TRPA
GOVERNING BOARD
PACKETS

DECEMBER
1979
TAHOE REGIONAL PLANNING AGENCY

MEMORANDUM

TO: The TRPA Governing Board

FROM: The Staff

DATE: December 10, 1979

SUBJECT: Review of Incline Village Middle School and Incline Village Park Athletic Field Projects

During the review of the two above-referenced projects, it was found that the proposed Middle School did not conform to the land coverage requirements of the Agency's Land Use Ordinance without the inclusion of land area from the athletic fields proposed by IVGID. The projects will therefore be reviewed as a single project by the Agency.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY AND RECOMMENDATION

Public Works
Incline Village General Improvement District
Incline Village Park Athletic Fields
Variance to Grade Within a Stream Environment Zone
Washoe County

Summary

The Incline Village General Improvement District (IVGID) proposes to construct three athletic fields near the intersection of Tahoe Boulevard and Southwood Drive in Incline Village. The proposal is part of the master plan for parks and recreation facilities in the Incline Village area. The proposed facility would be partially shared with the Incline Village Middle School which would be located on a site adjacent to the athletic fields. The Washoe County School District and IVGID would enter into a joint use agreement for the use of the athletic fields and parking facilities. The majority of the parking facilities for the athletic fields would be located on the proposed Incline Village Intermediate School site and would serve the school uses and the athletic fields.

A portion of the project site lies within the stream environment zone (SEZ) and 100 year flood plain of Third Creek. The TRPA Grading Ordinance prohibits grading within an SEZ except in connection with a single family residence, utilities, drainage structures or roadways. A variance to grade within an SEZ is therefore required under the provisions of the TRPA Grading Ordinance.

Land Use

The athletic field site is presently classified Tourist Commercial by the Agency and would accommodate much more intensive uses than those proposed. However, day use areas, such as parks, playgrounds and athletic fields are a specifically allowed use in the Tourist Commercial District. The area adjacent to and to the east of the site is classified recreation and is presently utilized for tennis courts as part of Incline Village Park. Upon completion of the park facilities, according to IVGID's master plan, the athletic fields would form a portion of the park facilities which would stretch in a corridor from Lake Tahoe to Tahoe Boulevard, a distance of approximately 3/4 of a mile.

The IVGID park master plan indicates that certain areas should be reclassified to reflect the proposed recreational use of the property. Agency staff has discussed this matter with the applicant and has recommended that a General Plan amendment be initiated.

Existing Site Conditions

The site of the proposed athletic fields has been partially disturbed as a result of past construction activities in three separate phases (Figure 1). The majority of the site was apparently logged approximately 20 years ago. A substantial portion of the site, consisting of all that area except for a strip approximately 200 feet wide on either side of Third Creek, has been stripped of topsoil for use in construction of the Incline Village golf courses approximately 10 years ago. The central portion of the site has been used intermittently as a site for stockpiling spoil material.

Although seriously disturbed, portions of the site have been substantially restored as a result of natural growth and the stabilization of the West Fork of Third Creek. That portion of the site delineated as Area I on Figure 1 is currently utilized for a construction staging area and for stockpiling fill material. This area remains substantially disturbed.

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The timing of disturbance activities in this area is difficult to establish because of the continuous use as a stockpile area. As recently as August, 1979, Agency staff requested that IVGID confine its activities to existing disturbed areas, since it was found that filling of the SEZ was taking place. Restoration of Area 1 is therefore highly desirable.

The area delineated as Area II on Figure 1 has been affected by the removal of topsoil. This area is rapidly recovering from previous disturbance activities. Aerial photographs indicate substantial vegetation regrowth has taken place in the last 10 years. A substantial number of seedling lodgepole pines have been established in this area. The shallow root structure of dead trees in this area along with the presence of lodgepole pine seedlings and willows indicates that this area has been subject to a seasonably high groundwater table in the past. A field inspection conducted by the applicant on November 30, 1979 revealed that the groundwater table was at a depth in excess of 10 feet at that time.

Area III on Figure 1 was the least modified by past activities and hence would require the least amount of site restoration. The area is characterized by riparian vegetation such as willows, alders, grasses and lodgepole pines. The topsoil is approximately 2 feet deep and hence the establishment of new vegetation since the area was logged has taken place rapidly.

**Stream Environment Zone Delineation**

The applicant has identified the distribution of riparian vegetation on the site as well as the delineation of the 100 year flood plain. The 100 year flood plain varies in width from approximately 100 feet to 325 feet and generally includes the areas characterized by riparian vegetation (Figure 2). The Flood Drainage Study prepared by the applicant indicates that the stream flow splits into two channels during flood events. The secondary channel, which accommodates flows which occur from overtopping of the main channel, would be eliminated as a result of the proposed project.

**Land Capability and Allowed Coverage**

The site is classified as Inville Stoney Coarse Sandy Loam, 2 to 9% slopes, Land Capability Level 6. The site would be allowed up to 30% impervious surface coverage under the recommendations of the land capability system. However, since the site is classified Tourist Commercial, up to 50% impervious surface coverage would be permitted under the provisions of the Land Use Ordinance.

**Project Description**

The proposed project is the second phase of implementation of a master plan for parks and involves the construction of athletic fields adjacent to the proposed Incline Village Middle School. This phase consists of construction of a baseball field, a softball field, and a field suitable for either soccer or baseball along with related parking facilities for 21 cars and walkways. The facility is adjacent to the proposed Incline Village Middle School which consists of the school building, athletic courts and parking for 100 cars. The athletic fields will be operated under a joint use agreement between the school district and IVGID.

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Baseball Field - The proposed baseball field located at the southerly end of the site will be completely within an area currently used for stockpiling excavated material (Area I). Construction will involve removal of the 17 remaining trees, regrading of the site to create the nearly level playing surface, and installation of a turf area, drainage facilities, and slope stabilization of cut and fill slopes. No modification of the flood plain will occur as a result of construction of this area.

Along with the proposed construction of the baseball field, a substantial portion of the existing stockpiled material would be moved to one of the other playing fields and the area would be stabilized through revegetation. The grading plan indicates the maximum fill slopes for the baseball field to be approximately 8 feet which approximates the current situation in the area. The slope stabilization plan indicates areas to be riprapped and reseeded. All drainage from the playing surface would be collected and infiltrated on site. Overflow drainage would be directed to the adjacent stream zone. The overall condition of this area will be substantially improved as a result of construction.

Baseball and Soccer Field - The proposed combined baseball and soccer field, located in the northwestern portion of the site will be partially within the currently disturbed area, Area I, and partially within Areas II and III. The baseball and soccer field will encroach into the stream environment zone a distance of approximately 150 feet. The closest disturbed area to the main channel of the West Fork of Third Creek is 75 feet.

Construction of the baseball and soccer field will require cut and fill slopes of approximately 10 feet at the maximum. The grading and slope stabilization plans indicate those areas to be riprapped and revegetated.

The primary concern with construction in this area is encroachment within the 100 year flood plain and elimination of the existing secondary stream channel. The flood plain analysis prepared by the applicant indicates, however, that the secondary channel in this area is primarily backwater. Filling of this area would therefore not result in increased velocities of stormwater which could cause resource damage on adjacent lands.

A second concern with construction of this area is the depth to groundwater in relationship to the proposed cut slope. The subsurface excavation and report prepared by the applicant's soils engineer indicates that no substantial groundwater flows would be intercepted as a result of the cut slope. However, in the event that minor seepage of groundwater would be incurred, Agency staff recommends that infiltration trenches be installed to percolate any water which is intercepted on the site.
Softball Field - The third primary feature of the proposed project is the construction of a softball field between the adjacent fields previously described. The softball field is located almost entirely within the area characterized by riparian vegetation and approximately two-thirds of the field is within the 100 year flood plain.

The grading plan indicates that the elevation of the softball field would be below that of the main stream channel in the vicinity of the field. Flood volumes which exceed the capacity of the main channel may therefore result in stream channel cutting in this area since the existing secondary channel would be eliminated. The applicant proposes to mitigate this problem by raising the elevation of the field and by constructing a berm or channel to divert flood flows away from the softball field and by rock riprap on all cut slopes. This mitigation would result in impeding the passage of approximately 1/3 of the volume of the 100 year flood and may be subject to failure.

Traffic and Air Quality

The traffic and air quality analysis were performed in conjunction with the Middle School proposal. Please refer to that staff summary for information relative to both sites.

Public Services

The applicant has submitted letters from Sierra Pacific Power Company and IVGID indicating their ability to provide electrical, water and sewer service to the project. Sierra Pacific Power indicates that its transmission lines do not meet acceptable industry standards and that service to the project and other customers may be subject to interruption of service. IVGID indicates its ability to provide water and sewer service "is contingent upon availability of existing and future sewage capacity and water rights and any action brought against the District contesting such rights." Conversations with IVGID indicate that the per unit water consumption data submitted to TRPA provided for the expansion of its park facilities, including the irrigation of the proposed athletic fields. The proposed would therefore not adversely affect the ability of IVGID to provide water service consistent with the report presented by Agency staff at the November, 1979 Governing Board meeting.

Land Coverage

The project involves a parking facility for 21 cars and walkways which provide access to the athletic fields. The impervious surface coverage which would result from construction of all facilities including the school grounds would be 12.6%. Although the athletic fields themselves would not be considered as impervious surface, the routine use of these facilities would reduce the permeability of the soils and thereby reduce on-site infiltration and increase runoff. In order to compensate for the loss of infiltration occurring on site, staff has recommended that infiltration trenches be constructed in order to detain all runoff from the athletic fields on site.

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Local Agency Action

The project has been approved by the Washoe County Commissioners.

Analysis

Agency staff concurs with the applicant that it is appropriate to site the athletic fields immediately adjacent to the proposed Middle School. This siting makes the maximum use of facilities as well as minimizes the duplication of related facilities such as parking lots. Agency staff also concurs that portions of the proposed project will result in substantial improvements to existing site conditions. In particular, the proposed baseball field will result in restoration of a substantially modified area while actually reducing encroachment into the SEZ.

Construction of the combined baseball and soccer field results in only minimal encroachment into the 100 year flood plain in an area which is primarily characterized by backwater. No substantial adverse impacts are expected to result from construction in this area. The required findings to allow a variance to grade within the 100 year flood plain could therefore be made with regard to this area.

The remaining area, consisting of the proposed softball field, is the primary area of staff concern. Grading and filling in this area may result in substantial modifications to the flood plain and adversely affect the ability to pass a 100 year flood without resource damage on adjacent lands. The applicant has evaluated staff's recommendation to delete this area from the project but has rejected this request based on an analysis prepared by IVGID which indicates the public's need for the facility, as well as a consideration for optimizing the balance of cut and fill occurring on the project site.

Required Variance Findings

Section 7.80 of the Grading Ordinance prohibits clearing of vegetation, grading or filling within an SEZ except that drainage facilities, roads and utilities may be constructed where it is found that:

"a) there will be no substantial alteration of natural flows of water or other detrimental effect on water quality; and

b) the proposed work will not be detrimental to the environment within or adjacent to the stream environment zone."

Staff Recommendation

Agency staff recommends approval of a variance to grade within an SEZ for the proposed baseball field and baseball and soccer field. Agency staff recommends denial of a variance to construct the proposed softball field. Agency staff also requests that it be directed to initiate an amendment to the General Plan to reflect the proposed recreational uses of the property.

That portion of the proposed plans recommended for approval would be subject to the following conditions:

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1. Each of the following conditions shall be completely satisfied prior to the issuance of any grading or building permits:

   a. The final construction drawings for all site improvements shall be submitted to and approved by Agency staff. The final construction drawings shall clearly depict: 1) slope stabilization methods to be performed to stabilize all existing and proposed cut and fill slopes and areas denuded of vegetation; 2) areas to be revegetated, including complete specifications for such revegetation; 3) fencing for vegetation protection; 4) temporary and permanent erosion control devices; 5) measures to be taken for dust control; and 6) all drainage facilities.

   b. The contract bidding documents for all proposed site improvements shall be subject to Agency staff review and approval and shall include all measures included as mitigation measures in the applicant's information report as well as assure the proper installation of slope stabilization, drainage, landscaping and vegetation measures.

   c. Calculations and other necessary analyses demonstrating that the design of the surface water runoff control system will meet the requirements for surface and/or subsurface discharge as established in the Handbook of Best Management Practices. Such calculations and analyses shall be prepared by a qualified civil engineer and submitted to the Agency for staff review and approval.

2. Upon the issuance of building and grading permits, construction shall proceed in the following sequence:

   a. Such trees as TRPA has authorized shall be removed and the initial phase of the vegetation preservation and protection plan shall be completed.

   b. Installation of fencing for vegetation protection.

   c. Installation of temporary erosion protection devices.

   d. Prior to the removal of spoil materials from the construction site, a separate grading permit shall be obtained from the permit-issuing authority for offsite disposal of spoil materials.

   e. All topsoil within areas to be graded shall be removed and stockpiled for use in revegetation of the site.

   f. Installation of utilities including water mains and fire hydrants required by the fire department.

   g. Completion of rough grading including installation of mechanical stabilization devices.
h. Final grading and installation of base for paved areas.

i. Paving.

j. Landscaping and revegetation.

3. Compliance with all requirements and conditions of the permit-issuing authority.

4. There shall be no grading or land disturbance performed with respect to the project during periods of inclement weather, or when there is snow on the site or the area to be graded exhibits a seasonably high groundwater condition.

5. Replanting of all exposed surfaces, as per the revegetation and slope stabilization plan, shall be accomplished within the first growing season following disturbance. Planting shall be accomplished prior to October 15.

6. Trees and natural vegetation to remain on the site shall be fenced for protection. Scarring of trees shall be avoided and, if scarred, damaged areas shall be repaired with tree seal.

7. Areas to be paved shall be paved prior to October 15.

8. Mud shall not be tracked off the construction site. Grading operations shall cease in the event that a danger of tracking mud offsite exists. The site shall be cleaned up and road right-of-way swept clean when necessary.

9. During construction, environmental protection devices such as adequate erosion control devices, dust control and vegetation protection barriers shall be maintained.

10. Rehabilitation and cleanup of the site following construction must include removal of all construction waste and debris.

11. Physical barriers shall be provided to confine all vehicles to designated parking and driveway areas.

12. Agency staff shall be notified at least 48 hours prior to the commencement of construction. This notification shall include: a) who will be doing the work; b) when the work will commence; and c) when the completion of work is expected.

13. Removal of vegetation, compaction of soil, and grading shall be minimized. No earth movement, stockpiling of spoil materials, traffic, or clearing is allowed outside the construction site boundary.

14. Educational signs designed to inform the public of the need to protect the fragile environment of the stream zone shall be erected and maintained at the boundary of the stream zone.

12/10/79
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980

Area 1 - Construction Area
Area 2 - Topsoil Removed
Area 3 - Logged Area

Figure 1
Public Works
Washoe County School District
Incline Village Middle School
Washoe County

Summary

The Washoe County School District proposes to construct a middle school at the intersection of Incline Way and Southwood Boulevard in Incline Village. The project consists of a school building which would accommodate 500 students in the sixth through eighth grades, parking facilities for 102 vehicles, four multi-purpose courts and bus loading space. The school would be constructed in conjunction with the athletic fields proposed by the Incline Village General Improvement District. Both uses would utilize common facilities under a joint use agreement by the respective districts.

Land Use

The site of the proposed middle school is classified as Tourist Commercial by the Agency. Educational facilities are a specifically permitted use in the Tourist Commercial district. However, Agency staff has indicated to the applicant that a General Plan amendment would be desirable to recognize the Public Service use of the property.

Land Capability and Allowable Coverage

The site is classified as Invillle Stoney Coarse Sandy Loam, 2 to 9% slopes, land capability district 6. Up to 30% impervious surface coverage would be allowed under the recommendations of the land capability system. However, since the site is classified Tourist Commercial and non-residential uses are proposed, the Land Use Ordinance permits up to 50% impervious surface coverage. If the property were to be reclassified to Public Service as suggested by Agency staff, the allowable coverage in the implementing ordinance could be specified in an amount up to 50% impervious surface.

Proposed Land Coverage

The site plan indicates a total of 157,759 square feet or 60% impervious surface coverage will result from the proposed construction on the school grounds. However, when considered as part of a combined project for athletic fields and school grounds, land coverage would amount to only 12.6%.

Considerations for Location of School Site

The proposed school site is immediately adjacent to the core area of Incline Village as defined by Northwood and Southwood Boulevards. Presently, the Middle School population is serviced at Incline High School and Incline Elementary School, both of which are also located immediately adjacent to the core area of Incline Village as defined above. Because of the site's proximity to High Density Residential development and its central location, access to the site does not present any particular problems.

