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MEMORANDUM

July 27, 2006

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Proposed amendment to the Stateline/Ski Run Community Plan, City of South Lake Tahoe, El Dorado County, CA adding: *Timeshare-Residential Design, Timeshare-Hotel/Motel Design and Hotel, Motel, and Other Transient Dwelling Units* as allowable uses for the six-acre Van Sickle District (District 6a) at maximum densities of 15 units/acre.

Proposed Action: APC recommendation to the GB for amendment of the Stateline/Ski Run Community Plan to add tourist accommodation unit uses, as referenced in the subject line, to the Van Sickle District, District 6a. The requested maximum density, regardless of the use category, is 15 units per acre and all uses are requested to be added as “allowable.”

Staff Recommendation: (See Exhibit A.) Staff recommends that the Advisory Planning Commission hold a public hearing on this item and recommend adoption of the proposed amendments and ordinance (Exhibit B) to the TRPA Governing Board. In addition, TRPA staff recommends that a footnote be added to these uses that states:

If District 6A is developed for Tourist Accommodation purposes, the following special provisions will apply in addition to the design requirements of the Community Plan:

- A. Affordable multiple family housing units shall be provided on site as part of the TAU project. The number of housing units to be provided shall be at least 20% of the number of the project's TAU's.*
- B. Design of the project shall incorporate provisions for pedestrian access to the nearby commercial uses and provide a native landscaping plan that minimizes the project's visual intrusion into the roadway corridor. In addition, the developer shall be obligated to implement, or work with the California Tahoe Conservancy by committing the required funding for the project's fairshare of the bike trail component of the Stateline/Ski Run Community Plan's Implementation Element for the Van Sickle District.”*

Location: District 6a is located off of Lake Parkway. Lake Parkway is a portion of the “loop road” described in the Community Plan. This District is located “outside the loop road” and consists of three parcels. Two parcels (APNs 029-441-15, 21) are owned by the applicant, Falcon Capital, and the third (APN 029-441-20) is owned by the California Tahoe Conservancy (CTC).

District 6a is bounded on two sides by federal and state lands, including the proposed Van Sickle State Park, all located in PAS 080 (Kingsbury Drainage), a Conservation Plan Area. These lands are available for public recreation, open space and natural resource protection and management purposes. Adjacent to the southwest is District 4a of the Community Plan, a SEZ Restoration/Recreation district. Across Lake Parkway from the District, inside the loop road, are developed parcels with commercial, recreation and tourist accommodation uses located within Commercial/Tourist Accommodation-designated Stateline-Ski Run Community Plan districts, all located within walking distance to the parcels proposed for amendment.

City Planning Commission and Council Action: The City of South Lake Tahoe (City) has adopted TRPA's Plan Area Statements and Community Plans for its zoning. The amendment being considered addresses proposed amendment to District 6a of the Stateline Ski Run Community Plan, located within the City. This Community Plan amendment requires public hearings and adoption by both TRPA Governing Board and the City Council in order to be effective. This item was heard before the City's Planning Commission on July 13, 2006 and received a unanimous recommendation of approval, without the recommended footnote, to the City Council. The Council will take action on the application on August 1, 2006.

The City circulated its Initial Study/Proposed Negative Declaration for the requested amendment. No public comments were received. As part of its project circulation, the City also obtained staff comments on the requested amendment. In considering their recommendation on the project, the City Planning Staff considered the importance of the site for housing purposes as viewed by the Housing Coordinator:

"It seems like this would be a good location for tourist accommodation units due to its proximity to existing amenities. I would be concerned about the benefit to the City of developing affordable workforce housing at this location because most likely it would serve the casino industry across Stateline instead of our own community. Furthermore, I believe in order for an affordable housing project to provide dignity to its residents it should not be located in areas that are in or immediately adjacent to employment centers. There should be separation between housing and employment allowing an employee to dwell in a less hectic environment than their work atmosphere."

Background: To put this amendment in perspective, this section will provide background regarding the ownership and development potential associated with the three affected parcels:

Ownership: The applicant owns two of the three parcels located within this approximately six-acre district. The California Tahoe Conservancy (CTC) owns the remaining parcel. All parcels are undeveloped and each contains a portion of land classified as environmentally sensitive Stream Environment Zone. The high capability portions of the parcels are developable.

CTC Purchase Declined: Based on discussions with the CTC Land Acquisition Program Manager, the Falcon Capital parcels within District 6a were considered for purchase from Mr. Van Sickle as a part of the larger (150 acres) CTC acquisition proposed as the California portion of Van Sickle Bi-State Park. As a part of that transaction, Mr. Van Sickle donated to the CTC the approximately 2-acre, environmentally sensitive parcel located within District 6a.

CTC was offered the opportunity to acquire the parcels currently owned by Falcon Capital; however, the agency ultimately decided not to purchase these mixed high- and low-land capability parcels. The fact that the Community Plan District was themed "*Affordable Housing*"

played a role in the final decision not to acquire them, as the CTC did not want to usurp the opportunity for affordable housing at the site, which was the identified use for the site in the Community Plan.. The agency sought to allow the opportunity for private development to occur consistent with the adopted Community Plan direction.

Falcon Capital Original TRPA Project Applicaton: Falcon Capital purchased the two parcels in District 6a with the original intent to build affordable housing. However, given the high costs of land and construction and the inability to obtain a sufficient development subsidy construction of affordable or unsubdivided multiple family housing has not proven financially feasible.

Prior to the submission of the Community Plan Amendment currently under consideration, the applicant applied to TRPA and the City for a market rate, Multiple Family Dwelling project using the 50% land coverage incentive provided for in Community Plans. Falcon planned to later subdivide the multi-family project, not realizing that the 2-step subdivision is impermissible under the code. Use of this multiple family housing incentive does not allow the option of doing a two-step subdivision to create single-family condominiums per TRPA Code Subsection 20.3.B(3). TRPA staff reviewed the project, which was heard before the Hearings Officer, Jim Baetge on September 29, 2005. Mr. Baetge expressed concerns with the project as included in the meeting minutes (Exhibit C) and referred it for hearing by the Governing Board. The applicant subsequently requested that the application be placed on hold to explore other options and work out a solution to the concerns that had been raised at the Hearing Officer level.

The applicant then applied for this Community Plan amendment. The residential project application is still on hold, neither approved nor denied. The applicant has requested that the project application be re-reviewed as a tourist accommodation project presuming adoption of this requested amendment. However, since the review of the original project was already completed, TRPA staff has requested the original application for the multi-family dwelling project be withdrawn, and a new application outlining the potential new TAU project be submitted.

Discussion: TRPA staff is recommending approval of this requested community plan amendment with conditions that were not proposed by the applicant. The special conditions have been added to staff's recommendation in order to further the Community Plan's intent related to land use.

Community Plan Intent The overall Land Use Classification for the Stateline/Ski Run Community Plan is "Tourist." Tourist areas are defined in Chapter 13 of the TRPA Code as:

"... areas that have the potential to provide intensive tourist accommodations and services or intensive recreation. This land use classification also includes areas recognized by the Compact as suitable for gaming. These lands include:

- (i) areas now developed with high concentrations of visitor accommodations and related uses;*
- (ii) lands on which gaming is a permitted and recognized use;*
- (iii) lands of good-to-moderate land capability; or*
- (iv) areas with adequate public services and transportation linkages."*

Within this overall tourist classification, the Community Plan designated three districts, including District 6a with a multi-family residential/affordable housing land use theme. Consequently, in evaluating this requested amendment, staff considered two primary questions: (1) Would

approving the addition of tourist accommodation uses be inconsistent with the Community Plan's residential land use direction and the Housing Sub-element of the Goals and Policies?
(2) Are TAU's an appropriate use outside of the loop road? The recommended policy footnote stems from this assessment.

Residential Land Use Direction: The introduction section of the Community Plan – Vision for Land Use states, “Affordable housing is encouraged within the Pentagon, Van Sickle (South of Montreal) and Upper Ski Run areas.” The key Planning Consideration found in Chapter II – Land Use Element of the Community Plan in relation to this amendment is item G:

“There is a need to upgrade and/or replace substandard housing and create some additional affordable housing within this area”. The Van Sickle District has a Multi-Family Residential land use direction (page II-10 of the Land Use Element), with a specific Affordable Housing “theme” identified in the Permissible Uses and Land Use matrices.

The Final Environmental Impact Statement (FEIS) on the Community Plan also supports the need for affordable housing within this Community Plan area.

“The Regional Plan Goals and Policies include a goal of providing, to the extent feasible, affordable housing in suitable locations for the residents of the Region, and provide that special incentives will be given to promote affordable or government-assisted housing for low-income households. The Regional Plan Area Statements make employee and multiple-family housing a permissible use in the plan areas of the redevelopment area” (page. 4-.175).

To encourage the implementation of affordable housing in these areas, the FEIS proposed that multi-family housing be constructed on the large, developable parcels within certain districts by allowing up to 50% land coverage for these types of projects. This incentive was translated into the Community Plan as Objective 4; however, this Objective only names District 6c (Land Use Strategy and Economic Feasibility Goals, Objective 4, Policy B, pp. II-5). Nevertheless the incentive still applies to the other parcels per TRPA Code of Ordinances Chapter 20, Subsection 20.3.B(3). Additionally, this document proposes that, *“The community plan supports and encourages adequate housing in close proximity to employment generators, which is affordable to workers in the visitor industry.”* This proposal was translated into the CP's Goals, Objectives, and Policies under the Urban Design and Development Section, Policy P: *“Place locations for affordable housing within convenient distances to local serving retail uses.”*

Finally, the permissible uses matrix for this and the other two identified affordable housing districts were reviewed. No tourist accommodation uses are currently permissible in any of these areas. In addition, in District 6a, no industrial/storage or other commercial or retail uses are identified as allowed or special uses. The primary uses include Residential uses (employee housing, multi-family dwellings, multi-person dwellings, and condominiums); Services (financial services only); Public Services (Daycare centers/Pre-schools, Local public health and safety facilities); and a range of Linear Public Facilities, Recreation, and Resource Management uses.

In debating whether the requested amendment weakens the viability of the designated affordable housing district located in an area previously identified as a suitable location for such uses, TRPA staff considered the likelihood of whether affordable housing would be developed on the site and the appropriateness of construction of tourist accommodation units on that area.

The Community Plan's intent to encourage development of affordable housing on the site is not accompanied by a specific requirement to do so. The limited range of permissible uses for the

site would likely result in a residential project; however, without amendment, it is apparent that the applicant might take their existing residential project and reduce the land proposed coverage to the Bailey limits for the parcel and apply again for a high-end condominium project through the two-step subdivision process. Therefore, the likelihood that affordable or moderate-income housing would be developed on this project site is not likely.

Further, City housing staff has reconsidered the site's suitability for affordable housing in comments on the requested amendment (quoted above). Whether employees should have the housing choice to live nearby and walk to work, or to live further away and separate from their work environment could be debated; however, that fact remains that the local jurisdiction is on record that this site is not necessary, or even desirable, for affordable housing, even though the City's Housing Element identifies this as a potential affordable housing site. The City Manager's correspondence (Exhibit D) states that the City is committed to providing affordable housing without this site. While broadening the range of permissible land uses for District 6a further dilutes the possibility that construction of affordable housing would be selected by a developer seeking to make the highest economic use of the property, the likelihood is already low. Consequently, staff determined that given the choice between a high end housing project and a tourist accommodation project with some inclusionary affordable housing in this area, the latter provides more public benefit.

