” means making information available by:

- Transmitting such information in an email or, at our option, in an attachment to an email, to your email address of record; or
- Sending notice to your email address of record that such information is available on our website or with instructions on how to access such information.

It is the responsibility of the recipient to notify the Division of any changes to their email address.

Please mail the completed form to; State of Nevada, Division of Water Resources, 901 S. Stewart St., Ste. 2002, Carson City, NV 89701 or fax at (775) 684-2811

Name: _____

Company Name: _____

Address: _____

City/State/zip: _____

Telephone: _____

Email Address: _____
(If multiple addresses please list below)

Additional email address(s): _____

I am the permit holder

Agent/correspondent Signature: _____ Date: _____

Withdrawn on: _____ by: mail _____ fax _____ email _____ Rev. 3/2012



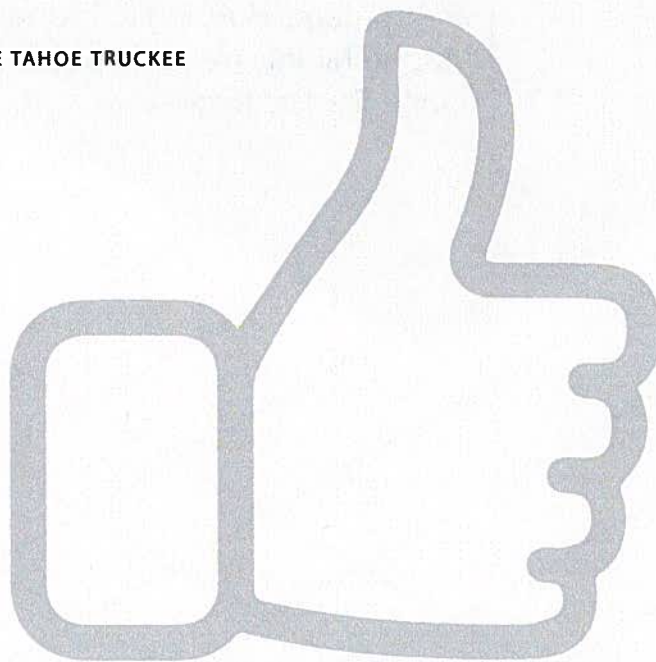
**Policy
Brief**

Case for Expanding the Definition
of Affordable Housing to Include
Missing Middle Needs in North
Tahoe Truckee Region

ACKNOWLEDGEMENTS

Mountain Housing Council would like to thank all those that participated in this regional, multi-stakeholder process to define the issue and develop a new definition for affordable housing to include the missing middle. The information presented in this brief has been strengthened by the insightful and diverse feedback received.

- ▶ **Richard Anderson, NEVADA COUNTY**
- ▶ **Wally Auerbach, TAHOE TRUCKEE COMMUNITY FOUNDATION**
- ▶ **Stacy Caldwell, TAHOE TRUCKEE COMMUNITY FOUNDATION**
- ▶ **Yumie Dahn, TOWN OF TRUCKEE**
- ▶ **Pat Davison, CONTRACTORS ASSOCIATION OF TRUCKEE TAHOE**
- ▶ **John Falk, TAHOE SIERRA BOARD OF REALTORS**
- ▶ **Brian Foss, NEVADA COUNTY**
- ▶ **John Hester, TAHOE REGIONAL PLANNING AGENCY**
- ▶ **Jeff Loux, TOWN OF TRUCKEE**
- ▶ **Jennifer Merchant, PLACER COUNTY**
- ▶ **Ted Owens, TAHOE FOREST HOSPITAL**
- ▶ **Shawna Purvines, PLACER COUNTY**
- ▶ **Alison Schwedner, COMMUNITY COLLABORATIVE TAHOE TRUCKEE**

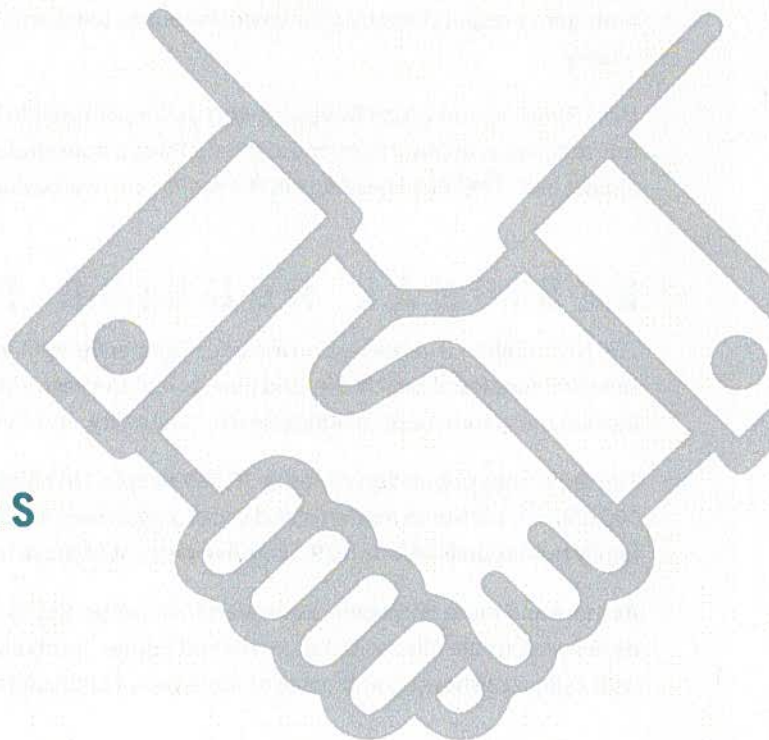


FUNDING PARTNERS

- ▶ Nevada County
- ▶ Placer County
- ▶ Squaw Valley | Alpine Meadows
- ▶ Squaw Valley Public Service District
- ▶ Tahoe City Public Utility District
- ▶ Tahoe Donner Association
- ▶ Tahoe Forest Hospital District
- ▶ Tahoe Regional Planning Agency
- ▶ Tahoe Truckee Unified School District
- ▶ Town of Truckee
- ▶ Truckee Donner Public Utility District
- ▶ Truckee Tahoe Airport District
- ▶ Vail Resorts

COMMUNITY PARTNERS

- ▶ Community Collaborative of Truckee Tahoe
- ▶ Contractors Association of Truckee Tahoe
- ▶ Family Resource Center of Truckee
- ▶ Mountain Area Preservation
- ▶ North Lake Tahoe Resort Association
- ▶ North Tahoe Family Resource Center
- ▶ North Tahoe Public Utility District
- ▶ Truckee Chamber of Commerce
- ▶ Tahoe Prosperity Center
- ▶ Tahoe Sierra Board of Realtors
- ▶ Tahoe Truckee Community Foundation





OVERVIEW

There is a gap between traditional affordable housing programs and available housing in the Tahoe-Truckee region – people who make too much to qualify for affordable housing developments, but too little to buy or rent market rate homes.

They're called the missing middle – a group that includes teachers, firefighters, business owners and many, many others. Ultimately they're being forced to move away, leaving employers unable to staff businesses, emergency responders struggling with response times and impacting the region's economy, culture and vitality.

HUD (Housing and Urban Development) defines affordable housing as those with monthly payments (rent or mortgage plus utilities) as no more than 30% of a household's gross income (before taxes). By that definition, almost half (49%) of all residents in the region are overpaying for housing.

REGIONAL HOUSING PICTURE

The North Tahoe Truckee Region includes Donner Summit and Serene Lakes to the west, the Town of Truckee, the communities of Hirschdale, and Floriston to the east, and extends to the north shore of Lake Tahoe to include the communities of Kings Beach, Tahoe City, and Tahoma.

The region has population of about 30,000 people. On holiday weekends, those numbers swell to around 100,000. For part-time residents and vacationers, there are 33,300 housing units available – mostly single family homes built before 1979. Sixty-five percent of those homes are vacant more than half of the year.

As more and more homeowners convert their properties to short-term vacation rentals and new developments are filled with luxury second homes, locals are struggling to find housing in our community – with estimates showing a shortfall of more than 12,000 units to serve the local workforce.

HOUSING LEVELS

While there is a great need in the North Tahoe Truckee region for more housing options for low income groups that are most at risk of homelessness and other negative outcomes, the 2016 Regional Housing Study also found that there is a need for housing for middle income earners. These are people who are making decent salaries, but are still priced out in the region's exceptionally high real estate market.