Traffic

The applicant has performed a detailed traffic distribution analysis which indicates that the
site will be adequately served by the existing Incline Village street system with no traffic congestion problems anticipated. The majority of the trips generated by the school and athletic fields are expected to be on local streets without a need to utilize State Route 28, which experiences a decreased level of service during peak traffic periods. The traffic report concludes that the existing street system is adequate to serve the school's projected traffic volumes under 1981 projected conditions.

The school district does not anticipate a need to increase the number of bus trips to accommodate the proposed school's needs. All bus traffic can cross Tahoe Boulevard at signalized intersections.

Land Use

The site is bounded to the east and north by the Incline Village Park. Phase II of the park system master plan calls for the construction of athletic fields immediately adjacent to the school site. The athletic fields will share parking facilities with the proposed middle school. Other park uses such as tennis courts, trails, an exercourse are also in the vicinity of the proposed school.

The school site is bordered by General Commercial uses to the west across Southwood Drive and by a 24 unit apartment building and 256 unit condominium project to the south across Incline Way.

Site Characteristics

The site is presently covered with a relatively uniform stand of Jeffrey Pine with an understory predominantly composed of manzanita. The existing tree cover provides a visual buffer from Incline Way and Southwood Boulevard to the disturbed area proposed to be utilized as athletic fields. The site is well drained and is not subject to flooding.

Project Description

The project as described by the applicant is designed to operate in conjunction with IVGID's proposed athletic fields. Agency staff has therefore reviewed the site planning for both projects for compatibility of uses.

Proposed Parking – The site plan indicates provision of parking spaces adequate for 102 cars which would serve the school's needs as well as a portion of the adjacent athletic fields. However, the site plan submitted by IVGID for the athletic fields indicated an additional parking area for 21 vehicles would be provided on the school site near the upper baseball and soccer field. No such facility is shown on the proposed site plan for the school and land coverage calculations do not include this area.

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Land Coverage - The applicant's information report indicates that the proposed school building, multi-use courts, parking lots and pathways would utilize 157,759 square feet of impervious surface or 60% of the project site. The allowable land coverage on the site is limited to a maximum of 50% impervious surface. The applicant indicates that the land area does not include open space provided by the adjacent athletic fields. When this additional area is considered, the land coverage on the site would conform.

The site plan submitted on the school site also does not include walkways which IVGID proposes to construct to the adjacent athletic fields. The final construction drawings would have to be revised to make the two site plans consistent.

Building Height - The proposed school building would have approximately a 35 foot average height measured from natural grade. The Tourist Commercial classification allows a height of up to 40 feet.

Clearing and Tree Removal - The site plan indicates that construction of the project will result in substantial clearing of existing vegetation. The proposed 102 car parking lot and related fill slopes will remove nearly all the trees which presently act as a visual barrier from Incline Way to the existing disturbed area to the north. Once this area is cleared, no visual buffer will be left from Incline Way to Tahoe Boulevard. Cut and fill slopes, bleachers, cyclone fences, and backstops resulting from construction of the proposed athletic fields will be highly visible without preservation of a number of trees in the parking area. The area near the intersection of Incline Way and Southwood Boulevard will remain forested-in a natural state and should provide a visual buffer for the school building. However, future development plans of the school district call for a possible expansion of the school building in the direction of this wooded area which would reduce this buffer area.

Grading - Existing slopes on the site range up to 10%. The proposed school building will be constructed on two levels in order to closely approximate the natural grades. Construction of the parking area would create the greatest land disturbance with a proposed 14 foot fill slope. This land disturbance and removal of trees in the parking area could be reduced by redesigning the parking lot to more closely follow natural contours. The proposed multi-use courts also require substantial grading to place the four courts all at the same level. This grading could be minimized by stepping the courts to approximate the natural contours.

Slope Stabilization and Revegetation - Cut and fill slopes will be graded to 2:1 slope and vegetated with turf irrigated by a sprinkler system. Steeper areas will be stabilized by rock rip rap. The drainage and slope stabilization plans are not well integrated, however. Drainage from impervious surfaces such as the parking lot would be directed over a fill slope to an infiltration trench at the base. Experience has shown that the drainage must be directed around fill slopes to prevent erosion and rilling of slopes.

12/10/79
Drainage - The drainage plan calls for the collection and infiltration of a 2 year 6 hour storm on site. However, as noted above, the drainage plan should be modified to route concentrated runoff away from cut or fill slopes. The existing roadside ditch along the property boundary is proposed to be rock lined in order to handle the existing drainage and any overflow drainage occurring as a result of development. Agency staff suggests that this concept be modified to allow overflow drainage to be spread evenly adjacent to the stream environment zone of Third Creek to prevent erosion of the stream channel near the existing culvert under Incline Way.

Recommendation

Agency staff recommends approval of the project subject to the following conditions:

1. A revised site plan be submitted to the Agency which includes the proposed 21 space parking area, walkways and the adjacent athletic fields. Allowable land coverage would be based on the entire 26 acre project including the athletic fields.

2. The site plan and final construction drawings shall be revised to provide for maintenance of vegetation within the proposed parking area sufficient to provide a visual buffer from Incline Way.

3. Each of the following conditions shall be completely satisfied prior to the issuance of any grading or building permits:

   a. The final construction drawings for all site improvements shall be submitted to and approved by Agency staff. The final construction drawings shall clearly depict: 1) slope stabilization methods to be performed to stabilize all existing and proposed cut and fill slopes and areas denuded of vegetation; 2) areas to be revegetated, including complete specifications for such revegetation; 3) fencing for vegetation protection; 4) temporary and permanent erosion control devices; 5) measures to be taken for dust control; and 6) all drainage facilities including snow storage areas.

   b. The contract bidding documents for all proposed site improvements shall be subject to Agency staff review and approval and shall include all measures included as mitigation measures in the applicant's information report as well as assure the proper installation of slope stabilization, drainage, landscaping and vegetation measures.

   c. Calculations and other necessary analyses demonstrating that the design of the surface water runoff control system will meet the requirements for surface and/or subsurface discharge as established in the Uniform Regional Runoff Quality Management Plan. Such calculations and analyses shall be prepared by a qualified civil engineer and submitted to the Agency for staff review and approval.

12/10/79
Upon the issuance of building and grading permits, construction shall proceed in
the following sequence:

a. Such trees as TRPA has authorized shall be removed and the initial phase of
   the vegetation preservation and protection plan shall be completed.

b. Installation of fencing for vegetation protection.

c. Installation of temporary erosion protection devices.

d. Prior to the removal of spoil materials from the construction site, a separate
   grading permit shall be obtained from the permit-issuing authority for offsite
   disposal of spoil materials.

e. All topsoil within areas to be graded shall be removed and stockpiled for use
   in revegetation of the site.

f. Installation of utilities including water mains and fire hydrants required by the
   fire department.

g. Completion of rough grading including installation of mechanical stabilization
   devices.

h. Final grading and installation of base for paved areas.

i. "Paving:"

j. Landscaping and revegetation.

4. Compliance with all requirements and conditions of the permit-issuing authority.

5. There shall be no grading or land disturbance performed with respect to the
   project during periods of inclement weather, or when there is snow on the site.

6. Replanting of all exposed surfaces, as per the revegetation and slope stabilization
   plan, shall be accomplished within the first growing season following disturbance.
   Planting shall be accomplished prior to October 15.

7. Trees and natural vegetation to remain on the site shall be fenced for protection.
   Scarring of trees shall be avoided and, if scarred, damaged areas shall be
   repaired with tree seal.

8. Areas to be paved shall be paved prior to October 15.

9. Mud shall not be tracked off the construction site. Grading operations shall
   cease in the event that a danger of tracking mud offsite exists. The site shall
   be cleaned up and road right-of-way swept clean when necessary.

12/10/79
10. During construction, environmental protection devices such as adequate erosion control devices, dust control and vegetation protection barriers shall be maintained.

11. Rehabilitation and cleanup of the site following construction must include removal of all construction waste and debris.

12. Physical barriers shall be provided to confine all vehicles to designated parking and driveway areas.

13. Agency staff shall be notified at least 48 hours prior to the commencement of construction. This notification shall include: a) who will be doing the work; b) when the work will commence; and c) when the completion of work is expected.

14. Removal of vegetation, compaction of soil, and grading shall be minimized. No earth movement, stockpiling of spoil materials, traffic, or clearing is allowed outside the construction site boundary.

15. Educational signs designed to inform the public of the need to protect the fragile environment of the stream zone shall be erected and maintained at the boundary of the stream zone.

12/10/79
MEMORANDUM

DATE: December 11, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Ski Run Marina Renewal Permit for 70 Buoys

The Agency staff has scheduled this agenda item at the request of the Governing Board and has sent the attached letter to the applicant directing him to show cause why the permit should not be revoked.

The issue for consideration is the applicant's noncompliance with a 1978 condition of approval which indicated that he was to relocate his buoy field to meet the Agency setback standards. Upon renewal of his permit this summer, the relocation had not been accomplished and the Shorezone Hearing Officer directed this to be accomplished by the end of August. The applicant appealed and the Governing Board extended this deadline to November 15, 1979.

Staff inspection of the site on November 15 and November 27 indicated the applicant had not complied with the condition. Since the Governing Board directed this item to be heard this month, staff inspected the site on December 10 and found that the work had been completed.

Attachment
December 11, 1979

Mr. Mike Phillips
Ski Run Marina
P. O. Box 14272
South Lake Tahoe, CA  95702

Subject: Ski Run Marina Renewal Permit for 70 Buoys

Dear Mike:

At the regular November 28, 1979 meeting of the Tahoe Regional Planning Agency, the Governing Body was notified by staff that you had not complied with the following condition of your August 29, 1979 approval of a renewal permit for 70 buoys.

"The applicant shall commence the relocation operation no later than October 10, 1979, and shall complete the approved relocation by November 15, 1979."

A staff inspection of your site on November 15, 1979 indicated that only a small number of buoys had been relocated (approximately 8) and no work was in progress. Based on this evidence, the Governing Board has directed you to show cause why the subject permit should not be revoked. Agency staff has scheduled a hearing before the Governing Board at the December 19, 1979 meeting at which time you may present your case.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Gordon W. Barrett
Senior Planner

gwb:jf
Bullwheel Restaurant
Modification of Condition of Approval
Washoe County

Agency Action Required By: January 27, 1979

Requested Modification

Mr. Charles Johnston, owner of the Bullwheel Restaurant project, is requesting modification of a condition of approval in order to provide time to initiate and complete construction of the proposed restaurant. Mr. Johnston is requesting that condition 3(i) of the administrative permit be modified to allow until November 15, 1980 to complete all onsite improvements. On November 29, 1978, the Governing Board approved a requested modification to extend the required completion date to December 28, 1979. The current application is therefore the second such request to extend the required completion date.

Project History

The following is a chronological summary of Agency action taken on this application:

June 7, 1972 - a public hearing was held before the Advisory Planning Commission and the Commission recommended that the requested reclassification from Low Density Residential (LDR) to Tourist Commercial (TC) be denied.

July 27, 1972 - the Governing Board of the Agency denied the request for reclassification.

June 6, 1973 - at the request of the applicant, a public hearing was again held before the APC for a change from LDR to TC. The APC recommended that the request be denied.

June 28, 1973 - the Governing Body of the Agency tabled the matter and instructed the applicant to apply for an administrative permit.

December 19, 1973 - the Governing Body continued the matter until the applicant requested that it be placed on a future agenda.

March 27, 1974 - the Governing Body approved the General Plan amendment from LDR to TC and the proposed project in concept.

April 28, 1977 - the Governing Body conditionally approved an administrative permit for the Bullwheel Restaurant which specified the allowable land coverage and required staff approval of an agreement between the applicant and the IVGID for use of the District's property for parking. The administrative permit was also subject to the standard conditions applicable to projects reviewed at that time.

12/10/79
November 29, 1978 – The Governing Body approved a request to modify condition 3(i) of the administrative permit to allow until December 28, 1979 for completion of all site improvements. The applicant stated as his reasons for the request:

1. The project had no operating partner to oversee the construction; and

2. The remaining principals were unwilling to continue with construction and the financial investment until another partner was found.

Basis of Current Request

The applicant has cited the money market, construction costs and the availability of a satisfactory contractor as reasons that inhibited his pursuit of completion of the project during the 1979 construction season. Mr. Johnston further states that all plans, financing and contractor’s agreements have been finally arranged such that construction will begin May 15, 1980 and be completed within 6 months (see attached letter).

Project Description

As noted in the staff summary presented at the April, 1977 meeting (attachment) of the Board, the project as approved does not conform from a design standpoint to that project which was conceptually approved by the Board in 1974. In addition to the concerns raised by the staff with regard to parking and pedestrian safety, the staff summary pointed out that the grading and drainage plans were substantially different with regard to onsite impacts. Given these concerns, Agency staff has again reviewed the project with respect to the recommendations of the Handbook of Best Management Practices and has found that the construction drawings would not conform to the Agency's current guidelines for drainage and slope stabilization for projects of a similar scale.

Analysis

The analysis of the construction drawings indicates that the drainage and slope stabilization facilities would not meet the requirements for a facility under current review. Since this is the second such request for an extension of the required completion date, staff suggests that it would be appropriate to update the construction drawings to incorporate the recommendations of the Handbook of Best Management Practices.

Recommendation

Agency staff recommends that the requested extension be granted subject to a staff review and approval of the final construction drawings in order to include the recommendations of the Handbook of Best Management Practices.
Mr. Jim Jordan, Executive Director
Tahoe Regional Planning Agency
Post Office Box 8896
South Lake Tahoe, California 95731

Dear Mr. Jordan:

I explained to you in September, 1978 circumstances that then kept me from completing my project at Incline. I again thank you for your letter of December, 1978 in which my request for an extension was granted.

I respectfully must, for a final time, submit a new and revised construction and completion time schedule with the trust and hope, of course, that you and your staff and the governing body will one more time and finally accept this revision.

The money market, construction costs and the availability of a satisfactory contractor all combined to keep me from pursuing the completion this last summer. I, of course, must protect my substantial investment and pursue my conviction that the proposed restaurant will be of substantial benefit to the community and have, therefore, accepted a rather difficult and expensive money mortgage package. I have to do it now since the constant escalation of interest rates seems never ending.

To date, in primary money, primary construction costs, and secondary expenses in law and final architecture, I have invested $210,000. All plans and financing and contractors' agreements are finally arranged. Our new construction time schedule indicates that we will begin on May 15, 1980 and be complete and in operation within six months thereafter.

Mr. Mel List is our architect as well as a business associate in the project and will represent me at your, your staff's, or the governing body's request to review whatever matter you may wish. My attorney remains John C. Rogers in Incline Village in the event that counsel for TRPA would wish to review any documentation of titles, etc. that Mr. List may not have in his possession.

I respectfully again request the approval of TRPA for the revised time schedule.

Cordially,

Charles G. Johnston

CGJ:jg

cc: Mel List
John Rogers
Bullwheel Restaurant
Washoe County

Developer's Representative: William Major

Project Location and Description

This application is a request by the Johnson Investment Company for a permit as required under Section 7.12 of the Agency's Land Use Ordinance to allow the construction of a new commercial restaurant on a 4.8 acre site located in Incline Village, Nevada. The subject property consists of lots 23, 24 and 25 of the Country Club of Incline Subdivision and a .31 acre adjoining parcel to the south. The subject property is located on Fairview Boulevard west of Ski Incline.

The TRPA Governing Body at its regular meeting on March 27, 1974 approved a General Plan amendment to reclassify the subject property from Low Density Residential to Tourist Commercial. The General Plan amendment did not include allowance for land coverage in excess of that permitted under the applicable land capability district. However, at the same meeting the Governing Body approved in concept a commercial restaurant known as the Bullwheel.

Site Description

The site contains an existing fill area of substantial size located adjacent to Fairview Boulevard. The remainder of the site contains Douglas fir and Jeffrey pine, squaw carpet, manzanita and bitterbrush. The site gently slopes towards Incline Creek which traverses the extreme northerly boundary of the property.

Original Bullwheel Approval

- **Design**
  A unique design approach, proposing to support the entire structure on a 20' x 20' central core column, was to be utilized to minimize site disturbance. Fairway Boulevard was to be realigned so that additional land area could become available for parking.

- **Coverage**
  The total amount of land coverage was to be 11,751 square feet, of which 9,500 square feet were to be devoted to structure.

- **Parking**
  The 1974 approval was conditioned on the realignment of Fairview Boulevard, so that the land area gained from the proposed street abandonment and most of the existing fill area could be used to provide 25 on-site parking spaces. The remaining number of required spaces were to be located on the east side of Fairview Boulevard on land that was then being used for parking for Ski Incline.