The Implementation Element of the CP also addresses the intent of District 6a to be an affordable housing area in relation to the construction of a Class 1 bike trail on the mountainside of the Loop Road to be developed as a part of the Van Sickle affordable housing (District 6a) or the Van Sickle Recreation/Drainage Basin A-1 (District 4a) (p. VII-11).

Loop Road Location For Tourist Accommodation Use: The CP provides policy direction regarding the desired locations for Tourist Accommodation uses and identifies six land use districts (1a-f) with this as the primary theme. The Land Use Strategy and Economic Feasibility Goals Section (CP, p.II-5), Policy A states: "*Intensify TAU's within the area surrounded by the Loop Roads...*" Further, the Urban Design and Development Goals Section (CP, p. II-4), Policy K states:

"Transfer of tourist accommodation units from the area within the Loop Roads to areas outside the Loop Roads is prohibited."

(NOTE: The source of the TAU's for any subsequent project was not identified by the applicant. Modification of the requested amendment to enable such transfers is not proposed by the applicant and therefore any transfers will have to come from outside the Loop Road area.

There is one other existing area, (District 1c) which is themed Tourist Accommodation that exists outside the Loop Road. This is a one parcel district containing the Colony Inn, a hotel/motel facility that existed prior to the adoption of the CP. The recently-approved "Project 3" project reduces motel rooms by 46% from the original 1998 approval of 709 units. A tourist project on this site could add to the financial viability of the Heavenly Village tourism center, furthering the objective of the area providing for a "tourist hub."

Recommended Policy Footnote: Staff recommends the following policy footnote:

"If District 6A is developed for Tourist Accommodation purposes, the following special provisions will apply in addition to the design requirements of the Community Plan:

- A. *Affordable multiple family housing units shall be provided on site as part of the TAU project. The number of housing units to be provided shall be at least 20% of the number of the project's TAU's.*
- B. *Design of the project shall incorporate provisions for pedestrian access to the nearby commercial uses and provide a native landscaping plan that minimizes the project's visual intrusion into the roadway corridor. In addition, the developer shall be obligated to implement, or work with the California Tahoe Conservancy by committing the required funding for, the bike trail component of the Stateline/Ski Run Community Plan's Implementation Element for the Van Sickle District."*

The first footnote (A) originates from a blending of the applicant's amendment application, TRPA Code requirements and Community Plan intent. The amendment application states the applicant's desire to "build a resort with 20 tourist accommodation units and potentially 4 units of employee housing." This footnote furthers the intent of the Community Plan's affordable housing by requiring the units to be affordable housing. There is no requirement that the units be used only for employees of the project.

The second footnote (B) stems from the discussions that occurred at the September Hearing's Officer meeting and a thorough review of the Community Plan. Further, it clarifies the bike trail obligation so that it cannot be interpreted that the bike trail need only be constructed if the property is developed as affordable housing (Exhibit E).

Effect on TRPA Staff Work Program: Staff does not anticipate any impacts on the Environmental Review Services workload. Currently, this amendment does not result in any additional work beyond that anticipated for a standard project review.

Required Findings: The following findings must be made prior to adopting the requested amendment:

A. Chapter 6 Findings:

- 1. Finding: The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code, and other TRPA plans and programs.

Rationale: The proposed Plan Area Statement amendments are limited to one identified six-acre Community Plan land use district and do not amend any boundary lines, the new "footnote" policy language will assist TRPA to meet Community Plan land use intent, and are consistent with the criteria defined in Code Section 18.2.G(1) thru (4). Any projects approved under this new language must meet all Regional Plan standards.

- 2. Finding: That the project will not cause the Environmental Thresholds to be exceeded.

Rationale: The requested amendment to the Stateline/Ski Run Community Plan does not create any impacts to environmental thresholds. Any project

resulting from this amendment must comply with the applicable provisions of the regional plan, including applicable thresholds. The environmental thresholds do not specifically address the topic of housing.

3. Finding: Wherever federal, state and local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

Rationale: Any project resulting from this amendment will continue to be subject to federal, state, and local air and water quality standards.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the Thresholds.

Rationale: For reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain thresholds.

5. Finding: The Regional Plan, as amended, achieves and maintains the Thresholds.

Rationale: See findings 1, 2, and 4 above.

B. Chapter 13 Findings:

1. Finding: Prior to adopting any plan area amendment, TRPA must find the amendment is substantially consistent with the plan area designation criteria in Subsection 13.5.B and 13.5.C.

Rationale: The Community Plan's identifies that the Van Sickle District as a preferred for affordable housing site; however, no specific policies are outlined that require the construction of affordable housing or that require that housing built within this district be deed restricted as affordable housing, The Regional Goals and Policies provide that incentives be given for affordable housing and such incentives (bonus units, land coverage) were and are available for this site. The Community Plan supports and encourages such housing; but, without a mandate.

Environmental Documentation: The applicant has completed and staff has reviewed the Initial Environmental Checklist for the proposed action. Based on the above analysis and completion of an IEC, no significant environmental impacts were identified that cannot be mitigated to a less than significant level. Staff recommends that a Finding of No Significant Effect (FONSE) be made based on the following:

1. The amendment will have limited applicability.
2. With the proposed density limits, the amendment would not approve development greater than contemplated by the Regional Plan.
3. Any additional vehicle trips and associated vehicles miles of travel (VMT) which may be created will be considered in the project application.

If there are any questions regarding this agenda item, please contact Brenda Hunt at (775) 588-4547 or by e-mail at bhunt@trpa.org.

Attachments:

Exhibit A; Land Use Matrix with footnote

Exhibit B: Proposed Ordinance

Exhibit C: Hearing Officer's Report

Exhibit D: Letter from the City of South Lake Tahoe

Exhibit E: Excerpt from Implementation Element of the Stateline/Ski Run CP

Stateline/Ski Run Community Plan Land Use Matrix

Proposed Gondola Vista amendment in RED.

Key:																								
1 = Tourist Accommodation					a Lakeside					b Van Sickle					c Montreal					d Monterey				
2 = Tourist Related Retail					e Tahoe Marina Hotel					f Lower Ski Run-west														
3 = Local Serving Retail					a Stateline Pedestrian					b Lower Ski Run-south														
4 = Recreation					a Crescent V					b Ski Run Village														
5 = B&B & Prof. Offices					a Van Sickle					b Basin E					c Osgood Basin									
6 = Affordable Housing					a Upper Ski Run-north					b Upper Ski Run-south														
7 = Transportation Corridor					a Van Sickle					b Pentagon					c Upper Ski Run									
LAND USE CATEGORIES		DISTRICTS																		MAXIMUM UNITS/ACRE				
		1a	1b	1c	1d	1e	1f	2a	2b**	3a	3b	4a	4b	4c	5a	5b	6a	6b	6c	7a				
I. RESIDENTIAL																								
Domestic Animal Raising													S											
Employee Housing	S	S	S	S	S	S	S	S	S	S	S				S	S	A1	A1	A1		15			
Mobile Home Dwelling																								
Multiple Family Dwelling	S	S	S	S	S	S	S	S	S	S	S				S	S	A1	A1	A1		15			
Multi-Person Dwelling	S	S	S	S	S	S	S	S	S	S	S				S	S	A1	A1	A1		25 Persons/acre			
Nursing & Personal Care																								
Residential Care																S								
Single Family Dwelling	A	S	S	S		S						S2			S	S	S11				1 per parcel			
Summer Home																					1 per parcel			
II. TOURIST ACCOMMODATION																								
Bed & Breakfast Facilities	A1			A1		A1					S				A1	A1					10			
Hotel, Motel, Other Transient Dwelling Units	A1	A1	A1	A1	A1	A1	S	S	S	S					A1	A1	A20				40			
*Time Sharing (Hotel/Motel Design)	A1	A1	A1	S	S	S	S	S							A1	A1	A20				40(no kitchen)			
*Time Sharing (Residential Design) [§]	A1	A1	A1	S		S		S ^{§§}							A1	A1	A20				15 (w/kitchen)			
III. COMMERCIAL																								
A. Retail																								
Auto, Mobile Home, and Vehicle Dealers																								
Building Material & Hardware										S4														
General Merchandise Stores		A1 [§]				S5	A1	A1	A1	A1			A1 ^{§§§}		S5	S5				A14				
Mail Order and Vending								S1	A1															
Nursery																A1								
Outdoor Retail Sales		S [§]					S	S	S	S														
Eating & Drinking Places	S6	S6		S6	S6	A1	A1	A1	A1	A1			A1							A14				
Food & Beverage Retail Sales		S [§]					S	S	S	S			S							A14				
Furniture, Home Furnishings & Equipment							S	S	S	S														
Service Stations	S							S	S				S			S								
B. Entertainment																								
Amusement & Recreation Services	S	S [§]					S7	S7	S															
Privately Owned Assembly and Entertainment	S	S											S10											
Outdoor Amusements	S	S				S				S			S		S	S								
C. Services																								

^{§§} Amended 6/26/96
[§] Amended 12/22/00
^{§§§} Amended 2/28/96

Exhibit A.

LAND USE CATEGORIES	DISTRICTS																			MAXIMUM UNITS/ACRE
	1a	1b	1c	1d	1e	1f	2a	2b**	3a	3b	4a	4b	4c	5a	5b	6a	6b	6c	7a	
Animal Husbandry Services																				
Auto Repair and Service																				
Broadcasting Studios						S		S						S	S					
Business Support Services						S		S						S	S					
Contract Construction Services																				
Financial Services							S8	S8	A1							A1				
Health Care Services		S 17				A1			A1	A1				A1	A1					
Laundries & Dry Cleaning Plant																				
Personal Services		S 15				S5	S13	S	A1	A1				S5	S5				A14	Rev. 3/4/97
Professional Offices		S 17				A1	S 18	A1	A1	A1				A1	A1				A14	
Repair Services							S9	S9	S9											
Sales Lot																				
Schools – Business & Vocational						S			S					S	S					
Secondary Storage																				
D. Light Industrial																				
Batch Plants																				
Food & Kindred Products																				
Fuel & Ice Dealers																				
Industrial Services																				
Printing & Publishing																				
Recycling & Scrap																				
Small Scale Manufacturing							S	S	S	S										
E. Wholesale/Storage																				
Storage Yards																				
Vehicle & Freight Terminals																				
Vehicle Storage & Parking	S	S	S	S	S	S	S	S	S	S				S	S					
Warehousing																				
Wholesale & Distribution																				
IV. PUBLIC SERVICE																				
A. General																				
Airfields, Landing Strips & Heliports (New Non-Emergency Sites Prohibited)																				
Cemeteries														S	S				S	
Churches	S					S								S	S				S	
Collection Stations									S											
Cultural Facilities	S	S					S	S	S	S		S								
Daycare Centers/Preschool	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1				A1	A1	A1	A1	A1		
Government Offices															A1					
Hospitals																				
Local Assembly & Entertainment	S	S					S													
Local Post Office																				
Local Public Health and Safety Facilities	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1		
Power Generating																				
Public Owned Assembly & Entertainment	S	S					S				S10									
Public Utility Centers	S																			
Regional Public Health and Safety Facilities																				
School – College																				
Schools – Kindergarten through Secondary																				
Social Service Organizations						A1			A1					A1	A1					
B. Linear Public Facilities																				
Pipelines & Power Transmission	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Transit Stations & Terminals	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Transportation Routes	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	

Exhibit A.