► Regional Housing Needs by Household Income Category

HOUSEHOLD INCOME CATEGORY	TOTAL UNITS NEEDED	% OF TOTAL
Extremely Low (\leq 30% AMI)	911	7.49%
Very Low ($>$ 30% \leq 50% AMI)	1,695	13.94%
Low ($>$ 50% \leq 80% AMI)	2,548	20.95%
Moderate ($>$ 80% \leq 120% AMI)	2,499	20.55%
Above Moderate ($>$ 120% AMI)	4,507	37.06%
Total	12,160	100.00%

Source: Table 38, Truckee North Tahoe Housing Study, BAE 2016



The 2016 Regional Housing Study shows an unmet need for about 12,160 housing units to serve the local workforce of the region. Of those units, over half (57%) are needed for households earning moderate incomes or above. This includes households earning at least 80% of the area median income (AMI), which is \$73,500 for a family of four in Nevada County and \$76,100 in Placer County.

A family of four earning 100% of the area median income (in Nevada County), could afford a \$278,565 priced home, but this is nowhere near the median home price of \$538,000. **The median for sale single-family home price is almost double what a household earning the median area income can afford.**

► **Buying Power for Home Purchase by Income Level (for Nevada County)**

INCOME LEVEL FOR FAMILY OF 4	ANNUAL INCOME	BUYING POWER	AFFORDABLE HOME PRICE	MEDIAN HOME PRICE	GAP	DOWN PAYMENT REQUIRED
193% AMI	\$141,953	3.79	\$538,000	\$538,000	\$0	\$107,600
120% AMI	\$88,200	3.79	\$334,587	\$538,000	\$203,413	
100% AMI	\$73,500	3.79	\$278,565	\$538,000	\$259,435	
80% AMI	\$61,300	3.79	\$232,618	\$538,000	\$305,382	

There are no federal and very few state and local subsidy programs that provide financial support for housing programs that serve households earning more than 80% AMI. The limited availability of housing subsidy programs, coupled with the high cost of housing and scarcity of housing inventory in the region, leaves the moderate and above moderate income earners as the **missing middle**.

Housing solutions for lower income earners (\leq 80% AMI) are still a priority for the region as these households will essentially never be able to afford to buy a home or condominium, with buying power gaps exceeding \$300,000.

The Mountain Housing Council proposes expanding the definition of affordable housing to also include the missing middle income levels in order improve our region's ability to address the housing needs for a diversity of households. The new definition being proposed for an expanded definition of affordability is **Local Achievable Housing**.

RECOMMENDATION

The Mountain Housing Council recommends that partner jurisdictions consider adoption of an expanded definition of affordability that would serve to inform the redesign of their housing programs to include households earning up to 195% of the area median income, bridging the gap between existing programs and existing market-rate housing inventory.

This policy brief provides more in-depth analysis of the challenge in our region and justification for the recommendation that local jurisdictions adopt an expanded definition of affordable to include moderate and above moderate income households.

► **Definitions**

AFFORDABLE HOUSING

As defined by HUD, housing for which the occupant(s) is/are paying no more than 30% of his or her income for gross housing costs, including utilities.¹

COST-BURDENED

When housing costs exceed 30% of income, the household is considered to be Cost Burdened. Households are severely cost-burdened when housing costs comprises 50% or more of gross income.

AREA MEDIAN INCOME (AMI)

The household income for the median — or middle — household in a region. The US Department of Housing and Urban Development (HUD) publishes this data, which will vary by household size, annually for regions. The California Department of Housing and Community Development (HCD) makes minor adjustments based on regional factors to these numbers prior to publishing.

THE CHALLENGE

The nationally accepted definition of housing affordability is set by HUD (U.S. Department of Housing and Urban Development). The HUD definition is applied to household gross income and uses four different levels as the way to classify that income. The income levels are based on Area Median Income (AMI), which is also set by HUD and adjusted by the California Department of Housing and Community Development (HCD). For a family of four in 2017, the Placer County AMI is \$76,100 and the Nevada County AMI is \$73,500.

The HUD income levels are: Extremely Low ($\leq 30\%$ AMI), Very Low ($> 30\% \leq 50\%$ AMI); Low ($> 50\% \leq 80\%$ AMI), and Moderate ($> 80\% \leq 120\%$ AMI). Anything equal to or greater than 120% of AMI is categorized as “Above Moderate” income.

The majority of federal and state subsidy programs only provide financial support for housing programs that serve households earning no more than 80% AMI. For the Moderate Income ($> 80\% \leq 120\%$ AMI) level, the only incentive for housing programs is through the State Density Bonus Law which still only applies to condo projects. Local jurisdictions can opt to support Moderate Income housing through design waivers, expedited process review, and fee reductions. There are no state or federal programs for the “Above Moderate” income level households.

HOME OWNERSHIP

In the North Tahoe Truckee Region, the median home price in 2016 was \$538,000².

If housing is defined as “affordable” when no more than one third of a household’s income should be allocated towards housing, this means that the maximum sales price a household can “afford” is about 3.79³ times their annual income and the down payment required to purchase the home will be equal to 20% of this affordable price to secure a 4.0% interest rate.

¹ https://www.huduser.gov/portal/glossary/glossary_a.html

² 2016 data was used for this analysis as the median home sales price for the Mountain Housing Council boundary is not readily available for 2017. In addition, using 2016 data keeps this analysis consistent with the BAE Housing Needs Assessment which developed the Ownership Cost Assumptions using 2016 data.

³ 3.79 is based on the Ownership Cost Assumptions Table which equates to 3.79 times the annual income of a household. For example, to afford the median single family home sale price of \$538,000, the household must earn \$141,953. $\$141,953 \times 3.79 = \$538,000$

OWNERSHIP COST ASSUMPTIONS

% of Income for Housing Costs	30% of gross annual income
Down payment	3.5% of home value
Annual interest rate	4.0% fixed
Loan term	30 years
Upfront mortgage insurance	1.75% of home value
Annual mortgage insurance	0.85% of mortgage
Annual property tax rate	1.25% of home value
Annual hazard Insurance	0.42% of home value

Source: Tables 24 & 25, Affordable For-Sale Housing Prices, Truckee North Tahoe Housing Study, BAE 2016

Based on these parameters, **only households earning at about 190% of the area's median income – and with \$107,600 in cash available for a down payment – can currently afford to buy a home in the North Tahoe-Truckee Region.**

► Nevada County - Annual Income Buying Power

INCOME LEVEL FOR FAMILY OF 4	ANNUAL INCOME	BUYING POWER	AFFORDABLE HOME PRICE	MEDIAN HOME PRICE	GAP	DOWN PAYMENT REQUIRED
193% AMI	\$141,953	3.79	\$538,000	\$538,000	\$0	\$107,600
170% AMI	\$124,950	3.79	\$473,561	\$538,000	\$64,440	
120% AMI	\$88,200	3.79	\$334,587	\$538,000	\$203,413	
100% AMI	\$73,500	3.79	\$278,565	\$538,000	\$259,435	
80% AMI	\$61,300	3.79	\$232,618	\$538,000	\$305,382	

Source: Tables 24 & 25, Affordable For-Sale Housing Prices, Truckee North Tahoe Housing Study, BAE 2016

