TRPA
GOVERNING BOARD
PACKETS

DECEMBER
1982
PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM 9:40 A.M.

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV CONSENT CALENDAR

V SPECIAL REPORT - Federal Agency/TRPA Coordination Effort (R.S.) 10 M.IN.

VI SECOND READING OF ORDINANCE 30 M.IN.

Second Reading of Ordinance Amending the Land Use Ordinance to Allow Condominium Conversions on Nonconforming Properties

VII AGENCY REVIEW

A. Reconsideration of Prior Action, Jeff Robinson, Dwelling and Replacement of Nonconforming Coverage, Level 1B, Barrier Beach, City of South Lake Tahoe, APN 29-101-13, TRPA File #81110

B. Tom Pitts, Variance to Allow Unauthorized Nonconforming Pier, 8391 Kehlet Drive, El Dorado County, APN 16-081-431, TRPA File #81149 - LETTER OF INFORMATION - 30 M.IN.

C. Stanley Hiller, Appeal of Staff Decision to Reject Application for Multiple Use Pier, Variance to Allow Unauthorized Nonconforming Appurtenant Structures to a Single Use Pier, 6860 West Lake Boulevard, Placer County, APN 98-200-36, TRPA File #82319

D. Holiday Shores Commercial Condominium Conversion, 7276 North Lake Boulevard, Placer County, APN 89-143-15, TRPA File #82112

E. Tahoe Station Commercial/Professional Office Complex, State Highway 28 and Fabian Way, Dollar Point, Placer County, APN 93-160-44, -51, -52 and -53, TRPA File #82220

F. Caltrans, Upper Truckee River Bridge Widening, U.S. Highway 50, El Dorado County, TRPA File #821344

G. Joe Tveten, Replacement of Nonconforming Land Coverage, Meyers, El Dorado County, APN 34-321-13 and 12, TRPA File #821404

H. Titan/Con

I. Staff Rec.
VIII APPEALS

A. Lifschutz, Appeal of Staff Decision to Approve a Pier Repair, 740 W. Lake Boulevard, Placer County, APN 94-200-17, TRPA File #82261

B. Elegant/Buchbinder, Appeal of Staff Decision Pursuant to Lot Review Criteria, Lot 17, Block H, Geronimo Drive, Incline Village Unit #1, Washoe County, APN 125-232-14, TRPA File #82-1392

C. Sells/Lundahl, Appeal of Land Capability Review Team Determination, Washoe County, APN 123-021-02, TRPA File #81-1048

D. Gary Brand, Appeal of Staff Decision to Require an Amended Final Map to Transfer Additional Land Coverage to Lighthouse Shores, City of South Lake Tahoe

IX SPECIAL DETERMINATIONS

A. Determination on Applicability of Land Coverage Exemptions for Local Roads Under Case-by-Case Review

B. Application of Section 12.42(c) of Ordinance 81-5 to Public Projects, Transfer of Permitted Coverage from Lot or Parcel Within Same Watershed

X ENFORCEMENT

A. Show Cause Hearing - R. Butler, Single Family Dwelling, Grading on High Hazard Lands After October 15, 789 Burgundy Lane, Incline Village, Washoe County, TRPA File #81088

B. Reports

1. David Nelson, Status of and Recommendation on Unauthorized Tree Cutting Violation, 218 Canyon Circle, Douglas County, APN 03-171-22

2. Other

XI PLANNING MATTERS

A. Evaluation of Nevada-Side Case-by-Case Review Allowing Development on High Hazard Lands

B. Finalize Regional Plan Alternatives

C. Other

XII PUBLIC HEARING

To Amend California Side Land Use Ordinance Regarding Variance for Historically Significant Structures
XIII ORDINANCES

A. Reconsideration of Ordinance Adopted as an Emergency Extending the Case-by-Case Review Procedure to August 28, 1983

B. First Reading of Ordinance Amending the California Side Land Use Ordinance Regarding Variances for Historically Significant Structures

XIV ADMINISTRATIVE MATTERS

A. Appointment of Lay Members to the Advisory Planning Commission

B. Other

XV REPORTS

A. Nevada Department of Transportation, Erosion Control Study, U.S. Highway 50, Stateline to Spooner Summit

B. Executive Session

C. Executive Director Report

1. Interpretation of Shorezone Ordinance Regarding Repairs to Nonconforming Structures in the Shoresone

2. Classification of Zephyr Heights Subdivision to Potentially Adequate Status Pursuant to the Case-by-Case Review Ordinance

3. List of Projects Approved at Staff Level - NOTICE OF AVAL OF EIS FOR DILLINGHAM - TRAVELER'S CONVENTION CENTER

4. LAND CAPABILITY RE-CLASS. - WILL NOTIFY JAN. PUBLIC HEARING TO

D. Legal Counsel Report

E. Governing Body Members

F. Public Interest Comments

XVI RESOLUTIONS

XVII PENDING MATTERS

XVIII ADJOURNMENT

CONSENT CALENDAR

Approval of the following requires a finding of no significant effect and approval with conditioning and necessary findings.

1. Tabari/Cox, 15 Unit Apartment Complex, Mays Boulevard and Freel Peak Drive, Washoe County, APN 122-202-26, TRPA File #21170

2. Edgeking Venture, Administrative Permit for 2 Additional Dwellings Pursuant to a Specific Development Plan, Douglas County, APN 9-550-03-9 and 9-550-04-7, TRPA File #60100
Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

- Article III(g) Public Law 96-551
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

Vagabond Motor Hotel
Ski Run and Highway 50, South Lake Tahoe

October 27, 1982 10:30 a.m.
October 28, 1982 9:30 a.m.

REGULAR MEETING MINUTES

(Although the meeting had been noticed for 9:30 a.m. at the TRPA office, the meeting was relocated to the Vagabond Convention Center due to flooding in the Agency's meeting room because of a broken water heater on the second floor.)

I CALL TO ORDER AND DETERMINATION OF QUORUM

Chairman Bennie Ferrari called the meeting of the Tahoe Regional Planning Agency Governing Body to order at 10:30 a.m. Vice Chairman Norm Woods led in the Pledge of Allegiance to the Flag.

TRPA Members Present: Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Neikka, Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari, Mr. Morgan

TRPA Members Absent: Mr. Steele, Mr. Hall

II APPROVAL OF AGENDA

Executive Director Phil Overeynder advised of agenda modifications as follows:
1) The applicant for agenda item VI A. 1. (Wayne Prim, Final Approval of Parcel Map and Administrative Permit to Construct a Road, Washoe County) has requested a 30 day continuance in order to resolve questions with the fire department on road details; staff has advised property owners of the continuance and will continue to keep them informed of the time and place when the matter will be heard. 2) Mr. Buchbinder (agenda item VIII Appeals - Buchbinder/Elegant, Staff Decision Pursuant to Lot Review Criteria, Washoe County) has requested a continuance to the December meeting. 3) Staff is requesting a 30 day continuance of the Tom Pitts show cause hearing (agenda item IX A. 4.) in order to allow the applicant time to make application for a variance for the pier in question. 4) The Schumacher show cause hearing for a grading violation (agenda item IX A. 5.) should be withdrawn from the agenda since the matter has been resolved at a staff level.

MOTION by Mr. Jacobsen to approve the agenda as amended. The motion carried unanimously.

III DISPOSITION OF MINUTES

MOTION by Mr. Woods to accept the September 22, 23, 1982 regular meeting minutes as written. The motion carried on the following vote:

Ayos: Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Neikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Woods, Mr. Ferrari

Nays: None

Abstain: Mr. Jacobsen

Absent: Mr. Steele, Mr. Hall
IV CONSENT CALENDAR

Mr. Morgan pointed out errors in the Hunter/Barrow and King/Barrow summaries (items 1 and 2) on building heights. Associate Planner Jim Dana advised that the figures for proposed and permitted building heights had been transposed and should show that proposed height for item 1. is 12 feet and 34 feet for item 2.

MOTION by Mr. Kjer to approve the consent calendar items as corrected with findings and conditions. The motion carried unanimously.

V SPECIAL REPORT - Federal Agency/TRPA Coordination Effort

Mr. Bill Morgan advised that money is available to proceed with the first phase of the joint TRPA/EPA study to assess atmospheric nitrate loadings. The remaining issue to be resolved before commencement of the project relates to management of the project, and TRPA and EPA staffs will be meeting in the next week to resolve this so the program can get underway as soon as possible.

Mr. Morgan commented on the October 7 announcement from Zane Smith's office that the Lake Tahoe Basin Management Unit has concluded purchase of two parcels totaling 300+ acres under the Burton Santini Bill. Other acquisitions now in the pipeline will be coming forward every few days for the next few months. As these are resolved and options accepted and processed, announcements will be forthcoming.

VI AGENCY REVIEW

A. Agency Review and Certification of Finding of No Significant Effect

2. Rocky Point Subdivision/Ferrari, Classification as Man-Modified Area and Local Road Finding, Tunnel Creek Road Improvements, Washoe County, TRPA File #82202

Greg George, Chief of the Project Review Division, passed around photographs of Tunnel Creek Road and reminded the Board that the key issue in September when this item was discussed was a determination of man-modified areas under the Land Use Ordinance. The applicant has requested reclassification of the bench area of the road to man-modified status. The area in question totals 92,000 square feet. Because the proposed road improvements require 46,400 square feet of coverage and permitted coverage in the area is only 23,000 square feet, the applicant requests the compacted main travel way in blue (on the display) and adjacent areas to this travel way, totaling 55,647 square feet, be classified as existing coverage. To comply with coverage requirements, the applicant then proposes to replace this coverage under Section 9.21(3) of the Nevada Side Land Use Ordinance and to relocate it to an area currently not covered. The ordinance states that an administrative permit may be issued for a man-modified area only if the applicant shows and it is found that the land was man-modified prior to February, 1972 in such a fashion as to substantially alter the land's soil or geomorphic characteristics. The land capability review team and the staff cannot find that the grading done prior to February 1972 altered the geomorphic unit characteristics so substantially that the land exhibits characteristics of a lower capability district. The record is clear that the Board's intent in adopting criteria for recognizing man-modified areas was not
to include creation of roads as sufficient justification to alter a geomorphic unit. Staff cannot verify there is a total of 55,647 square feet of existing coverage on the bench area of the road.

The applicant contends that the new road will result in a net benefit to the environment. The team and staff agree that rehabilitation of the lower portion of the road in the vicinity of the Ponderosa Ranch is needed, and commitments presently exist between the owner of the Ponderosa Ranch and the Agency to make these improvements in lieu of enforcement action. Staff and the review team do not concur with the applicant that the existing bench area is man-modified nor that there is 55,647 square feet of existing coverage on the bench area of Tunnel Creek Road. Staff does not concur that, as required under Section 9.21(3), the relocation of coverage will protect the environment to a better extent than replacement on the original site. Based on this analysis, the staff cannot find the project is exempt from the prohibitions in Ordinance 81-5.

Mr. George presented a brief summary of the five issues of concern and the findings necessary for approval of the requests. If the Board does not determine that the bench area of Tunnel Creek Road is man-modified, the project cannot go forward since it is impossible to exempt the coverage for the proposed road improvements. If the request is approved, however, the applicant has two alternatives - either to proceed with relocation of existing land coverage or to request a local road finding. Approval of the road improvements would permit a portion of the Rocky Point Subdivision to be brought up to a "potentially adequate" standard as outlined in the 1981 case-by-case subdivision review criteria so that review can proceed on seven single family dwellings under this same case-by-case review criteria.