LAND USE CATEGORIES	DISTRICTS																			MAXIMUM UNITS/ACRE
	1a	1b	1c	1d	1e	1f	2a	2b**	3a	3b	4a	4b	4c	5a	5b	6a	6b	6c	7a	
Transmission & Receiving Facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
V. RECREATION																				
Beach Recreation						A1						A1								
Boat Launching Facilities												S								
Cross Country Ski Courses											S					S				
Day Use Areas	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1		
Developed Campgrounds																				
Downhill Ski Facilities																				
Golf Courses																				
Group Facilities											S					S				25 Persons/acre
Marinas												A1								
Off-Road Vehicle Courses																				
Outdoor Recreation Concessions												S								
Participant Sport Facilities [§]		S					S				S10					S				
Recreation Centers											S10					S				
Recreational Vehicle Parks	S																S			10 sites/acre
Riding and Hiking Trails											S					S				
Rural Sports											S					S				
Snowmobile Courses											S					S				
Sport Assembly																				
Undeveloped Campgrounds																				
Visitor Information Centers	A1	S					S					S								
V. RESOURCE MANAGEMENT																				
A. Timber Management																				
Reforestation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Regeneration Harvest																				
Sanitation Salvage Cut	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Selection Cut																				
Special Cut																				
Thinning																				
Timber Stand Improvement	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Tree Farms	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
B. Wildlife and Fisheries																				
Early Succession Vegetation Management	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Nonstructural Fish Habitat Management	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
C. Range																				
Farm/Ranch Structures											A					A				
Grazing											A					A				
Range Pasture Management											A					A				
Range Improvement											A					A				
D. Open Space																				
Allowed in all Areas of Region	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
E. Vegetation Protection																				
Fire Detection and Suppression	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Fuels Treatment/Management	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Insect & Disease Suppression	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Prescribed Fire/Burning Management																				
Sensitive Plant Management	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Uncommon Plant Community Management	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
F. Watershed Improvements																				
Erosion Control	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	

[§] Amended 6/26/96

Exhibit A.

LAND USE CATEGORIES	DISTRICTS																	MAXIMUM UNITS/ACRE		
	1a	1b	1c	1d	1e	1f	2a	2b**	3a	3b	4a	4b	4c	5a	5b	6a	6b		6c	7a
Runoff Control	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	
SEZ Restoration	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	

Footnotes

A = Allowed
S = Special Use Permit Required

** Note all special uses within 2b are appropriate for development on SW Corner. Refer to Redevelopment Demonstration Plan.

1. Requires CSLT Design Review
2. Caretaker Residence Only
3. New Auto Parts Only
4. Wallpaper, Paint, Hardware Only
5. Sporting Goods, Equipment and Accessory Bike and Moped
6. Not Freestanding Building
7. Entrance Only Fronting Highway 50
8. ATM Only
9. Jewelry Repair Only
10. See Recreation Element, Objective 5, Policy A (rev. by TRPA – 3/27/94)
11. For condominium projects only, with multiple units per parcel (rev. by TRPA – 3/27/94)
12. No outside storage or display, no blacksmith or trusses and the like (rev. by TRPA – 3/27/94)
13. Offsite rental of sporting equipment, beauty and barber shops only and to be consistent with the “window, door, window, door” concept. (rev. 3/4/97)
14. Allowed only within existing buildings.
15. Allow consideration for placement of the use, only in the vicinity of the public plaza that enhances and directly links to the highway 50 pedestrian corridor^{§§}
16. Allow consideration, for placement of the use, of an emergency outpatient medical center (“urgent care facility) only in the vicinity of Park Avenue.^{§§}
17. Allow consideration for placement of Realty Offices only within the district.^{§§}
18. Allow consideration for placement of Realty Offices only within the district, and only when operated in conjunction with approved Park Avenue Redevelopment fractional ownership tourist accommodation projects.
19. The parcel 27-323-10, physical address 3521 Pioneer Trail, has been added to the Stateline/Ski Run Community Plan in District 6c to facilitate affordable housing. Community plan development incentives may only apply to this parcel if and when a deed restricted affordable housing project is developed.[§]
20. If District 6A is developed for Tourist Accommodation purposes, the maximum density is 15 units per acre and the following special provisions will apply in addition to the design requirements of the Community Plan: (A) Affordable multiple family housing units shall be provided on site as part of the TAU project. The number of housing units to be provided shall be at least 20% of the number of the project’s TAU’s. (B) Design of the project shall incorporate provisions for pedestrian access to the nearby commercial uses and provide a native landscaping plan that minimizes the project’s visual intrusion into the roadway corridor. In addition, the developer shall be obligated to implement, or work with the California Tahoe Conservancy by committing the required funding for, the bike trail component of the Stateline/Ski Run Community Plan’s Implementation Element for the Van Sickle District. (Rev 8-2006)

Entire matrix revised in 1999, additional revisions by City and TRPA December 2000, March/April 2001 and August 2006.

^{§§} Amended 12/22/00
[§] Amended 3/28/01

EXHIBIT "B"

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 06-___

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING THE TAHOE REGIONAL PLANNING AGENCY STATELINE/SKI RUN COMMUNITY PLAN, TO AMEND THE PERMISSIBLE USES MATRIX FOR DISTRICT 6A AND PROVIDING CONDITIONS FOR PROJECT APPROVALS PROPERLY RELATING THERETO

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance No. 87-9, as amended which ordinance relates to the Regional Plan, by amending the Stateline/Ski Run Community Plan as exhibited in Exhibit A, in order to further implement the Regional Plan and Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 The Advisory Planning Commission ("APC") conducted a public hearing and recommended adoption of the amendments. The Governing Board has conducted a noticed public hearing on the amendment. All oral testimony and documentary evidence received were considered.
- 1.30 The provisions of this ordinance have been found not to have a significant environmental effect on the environment, and thus are exempt from the requirement of an environmental impact statement pursuant to Article VII of the Compact.
- 1.40 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Section 6.4 of the Code of Ordinances and Article V(g) of the Compact.
- 1.50 The Governing Board finds that the amendment adopted hereby will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the environmental thresholds as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of Chapter 35 of the Code and Applicable Community Plans

TRPA Ordinance 87-9, as amended, is hereby amended to amend the Stateline/Ski Run Community Plan as illustrated in Exhibit A A.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code and Community Plans adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance or the amendments adopted hereby is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance or the amendments shall not be affected. For this purpose, the provisions of this ordinance and the amendments are hereby declared respectively severable.

Section 4.00 Effective Date

This ordinance shall become effective 60 days after the date of its adoption.

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 23, 2006 by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Allen Biaggi, Chairman

Exhibit "C"

HEARINGS OFFICER

Tahoe Regional Planning Agency
128 Market Street
Stateline, Nevada 89449

Date: September 29, 2005
2:00 p.m.

REGULAR MEETING MINUTES

I. CALL TO ORDER

Mr. Jim Baetge, Hearings Officer, called the meeting to order.

II. APPROVAL OF THE AGENDA

Mr. Baetge approved the agenda as published.

III. PUBLIC INTEREST COMMENTS

The Hearings Officer opened the meeting to public interests comments and since there were none; he closed that portion of the hearing.

IV. ANNOUNCEMENT OF APPEAL RIGHTS

The Hearings Officer explained the Appeal Rights process and advised that Appeal Rights Application, Procedural Guidelines and copies of the staff summaries were available for those who might be interested in the information.

V. PUBLIC HEARING ITEMS

- A. Tom Turner, 8791 North Lake Blvd., Kings Beach, California, Assessor's Parcel Number (APN) 090-192-56, TRPA File #20050747. The applicant is proposing to remodel an existing commercial restaurant building including 725 square feet of additional commercial floor area.

Senior Planner, Paul Nielsen noted no changes to the staff summary. He did have a clarification in regards to the most recent BMP plan received by the TRPA staff. It did not include the permanent BMPs for the parking lot. Therefore, as part of the acknowledgement of the final permit TRPA staff will make sure the parking lot includes the permanent BMPs as well.

The Hearings Officer needed some clarification regarding the residence removal whether it was part of the permit or not. It was noted, it was included in the permit. Mr. Baetge also had some uncertainty regarding the parking, what was going to happen or how much was going to be provided. Senior Planner, Paul Nielsen stated we are still waiting for Placer County to make a final decision on parking. We are deferring to the County on their determination regarding

parking. Once they make the decision we will incorporate that in the final acknowledgement of the permit.

Jan Brisco, representative for the applicant, Tom Turner, was under the assumption that the BMP plans provided to TRPA included all the permanent BMPs for the building and the addition, etc. The parking lot is part of a bigger community drainage program that would come under the Community Development improvements. It was understood that it would go under the Kings Beach Community Improvement Program with Cal Trans as part of the community conveyance.

Mr. Paul Nielsen addressed the issue stating that there are some negotiations about an area wide treatment system in Kings Beach that may be similar to Tahoe City's system. Their system's commercial core area is drained to convey water off of the property and gets concentrated in an area-wide off site treatment system. These discussions have not been finalized but will be done in the future. So, as to ensure TRPA staff will get the BMPs, TRPA staff wants a plan on file that shows on-site BMPs. However, when the discussions of the off-site treatment area proceed and conclude that an area wide treatment system is better than an on-site, the plan on file can be deleted. They will then have a couple years to implement this. This is the special conditions 4.B.

Applicant, Tom Turner, stated that he is okay with this condition. This does pose two issues; what is the community plan going to do when it is five years down the road and they said the North side of the road will not be until 2011 if they're on time, and next door, to the east, there is a contaminated gas station, and there is many ground water problems which contaminated his property, as well as the highway and south of the lake. The County is moving forward with a clean-up with ERA funds presently. Mr. Turner did not want to do the actual work until this has been completed.

Ms. Jan Brisco had some clarifications of the special conditions item 4. f., the offsite coverage mitigation fee needs to be changed from \$12 to \$6.50. Also, number 4. J., in the interest of time, they're planning to do a project area deed restriction to be issued as quickly as possible. Paul Nielsen also noted a memo submitted regarding the clarification of the condition changes (coverage mitigation fees and the BMPs are for the parking lot and the building).

Also, Special Condition, item K. will be changed to state; the permittee shall submit a Caltrans encroachment permit for the encroachments into the SR28 right-of-way prior to commencement of work.

The Hearings Officer opened the hearing for public comments. There were no public comments at this time.

The Hearings Officer approved the findings contained in the staff summary and approved the project based on the staff summary and subject to the conditions as revised and the conditions contained in the attached draft permit as revised.

- B. Tahoe Regional Planning Agency, 1340 Glenwood Way, South Lake Tahoe, El Dorado County, California, Assessor's Parcel Number 025-36-018, TRPA File #20051214. The applicant is proposing for the installation and operation of an air quality station in the southwest corner of the old drive-in site.

Senior Planner, Paul Nielsen, noted a couple minor changes to the staff summary in the draft permit (numbering errors) and also the PAS mentioned on page 1, states it is applicable to Glenwood 096 and needs to be changed to Bijou Meadows 101.

The Hearings Officer, Mr. Baetge, questioned whether the proposed project was permanent or temporary. Rita Whitney clarified that TRPA would like it to be a permanent installation. The city has already agreed to two years with a renewal option. Long-term monitoring is an essential item of this plan.

The Hearings Officer opened the hearing for public comments. Rita Whitney did receive a phone call that commented regarding his/her concerns of what it will look like. Ms. Whitney stated that it will be painted to blend in and that there are also scenic mitigation fees as well.