Current Bullwheel Proposal

- **Design**
  A conventional type foundation is to be utilized and the structure is to be located almost entirely on the existing fill area. The proposed location of the structure and the exclusion of realigning Fairview Boulevard results in no space being available for on-site parking.

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Bullwheel Restaurant
Washoe County
Summary - page 2

- Coverage  The total amount of proposed land coverage is 13,432 square feet. The total coverage devoted to structure is to be 10,052 square feet and there is to be no parking provided on the west side of Fairview Boulevard. The driveway for valet parking will require 3,380 square feet of land coverage. In addition to the proposed coverage on the west side of Fairview Boulevard, an area of approximately 18,000 square feet that is presently unpaved but occasionally used for parking during periods when Ski Incline is in peak operation is to be paved.

- Parking  The current restaurant application proposes 13,432 square feet of coverage which does not include any parking on the west side of Fairview Boulevard. The 102 parking spaces required are to be located on the opposite side of Fairview Boulevard on land owned by the Incline Village General Improvement District. The Agency staff has received a letter from the Incline Village GID indicating its conceptual approval of the use of a portion of the District's property for parking. The letter indicates that such details as maintenance, actual size and sharing of use are to be worked out at a later date. The applicant proposes to utilize valet parking to minimize vehicular-pedestrian conflicts on Fairview Boulevard; however, the applicant has indicated that valet parking will not be mandatory.

Grading and Drainage

The design of the original Bullwheel Restaurant would have required practically no grading. The existing fill area was to be used for parking and the restaurant located below that fill area and supported on a centrally located elevator shaft. The current proposal requires that a substantial amount of the existing fill area be removed to accommodate the lower floor. The material obtained from the grading is to be placed below the structure and stabilized with retaining walls.

The current application proposes a drainage plan which is to collect all surface runoff emanating from the valet parking area and restaurant structure and direct it into percolation trenches located below the existing fill area. The drainage flows are to be transported down the existing fill slopes in 3 feet wide rock-lined ditches. The drainage from Fairview Boulevard and the existing parking area flows toward the toe of the existing cut slope. To accommodate these flows, the applicant proposes to construct a 36" wide rock-filled trench along the lower edge of the parking area. Overflow from this trench will be discharged into the existing unimproved drainage swale along the east side of Fairview Boulevard.

Revegetation

All existing fill slopes are to be planted with native Sierra plants and seeded with native grass mix.

Utilities

The applicant has provided the Agency staff with will-serve letters from Sierra Pacific Power, Southwest Gas Corporation and the Incline Village GID.
Bullwheel Restaurant
Washoe County
Summary - page 3

Approvals

The Washoe County Regional Planning Commission, by resolution of intent, approved the request to rezone the parcel from E-1 (residential zone) to T-C (a tourist commercial zone) to allow the specific development of the original Bullwheel project.

History of the Application

The following is a chronological recapitulation of Agency action taken on this application:

June 7, 1972 - a public hearing was held before the Advisory Planning Commission and the Commission recommended that the reclassification be denied.

July 27, 1972 - the Governing Body of the Agency denied the request for reclassification.

June 6, 1973 - at the request of the applicant a public hearing was again held before the APC. The Commission recommended that the request be denied.

June 28, 1973 - the Governing Body of the Agency tabled the matter and instructed the applicant to reapply with an application for an administrative permit.

December 19, 1973 - the Governing Body continued the matter until the applicant requests it be placed on a future agenda.

March 27, 1974 - the Governing Body approved the General Plan amendment and project in concept.
Bullwheel Restaurant
Washoe County

Recommendation

The Agency staff recommends that the administrative permit requested under this application be denied for the following reasons:

1. The unique design concepts that were incorporated in the original Governing Body approval granted in 1974 have been totally excluded from the current application.

2. The current application proposes approximately 1,700 square feet of land coverage in excess of the amount originally approved in 1974 and approximately 2,200 square feet of land coverage in excess of that permitted under the applicable land capability districts.

3. Access to the proposed parking for this project creates an extreme vehicular-pedestrian safety problem. The original approval in 1974 was conditioned on the realignment of Fairview Boulevard which would have resulted in a much greater sight distance at the location where pedestrians would be crossing Fairview Boulevard. The proposed parking area is located on a fairly steep grade as well as on a sharp curve. It is not consistent with accepted planning policy to approve a substantial commercial project with no on-site parking. There is no guarantee that parking will always be available on property that is not owned or controlled by the applicant.

4. The land proposed to be utilized for the required parking is classified LDR. This use district does not permit commercial parking lots; therefore, the substantial improvement of the existing parking (the addition of approximately 18,000 square feet of asphalt paving) is not consistent with the intent of the Land Use Ordinance relative to nonconforming uses.

4/19/77
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY AND RECOMMENDATION

Tahoe Shores
Tentative Map for 186 Condominium Units and
Administrative Permit for a 54 Unit Apartment
Washoe County

Agency Action Required By: February 9, 1980

Name of Owner: Mansel & Patricia Ocheltree

Project Description and Location

The applicants and Tahoe Shores, Incorporated, are requesting approval of a tentative
map for 186 condominium units and an administrative permit for a 54 unit apartment. The
project consists of a west and east side as follows:

1. **West Side** - 132 condominium units and a recreation complex located on 34.83 acres on the west side of Country Club Drive and bounded by Incline Way and Tahoe Boulevard in Incline Village.

2. **East Side** - 54 unit apartment complex and 54 condominium units on 9.25 acres bounded by Tahoe Boulevard, Country Club Drive and Mill Creek Road (see Figures 1a and 1b for location).

Land Use Classification

The project site is classified as Tourist Commercial and Recreation by the Agency. The
west side of the project consists of 9.91 acres of land classified Recreation and 24.92 acres
classified Tourist Commercial (Figure 1b). The east side contains 9.25 acres classified
Tourist Commercial. The Tourist Commercial land use classification would permit a
variety of uses such as hotel units, multi-person dwellings, multiple residential units, and
limited commercial facilities. The Recreation classification permits such uses as day-use
areas and is to provide for public opportunity for outdoor recreation.

Proposed Uses and Density

The proposed project would create a residential dwelling unit density of 5.3 units per acre
on the west side property and 11.7 units per acre on the east side property (Figure 1b).
The Agency's Land Use Ordinance permits up to 15 dwelling units per acre. The pro-
posed 54 unit apartment complex which forms a 3.6 acre portion of the east side of the
project has a proposed density of 15 dwelling units per acre.

The portion of the project classified Recreation is proposed to be utilized for a recreation
complex including an indoor swimming pool, racquetball courts, three tennis courts, a
parking area for the recreation complex and 36 boat storage garages. The recreation
complex and other open areas would be maintained in undivided common ownership of the
purchasers of condominium units. The recreation facilities would be open to renters of
the apartment units for additional fees. The specific purposes of the Recreation District

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are to assure adequate public opportunity for outdoor recreation. Permitted uses within this district include day-use areas. A day-use area is defined as "land or premises other than Outdoor Amusement Facilities designed to be used by members of the public, for a fee or otherwise, for outdoor recreation purposes on a daily basis."

There are two staff concerns regarding the proposed uses in the Recreation District. First, the proposed boat storage garages are not a specifically permitted use in the Recreation District. In order to permit the proposed boat storage garages as an accessory use in the use district, the Agency must find that the use is appropriate and similar to that classification and consistent with the general purposes. The proposed storage area would be used exclusively for the storage of boats and would not be a commercial facility. It may therefore be appropriate to consider this use consistent with the specific purposes of the district. The proposed boat storage garages would alleviate aesthetic and land coverage problems which are often associated with boat storage in common open space areas of condominium projects.

The second staff concern with regard to use in the Recreation District is that the specific purpose of the district is to provide for public recreation. The facilities are for the use of the homeowners and renters of apartments. Given that there is a limited supply of land classified for recreation use, there are questions regarding whether or not the proposed use would be consistent with the specific purpose of the district. Again, a specific finding that the use is consistent with the specific purposes of the district is necessary if the Governing Board finds the use to be "public" in nature.

Existing Land Use

The project site (see Figure 2a) is bounded to the west by the Incline Village Park (see site plan included in agenda item IV), which would adjoin the proposed recreation complex for use of residents of the project. The site is bounded to the northwest by a high density housing project which would adjoin the proposed boat parking garages but would be well buffered by Incline Creek from any proposed condominium units. The project is adjacent to a commercial project currently under construction to the north of the proposed west side condominium units. The proposed apartment units would be the closest units to Tahoe Boulevard (Highway 28) but would be buffered from the highway because of topography. The apartment units are also adjacent to a motel to the west and residential development to the east. Commercial uses and a hotel–casino adjoin the project to the southeast across Country Club Drive and Incline Way. The project is so designed to minimize conflicts of residential uses with any surrounding more intense uses.

Land Capability and Allowable Coverage

The majority of the project is classified Inville stony coarse sandy loam, 2 to 9% slopes, land capability level 6 with an allowable land coverage up to 30% under the recommendations of the land capability system. A very small portion of the east property located near Tahoe Boulevard is classified as Umpa, very coarse sandy loam, 15 to 30% slopes, land capability level 3 with an allowable coverage of only 5%. However, that portion of the site classified as Tourist Commercial is allowed up to 35% impervious surface coverage if used for residential purposes under the terms of the Land Use Ordinance.
Proposed Land Coverage

The proposed land coverage fully conforms to the requirements of the Land Use Ordinance. The total coverage on the site would be 28.9% after development.

Grading and Clearing

Both the east and west side properties have a relatively uniform stand of coniferous trees with an understory primarily consisting of manzanita. The west side property is bisected by Incline Creek. The stream environment zone is well defined and is characterized by willows, alders, and other streamside vegetation. The grading and clearing plan indicates that the site is designed to maintain the stream zone vegetation in its natural state. The proposed recreation complex will be located to take advantage of an open area. The west side condominium units are designed as five separate clusters with adjoining areas of open space which will be retained in a primarily natural state. The east side condominium units follow the contours and are laid out in a row design with a vegetative buffer between the rows of units. The apartment area, the highest density portion of the site, requires larger cleared areas to accommodate the required parking. Overall the site is well planned in order to minimize disturbance to the existing vegetation. Native plant species will be utilized in landscaping disturbed areas around building edges, roadway and parking edges.

Grading proposed for the project site will be minimized by following natural contours for most roadways. The most substantial grading will occur within the apartment complex in order to place the proposed parking areas. Cut and fill slopes will be stabilized with rock rip rap.

Drainage and Hydrology

The applicant has defined the 100 year flood plain for Incline Creek. No encroachment into this area is proposed with the exception of pedestrian pathways and bridges proposed to allow foot traffic to access the recreation center located on the west side of Incline Creek. All units are located behind a 75 foot stream buffer zone which coincides closely with an existing cleared area for a utility easement.

The Inville soils on the site have a high water retention capacity and rapid permeability. Runoff from this soil type is slow to moderate. The storm drainage plan submitted by the applicant proposes to collect runoff from a 2 year-6 hour storm from impervious surfaces and infiltrate those flows on site. Overflow drainage resulting from higher intensity storms will be directed to overflow swales to be constructed in the open space areas between the clusters. Dripline infiltration trenches will be constructed at the base of all structures. The existing roadside ditches along Incline Way, Mill Creek Drive and Country Club Drive are proposed to be retained to maintain drainage past the site. Overflow drainage from the east side property will be directed to the roadside ditch. All roadside ditches will be rock lined to minimize scour and erosion. Agency staff has suggested that drainage which currently bypasses the site through the roadside ditches be rerouted through the site to the stream environment zone to restore natural drainage conditions to the entire site.
Utility Locations

Utilities are generally proposed to be located within the road sections within unit clusters with the exception of sewer lines. Sewer lines are located to allow gravity flow on the low side of the proposed units. Utility connections between unit clusters minimize the disturbance of common open areas.

Slope Stabilization and Revegetation

Extensive areas of cut and fill are not required because of the relatively gentle sloping nature of the site and the general layout of the project. The applicant proposes to rock rip rap cut and fill slopes. It is also proposed that all roadside ditches bordering the site be rock lined to reduce the erosion occurring in these areas.

The applicant's revegetation plan indicates the use of native plant species in disturbed areas. This will minimize the requirements for outdoor water use.

Protection of Open Space

All open areas will remain in common ownership with the exception of the apartment complex. Maintenance of these areas and other common elements will be shared by the unit owners. Pedestrian paths will link unit clusters and the recreation complex within these areas and should minimize disturbance to natural vegetation. However, the project does not include adequate measures to restrict vehicles from open space areas within high vehicle usage areas such as driveways and parking areas.

Building Height

The east side condominium units will be three stories including a garage under the units and will have a maximum building height of 35 feet from natural grade. The maximum building height for the apartment units and west side condominium units is also 35 feet.

Project Phasing

The project is proposed to be completed in five phases beginning in the spring of 1980 and completion of all improvements by 1984. The phasing would be as follows:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Rec. Center</th>
<th>Units Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>-spring 1980</td>
<td>4</td>
</tr>
<tr>
<td>II</td>
<td>-spring 1981</td>
<td>14</td>
</tr>
<tr>
<td>III</td>
<td>-spring 1982</td>
<td>22</td>
</tr>
<tr>
<td>IV</td>
<td>-spring 1983</td>
<td>27</td>
</tr>
<tr>
<td>V</td>
<td>-spring 1984</td>
<td>18</td>
</tr>
</tbody>
</table>

As noted above, the proposed 54 unit apartment complex is proposed to be completed during the first phase of construction in order to mitigate any housing impacts relating from the project.

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Housing

The applicant has submitted information on demographic characteristics of the Incline Village area as well as housing cost and availability. The proposed project is expected to require 105 employees during construction and 8 employees after completion of the project. The secondary employment generated by the project could result in 186 additional persons employed in the Incline area.

In order to offset the anticipated demand for resident housing, the applicant proposes to construct a 54 unit apartment for moderate income families. The proposed one and two bedroom apartment units are proposed to rent for $300 to $350 per month. Information submitted by the applicant indicates that the apartment units would satisfy 5.5% of the need for moderate income housing of Washoe County as projected by the Washoe Council of Governments.

Public Facilities Services

The applicant has submitted will-serve letters from Southwest Gas Corporation, North Lake Tahoe Fire Protection District, Sierra Pacific Power Company and from the Incline Village General Improvement District (IVGID) for water, sewer, and solid waste service. IVGID indicates that its ability to provide water and sewer service is contingent upon existing and future water rights and any action brought against the District contesting such rights.

Water Rights

The applicant estimates that the project will require 59,000 gallons of water per day or 66 Acre Feet (AF) per year. This would equate to .28 AF/unit/year as opposed to average water consumption of .39 AF/unit/year for Incline Village. The applicant further states that the projected demands are within the capacity of the IVGID system and that water conservation measures including natural landscaping and water conserving appliances will be utilized.

The water service letter from IVGID is dated May 25, 1979. Since that date, reports concerning water availability have been prepared by various entities including IVGID, Washoe County Regional Planning Commission. The report prepared by Agency staff (attachment) as a summary of the November 14 status report presented to the Advisory Planning Commission (APC) indicates the most up-to-date information available for existing supplies of water versus current commitments to provide water service. At the November 28, 1979 meeting of the Governing Board, Kermit McMillin presented the position of IVGID (attached letter) regarding each of the points raised by the staff and the APC. The remaining issues with regard to water supply in the Incline Village area are summarized below:

1. APC and Agency staff concluded that the existing water supply and water rights were not adequate to serve the needs of the area at current levels of development. There will be a shortfall of approximately 2,778 approved units which could not be connected to the system without gaining additional supplies of water. IVGID's position with regard to this conclusion is that there are measures such as water

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conservation, repair of defective water mains and reduction in landscaped areas which could reduce the per capita consumption and make additional water available. Staff's response to IVGID's position on this point is that certainly water conservation is a constructive measure to increase the number of units which can be serviced within a finite supply of water. However, replacement of water mains and lower outside usage of water for landscaping are factors which IVGID has already utilized in projecting its water needs at .39 Acre/Feet per unit per year, which is below its historic use of water in the area. Increased water availability through conservation measures should be documented over a period of time prior to accepting estimates of its effectiveness.

2. Staff and APC found that the future prospects of securing additional water rights are uncertain and depend upon resolution of the Truckee River Basin Compact and current litigation by the Pyramid Indian Tribe affecting water rights within the basin. IVGID acknowledges the difficulties and potential delays which may result from their attempts to secure additional water rights but maintains that it is exploring other options to supply the required water and has accepted full responsibility for these efforts.

