

**TAHOE REGIONAL PLANNING AGENCY DEVELOPMENT RIGHTS  
STRATEGIC INITIATIVE PROCESS**

The purpose of this update is to provide background and status of the Tahoe Regional Planning Agency's (TRPA) Development Rights Strategic Initiative (DRSI) and to elicit Conservancy Board discussion and input.

In 2015, the TRPA Governing Board directed TRPA staff to implement seven strategic initiatives over the next five years (2015-2020) that align directly with the four objectives in the TRPA Strategic Plan. The DRSI is one of these initiatives and is intended to consider changes to the current development rights system and transfer of development rights programs to better manage growth, support environmentally beneficial and economically feasible redevelopment, and improve the effectiveness and predictability of the current development rights system in TRPA's jurisdiction.

**TRPA Development Rights System**

Transfer of development rights is a TRPA regulatory strategy used to manage and control growth within the Lake Tahoe Basin (Basin) by directing development away from sensitive lands into more desirable areas such as town centers. TRPA bases its regulatory strategy on the designation of standard sending and receiving areas, as well as the distinction between land ownership and the rights necessary to develop a parcel.

Sending areas are typically lands that have been identified for preservation or deemed environmentally sensitive and therefore are not suitable for development. Receiving lands, on the other hand, are areas in which additional growth is desirable and beneficial. Development rights serve to quantify development and act as the building blocks for growth management on the sending and receiving lands. Transferable development rights in the Basin include:

- land coverage (existing and potential),
- commercial floor area (CFA),
- existing residential units of use (ERUU),
- tourist accommodation units (TAU),
- residential development rights (RDR),
- residential allocations, and

- restoration credits.

To evaluate the current TRPA development rights system, TRPA conducted a stakeholder assessment that shaped the DRSI work program. TRPA interviewed 55 stakeholders to identify main issues and needs related to the development rights system. This important step helped to identify themes related to commonly discussed concerns and opportunities for system improvements. Five themes emerged from the stakeholder interviews, reflecting the commonly discussed concerns with the development rights system, these include, the system does not support environmental redevelopment, is too complex to use or understand, constrains the use and movement of development rights, should be evaluated for comprehensive change, and contributes to housing problems.

For additional analysis of the TRPA Development Rights System and Stakeholder Assessment, please review the TRPA Factsheets at: <http://www.trpa.org/about-trpa/how-we-operate/strategic-plan/development-rights/>.

### **TRPA DRSI Working Group and Approach**

The TRPA Governing Board approved a DRSI working group (working group) approach and work program. The DRSI work program includes priorities, tasks, and a collaborative approach in four phases.

<b>Work Program Phase</b>	<b>Products</b>	<b>Timeline</b>
Phase 1	Stakeholder Assessment, Work Program and Process, Working Group, Education Materials, and Updated Development Rights Data Online	October 2015 – August 2016
Phase 2	Documentation of Existing Policies, Definition of Scope, Definition of Desired System Criteria, Best Practice Assessment, Identification of Alternatives, Evaluation of Alternatives, Selection of Preferred Alternative	August 2016 – October 2017
Phase 3	Adopted Regional Plan Policy Amendments, Adopted Code Amendments, Complete Environmental Review	November 2017 – October 2018

Phase 4	To Be Determined	To Be Determined
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The working group includes 14 total members:

- Seven TRPA Regional Plan Implementation Committee members,
- Two TRPA Advisory Planning Commission members,
- One business/developer affiliate (Lew Feldman with Feldman, McLaughlin, Thiel, LLP),
- One environmental affiliate (Jesse Patterson with League to Save Lake Tahoe),
- One California Tahoe Conservancy representative (Patrick Wright),
- One Nevada Division of State Lands representative (Jim Lawrence), and
- One State of California Attorney General’s Office (Nicole Rinke).

In addition to serving as one of fourteen members in the working group, the Conservancy is contributing \$50,000 and additional staff time to assist with the DRSI.

**TRPA DRSI Proposed Options**

The working group has convened four times and completed various milestones, including the selection of options based on best practices and ideas from discussions. The working group identified five options reflecting different strategic approaches to addressing the major issues with the current development rights system. The working group expressed broad based support for four (Options A-D) of the five options and agreed to further evaluate all five options.