► Placer County - Annual Income Buying Power

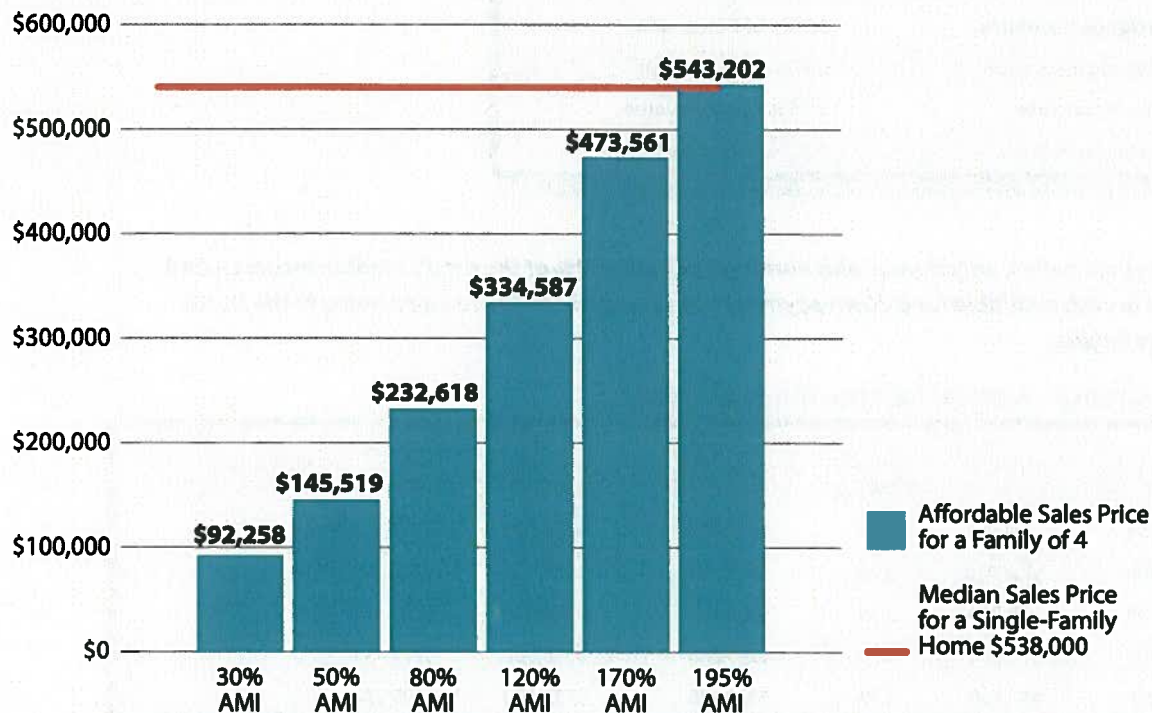
INCOME LEVEL FOR FAMILY OF 4	ANNUAL INCOME	BUYING POWER	AFFORDABLE HOME PRICE	MEDIAN HOME PRICE	GAP	DOWN PAYMENT REQUIRED
187% AMI	\$141,953	3.79	\$538,000	\$538,000	\$0	\$107,600
170% AMI	\$129,370	3.79	\$490,312	\$538,000	\$47,688	
120% AMI	\$91,300	3.79	\$346,423	\$538,000	\$191,577	
100% AMI	\$76,100	3.79	\$288,419	\$538,000	\$249,581	
80% AMI	\$60,900	3.79	\$231,100	\$538,000	\$306,900	

Source: Tables 24 & 25, Affordable For-Sale Housing Prices, Truckee North Tahoe Housing Study, BAE 2016

Based on a comparison with the median sales prices, it is clear that only above moderate income households earning greater than 193% of Nevada County's area median income (187% for Placer County) would be able to afford the median sale price for single-family homes in the North Tahoe Truckee area without exceeding the 30% cost burden.

OWNERSHIP AFFORDABILITY GAP FOR SINGLE-FAMILY HOMES

► Affordable Price Per Income Level Compared to Median North Tahoe Truckee Sales Price

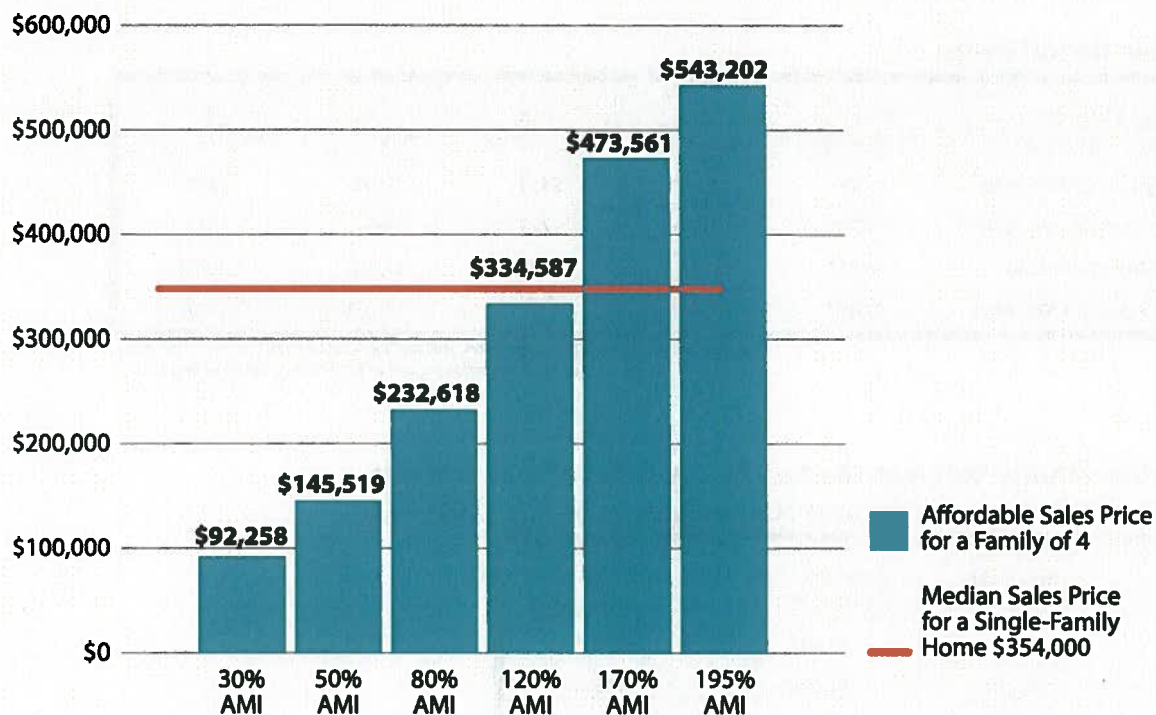


Source of Data: Table 21: Single-Family Home Sales & Table 23: Affordable For-Sale Housing Prices, Truckee North Tahoe Housing Study, BAE 2016. Using Nevada County Median Income of \$73,500 for a family of four (2017) and Single-Family Home Sale Price for North Tahoe Truckee Region (2016).

As the chart above demonstrates, households earning below 120% AMI will never be able to afford a single-family home with the significant gap in affordable sale price and median home price. For example, a family of 4 earning 80% AMI in Nevada County has a gap of affordable sale price to median home sale price of \$305,382 (\$306,900 for Placer County) while those earning 120% AMI still have a gap of \$203,413 in Nevada County (\$191,577 in Placer County).

OWNERSHIP AFFORDABILITY GAP FOR CONDOMINIUMS

► Affordable Condominium Price Per Income Level Compared to Median North Tahoe Truckee Sales Price



Source of Data: Table 22: Condominium Sales & Table 23: Affordable For-Sale Housing Prices, Truckee North Tahoe Housing Study, BAE 2016. Using Nevada County Median Income of \$73,500 for a family of four (2017) and Median Condo Sale Price for North Tahoe Truckee Region (2016).

While the cost for a condominium is roughly aligned with what would be “affordable” for above moderate income households (> 120% AMI), it is important to note that the income limits represent the maximum that could be reasonably considered affordable. Therefore, moderate (> 80% ≤ 120% AMI) as well as above moderate income households (>120% AMI) at the lower-end of the range, or those that are burdened with other obligations, such as child care costs or student loan debt, may have difficulty affording for-sale housing in the area, regardless of type.



RENTAL HOUSING

For renter households, housing costs are assumed to include a monthly cash rent payment as well associated utility costs. The calculation of affordable rental rates is equal to 30% of gross monthly income minus a utility allowance. Rental rates that would be affordable to moderate income (> 80% ≤ 120% AMI) households in Nevada County range from \$1,487 to \$2,257.

► Affordable Rental Rates

HOUSEHOLD INCOME CATEGORY	STUDIO 1 PERSON	1 BR 2 PERSONS	2 BR 3 PERSONS	3 BR 4 PERSONS	4 BR 5 PERSONS
Extremely Low (≤ 30% AMI)	\$346	\$392	\$433	\$503	\$587
Very Low (> 30% ≤ 50% AMI)	\$614	\$700	\$779	\$854	\$912
Low (> 50% ≤ 80% AMI)	\$1,017	\$1,158	\$1,295	\$1,428	\$1,532
Moderate (> 80% ≤ 120% AMI)	\$1,487	\$1,696	\$1,900	\$2,100	\$2,257

Source: Table 28 Affordable Rental Rates, Truckee North Tahoe Housing Study, BAE 2016. Using Nevada County Median Income of \$73,500 for a family of four (2017).