3. Staff and APC concluded that at current rates of consumption the existing water rights would be fully utilized within a 2 year period. IVGID's projections for service connections use the average growth rate for the past seven year period and they conclude that existing water supplies would be adequate until 1983 to 1985.

4. Staff and the APC questioned IVGID's commitments for water service to undeveloped lots in existing subdivisions which may not have adequate supplies of water to connect to the system. IVGID's position in this regard is that it cannot reserve water for lots which may never utilize the water and that it must treat all property within its service area equally whether currently subdivided or not. The only legal commitments which the District recognizes are those for which will-serve letters were issued. Agency staff's position is that undeveloped lots with a service connection to the property line constitutes a commitment to serve that property and should be accounted for.

**Sewage Treatment**

The applicant's information report indicates that the project will generate approximately 44,000 gallons per day and concludes that the IVGID wastewater treatment facility has adequate capacity to service the project.

However, as pointed out in the Incline Village Status Report (attachment) and presented at the November meeting of the Governing Body, the issue over sewage treatment is not over capacity but regards the adequacy of treatment and the ability to export the treated effluent from the Basin. The District has prepared a facility plan which outlines five alternatives which would meet the upgraded wastewater treatment requirements to take effect in 1982. All five of those alternatives utilize the existing export system and land treatment and/or discharge in Douglas County. Douglas County's ordinances establish a permit system for land treatment and/or discharge within its jurisdiction. Douglas County's position is that an overall analysis has not been performed for the cumulative effects of wastewater disposal in the Carson Valley, and until such an analysis is
performed which positively demonstrates that there are no negative effects on Douglas County, the County will not permit such facilities in its jurisdiction. Douglas County has also stated that it will oppose further development in Incline Village until there is satisfactory resolution of the wastewater disposal issue.

Section 10.1 of the Subdivision Ordinance requires that each lot or condominium unit have a connection to a sanitary sewage facility which has the capacity for collection, treatment and export of such sewage as required by the Agency and other governmental entities. Although IVGID's facilities have the ability to collect and treat sewage, Douglas County's ordinance prohibits the export of sewage to the Carson Valley utilizing the existing system. Unless a permit is issued by Douglas County, all the required findings regarding the ability to treat wastewater cannot be made for the proposed project or any other proposed subdivision.

**Schools**

The Washoe County School District has in the past indicated that its capability to serve the educational needs has been impaired by the lack of a middle school. The proposed Incline Village Middle School which is also under Agency review (Item IV, December, 1979 agenda) would alleviate this situation.

**Traffic**

The applicant's traffic and transportation analysis indicates that the proposed development will add an additional 5% to the existing inventory of dwelling units in the Incline Village area. Based on trip generation factors, the applicant has projected the traffic impact of the completed project in 1985 as summarized in the following table:

<table>
<thead>
<tr>
<th>Location</th>
<th>1985 PkDay-PkHr (proj)</th>
<th>1985 PkDay-PkHr (Total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Route 28 - Crystal Bay</td>
<td>151-12 0.56%</td>
<td>26800-1700</td>
</tr>
<tr>
<td>State Route 28 from Intersection of Lakeshore Dr. to S.R. 27</td>
<td>76-6 0.25%</td>
<td>30000-1700</td>
</tr>
<tr>
<td>State Route 27</td>
<td>135-11 1.37%</td>
<td>9880-790</td>
</tr>
<tr>
<td>S.R. 28 from Intersection With S.R. 27 to Southwood Blvd.</td>
<td>82-7 0.36%</td>
<td>22500-1700</td>
</tr>
<tr>
<td>S.R. 28 from Intersection of Southwood to Village Boulevard</td>
<td>89-8 0.41%</td>
<td>21500-1700</td>
</tr>
<tr>
<td>S.R. 28 from Incline Way to Southwood Drive</td>
<td>27-3 0.13%</td>
<td>21500-1700</td>
</tr>
<tr>
<td>S.R. 28 from Southwood to Lakeshore Drive</td>
<td>17-2 0.18%</td>
<td>9600-770</td>
</tr>
<tr>
<td>Lakeshore Blvd. from Southwood Drive to Lakeshore Blvd.</td>
<td>33-3 0.69%</td>
<td>4770-390</td>
</tr>
<tr>
<td>S.R. 28 south of Lakeshore Blvd.</td>
<td>50-4 0.38%</td>
<td>13000-1040</td>
</tr>
</tbody>
</table>
Tahoe Shores
Page Eight

The projected traffic increases resulting from the project range from .25% increase on State Route 28 to 1.37% increase on State Route 27. The applicant's traffic analysis concludes that the project would result in only minor impacts and would not adversely affect traffic movement in the area. Mitigating measures for traffic include a $100/unit contribution to establish public transportation, shuttle bus service, construction of bus shelters, intersection improvements at Tahoe Boulevard and Country Club Drive and construction of pedestrian and bicycle pathways.

The comments of the Nevada Department of Transportation (NDOT) are presented in a letter from Don Pray, dated August 31, 1979. The NDOT analysis indicates that service levels on State Route 28 between Crystal Bay and Lakeshore Boulevard will drop from a service level E to a service level F by 1983 and that these conditions will persist from 11 A.M. to 6 P.M. during the peak traffic month. Other roadway segments are expected to experience a similar decline in service levels, including State Route 28 through Incline Village and Village Boulevard at State Route 28. Mr. Pray generally agrees with the traffic projections resulting from the project as presented by the applicant.

The presentation by NDOT at the November 14, 1979 meeting of the APC and summarized in the Incline Village Status Report (attachment) indicates that roadway improvements will be necessary to adequately satisfy projected traffic demands in the Incline Village area. The schedule for needed improvements is difficult to project because of the relatively low priority of State Route 28 within the State's primary road network.

Air Quality

The applicant's air quality analysis indicates that there are no expected violations of State or Federal air quality standards in the Incline Village area. However, the analysis does indicate that the project will contribute to local carbon monoxide concentrations expected at various locations under serious atmospheric stagnation as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Maximum 8 Hour Project</th>
<th>Peak Hour Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Project</td>
</tr>
<tr>
<td>Incline Way</td>
<td>0.19</td>
<td>0.07</td>
</tr>
<tr>
<td>Country Club Dr.</td>
<td>0.28</td>
<td>0.04</td>
</tr>
<tr>
<td>Tahoe Boulevard</td>
<td>1.33</td>
<td>0.02</td>
</tr>
</tbody>
</table>

Local Action

The Washoe County Commissioners approved a tentative map for 268 condominium units and a special use permit for 54 apartments on October 23, 1979. Since that date, the applicant has voluntarily reduced the project density to 186 condominium units and 54 apartments, which is the current application before the Governing Board. The Washoe County Commissioners reheard the project on December 11, 1979 and found the proposed reduction in units to be in conformance with their earlier approval.

12/11/79
TRPA Action on Projects in Incline Village

After consideration of the Third Creek Inn and Condominium project (July 25, 1979), the Governing Board, acting unanimously, directed the staff to prepare a letter to Washoe County "to register a concern that the Agency will not look favorably on individual projects". Tahoe Shores was specifically mentioned during the preceding discussion as a project which would potentially be affected by the Agency's action to forewarn developers in the area. The attached letter of August 3, 1979, was sent to the Washoe County Board of Commissioners prior to any action on the Tahoe Shores project.

Recommendation

Agency staff recommends that the tentative map and administrative permit be denied for the following reasons:

1. **Water Supply** - The water supply of the Incline Village General Improvement District presently is inadequate to meet the provisions of Section 7.1 of the Subdivision Ordinance. The applicant must demonstrate that "the commitment to provide water is consistent with existing and future commitments and demands on the water supplier." Staff would suggest that the direction of implementing additional water conservation measures within the subject service area appears to be the most appropriate and readily implemented solution to the water supply problem in Incline Village. Demonstration of additional supplies of water from conservation measures should be predicated upon implementation of those measures and substantiation of the effectiveness of conservation.

2. **Sewage Treatment and Export** - The sewage treatment and export system of the Incline Village GID does not presently meet the requirements of Section 10.1 of the Subdivision Ordinance. The applicant must demonstrate that each condominium unit "shall have a connection to a sanitary sewage facility that has the capacity for collection, treatment and export of such sewage from the Lake Tahoe Basin as required by the Agency and other governmental entities." The Agency should support the efforts of IVGID and Douglas County to resolve the questions of export and disposal of sewage effluent in the Carson Valley.

3. **Traffic** - The analysis of the Nevada Department of Transportation indicates that improvements to the roadway system are necessary to achieve an acceptable level of service in the area. Washoe County has initiated the process of assessing the traffic situation and recommending specific measures to be implemented. Until those specific measures are identified and a schedule and mechanism established for funding those measures, additional development such as proposed appears premature.

12/11/79
TAHOE REGIONAL PLANNING AGENCY

MEMORANDUM

DATE: November 21, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Advisory Planning Commission Referral -
Incline Village Status Report on
Water Availability, Sewage Treatment and Traffic

Background

In considering recent projects in the Incline Village area, the Washoe County Board of Commissioners deferred action for a period of time in order to gain additional information related to water availability, sewer capacities and traffic levels experienced in the area. In order to gain the benefit of the most recent information available regarding these subjects, representatives of various entities were invited to make presentations at the November 14, 1979 meeting of the Advisory Planning Commission. This memo serves to summarize those presentations and the findings of the APC and staff regarding each area of concern.

Water Supply Considerations

Regional Planning Commission (RPC)

Steve Bradhurst, representing the Regional Planning Commission of Washoe County, presented the data prepared by the RPC on the availability of water supply. A report previously prepared by RPC had indicated that as few as 286 additional units could be served by the existing water system. The RPC has revised this estimate to reflect data provided by the Incline Village General Improvement District (IVGID) and estimates that as of July 1, 1979 2,004 additional units could be served within the existing water supply. The RPC had established a procedure to keep a current accounting of available capacity which reflected projects proposed for Washoe County approval. However, the 2,004 units available for connection did not include current commitments for existing subdivisions. The staff of Washoe County RPC may have revised its position regarding the four projects (consisting of 474 units) recently considered and approved by Washoe County if it had understood that single family lots were not accounted for in the 2,004 units which could be connected.
Incline Village General Improvement District (IVGID)

The presentation made by Kermit McMillin representing IVGID is summarized in the attached letter. It was concluded that there is sufficient capacity to service 2,004 units not existing as of June 30, 1979. There have been no provisions made to "reserve" water for lots in existing subdivisions which will require water in addition to the currently available supply. At ultimate buildout of Incline Village, IVGID estimates that there will be a shortfall of approximately 1,500 Acre Feet based on currently permitted water rights. IVGID has made application for additional water rights to make up the projected 1,500 Acre Feet shortfall.

Division of Water Resources

Brian Randall represented the Nevada Division of Water Resources (DWR) and summarized the status of water rights for the Incline Village area. DWR has had an application for the additional rights necessary to service Incline Village since 1969. DWR will not take any action to approve any new permits for water in the Tahoe Basin until the Truckee River Basin Interstate Compact is resolved. Existing permitted rights in the Nevada portion of the Tahoe Basin exceed the 11,000 Acre Feet as proposed in the Interstate Compact by approximately 3,000 Acre Feet.

APC and Staff Analysis

Based on the information presented by the various entities the following conclusions regarding water supply were reached:

1. The existing water supply and water rights of IVGID are not adequate to serve the needs of the area at current levels of approved development. There will be a shortfall of approximately 2,778 approved units which could not be connected to the system without gaining additional water rights.

2. The future prospects of securing additional water rights are uncertain and depend on resolution of the Truckee River Basin Compact.

3. At current rates of construction activity, the existing water rights would be fully utilized in approximately a 2 year period.

4. There are serious questions of governmental responsibility to owners of undeveloped lots in subdivided lands which may not have adequate supplies of water to connect to the system.
Sewage Treatment and Disposal

IVGID

Kermit McMillin represented IVGID regarding the status of the District's plans to upgrade the sewage treatment system to meet more restrictive state and federal standards. The District has prepared a facility plan which outlines five alternatives to meet the upgraded treatment requirements. Four of these alternatives involve various forms of land treatment of effluent in Douglas County. The fifth alternative involves advanced waste treatment of the effluent with discharge to the Carson River. The District favors an alternative known as "wetland enhancement". The District has met with Douglas County to present the facilities plan and attempted to resolve any differences between Douglas County and IVGID.

Douglas County

Bob Hadfield, County Manager, represented Douglas County. The County's position is that any discharge or land treatment of effluent in its jurisdiction must be demonstrated to be beneficial to Douglas County and its residents. The County still has unresolved questions regarding numerous proposals for land disposal of effluent in the Carson Valley. Douglas County has adopted an ordinance regulating the disposal of wastewater within its jurisdiction. Douglas County will continue to oppose additional development in Incline Village area until there is a satisfactory resolution of the question of effluent disposal.

APC and Staff Analysis

The question raised by Douglas County is not one of sewage treatment capacity but one of adequacy of treatment and disposal mechanisms. If Douglas County were to refuse to accept land treatment or effluent disposal within its jurisdiction, this would pose a serious problem with regard to both present and proposed development.

Traffic

Nevada Department of Transportation (NDOT)

Don Pray represented NDOT regarding the status of traffic volumes and capacities in the Incline Village area, referring to a report which he prepared in June, 1979 and which has been presented to the Governing Board in relation to project evaluation. Mr. Pray indicated that additional traffic lanes would need to be provided on State Route 28 through Incline Village in addition to providing public transportation in the area. State Route 28
from Incline Village to North Stateline is projected to exceed its practical capacity but because of severe constraints imposed by the topography of the area, it is probably not expandable. The necessary improvements to provide for a more acceptable level of service on State Route 28 in the two above-mentioned areas are currently low in the State's priority list for capital improvements.

Recent traffic counts in the Incline Village area indicate that peak traffic volumes are occurring as projected in Mr. Pray's report. The trend in traffic patterns in the area is towards longer periods of lower levels of service.
November 20, 1979

Mr. Kermit McMillin, Manager
Incline Village General Improvement District
P. O. Drawer P
Incline Village, NV 89450

Subject: Outstanding Water Service Commitments of the
Incline Village General Improvement District (IVGID)

Dear Kermit:

On November 14, 1979, the Advisory Planning Commission (APC) of the TRPA reviewed the available supply of water for the IVGID water service area. Based on your verbal presentation and report dated September 27, 1979, several questions were raised regarding the adequacy of existing supplies and commitments for water service. These questions in turn led to uncertainties regarding the ability of IVGID to provide adequate supplies of water to service projects recently approved by Washoe County and under consideration by the TRPA.

The September 27, 1979 report which you submitted indicates that, based on revised estimates of consumption rates and taking into account outside uses of water unique to the existing service area (i.e. snowmaking and golf course irrigation), the existing water rights would be adequate to service a total of 7,111 units. Based on your inventory of 5,007 units which existed or were under construction as of June 30, 1979, and utilizing IVGID's per unit consumption rate, you represented that a total of 2,004 additional units could be connected to the system within the District's existing water rights.

TRPA has analyzed the inventory of units which you provided and has updated this inventory to reflect projects approved by TRPA and Washoe County since January 1, 1979 as well as to reflect building activity as of October 31, 1979 (see attachment). This analysis indicates that based on existing projects approved by TRPA and lots in existing subdivisions, a total potential of 9,889 units could presently be constructed in the Incline Village area. This would not include Tourist Commercial and residential land not currently developed or approved by TRPA, which would represent approximately 1,585 additional units assuming residential development at maximum density. Utilizing IVGID's data for available water supply, this would indicate that 2,778 units (9,889-7,111) which currently exist as lots in subdivisions or in the form of approved multiple residential projects could not connect to the system prior to obtaining additional water supplies or otherwise increasing the available water supply.
Based on the October 31, 1979 inventory of 5,469 units which are either built or are under construction, a maximum of 1,642 additional units could be connected to the system within the existing available supply. Assuming that the number of building permits issued in 1980-81 levels off at the current level of 800 permits per year, the available water supply would equate to approximately 2 more years of building activity.

The Advisory Planning Commission was extremely concerned with the continued approvals of new projects in the Incline Village area when it was evident that the current supplies of water are not adequate to service existing subdivided lands. Further, the fact that existing supplies or rights to water may be fully depleted within a 2 year period at current rates of construction activity raises serious questions regarding the status of existing single and multiple family lots in existing subdivisions. The basic question is one of responsibility to owners of those existing lots to ensure that adequate supplies of water are available for the bulldout of those areas. A more specific question with regard to IVGID pertains to water service commitments, either explicit or implied, which were made for the existing lots of record.