Discussion followed on improvements necessary to solve erosion problems on the lower portion of the road and the extent of improvements needed to insure maintenance of the road as access to upland areas for fire protection. Mr. Morgan, of the Forest Service, reminded the Board again that there were no National Forest lands serviced by this road, and the only commitment the Forest Service would have if fire would be as a cooperative fire fighting entity.

Mr. Stephen Mollath, representing the Ferrari family, distributed to the Board members a summary of his requests and pertinent issues, a summary from Dr. Skau on the status of Tunnel Creek Road, a letter from Pezonella Associates, engineers, and a letter from the North Lake Fire Protection District in favor of a 20 foot road width for fire suppression activities. The applicant contends that a road such as Tunnel Creek with its geomorphic conditions can be recognized as a separate unit which is man-modified under Sections 12.63 and 8.29. Once this is determined, the question of whether there is 55,647 square feet of existing coverage must be determined. The applicant contends too that Tunnel Creek is an existing local road under Section 8.25 of the ordinance. To mitigate any impacts, the applicant will commit $150,000 to fund offsite erosion improvements extending the total length of Tunnel Creek Road. Mr. Paul Ferrari presented a model of the proposed homes which would utilize a caisson-type of construction to place pillar foundations. Since the foundations would be placed from the roadway, no equipment would be used on the site. Shade tolerant plant species will be used under the houses should the existing manzanita not survive. Fire protection devices will be installed on the bottom of the structures. All lot slopes are less than 30%; the lots are 50 feet wide; the houses themselves
are to be 34 feet wide and 900 square feet in size; there will be 16 feet between houses.

Mr. Overeynder explained that the Board's action in April of 1981 found that a single family dwelling was a permitted and conforming use on each lot or parcel of record as of February 10, 1972, under Section 9.13 of the ordinance, as opposed to a "vested right". What has been done is to decide, from a zoning standpoint only, that each lot has that permitted use. In April, 1981, TRPA was conducting hearings on and later adopted a water quality plan which proved that there were substantial impacts from continued building of subdivisions and roads on high hazard lands. It was made clear to Mr. Ferrari when he was before the Board in April that the Agency was considering adoption of an ordinance which could prohibit construction on high hazard lands and which could potentially affect his land. The question now, however, is not assessment of the environmental impacts of the project but rather the compliance of the proposals with Agency regulations. Staff contends that as proposed they violate ordinance provisions. Because of the scale of the project an EIS as outlined in the Compact should be prepared. Staff is not prepared to address whether the road permit will reduce net pollution load entering Lake Tahoe. While the review team believes the road has caused modification of the environment, this modification does not fit the criteria set up in the Land Use Ordinance for recognizing "man-modified" areas.

There was discussion on Section 9.13 of the Land Use Ordinance; and Mr. Heikka suggested that, based on the evidence, he did not see that each of the lots in question was allowed, as a permitted use, one single family dwelling. The owners of record as of 1972 for each separate parcel have a legitimate building site and that right of use should not be taken away. There is a question whether this applicant acquired a series of parcels of record. Discussion followed on the Board's April, 1981 decision to find that each lot or parcel of record as of February, 1972 had the right to a single family dwelling.

Mr. Jim Bruner, from the League to Save Lake Tahoe, urged the Board not to approve the request to recognize the road as man-modified since it would set precedent for other roads in the Basin.

MOTION by Mr. Kjer to find that the bench area of Tunnel Creek Road is man-modified under Section 8.29 of the Nevada Side Land Use Ordinance.

Mr. Gregg Lien, for the Tahoe Sierra Preservation Council, suggested that recognition of this road as man-modified would not be precedential because it must also be found that the improvements would have a net beneficial environmental effect.

The motion failed on the following vote:

Ayes: Mr. Richter, Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Kjer, Mr. Ferrari
Nays: Mr. Sevison, Mr. Reed, Mr. Hsich, Mr. Stewart, Mr. Woods
Abstain: None
Absent: Mr. Hall, Mr. Steele
Mr. Overeynder explained that, as a result of the action, the application for recognition of portions of Tunnel Creek Road as man-modified had been rejected; since subsequent parts of the application rested on that determination, the effect is denial of the project. Simple paving of the roadway which staff views as existing land coverage could possibly be handled at staff level. The real issue is the Washoe County and fire department requirement that the road be 20 feet in width. Staff does not concur that the roadway has a 16 foot wide compacted surface; 12 feet is closer to what staff considers as existing impervious coverage. Reducing the proposed roadway to 16 feet would not satisfy all requirements. Additionally, the fire department has required a 65 foot radius turnaround for fire fighting equipment. Discussion followed among the Board members on continuing the application for 60 days, rescinding the previous action of denial, or reconsidering the application.

MOTION by Mr. Kjer to reconsider the Ferrari request. The motion failed on the following vote:

Ayes: Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Kjer
Nays: Mr. Sevison, Mr. Reed, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Richter, Mr. Woods, Mr. Ferrari
Abstain: None
Absent: Mr. Hall, Mr. Steele

Staff advised that the applicant could submit a revised application in compliance with the ordinances. Mr. Hsieh suggested to Mr. Ferrari that there was no guarantee that submittal of an application for a 16 foot wide road width would be given automatic approval.

MOTION by Mr. Meder to waive the filing fee should Mr. Ferrari submit a modified application. The motion carried on the following vote:

Ayes: Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Richter, Mr. Sevison, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh, Mr. Stewart
Abstain: None
Absent: Mr. Hall, Mr. Steele, Mr. Kjer (out of the room)

The meeting recessed from 12:25 p.m. to 1:30 p.m. for a lunch break.

3. McFarland Professional Building, 800 Southwood Boulevard, Washoe County, APN 122-222-43, -44, -45, and -46, TRPA File #82736

Mr. George presented the staff's summary on the proposal and explained that staff's concerns with this project were the site design, preservation of trees and provision for pedestrian access from the public right-of-way. Mr. Jeff Lundahl, for the project, suggested that staff's concerns with regard to screening from the street could be mitigated through landscaping and a condition on the project requiring landscape screening and maintenance of vegetation in the public right-of-way. The buildings are placed on the site to achieve maximum solar benefits and to melt ice on pedestrian walkways. There are high density residential units all around the project site, and the buildings as sited will actually provide open space benefits to these adjacent properties.
MOTION by Mr. Kjer to find that the McFarland Professional Building will have no significant environmental effect. The motion carried on the following vote:

Ayes: Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Hall, Mr. Steele

MOTION by Mr. Robertson to approve the McFarland Professional Building contingent on the proposal by the applicant to landscape and maintain the public right-of-way in a manner acceptable to the staff. The approval is granted with findings and conditions as outlined in staff's summary.

AMENDMENT proposed by Mr. Hsieh to approve the project with findings and conditions but with the buildings to be reoriented on the site as recommended by staff. The amendment failed on the following vote:

Ayes: Mr. Hsieh, Mr. Reed
Nays: Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Woods, Mr. Ferrari
Abstain: None
Absent: Mr. Hall, Mr. Steele

Mr. Robertson's motion to approve the project as proposed carried on the following vote:

Ayes: Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Hall, Mr. Steele

4. Yountchi/Lundahl, Retail Commercial and Office Building, 288 Village Boulevard, Washoe County, APN 122-282-25, TRPA File #81-1208

Associate Planner Jim Dana presented the summary on the proposed office building. Staff has similar concerns with this proposal as with the previous application and questions the proximity of the building to the property line and the Village Boulevard intersection. Washoe County has indicated that, to meet County regulations, the project must be moved back 10 feet from its present location. The County has no problem with the applicant providing vegetative screening in the County's right-of-way so long as it is maintained by the applicant. Should future road modifications be necessary, the vegetation would have to be removed. Additional conditions to be placed on the project would provide for the building relocation to meet County setback requirements applicable to Village Boulevard to be approved by TRPA staff prior to permit issuance and placement and maintenance of vegetative screening on the property line and in the County right-of-way subject to a plan to be approved by TRPA staff. Architect Jeff Lundahl, on behalf of the project, indicated he had no problem with staff's conditions.

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MOTION by Mr. Heikka to find that the Yountchi professional building would have no significant environmental effect. The motion carried unanimously.

MOTION by Mr. Heikka to approve the Yountchi professional building with findings and conditions as modified. The motion carried unanimously.

B. W. Belleville, Single Family Dwelling With 1980 Permit Status and Local Public Road Finding, Level 1A, Hubbard Road, Douglas County, APN 08-332-02, TRPA File #82330

Planning Assistant Nora Shepard presented the summary of the request for approval of a 2-story dwelling with a detached 2-story garage. The second story of the garage is to be a guest house. The application requires a finding that a guest house is a similar and appropriate use in General Forest. Also being requested is a local road finding. The parcel is 8 acres in size. The history of the project substantiating its 1980 permit status was presented. Staff recommends that the applicant provide a drainage and slope stabilization plan for the dwelling and pave and improve Hubbard Road (cut and fill slopes and infiltration of road runoff). The findings of similar and appropriate use relate to the character of the neighborhood and whether the guesthouse would have any adverse impacts. Staff feels that the finding can be supported. Mr. Belleville indicated concurrence with the staff's presentation.

MOTION by Mr. Kjer to approve the Belleville requests with conditions and findings as outlined by staff. The motion carried unanimously. (Mr. Sevison was out of the room; Messrs. Steele and Hall were absent.)

VII SPECIAL DETERMINATIONS

A. Interpretation of Section 9.13 Regarding Permitted uses in the General Forest Land Use District, Nevada Side Land Use Ordinance

Mr. George explained that the Agency has been interpreting this section of the ordinance (entitled "Single Family House on Pre-Existing Lots and Parcels") to mean that if the subdivision in question does not meet the tests of either substantial facilities or posting of performance bonds, a single family dwelling is not a permitted use on the lots contained in the subdivision, regardless of individual ownership patterns within the subdivision as of February 10, 1972. Board member Dick Heikka has suggested that the intent of this section of the ordinance was to recognize one single family dwelling as a permitted use on parcels of record within a subdivision recorded more than five years prior to February 10, 1972 even if that subdivision fails the test of substantial facilities or posting of bonds. A single family dwelling would therefore be a permitted use on a parcel of land described in a deed recorded as of February, 1972, even if such land is within a subdivision that does not meet the tests set forth in Section 9.13. Under this interpretation, if a person owned two or more contiguous assessor parcels or lots, only one single family dwelling would be recognized as a permitted use on the land area which was described in deeds recorded as of February 10, 1972.

Agency legal counsel Lou Doescher reminded the Board that copies of a confidential legal opinion from Gary Owen had been made available to them. Mr. Meder suggested the Board had no option but to go with Gary Owen's interpretation.
MOTION by Mr. Meder to find that the Board's interpretation of Section 9.13 of the Nevada Side Land Use Ordinance is set forth in Gary Owen's opinion.

Staff explained that should this opinion, which is similar to that outlined by Mr. Heikka, be accepted it would be the burden of the applicant to substantiate dates of record, ownership and purchase dates. On balance, staff would recommend Agency legal counsel's opinion even though Mr. Owen is not completely comfortable with the interpretation. Mr. Hsieh advised that he, too, did not feel comfortable with the interpretation.