The Hearings Officer approved the findings contained in the staff summary and the finding of no significant environmental effect. He approved the project based on the staff summary with the numbering changes subject to the conditions contained in the attached draft TRPA permit.

- C. Randy Lane, Falcon Capital, LLC, 60 Lake Parkway, South Lake Tahoe, California, Assessor's Parcel Number 029-441-11 & 15, TRPA File # 20040024. The applicant is proposing to construct a 22-unit multifamily project which will be contained in 11 structures on the property. The project will be accessed off of a new common roadway from Lake Parkway. The subject site consists of two adjacent parcels located on Lake Parkway in the City of South Lake Tahoe near the intersection of Lake Parkway and Park Avenue near the California-Nevada Stateline. (Continuance)

The Hearings Officer, Mr. Jim Baetge, noted a letter from the City of South Lake Tahoe to be added to the Hearing. Jeanne McNamara also noted that she had received a phone call a few months ago from the manager of the Forrest Inn asking where the access point was.

Senior planner, Jeanne McNamara, noted no changes or additions to the staff summary.

Mr. Baetge stated:

He had questions regarding the staff summary- the community plan has a number of policies and objectives that make it for the affordable housing. What happened to that idea? The Douglas side does state that it is affordable housing only. Both the Douglas and the South Lake Tahoe plan discuss lake and mountain access continuously throughout the whole community plan. The proposed application is for a gated community which closes off the access. This is inconsistent with the two community plans. The applicant has also made an inquiry about subdividing; according to the plans this also cannot be done. I would also like to know if the sub-dividing is a necessary action. The driveway access issue, in terms of moving it over toward the SEZ further on the loop road. According to the community plan it states; no new driveways or plan and also your own staff report, inconsistent with the findings states we cannot make findings on the crossing of the SEZ.

I'm going back to a little of my memory, separate issue, when we did the EIS for Heavenly redevelopment back in 1994-95 there was a big discussion of the Heavenly Resort. The issue was why we let all this happen down in the most critical part of our corridor of transportation. The answer for this question was we're trying to not create new trips in there; it was to get people on transit. As a matter of fact, everyone wanted to trust the system and spend the money on transit rather than mitigating it. It seems to me, there is going to be an issue there with, as it stands when you talk affordable you would be putting salaried employees in those houses and the trip generation would go substantially down because that is the work center. The Community Plan even states this, something to the effect we should provide that type of housing near the worksite. It also asks for a setback exemption from 20 to 30 feet. We really need to discuss this one. We spent a lot of time on Highway 50 about getting setbacks so we can see the mountain ridge, the scenic issue. If you go to the Community Plan, the Upper Loop Road is going to be up to a five lane road. In my reading of this, this should fall under the same scenic requirements as what was done down below. My question is, when you're putting something of a 20 foot setback are you really creating another corridor like we used to have on Highway 50? Did you intend on adding a condition saying no new subdivision is allowed within the 50% coverage? It seems to me, one way or another, it was put into the staff report but not put into the special conditions. On page 4 of the staff report, it states no significant environmental impacts were identified. It seems to me that a loss of employee housing or the road and SEZ are both significant impacts.

Jeanne McNamara states:

I had many of the same concerns as you. We have been working on this project for almost two years with the applicant. With the first one with the intent for affordable housing in that area. When I went through the Community Plan I read just like you did at kept saying affordable housing area theme. However, when I went to the land use matrix and went through the policies in the Community Plan

there was nothing that required it. So there was no way we could make them do affordable housing based on what the Community Plan said. It was basically that they could do multi-family or they could do single family if we can make the special use findings. There was one more use – commercial use and that was it. It did not say anything in there about requirement for affordable housing even though I agree it does say throughout that document that that is the intent.

Lew Feldman states:

On the affordable issue I agree with Jeanne. There certainly is a stated preference for affordable in the Community Plan. On the other hand, there is also the allowed use of multi-family residential and if you can make the findings. At the time this land was under consideration for acquisition. For whatever it's worth a discussion occurred with the City of South Lake Tahoe's Housing Coordinator on how we might be able to make this thing pencil as affordable. The reality of that was that it did not pencil as affordable. The City was not in the position under their policies to provide whatever subsidy would have been required to make it pencil as affordable. Therefore, at that time before escrow closed, because it was really purchased originally to pursue affordable, we needed to know that there was another use that was possible. We reviewed the Community Plan and came to the same conclusion that Jeanne McNamara did – multi –family residential was an allowed use. On that base, in fact, bought the property and then worked with the Agency for the last two years to bring it to you for your consideration. So, we are not disagreeing with you but, I think at the end of the day, this is an allowed use and an appropriate use to be permitted.

Jim Baetge states:

When you talk "it doesn't pencil", I'm not sure what that means. I hear this all the time "you can't do this and you can't do that." However, have we ever sat down with all the parties involved and actually made that determination? I can see you say that you didn't make enough profit so it doesn't pencil out. I think somewhere in there it has to be a determination made that there is no way you can do that unless somebody comes up with a lot of money.

Lew Feldman states:

There may be, and I'm not adverse to it if that's the burden of proof here, but I don't think it is. Just by way of example, because you'll relate to this, several years ago there were nine acres behind the old TRPA building that Falcon Capitol wanted to develop for affordable housing and probably could have got seventy units there. The land cost for that parcel was cheaper than the land costs for this twenty unit parcel. If you get seventy units for something less than a million dollars that is one set of economics. If you can only get twenty units or thirty units for a million dollars or more that is another set of economics. The land costs for affordable when you put it at that number per unit requires if your going to do it on that kind of expensive real estate which when the Community

Plan was adopted there was no Heavenly Village, no Gondola, there was not much critical mass down there other than Lake Tahoe Inn. It may have been a whole other set of economics but, I can tell you that you couldn't do that project and not lose a lot of money without some significant government participation. While that discussion occurred it did not bare fruit and that is the honest reality.

Randy Lane, Falcon Capital, states:

We built the units across the street and are in the process of trying to do, which have already approve twenty units at Incline, which we have gone to the next level of affordable which is how moderate radar work force housing, however you want to refer to it as. The issue on this particular site, it's not unique in the sense that, as Lew Feldman very eloquently stated, it's not just a matter of land costs it's a matter of land costs, a matter of coverage costs, matter of all of the components of the system that we deal with here that all lean towards it costing a lot more to build here than it does in Carson Valley or somewhere else. That is the issue, in the affordable housing industry it all of these things to process. To even go beyond that, we had to finesse, we built twenty-eight or thirty units down up on Kahle, Meadowbrook. Just to give you an example, we did that with tax credits from the State of Nevada. The TRPA system is such that you need to have all your excavation and grading done by October 15th and cannot build again until May 1st. The way that you get the tax credits from the state is the same way, or was the same way in most other states. Nevada is one of the last to change; California has already made this change. You get granted those credits and you have to start construction within twelve months. So you get the credits in May/June timeline but you cannot start. The point is is tat the whole system is flawed from the standpoint that you can't get an allocation credits until the May/June timeframe. We as a Developer, I'm not going to go out and spend the money to do CDs and stuff, construction drawings and all the things that go with it even though I feel that the affordable may have even been approved. Until I know that I have the financing mechanism in place to build it. By the time I have my construction drawings done, the funding is not available until June. It only gives me ninety days or so to get construction drawings and line up somebody to start digging before October 15th which is impossible. If you don't get it done by October 15th they won't extend your timeline to start construction so you lose your tax credits. It is a system that is cumbersome anyway and in this particular instance if we didn't already have had a grading permit on this site to do the EIP project we were going to do down there, not only the affordable project would have happened, we also would of lost \$250,000 in reservation fees that we pay up front that are non-refundable. It just doesn't work and that is just one example. That can be fixed and we went through the process with the state of Nevada and starting next year in 2006 you get a longer period do have your credits still have value so that you are committed to your project without losing them. The other thing that I have a pretty hard feeling about in this particular site, I've been around here a really long time and I've watched a lot of the community come out, plans evolve. I've also watched a lot of the potential projects come and go and I can remember on the Park Cattle Company Site

when they were going to evaluate doing some market rate housing which had some exclusionary affordable in it so on and so forth. I think that is a wonderful thing. I agree with that sort of concept. Again, you cannot find parcels of land. There aren't park cattle company parcels of land. If they are, they're already in general forest and outside the urban boundary, you cannot develop them anyway. What you're doing is going around and developing pockets. I think development of pockets is good if they are already in a community like this particular property. On the Kahle site, there are already units down there. But to take this site even if it was affordable, and everybody has the mentality that some affordable is better than zero affordable. I disagree; all you're doing is building a project. If you put twenty units of affordable there or whatever fits there and there is no other neighborhood infrastructure around them other houses what are the other kids going to do go out and play in the forest by themselves? It doesn't happen that way. The City of South Lake Tahoe has numerous opportunities if we can ever get the money part of it down which the housing coalition is working on, to go in and build in existing neighborhoods. That is where you want to put them otherwise it becomes a project. A project has a stigma associated with it and we've been not careful with that but sensitive to that. We have to build where we can go. The land uses in the basin are dictated by what you can do on them not by what is best for everybody, including the people that need affordable, market rate housing. I think that particular site has a far better use as a market rate, either a tourist accommodation use or a second home use or primary home use. It is more in tune with what is going on in that area. That is one point and I said this at the last work for (SP) housing meeting, and I'm on the record, I'm not trying to put extra conditions on us. I also don't think TRPA, as Jeanne stated, has the right to – we've applied under what we interrupt the Code to say and what everybody agrees with what the Code states until we get to some later issues. We've actually bought another site in South Lake Tahoe in anticipation that there might be some housing mitigation requirement for affordable. We are not opposed to that; we are trying to be good citizens. However, you cannot take that site and say it is not affordable; it is not the land cost. You go through this and you factor in what you can get from the available sources of subsidies to pay for this. Again, by way of example, this project across the street we have sixty-four units, we were supposed to get paid \$360,000.00 developer fee. We never received the money because the first thing that goes when you don't have enough money to pay for a project is the time that you work and the effort that you put into it that scrapes away. There is no incentive to do it unless you have a market rate project tied to it. That is the only reason why there has been any affordable housing, in my opinion, built in the last twenty years. From the last twenty year plan that was done, there have been a total of a hundred units. Teri might know what is happening with the city. The point is that there has got to be a reason why there isn't any. It is not me saying that I cannot afford to do it, it is everybody else coming to the same conclusion.

Jim Baetge states:

To comment on that, it is not necessarily your issue directly but it was one of the other things I brought up. I remember this so clearly that we debated it; when you look at Highway 50 we agreed not to modify the roadway and do all those things. We made a really difficult decision to put the Gondola down there and all the redevelopment, and do more redevelopment. The motive behind all this was to not increase trips, in fact, to reduce trips by letting people come and stay and use the facilities. Then we took all of our money and dumped it in transit. Part of this, when we looked at this was; what was going to happen in and around there? Douglas County was pretty clear on theirs that it would be employee housing. California was not quite as clear. They did make a lot of indications of what it was. What I see, when you look at why you say it isn't economically feasible to do; just think about it. You are going to do another redevelopment on the other side and there is going to be a lot of change in that corridor. Here, in this particular parcel, one of the last few where you can let employees walk to work and do all the things you would like to happen will vanish. If you take the model we put forward there is a hundred and sixty more trips and seven to a unit, which is probably reasonable. What you have also done is taken twenty-two more families and moved them to Carson City or Gardnerville because they no longer can walk to work and do all those things. Those are increased impacts, major increases and they fly in the face of what we agreed in the EIS. I think that is what needs to be ironed out because that is not what we said or what we planned at that time. Now, we're saying there is a good reason to do something else and who's accountable for this? I think the City's letter was great and it showed all the things they're doing. However, it is on the other end of the hour glass, it's not where we need it. I think it's an important item. Whether the redevelopment has to pay or somebody has to pay I don't know. Somehow it has to be made economically feasible. Whether it has been exhausted in your discussions I do not know.