Section 7.1 of the TRPA Subdivision Ordinance requires that no tentative map will be approved without a demonstration that the water supplier has the physical and legal capacity to supply the necessary water and that a commitment to supply such water has been made. In considering the adequacy of water supplies, it is the responsibility of the local government to consider the magnitude of existing commitments. It would appear that, even in the absence of a letter of commitment to subdivisions created prior to TRPA ordinances, an implied commitment to service those areas has been established.

Obviously, the current water supply and water rights situation at Incline Village is a very serious matter, affecting not only projects currently under consideration by TRPA but also single and multiple family lots in existing subdivisions. I would appreciate your comments on our analysis at your earliest possible convenience, particularly with regard to IVGID's commitment to provide water service for existing subdivided lands within its service area and how this could affect future development proposals.

Sincerely,

James J. Jordan
Executive Director

JJI: sf

Attachment

cc: Bill Newman, Nevada State Water Engineer
TRPA Governing Body Members
Washoe County Board of Commissioners
John MacIntyre, Washoe County Manager
Steve Bradhurst, Washoe County Regional Planning Commission
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<th>Mult. Units Built</th>
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Mete & Bounds parcels developed but not recorded as subdivisions:

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<td>Single-Family 1/1-10/31/79</td>
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<td>Multi-Residential Bldg., Permits (not included in projects listed)</td>
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<td>Currently unsubdivided lots where further subdivision could occur</td>
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<tr>
<td>** Totals</td>
<td>5139</td>
<td>2693</td>
<td>5113</td>
<td>2776</td>
<td>10252***</td>
<td>5469</td>
</tr>
</tbody>
</table>

* Approved by Washoe County, pending TRPA review
** Projects approved by Washoe County
*** Existing supply including TRPA approvals
**** Maximum potential buildout under current zoning
November 28, 1979

Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Gentlemen:

The Incline Village General Improvement District (IVGID) is in receipt of various items of correspondence from the Tahoe Regional Planning Agency (TRPA) relating to an appearance by the District before your Advisory Planning Commission (APC) on November 14.

The following comments would seem to be appropriate to set the record straight.

On page 2 of the memorandum to the TRPA Governing Board on an Incline Village Status Report, the APC and staff analysis reads as follows:

"1. The existing water supply and water rights of IVGID are not adequate to serve the needs of the area at current levels of approved development. There will be a shortfall of approximately 2,778 approved units which could not be connected to the system without gaining additional water rights."

Response: This is highly speculative and untrue to a degree. Any number of variables could alter the number, such as conservation; repair of defective water mains; construction in higher altitudes and less desirable areas for extensive landscaping which has been the experience of homes constructed in the lower and more level areas of Incline Village; and the absence of large hotel construction such as the Hyatt Lake Tahoe which are high volume consumers. Current levels of development are being served.
"2. The future prospects of securing additional water rights are uncertain and depend on resolution of the Truckee River Basin Compact."

Response: Although uncertain is a most ambiguous term, additional water rights have been applied for by the District. In fact, two applications have been pending for over ten years and a third has been pending for over nine years. These applications were filed by the District in 1969 and 1970 in an attempt to meet the needs of the Boise Cascade Subdivisions 1, 2, 3, 4, 5, 1A and 1B, and proposed 6, 7 and 8. The first seven subdivisions, with a potential of 1,776 single family and 363 multiple dwellings, were approved by the various agencies with no apparent concern over whether the water rights had actually been granted.

The District acted on behalf of its property owners in attempting to secure those additional water rights ten years ago because it has been our history to plan as far in advance as a need could be forecast. Those applications, which have been protested, have never been heard due to the suit brought against the State of Nevada opposing any further appropriations of water from the Truckee River watershed. That action has been heard at the Federal Court level where the courts held the State could proceed with the appropriations of the State's waters. The plaintiff, the Pyramid Indian Tribe, has appealed that decision to the Court of Appeals. It is anybody's guess when the decision is to be forthcoming from the appellate court, but almost certainly, the losing party will appeal further to the U. S. Supreme Court. This process could take several years and almost certainly will not have final determination before our present permits have been proven for beneficial use. The District being completely aware of these facts is exploring other means of providing water to its property owners as the water is required. This is our accepted responsibility.

"3. At current rates of construction activity, the existing water rights would be fully utilized in approximately a 2 year period."

Response: This is a conclusion based on assumptions. Wouldn't there be just as much credibility in assuming the construction would grind to a halt more in line with 1972 through 1976 when
the average rate of growth was 1.4%. At that rate, the existing water rights would accommodate growth for over 10 years. The old adage of "liars figure and figures lie" probably has never been more appropriately applied than in this guessing game. Our crystal ball by no means is any clearer than anyone else's. At least we gave ourselves a three year period to hit of 1983 to 1985. To claim 1981 is reckless and probably will create definite panic building over the next year or so. Hopefully, the District's attempts to acquire other water will bear fruit quickly in order to avoid that sort of disastrous reaction by our property owners.

"4. There are serious questions of governmental responsibility to owners of undeveloped lots in subdivided lands which may not have adequate supplies of water to connect to the system."

Response: There is absolutely no question in the minds of the IVGID Board of Trustees or staff in their responsibility in this matter. Otherwise, there would have been no applications filed for additional water rights; there would be no concerted effort to conserve water through mandatory metering of all water services; there would be no program of replacement of defective water mains; there would be no searching for sources of water other than through application to the State; and there certainly would be no appearance before your agency and all other agencies who have an interest in the development of our community. However, our responsibility is not limited to owners of undeveloped single family lots. Our responsibility is to every property owner within our boundaries and that is consistent with our actions to date. The use of the word "commitment" interchangeably with the term "responsibility" seems to be a misinterpretation of the facts. The District certainly has a responsibility to the properties within its boundaries; however, the only legal commitments the District has made would be to those properties where a "will serve" letter has been issued. It is the intention of the District to fully abide by the commitments contained in those "will serve" letters.

If the TRPA wishes to determine which of its property owners the District will serve or will not serve, I would ask if that is within your
authority. At this time, however, it is the posture of the District that we will extend service to our customers on a need basis and not "reserve" water for any specific class of customer.

Sincerely yours,

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Kermit McMillin
General Manager

cc: Bill Newman, Nevada State Water Engineer
    TRPA Governing Body Members
    Washoe County Board of Commissioners
    John MacIntyre, Washoe County Manager
    Steve Bradhurst, Washoe County Regional Planning
August 3, 1979

Washoe County Board of Commissioners
P. O. Box 11130
Reno, Nevada  89520

Attn:  John MacIntyre, County Manager

Dear Members of the Commission:

The Governing Body of the Tahoe Regional Planning Agency at its regular July 25, 1979 meeting directed Agency staff to register with the Washoe County Board of Commissioners an official concern on the part of TRPA regarding future approvals of major projects in Incline Village prior to the satisfactory resolution of two issues that were discussed in relationship to the project known as Third Creek Inn and Condominiums. The two issues are: 1) the potential traffic congestion problems in Incline Village and the lack of approved plans and implementation schedule to improve the major roadways in Incline Village to accommodate suspected increased traffic volumes; and 2) approval by the necessary agencies and Douglas County of the proposal by the Incline Village General Improvement District to modify its present method of disposing of sewage effluent in the Carson Valley.

Please consider this letter as official notification from TRPA of its concern regarding said issues. If you have any questions concerning these matters, please do not hesitate to contact this office.

Sincerely,

James J. Jordan
Executive Director

cc: Regional Planning Commission of Washoe County
    Incline Village General Improvement District
    Nevada Department of Highways
    Douglas County Board of Commissioners
    TRPA Governing Body Members
    Owen & Rollston, TRPA Legal Counsel.
Village Center Condominiums
Tentative Map for 20 Units
Washoe County

Owner: Craig McFarland
Agency Action Required By: January 29, 1980

Project Description and Location

The applicant requests approval of a tentative map for 20 condominium units on a 1.75 acre parcel in Incline Village. The project plan consists of 10 duplex units radiating from a one-way circular private road which encircles a common open space area which will be landscaped. The 3-story units with garage are intended to provide moderate priced housing in the center of Incline. The project will have one single access point onto the north side of Southwood Boulevard at the intersection with Mays Boulevard.

Land Use

The project is located in a High Density Residential land use district; Washoe County zoning on the site is R-3. The project's proposed density is 11.43 units per acre which is under the 15 units per acre permitted in HDR. Although the condominium projects is a conforming use in HDR, it has been staff's position that this parcel is located in an area more suitable for apartments. The General Plan Update has suggested that this area be rezoned for apartments only (HDA). The subject parcel is adjacent to a large apartment complex and in close proximity to commercial shopping and an elementary school.

Land Coverage

The project is designed to utilize the full 50% land coverage allowance as permitted for parcels qualifying under Section 9.23 of the Land Use Ordinance. The land capability district for the parcel is level 6 which would permit 30% land coverage.

Impacts

The project as proposed is a well-designed project which includes most of the standard mitigation measures for a project of this size. Staff's concern is with the impacts of this and other projects on the public utilities that provide the services to Incline Village. Although the applicant has submitted will-serve letters from Incline Village General Improvement District (IVGID), recent reports indicate the Utility District may not have the legal and physical ability to provide the necessary services. Agency staff has the following concerns as documented in the Incline Village status report which is included in this month's agenda packet.

Water Supply - Most recent information indicates the Improvement District has permitted and certified water rights to serve 1,642 additional units as of October 30, 1979. The Agency has an outstanding commitment in the form of subdivision approvals (including grandfathered subdivisions) of 4,420 additional units. Section 7.1 of the Subdivision Ordinance provides that no tentative map shall be approved unless the water supplier has the legal and physical capacity to provide the necessary water. In making this determination, existing commitments must be evaluated. The existing commitments exceed the available supply.
Sewage Treatment Capacity - The most recent information indicates that IVGID's discharge facilities both existing and proposed will require approval by the Douglas County Commissioners. Within this approval, the District's ability to treat and export sewage in accordance with the requirements of governmental entities as required by Section 10.1 of the Subdivision Ordinance cannot be demonstrated. Douglas County has requested an analysis of all proposed export systems in the Carson Valley prior to taking any action on requests of this nature.

Traffic - The most up-to-date information from Don Pray of the Nevada Department of Transportation indicates that there will be some significant traffic problems on Highway 28 in the near future. July, 1979 traffic counts on Highway 28 at State-line indicate the road exceeds the desired service level (C) for approximately 9 hours each day. By 1983, the projection indicates the road will operate at the lowest service level (F) for approximately 5 hours during peak months. Don Pray has also identified the intersection of Highway 28 and Village Boulevard as a trouble spot with the desired service levels being exceeded today and in 1983.

The most important consideration is that there are no immediate plans for the improvement of the Incline Village transportation network. Good planning practice would dictate that development not exceed the ability of the public services to supply the necessary improvements to accommodate such development.

Schools - The applicant's information report indicates that in April of 1979 the elementary school was at capacity and this project would add 6 additional students to that school. The School District plans to build a new school in the near future. Staff has recommended approval of a new middle school as presented under public works projects in the December, 1979 Governing Board mailing.

Local Agency Action

The Washoe County Board of Commissioners approved the project on October 23, 1979. On August 3, 1979, prior to local approval, Washoe County was notified of TRPA's concerns regarding the adequacy of public services in the Incline Village area and that the Governing Board would not look favorably upon projects in this area until these matters were resolved.

Recommendation

Agency staff recommends the proposed tentative map be denied because the applicant has not demonstrated as required by Section 7.1 that the water supplier is or will be able to provide the necessary water supply to the subdivision. Staff also has difficulty finding that each condominium unit has a connection to a sanitary sewage facility that has the capacity for collection, treatment and export of such sewage from Lake Tahoe as required by Section 10.1 of the Subdivision Ordinance. Another staff concern influencing this recommendation is the deteriorating traffic condition.

12/10/79
Previous TRPA Action

On November 28, 1979, the Governing Board denied the project without prejudice and waived the filing fee should the project be resubmitted within 60 days. On November 30, 1979, a new application was submitted for an identical project with a request to be heard by the Board on December 19. Staff's recommendation for denial and the basis of that recommendation remain unchanged.

12/10/79
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY AND RECOMMENDATION

Tahoe Pine Villas
Tentative Map for 8 Condominium Units
Washoe County

Owner: John Fitzgerald

Agency Action Required By: January 29, 1980

Summary

The applicant, John Fitzgerald, is requesting approval of an 8 unit condominium complex in Incline Village, Nevada. The .58 acre property (Washoe County Assessor's Parcel No. 124-163-12) is located on Wendy Lane approximately 1-1/2 miles from the core area of Incline Village. Each unit is to be 3 stories with a loft and 2 bedrooms. Each unit covers 888 square feet in size including a 1 car garage.

Land Use and Land Capability

The .58 acre property is classified as High Density Residential (HDR) and is allowed up to 9 units. The property is classified as IS-C, Inville, stony, coarse sandy loam, 2 to 9% slopes, land capability level 6, allowable land coverage 30%. Under Section 9.23 of the Land Use Ordinance, HDR properties under 2 acres in size recorded prior to February 10, 1972, are allowed up to 50% land coverage for condominiums. This project proposes 46% impervious surface.

Existing Environmental Setting

The property slopes north to south at approximately 6%. There is approximately 10 feet of vertical drop across the building site area. The parcel has been previously disturbed but natural revegetation has been successful as far as understory growth. The site is forested with a mixed stand of about 30 Jeffrey Pine and white fir trees. The understory vegetation consists of green leaf manzanita, squaw carpet and young Jeffrey Pine. There are no identified stream zones on the property.

Proposed Project

The project proposes the construction of 8 3-story condominium units located in 3 buildings oriented around a central driveway and parking area. Each unit will have a 1 car garage with a small open sun deck located on the roof. Each unit will have individual utility connections and is proposed for construction at condominium standards. Units are wood frame construction with wood and rock siding.

Grading

The site slopes at approximately 6% along an even grade. Foundations for the buildings will be fit into the existing contours. Grading will be limited to surface grading to a depth of approximately 15". Due to the configuration of the project, a substantial portion of the property will be subject to surface clearing and disturbance. No substantial cuts and fills will result from the construction.
Slope Stabilization and Revegetation

There is an existing dirt road on the property which is being used by adjoining properties for access. This road is used extensively and shows signs of drainage flows and erosion. Portions of the road will be covered with buildings or paving. The remainder is in designated open space areas and will need revegetation. Due to its existence and location, this area should be used for materials storage during construction. The rest of the site is substantially covered with squaw carpet undergrowth. Much of this vegetation will be removed during construction. Revegetation efforts should consist of replacing this natural vegetation. The existing dirt road will need to be revegetated after construction.

Drainage

Drainage from the buildings will be collected in infiltration trenches for percolation. These trenches will be sized to collect a 2 year–6 hour storm. The applicant proposes to collect stormwater runoff from paved surfaces in infiltration trenches located at the edge of paving. The plans submitted indicate a complicated set of grade drops in an effort to direct drainage toward the trenches. Should the establishment of the paving grades not be done correctly, this system will fail to function adequately. Functional failure will result in large accumulations of water in front of the lower units. In order to protect against this possibility, staff has requested that a drain be placed across the lower end of the parking area and connected to the lower infiltration trenches. This system will also provide the necessary overflow capacity in case of storms of an intensity greater than a 2 year–6 hour storm. Drainage systems utilizing infiltration trenches immediately adjacent to paved surfaces can fail due to uncontrolled parking especially when also adjacent to open space areas. Barriers or vegetation will be used to eliminate vehicular encroachment.

Traffic

The 8 unit project is anticipated to generate approximately 56 vehicle trips per day. This additional traffic will not significantly impact the local street system which is still under design capacity. Don Pray, Nevada Department of Transportation, has indicated that the intersection of Highway 28 and Village Boulevard is a trouble spot with the desired service levels being exceeded presently. The most recent information from Mr. Pray indicates that there will be significant traffic problems on Highway 28 in the future. July, 1979 traffic counts on Highway 28 at Stateline indicate the road exceeds the desired service level (C) for approximately 9 hours each day. By 1983 the projection indicates the road will operate at the lowest service level (F) for approximately 5 hours per day. The most important consideration is that there are currently no plans for the improvement of the existing Incline Village circulation pattern.

12/11/79
Public Services

The Agency has received will-serve letters from all the required service entities. In the case of water and sewer service, the Incline Village GID letter is dated March 23, 1979, and predates the recent concerns regarding availability of water and export of sewage.

**Sewage Treatment** - The most recent information indicates that IVGID's waste discharge facilities, both existing and proposed, will require approval by the Douglas County Commissioners. Without this approval, the District's ability to treat and export sewage in accordance with the requirements of governmental entities as required by Section 10.1 of the Subdivision Ordinance cannot be demonstrated. Douglas County has requested an analysis of all proposed export systems in the Carson Valley prior to taking any action on requests of this nature.