The motion failed on the following vote:

Ayes: Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Woods, Mr. Ferrari
Nays: Mr. Reed, Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

The meeting recessed for 15 minutes while Board member and former Executive Director Dick Heikka explained the intent of the ordinance drafters in writing Section 9.13 to allow one single family dwelling on every lot or parcel of record as of February 2, 1972, regardless of the status of subdivision improvements. After the break and the explanation, Mr. Reed suggested that he had no further doubts and that Mr. Owen's opinion on Section 9.13 was correct. Mr. Hsieh asked that the matter be deferred so that legal counsel and staff could work on clearing up any remaining reservations about the interpretation and to assess the ramifications of the decision.

MOTION by Mr. Kjer to reconsider the interpretation of Section 9.13. The motion carried on the following vote:

Ayes: Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

MOTION by Mr. Meder to accept Gary Owen's opinion on Section 9.13 of the Nevada Side Land Use Ordinance as the official interpretation of the ordinance. The motion carried on the following vote:

Ayes: Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

B. Gary Sheerin, Rocky Point Subdivision, Block C, Lots 1-4, Washoe County, APN 055-345-01, TRPA File #81-1148, Status Under Section 9.13, Nevada Side Land Use Ordinance
In spite of the previous action on Rocky Point Subdivision and denial of Tunnel Creek Road improvements (agenda item VI A. 2.), Mr. Sheerin asked that the Board proceed with action on his request.

Mr. George explained that Mr. Sheerin wanted a similar finding for his four lots as was granted to Mr. Ferrari in April, 1981 - that a single family dwelling is a permitted use on each lot regardless of ownership patterns. Discussion followed on the elements analyzed by the Board to substantiate the existence of subdivision facilities, i.e. 8" diameter gas line, power and sewer lines. Mr. Heikka suggested that, while it did not appear that this was anything more than a paper subdivision, if the Board found that the lots fronting one side of the road were permitted one single family dwelling the same finding should be made for the lots on the other side of the road.

Mr. Overeynder reminded the Board that in July the Board denied Mr. Sheerin's request because the factual evidence presented to substantiate subdivision facilities was not the same as previously presented in Mr. Ferrari's application, specifically the gas line. Although it was then suggested that the intent of Section 9.13 was to recognize one single family dwelling for the group of lots in this case, it was recognized that there was a difference of opinion on the interpretation of Section 9.13. The Board directed that the matter come back after clarification of the ordinance.

Mr. Sheerin recounted the elements on which he based his contention that there were substantial facilities serving the subdivision: one-third of the subdivision was in; the highway was in; there were power and sewer lines; there was Tunnel Creek Road and a gas line in Tunnel Creek Road. Section 7.22 of the Land Use Ordinance (Permitted Uses in General Forest) provides that residential uses are not permitted except as set forth in Section 9.13. Section 9.13 indicates that one dwelling is permitted on any existing legal lot or parcel of record as of February 10, 1972 located in any district except Tourist Commercial or General Commercial provided this dwelling is proposed on a lot in a subdivision where there have been substantial facilities five years prior to 1972. The Board is saying that the subject lots 1-4 do not fit in that category; but applying Sections 7.22 and 9.13, there is a parcel, not four lots. Mr. Sheerin asked that the Board make a finding that one single family dwelling can be built on the parcel of record owned by him on February 10, 1972.

MOTION by Mr. Heikka to find that, in accordance with Section 9.13 of the Nevada Side Land Use Ordinance, a single family dwelling is a permitted and conforming use on Mr. Sheerin's parcel, subject to verification by staff that the parcel was of record as of February 10, 1972. The motion carried on the following vote:

Ayes: Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Hall, Mr. Steele

William Taylor, Rocky Point Subdivision, Block C, Lots 6 and 7, Washoe County, APN 055-345-03 and -04, TRPA File #82530, Status Under Section 9.13, Nevada Side Land Use Ordinance
MOTION by Mr. Heikka to find that, in accordance with Section 9.13 of the Nevada Side Land Use Ordinance, a single family dwelling is a permitted and conforming use on Mr. Taylor's parcel, subject to verification by staff that the parcel was of record as of February 10, 1972.

Mr. George explained that a problem could exist on future similar requests if the parcel is divided and sold after February 10, 1972. Only one piece of land is permitted the dwelling. It was suggested that this was a matter to be resolved by the applicant and was not a concern of the staff. In this case, if the total area in question (Lots 6 and 7) were under one ownership in February 1972, there is no problem. If, however, the total block was in one ownership as of the 1972 date, the property owners will have to resolve the problem among themselves. Mr. Sheerin explained that Mr. Taylor had acquired one of the lots in the late 1960's, the other a year later. The lots were under one ownership as of February 10, 1972.

The motion carried on the following vote:

Ayes: Mr. Sevison, Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Woods, Mr. Ferrari

Nays: Mr. Hsieh

Abstain: None

Absent: Mr. Hail, Mr. Steele, Mr. Reed (out of the room)

D. City of South Lake Tahoe, Status of Loop Road Extension Pursuant to the Tahoe Regional Planning Compact, as Amended

Mr. Overeynder explained that, pursuant to the City's presentation in September and the Board's direction, Agency legal counsel had prepared an opinion on the status of the Loop Road and completion of the City's project in view of the Compact prohibitions. The proposal is to extend Montreal Road to connect to the existing upper portion of the Loop Road. In reviewing similar street improvements proposed by the City, the Agency has looked at three criteria to determine whether the projects are prohibited under the Compact: 1) Does the project preclude long-range planning options? Staff does not feel this proposal for a 440' road extension would preclude future planning options. 2) Does the project significantly increase the capacity of the transportation system in conflict with the Compact directive to give preference to public transportation? This project could provide for redistribution of traffic currently using only the Highway 50 corridor. 3) Does the project increase dependency on automobiles or increase air pollution from automobiles? The FIP prepared by the City concludes that auto emissions would be reduced. Staff feels the only significant issue to be addressed is how the Loop Road should be tied into the transportation system. Given the fact that the Loop Road would likely be included in the ultimate transportation plan being analyzed, there are several alternatives: 1) to accept the City's proposal and direct them to complete necessary environmental documents including looking at the Loop Road configuration and mitigation measures; the City would be making decisions on how the Loop Road would connect to the overall transportation plan and would proceed with completion of the EIS pursuant to Compact requirements; 2) to acknowledge the City's request for a specific determination and to give favorable consideration to inclusion of the Loop Road as an element of the regional transportation plan; TRPA would maintain lead role in determining exactly what
kinds of measures are necessary to make the Loop Road a functioning complete system as part of the EIS; or 3) to find that the Loop Road is prohibited until adoption of the transportation element of the Regional Plan and request the City to submit its application at that time. Agency legal counsel's opinion would preclude TRPA from taking action on the specific Loop Road project prior to adoption of the regional transportation plan. Staff would recommend adoption of the second alternative. Under this alternative, the time schedule would coincide with the City's current plans and construction could take place after May 1, 1983.

MOTION by Mr. Reed that the Loop Road shall be included as a sub-element of the transportation plan. TRPA staff is directed to complete a project EIS in cooperation with the City of South Lake Tahoe and other interested parties and make it a part of the EIS for the transportation plan.

City Manager Richard Milbrodt advised that the City had completed the draft EIS on the Loop Road a year ago. It needs updating and a second consultant would be retained to bring the EIS up to date. Mr. Reed's motion would allow the City to go forward with the assurance that there would be a project at the end of the planning process and would permit the City to proceed with acquisition of rights-of-way. Mr. Reed suggested that his motion would tie the proposal into the transportation process and would make TRPA the lead agency. TRPA will take the City's EIS and add to it if necessary. The motion does not give precise project details because this would be in conflict with the Compact.

Mr. Overeynder clarified that the intent was for TRPA to take the lead role in preparing the EIS pursuant to the requirements of the Compact to address the Loop Road; this would be a project EIS. Staff's suggestion was that the EIS would address the overall transportation system. Mr. Reed explained that the Loop Road was to be considered a sub-element of the transportation plan, and as a sub-element the staff could focus on it with a project-like EIS. This would be done in conjunction with the normal EIS on transportation patterns and circulation. The Loop Road is to be a specific sub-element with a specific EIS to be included as a part of the EIS for the whole transportation plan. Mr. Doescher suggested that Mr. Reed's motion, although worded differently, would coincide with Agency legal counsel's interpretation.

The motion carried unanimously.

E. G. Towle/J. Rogan, Finding of Vested Right, Fourplex, Tahoe Village Unit 1, Douglas County, APN 09-032-22 through 09-032-25, TRPA File #62-1320

Mr. George presented the summary of the request to construct a fourplex in Tahoe Village Unit #1 on a high hazard lot in a subdivision recorded prior to the creation of TRPA. The only residential construction that can be approved on high hazard lands is one single family dwelling per lot under the case-by-case review procedure, but the applicant seeks a vested right to continue with the fourplex which has been in the planning stages. There currently is no foundation, but utilities have been installed to the building site. The applicant does not yet have a building permit and work that was done was in reliance on a permit issued by the Kingsbury General Improvement District for installation of sewer and water lines. Total expenditures by the applicants, excluding the purchase price, have been $21,367.
Mr. Kjer advised that TRPA in 1971 had sent a letter to Douglas County stating that Tahoe Village #1 was outside of the Basin and therefore outside of TRPA's jurisdiction; the County and this applicant have relied on that interpretation. Mr. Reed suggested that, in view of the circumstances, the Board could consider equitable estoppel. Mr. Doescher commented that, while it did not appear Mr. Towle had a vested right, he would like to see the letter to which Mr. Kjer referred. If Mr. Towle relied on this letter and statements by Douglas County and the staff to his detriment, he may be able to proceed.

MOTION by Mr. Reed to continue the Towle matter one month to allow the applicant to submit more information to Agency legal counsel for a legal opinion.

Mr. Towle advised that he had not relied solely on the letter from TRPA; he had put almost $70,000 into the project and had relied on statements from the County's office in Minden, Kingsbury GID, and the homeowners association for Tahoe Village #1. All have advised that the lot in question was out of the Basin and that Tramway Drive was the border between the Basin and the Valley. Mr. Reed suggested that the applicant detail in writing all of his reliances. Architect William Curtis, from the audience, commented that he had a project in the same area and had had the same representations made to him.

The motion carried unanimously. (Mr. Heikka was out of the room.)

In view of the problems with keeping a quorum for two days in November, Chairman Bennie Ferrari advised that the November meeting would last only one day, the 17th. The Board members also discussed the need for a workshop on the Regional Plan. (Although November 8 was set as a date for the workshop, this was cancelled later in the meeting.)

IX  ENFORCEMENT

A.  Show Cause Hearings

1.  D'Allesandro/List, Violation of Condition of Approval, Washoe County, APN 125-511-23, TRPA File #81896

Planning Assistant Nora Shepard advised the Board that the subject dwelling had been approved in February, 1982 as a 1960 status permit with a condition that the foundations be hand dug due to the steepness of the site and the critical nature of the lot. In July, 1982 staff discovered construction had commenced, and heavy equipment had been used on the site. Slides taken in early August of the disturbed site were shown. In view of the irreparable environmental damage done to the site, staff recommends that a $5,000 payment be made to the Agency in lieu of civil action. The $5,000 figures comes from the Compact.