The following five options are as follows:

Option A: Simplification of the Development Rights System

The purpose of this option is to simplify the current system by converting multiple types of development rights (i.e., residential, commercial, and tourist accommodation) into one common unit (e.g., square feet) and to remove the local government veto option from interjurisdictional transfers of development rights. The goal is to develop environmentally neutral conversion ratios (i.e., a ratio avoiding adverse regional environmental impacts) that can consistently and feasibly be implemented across the Lake Tahoe Region. The conversion ratios will need to be developed for conversions between different existing development that is built and for development rights that are associated with unbuilt development. A limitation on the net amount that can be transferred from any jurisdiction is included to limit potential loss of property tax and transient occupancy tax (i.e., room tax) to a jurisdiction.

#### Option B: More Bank Involvement and Density Transfer Charge Simplification

This option is designed to make purchase of development rights simpler for applicants by allowing them the option to pay a fee such as a Density Transfer Charge to TRPA. Land Bank staff would acquire developed properties, with the fees collected through the Density Transfer Charge, to maintain an inventory of development rights. TRPA staff will possibly base the Density Transfer Charge on real estate market conditions and Regional Plan goals or priorities. An added feature is to require additional development rights for residential units that exceed a certain size (this requirement would not be applicable for workforce housing).

#### Option C: Make Procedural Changes to Reduce Developer Uncertainty and Cost

This option is intended to reduce uncertainty and upfront costs for applicants by streamlining processes and procedures, and by allowing purchase of development rights or payment of the fee later in the development process.

#### Option D: Everything in above Options A to C

See descriptions above.

#### Option E: Targeted Redevelopment

The purpose of this option is to encourage redevelopment of entire sites to implement the Regional Plan by improving the environment through replacement of older development that does not meet current standards, encourage transit use, etc. It allows any property owner in a qualified area to use their existing development rights to redevelop consistent with the applicable adopted area plan, regardless of the existing type of development and development rights. Additionally, short-term vacation rentals must be on property designated as tourist commercial in the area plan and may not use development rights converted from another use. If the proposed development project is consistent with the area plan:

- Additional development rights from the TRPA pool can be used at no cost to the development project if available; and/or
- Additional development rights transferred from another site can be used. If development rights are being transferred between jurisdictions, the “sending” jurisdiction may require reimbursement for lost property tax and transient occupancy tax (i.e., room tax) for three years.

#### **Conservancy Land Bank**

Since 1987, the Conservancy Land Bank has assisted over 6,000 projects in meeting permit requirements for TRPA development rights. The Conservancy Land Bank staff has acquired many of the TRPA development rights through land acquisitions where the development rights were a by-product of land purchases for public access or stream

environment zone restoration purposes. The Board has delegated authority to staff to complete transfers of development rights, unless the sale requires consideration of an environmental document.

The five proposed options from the working group may affect future operations of the Conservancy Land Bank. The following is a summary of issues and concerns for the Conservancy Land Bank.

### Staffing

Currently, the Conservancy has one employee operating the Land Bank. During fiscal year 2016, the Land Bank staff processed approximately 25 transactions generating \$3,150 in processing fees and \$175,000 in development right sales. The proposed options may increase the demand for development rights. The increased demand would require the Conservancy to increase staffing to manage the Land Bank. In addition, there are potential resource and staffing impacts associated with updating Land Bank legal documents and the Property Data Management System, which the Conservancy uses to track commodities.

### Funding

A proposed Density Transfer Charge in Option B would provide the Conservancy staff with additional funding to invest in developed properties, which increase the inventory of development rights.

The working group will assess the appropriate Density Transfer Charge and total baseline funding needed to sustain a program as described in Option B. It is anticipated that the Density Transfer Charge alone will not be enough for a sustainable program. The working group is considering the establishment of a bi-state acquisition fund to match and leverage the Density Transfer Charge. The bi-state acquisition fund could accept monies from state sources such as special revenue funds and bonds.

### Memorandum of Understanding (MOU) and Land Bank Guidelines (Guidelines)

Updates and Board approval of a revised MOU and Guidelines would be required. The revised MOU and Guidelines would reflect the DRSI proposed changes and provide further detail on policy and procedures for both the TRPA and Conservancy.

Over the next year, Conservancy staff will continue working with TRPA staff on the DRSI proposed options, the effects on Land Bank operations, and the appropriate level of environmental review.

## Conservancy Staff Contact

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