► Gap in Affordability between Median Rental Rates and Affordable Rental Rates for Moderate Income Households (> 80% ≤ 120% AMI)

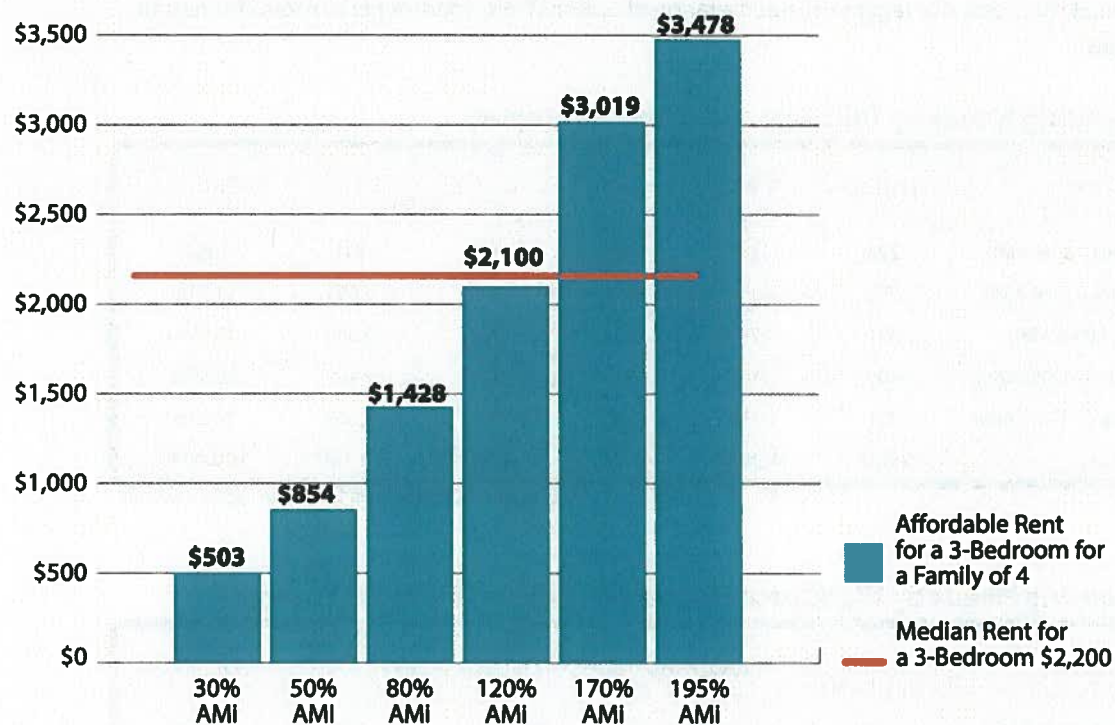
RENTAL SIZE	MEDIAN RENTAL RATE	AFFORDABLE RENTAL RATE	AFFORDABILITY GAP
Studio	\$850	\$1,487	\$637
1 Bedroom	\$1,260	\$1,696	\$436
2 Bedroom	\$1,350	\$1,900	\$550
3 Bedroom	\$2,200	\$2,100	-\$100
4 Bedroom	\$2,500	\$2,257	-\$243

Source: Median Rental Rates, Truckee North Tahoe Housing Study, BAE 2016, pg. 5. Using Nevada County Median Income of \$73,500 for a family of four (2017) and Median Rental Rate (2016).

As seen in the table above, smaller Moderate Income households can afford studios and 1- or 2-bedroom apartments. The gap in affordability grows when larger Moderate Income households require 3-bedroom (\$100 monthly shortfall) or 4-bedroom (\$243 monthly shortfall) rentals.

RENTAL AFFORDABILITY GAP

► Affordable Rent per Income Level Compared to Median Rental Rate in North Tahoe Truckee Region



Source of Data: Table 28: Affordable Rental Rates, Truckee North Tahoe Housing Study, BAE 2016 – Using Nevada County Median Income of \$73,500 for a family of four (2017) and Median Rent for North Tahoe Truckee Region (2016).

The chart above demonstrates that for lower income households, there is a significant gap in affordability of rentals. For example, a family of 4 earning 80% AMI can only afford a rental cost of \$1,428, but the median rental rate is \$2,200 for a 3-bedroom. In addition to the gap in affordability of rentals for lower income households (80% AMI and below), the more significant barrier to rental housing that affects all income levels, however, is the severe rental housing shortage.



REGIONAL HOUSING NEEDS

The tables below represent the Regional Housing Needs for the North Tahoe Truckee Region for year-round residents, seasonal residents, and in-commuter workforce, demonstrating a total need of 12,160 units, with 2,499 needed for Moderate (> 80% ≤ 120% AMI) and 4,507 needed for Above Moderate Income households (>120% AMI). To meet this need, our region will need a range of options from apartments to rooms for rent to single family homes.

► Regional Housing Needs by Unit Size and Income Category

HOUSEHOLD INCOME LEVEL	STUDIO	1 BR	2 BR	3+ BR	TOTAL	% OF TOTAL
Extremely Low (≤ 30% AMI)	225	166	354	165	911	7.49%
Very Low (> 30% ≤ 50% AMI)	272	414	709	300	1,695	13.94%
Low (> 50% ≤ 80% AMI)	371	879	1,014	285	2,548	20.95%
Moderate (> 80% ≤ 120% AMI)	409	714	965	411	2,499	20.55%
Above Moderate (> 120% AMI)	351	1,836	1,724	596	4,507	37.06%
TOTAL	1,627	4,009	4,766	1,757	12,160	100.00%

Source: Table 38, Truckee North Tahoe Housing Study, BAE 2016

► Regional Housing Needs by Workforce Household Type and Income Category

HOUSEHOLD INCOME CATEGORY	YEAR-ROUND RESIDENT	SEASONAL RESIDENT	IN-COMMUNTER	TOTAL	% OF TOTAL
Extremely Low (≤ 30% AMI)	379	274	258	911	7.49%
Very Low (> 30% ≤ 50% AMI)	440	269	986	1,695	13.94%
Low (> 50% ≤ 80% AMI)	884	291	1,373	2,548	20.95%
Moderate (> 80% ≤ 120% AMI)	1,001	168	1,330	2,499	20.55%
Above Moderate (> 120% AMI)	1,396	194	2,917	4,507	37.06%
TOTAL	4,100	1,196	6,864	12,160	100.00%

Source: Table ES-1, Truckee North Tahoe Housing Study, BAE 2016



COMPARABLE COMMUNITIES

In a review of four peer resort communities - Aspen, Breckenridge, Park City, and Vail - all use the HUD 30% ratio of income-to-housing cost as the basis for measuring affordability. **All of the peer resort communities have chosen to serve higher-income households than the HUD standard (up to 80% AMI) due to the high cost of housing.** For example, Aspen has housing programs that serve up to 235% AMI while Park City's housing programs serve up to 195% AMI. ⁴

PEER COMMUNITY	ASPEN	PARK CITY	VAIL	BRECKENRIDGE
Max AMI for Housing Programs	235%	195%	160%	160%

RECOMMENDATION

Creating housing solutions for lower income earners is still a priority for the region; however, based on the high cost of housing, lack of inventory in the “missing middle” income levels, and the fact that HUD generally recognizes but does not address the Moderate ($\geq 80\%$ AMI) income level, the Mountain Housing Council proposes expanding the definition of affordable housing to include the “missing middle” income levels. Per the HUD resource below, it is reasonable for jurisdictions to define their own standards for affordability based on market conditions. ⁵

The new definition being proposed for an expanded definition of affordability is **Local Achievable Housing**.

MHC recommends that its partner jurisdictions consider adoption of an expanded definition of “affordability” for design of their housing programs. MHC defines the “Missing Middle” as a range between 80% to 195% of AMI.

This recommendation is based on the affordability gap between what a “missing middle” (80% to 195% AMI) household can afford for housing as demonstrated in the tables and charts provided in this analysis, and the significant shortfall of available housing for local residents of the region, of which over half (57%) of this need is attributed to the moderate (80% to 120% AMI) or above ($> 120\%$ AMI) incomes groups. While local jurisdictions would continue to have subsidized housing programs for low income households as they do now, an expanded definition of affordability will improve our region’s ability to address the housing needs for a diversity of households.