Mr. Bob Angres, attorney for Mr. D'Allesandro and McKenzie Builders, concurred that a violation had taken place but advised that the builders had started the project without a set of approved plans on the site. The earth-moving equipment that was brought in was used immediately to build corrective trenches and not originally for the foundation. After issuance of the red tag, McKenzie Builders hand dug the foundation at a cost of $4,000 and two weeks of work and purchased
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a $6,000 winch so that future foundations could be dug from the road without having to trespass onto the site. Staff concurred that the contractors had been very cooperative. Mr. Overeynder suggested that, irrespective of the applicant's good intentions, the damage on the site was irreparable and additional offsite work should be performed towards which a fine would be applied. Every effort to insure compliance with conditions of approval is taken on these projects, including a signed postcard to be returned to TRPA by the contractor stating he agrees to abide by the conditions of approval.

MOTION by Mr. Stewart to find that there has been a violation of the conditions of approval on the D'Alessandro dwelling. The motion carried unanimously.

MOTION by Mr. Jacobsen that the applicant (Mr. D'Alessandro) be required to repair the damage on his site and put the property back to a condition acceptable to the TRPA staff.

SUBSTITUTE MOTION presented by Mr. Reed that the applicant be fined $1,000.

AMENDMENT proposed by Mr. Kjer that the applicant be fined $500.

Mr. Doescher suggested that $5,000 was the maximum fine a court could impose. If $1,000 is approved by the Board but is unacceptable to the applicant and the matter goes to court, Agency legal counsel does not want to be bound to go in seeking only the $1,000. If the Board authorizes litigation in this matter to collect the fine, it is recommended that counsel be allowed to collect the maximum fee subject to the judge's decision.

Mr. Kjer agreed to add this to his amendment. The amendment for a $500 fine failed on the following vote:

Ayes: Mr. Kjer
Nays: Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Woods, Mr. Ferrari
Abstain: None
Absent: Mr. Hall, Mr. Steele

Mr. Reed agreed to accept Mr. Doescher's recommendation with regard to litigation into his amendment to fine the applicant $1,000. The amendment carried on the following vote:

Ayes: Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Woods, Mr. Ferrari
Nays: Mr. Heikka, Mr. Kjer, Mr. Jacobsen
Abstain: None
Absent: Mr. Steele, Mr. Hall

2. Craig Ewald, Unauthorized Tree Cutting, 642 Inspiration Drive, Zephyr Heights, Douglas County

Environmental Investigator Steve Chilton advised the Board of a tree cutting violation on a lot in Douglas County. It appears the seven trees were cut for view enhancement and neither the homeowner, who lives out of the area, nor the
reality company trying to sell the house claim to know anything about the tree cutting.

MOTION by Mr. Richter to find that there has been a tree cutting violation on the Ewald site. The motion carried unanimously. (Mr. Jacobsen was out of the room.)

MOTION by Mr. Heikka to authorize TRPA staff and legal counsel to proceed with appropriate legal action against those responsible for the Ewald tree cutting incident. The motion carried unanimously. (Mr. Jacobsen was out of the room.)

3. South Shore Marina, Noncompliance With Conditions of Approval, City of South Lake Tahoe

Board member Norm Woods advised that since his contracting firm had done work in the area of the South Shore Marina he would not participate in discussion or action on this matter.

Mr. Chilton showed slides of the marina and recommended that since the marina owner is in the process of rectifying the nonconformance, through removal of stored equipment and a revegetation program, no action need be taken.

The meeting recessed at 5:05 p.m. to Thursday, October 28.

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Thursday, October 28, 1982

Chairman Ferrari called the meeting back to order at 9:40 a.m.

TRPA Members Present: Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison (present at 10:00 a.m.), Mr. Robertson, Mr. Reed (present at 10:10 a.m.), Mr. Jacobsen, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari, Mr. Morgan

TRPA Members Absent: Mr. Steele, Mr. Hall

Mr. Hsieh advised the Board that he had been able to collect $5,000 in support of Proposition 4 to acquire Lake Tahoe lands in California. Passage of this proposition is just as important as the threshold standards and should be supported on election day.

Since a quorum was not present at 9:40 a.m., the Board and staff took up report items which did not need specific Board action.

XIII REPORTS

A. Finance Committee Report

1. Cost of Living Salary Adjustments

Mr. Overeynder advised that the Finance Committee had recommended this matter be continued one month. Chairman Ferrari directed the matter be placed on the November agenda.
2. Other

Copies of a September 27, 1982 letter from Wagstaff and Brady to Tom Hsieh concerning the visual quality index study were distributed to Board members.

Adoption of the 1983-84 preliminary budget will be on the agenda next month.

B. Executive Session - none

C. Regional Plan Steering Committee Report

Mr. Overeynder advised that there would be a Regional Plan Steering Committee meeting on November 4.

D. Executive Director Report

1. Lahontan Water Quality Control Board, Existing Parking Lot Erosion and Drainage Control Program

Mr. Overeynder summarized the program being undertaken by Lahontan to correct drainage problems on parking lots in the South Shore Y area. Of concern last month was the regulatory rather than voluntary nature of the program which proposes issuance of discharge requirements and cease and desist orders to accomplish the goals of the program. The APC was concerned that this approach may counteract voluntary compliance. Mr. Woods explained that the concern of the property owners was the nonconforming coverage on the properties and the fear that compliance with the program would necessitate removal of nonconforming coverage. Staff advised that so long as the coverage is to replace existing compacted surface there is no penalty involved. The property owners must verify, however, that the areas were compacted as of February, 1972. If the compacted areas were created unlawfully after February, 1972, there may be a problem. The projects themselves and review of planting, visual impacts, and traffic impacts can be handled at a staff level because of the Governing Body's recent direction. Mr. Heikka asked that the projects, at least preliminarily, come to the Board to insure that adequate safety, visual and site planning features are incorporated into the proposals. It should be noted, too, that entrances off the highway into these parking lots may be a feature of a future transportation or transit system. Mr. Overeynder advised that Caltrans would have to grant encroachment permits and would be looking closely at traffic circulation.

Mr. Woods asked that the staff send a letter to Lahontan suggesting that the approach of the program be voluntary. Mr. Heikka asked that proposed projects be reviewed by the Governing Board. Mr. Overeynder suggested that, instead of handling the projects at staff level, the projects be brought to the Board to make sure that compliance with the ordinances is achieved; a letter would be sent to Lahontan along the lines of alternative #2 in staff's written report in support of a voluntary program.

2. Interpretation of Shorezone Ordinance Regarding Repairs to Nonconforming Structures in the Shorezone

The item was continued to November.
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3. List of Projects Approved at Staff Level

Mr. Overeynder explained the procedure being employed to approve projects at a staff level. All such projects are reviewed by a staff member who then meets with the Executive Director in a joint review of each application. A summary is kept in each file showing conformance with the Agency's requirements, and proper notices are sent to affected property owners in all cases.

Mr. Sevison came into the meeting at 10:00 and a quorum was present.

E. Legal Counsel Report - none

Mr. Overeynder advised the Board and the public that in conjunction with the CTRPA and Mr. Ron Nahas, the developer of Tahoe Station, a draft EIS has been released on the proposed commercial development. A public hearing will be held before the APC and certification will be placed on an upcoming Board agenda.

XII PLANNING MATTERS

A. Regional Plan Issues and Strategies

Mr. Randy Sheffield, Chief of the Long Range Planning Division, made copies of the two page newspaper insert available to the Board members and audience. Nine of the ten public meetings have been held; these will aid staff in identification of issues and concerns which the public may have and will allow the public to suggest strategies or ways of solving or addressing these issues. Attendance has ranged from 8 to 30 participants at these hearings. The goal at this stage of the process is to have an EIS available in January for final approval in March. From that point to June the Board will be dealing with implementing ordinances. The Steering Committee will discuss in more detail the concept of the plan at the November 4 meeting to be held in the Barton Memorial Hospital board room across from the Agency's office on South Street.

With regard to the concept for development of the policy plan portion of the Regional Plan, staff has identified "planning areas" within the Basin which are similar in character, development or intensity of use and use zones which should receive special management emphasis. These include conservation, outdoor recreation, residential, tourist, and commercial services and facilities. The options being looked at for each planning area are no development, development with mitigation, redirection of development (redevelopment) and finally the preferred alternative.

There was concern expressed that a joint Governing Board and APC workshop on the Regional Plan at the APC's November 10 meeting might be difficult with so many people involved at one time. Mr. Woods commented that the APC did have a valid concern that the Board not discuss or take action on any Regional Plan direction without first having given the APC an opportunity to comment.

B. Nevada Department of Transportation, Preliminary Erosion Control Study, Highway 50, Stateline to Spooner Summit

Senior Planner Gary Shellhorn advised that the preliminary erosion control plan from the Nevada Department of Transportation (NDOT) had been received for TRPA
comment prior to preparation of a final plan for Board approval. Staffs from the Forest Service, Douglas County, SCS and TRPA have met with NDOT to discuss technical problems, and while the program has been estimated to cost $8 million to implement, NDOT has not identified any source of funding for its completion. Mr. Heikka suggested that staff offer any assistance in obtaining the necessary funding. Mr. Morgan commented that Nevada was eligible for $500,000 per year of Forest Highway Funds as determined by the Highway Department, the Forest Service and the Federal Highway Administration. The ground rules for appropriation of these funds require that the project be related to uses on National Forest lands. Since this stretch of highway does pass through National Forest lands, the erosion project may qualify for consideration.

Mr. Woods asked that the same consideration given to public entities be given to private individuals when they have difficulty in raising funds to complete erosion control projects on private properties. Chairman Ferrari directed staff to send a letter to NDOT offering the Agency's assistance in obtaining financing for the program. Mr. Morgan asked that a copy of the letter be sent to Zane Smith, the Regional Forester in San Francisco; staff advised that all Board members would receive copies of the letter. Additionally, staff will work with NDOT to resolve remaining concerns on the impact of runoff on private properties out of the public right-of-way and the visual impact of proposed erosion control facilities.

X   PUBLIC HEARINGS

A. To Consider Amendments to Ordinance 81-5 Extending the Case-by-Case Review Procedure to August 28, 1983 (continued hearing)

Mr. Doescher apologized for not having more copies of the draft ordinance available for the public's review.

One problem being faced is that the terms of Ordinance 81-5 with regard to review of case-by-case applications terminates on November 30. Should the Board have first reading of the ordinance today, second reading cannot occur for four weeks, and November's meeting is only three weeks away. The Board can adopt the ordinance as an emergency today (only on a unanimous vote), consider adoption of it as an emergency in November, or have first reading today and second reading in December. Mr. Overeynder advised the Board that, subsequent to last month's meeting where there was some confusion on the Compact deadlines and the compromise to extend the case-by-case review procedure into 1983, the staff determined after talking with Board members involved in the negotiated extension that amendments to Ordinance 81-8 (Agenda Item X B.) to extend provisions limiting issuance of building permits are not necessary at this point in time.

Mr. Overeynder then presented a summary of the proposed amendments which would, in a new Section 12.14, provide for reclassification of a definitive portion of a subdivision through implementation of a specific improvement program. A simultaneous application can be taken on the individual lots in these specific areas for case-by-case review. Staff does not feel it was the Board's intent to permit a single lot in a subdivision to be upgraded but rather a discreet hydrologic area. A new Section 12.24, entitled "Limitation Upon Number of Permits", would set forth the procedure for determining how many permits can be issued under the case-by-case procedure until its August 28 expiration date.
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With regard to reviewing a discreet hydrologic area rather than a single lot, Mr. Heikka suggested that the Board be given flexibility to review these depending on the circumstances. Staff explained that the current wording does allow this but suggested that language be added to Section 12.14 that the Governing Board would have to "find that the area under consideration constitutes a significant and definitive portion of a drainage". A later applicant applying in the same drainage area can be required to participate in the improvement program.