Lew Feldman states:

The only other point I would make and I think you were the Executive Director at the time when we went through the approval process on this project across the street; we had quite a turn out of the concerned neighbors. One of the factors that seemed to be compelling to the Governing Board and was contrary to the view of the neighbors; what you want to do with these projects is not build them in isolation but put them near other market rate facilities. That is the reverse of what the analysis you're proposing on this Gondola Vista project. If you did build it there, as Randy Lane stated, you would have an island of affordable, which is really contrary to what the contemporary thinking is about where you want to place affordable.

Jim Baetge states:

There is some argument there, yes. There is all kinds of affordable at whatever level you go to and if you go further down on Montreal that is where the affordable is. It is not totally isolated. The discussion of why we did the development and the Gondola was a big item. We all said that we would trust that everyone would throw they're money in the pot and make it work better. I think it is and has but, now it's backwards.

Lew Feldman states:

First of all, the project area is outside the redevelopment project boundary. I do agree with you. We were pretty passionate about the fact that we thought this was actually a traffic mitigation process and there were a lot of doubters as to whether in fact that was the case. What the Gondola has demonstrated is that over forty percent of the people accessing the mountain are now accessing through the Gondola and the majority of them are traveling on foot. So, the experiment did work and the outcome of that is we got what we bargained with and perhaps more so. So, I don't see this project as inconsistent with this.

Jim Baetge states:

You are going to another redevelopment on the other side and I think there are a lot of issues. When you say "economically feasible" it is different than it might be looking at another area of the community. This one was based on economic feasibility of an entire redevelopment area and you can't separate it.

Lew Feldman states:

One of the things you're trying to do before buying a piece of property is to go to TRPA, City, and the Community Plan to see what the allowable uses are. This process occurred before somebody went out and wrote the check. Nobody is saying the information is wrong. That was the information that was the information that was relied on which is the current list of allowed uses.

Teri Jamin, CSLT states:

The City manager apologizes for not being here. He did have another obligation with Placerville. He did ask me to come and represent him. I appreciate that you put his letter into the record. As you mentioned, the summary of the affordable housing projects that have taken place in the City and our continuing commitment to that are attached to the letter. Part of the letter that is most germane to what you were just discussing is the second to the last paragraph where the City Manager talks about the fact that the project adds value to this area and compliments and supports the existing Heavenly Village project and is proposed to be constructed to meet the highest standards of building qualities as deemed the Environmental Protection Requirements as does not detract from the overall goal of meeting affordable housing needs in the City. I think the way this

project is being viewed is as a type of housing product that is not currently close to the redevelopment project area. In order to purchase a unit of this type you would have to be further away from the redevelopment area and so there is a benefit in locating this type of housing product close to the redevelopment area as well. I would also like to concur that having affordable housing is a benefit in that area too. They are both different products but they both have a different purpose and value in terms of the overall scheme of the redevelopment project as well as the housing element approach. So, he has indicated in the letter that he believes that this project is consistent with the goals of the City's housing element because it talks about diversifying the housing stock for all types of housing products from the lowest income up in through the higher income levels. We currently don't have a project of this type in this area.

Jim Baetge states:

Patrick is basically saying that you guys are meeting your requirements independent of this project is really where you are?

Teri Jamin states:

Patrick provided an attachment that shows all of the projects that we currently have constructed and the different programs we have to meet the housing element requirements which are the ones that comply with the state law as part of our general plan.

Jim Baetge states:

Do you understand though Teri the issue of the hour glass? We said that was the critical part between Pioneer and Ski Run and we were trying to deal with the area on the other side of the congestion. What you're building isn't necessarily transit users. The people that buy these are probably looking at million dollar houses or more and they are not necessarily transit users.

Teri Jamin states:

I would not envision them needing to use transit to any great degree because their location is so close to all of the amenities that they'll want to utilize once they get to their dwelling.

Jim Baetge states:

So you're looking at trips being created, as opposed to in the past you would have said you're reducing the trips because of employee trips to the casinos or wherever they were. Now you're saying you're going to put something in there that will increase the auto trips.

Teri Jamin states:

I guess the way I would look at that it's unlikely that the people who would buy these units be located in this area if these units were not available so they would be probably in a house that is further away from the Stateline area. So they are still going to take a trip from wherever their more expensive home, in the Key's for example, instead of buying this project. So they would still be getting trips going into the area. Just as employees now who are located further away because they don't have an affordable housing unit in this area would be taking a trip. Although, I would agree with you that the employee would be more likely to take transit than the person in the Keys whose either residing there or visiting there in order to access the Stateline area.

Jim Baetge states:

Your letter is supporting the concept of market rate housing?

Teri Jamin states:

The letter is saying that it is consistent with the City's goals and the housing element.

End: Affordable Housing Discussion

Subdividing Affordable Housing Development

Jim Baetge states:

The issue I have is with the Community Plan access and the fact that we're providing a high-end gated community blocking the access to the mountain.

Jeanne McNamara states:

First of all for the record there is no application to subdivide these into single family at TRPA at this time. From what I understand the applicant has basically formalized their intent to subdivide with the City.

Jim Baetge states:

Can I ask a question? Does penciling out the economics require that you subdivide?

Lew Feldman states:

The answer to that is it would be probably impossible to collect rents that would come close to supporting the cost of the project.

Jim Baetge states:

So basically you're relying on the fact that you have to subdivide?

Lew Feldman states:

We recognize that there is an impediment to subdivision. As we sit here today we're simply asking for an approval for a multi-family residential that is the pending application. We've had several conversations with Jerry and John and staff and we think this is an issue that ultimately will be decided by the Governing Board. Not based on this project but more of a generic discussion that is going to be forth coming. We are not asking you to approve the subdivision, were not asking you to oppose a condition to bar a subdivision. We think that is a conversation that needs to occur as a policy matter elsewhere.

Jim Baetge states:

Why wouldn't the entire matter be a board policy question then?

Lew Feldman states:

Because we have the right to pursue a multi-family residential project. We also have worked for the last couple of years to pursue that approval. That is the first step in our process. The issue, just to bring clarity to it is whether or not the fifty percent coverage allowed in the Community Plan can be subdivided. There may be a solution that permits subdivision without availing oneself of that requirement. That will be explored after the project hopefully is approved but that would be our preferred method of moving forward.

Jim Baetge states:

I've spent a lot of time reading the last few days trying to find a way that you can subdivide fifty percent coverage. Very honestly, I don't see it. If you said that this project can go to fifty percent, why is everyone else limited to thirty? There is no motive behind it.

Driveway Access

Jim Baetge states:

Why a gated community blocking the access from the casino corridor to the lake to the mountain? It is already blocked on one side and now your saying nobody can go through there.

Jeanne McNamara states:

Right now the public cannot access that parcel because it is private. There is an easement through it for STPUD access because there is a water tank farther up the hill. Right next to the parcel is going to be the Van Sickle State Park. It is public property now which would allow the public to access up the mountain.

Jim Baetge states:

But not the corridor we worked on through the casino? It is in a different place. It seems like the Community Plan worked on by everyone spent a long time working on the specific subject of getting it accessible. Now we are saying to put a gate up? Then again, I cannot find anything saying that we cannot do that.

Jeanne McNamara states:

Right, and that is what we struggled with too but there is this Van Sickle State Park which will surround this property.

Lew Feldman states:

I respect your position on this but I really think being right next door to a park we are really celebrating public access right there. So it's not as though if this project were constructed nobody would ever be able to get back up into these woods.

Randy Lane states:

I don't think your access would be at that point anyway. In the North you have private property, to the South where they're going to access through the existing driveway at Montreal to access the park is going to be the logical access point anyway.

Jim Baetge states:

Well, the vision, if you read it states; from the lake through the meadows. It is very specific and now you're not going to be able to.

Randy Lane states:

I understand that but you can never access the private property. You can say what you want but if there is private property the public has no right to go across it.

Jim Baetge states:

No, but what we are trying to do in Tahoe is to buy or do what we have to do in order to make that happen. If you took that approach you couldn't do a lot of things.

Lew Feldman states:

At the Trendwest project there was a trail there and there was no other way to get to it. We provided public access, same developer. We don't have to deal with that issue here because there's already access.

Driveway Access

Jim Baetge states:

Before we go on, there are several drawings on my end but they are not all the same. It looks like there were several alternatives for doing it. One of them had twenty-three separate ones and another one had twenty-two attached. I wasn't clear which one we were using.

Jeanne McNamara states:

The applicant first proposed twenty-three units. Now that is not valid, we are going with twenty-two units. They reduced the density because of some groundwater issues on the property that has a lot of high groundwater. The access point on the East leads through the easement for STPUD to get to the water tank. There is no access point off of Lake Parkway there. There is an access point ingress and egress for the property which is the existing road that leads up to the water tank. Where that road is that comes in is within a couple feet.

Jim Baetge states:

So that is not the SEZ then?

Jeanne McNamara states:

No, when you get to the "T" of the intersection between Park and Lake Parkway, the Gondola is to the East, the Community Plan had originally envisioned that access to this property would be just a four-way intersection. You would then proceed up that dirt road (Van Sickle) to where the barns are. That is all through

stream zone. We looked at an option of having them use that intersection but then they would have to get an easement from the Conservancy to cross their property and then there would be construction of a road through the stream zone. This avoids the stream.

Jim Baetge states:

This totally changes the staff report then because it said the...

Jeanne McNamara states:

On page 3 of 12; to access the subject parcel off of the T-intersection, the applicant would have needed to obtain an easement across an adjacent Stream Environment Zone (SEZ) and this would have resulted in additional disturbance to the stream zone there. Because they would have had to cross the stream zone to get to their parcel from that T-intersection.

Lew Feldman states:

So all that is abandoned.

Jim Baetge states:

Because the project could be accessed on the Lake Parkway which would not require disturbance to the SEZ.

Jeanne McNamara states:

Using the proposed and the existing access to the property, we couldn't make the finding for them to do the easement. Right at the Western property line the SEZ line is almost on that property line. They would have had to cross that to get into their property.

Jim Baetge states:

So basically it is going to be a cut slope right into where that road is now.

Scenic issue with setback

Jeanne McNamara states:

The other issue was the scenic with the setback and we have that same concern.

Jim Baetge states:

It was kind of a broad scale thing about what is going to happen with Highway 50 being diverted up to the Upper Loop which is throughout the Community Plans.

Jeanne McNamara states:

Our transportation staff did look at the traffic report on this and the traffic report did address that. They found there wouldn't be any impact. Basically, if Highway 50 was diverted up there this project would not preclude Highway 50 being diverted up there based on what was planned currently. For the scenic, we had the applicant prepare a simulation of the project as viewed from Lake Parkway to help us make the finding because they want to encroach into that thirty foot setback. When you go through the Community Plan it talks about visual, how the buildings shall not...they didn't want them right on the top of that cut slope. We also were trying to make the finding that the buildings were in three quarters of the tree canopy. So, we had them prepare a simulation and it shows what the increase landscaping that they're proposing on that cut slope that the project would not have any sort of scenic detriment to it.