PER THE HUD GLOSSARY
(www.HUDuser.gov)

AFFORDABLE HOUSING: in general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. *Please note that some jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb.*

Once adopted, local jurisdictions will have to determine how implement programs and affordable housing development for the “missing middle” in their own jurisdiction. For example, the HUD funded First Time Homebuyer Program, which provides down payment assistance to low-income households ($\leq 80\%$ AMI) to purchase a home has a maximum sale price of \$333,000 in Nevada County and \$381,000 in Placer County⁶. Both of these maximums fall far below the median single-family home sale price of \$538,000. A local, first time homebuyer program in which household earning up to 195% AMI could qualify that uses the median for-sale home price for our region could be one way to use the expanded definition of Local Achievable Housing.

⁴ <http://www.townofbreckenridge.com/Home/ShowDocument?Id=9474>
<http://www.parkcity.org/home/showdocument?id=15715>
http://www.vailgov.com/docs/dl_forms/Resolution_No_20_Series_of_2008.pdf
<http://www.apcha.org/DocumentCenter/View/119>
⁵ https://www.huduser.gov/portal/glossary/glossary_a.html
⁶ http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/2017_Existing_Home_Limit.pdf



The tables on the following pages provide reference information for Annual Incomes, Housing Buying Power, and Affordable Rents for the “missing middle” income groups.

ASSUMPTIONS FOR ANNUAL INCOME AND HOUSING BUYING POWER TABLES

- ▶ Aqua rows for Annual Incomes for each County calculated by HUD and adjusted by CA Department of Housing & Community Development (HCD).⁷
- ▶ Aqua rows in **Amount Available for Housing and Affordable Home Purchase Price** Tables reported in **Truckee North Tahoe Housing Study, BAE 2016**.
- ▶ **Monthly Amount Available for Housing** calculation: $(\text{Annual Income}/12) \times .30$. Following BAE methodology, this calculation does not include associated utility costs.
- ▶ **Affordable Purchase Price Calculation:** Annual income $\times 3.79$, following BAE methodology.
- ▶ HUD calculated income limits are not exactly equal to 30%, 50%, 80% or 120% of the county’s median family income. According HUD, this is because there are many exceptions to the arithmetic calculation of income limits. These include adjustments for high housing cost relative to income, the application of state nonmetropolitan income limits in low-income areas, and national maximums in high- income areas.”
- ▶ Orange rows are un-verified estimates for households with “above moderate” income levels. Since the details of HUD’s adjustments to the % of AMI calculations are not available, we used 170% and 195% of AMI for our calculations rather than the slight adjustments to the percentages that HUD or HCD would most likely apply.
- ▶ With the new definition of Local Achievable Housing, the darker aqua and orange row income categories (80% to 195% AMI) would be categorized as the “Missing Middle”.

⁷ <http://www.hcd.ca.gov/grants-funding/Income-limits/state-and-federal-income-limits/docs/inc2k17.pdf>
▪ https://www.huduser.gov/portal/datasets/IL/IL15/faqs_15.pdf



ANNUAL INCOMES AND THE HOUSING BUYING POWER IN NEVADA COUNTY

► Annual Incomes by AMI for the Nevada County Residents (2017)

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$16,100	\$18,400	\$20,700	\$24,300	\$28,440
Very Low (up to 50% AMI)	\$26,850	\$30,700	\$34,550	\$38,350	\$41,450
Low (up to 80% AMI)	\$42,950	\$49,050	\$55,200	\$61,300	\$66,250
Median (up to 100% AMI)	\$51,450	\$58,800	\$66,150	\$73,500	\$79,400
Moderate (up to 120% AMI)	\$61,750	\$70,550	\$79,400	\$88,200	\$95,250
Missing Middle (up to 170% AMI)	\$87,465	\$99,960	\$112,455	\$124,950	\$134,980
Missing Middle (up to 195% AMI)	\$100,328	\$114,660	\$128,993	\$143,325	\$154,830

Missing Middle

► Monthly Amount Available for Housing by AMI for Nevada County Residents

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$403	\$460	\$518	\$608	\$711
Very Low (up to 50% AMI)	\$671	\$768	\$864	\$959	\$1,036
Low (up to 80% AMI)	\$1,074	\$1,226	\$1,380	\$1,533	\$1,656
Median (up to 100% AMI)	\$1,286	\$1,470	\$1,654	\$1,838	\$1,985
Moderate (up to 120% AMI)	\$1,544	\$1,764	\$1,985	\$2,205	\$2,381
Missing Middle (up to 170% AMI)	\$2,187	\$2,499	\$2,811	\$3,124	\$3,375
Missing Middle (up to 195% AMI)	\$2,508	\$2,867	\$3,225	\$3,583	\$3,871

Missing Middle

► Affordable Home Purchase Price by AMI for Nevada County Residents

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$61,019	\$69,736	\$78,601	\$92,258	\$107,887
Very Low (up to 50% AMI)	\$101,762	\$116,353	\$131,103	\$145,519	\$157,203
Low (up to 80% AMI)	\$162,781	\$185,900	\$209,401	\$232,618	\$251,282
Median (up to 100% AMI)	\$194,996	\$222,852	\$250,709	\$278,565	\$300,926
Moderate (up to 120% AMI)	\$234,033	\$267,385	\$301,204	\$334,587	\$361,293
Missing Middle (up to 170% AMI)	\$331,492	\$378,848	\$426,204	\$473,561	\$511,574
Missing Middle (up to 195% AMI)	\$380,241	\$434,561	\$488,882	\$543,202	\$586,806

Missing Middle



ANNUAL INCOMES AND THE HOUSING BUYING POWER IN PLACER COUNTY

▶ Annual Incomes by AMI for the Nevada County Residents (2017)

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$16,100	\$18,400	\$20,700	\$24,300	\$28,440
Very Low (up to 50% AMI)	\$26,850	\$30,700	\$34,550	\$38,350	\$41,450
Low (up to 80% AMI)	\$42,950	\$49,050	\$55,200	\$61,300	\$66,250
Median (up to 100% AMI)	\$51,450	\$58,800	\$66,150	\$73,500	\$79,400
Moderate (up to 120% AMI)	\$61,750	\$70,550	\$79,400	\$88,200	\$95,250
Missing Middle (up to 170% AMI)	\$87,465	\$99,960	\$112,455	\$124,950	\$134,980
Missing Middle (up to 195% AMI)	\$100,328	\$114,660	\$128,993	\$143,325	\$154,830

Missing Middle

▶ Monthly Amount Available for Housing by AMI for Placer County Residents

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$400	\$458	\$515	\$608	\$711
Very Low (up to 50% AMI)	\$666	\$761	\$856	\$951	\$1,028
Low (up to 80% AMI)	\$1,066	\$1,219	\$1,371	\$1,523	\$1,645
Median (up to 100% AMI)	\$1,331	\$1,523	\$1,713	\$1,903	\$2,055
Moderate (up to 120% AMI)	\$1,598	\$1,826	\$2,054	\$2,283	\$2,465
Missing Middle (up to 170% AMI)	\$2,263	\$2,588	\$2,911	\$3,234	\$3,494
Missing Middle (up to 195% AMI)	\$2,596	\$2,969	\$3,339	\$3,710	\$4,007

Missing Middle

▶ Affordable Home Purchase Price by AMI for Placer County Residents

INCOME LEVEL	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Extremely Low (up to 30% AMI)	\$60,640	\$69,357	\$78,146	\$92,258	\$107,887
Very Low (up to 50% AMI)	\$101,004	\$115,406	\$129,889	\$144,305	\$155,989
Low (up to 80% AMI)	\$161,644	\$184,763	\$208,036	\$231,100	\$249,612
Median (up to 100% AMI)	\$201,818	\$230,811	\$259,615	\$288,419	\$311,538
Moderate (up to 120% AMI)	\$242,181	\$276,860	\$311,674	\$346,423	\$374,039
Missing Middle (up to 170% AMI)	\$343,090	\$392,379	\$441,346	\$490,312	\$529,615
Missing Middle (up to 195% AMI)	\$393,544	\$450,081	\$506,249	\$562,417	\$607,499

Missing Middle



AFFORDABLE RENTAL RATES

► Affordable Rental Rates by AMI for Nevada County

HOUSEHOLD INCOME CATEGORY	STUDIO 1 PERSON	1 BR 2 PERSON	2 BR 3 PERSON	3 BR 4 PERSON	4 BR 5 PERSON
Extremely Low (up to 30% AMI)	\$346	\$392	\$433	\$503	\$587
Very Low (up to 50% AMI)	\$614	\$700	\$779	\$854	\$912
Low (up to 80% AMI)	\$1,017	\$1,158	\$1,295	\$1,428	\$1,532
Median (up to 100% AMI)	\$1,229	\$1,403	\$1,569	\$1,733	\$1,861
Moderate (up to 120% AMI)	\$1,487	\$1,696	\$1,900	\$2,100	\$2,257
Missing Middle (up to 170% AMI)	\$2,129	\$2,432	\$2,727	\$3,019	\$3,250
Missing Middle (up to 195% AMI)	\$2,451	\$2,799	\$3,140	\$3,478	\$3,747