**Water Supply** - Most recent information indicates the Improvement District has permitted and certified water rights to serve 1,642 additional units as of October 30, 1979. The Agency has an outstanding commitment in the form of subdivision approvals (including grandfathered subdivisions) of 4,420 additional units. Section 7.1 of the Subdivision Ordinance provides that no tentative map shall be approved unless the water supplier has the legal and physical capacity to provide the necessary water. In making this determination, existing commitments must be evaluated. The existing commitments exceed the available supply.

**Local Agency Action**

In considering the project, the Washoe County Commissioners withheld action for 30 days and granted a conditional approval to the project on October 23, 1979. Washoe County had been notified of the Agency's concerns for the adequacy of public facilities and services in a letter dated August 3, 1979, which also stated the Agency's position that individual projects would not be looked upon favorably until these matters were resolved.

Condition 26 of the Washoe County recommendation requires that a bicycle and pedestrian path fronting on Wendy Way be constructed. The Agency staff has not seen the plans for this construction. If the path is on the applicant's property, this coverage will need to be included in the coverage calculations. Drainage devices will also need to be added for this facility. This would best be handled during review of the final construction drawings if the project is approved.

**Recommendation**

Agency staff recommends that the proposed tentative map be denied because the applicant has not demonstrated as required by Section 7.1 that the water supplier is or will be able to provide the necessary water supply to the subdivision. Staff also has difficulty finding that each condominium unit has a connection to a sanitary sewage facility that has the capacity for collection to a sanitary sewage facility that has the capacity for collection, treatment, and export of such sewage from Lake Tahoe as required by Section 10.1 of the Subdivision Ordinance.

Another staff concern affecting this recommendation is the deteriorating traffic condition and the cumulative impact of such projects upon traffic volumes.

12/11/79
MEMORANDUM

DATE: December 10, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Ordinance Amendments Establishing Standards for Apartment to Condominium Conversions and Establishing Areas Suitable for Apartment Housing

This planning matter item has been scheduled for discussion before the Advisory Planning Commission meeting on December 12, 1979 (after mailing of the Board's meeting packet), pursuant to the Board's direction on November 2, 1979. The results of that discussion will be presented at the regular meeting.

ACRES
LOTS
DENSITY
UNITS
TAHOE REGIONAL PLANNING AGENCY

MEMORANDUM

DATE: December 10, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Determination of Status of Time-Sharing, Interval Ownership Condominiums Under the TRPA Land Use Ordinance

Mr. Rusty Nash, Deputy District Attorney for Washoe County, has requested an Agency determination on the status of the time-sharing, interval ownership condominium in light of the recent adoption of a county ordinance which limits these projects to commercial zones. His questions are:

1. What kind of density is allowable under the TRPA Land Use Ordinance?

2. What are the parking requirements for such projects?

3. What is the permitted land coverage in the Tourist Commercial land use district?

Analysis

Although the TRPA Land Use Ordinance has no definition of time-sharing units, the Washoe County ordinance defines them as "the actual accommodations and related facilities which are the subject of the vacation time-sharing lease plan or a vacation time-sharing ownership plan". Generally speaking, these units have the physical appearance of a single family dwelling condominium unit, but the length of stay of the inhabitants is a week to two weeks.

In a previous action by the Agency (approval of Club Tahoe), the time-sharing condominiums were considered residential in use; thus, the project was required to reclassify its property to High Density Residential, and the project was limited to 15 units per acre. It would appear this action directly conflicts with the Washoe County actions which limit these projects to commercial zones.
Memo to the TRPA Governing Board  
Time-Sharing Condominiums  
12/10/79   Page Two

To answer Mr. Nash's questions, one must determine if time-sharing units are one of the following (as described in the Land Use Ordinance):

1. **Single Family Dwelling Units** - One room or group of two or more rooms, other than in a mobile home, containing one or more bedrooms, with not more than one kitchen, designed to be occupied permanently as an independent housekeeping unit by one family or one collective household with facilities for living, cooking, sleeping and eating; or

2. **Transient Dwelling Units** - One bedroom or a group of two or more rooms containing no more than one bedroom, and designed to be rented primarily by the day or week and to be occupied temporarily by one or more individuals whose permanent residence is elsewhere. Hotels and motels normally contain transient dwelling units. (The TRPA Land Use Ordinance limits the number of units with kitchens to a maximum of 10% of the total units.)

It appears that the physical structure of time-sharing developments most closely resembles a single family dwelling condominium development, but the actual use pattern most closely fits that described for transient dwelling units. TRPA has no parking standards for single family or transient dwelling units.

**Recommendation**

Agency staff recommends the Governing Board find, as permitted under Section 7.82, that time-sharing condominium developments are found to be "appropriate and similar in nature" to the uses permitted in the Tourist Commercial land use district. Within this district classification, staff would also recommend that the Governing Board find that the physical structures are most similar to those described as single family dwellings; thus, the density permitted would be 15 units per acre and the permitted land coverage would not exceed that permitted for residential uses.

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*STATUS REPORT ON*

ALL SEASONS
T. CHAPARRAL
CLUB TAHOE
LOCAL DENSITY
L. U. DIST
EFFECT OF TL ONLY USE AREA
MEMORANDUM

DATE: December 11, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Harvey's Inn, Compliance With Open Space Requirements

Agency staff has been working with Harvey's Inn representatives via Ken Kjer to resolve the problem created by the recent paving of open space at Harvey's Inn. As indicated at the November 28, 1979 Governing Board meeting, Harvey's was willing to consider other solutions to the problem besides litigation. One of the alternatives considered was the restoration of the 67% land coverage limitation that existed prior to construction of the parking area. This was to be achieved by adding additional land area to the site and by removing some existing land coverage. The details of the proposal are in the attached November memorandum.

At the time of this memo, Ken Kjer has been in contact with Harvey's and informed the staff that Harvey's is still reviewing the proposal. Hopefully, a response will be received from Harvey's prior to the December 19 meeting so that Harvey's position can be considered in the Governing Board's consideration of the proposed litigation.
TAHOE REGIONAL PLANNING AGENCY

MEMORANDUM

DATE: November 21, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Status Report on Harvey's Inn

As requested by the Governing Board on November 2, 1979, Ken Kjer arranged a meeting at his office with Agency staff and the Harvey's Inn representatives. The purpose of this November 13 meeting was to discuss the Agency's position and Harvey's position regarding the paving of an area on the north side of the property which took place in September, 1979, and to determine if there were any mutually agreeable solutions to the problem, other than litigation.

Harvey's Inn representatives indicated that it was their position that the project was approved in September of 1976 when the TRPA Governing Body failed to take an action on a variance request. It was also their contention that the project as constructed was in conformance with the plans submitted to the Agency in September of 1976. As a possible compromise, it was indicated that Harvey's might consider removing existing coverage and adding a sufficient number of additional vacant lots to the west of Laura Drive to bring the total land coverage back to 67%. Staff agreed to review this alternative and to submit it to the Governing Board for consideration.

Background

In order to gain a perspective on the Harvey's Inn project, staff has prepared the following chronology of events as documented from TRPA files. Included with this chronology are relevant land coverage figures associated with the project.

Pre 1972

Harvey's organization purchased a small commercial establishment known as Caesar's Inn Casino which was generally located on Parcel #2 (see attached site plan).

April 26, 1972

The TRPA Governing Board approved an expansion plan for Parcels #1 and #2. This included:

- 100 car parking lot with the area paved in September, 1979 designated as open space
- 150 seat restaurant
- a new covered entry

The approved land coverage was:
- Parcel #1 - 44%
- Parcel #2 - 89% (grandfathered coverage)
Sept. 27, 1972  
The TRPA Governing Board approved a 50 unit motel on Parcels #3 and #4 with a condition to resolve land coverage calculations. It was resolved according to TRPA plans as follows:

Parcel #3 - 50% land coverage utilizing lots #5 and #6 which are zoned High Density Residential

Parcel #4 - approved at 78% based on grandfathering existing coverage

April 12, 1973  
Douglas County letter approving additional parking area on lots #5 and #6 in exchange for removing existing coverage on lots #2 and #3. No record of TRPA action.

Coverage on Parcel #3 - 50%

Summer 1973  
Casino and restaurant at Harvey's Inn were damaged by fire

Nov. 8, 1973  
Douglas County reconstruction permit allows an increase of building coverage of 9,870 sq. ft. beyond 1972 TRPA approval.

Coverage on Parcel #1 - 48%
Coverage on Parcel #2 - 95%

April 18, 1974  
Letter from Dick Heikka indicating the addition of 3,790 sq. ft. of open space on Parcel #3 would meet Agency requirements for open space.

Sept. 26, 1976  
The TRPA Governing Board failed to take action on a variance request to increase the nonconforming land coverage from 67% of the total site to 83% of the total site. (Motion to deny: Calif. 5 yes, 0 nays, Nevada 2 yes, 3 nays) The attached letter indicates legal and staff's interpretation of the action. Board member Tom Cooke suggested the issue of approval should be resolved in court with general agreement by the Board, but no vote was taken on this issue.

Nov. 1976 - April, 1977  
Negotiations on an "agreement". In order to pave the subject area, Harvey's would deed all lots on the west side of Laura Drive to open space and also open a 40 x 100 foot area next to Highway 50.

April, 1977  
The TRPA Governing Body rejected the agreement in a litigation session.
April, 1977 - Aug. 1979  Negotiations between staff and Harvey's representatives on parking structure.

Sept. 27, 1979  Douglas County issued permit #353 to grade and pave a parking area and to install a storm drain system. The plans submitted to the Agency on November 14 indicate a net increase in land coverage of 48,764 sq. ft. A site inspection revealed that the drainage system was not installed and areas identified as open space were paved. Harvey's representative indicated this would be corrected in the spring.

Nov. 2, 1979  The TRPA Governing Body directed legal counsel and staff to prepare legal action. Board member Ken Kjer and Harvey's representatives to meet and discuss any possible solutions.

Nov. 20, 1979  Staff review of approved plans and plans submitted from Douglas County indicate the following land coverages:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Total Area</th>
<th>Impervious Surface</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>104,852 sq. ft.</td>
<td>52,607 sq. ft.</td>
<td>50%</td>
</tr>
<tr>
<td>2</td>
<td>100,767</td>
<td>96,033</td>
<td>95</td>
</tr>
<tr>
<td>3</td>
<td>60,020</td>
<td>25,872</td>
<td>43</td>
</tr>
<tr>
<td>4</td>
<td>14,120</td>
<td>12,224</td>
<td>87</td>
</tr>
<tr>
<td>Total:</td>
<td>279,759 sq. ft.</td>
<td>186,736 sq. ft.</td>
<td>67%</td>
</tr>
</tbody>
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September 27 additional coverage on Parcels #1 and #3  48,764

Total: 235,500 sq. ft.  84%

Staff calculations for returning the total site back to 67% are as follows:

Present condition:  \[
\frac{235,500 \text{ sq. ft. coverage}}{279,759 \text{ sq. ft. site}} = 84\%
\]
Staff estimate of lands owned by Harvey's available for addition to the site:

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 HDR lots</td>
<td>36,000 sq. ft.</td>
</tr>
<tr>
<td>1 TC parcel</td>
<td>10,000 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>46,000 sq. ft.</td>
</tr>
</tbody>
</table>

Add open space: \[
\frac{235,500 \text{ sq. ft.}}{46,000 + 279,759 \text{ sq. ft.}} = 72\%
\]

Reduce coverage: \[
\frac{235,500 - 17,242 \text{ sq. ft.}}{325,759 \text{ sq. ft. site}} = 67\%
\]

Possible Solutions

One solution is to continue to search for a "compromise" that will be acceptable to Harvey's while, hopefully, falling within the Agency's guidelines related to nonconforming coverage. A second alternative would be to pursue litigation concerning the September, 1976 Board action so as to ultimately reduce the nonconforming land coverage from 83% to 67%. Another alternative would be to attempt to reduce coverage on the site to the maximum 50% figure allowed based on zoning. Probably there are other alternatives which could be considered; however, based on practicality, the first two appear to be the most fruitful for the Governing Board to consider. It should be recognized that while the Board can authorize implementation of the second alternative the actualization of the first alternative will require a commitment to abide by the "compromise", something that Harvey's representatives at the November 13 meeting said would depend upon a future decision by Mr. Gross.

Below is an analysis of the two solutions before the Board for consideration. Staff will be prepared to discuss these alternatives and to implement whatever action the Board desires to take.

**Alternative 1** - Reach a "compromise" with Harvey's to add more area to the project and remove impervious surfaces so that the overall coverage for the project area would be reduced to 67%.

Staff Comment - This alternative would provide a more immediate solution to the problems of parking, drainage, erosion, etc. on the site with less cost to the Agency. Agency staff is concerned with the precedent and the legal questions of compliance with the Land Use Ordinance. All of the other establish- ments in the Stateline area complied with the provisions of the Land Use Ordinance in obtaining their approvals, which would not be the case for Harvey's Inn. The ordinance does not permit additional land coverage without a net reduction in land coverage toward conformance. There is an additional question of nonconforming zoning and nonecontiguous property involved in this proposal. It is also important to note that staff is still trying to achieve compliance with a 1974 "agreement" with Harvey's Resort Hotel for removal of coverage on that site.
Alternative II - Initiate litigation so that the courts can determine whether or not the September, 1976 action by the Governing Board authorized a variance to increase the nonconforming land coverage from 67% to 83%.

Staff Comment - This alternative would resolve a major unanswered question in regards to the "60 day rule" of the Compact and would also indicate to the public that the Agency still has the ability to pursue legal enforcement of its ordinances. The other consideration is that this alternative could be costly and time-consuming without any guaranteed results. As a point of information, Agency legal counsel has prepared the necessary paper work to initiate legal action as per the 1977 direction of the Governing Board.
October 5, 1976

Peter Laxalt, Esq.
Laxalt, Berry & Allison
402 North Division
Carson City, Nevada 89701

Re: Harvey's Inn—Status of Application for Land Coverage Variance

Dear Mr. Laxalt:

At the request of Richard Heikka, Executive Officer of the Tahoe Regional Planning Agency (TRPA), I am writing to advise you, as counsel for Harvey's Inn, of the status of the above-referenced matter. A review of the circumstances indicates that Harvey's Inn obtained Douglas County's approval of a land coverage variance purporting to permit paving for parking lot purposes of a certain area upon the Inn's premises. (The variance, as you know, failed to receive dual majority action by TRPA at the latter's regular meeting, held September 22, 1976.) We find, moreover, that the relevant area was expressly required by TRPA to be landscaped open space pursuant to a condition upon the Agency's original approval of Harvey's Inn.

Harvey's Inn is respectfully advised that in order for it to pave the pertinent area, or otherwise utilize it contrary to such condition of Inn approval, an express modification of the condition must be obtained from the Agency. Such modification, of course, must result from dual majority action by TRPA, not statutory affirmation of the act of a separate entity, such as Douglas County.

Accordingly, absent such modification, should Harvey's Inn choose to commence paving of the relevant area, or perform any other action preliminary thereto, it does so at its own risk, with knowledge of the foregoing, and subject to the distinct possibility that any paving actually installed will be required to be removed.

If you have any questions or comments regarding the foregoing please do not hesitate to contact me.

Very truly yours,

GARY A. OWEN

cc: Richard M. Heikka

GAO:mm
MEMORANDUM

DATE: December 10, 1979

TO: The TRPA Governing Board

FROM: The Staff

SUBJECT: Fiscal Year 1980-81 Budget

The staff will be presenting the preliminary 1980-81 Fiscal Year budget to the Finance Committee at its meeting the morning prior to the Governing Board meeting on the 19th. Staff is still waiting for a response from the counties related to their assessed valuations as a basis for determining the county appropriations for the coming year. After discussion and action by the Finance Committee, the budget will be presented to the full board for its action at the time of the meeting.
An Act

To grant the consent of the Congress to the Tahoe Regional Planning Compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that in order to encourage the wise use and conservation of the waters of Lake Tahoe and of the resources of the area around said lake, the consent of the Congress is hereby given to the Tahoe Regional Planning Compact heretofore adopted by the States of California and Nevada, which compact reads as follows:

"Tahoe Regional Planning Agency"

"Article I. Findings and Declarations of Policy"

"(a) It is found and declared that the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which may endanger the natural beauty and economic productivity of the region.

"(b) It is further declared that by virtue of the special conditions and circumstances of the natural ecology, developmental pattern, population distribution, and human needs in the Lake Tahoe region, the region is experiencing problems of resource use and deficiencies of environmental control.

"(c) It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational opportunities of the region, and it is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established an areawide planning agency with power to adopt and enforce a regional plan of resource conservation and orderly development, to exercise effective environmental controls and to perform other essential functions, as enumerated in this title.