Jim Baetge states:

With twenty feet?

Jeanne McNamara states:

I think it is a little more than twenty feet isn't it?

Lew Feldman states:

I think it's more than twenty feet and there is no living area within a thirty foot setback there is just some deck area.

Jim Baetge states:

What I was thinking is if whether you have applied the same setback as if you were on Highway 50. We've spent a lot of time on ensuring the scenic view of the ridge of the mountain and if whether you were applying that same measure to this.

Lew Feldman states:

There wouldn't be any impairment at any ridgeline.

Jim Baetge states:

You couldn't see anything because of the existing trees. The other thing when you're out there it looks like it's a much higher bank than it looks here on the scenic simulation. Is the bank being cut down that much?

Jeanne McNamara states:

The slope is not being touched and it's not being terraced. I think with the increased landscaping on there that that is helping to break that up.

Lew Feldman states:

The site plan that you looked at compared to the one that you weren't supposed to see shows how much work has been done to side everything.

Jeanne McNamara states:

We do have an updated landscape map here too that reflects what is on the simulation. At one point the applicant actually proposed having a wall along there and that was removed also so we can help make that finding for the setback.

Jim Baetge states:

The Community Plan also says no new driveways and this turned up. You don't have any other access, it's just that one?

Lew Feldman states:

This is the only one. If you look at the dash-line you can see the thirty foot setback and you can see where the encroachment of the thirty foot setback occurs which is pretty modest.

Jeanne McNamara states:

As far as the condition for the no new subdivision we can add that. I have no problem doing that. I did not include it because they hadn't submitted the application to subdivide at this time. I thought the staff summary put them on record if a future subdivision did come in terms of the land coverage they were transferring in they would have to come back to Bailey.

Jim Baetge states:

The reason this is troubling to me is that it isn't the staff report that they have made with the application and that was their intent. It sounds like it is a clear

intent. A lot of it was straight forward with the plan and everything is pretty straight forward here but, I don't think that is what we got. We've got a judgment made about what the plan said about employee housing not necessarily appropriate for here. We've got a corridor where we fixed up Highway 50 and now we're going to have that problem again. I know it doesn't speak to it but we have a gated community blocking access. I think there are several relative policy issues. The fact that we have twenty-eight square foot gated community is a real policy question in terms of how you want to go on it. If I thought, which I have reason to think, now we're going to subdivide it and then sell it as residential housing I think that is reaching well into the whole regional plan in terms of what we all have done and where we are headed, which is a true policy question.

Joanne Marchetta states:

I would agree with you on the subdivision component of this. I think it has to be clear in special condition (1) one in order to be consistent with the findings that need to be made. Given the facts that we know here; that there is an intention at some time in the future to subdivide this, I think that special condition one needs to be clear that this not only... Page 7 of 12 states: This permit specifically authorizes construction of 22 unit multifamily project on two adjacent vacant parcels. The proposed 22 units are to be used as multifamily dwellings only and use of the units shall be consistent with the multiple family dwelling use definition. I would for prudence add to this stating; for multi family dwellings only and subdivision for fewer units is prohibited pursuant to 20.3.B (3) of TRPA's Code because otherwise we can't make the consistency finding.

Jim Baetge states:

I was thinking about this last night about how you would word it. The trouble I see if you say okay let's go with a multifamily but that whole approval is conditional on the fact that it is not subdivided. The reality is you can build it and then come in later because the condition would be voided due to the fact that it is already built. I just don't see a good way to get around that. Very honestly from my end, this is a logical determination for the Hearings Officer to make that big of a jump in policy. That is where my trouble is.

Joanne Marchetta states:

I think that is fine. If complete denial here or bumping it up to the Board is the only alternative instead of creating an ambiguity between the facts and the conditions we can do that as well. I do think this needs to be dealt with at a policy level because the move to subdivide this in the future as a single family is clearly consistent with our Code and I don't think we can approve a project on the assumption that we will make a Code change in the future.

Jim Baetge states:

My feeling with where we are here is that we are taking a big jump to say we ought to be setting policy. But at the same time I've tried in the past not to say I don't want to approve something.

Lew Feldman states:

Let me just say and maybe Jerry will jump in here, but we've been working with Jerry more than anyone else on how we are going to get off a dime on this deal. We talked about just going to the Governing Board, having a project specific discussion and a variety of different mechanisms. What we agreed to do in terms of process was to take this through the Hearings Officer process as a multifamily residential subdivision and to defer the subdivision issue to the Governing Board. We have two other projects that have similar issues. We didn't come here blindly we came here with understanding this is the best way to tee it up. We are going to be on hold pending the outcome of this discussion and I don't think anyone has compromised. We are the ones taking the risk right? If we don't get it approved as a policy issue through the board we will have to go back and figure out how we will solve the problem. The prohibition that we are talking about is not a prohibition on subdivision of this project. In the abstract it's only if it's the fifty percent coverage bonus. So, we may have other ways to deal with that. From our perspective we would urge you to approve the project recognizing that no one is trying to pull a fast one here. We have a serious subsidizing policy issue that we're not asking you to resolve it has to go to the Governing Board and that's where it's going to get resolved one way or the other.

Joanne Marchetta states:

Then perhaps a way of winding our way through this little tightrope is rather than approving a multifamily project that we know there is intent ultimately for it not to be multifamily perhaps there should be a special condition. The condition could say; in the event that this project goes forward as a single family residential development it can only go forward at the lower coverage.

Jim Baetge states:

That would basically void the project.

Lew Feldman states:

We're saying Joanne is that the Governing Board needs to make that call. We have had serious debates; we haven't been able to resolve how that is going to be resolved. The way that is going to get resolved is that the Governing Board is going to make that determination as opposed to that determination being made as a condition of this permit. We don't have a subdivision application before you that issue isn't on the table.

Joanne Marchetta states:

It actually is exactly on the table for purposes of the policy discussion. If we're going to take a policy discussion forward in the context of a project then let's not put on blinders as to what the policy is that we are there to discuss. We're not there to discuss whether you're allowed a multifamily rental development. This is a proposal for a multifamily with a second step. That is the policy debate.

Jerry Wells states:

I think part of the issue here as opposed to the other two projects that you referred to up in Incline Lew, is that those projects can function as rental properties. Maybe not ideally but, they can function as that. So when we approved those they are ones that wouldn't necessarily have to be. I'm making that assumption let me know if I'm wrong.

Randy Lane states:

I don't think I agree with that. I'm getting the feeling from Jim's comments that if this was a thirty percent sub dividable issue in this location you would still have reservations. That is what I'm hearing.

Jim Baetge states:

Part of the issue is when a project is consistent with the plans and everything else, I have never objected to one. I have accepted these because they are all consistent. When you have a policy issue there are people out there that are interested, particularly when you are talking about the redevelopment area and all the things that are going on. The circulation of this isn't out there. Everyone doesn't know this is going on. What I have trouble with and it's just..if you were saying well it's thirty percent and it's all consistent and everything is down the line, I don't have a lot of trouble with the idea. I wish they were smaller but the idea is okay. I do have trouble with abusing what we have created and I think it would be.

Randy Lane states:

Well I have trouble with that too. What I'm saying from my position, which rolls over to Jerry's thing, we make an economic decision based on what we understand the rules. If there is a policy question it seems to me it should have been brought up three years ago when we submitted this application. Not by your own processing requirements after we've done hundreds of thousands of dollars worth of scenic. All I'm saying is that TRPA processing system has a flaw. From a developers perspective it almost looks like it was done intentionally so that nobody would ever submit anything because nobody in there right mind is

going to invest a million dollars or two and buy a piece of property based on what they think the Code is. When they hire somebody like Lew Feldman who is an expert at this and then come to learn that he says we can't do that. That's what is happening and it's not just happening here it's happening in Incline and several times before. We need to know in the beginning and not at the end that there is going to be issues. Jerry is interpreting from his standpoint in Incline. We made the conscious decision to buy two pieces of property based on being able to subdivide those two pieces of property based on what the Code said.

Jim Baetge states:

That's where I have confusion. I cannot find it anywhere that it states that you can subdivide into residential with fifty percent coverage.

Lew Feldman states:

We're not going to resolve this here and Jerry has heard this and so have others. There was a project approved in August at fifty percent, community plan project. We went to the Governing Board on this eight unit for sale moderate project which the Governing Board and staff embraced. Everybody was under the belief that under the Code it was written that you can subdivide within the community plan with fifty percent rule.

Jeanne McNamara states:

I don't think it is accurate that you say we had the belief that we could do it. I don't think that is accurate.

Lew Feldman states:

Let me say this because I do have some blame or responsibility for this as well. 20.3B, which is the section of the Code we are talking about did not have this prohibition that everybody is now talking about until I made an application for a Code amendment to allow this project across the street to proceed. The basis of that application was that it was a post 1987 parcel and the fifty percent coverage rules were not eligible for post 1987 regional plan parcels. The whole scope of that proposal and amendment was simply to say why you would discriminate against post 1987 parcels or pre 1987 parcels. It was a good thing and the Governing Board approved it and it was described as cleanup language tagged on to the end of that process that was never discussed with the Governing Board. It was not featured nor was it highlighted that I never understood to bar what we talking about today. Other people that have had experience with the Agency didn't understand it to bar what we were proposing and so we think that if the Agency truly intended when I made an application to make the fifty percent rule applicable to post 1987 projects, the Agency's intention was to change the rules to subdivision. That is a big deal. It probably should have been highlighted, called out, noticed, and minimally been a part of the subdivision

rules. So there is an ambiguity. As we look at this it is not teed up for a discussion that quite frankly, caught me by surprise. I think it caught Jeanne by surprise too. It was brought to your (Jim Baetge) attention just as this was coming up for processing. So we've been in this process for some period of time and I'm not trying to point the finger at anybody. I'm just telling you it isn't as obvious as you might have thought.

Jim Baetge states:

When you did the Regional Plan you allow a certain level of coverage and there are a whole slew of things that we put in there that say; and that will bring it into conformance. But, now were going to say fifty percent coverage can be subdivided. It changes the whole character.

Lew Feldman states:

The Amendment was a recent amendment. That rule, what were talking about now occurs as a result of this project across the street. Before that there was no prohibition.

Jeanne McNamara states:

I think there was. It says multifamily it doesn't say single family and that was basically a clean up to make it consistent with the goals and policy. Which is the intent to allow fifty percent coverage for multifamily not for a subsequent single family. I have talked to Gabby and John about that.

Lew Feldman states:

Obviously it's a difference of opinion.

Jim Baetge states:

Again here, this is a big policy issue to be addressed and resolved before we go forward because we are changing the whole character of that Regional Plan.

Jeanne McNamara states:

I just wanted to say one thing in response to what Randy stated earlier. I did ask this question; what was the intent? Were you intending to subdivide? I did ask this question of the applicant in a meeting in April 2004. I was told it was not appropriate for me to ask that question and that I should be reviewing the project on its merits as multifamily. So I did ask that question.

Randy Lane states:

I don't think it's appropriate to get into a "he said, she said." We have different recollections.

Jeanne McNamara states:

I'm just saying this for the record when I'm being told that, this is a late hit. I just didn't appreciate being called as a late hit and I did ask. Review is review and unfortunately we cannot pick everything up at the beginning of the review and what came along through it.