Missing Middle

► Affordable Rental Rates by AMI for Placer County

INCOME LEVEL	STUDIO 1 PERSON	1 BR 2 PERSON	2 BR 3 PERSON	3 BR 4 PERSON	4 BR 5 PERSON
Extremely Low (up to 30% AMI)	\$334	\$382	\$419	\$493	\$578
Very Low (up to 50% AMI)	\$600	\$685	\$760	\$836	\$895
Low (up to 80% AMI)	\$1,000	\$1,143	\$1,275	\$1,408	\$1,512
Median (up to 100% AMI)	\$1,265	\$1,446	\$1,616	\$1,787	\$1,923
Moderate (up to 120% AMI)	\$1,532	\$1,750	\$1,958	\$2,168	\$2,332
Missing Middle (up to 170% AMI)	\$2,197	\$2,512	\$2,815	\$3,119	\$3,361
Missing Middle (up to 195% AMI)	\$2,530	\$2,893	\$3,244	\$3,595	\$3,874

Missing Middle

ASSUMPTIONS FOR AFFORDABLE RENTAL RATES TABLES

- Aqua rows reported in Tables 28 & 29, *Truckee North Tahoe Housing Study, BAE 2016*.
- Orange rows are un-verified estimates for households with “above moderate” income levels. Following BAE’s methodology, the calculation of affordable rental rates is equal to 30% of gross monthly income minus a utility allowance as reported below:

	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Nevada County	\$57	\$68	\$85	\$105	\$124
Placer County	\$66	\$76	\$96	\$115	\$133



ABOUT MOUNTAIN HOUSING COUNCIL OF TAHOE TRUCKEE

Mountain Housing Council, a project of the Tahoe Truckee Community Foundation, is a regional, multi-stakeholder coalition working to accelerate solutions to housing. Twenty-five members have come together for a three-year commitment to develop an innovative set of policies, programs, funding and solutions to significantly move the needle on local housing needs.

The Council seeks to address the unique and pressing challenges of housing in the North Lake Tahoe Truckee Region: availability, variety and affordability – defined by the 2016 Regional Housing Study commissioned by the Tahoe Truckee Community Foundation.

For more information about Mountain Housing Council of Tahoe Truckee go to:
www.mountainhousingcouncil.org

Housing Costs and Affordability

Development Rights Strategic Initiative

Tahoe Regional Planning Agency

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Summary

This report revisits the analyses conducted for the Options Evaluation of the Development Rights Strategic Initiative to provide a better understanding of the costs of developing new housing and the affordability of new and existing housing in the Lake Tahoe region. The report focuses on market-rate housing rather than affordable housing programs for low- and moderate-income households.

Key Findings

1. Multifamily Housing Is the Less Expensive Form of Housing

It should come as no surprise, but on a per-dwelling-unit basis, the cost to develop a median-sized multifamily dwelling unit (\$261,000) is about half the cost to develop a median-size single-family house (\$550,000).

2. Construction Costs Money

The two largest components of the cost to develop housing are construction costs and the land acquisition cost. Together, these components account for 57.2 percent of the cost of multifamily housing and 57.0 percent of the cost to development single-family housing.

3. The Fees Add Up

Facing restrictions on raising local revenue, especially in California, local governments have increasingly turned to development fees to fund new and upgraded public facilities and infrastructure. Using South Lake Tahoe as an example, the total development fees for a typical multifamily housing project is \$24,452 per unit (8.5 percent of total costs) and \$41,088 per single-family housing unit (6.8 percent of total costs).

4. Everything Adds Up

All of the costs of development drive housing prices up. To develop new multifamily housing at current market-rate rents and with the average value of vacant land, total development costs would need to decrease by about 28 percent. Even if all city, school, water and sewer, and TRPA fees were eliminated, and development rights were provided at no cost, nearly half the cost of land would have to be subsidized.

5. Current Market Rents Are Not Affordable

If new for-rent multifamily housing could be developed at current market rents, most households could not afford the rent. A four-person household would need an annual income of \$77,839 for the typical rent for a two-bedroom multifamily dwelling to be affordable (i.e., to be 30 percent of income). In 2016, the median household income for a four-person household in South Lake Tahoe was \$64,810 (this includes all such households, renters and homeowners). The median household income for all renter households, regardless of household size, was \$33,930.

6. Redevelopment May Help

In some situations, redeveloping existing sites may be more feasible than new development on vacant sites. The feasibility will vary for different sites. Nevertheless, the analysis shows that there can be cases in which the value of existing development rights and excess coverage on a developed site may outweigh the higher land acquisition cost and the demolition cost.

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Housing Costs

This section presents an analysis of the cost to construct new multifamily and single-family detached housing in the TRPA region, with an emphasis on the City of South Lake Tahoe. The analysis is based on the pro forma analyses prepared to evaluate options for modifying TRPA’s development rights system.

The pro forma analyses calculate the value—either monthly rent for for-rent housing or sales price for for-sale housing—that is necessary for a developer to purchase land at the average cost for vacant land, develop the site, and either rent or sell the residential units. The next chapter analyzes the degree to which the rents or sales prices necessary to make new development financially feasible are affordable to households in the Lake Tahoe basin. The next chapter also compares these rents and sales prices to those for existing housing.

This report provides the analysis for a typical 45-unit multifamily housing development and for a typical single-family detached house. For each type of housing, the report analyzes a for-rent scenario and a for-sale scenario.

Housing Cost Summary

Table A–I in the Appendix provides detailed data on the estimated construction costs. Table I summarizes the total development cost per unit and per gross building square foot for each type of dwelling unit.

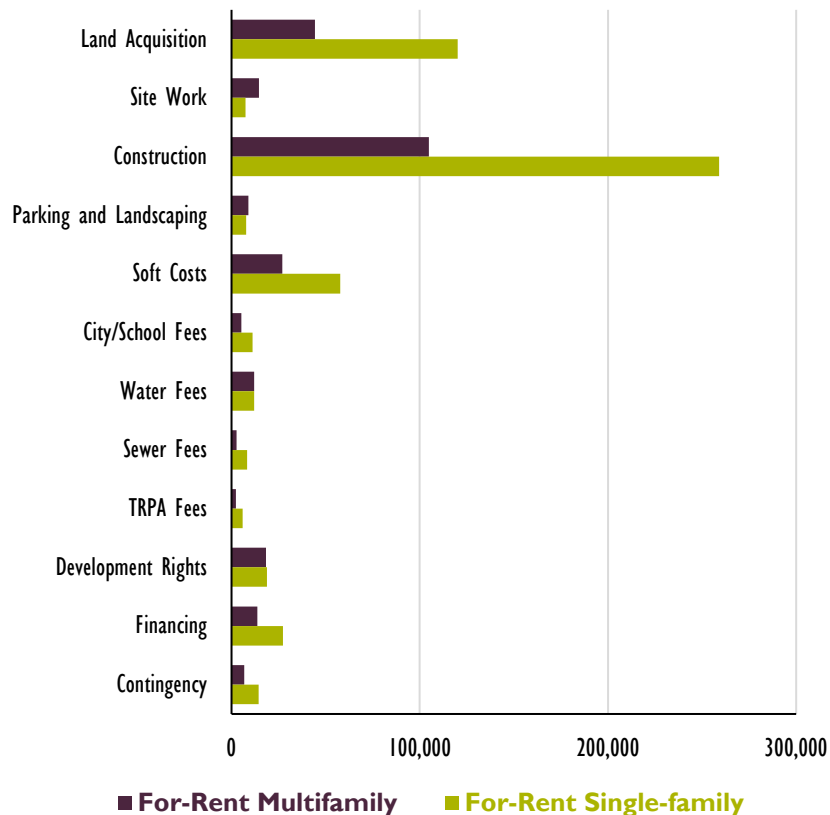
Table 1: Total Development Cost by Type of Dwelling Unit

Housing Type	Total Cost per Dwelling Unit	Total Cost per Sq. Ft. Gross Floor Area
For-rent multifamily housing unit	260,490	301
For-sale multifamily housing unit	261,294	302
For-rent single-family housing unit	549,791	229
For-sale single-family housing unit	549,791	229

On a total-cost basis, multifamily housing is less expensive than single-family housing. However, the average size of a multifamily unit in the development scenario analyzed is 872 square feet, and the size of the single-family house analyzed is the 2,470, the median size of new housing since 2010. On a per-square-foot basis, the single-family housing is less expensive.