"Article II. Definitions"

"(a) 'Region' includes Lake Tahoe, the adjacent parts of the Counties of Douglas, Ormsby, and Washoe lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.
"(b) 'Agency' means the Tahoe Regional Planning Agency.

"(c) 'Governing Body' means the governing board of the Tahoe Regional Planning Agency.

"(d) 'Regional plan' shall mean the long-term general plan for the development of the region.

"(e) 'Interim plan' shall mean the interim regional plan adopted pending the adoption of the regional plan.

"(f) 'Planning commission' means the advisory planning commission appointed pursuant to paragraph (h) of Article III.

"Article III. Organization

"(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

"The governing body of the agency shall be constituted as follows:

"One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Each member shall be a member of the city council or county board of supervisors which he represents and, in the case of a supervisor, shall be a resident of a county supervisorial district lying wholly or partly within the region.

"One member appointed by each of the boards of county commissioners of Douglas, Ormsby and Washoe Counties. Any member so appointed shall be a resident of the county from which he is appointed and may be, but is not required to be:

"(1) A member of the board which appoints him; and

"(2) A resident of or the owner of real property in the region, as each board of county commissioners may in its own discretion determine. The manner of selecting the person so to be appointed may be further prescribed by county ordinance. A person so appointed shall before taking his seat on the governing body disclose all his economic interests in the region, and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. If any board or county commissioners fail to make an appointment required by this paragraph within 30 days after the effective date of this act or the occurrence of a vacancy on the governing body, the governor shall make such appointment. The position of a member appointed by a board of county commissioners shall be deemed vacant if such member is absent from three consecutive meetings of the governing body in any calendar year.

"One member appointed by the Governor of California and one member appointed by the Governor of Nevada. The appointment of the California member is subject to Senate confirmation; he shall not be a resident of the region and shall represent the public at large. The member appointed by the Governor of Nevada shall not be a resident of the region and shall represent the public at large.

"The Administrator of the California Resources Agency or his designee and the Director of the Nevada Department of Conservation and Natural Resources or his designee.
"(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

"(c) The term of office of the members of the governing body shall be at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years.

"(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as 'the first Monday of each month,' and shall not change such date oftener than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting except an emergency meeting, shall be given by publishing the date, place and agenda at least 5 days prior to the meeting.

"(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

"(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be two years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

"(g) A majority of the members of the governing body from each state shall constitute a quorum for the transaction of the business of the agency. A majority vote of the members present representing each state shall be required to take action with respect to any matter. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

"(h) An advisory planning commission shall be appointed by the agency, which shall consist of an equal number of members from each state. The commission shall include but shall not be limited to: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and the Counties of Douglas, Ormsby and Washoe in Nevada, the Placer County Director of Sanitation, the El Dorado County Director of Sanitation, the county health officer of Douglas County or his designee, the county health officer of Washoe County or his designee, the Chief of the Bureau of Environmental Health of the Health Division of Department of Health, Welfare and Rehabilitation of the State of Nevada or his designee, the executive officer of the Lahontan Regional Water Quality Control Board or his designee, the executive officer of the Tahoe Regional Planning Agency who shall act as chairman and at least four lay members each of whom shall be a resident of the region.

"(i) The agency shall establish and maintain an office within the region. The agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.
"(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken. Upon receipt of certified copies of the resolutions or notifications appointing the members of the governing body, the Secretary to State of each respective state shall notify the Governor of the state who shall, after consultation with the Governor of the other state, issue a concurrent call for the organization meeting of the governing body at a location determined jointly by the two governors.

"(k) Each state may provide by law for the disclosure or elimination of conflicts of interest on the part of members of the governing body appointed from that state.

"Article IV. Personnel

"(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this act or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

"(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency, and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

"(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

"Article V. Planning

"(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this paragraph shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

"The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this paragraph.

"If a request is made for the amendment of the regional plan by:

"(1) A political subdivision a part of whose territory would be affected by such amendment; or
"(2) The owner or lessee of real property which would be affected by such amendment,
the governing body shall complete its action on such amendment within 60 days after such request is delivered to the agency.

"(b) Within 15 months after the formation of the agency, the planning commission shall recommend a regional plan. Within 18 months after the formation of the agency, the governing body shall adopt a regional plan. After adoption, the planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

"The regional plan shall include the following correlated elements:

"(1) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities.

"(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to, freeways, parkways, highways, transportation facilities, transit routes, waterways, navigation and aviation aids and facilities, and appurtenant terminals and facilities for the movement of people and goods within the region.

"(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

"(4) A recreation plan for the development, utilization and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas and other recreational facilities.

"(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

"In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region. Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private individuals.
"(c) All provisions of the Tahoe regional general plan shall be enforced by the agency and by the states, counties and cities in the region.

"(d) Within 60 days after the formation of the agency, the planning commission shall recommend a regional interim plan. Within 90 days after the formation of the agency, the governing body shall adopt a regional interim plan. The interim plan shall consist of statements of development policies, criteria and standards for planning and development, of plans or portions of plans and projects and planning decisions, which the agency finds it necessary to adopt and administer on an interim basis in accordance with the substantive powers granted to it in this agreement.

"(e) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan and interim plan, in a form suitable to assure consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

"(f) All provisions of the interim plan shall be enforced by the agency and by the states, the counties and cities.

"Article VI. Agency's Powers

"(a) The governing body shall adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional and interim plans. Every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the basin, and any political subdivision may adopt and enforce an equal or higher standard applicable to the same subject of regulation in its territory. The regulations shall contain general, regional standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters, or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the interim plan or the general plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the interim or general plan.

"Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the interim plan or the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

"Interim regulations shall be adopted within 90 days from the formation of the agency and final regulations within 18 months after the formation of the agency.

"Every plan, ordinance, rule, regulation or policy adopted by the agency shall recognize as a permitted and conforming use any business or recreational establishment which is required by law of the state in which it is located to be individually licensed by the state, if such business or establishment:
"(1) Was so licensed on February 5, 1968, or was licensed for a limited season during any part of the calendar year immediately preceding February 5, 1968.

"(2) Is to be constructed on land which was so zoned or designated in a finally adopted master plan on February 5, 1968, as to permit the construction of such a business or establishment.

"(b) All ordinances, rules, regulations and policies adopted by the agency shall be enforced by the agency and by the respective states, counties and cities. The appropriate courts of the respective states, each within its limits of territory and subject matter provided by state law, are vested with jurisdiction over civil actions to which the agency is a party and criminal actions for violations of its ordinances. Each such action shall be brought in a court of the state where the violation is committed or where the property affected by a civil action is situated, unless the action is brought in a federal court. For this purpose, the agency shall be deemed a political subdivision of both the State of California and the State of Nevada.

"(c) Except as otherwise provided in paragraph (d), all public works projects shall be reviewed prior to construction and approved by the agency as to the project’s compliance with the adopted regional general plan.

"(d) All plans, programs and proposals of the State of California or Nevada, or of its executive or administrative agencies, which may substantially affect, or may specifically apply, to the uses of land, water, air, space and other natural resources in the region, including but not limited to public works plans, programs and proposals concerning highway routing, design and construction, shall be referred to the agency for its review, as to conformity with the regional plan or interim plan, and for report and recommendations by the agency to the executive head of the state agency concerned and to the Governor. A public works project which is initiated and is to be constructed by a department of either state shall be submitted to the agency for review and recommendation, but may be constructed as proposed.

"(e) The agency shall police the region to ensure compliance with the general plan and adopted ordinances, rules, regulations and policies. If it is found that the general plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

"(f) Violation of any ordinance of the agency is a misdemeanor.

"(g) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

"(h) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

"(i) Whenever a new city is formed within the region, the membership of the governing body shall be increased by two additional members, one appointed by, and who shall be a member of, the legislative body of the new city, and one appointed by the Governor of the state in which the city is not located. A member appointed by the Governor of California is subject to Senate confirmation.
"(j) Every record of the agency, whether public or not, shall be open for examination to the Legislative Analyst of the State of California and the Fiscal Analyst of the State of Nevada.

"(k) Whenever under the provisions of this article or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any proposal, public or private, the agency shall take final action, whether to approve, to require modification or to reject such proposal, within 60 days after such proposal is delivered to the agency. If the agency does not take final action within 60 days, the proposal shall be deemed approved.

"Article VII. Finances

"(a) Except as provided in paragraph (c), on or before December 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion not more than $150,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. Each county in California shall pay the sum allotted to it by the agency from any funds available therefor and may levy a tax on any taxable property within its boundaries sufficient to pay the amount so allocated to it. Each county in Nevada shall pay such sums from its general fund or from any other moneys available therefor.

"(b) The agency may fix and collect reasonable fees for any services rendered by it.

"(c) The agency shall be strictly accountable to any county in the region for all funds paid by it to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursements.

"(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds.

"(e) As soon as possible after the ratification of this compact, the agency shall estimate the amount of money necessary to support its activities:

"(1) For the remainder of the then-current fiscal year; and

"(2) If the first estimate is made between January 1 and June 30, for the fiscal year beginning on July 1 of that calendar year.

"The agency shall then allot such amount among the several counties, subject to the restriction and in the manner provided in paragraph (a), and each county shall pay such amount.

"(f) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.
"Article VIII. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in paragraph (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation or distribution of interstate waters or upon any appropriative water right."

Sec. 2. The Secretary of the Interior and the Secretary of Agriculture are authorized, upon request of the Tahoe Regional Planning Agency, to cooperate with said agency in all respects compatible with carrying out the normal duties of their Departments.

Sec. 3. The consent to the compact by the United States is subject to the condition that the President may appoint a nonvoting representative of the United States to the Tahoe Regional Planning governing board.

Sec. 4. Any additional powers conferred on the agency pursuant to Article VII (b) of the compact shall not be exercised unless consented to by the Congress.

Sec. 5. Nothing contained in this Act or in the compact consented to shall in any way affect the powers, rights, or obligations of the United States, or the applicability of any law or regulation of the United States in, over, or to the region or waters which are the subject of the compact, or in any way affect rights owned or held by or for Indians or Indian tribes subject to the jurisdiction of the United States.

Sec. 6. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by or concerning the Tahoe Regional Planning Agency as is deemed appropriate by the Congress of such committee.

Sec. 7. The right to alter, amend or repeal this Act is expressly reserved.

Approved December 18, 1969
LEGISLATIVE HISTORY:

HOUSE REPORT No. 91–650 (Comm. on the Judiciary)

SENATE REPORT No. 91–510 (Comm. on the Judiciary)


Nov. 5: Considered and passed Senate
Dec. 1: Considered and passed House, amended
Dec. 3: Senate agreed to House amendment
May 31, 1974

Mr. Thomas Stewart  
Chairman, Governing Board  
Tahoe Regional Planning Agency  
P. O. Box 7275  
South Lake Tahoe, California 95731

Dear Mr. Stewart:

We are pleased to transmit herewith the Ad Hoc Evaluation Committee Report covering the first four years of the Lake Tahoe Regional Planning Agency's activities and the Bi-State Compact.

The Committee respectfully urges your attention to the two groups of recommendations; one group concerns compact modifications, the other group may be accomplished by TRPA Governing Board action.

We urge your favorable consideration of the recommendations as we believe they are necessary and will help make TRPA more effective in fulfilling its leadership responsibilities in the protection, use, and preservation of the Lake Tahoe Basin.

Very truly yours,

[Signatures]

Enclosure

cc: Each Governing Board Member
AD HOC EVALUATION COMMITTEE REPORT
OF THE
TAHOE REGIONAL PLANNING AGENCY GOVERNING BOARD

INTRODUCTION

The Tahoe Regional Planning Agency (TRPA) became operational in March 1970 following approval of the Tahoe Regional Planning Compact by the California and Nevada State Legislatures and ratification by the U.S. Congress in December 1969. The Tahoe Regional Planning Agency's primary mission was to formulate and administer a Regional Plan and to adopt all necessary Ordinances, Rules, Regulations and Policies to implement that plan.

The findings and policy of the Compact as set forth in Article I are:

"(a) it is found and declared that the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which may endanger the natural beauty and economic productivity of the region.

"(b) it is further declared that by virtue of the special conditions and circumstances of the natural ecology, developmental pattern, population distribution, and human needs in the Lake Tahoe region, the region is experiencing problems of resource use and deficiencies of environmental control.

"(c) it is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational
opportunities of the region, and it is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established an area-wide planning agency with power to adopt and enforce a regional plan of resource conservation and orderly development, to exercise effective environmental controls and to perform other essential functions, as enumerated in this title."

The Tahoe Regional Planning Compact is the first national attempt to lodge environmental planning into an interstate regional framework.

**PLANNING REQUIREMENTS OF THE COMPACT**

Uncharted seas were being sailed when the Agency began its duties. Ten well-meaning and hopeful Governing Body members entered into environmental planning with aggressive forces pulling in diverse directions. Local governments were militantly antagonistic; builders and subdividers were having a good market, and, although the more enlightened were cooperative, they were reluctant to forego profits. The environmentalists were flexing political muscle and using more emotion than sound judgment.

The Agency struggled in its early days and its operations were impaired by:

1. Diverse understanding of Compact objectives
2. Lack of funds
3. Inadequate staffing
4. Openly hostile county attitudes and litigation
5. Poor communication between staff and Governing Body
6. Open hostility between Advisory Planning Commission and staff
7. Failure to follow Compact mandates
8. Various other ailments, such as threats of Federal takeover, bad press relations, complexity of bringing an orderly balance between preservation and development.
Yet the Agency survived.

During this period the U.S. Forest Service Tahoe Basin Planning Team rendered outstanding service, bearing much unfounded criticism by the uninformed. With the aid of State and Federal agencies, they produced an environmental analysis of the region which is regarded as a model for other planners.

The staff, ignoring Compact language that the Advisory Planning Commission should produce a plan, made efforts to convert the environmental and constraints analysis into a plan which died at inception.

The Executive Officer appointed a subcommittee of the Advisory Planning Commission to produce the plan as called for by the Compact. When satisfied the work was well under way, he resigned and a temporary appointee took over. This was indeed a hectic period for all concerned.

Still the Agency survived and strengthened.

A California Supreme Court decision confirmed the authority of the Agency. Lines of communication were established and leadership merged into an identifiable and constructive pattern. Conservationists and developers became more cooperative and the present plan ensued. It has been called a compromise; perhaps so, but democratic government is compromise.

Article VI (a) of the Compact directs "the Governing Body to adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional and interim plans. Every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the basin, and any political subdivision may adopt and enforce an equal or
higher standard applicable to the same subject of regulation in its territory. The regulations shall contain general, regional standards, including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fill, excavations, cuts and grading; piers, harbors, breakwaters, or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible, without diminishing the effectiveness of the interim plan or the general plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the interim or general plan."

IMPLEMENTATION OF THE COMMITTEE'S ASSIGNMENT

In November 1973 the Tahoe Regional Planning Agency chairman, John Meder, appointed an Ad Hoc Evaluation Committee to review and evaluate the Agency's activities under the Bi-state Compact and report its findings and recommendations to the Governing Body.

The Committee directed its attention first to the requirements of the Compact and the extent to which the obligations thereunder had been complied with by the Agency and others holding responsibility.
Fortunately, there have been a number of studies and reports, internal and external, available to the Agency which provided a wealth of data for the Committee to use in its deliberations.

The Committee found reports and studies from the following sources particularly valuable in compiling this report: the University of California; the University of Nevada; the Desert Research Institute; the U.S. Department of Housing and Urban Development; the Environmental Protection Agency; the Bureau of Outdoor Recreation; the United States Forest Service; the League to Save Lake Tahoe; and the Lake Tahoe Area Council.

PROGRESS EVALUATION

The Committee finds that the Agency has made commendable progress in meeting many of the mandated requirements of the Compact, but there remains substantial work to be completed. A great wealth of material has been compiled, either in plan or study form, sufficient to raise serious questions as to how the various plans, constraints, objectives and policies are to be integrated. It is doubtful that many beyond the Agency staff understand, or are knowledgeable, with respect to the intended application of the data collected. There is also a serious problem of the enforcement of Ordinances, Rules and Regulations. A positive enforcement program is still needed. Some local governmental officials seem to resent what they believe to be a usurpation of their authority. A major educational and informational effort will also be helpful, along with the identification of a clear, deliberate, and
correlative process for all the plan elements. Public understanding and support may indeed bring the Compact objective — "an equilibrium between the region's natural endowment and its manmade environment" — within reach.