Jerry Wells states:

When I came into this meeting I was thinking there are three options. One is the project can either go forward as recommended by staff and then we would have this debate in the bigger picture with the Board. We were thinking of doing that in November. The other was to deny the project since it was based on needing to be subdivided to make it equitable. Or to heavily condition the project relative to subdivision and all those sorts of things. The more I'm hearing here I don't think only one of those options is acceptable to you folks. I'm hearing for you, Jim, its difficult because of this issue on whether or not the project requires to be subdivided or not. Whether were just approving it on paper knowing that it's never going anywhere that has given you some uncomfortable feelings. Another option and this probably isn't acceptable to you either, to continue it until we have this discussion with the Board. That way at least you got the information from the meeting today that we can convey to the Board to kind of help frame the picture but they don't have an approved project coming before them to frame this position or this discussion.

Randy Lane states:

I don't think that is equitable Jerry. I'm not asking you to approve the fifty percent coverage thing. I read the Code and I can see where it says clearly when you go back to the coverage section what it says. How that evolved, I'm not here to discuss that. Although I think a lot of us were out doing it and in fairness to Jeanne nobody is trying to say that you did anything inappropriate. You didn't. But, I think we've been fairly open since the beginning of this thing because our original design showed single units not even duplex units. So, I don't agree with you but I don't want to take you to task on it because I don't think it serves any purpose. But, the reason I asked the question I asked before Jim is if you as the Hearings Officer are prepared to approve this as a thirty percent subdivision then I think it is important to have that approval Jerry. That is on the table, Lew wants me to not do it. That's why I asked the question is because what I wanted to do is have the flexibility that if this thing gets bogged down to where it can be heard in November but might not see action till March or April I've been around the block before and I know that happens. This thing was originally submitted

almost three years ago and I know there is a process you go through to deem things complete and all that. I'm just saying no matter how crumbly we submit stuff, which I think we know the drill pretty well, more than most people. So I think to be in the system for three years and then say; hey now you got to wait again and not have the option to have a thirty percent deal and maybe be in 2006 or 2007 I don't think that is fair to us. That is all I'm saying.

Lew Feldman states:

What Joanne is proposing is that they condition this cannot be subdivided under the fifty percent rule and that would be a condition of approval which would not preclude the thirty percent subdivision.

Randy Lane states:

I don't think you would just blatantly say that it cannot be approved. I guess that is what it says in the Code but I don't like that tagged onto my project.

Lew Feldman states:

So maybe the way to deal with this is to say the condition recognizes unless there is a determination by the Governing Board that would...

Randy Lane states:

I would allow you to put a condition in there that states the Code only allows for subdivision, you don't get any bonus consideration for thirty to fifty for a subdividable project. I don't have any problem with that. I don't like the word prohibited when it's in my documents. Because that issue hasn't been decided I don't think. That's my eye point.

Jim Baetge states:

The only trouble with the thirty percent part is that you really don't have a plan there. You're not looking at anything, so it is a little hard. I think we all agree there are some policy issues here. The reality is, to get a decent project you're going to need some policy guidance from the Board or whatever the case may be. It seems to me to totally condition it whether it's the thirty percent which we don't have or whether it's something else it isn't going to get to the policy issue and it doesn't make the finding.

Lew Feldman states:

We may not have to get to the policy issue. We're saying is if we can agree to a condition that doesn't put you in the position where you feel as though you're up against policy because the condition would prohibit the fifty percent coverage subdivision. We may be able to find a solution to have this project comply with

the thirty percent rules. That would at least keep a door open for us which under the circumstances I think is consistent with where you would like to wind up and fair with Randy. So I don't see how there is a down side to that.

Jim Baetge states:

The only way you can do that is to continue it and come up with a project that does comply.

Lew Feldman states:

Well, we may be able to do a minor plan revision that achieves that and I think that is the position we would like to find ourselves in. It is now our problem let us figure out how to solve it. At least now we got something for our three years of effort that is an approval that warrants further investment to solving the problem.

Randy Lane states:

What's the effect if we get delayed to the next Hearings Officer meeting time?

Jim Baetge states:

Two weeks from today. What I don't fully understand though is in order to get a project that is going to work, your probably looking at a Board determination. I don't think there is any way around the Board determination. You can put all the policy issues before the Board. What is the down side to that?

Jerry Wells states:

The discussion should be focused on the project for the policy issue. If you're thinking we would have the project there at the same time as the policy discussion that will be a little difficult. I would like to have that discussion with the Board and the bigger picture without focusing on any one project. What we will be asking them to do is to look at that subdivision requirement as it relates to affordable, moderate, and market rate. If you have a market rate project there on the same day it is all going to focus on that one project. We can do it possibly but I have not talked with John Singlaub to see if he would be willing to do that. That is why I was thinking of the continuance idea because then it could stay at Hearings Officer probably.

Jim Baetge states:

I don't mind it staying here. I think we need to be really careful not to let this get lost in developing policy.

Jerry Wells states:

The only reason why I thought it might still stay at Hearings Officer is so that the Board made some policy decisions and we knew clearly what it was then we could decide what to do.

Lew Feldman states:

If Joanne's condition is placed on this which takes it out of the policy issue how is that bad?

Joanne Marchetta states:

After hearing the discussion I'm going to revise my suggestion because I do think it's extremely difficult to condition a project that is not at thirty percent on thirty percent. Then it is a different project. I don't know how Jim can approve...

Lew Feldman states:

You're prohibiting the subdivision at fifty percent. That is all you're doing, which is consistent with the staff recommendation.

Joanne Marchetta states:

Without a plan in front of us and what that thirty percent looks at, to say it's approved automatically...

Lew Feldman states:

It's not. All you're approving today is a multi-family residential project at fifty percent that cannot be subdivided. Unless we come back with a thirty percent minor plan revision. We may or may not choose to do that.

Joanne Marchetta states:

My point went more toward the issue of, I don't see a Code prohibition if a thirty percent subdivision project were to come in the door. The Hearings Officer process, is that what is essentially the policy issue. If it is at fifty percent we cannot subdivide, if it is a thirty percent we can. That is the policy debate.

Jim Baetge states:

He is talking about doing prohibition on further subdivision as a condition of the project. I think you had some words at the start of that.

Randy Lane states:

What Lew is saying is if we brought this project in without everybody thinking it was going to be subdivided he could act on it today because the Code allows for it not to be subdivided to be fifty percent coverage. So the project before you is exactly that. Again, if nobody was aware of the subdivision then he would only be asked to make that decision today and we wouldn't be having this discussion of prohibition or anything else. We're doing that because everyone in this room recognizes that there is a policy issue that were going to try to do something in the future that is probably unclear and may even be contrary to the policy. What Lew is suggesting is just to approve it at a fifty percent deal non-sub dividable. If Jim wishes to make those findings and even go ahead and put in some language like you stated before. Even prohibited is fine, I don't care. That issue is not going to be resolved. The only thing I'm, asking for is that I hate taking three steps forward and four back and that is what I feel like has been happening. I'm not trying to use this approval to hammer anybody over the head. We are asking for what the Code states you can do, which is a fifty percent bonus if you do not subdivide. So if that is all were asking for and I get that done then we have our day in court in front f the Board. Then they can decide whether they want it to apply to this or only affordable. Which I hope will be brought to the floor at the same time because I've got two twenty units out in Incline that are just hanging out there in limbo.

Joanne Marchetta states:

They cannot decide whether subdivision is applicable to affordable without a major comprehensive plan change. We had made a policy call for purposes of a couple of test cases (Tahoe Vista affordable project in Placer County, Tahoe Valley Community Plan) in the context of front loading P7 in the community planning process that we would agree to look at these issues not approve. We have not approved that concept of subdivision in any affordable context nor could the Board approve that without major environmental review of some specific context.

Randy Lane states:

If you approve this thing a multifamily and it's incumbent on us if we can redesign the project or we don't want to go forward with the affordable thing, we still have the right to step back and look at it as thirty percent.

Lew Feldman states:

Or you can build and try and rent.

Randy Lane states:

We are looking at another alternative is the same design but how can we meet the thirty percent coverage issues. We have some ideas but were not finished going through that process. Jerry asked me about that a couple weeks ago and I just said were not there yet, were about fifty percent there. So, if you approved it as non- sub dividable I'm assuming we would have that option or non-sub dividable today. We would have the option if we cannot cure that thirty percent but, that thirty percent or whatever we're doing to meet the Code from the coverage standpoint comes into to give us some relief, we would still have the option to come back with the revised project at a later time. We then can say we can't have twenty-two units but we can have eighteen units. Is that still an option?

Jeanne McNamara states:

Just provided we can make special use findings because it is a special use.

Lew Feldman states:

You are not locked into it forever to be a fifty percent coverage non sub dividable twenty-two unit project.

Randy Lane states:

That would be good for us because again, I don't think the issue is going to be from a policy standpoint is going to be resolved quickly especially from what Joanne just said. Which is consistent with what was said the other day.

Jim Baetge states:

The policy issue before the Board would come up with direction to staff or whatever the case may be will at least give you some indication of whether you have a viable project or not.

Randy Lane states:

Well, I'm going to leave this room today thinking that if I want to subdivide it I can only get thirty percent coverage. That is the conclusion I got.

Jerry Wells states:

That's what you got. Randy another option that Jim should feel comfortable doing today is to come back in two weeks with a thirty percent plan that would actually have a plan to put in front of him to be able to day yes or no.

Randy Lane states:

Well, that is where I was going before but what is the difference were approving this plan. If we change it we will have to modify it anyway.

Jim Baetge states:

I wouldn't feel comfortable doing that without seeing what it is. Just like we did this one I would have to look at the plans thirty percent, what does it do with the traffic and all that? There are too many variables.

Lew Feldman states:

That is not going to get done in two weeks anyway. If you can't respond...

Jim Baetge states:

Lew I think the option may be, Jerry being here too, if you don't want to take both to the Board you could probably split the items and say let's put one together that meets all the requirements now to come to a future Hearings Officer. The policy question is going to go forward in November. I think the two can come together. If you don't want the project before the Board if you could look at a redesign project that fits it. I will tell you I do not feel comfortable just because I know the situation of saying I can make those findings. I just do not feel comfortable with that, the way we stand. I think the cleanest way is to take both before the Board. Both the project and the policy issue. The policy issue is certainly going to go through environmental documents and everything else.

Jerry Wells states:

I can talk to Mr. Baetge and I can talk to the chairman of the Board but our direction to staff in the past on policy issues is that the Board prefers not to do it in the context of a project because it gets so specific. It can encumber their discussion a little bit if it is focused on a single project.

Jim Baetge states:

What if, I don't want to make anything anymore difficult than it is, the policy issue be taken to the Board. Then the determination of what the project could be made by the applicant and TRPA staff following. That doesn't necessarily have to go to the Board.

Jerry Wells states:

That is what I would suggest either tabling or continue at this time so it doesn't lose a place in line. Which I know Randy is probably concerned about.

Randy Lane states:

That is my concern too. My concern is just time. I'm still hearing conflict here. You don't want to act on the project and I don't understand that if your action doesn't compromise what the Code says. If all were asking you to do is approve it as multi family why don't you feel comfortable?

Jim Baetge states:

Not that you would do it but, you could take the project and go build a multifamily, conditions are gone now because the project is closed out and then you can go forward in splitting it up into a fifty percent coverage residential. No matter how you put a condition on it, it vanishes when the project is done. You don't have a project without subdivision.