Figure 1 on the following page breaks down the total development cost into major types of costs on a per unit basis. The cost of building construction is the most expensive component of development costs. It accounts for 40.2 percent of the cost of multifamily housing and 40.1 percent of the cost of single-family housing. Land acquisition is the next largest share of development costs. It accounts for 17.0 percent of the cost of multifamily housing and 16.9 percent of the cost of multifamily housing.

Figure 1: Total Development Cost per Unit by Type of Cost for Multifamily and Single-Family Housing



Source: PlaceWorks, 2018.

Development Fees

Discussions about housing affordability invariably turn to development fees. This is especially true in California, where Proposition 13 and oth-

er constitutional changes restrict the ability of local governments to raise revenue and have resulted in a reliance on various development fees to pay for expansions to public facilities and infrastructure. Tables A-2 and A-3 in the Appendix provides detailed data on the various development fees that would apply to the construction of new multifamily and single-family housing in South Lake Tahoe (these are the fees that have been used in the housing cost analysis).

City and school fees, water and sewer fees, and TRPA fees (excluding the cost to acquire development rights) account for 8.5 percent of the cost of new multifamily housing and 6.8 percent of the cost of new single-family housing. In both cases, the fees for water and sewer are more than half of the total fees. Although development fees are a higher percentage of the total development cost for multifamily housing, the total development fees for these scenarios are \$24,452 per multifamily housing unit and \$41,088 per single-family housing unit.

Reducing fees can be one way to put some downward pressure on the cost of new housing. And fees can be reduced when there is a public benefit, such as addressing housing affordability. However, fee reduction only decreases the amount of revenue available to pay for new and upgraded public facilities and infrastructure; it does not reduce the demand or need for facilities and infrastructure. If fees were reduced, additional revenue from another source would have to pay for new and upgraded public facilities and infrastructure.

Housing Affordability

This section analyzes the affordability of housing in the Lake Tahoe region. Under federal guidelines, annual housing costs are affordable when they are 30 percent or less of annual household income.

This section uses two estimates of housing cost. The first estimate, used for new housing, both for-rent and for-sale, is based on the rent or sales value that is necessary to make the development of new housing financially feasible. The second estimate, used for existing housing, both for-rent and for-sale, is based on current market trends for rents and sales values for housing in the Lake Tahoe region.

Affordability Summary

Table A–4 in the Appendix provides detailed housing affordability data for new and existing for-rent and for-sale multifamily housing. Table A–5 in the Appendix provides detailed housing affordability data for new and existing for-rent and for-sale single-family housing. For each type of housing, Table 2 summarizes the total monthly housing costs and the annual household income at which the housing cost is affordable.

The total monthly housing cost data for existing housing indicate current market rates. The total monthly housing cost data for new housing show the increase in market rates that would be necessary for new construction to be financially feasible.

The household income data show how much a household would have to earn for their monthly housing costs to be affordable. For example, the lowest income in Table 2 is what is needed to rent an existing 2-bedroom multifamily unit; a household in this unit should earn at least \$77,839. A 2-bedroom unit should have no more than four residents

(otherwise it would be considered overcrowded). However, the median household income for 4-person households in South Lake Tahoe in 2016 was \$64,810. This means that the median 4-person household would have to overpay for housing, based on current market rates. Furthermore, the median 4-person household would overpay even more to buy a multifamily unit, and even more to rent or buy a median single-family house. Finally, the median household income among renter households (of any size) was \$33,930.

Table 2: Monthly Housing Cost and Annual Household Income for Which Housing Cost Is Affordable

	New Housing	Existing Housing
Total Monthly Housing Costs		
For-Rent Multifamily Housing (2-Bedroom Unit)	2,540	1,946
For-Sale Multifamily Housing (2-Bedroom Unit)	2,141	2,113
For-Rent Single-Family Housing (1,450 sq. ft.)	5,914	2,957
For-Sale Single-Family Housing (2,420 sq. ft.)	4,291	3,385
Household Income		
For-Rent Multifamily Housing (2-Bedroom Unit)	101,611	77,839
For-Sale Multifamily Housing (2-Bedroom Unit)	85,639	84,502
For-Rent Single-Family Housing (1,450 sq. ft.)	236,567	118,282
For-Sale Single-Family Housing (2,420 sq. ft.)	171,640	135,383

New Multifamily Housing

The data in Table 2 show that only a slight increase in housing cost and household income is needed to make new for-sale multifamily housing financially feasible. This housing would, however, likely be affordable only to a portion of households.

This situation is direr for new for-rent multifamily housing. A large increase in market rate rents would be needed for new for-rent multifamily housing to be financially feasible. For these higher market rates to be affordable, households would need an annual income of \$101,611.

The difference between median household income and the income necessary for new multifamily housing to be financially feasible to develop suggests that market forces alone will not improve housing affordability.

New Single-Family Housing

The data in Table 2 indicate that market rents would need to double for the development of for-rent single-family housing to be financially feasible. This steep increase in rent helps explain why the development of for-rent single-family housing is rare.

However, the difference in market sales values for existing single-family housing and new single-family housing is about 26 percent. This difference is lower than the national difference in sales prices between new and existing housing. This suggests that market forces should be able to generate sufficient new single-family housing to accommodate demand.

First-Time Homebuyers

The data in Table 2 indicate that a 9 percent increase in household income is needed to move from the median existing for-rent multifamily dwelling to the median existing for-sale multifamily dwelling. And an

even smaller increase is necessary to then support the development of new for-sale multifamily housing.

Trickle-Down Housing

In a conventional understanding of the housing market, developers build new housing that is more expensive (and typically larger) than the existing housing stock. As households who can afford to do so trade up to larger, more expensive, housing, their previous housing becomes available for new households.

In the current public discourse about the housing affordability crisis, there are sound arguments for and against this trickle-down model of housing. Regardless of the merit of those arguments, there does not appear to be a solution to the cost of building new for-rent multifamily housing for households in the middle of the income spectrum. At current market rents (which are not affordable to the median household), the cost to develop new for-rent multifamily housing would need to come down by about 30 percent. All the development fees and the costs to acquire development rights is about 15 percent of the cost. It would take the elimination of all city, school, water and sewer, and TRPA fees plus subsidizing half the cost of land for new for-rent multifamily housing to be financially feasible.

Short-Term Vacation Rentals

With the idea of trickle-down housing, there is one additional issue which is germane to the Lake Tahoe region. Even if existing housing becomes available as current households trade up to new housing, the available existing housing may be purchased by new seasonal owners or those intending to use it for short-term vacation rentals.

As noted in the discussion under options E1 and E2 in the Options Evaluation report, short-term vacation rentals could be expected to in-

crease housing prices by up to \$64,000 and increase the cost of land by up to \$110,000 per acre (15.9 percent).

Redevelopment

Redeveloping an existing site changes the cost structure for developing new housing. Purchasing a site with an existing building usually costs more than purchasing vacant land, but it depends on what is on the site and how much income it currently generates. There is also an added cost to demolish existing structures.

At the same time, the existing use would probably include existing development rights. This would reduce the amount and cost of development rights needed for a proposed housing development. And if the site has excess coverage, the excess coverage mitigation fee may work out to be less than the cost to acquire coverage development rights that would be needed to construct on a vacant.

Take for example, a site with a 10-room motel and fifty percent site coverage and a project to redevelop that site with the 45-unit for-rent multifamily housing building analyzed in Table A-1. This redevelopment project would require a smaller increase in rents to be feasible relative to the project as described in Table A-1. The difference is small, 1.5 percent, but it illustrates that redeveloping existing sites may provide additional incentives for new housing relative to vacant sites.