Mr. Larry Hoffman, Tahoe Sierra Preservation Council, asked for clarification of the number of permits which could be issued between May and August of 1983. It was agreed that on May 1, 1983 and until adoption of the Regional Plan there were no regulations which now would prohibit issuance of capability level 4-7 permits. Mr. Jim Bruner, from the League to Save Lake Tahoe, asked that copies of ordinances being considered by the Board be made available to the public for review prior to the public hearing. With regard to limitless issuance of permits in capability levels 4-7 after May 1, 1983, it is the League's understanding that the number of permits allocated under the Compact for the first third of 1983 would be the total number of permits permitted until adoption of the Regional Plan, or August 28, 1983. The League would also prefer to see upgrading of an entire subdivision rather than 2 or even 10 lots.

Mr. Woods cautioned that it be very clear in everyone's mind how permits are to be handled by May 1, 1983. There is not enough sewer capacity available on the South Shore for the numbers of permits that could be applied for. This should be addressed and decided in advance.

C. To Consider Amendments to Ordinance 4 to Allow Condominium Conversions on Properties Containing Nonconforming Density and Land Coverage, to Review the Nonconforming Replacement Restrictions Pertaining Thereto and to Consider Other Related Matters

Mr. Kjer objected to the requirement in the proposed ordinance for dedication by lakefront property owners of land for public access and for a finding that any condominium conversions will not impact low cost housing. Mr. Overeynder explained the background of the ordinance amendment and advised that the draft before the Board members was a joint effort between TRPA and CTRPA staffs and legal counsels. These two particular issues of concern have been incorporated into the ordinance at the request of the CTRPA, but the TRPA Board can delete them if it so chooses. Concern was expressed by Mr. Woods on the unreasonable disclosure requirement by the applicant in the sale, lease or transfer of such condominium units.

Mr. Larry Hoffman questioned the applicability of the ordinance to conversions currently "in the pipeline". The ordinance interpreting the Compact's prohibitions specifically exempts conversions of existing structures under certain conditions. This ordinance goes far beyond addressing only the problem of conversions and will likely not be treated as an interim regulation. Mr. Overeynder commented that the ordinance did not address just properties with nonconforming coverage; the problem being addressed with these amendments surfaced as a result of density regulations which, in most cases with these old motels, are being violated. The concern is how to handle reconstruction of units that burn down when there was a preexisting condition of nonconforming

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density. Which unit owners have the right to rebuild? The question is one of consumer protection.

No action was taken.

D. To Consider Amendments to the 1981 Case-by-Case Lot Review Criteria Pertaining to Land Stability

Mr. Overeynder gave a brief presentation on the reason for this agenda item reminding the Board that in April the staff was directed to place on the October agenda consideration of modifications to the land stability criteria for review of case-by-case applications. As a first step in evaluating the effectiveness of the case-by-case review process to date, staff is preparing a detailed analysis of the process and conducting field investigations for presentation to the Board in December. Staff will also be evaluating offsite mitigation and the cumulative impacts from development on high hazard lands and will be developing correlation coefficients which will identify if there is a relationship between the degree of hazard on the slopes of the sites in question and what is observed downstream in terms of increased runoff and nitrate loadings in the Lake. Finally, staff will be looking at the effects of erosion. National research currently available shows that the erosion hazard increases for slopes in excess of 30%. Mr. Heikka suggested that rather than using 30% as the cut-off point for determining whether an application can even be reviewed, the Agency should accept a range of 28 to 32% slopes so that the Board would have some discretion.

Mr. Hoffman suggested that in considering these impacts the Board should have some idea of how many lots are involved. The existing standards may be precluding development on several thousands of lots.

In view of the fact that staff would not have its analysis of the effectiveness of the case-by-case program until December, Chairman Ferrari directed that the public hearing on modifying land stability criteria be continued to January.

XI SETTLEMENT OF LITIGATION AND RELATED MATTERS

A. Dillingham Development Company, City of South Lake Tahoe

Prior to discussion of this matter, Board member Norm Woods advised that he and Board member Tom Stewart, although residents of Tahoe Keys, would have no conflict of interest in taking part in this discussion since the properties in question have no direct effect on property owners in the Tahoe Keys area.

Agency legal counsel Lou Doescher set forth for the Board members the specifics of the partial settlement agreement with which the CTRPA and the City of South Lake Tahoe are in accord. The League to Save Lake Tahoe apparently is also in agreement with the settlement. Parcel 1 of the five owned by Dillingham would be optioned to the City for $1 to be utilized by the City to develop low cost housing. If the 26 unit subdivision proposed on another of the parcels is for some reason not able to proceed, the property optioned to the City would revert back to the owner. By entering into this agreement, TRPA makes no approvals on
development on Parcel 1. A shopping center is proposed on Parcel 2 and this agreement provides approval by the Governing Body for that development. There is language in the agreement which provides that the staff and Governing Body consistent with an EIS can look at the specific development plans. On Parcel 4, there will be a 26 unit subdivision, a reduction from 86 units. The agreement provides that this development will not become a reality unless it is included in the Regional Plan or, if not included, receives approval under normal project review procedures. Should this approval not be given, the matter is essentially back in a litigation posture. Dillingham must be notified by May 1, 1983 if the 26 unit development will be included in the Regional Plan.

Mr. Ken Bley, attorney for Dillingham, explained that the original date for notification that the 26 units would or would not be a part of the Regional Plan was January 1, 1983. This date was subsequently moved to May 1 in recognition of the time needed to complete the Regional Plan details. It is requested that the TRPA staff be directed to consider this proposal somewhat early on in the planning process so that by May 1 it will be known if the development will be included in the Regional Plan. Mr. Overeynder concurred with this suggestion.

Mr. Doescher explained that Parcel 5 would be retained as green area to be deeded to the Forest Service or a public entity. Mr. Jim Bruner commented that the 26 units were not a part of the settlement but subject to Regional Plan and ordinance requirements.

MOTION by Mr. Woods to approve the Dillingham partial settlement agreement as presented and authorize the Chairman to sign it. The motion carried unanimously.

B. Bitterbrush Subdivision, Washoe County

Chairman Bennie Ferrari excused himself from participating in either discussion or action on this matter because of pending litigation involving Bitterbrush and Washoe County.

Executive Director Phil Overeynder brought the Board members up to date on efforts made since the last meeting to sort out general issues with regard to the proposed settlement between TRPA and the Bitterbrush developers. One block to settlement has been outside interests; staff has therefore contacted the Incline Village General Improvement District, Bitterbrush Unit #1 homeowners, the Nevada North Tahoe Property Owners Association and the League to Save Lake Tahoe to find out what their posture would be with regard to settlement of the proposal. The goal is to reach a settlement without its being challenged.

A letter has been submitted from Stewart White on behalf of Bitterbrush #1 homeowners outlining their concerns.

Vice Chairman Norm Woods suggested that there were not enough Board members present at this meeting to settle the matter and it should perhaps be put off to another meeting. Mr. Reed agreed but suggested that agreement on a settlement appeared close. If the substantial sums being offered can be worked on with the adjacent property owners and others to resolve their ultimate use, an agreement can be worked out. Mr. Neikka asked that the offer be outlined for the Board members present.

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Mr. Overeynder explained that, as presented previously, revegetation would occur and all runoff would be detained on site. Different from last month's discussion are the proposals to accept an offsite mitigation payment for three-quarters of a million dollars to be used for construction of offsite erosion control programs to offset an amount equal to 150% of increased erosion from the site and to acquire additional property in the watershed which would reduce coverage to less than 20%. With these factors and the disturbed site, staff feels that the Agency could argue effectively that the developer is in compliance with case-by-case review requirements. In terms of being in conformance with the ordinances, these proposals if implemented would bring the project as close as reasonably possible to the ordinances, given the site characteristics. Another issue of concern and an element of the settlement is reduction in density. Last month the proposal was for 167 units; this month the proposal is for a minimum of 185 units. The additional 18 units were based on identifying a second tier of downhill units which would cause the most problems. These were previously eliminated, but staff feels the sites may not be suitable for complete rehabilitation. One hundred eighty five units is a physical limitation existing on the site. The developer wanted these additional units to provide more offsite mitigation and more erosion control. The developer agrees to winterize the site, provide an EIS and to stay within the allocation of building permits. This is the proposal which, in staff's opinion, goes a good way toward resolving the problem. The access problem would be discussed in terms of resolving the external concerns. Since the County has been offered dedication of Styria Way, staff proposes that the County be provided funds for maintenance of the road, and the County accept, at its discretion, dedication of that road. The County has indicated it will only do so if it becomes a question of public health and safety.

On the access question, Mr. Tom Hall, attorney representing Bitterbrush, suggested it would be his client's proposal to allow use of the $750,000 offsite mitigation fund as a pool of funds to solve access problems on Styria Way. Mr. Hall then presented a brief history of the Bitterbrush project, particularly the litigation relative to the access problems with Bitterbrush Unit #1. Mr. Stewart White, representing Bitterbrush #1 homeowners, urged the Board to pursue the appeal suggesting that the Board could always reach a settlement in this matter at any point during the appeal process.

Mr. Terrence Fennessey, representing Leroy Land Development, suggested that, as part of the settlement, the developer would take the improvement plans approved in 1980 and update them to meet staff requirements on runoff and water retention on the site and provide for extensive revegetation including those units to be eliminated. The biggest new factor in the proposal is the offsite mitigation package. What is being proposed is upfront funding in the amount of $750,000 to be used as the Agency sees fit. Of major concern to all parties involved is stabilization of Ski Way slopes. Also proposed is the funding for the purchase of other lands to reduce coverage effects of this project. With regard to the reduction of density to 185 units, staff and the developer toured the site and identified 18 sites that could be rehabilitated. The rest of the sites have been disturbed to the extent that the elimination of units would not solve any impervious surface problems because of the extent of disturbance. The proposal goes on to reaffirm the intent to winterize the site in conformance with Agency direction.
One important element of the settlement is building permits. The developer is willing to prepare an EIS to address all the concerns. This will require 90 to 100 days to prepare for presentation to the Board. In the meantime, it is important to come to a decision today because the developer wants to approach Washoe County to ask they issue building permits conditioned upon final settlement agreements and upon acceptance of the EIS by the Governing Board. The County can then issue permits from the 1982 allocations so that Bitterbrush can take advantage of these permits which will go to waste December 31. The County can issue permits even if TRPA does not take action today but time is necessary to prepare all the paper work and to back up the permits with the approved conditions. If action is not taken by TRPA until the November meeting, there may not be adequate time by the end of the year to accomplish the permit work.

Mr. Heikka commented that a settlement appeared to be close at hand. The matter could be settled. What is suggested is that the developer think in terms of setting in motion the framework for obtaining the permits and the possibility of the Litigation Committee getting zeroed in on a solution to bring back to the Board for approval. It was suggested that the Litigation Committee meet before the November 17 meeting. Mr. Reed asked Mr. White and Mr. Frank Payne (Nevada North Property Owners Association) if they were opposed to a settlement. Both indicated they were not.