Randy Lane states:

You're taking the position that because of some future act that you don't want to act today and that tells me you're not comfortable with the process or your own Code. That is the message that gets sent to me. Today, I'm before you asking you to do something that is totally consistent with the Code and consistent with TRPA staff(s) recommendation and your saying that you don't want to do that because you can build it and then later you can subdivide. If that is the real issue, which is what I'm trying to get to, there is a not wanting to do it and there is an I'm not doing it under any circumstances. That is the feeling I'm getting. That your uncomfortable doing it. If you do say that and we are told to go to the Board that is your prerogative. I'm certainly willing to go along with it. We've extended this thing like twice. We sent this letter to extend the thing in August 31, 2005, it's almost October and I know how things work. I can see this thing being another year or two. My argument to everybody is the reason nothing gets done in Tahoe is that there is no certainty with the process, number one. Number two, how do you design something when you start four or five years ago and you don't even get an approval until six or seven years later? The dynamics of everything changes; economics, interest rates, all these things. I just don't think that is right or fair for the Agency to make it so burdensome for potential people that have projects. You might as well not have any Code. We had this discussion with John and I told John that I'm starting to feel like we are being picked on because you don't want any projects period. That's fine I can deal with that. All somebody has to say is that were not doing anymore projects in Tahoe and I'm fine with that. I just don't like spending the time and energy it takes to do it. There is too much interpretation in the process already from my perspective I can assure you. No reflection on anyone in the room past or present. There has got to be a better way to do this. This just doesn't work for me and my company. I'm starting to lose partners over deals like this. We structure something economically one way and what happens when it doesn't happen and my deal starts to fall apart? There are consequences that the Agency doesn't even ever think about and I have to deal with everyday. I also have to think about the

environmental side everyday because that is part of the process. I'm asking for a fair shake and not to compromise how you feel at all. I just want to be very clear that if we do delay or do this or we come back in two weeks that you're not going to say the same thing based on another look at another design or solution to this problem. Getting to you is a lot easier than getting to the Board.

Jerry Wells states:

Is there an option that we can take a five minute break to discuss with Joanne and Jeanne to see if there is another option to somehow move this forward to the Board?

Jim Baetge states:

Yes, we can take a recess. You said what is approvable? You're basically saying that if you go with the thirty percent you will subdivide. You could do a project that shows thirty percent. I have trouble making the findings because of the idea of going to fifty percent coverage when you're talking residential. Like it or not, it doesn't pencil without it and that is the approach being taken. You know that and I know that. That gives me trouble. If I were designing or redesigning I would really have trouble with a gated community blocking that. I really have trouble with that. Would I reject it over that, I cannot find anything in the Code that states you can't. It sure does give me trouble though.

Randy Lane states:

We wouldn't put an easement on the property line either. Just because you have two or three acres doesn't mean people should be able to walk all over the two or three acres. You make an access point for them. I don't have any problem with that. Nobody ever came back and said to do that. We're flexible.

Jim Baetge states:

I've been working with Sacramento County, El Dorado and Placer over that. The whole foothills are full of that and it is becoming sort of a social issue in terms of the well-to-do lock themselves behind the gate and everybody else in other places. I think that is a kind of concept thing. I don't find it as a problem other than the trails and things but that gives me trouble. If I were to design it I would put a public access through this project and get people like we originally had in the Community Plan. The idea that we are going to five lanes, maybe traffic looked at this, I don't know, everything very clearly points that the Upper Loop Road is going to be something that it isn't today. That needs to be thought through and resolved. I think we are reaching beyond the Hearings Officer and there are people in the community that would like to know this.

Lew Feldman states:

The people that were noticed support the project.

Jerry Wells states:

Maybe there's a way to split this where we can have the bigger policy issue with the Board in November, have the project on the agenda as well but not for subdivision. Have it on there for the multi-family approval just as it is here today but, not take that action until after they have had that policy discussion. That way at least it keeps the project on track for an action in November.

Randy Lane states:

I disagree with you, all you're going to do is have the policy discussion if that's a hot and heavy issue it will still spill over onto our project. There is no way you can do this.

Kevin Lane states:

The other one has already been applied. It's well over and one hundred twenty days already past. That one is going to hit the Governing Board soon in the next month or two.

Jerry Wells states:

I think your kind of hearing where this is going to go today and I'm not sure it's going to be any better than what I'm suggesting.

Lew Feldman states:

I think the earlier suggestion in light of Jim's concerns and Joanne's comments, a placing it in some sort of abeyance until the policy issue is resolved is probably the best outcome under the circumstances.

Jim Baetge states:

You can also leave that flexible if you want it to go on the agenda at the same time. I think what you would get there is the other players that can see it on the agenda and come forward. Right now they do not know we're doing this.

Lew Feldman states:

I'd rather have the policy discussion, as Jerry would, without the project being the target.

Jim Baetge states:

Why don't we just say the policy issue is directed to the Board. The policy issue being the subdivision fifty percent and so forth. The issue of the project can be a determination made between TRPA staff and the applicant on whether it would come back to the Hearings Officer or go to the Board or whatever you choose to do.

Jerry Wells states:

As Joanne mentioned earlier all the Board is going to be able to do is have a discussion on it and be able to direct staff on which way to go with it, whether we should amend the Code to allow subdivision for certain types of housing or not. Then they will make a final decision. At least it will give you some direction as to which way you want to go.

Randy Lane states:

The issue of the affordable from what Joanne said is going to be something that will not be resolved. Which then has other consequences for my other project in Incline Creek and so forth. It is what it is. If I assume that those two things are going to happen then, I come back to you and I say I want to do a fifty percent multi-family thing are you going to act on it?

Unidentified states:

And you think it's economically viable?

Randy Lane states:

Why do I have to even answer that question? It's none of TRPA's business as far as I'm concerned. I'm doing what the Code allows me to do. If I make a conscious decision that I want to build this as a market rate thing are you going to come back to me and say you don't believe me because I might in the future in five years change and you might end up with a single family subdivision. I don't think that is appropriate to make that kind of observation.

Jim Baetge states:

My issue is who knows what's going on. If that discussion is advertised before the Board and the Board gives staff the direction then you have all the players that know what's happening on the project. Right now I think we're talking policy issues without most people knowing.

Randy Lane states:

The other option I haven't discussed is why don't I bring the project forward in October even though your gone (Lew). As a thirty or a fifty? Jim doesn't want to make a decision, let me go to the Board and see what they say. I don't think staff can get up there and say we know you're going to subdivide later so we want you to wait.

Jim Baetge states:

I think presenting that to the Board that way is fine.

Jerry Wells states:

There is nothing wrong with that but we could potentially have this exact same discussion at that meeting.

Randy Lane states:

I would like to be able to take what Jeanne's got here to the Board at the earliest spot. I don't care if you change it or leave it exactly the way it is. I want the right to go to the Board in October. Either approved or disapproved.

Teri Jamin states:

Just on this one issue could you approve it subject to the Board approving the policy that would allow fifty percent coverage for the multifamily? If that doesn't happen you could revise the project and bring it back if you choose.

Jim Baetge states:

I could not make findings with that. You're violating the Regional Plan of the environmental....

Teri Jamin states:

No, because it's not valid unless they approve the change of the policy. It's subject to that change.

Jim Baetge states:

Even they can't. Basically your saying does this conform to the Regional Plan? You would be saying no it doesn't but the Board says okay go anyway.

Teri Jamin states:

Well you're approving it at fifty percent coverage as multifamily unless the Board approves a change which would allow it to go to condominium single family.

Otherwise it's approved as multifamily and then if the Board doesn't do that you can either appeal this approval or revise your project.

Randy Lane states:

We're not even asking him to do that. Where we're at is that he doesn't want to act on the project period. No matter what way it is packaged right now he is uncomfortable approving it.

Teri Jamin states:

Well he hasn't said that yet, I think.

Jim Baetge states:

What he's saying is right on.

Jerry Wells states:

I'm trying to be optimistic. My other side is telling me we are going to have this same discussion in front of the Board and they are going to say let's continue this until we have had the bigger policy discussion. I'm just guessing but that could happen.

Jim Baetge states:

Jerry the Board could make a determination on...

Jerry Wells states:

They could approve the project. Technically it's consistent with the Code. I think the thing that may hang them up which is hanging Jim and I up too is that everyone has admitted that this project cannot go forward unless it is subdivided. You're not going to be able to rent twenty-eight hundred square foot units in Tahoe. There's not a market for it.

Randy Lane states:

There are other issues that the Agency should not get involved in. That exact issue was the reason I get frustrated many times in dealing with the Agency. You don't deal with my consequences so why should you deal with what I should or should not do? Why should I be precluded from having that opportunity? I don't agree with that. I want to preserve my options. If the Code allows me to have this approved as twenty-two units at fifty percent coverage as a multifamily I want it approved. End of story. I don't care what condition you put in. I want Jim to be happy. I want Joanne to be happy. If Jim isn't comfortable I'll go to the Board.

Jim Baetge states:

It seems like a straight forward solution. Your saying at this level you're not comfortable with some of the questions, and there are policy questions that the Board takes the same project, they have the background of what we just did, and makes a determination. Regardless of that other issue they can say I don't care, this is what we're going to go with.

Jerry Wells states:

They do and it does let a broader public that would have focus on this issue that doesn't have it today.

Randy Lane states:

I'm going to let me the Board to say I want action on only this issue. I don't want to deal with this issue. I think it's inappropriate for staff to sit there and quote "ifs" when the project has been sitting here for three years and it has not been acted on. That's not right.

Jerry Wells states:

There's nothing in our rules that say we can't as far as notice the general property owners...Jeanne...

Jeanne McNamara states:

Do we need to re-notice it if it goes from the Hearings Officer to the Board?

Jerry Wells states:

Absolutely. I would.

Jim Baetge states:

We are referring the project to the Board for action without prejudice.

VI. ADJOURNMENT

The Hearings Officer adjourned the meeting.

Respectfully submitted,

Kimberly Ellis
Clerk to the Hearings Officer

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call (775) 588-4547 to make an appointment. In addition, written documents submitted at the meetings are available for review at the TRPA office, 128 Market Street, Stateline, Nevada.

Approved:

Hearings Officer

"E."

<u>Improvement</u>	<u>Description</u>
Van Sickle	<p>Construct a class I bike trail on the mountainside of the Loop Road utilizing the Caltrans ROW and/or the Van Sickle property to connect the Moss Road class II facility to the Douglas County class I facility. Ultimately this Class I facility will connect to the Montreal extension.</p> <p>Schedule: To be constructed as a part of the development of the Van Sickle affordable housing (6a) and/or the Van Sickle Recreation/Drainage Basin A-1 (4a)</p> <p>Cost estimate: \$150,000</p> <p>Funding: Developer costs, CTC</p>
Loop Road (Mountainside)	<p>Create class III bike trail route on the mountain side of the loop road to connect with Douglas County, as well as creating a class II facility on Moss to connect Pioneer Trail's Class II to the Van Sickle, class I.</p> <p>This improvement's schedule, cost estimate and funding are a part of the Loop Road improvements.</p>
Montreal Road	<p>Create a class I bicycle trail within the Cal Trans ROW parallel to the future Montreal Road extension</p> <p>Schedule: Unknown. Although the roadway alignment and bicycle trail should be conceptually designed together, the trail he road construction.</p> <p>Cost: est. \$200,000</p> <p>Funding: CTC</p>