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Appendix

Table A-1: Detailed Estimated Housing Construction Costs

	45-Unit Multifamily Housing		One Single-Family Housing Unit	
	For-Rent	For-Sale	For-Rent	For-Sale
Land Acquisition				
Estimated land cost	1,905,818	1,905,818	116,671	116,671
- per acre	635,273	635,273	635,273	635,273
- per sq. ft.	15	15	15	15
Indirect land acquisition costs (@3.0%)	57,175	57,175	3,500	3,500
Option cost	28,730	28,730	0	0
Subtotal land acquisition cost:	1,991,723	1,991,723	120,171	120,171
Hard Construction				
Existing building size to be demolished (sq. ft.)	0	0	0	0
Demolition cost	0	0	0	0
Site development cost	653,400	653,400	7,500	7,500
Total building size (sq. ft.)	39,240	39,240	2,420	2,420
Total building construction costs	4,716,687	4,716,687	258,981	258,981
Streets and parking (sq. ft.)	16,200	16,200	400	400
Parking construction costs (\$10/sq. ft.)	162,000	162,000	4,000	4,000
Open space area (sq. ft.)	95,780	95,780	1,500	1,500
Open space construction costs (\$2.50/sq. ft.)	239,450	239,450	3,750	3,750
Construction contingency (@5.0%)	303,765	303,765	14,433	14,433
Subtotal hard construction cost:	6,075,302	6,075,302	288,664	288,664
Soft Construction				
Assumed soft costs (@15.0%)	911,295	911,295	43,300	43,300
Developer's fee (@5.0%)	303,765	303,765	14,433	14,433
Development fees	1,100,340	1,100,340	41,088	41,088
Subtotal soft construction costs:	2,315,400	2,315,400	98,821	98,821

Table A–1 continued

	45-Unit Multifamily Housing		One Single-Family Housing Unit	
	For-Rent	For-Sale	For-Rent	For-Sale
Development Rights				
Residential development rights	770,000	770,000	17,500	17,500
Coverage	55,750	55,750	1,250	1,250
Subtotal development rights	825,750	825,750	18,750	18,750
Financing Costs				
Total amount financed	8,456,927	8,456,927	398,823	398,823
Construction loan fee	274,850	274,850	12,962	12,962
Total Carried Interest	339,060	375,235	14,308	14,308
Subtotal financing costs	613,910	650,085	27,270	27,270
Total Development Cost	11,822,085	11,858,260	553,677	553,677

Notes to Table A–1:

1. The estimated land cost is the average value for vacant land based on a survey of land sales and sites offered for sale in the past three years in the Lake Tahoe region. This is an average value; properties in proximity to the lake, with lake views, and near ski lifts would likely have higher values.
2. The option cost is the estimated cost a developer would incur to secure an option to purchase a site during the period while necessary development rights are acquired. There is no option cost assumed for an individual single-family house.
3. Construction costs are obtained from the *Craftsman 2017 National Building Cost Manual*. The cost estimates are adjusted for Sacramento, which had the highest upward adjustment (3 percent) of nearby metropolitan areas.
4. Assumed soft costs are intended to cover architectural and engineering costs, additional contingency, and other permitting costs and fees not included under the development fees line item. (Table A–2 and Table A–3 provide detailed data on the fees and costs included in the development fees line item.)
5. The developer’s fee is the fee the project pays to the developer for managing the project. This fee is separate and distinct from the return on investment, which is based on the equity the developer invests in the development project.
6. The only cost difference between for-sale and for-rent development is the total carried interest. Under a for-rent multifamily housing scenario, the development would take out permanent financing upon completion of the development project and pay off the construction loan. Under a for-sale multifamily housing scenario, the developer would continue to pay interest on the construction loan until all the units are sold. For the single-family house, the pro forma model assumes that the house is rented or sold in the month following completion of construction.

Table A–2: Development Fees for 45-Unit Multifamily Housing Project

Development Fee Type	Fee	Fee Basis	
Building permit	121,506	2.0%	construction cost
School fees	87,898	2.24	per sq. ft. living space
Other miscellaneous city fees	22,244		
Water Development Impact Fee	539,235	11,983	per unit
Sewer Development Impact Fee	123,675	2,745	per unit + 150
TRPA Fees			
- Air Quality Mitigation Fee	97,515	2,167	per unit
- Water Quality Mitigation Fee	4,148	1.86	per sq. ft. excess coverage
- Application Fee	4,088	40	per unit + 2,200 + 88 IT
Total Development Fees	\$1,100,340	 \$24,452 per unit	

Table A–3: Development Fees for One Single-Family Detached Housing Unit

Development Fee Type	Fee	Fee Basis	
Building permit	5,773	2.0%	construction cost
School fees	4,525	2.24	per sq. ft. living space
Other miscellaneous city fees	827		
Water Development Impact Fee	11,983	11,983	per unit
Sewer Development Impact Fee	8,385	8,235	for up to 3 units + 150
TRPA Fees			
- Air Quality Mitigation Fee	3,258	3,258	per unit
- Water Quality Mitigation Fee	93	1.86	per sq. ft. excess coverage
- Application Fee	2,508	40	per unit + 2,200 + 88 IT
Total Development Fees	\$41,088		

Table A-4: Housing Affordability for New and Existing Multifamily Housing, For-Sale and For-Rent

	New			Existing		
Unit Size	660	800	1,100	660	800	1,100
Number of Bedrooms	1	2	3	1	2	3
Assumed Household Size	2	3	5	2	3	5
For-Rent Multifamily Housing						
Monthly Rent	2,017	2,294	2,889	1,494	1,700	2,141
Assumed Monthly Utility Cost	222	246	270	222	246	270
Total Monthly Housing Cost	2,239	2,540	3,159	1,716	1,946	2,411
Annual Housing Cost	26,864	30,483	37,910	20,595	23,352	28,929
Household Income						
- Affordable	89,546	101,611	126,368	68,651	77,839	96,431
- Excessive Cost Burden	67,160	76,209	94,776	51,488	58,379	72,323
- Severe Excessive Cost Burden	53,728	60,967	75,821	41,190	46,703	57,859
For-Sale Multifamily Housing						
Purchase Price	275,108	297,438	345,289	271,456	293,490	340,706
Down Payment (3.5%)	9,629	10,410	12,085	9,501	10,272	11,925
Monthly Payment (PITI & PMI)	1,980	2,141	2,485	1,954	2,113	2,452
Annual Housing Cost	23,763	25,692	29,825	23,447	25,351	29,429
Household Income						
- Affordable	79,209	85,639	99,416	78,158	84,502	98,097
- Excessive Cost Burden	59,407	64,229	74,562	58,618	63,377	73,572
- Severe Excessive Cost Burden	47,526	51,383	59,650	46,895	50,701	58,858

Table A–5: Housing Affordability for New and Existing Single-Family Housing, For-Sale and For-Rent

	New	Existing
For-Rent Single-Family Housing		
House Size (sq. ft.)	2,420	1,450
Monthly Rent	5,587	2,655
Assumed Monthly Utility Cost	327	302
Total Monthly Housing Cost	5,914	2,957
Annual Housing Cost	70,970	35,485
Household Income		
- Affordable	236,567	118,282
- Excessive Cost Burden	177,426	88,712
- Severe Excessive Cost Burden	141,940	70,969
For-Sale Single-Family Housing		
House Size (sq. ft.)	2,420	1,450
Purchase Price	604,155	481,339
Down Payment (3.5%)	21,145	16,847
Monthly Payment (PITI & PMI)	4,291	3,385
Annual Housing Cost	51,492	40,615
Household Income		
- Affordable	171,640	135,383
- Excessive Cost Burden	128,730	101,537
- Severe Excessive Cost Burden	102,984	81,230

Notes to Table A–4 and Table A–5:

1. The square footage used for new single-family housing is the median single-family house constructed since 2010. The square footage used for existing single-family housing represents the median single-family house size.
2. Rent and sales value for new multifamily and single-family housing are the levels necessary to make new development financially feasible. Rent and sales value for existing multifamily and single-family housing are the typical rent or sales value for dwelling units of similar size and type.

3. The assumed monthly utility costs are based on the Placer County Department of Human Services' *Allowances for Tenant Furnished Utilities and Other Services*.
4. The calculation of housing costs for for-sale housing assumes that the homeowner would qualify for and use an FHA-backed mortgage, which allows for a low down payment but requires private mortgage insurance.
5. The household income section of the table indicates the annual household income necessary for the annual housing cost to be affordable. Under federal guidelines, housing costs are affordable when the annual housing cost is 30 percent or less of annual household income. Housing costs are considered an excessive cost burden when they exceed 40 percent of annual household income, and they are considered a severe excessive cost burden when they exceed 50 percent of annual household income.