In making a brief statement, Mr. Payne concurred that he would have no objection to settling out of court and would not sue. On the other hand, however, the Board should be aware that other property owners wish to build but are precluded from even being considered because the Agency's rules and regulations prohibit consideration of anything proposed on lots with slopes exceeding 30%. The settlement is close. The Nevada North Tahoe Property Owners Board of Directors would like TRPA to approve this but give single family dwelling owners the same consideration.

Mr. Doescher summarized the status of litigation relative to settlement proceedings and court requirements. The Ninth Circuit Court will likely not grant an extension beyond November 12 since its previous order states that further applications for extension would be viewed with disfavor. It is requested, however, that the Board find there are enough Board members present today who believe the matter will be settled and a motion to that effect be made so that an extension can be requested of the Ninth Circuit Court.

MOTION by Mr. Reed that the matter be continued to the next meeting to a time certain, on the grounds there is substantial likelihood of settlement.

Mr. Reed asked that this be further put into writing. Mr. Doescher advised that on that basis he would have minutes of the action available as soon as possible for submittal to the Court. Mr. Hall requested that the terms of the settlement not be presented to the Ninth Circuit Court. Mr. Doescher agreed; only the motion would be submitted.

The motion carried unanimously. (Messrs. Hall, Steele and Ferrari were absent.)

Discussion followed on a time certain for consideration of the matter at the November 17 Governing Body meeting and it was agreed to place the matter on the agenda for 10:00 a.m. It was also agreed that the Litigation Committee would
continue its discussion to 10:00 a.m. on Monday, November 1, 1982 at the Tahoe City Public Utility District offices in Tahoe City, California.

XV ORDINANCES - First Reading

A. Amendments to Ordinance 81-5 to Extend the Case-by-Case Review Procedure to August 28, 1983

MOTION by Mr. Richter to approve the first reading of the proposed ordinance amendments with new language as proposed by staff for Section 12.14. The motion carried on the following vote:

Ayes: Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Woods, Mr. Ferrari
Nays: None
Abstain: None
Absent: Mr. Reed, Mr. Hall, Mr. Steele

XIII REPORTS

G. Public Interest Comments

Mr. John Reily spoke to the Board on the increasing number of skiers in the United States. According to a recent study there are now 19 million skiers in this country, up 8% from 1979.

XVII PENDING MATTERS - none

XVIII ADJOURNMENT - The meeting adjourned at 12:15 p.m.

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (916) 541-0246. Copies of staff summaries and pertinent information relative to projects and reports presented to the Governing Board are available for review at the TRPA office, 2155 South Avenue, South Lake Tahoe, California.

Respectfully,

[Signature]

Julie D. Frame
Administrative Assistant
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

November 17, 1982
9:30 a.m.

REGULAR MEETING MINUTES

I CALL TO ORDER AND DETERMINATION OF QUORUM

Vice Chairman Norm Woods called the meeting of the Tahoe Regional Planning Agency Governing Body to order at 9:30 a.m. and advised that Chairman Bennie Ferrari would be arriving at 10:00 a.m. It was noted that Paula Nelson was representing Carson City and Bill Combs was representing Placer County.

TRPA Members Present: Mr. Stewart, Mr. Kjer, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Hall (present at 10:30 a.m. during discussion on Bitterbrush litigation), Mr. Heikka, Mr. Hsieh (present at 10:00 a.m. during agenda item IV), Mr. Meder, Mr. Woods, Mr. Ferrari (present at 10:55), Mr. Zane Smith (present for a portion of the morning session; Mr. Bill Morgan sat in as Mr. Smith's designee for the remainder of the meeting)

TRPA Members Absent: none

II APPROVAL OF AGENDA

Executive Director Phil Overeynder advised that Mr. Larry Hoffman, representing Jeff Robinson, has requested a 30 day continuance of the reconsideration of prior action on a dwelling and replacement of nonconforming coverage (agenda item VI A. 3.). Mr. Mike Van Waagenen has asked for a 30 day continuance on the Austin/Jensen dwelling and local public road finding (agenda item VI B.); however, Mrs. Austin is present from Florida and the matter should remain on the agenda until the continuance can be discussed with her.

Staff recommends that the show cause hearing for Tom Pitts unauthorized pier construction (agenda item VIII A. 1.) be withdrawn since the issue can be resolved through submittal of an application for a variance in December. A request has been received to remove from the agenda the show cause hearing for the David Nelson unauthorized tree cutting matter. Staff recommends against this. A similar request for a 60 day continuance has been received from Raymond Vail & Associates on the Solari show cause hearing (item VIII A. 3.); staff does not feel there is adequate evidence to withdraw the matter.

MOTION by Mr. Stewart to approve the agenda as amended (removing items VI A. 3. and VIII A. 1.). The motion carried on the following vote:

Ayes: Mr. Stewart, Mr. Kjer, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Heikka, Mr. Meder, Mr. Woods
Nays: None
Abstain: None
Absent: Mr. Hall, Mr. Hsieh, Mr. Ferrari
III  CONSENT CALENDAR

Mr. Steele asked that item 3 (Maffley/Kaufman boundary line adjustment) be placed on the regular agenda.

Associate Planner Jim Dana pointed out that the coverage figures in the Stiltz-/Barrow 4 unit condominium parcel map summary (item 2) should be amended to show that proposed coverage is 6,249 square feet (not 6,349 square feet).

Mr. Overreynder advised the Board that item 4 (Tabari/Cox 8 unit apartment complex) is withdrawn from the consent calendar agenda.

MOTION by Mr. Stewart to approve the consent calendar as amended. The motion carried unanimously.

IV  SPECIAL REPORT - Federal Agency/TRPA Coordination Effort

Mr. Zane Smith advised the Board that the Postal Service is continuing to make progress on alternative ways to provide mail service, and the consultant on the project is ready to submit an environmental impact report which will contain options and alternatives. Upon the Postal Service's review of this document, formal response will be submitted to TRPA. The next step is to meet with TRPA staff and the Postal Service to reach an agreeable arrangement, after which the Postal Service will issue an environmental statement. It appears that most of the options which would be responsive to all concerns would carry with them the requirement for a new central postal facility, i.e. a new main post office.

With regard to the atmospheric nitrogen deposition study, EPA and TRPA staffs have met and reached basic agreement for TRPA to take the lead in the study. EPA has offered $75,000 in grants for the work, and the California Air Resources Board will also contribute $30,000 to $40,000 toward the study.

VI  AGENCY REVIEW

A.  Agency Review and Certification of Finding of No Significant Effect

Maffley/Kaufman, Boundary Line Adjustment, Meeks Bay, El Dorado County, APN 16-410-10, TRPA File #821228 (item 3 on consent calendar)

Board member Dwight Steele explained that he had requested this item be placed on the regular agenda because of concerns relating to nonconforming coverage and creation of a "new" parcel. Planning Assistant Nora Shepard explained that the net effect of approving the request was a boundary line adjustment. The applicant intends to split a parcel and consolidate one portion with an existing Forest Service parcel. The application was processed through El Dorado County and the CTRPA as a boundary line adjustment. Staff recommends that the adjustment be subject to parcel acquisition and consolidation with an adjacent Forest Service parcel. Agency legal counsel Lou Doescher suggested that, while this was a close call in determining whether there was creation of a new parcel, the Board's concern in this instance might be that there would be a net beneficial result and no precedent was being set because of the circumstances. If there was a concern in this regard, the Board could find that, because of the specific facts in this instance, this is not creation of a new parcel but a boundary line adjustment and is subject to the Forest Service taking title to
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the property over which the line has been moved. It was also pointed out that should the Forest Service not acquire the property in question the boundary lines would stay as they currently exist.

Ms. Leah Kaufman, K.B. Foster Engineering, briefly explained the intent of the proposal and advised that the lands being acquired by the Forest Service were primarily stream environment zone and capability level 1A lands. The remaining property will have the allowable coverage.

MOTION by Mr. Steele to approve the Maffley/Kaufman boundary line adjustment, the finding of no significant effect and the condition of approval as set forth in the staff summary. This approval is based on an additional finding that this action does not create a new parcel but is simply a boundary line adjustment. The motion carried unanimously.

XIV RESOLUTIONS

Mr. Overeynder advised the Board that Congress would soon be considering appropriation bills which would affect the Burton-Santini acquisition program for FY 1983. Discussion followed on adoption of a resolution for transmittal to the subcommittee considering the appropriations. Mr. Zane Smith suggested that one subcommittee would be marking up the bill on Thursday, November 18. Normally, there is then a period of time lapse before the recommendation goes to full committee. It is critical to have positive action from the subcommittee. Vice Chairman Norm Woods directed staff to draw up a resolution in support of the appropriation for consideration by the Board during the afternoon session.

(Mr. Hsieh, Mr. Ferrari and Mr. Morgan were present for the following item.)

V SETTLEMENT OF LITIGATION AND RELATED MATTERS

Bitterbrush Subdivision, Washoe County

Mr. Overeynder reminded the Board that in October, because a settlement agreement appeared close at hand, the staff and litigation Committee were directed to continue meeting with Leroy Land, the Bitterbrush developers. Mr. Overeynder presented a brief summary of the project's background and physical layout. One major concern was the large amount of land coverage on very sensitive sites in areas with slopes of approximately 40% and the lack of provision for on-site water retention. Because of the proposed coverage on the site, all water was carried off at key points to Incline Creek, accelerating erosion downstream. The settlement now proposes to provide for on-site water retention measures to minimize erosion forces downstream. Not currently a part of the project is on-site revegetation. The site as it now stands is significantly disturbed, and no bonds have been posted with TRPA or Washoe County to insure revegetation. The proposal would provide for up to $40,000 in revegetation funds. To mitigate impacts of coverage, $750,000 is proposed to be used for different offsite mitigation projects, i.e. energy dissipators before discharge of water to Incline Creek, stabilization of slopes along the frontage of Fairview Boulevard and Ski Way according to BMP's, and construction of a secondary access to Bitterbrush via Tyrol or Styria; there currently is only one 20 foot wide access to all of the units in Bitterbrush 1, 2A and 2B off of Fairview. The $750,000 would also be used to acquire additional lands in the Incline Creek Watershed to bring the land coverage down to 20%. There are 10 properties in the area which,
if acquired, could jointly or individually satisfy this requirement. With these funds, Bitterbrush would also propose to incorporate any additional mitigation measures identified in the EIS as necessary to offset the project's impacts. The current density of 203 units will be reduced to 185 by deleting 13 downhill, second-tier units not permanently disturbed; these will be reclaimed. It is the developer's wish to be able to take advantage of the 1982 building permit allocations for Washoe County.

Still of concern to staff is provision for adequate secondary access to all of the Bitterbrush units. The agreement provides for this access either via Tyrol Drive and Styria Way or through the Bitterbrush project common area, provided however, that if secondary access cannot be provided as a result of TRPA or third party action, the provision is waived. Staff does not feel this provision is worded strongly enough. Attempts to achieve secondary access through agreements with the Tyrolian homeowners have so far proved unsuccessful. A second alternative provided for the same point of access but for Washoe County to accept dedication of Styria Way. On November 16, however, the Washoe County Commissioners denied the petition to dedicate the roadway and directed Bitterbrush and Tyrolian Village to work together on their differences. A third alternative was to set up a funding mechanism to allow this secondary access to occur but with final resolution to be worked out between the property owners and the County. The CC&R's would assess Bitterbrush Unit 2 for continued maintenance of the roadway so that, should Washoe County later accept the roadway, there would be a funding program to ensure its maintenance. Although staff agrees in concept with all mitigation measures, there is still concern over use of the $750,000 to solve the secondary access problem.