PLANNING REQUIREMENTS

The Compact sets forth the basic planning requirements for the Lake Tahoe region in Article V (b) as a regional plan to include the following correlated elements:

1. A Land Use Plan
2. A Transportation Plan
3. A Conservation Plan
4. A Recreation Plan
5. A Public Services and Facilities Plan

The present Regional Plan consists of three components: A Land Use Map, an accompanying text describing the plan, and a Land Capability Map.

ORDINANCES, RULES AND REGULATIONS — CURRENT STATUS

Any assessment of the status of the Ordinances, Rules and Regulations which the Compact requires be adopted and enforced enters an area of controversy and opinion. The purpose of the Committee in this report will be to give the members of the Governing Body of the Agency and the public our views on completion or progress on the more important matters, emphasizing those we believe require further consideration.

LAND USE PLAN

This is one of the important keys on which the authority of the Agency rests. A general Land Use and Capabilities Plan was adopted in December 1971. It was as specific as to intent and purpose as it could
be with the data then available. When adopted it was recognized that changing conditions would warrant reconsideration from time to time, as the subject of the most appropriate and wisest use of land surrounding Lake Tahoe is a never ending one. It is quite clear, in the Committee's mind, that the Agency possesses the authority it needs to control the use of land and it is expected that their decisions will always be guided by a desire to preserve the values that have made Tahoe "a National Treasure."

TRANSPORTATION PLAN

One of the early transportation studies, sponsored and financed by the League to Save Lake Tahoe and the Lake Tahoe Area Council, was made by Stanford Research Institute. Their report was of limited value beyond emphasizing the fact that transportation problems are basinwide and are related to population growth. The next effort was a Stateline traffic study, with financial support by business interests and local governments, administered by the Lake Tahoe Area Council. It was recognized at the time that the Stateline was only a part of the problem, but the traffic situation in the area appeared to demand urgent consideration. That effort in 1973 led the Agency to undertake a basinwide transportation study. Current projections are for a preliminary plan to be available in November 1974 and a detailed plan approximately two years later. Recently the Agency has been advised that supplemental construction funds for highway changes may not be available for up to ten years. The Committee believes it is imperative that both States be asked to
reassess their obligations for transportation assistance at a much earlier date and recommends that the Governing Body take appropriate action at an early date.

CONSERVATION PLAN

This is another of the key elements in land use planning. A preliminary plan was adopted in August 1973. It was revised following public hearings. A final plan was adopted in March 1974. This plan has yet to be reflected in the Regional Plan.

RECREATION PLAN

A preliminary plan was adopted in August 1973; a final plan was adopted in March 1974. General areas of usage have been identified. Where they involve public lands, Recreation Plan implementation should not be difficult, as the United States Forest Service has cooperated in selecting areas of designation, but if private lands are under consideration, it must be anticipated that acquisition could be a long drawn out process.

The plan is regional in scope and does not include local recreational use areas. This plan, also, has not been activated by Ordinance and has not been reflected in the present Regional Plan.

PUBLIC SERVICES AND FACILITIES PLAN

The subject covers such a wide range of exposures that application cannot be adequately identified in meaningful detail. The Committee suggests that the Agency should promptly identify and define the public services and facilities which come under the Compact. Matters that are
clearly the responsibility of local governments should be noted. There is need for improvement in the coordination of effort between local governments, especially with respect to such services as Fire, Police, Health and disaster assistance, as catastrophic occurrences are possible. The Agency could be helpful in bringing local government representatives together.

ORDINANCES

The following are comments on some of the more important Ordinances not directly associated with the elements of basic planning requirements:

WATER PURITY AND CLARITY

Water purity and clarity are among Tahoe's greatest assets. This was widely recognized by the States long before the Compact was formed. California and Nevada adopted uniform standards which have since become Federal requirements. California's Lahontan Water Quality Control Board and Nevada's Bureau of Environmental Health are charged with policing and enforcement of the standard of zero pollution. To aid enforcement and fulfill Compact requirements, the Agency should adopt an Ordinance in support of the States' activities and, along with the States, assume responsibility for enforcement.

SHORE ZONE

A Shore Zone Study, classifying the area around the shoreline of the lake for 350 feet in each direction from the water's edge, has been completed. This study is similar in nature to the Land Capabilities Study, but takes into consideration other environmental factors more
identified with the shoreline and adjacent waters, such as fish, aquatic habitats, fish spawning areas and shoreline vegetation. In addition, considerable time and effort were spent in examining the visual and aesthetic aspects of the shoreline.

The problem of implementing this study by an ordinance regulating the construction, use and location of facilities, such as piers and breakwaters in the lake and the construction, use and location of on-shore buildings within the 350 feet adjacent to the water's edge, is a monumental task.

A shoreline ordinance was adopted in March 1972, including specific provisions for the protection of identified fish habitat and spawning areas. However, neither that ordinance nor the Regional Plan indicates where these areas are to be found. The Shore Zone Study identifies these areas and indicates the environmental tolerance levels for wildlife, vegetation and fish.

A revised shore zone ordinance has been prepared and is now in the process of going through information sessions and public hearings. Because of the long moratorium by the Agency on construction of new piers and repairs to existing piers, breakwaters, etc., an early resolution of the matter is most desirable. The Committee feels the subject is one that must be resolved and urges the continuation of information sessions, hoping that out of them will come, not only a better understanding of the objectives of shore zone protection, but a reasonable and equitable application of the proposed new ordinance.
SIGNs AND BILLBOARDS

Billboards are now prohibited under the Agency's land use ordinance. An ordinance on signs was approved in February 1973, but has not been implemented. There is a belief in some quarters that sign control is a local government matter. The Committee recognizes the merit of this contention, but only where satisfactory local ordinances exist and are being enforced. Uniformity in ordinance provisions is important to the end that all unsightly and improper signs be eliminated.

The Committee recommends that the Agency take appropriate action to see that proper sign ordinances are adopted by local governments and, if necessary, supplemented by an Agency Ordinance. From a practical point of view it would be best that enforcement rest in the hands of local government.

OTHER ORDINANCES AND REGULATIONS

The following specific Ordinances have also been adopted. As far as the Committee is aware, none are controversial, except when applied to a specific situation - a problem which will always exist.

- Subdivisions - adopted March 1972
- Grading - February 1972
- Timber Harvesting - April 1973
- Tree Conservation -
- Tree Removal -
- Land Fills - February 1972
- Excavations -
- Cuts and Grading -
- Harbors - March 1972
- Breakwaters -
- Channels -
- Waste Disposal from Shorelines -
- Waste Disposal from Boats -
Many of the ordinances speak to the problems of soil erosion and sedimentation. The Governing Body has authorized the Executive Officer to enter into a Sec. 208 contract, recently approved by California's Water Resources Control Board and by Nevada's Governor O'Callaghan. When completed, the study will supply material for amendment of existing ordinances and a plan for comprehensive control of water pollution sources within the basin as well as supplemental controls for erosion and sedimentation.

With respect to ordinances generally, the Committee wishes to call the attention of the Governing Body to the following:

a) The Compact is quite specific and places responsibility on the Governing Body to enact Ordinances and Regulations other than those mentioned in the Compact, if by so doing it will aid the fulfillment of Compact obligations.

b) Conditions change, and Ordinances, Rules, and Regulations should be subject to revision, if warranted by changed conditions.
COMMITTEE RECOMMENDATIONS

SECTION A - CONCERNS THOSE THAT REQUIRE COMPACT MODIFICATIONS.

FINANCING AGENCY OPERATIONS

REVISE ARTICLE VII TO REQUIRE ADDITIONAL SUPPORT FROM THE STATES OF NOT LESS THAN THE AMOUNT PROVIDED BY THE COUNTIES.

The operational needs of the Agency go far beyond those which were originally anticipated. The Compact limits the financial participation by local government. The Agency's operations will have to be curtailed and its performance impaired unless additional State assistance is available.

Without a detailed examination and audit, the Committee was unable to reach wholly satisfactory conclusions with regard to budget responsiveness to all Compact requirements. The current modest budget requires strict adherence to Compact mandated work. Administrative overhead on Federally sponsored research projects is being used to help meet budgets. The Committee gave special consideration to the many aspects of Agency financing. As an example, it recognized that with the exposure to inflation it was unwise to have frozen into the Compact any governmental agency participation in terms of dollars without some kind of an escalation provision. At the same time, it realized that the reasons why county governments desire to limit their contributions in what happens to the Tahoe basin is because what happens is a responsibility that extends beyond the counties, and thus a broader identified source of funds must be provided.
REVISE ARTICLE III, SECTION A TO PROVIDE FOR THE ADDITION OF TWO MEMBERS AT LARGE, ONE FROM EACH STATE, TO BE APPOINTED BY THE RESPECTIVE GOVERNORS.

The composition of the membership of the Governing Body of the Agency has continued to be a subject of major interest. When the Regional Agency was first conceived a decade ago the common denominator of discussion was who shall guide its destiny? The Bi-state Study Committee, composed of all facets of interest in the basin area, responded to the question when it unanimously recommended a Governing Body which would include six representatives of the public at large. The philosophical debates that followed, with emphasis on the retention of local government control along with political influences, resulted in the public-at-large representatives being reduced to two. The decision was reluctantly accepted by those who had sponsored the Regional Agency concept in the light of the very challenging desire to get something started and to make changes later, if appropriate. The Committee's view is that it is not only appropriate, but timely, that the Compact be amended to provide for four rather than two gubernatorial appointments—one additional for each State, to represent the public at large.

SIMPLE MAJORITY RULE

REVISE ARTICLE III, SECTION G TO PROVIDE FOR A SIMPLE MAJORITY VOTE, ELIMINATING THE DUAL MAJORITY PROVISION.

The basic principle on which the requirements of the Compact was written was that all areas of the Tahoe basin are interrelated and
many of the problems that must be resolved, including specifically those involving land use and planning, are indivisible. Members of the Governing Body, whether they be elected or appointed, sit in judgment on matters that are uniquely regional and, while their opinions are expected to reflect the views of their constituency, their vote should be guided by regional considerations. In such an atmosphere there is no need for a double majority rule.

PRESIDENTIAL APPOINTEE TO BE A FULL VOTING MEMBER OF THE GOVERNING BODY

REVISE ARTICLE VIII, SECTION 3 TO PROVIDE FOR THIS CHANGE.

The provision in Article VIII, Section 3 of the Compact that the Presidential appointee be a non-voting member of the Governing Body defies organizational understanding. In view of the major interests which the Federal government has in the basin area, increasing evidence of its desire to be helpful by the formation of a Federal Coordinator's Committee and the Tahoe Executive Council as a standing committee of the Natural Resources Regional Council and its contributing helpful financial aid, it is appropriate that the Federal voice be a participating one.

ENFORCEMENT

MODIFY ARTICLE VI (f) TO PROVIDE FOR SUBSTANTIAL PENALTIES FOR THE VIOLATION OF ORDINANCES.

The enforcement procedures and activities of the Agency have been inadequate. Enforcement by the local governments, with some exceptions, is and has been notably non-cooperative. There is also some concern that the present language of the Compact in Article VI (f) is not adequate.
Obviously, if there is no inspection by the Agency, or effective cooperation by the local governments, violations will not be spotted. It would, therefore, follow that compliance with Agency decisions and Ordinances depends upon a desire for enforcement and a staff adequate to police the area for violations.

Article VI (f) of the Compact should be modified to provide stiffer penalties for violation of any Ordinance, such as a substantial minimum fine plus other damages and other appropriate relief. The court may have such power under traditional equity doctrines, but perhaps this should be made explicit.

SECTION B - THE FOLLOWING RECOMMENDATIONS REQUIRE ONLY GOVERNING BODY ACTION.

FEDERAL POLICY

SEEK THE ESTABLISHMENT OF AN "UMBRELLA" FEDERAL POLICY FOR LAKE TAHOE.

In the Bureau of Outdoor Recreation Report, the Secretary of the Interior appropriately recognized Lake Tahoe as "a National Treasure." To supplement this assessment there is need of a cohesive Federal policy statement. The Federal agency establishment is composed of a set of discrete agencies which pursue separately broad objectives, dictated by independent legislation. The lack of an explicit Federal policy toward Tahoe makes effective Federal agency coordination difficult.

The Committee recommends the Governing Body, through appropriate channels, seek the establishment of a Federal policy.
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ARCHITECTURAL COORDINATION

IMPLEMENT COORDINATED ARCHITECTURAL REVIEW.

The key is cooperation with local architectural committees already established and encouragement of the establishment of similar committees for all communities in the basin. To be effective, the architectural review process should begin at the level of local permit issue before plans have been fully matured where a review of design and siting could be harmonized with other aspects of planning, development and construction. Basinwide review would help to provide minimum standards, common objectives and comparable practices to improve the quality of results, as well as the understanding of objectives. The Committee recommends the subject be referred to the Agency Planning Commission for appropriate implementing action.

AIR POLLUTION CONTROL PROGRAM

EXERCISE AIR QUALITY PLANNING AND CONTROL AUTHORITIES.

The Compact provides the Tahoe Regional Planning Agency with the authority and responsibility for air quality planning and control. With increasing evidence of smog in the basin, the Committee recommends that the Agency assume its responsibilities in this field as soon as possible.

GAMING

PETITION THE STATE OF NEVADA TO TAKE ACTION TO LIMIT GAMING TO THAT PRESENTLY OCCUPIED BY GAMING ESTABLISHMENTS.

The Committee recommends that the Governing Body of the Agency petition the Nevada State Legislature to act to limit gaming in the
Lake Tahoe basin to that land area presently occupied by gaming establishments.

**STATE COORDINATION FOR LAKE TAHOE**

SEEK COORDINATED STATE REVIEW.

The Committee recommends that the Governing Body of the Agency request the Secretary of the Resources Agency of California and the Director of the Department of Conservation and Natural Resources of Nevada to establish an ongoing working liaison for discussion and review of all matters which affect the States' interests in the Basin area.

**ASSESSMENT OF OPERATIONS**

CONTINUE PERIODIC ASSESSMENT OF PROGRESS.

The Committee recommends that the Governing Body of the Agency reconstitute an Ad Hoc group approximately every two years for the purpose of reviewing Tahoe Regional Planning Agency activities, goals; and policies and to make recommendations for appropriate changes.

**GENERAL OBSERVATIONS**

**ENFORCEMENT OF AGENCY RULES AND REGULATIONS**

TAKE POSITIVE ACTION TO ENFORCE ALL AGENCY DECISIONS.

While our Report includes a recommendation for the revision of Article VI (f), it seems important to emphasize the fact that the Compact provides in Article VI (b) for enforcement by the respective States, counties and cities, as well as the Agency, to police the region for full compliance with the Regional Plan and adopted Ordinances, Rules, Regulations and Policies. Enforcement, in the
Committee's view, has been erratic, both in enthusiasm and effectiveness, with considerable inconsistency in interpretation of local responsibility. Compliance remains a serious problem and, if not corrected, could preclude reaching the Compact objectives. The Committee accordingly recommends that the Agency take appropriate action to see to it that all Agency decisions are enforced.

**POPULATION PROJECTIONS**

**DEFINE PROCESS FOR POPULATION PROJECTIONS.**

The natural and manmade characteristics of the Lake Tahoe region, the Regional Plan itself, and the ingenuity of land developers make population projections a most difficult exercise. The Committee recommends that a more definitive means of population projections be devised and used.

**PUBLIC PARTICIPATION**

**ACCELERATE PUBLIC PARTICIPATION AND INFORMATION FLOW.**

The "public" interested in Lake Tahoe lacks information and understanding of the purposes, authorities and functions of the Tahoe Regional Planning Compact and the limitations of authority of the Governing Board. At best, the results of the planning effort cannot resolve the interests and expectations of all groups. A continuing major effort at broader public education, interest and participation is needed, if the Compact objectives are to be reached. The Committee accordingly recommends that the Governing Body request the staff to propose specific recommendations to implement such an objective.
CONCLUSION

The Governing Body and the public should know that our Committee has held many meetings, a number lasting a full day and several two days. Every phase of the Agency's activities has been reviewed. Our agendas contained many items on which, after full discussion, no recommendations, pro or con, are being made. Our primary attention has been directed to the unfulfilled obligations of the Compact as we assessed them.

With respect to our recommendations that require legislative action at State and Federal level, we are mindful of the delays that can take place, but are confident that, if the Governing Body acts with reasonable dispatch in endorsing proposals that require legislation and approves those that call only for their affirmative vote, a spirit of understanding will prevail and a desire to preserve the basic environmental, scenic and recreational values of the Tahoe basin will be emphasized and preserved - all in fulfillment of the responsibilities under the Compact. It is in this spirit, and with this understanding, that we respectfully submit our Report.

J. Allen Bray
James A. Winn

Raymond L. Knisley
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Roy B. Robinette
Peter D. Hannaford