Mr. Lou Doescher advised the Board that a continuance had been granted by the Ninth Circuit Court until December 17, and it was hoped that the agreement could be more specifically tied down and vagueness eliminated. One problem concerns the specifics of the security and the payment of the $750,000 in mitigation monies. The TRPA lien on each of the 185 lots is subordinate to any existing and future encumbrances against the property, which places TRPA in a tenuous position insofar as any security is concerned. Additionally, the agreement as drafted does not provide that the lien will have within its terms a "due-on-sale" clause. If, for some reason, the units are rented or not sold, even a due-on-sale clause will not be meaningful because no mechanism is present to activate TRPA's receipt of the money. If, for any reason, the project is foreclosed, TRPA's interest can, again, be done away with. The same is true if any future or present encumbrances foreclose; TRPA's security is gone. If a creditor down the road forces Jeroy Land into bankruptcy, TRPA will be a part of that because of the Agency's lien rights; the purchase of additional property to bring coverage down to within the 20% permitted would then be in jeopardy.

Mr. Heikka suggested that, in his review of the proposed agreement, the lien concept does not put TRPA in a position to protect the public interest in the future; whatever is agreed to should run against the land and not against the developer. There should be some assurance up front that all mitigation measures and costs will be guaranteed, no matter what happens to the developer of the property. There should also be a guarantee that the secondary access will be constructed to protect the safety and welfare of not only those people purchasing these units but of those already living in earlier phases of the development. TRPA and the developer should also look at alternate access points and part of the $750,000 should be used to help achieve that.
Mr. Doescher advised that, while he felt the chances of succeeding on the appeal were good, there was a chance the judge could find in the developer's favor on vested rights because of the long history of approvals. A court may very well decide that the "building permit standard" does not apply in this type of case. Mr. Tom Hall, attorney for Leroy Land, concurred this situation was unique from a vested rights standpoint. It is hoped that all vagueness can be eliminated from the agreement and a crystal clear contract agreed to so there will be no misunderstandings down the road. The developer is willing to work on a guarantee for the funds and on a time frame for paying the money. It is agreed that once a unit is completed and ownership is transferred, the lien would have to be discharged at that time. It is suggested that at the time the engineers, TRPA staff, and Washoe County approve offsite mitigation and at the time Leroy Land has engineered estimates for the costs, Leroy will post a letter of credit to make sure construction is completed. Once the letter is posted, the money would be discharged for the lien. This would be for all mitigation construction projects (i.e. energy dissipators, slope stabilization on Ski Way, on-site water retention) - everything except the land purchase, essentially. With each additional phase of units, more money will be released to be applied to the acquisition. That money cannot come up front. If secondary access is approved, Leroy would post a letter of credit funding that construction. Placing the road above the Incline Village GID water tank, as suggested by Mr. Heikka, is not a viable alternative; the only viable alternative brings the road over the Incline Village GID property in the northeast quadrant of the project.

Rather than spend more time on the matter at this point, the Board directed that the Litigation Committee, Leroy Land, Mr. Hall, and the staff work together over the lunch break to resolve remaining concerns and bring the matter back in the afternoon at 1:30 p.m.

VI AGENCY REVIEW

A. Agency Review and Certification of Finding of No Significant Effect

1. Wayne Prim, Approval of Parcel Map and Administrative Permit to Construct a Road, Eagle Drive, Incline Village, Washoe County, APN 126-251-30, -31, and 032, TRPA File #81-1246

Greg George, Chief of the Project Review Division, presented a summary of the request and advised that Agency legal counsel had reviewed the parcel map relative to the prohibitions in the Compact. New subdivisions or parcel maps are prohibited unless complete approvals from all entities having jurisdiction were obtained prior to December 19, 1980, the effective date of the Compact. Agency counsel has determined that prior to this date the parcel map had not received all necessary approvals, specifically approval from the Nevada Division of Forestry, the Washoe County Engineer and the Washoe County Commissioners. The parcel map is therefore prohibited under the Compact and Ordinance 81-8 interpreting those Compact prohibitions. If, in fact, the parcel map is prohibited and cannot be approved by TRPA, there is no necessity for the road. Staff has rereviewed the impacts from the road construction based on the fire department's requirement for an 80' diameter cul de sac and the proposal for 12 foot high retaining walls and has determined that the road would result in significant impacts. Staff recommends denial of the road. Chairman Ferrari advised that 12 letters were on file from various nearby property owners opposing Mr. Prim's application.
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In making a determination on the legality of the proposal, legal counsel took into account the facts that one year had elapsed between the time TRPA staff signed the parcel map and submittal of the road application; the applicant has submitted new information as recently as October, 1982 which constitutes a substantial change in the application; the Washoe County Commission's action is discretionary and the final action has not been taken; and the Incline Village GID's approval of the parcel map has been revoked. Mr. Doescher added that the problem with finding that the map is vested is that there is no signature from the Washoe County Commission on the map. The map is therefore not final under the Compact or the ordinance. Chairman Ferrari advised that in Washoe County the Parcel Review Committee reviews a parcel map and makes a recommendation to the Commissioners who have final approval authority.

Mr. Ron Alling, Manoukian, Scarpello & Alling, representing Carol Mehrten, presented a history of the parcel map since its original submittal to Washoe County on September 3, 1980. On September 12, 1980, the Washoe County Parcel Review Committee rendered its approval conditioned on certain items. Under Nevada Revised Statutes an approving body can delegate that authority to another body, which the Commissioners did in this case. Prior to the effective date of the Compact, Washoe County engineer Larry Bogdon asked that TRPA staff review and approve the proposed road construction due to TRPA's expertise. The applicant then came to staff in an effort to accommodate Washoe County and asked for concurrence on the road's configuration. Staff indicated the road could not be built because of the upcoming Compact and to wait until after that had occurred. All seven conditions placed on the parcel map have now been met and the only remaining issue is whether the map falls under the exception set forth in the Compact. The County Commissioners previously designated approval authority to the Review Committee (chaired by the assistant county engineer) and the Committee approved the map subject to clarification of seven items. Mr. Ferrari advised that the final approval authority rested with the Commissioners; the parcel map had never received this necessary approval.

Mr. Gino Menchetti, on behalf of nearby property owners, suggested that the Board could deny the request based alone on the fact that the required approval from the fire department had not been received until 30 days ago. All previous approvals were "contingent approvals", not final approvals. Additionally, if the Board wants to work within its recently adopted environmental thresholds, it should not be creating new parcels and additional development impacts.

Chairman Ferrari advised that he had telephoned John MacIntyre, Washoe County Manager, and had been informed that at no time has the Washoe County Commission delegated authority for final approval of parcel maps to the Review Committee.

MOTION by Mr. Steele to find that there is no vested right for the subject parcel map.

Mr. Doescher suggested that the intent of the Compact and the ordinance was not to vest maps which had conditions unfulfilled at the time of the Compact's effective date. Also the Board previously determined that a parcel map is considered a "new subdivision" for purposes of Compact interpretation.

The motion carried unanimously. (All members were present.)
Discussion followed on the checklists being used by Mr. Alling and Mr. Doescher itemizing the approvals necessary for the parcel map and the status of compliance with previously-set conditions, specifically the waiving of the Nevada Division of Forestry approval. Mr. Alling's checklist was dated 1980; Mr. Doescher's was dated 1978. Chairman Ferrari directed that the matter be continued until after lunch and the discrepancies resolved.

The meeting recessed for a lunch break from 12:00 to 1:30 p.m.

After the lunch break, Mr. Doescher advised that, even though he and Mr. Alling were looking at different checklists, the fact remains that the Commission had not approved the map as of December, 1980. It is understood that the Washoe County Commission has discretionary authority and final approval of any changes to the map. That being the case, there is no way the parcel map comes within the exceptions outlined in Section 3.10 of Ordinance 81-8.

MOTION by Mr. Steele to deny, or disapprove, the parcel map as it does not come within the exceptions in Section 3.10 of Ordinance 81-8.

Mr. Alling suggested to the Board that his client had never submitted an application for the road. Additionally, the staff has noticed the matter on the agenda for a party not involved in the matter (Mr. Prim).

The motion carried unanimously.

Staff asked that the Board now take action on the road application which had previously been submitted to the staff by Mr. Prim. Mr. Alling asked that any applications before the Agency at this time be withdrawn.

V Settlement of Litigation (continued) - Bitterbrush Subdivision

Mr. Tom Hall presented the revisions to the litigation settlement worked up during the lunch break. Essentially the settlement agreement would be modified and extended to provide the following: the $750,000 mitigation fund is retained; an EIS statement will be prepared as set forth in the agreement on the engineered design of offsite mitigation projects including the energy dissipators, the cut slopes and secondary access through the Bitterbrush project. Upon an engineer's estimate, Leroy will post an irrevocable letter of credit for those three offsite mitigation projects in the amount of $250,000 toward the energy dissipators and cut slope and an additional $100,000 letter of credit for road construction. The road is to be commenced to be constructed at the time the 51st unit is commenced to be constructed. The agreement will be submitted by joint stipulation to the District Court and will become a judgment that will be recorded against the properties, running with and binding the land. The payment of the balance of the mitigation fund, the remaining $400,000, will be under the deed of trust, payment to be at the release rates set forth in the agreement at the time of sale or permanent financing of the individual units. Leroy has an option on the access if it becomes difficult, impossible or too expensive to build, whereby the $100,000 letter of credit can be used for the access through the Bitterbrush project along with part of the mitigation fund to assist either Tyrolian Village Homeowners Association or Washoe County in providing access through Styria Way, Tyrol Drive and Ski Way. If Leroy utilizes the $100,000 in agreement with Tyrolian or the County, future owners of Bitterbrush units will be obligated
through assessments to incur up to 50% of the maintenance costs of those streets.

Discussion followed on the mechanics of the settlement and the ability to insure funds would be available for the acquisition of the 22-25 acres necessary to meet coverage requirements. The letters of credit Leroy will post after design and acceptance of the offsite mitigation will be at Leroy's cost. The $400,000 that's secured by letter of credit will be by deed of trust without carrying charges. Offsite mitigation will begin in 1983 and the units will start in 1984 with the hope of perhaps 50 plus units a year. With regard to purchase of open space, there are approximately 10 parcels identified in this area which could be analyzed for acquisition. It was felt that a designated agency would be able to get a better purchase price than Leroy. Mr. Carlyle Hall suggested tying up lands now to keep prices at a more stable level for the future acquisition program - through the Trust for Public Lands or other charitable trusts. Staff's recommendation is to accept the proposal and to delegate the responsibility to staff and legal counsel to work out final details.

MOTION by Mr. Heikka to approve staff's recommendation - with a comment that under the circumstances this is the best of a bad situation. The motion is made with the provision that Mr. Reed be authorized to sign the settlement on behalf of the Agency as a member of the Litigation Committee.

Mr. Stewart White, for Bitterbrush Unit #1 homeowners, expressed concern that the secondary access be built and asked what the course of events would be should an impasse be reached on the settlement agreement at this point. Mr. Heikka suggested that if there was no agreement under the outlines of the motion "it is a given that it is on appeal". Discussion followed on the time for agreement of the settlement. Chairman Ferrari suggested that the agreement be agreed to and signed by Mr. Reed within seven days. (See the final page of these minutes under Legal Counsel Report for a modification of this term.)

Agency legal counsel Lou Doescher reminded the Board that there was still a concern with the lien concept which is now being treated as a deed of trust. It will still be junior to present encumbrances and to future construction loans, renewals of construction loans and the like. There is still a risk involved of which the Board should be aware.

Mr. Kjer questioned the $400,000 to be paid at the time of sale of the properties and not at the time of obtaining the permit. Ms. Nelson suggested there would have to be a due date on the note. Mr. (Tom) Hall indicated the settlement is phrased such that as the units are sold the funds will become available to the Agency. The agreement is secured by the deed of trust. The notes are without interest and without cost. It was suggested that there should be a timeframe within which the monies have to be made available to acquire land.
As part of the motion Mr. Heikka asked that the agreement include a provision that the money is due and payable upon permanent financing, sale or one year after final on each and every unit, whichever is soonest. The motion carried on the following vote:

Ayes: Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Woods

Nays: Mr. Kjer

Abstain: Mr. Ferrari

Absent: None

2. Jean Seifert, Single Family Dwelling on a Lot Containing an SEZ, 513 Sugar Pine Drive, Washoe County, APN 122-116-02, File #82734

Planning Assistant Ken Small explained that this application proposes a dwelling on a lot originally mapped as a capability level 4 with no SEZ. An on-site inspection has shown the lot to be a level 1 lot with 56% slopes dropping down into an SEZ. The applicant was advised by staff in May of 1981 that any building on the lot would have to take place out of the SEZ or buffer strip. The lot has since been redelineated in the staff-initiated land capability challenges and the maps will be presented to the Board for approval in January, 1983. Mr. Hsieh cautioned against approving a house on such a steep slope without having professional experts do testing of the site for the correct type of foundation.

Staff recommends approval of the application in this case because of the administrative record and reliance on the part of the applicant on a 1980 staff letter on the buildability of the site and the subsequent representations by the staff. This is the only remaining lot in the area falling into this category of lots.

Mr. Paul Ocheltree, architect for the applicant, advised that the actual slope of the building pad is 30%. The site would be helped considerably by construction of the house due to the disturbance on the site with construction of a nearby road and installation of an 18" culvert that drains from the street. All drainage from the building will be infiltrated by drains into underground dry wells. There will be little disturbance of the natural vegetation because of the hand dug pier foundation.

MOTION by Mr. Kjer to find that there will be no significant environmental impact with construction of the Seifert dwelling.

Mr. Reed asked that the motion be clarified to state there is justifiable reliance on the part of the applicant on the staff’s advice and the Board is taking action on a capability class 4 lot rather than a class 1 lot.

Mr. Kjer agreed to add this to the motion. The motion carried on the following vote:

Ayes: Mr. Reed, Ms. Nelson, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Woods, Mr. Ferrari

Nays: Mr. Hall, Mr. Hsieh, Mr. Steele

Abstain: None

Absent: None
MOTION by Mr. Kjer to approve the Seifert dwelling with findings and conditions as outlined in staff's summary and with an additional condition that the applicant have a qualified soil engineer conduct a soil analysis of the site to ensure proper foundations are built. The vote is based on the applicant's reliance on staff's representations on the buildability of the lot and on the lot as a capability class 4. The motion carried on the following vote:

Ayes: Ms. Nelson, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Reed, Mr. Woods, Mr. Ferrari

Nays: Mr. Hall, Mr. Hsieh, Mr. Steele

Abstain: None

Absent: None

4. City of South Lake Tahoe, Bike Trails from the Y to Tulare Avenue, TRPA File #82300

Mr. George presented the summary on the City's 12,000 foot long bike trail which would generally parallel Highway 50 on the north side from the Y to Edgewood Circle where it would connect with an existing bike trail. The specific alignment of the trail and alternatives analyzed by the City were described. If certain findings are made and conditions approved, the staff recommends certification of the City's EIR prepared under CEQA as the EIS required under the Compact and approval of the project. One staff condition would require that within two years the City shall present a report on the feasibility of relocating the portions of the bike trail located within the SEZ as part of its redevelopment proposal. Proposed coverage is 40,800 square feet; 18,000 square feet of that is in level 7; the remainder is within the SEZ. Within four years, the City shall implement a relocation plan as approved by TRPA. Mr. Woods suggested that the City's redevelopment plans at this point were pure conjecture and the City should not be straddled with a condition to relocate a portion of the bike trail four years in the future. It is not known at this time if the City could meet that condition. It was pointed out that the City could come back to the Agency in the future with a request for a change in the time limits if it became necessary. Also the bike trail could be relocated outside of a redevelopment proposal. The City staff felt that attempting to acquire additional rights-of-way out of the SEZ were too time consuming and would take at least two years. The City staff has indicated that within two years they would know if redevelopment would be feasible or whether acquisition of right-of-way was feasible. This leaves flexibility to go either way.

There was discussion on the staff's condition #6 requiring that a proposal for 150% offsite mitigation be presented to TRPA and incorporated as part of the project to offset fill and coverage placed in the Upper Truckee/Trout Creek Watershed. Mr. Tim Oliver, City Engineer, advised that Lahontan had already accepted the 1 to 1 mitigation ratio. Caltrans is putting up the money for the project and revegetation, and there is a concern with meeting the 150% requirement. Mr. Woods expressed concern that additional mitigation fees were being charged for a project that, in itself, was a mitigation of traffic and circulation problems along the Highway 50 corridor. Staff advised that the difference between the 100% and 150% offset could be accepted in the form of a project Caltrans would fund from the $2 million available for erosion control funds in the Tahoe Basin. Mr. Morgan suggested that the City and other public entities have their projects viewed in sum total over time along with their net beneficial effects rather than looking at each project on a case-by-case basis. There
should be a credit/debit ledger system established for such projects whereby at periodic times the City or public entity can use funds to provide watershed benefits possible with certain monies to be used to offset impacts of a project such as this. In this case, staff would suggest that Caltrans use funding for an additional project to offset any erosion by 150%.

MOTION by Mr. Woods to approve the bike trail project with findings and conditions as outlined by the staff but with the 150% offsite mitigation figure changed to 100%.

Mr. Reed suggested that condition #8 regarding relocation of a portion of the trail should the City proceed with its redevelopment program did not accomplish what was intended. Staff pointed out that there were other options for relocating the trail should the redevelopment plan not proceed, i.e. obtaining easements to put it onto existing fill areas. Mr. Reed suggested that if redevelopment affects location of the trail the condition should be worded that relocation of the trail will need review by TRPA, or, if in the meantime the City acquires an easement so the trail can be relocated, TRPA should approve that as well.

Mr. Woods restated his motion to certify the EIR for the bike trails prepared pursuant to CEQA requirements as the EIS required under the Compact. The motion carried on the following vote:

Ayes: Mr. Hall, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Steele, Mr. Swackhammer, Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Woods, Mr. Ferrari

Nays: None

Abstain: Mr. Combs

Absent: None

Mr. Combs advised that he had voted against the motion because he had not had an opportunity to review the EIR.

MOTION by Mr. Woods to approve the project with findings and with conditions as outlined (Attachment I) and finding that changes or alterations have been required or incorporated into the project which avoid or reduce the significant adverse environmental effects to a less-than-significant level. A modified condition 8 shall read as follows: in the event the City initiates a redevelopment proposal which affects the location of any portion of the bike trail, the relocation should come back before the Board for approval; or in the event the City acquires an easement that will allow relocation around the stream zone, the Board shall also approve that. Condition #6 is changed to show offsite mitigation in the amount of 100%, not 150%.

Mr. Overeynder advised that it was staff's feeling in discussions with the City that it was not possible to make necessary findings with regard to protection of the environment and exhausting of all other feasible options without the proposal to construct a temporary facility. Within some reasonable time period the City would either pursue redevelopment or relocation of the trail up onto the existing fill slope behind the two areas in question. Staff would like to see some time limit put on the second part of this condition so that if redevelopment is not pursued in this area, there would be some attempts at obtaining easements so the trail can be placed outside of the SEZ. Mr. Oliver advised that property owners
in this area have previously denied easements; the City does, however, have the right of eminent domain.

Mr. Woods asked that a limit of four years for initiation of a redevelopment program or relocation of the bike trail be incorporated into condition 8. The motion carried unanimously.

B. Austin/Jensen, Single Family Dwelling, Review Pursuant to 1982 Case-by-Case Review Criteria, Finding of Local Public Road, Level 1, Yellow Jacket Road, Douglas County, TRPA File #82217

MOTION by Mr. Woods to continue the matter 30 days as requested by the applicant. The matter would be brought back as a Special Determination as outlined by staff. The motion carried unanimously. (Mr. Hall was out of the room.)

XIV RESOLUTIONS

Staff presented a draft resolution urging Congress to appropriate $10 million for the Secretary of Agriculture to direct to the Forest Service to carry out the purposes of the Burton Santini Bill during fiscal year 1983.

MOTION by Mr. Steele to adopt Resolution 82-15 urging appropriation of funds for fiscal year 1983 under the Burton Santini Bill. The motion carried unanimously. (Mr. Hall was out of the room.)

VII SPECIAL DETERMINATION

G. Towle/J. Rogan, Finding of Vested Right, Fourplex, Tahoe Village Unit #1, Douglas County, APN 09-032-22 through 09-032-25, TRPA File #82-1320

Mr. Doescher itemized the expenses incurred by the applicant since purchase of the subject property in 1975. The concern in October was that Mr. Towle had relied on representations made by Douglas County and TRPA staffs which needed further analyzing by staff to ensure that a precedent would not be set so that any time an applicant wanted a project approved on a vested right or equitable estoppel determination, he would simply have to state that certain representations had been made to him by staff. More proof was needed. In this case, a letter was written in 1971 by Charles Finkelstein, a former TRPA staff planner, clearly stating this property was not within TRPA's jurisdiction. So far as staff can tell, the County relied on that letter for a number of years, but in 1981 and 1982 TRPA staff wrote letters to the County advising that the letter was apparently incorrect, and this property and others within this unit were within TRPA's jurisdiction. Mr. Towle, however, was not notified and he continued to make expenditures on his fourplex. Staff is unable to determine if Mr. Towle talked to anybody at TRPA. From an equitable estoppel point of view, TRPA is not estopped because of statements made by the Douglas County Planning or Public Works Department. Mr. Kjer, however, did advise Mr. Towle that based on the 1971 letter the property was not in TRPA's jurisdiction. The Board must then make a finding that, based on those statements, Mr. Towle did rely and did expend funds. Mr. Towle has advised that he would have built the property out before the Compact amendments took effect if he had known the property was within TRPA's jurisdiction.
Mr. Overeynder suggested that the Regional Plan adopted in late 1971 included the maps showing the lots within the Basin. The letters written to Douglas County in 1981 advising of which lands were within TRPA’s jurisdiction were based on those official maps. Adequate notice was given on adoption of those maps. All property owners in this area within the Basin were notified as soon as it appeared there were problems in this area. Mr. Kjer suggested that he had advised only one other lot owner (Lot 50) that, based on the 1971 letter, TRPA did not have jurisdiction in this area.

MOTION by Mr. Kjer that, based on equitable estoppel, Mr. Towle should be allowed to proceed.

Mr. Doescher cautioned that this should not set a precedent for future actions; County representations are not necessarily binding on TRPA. In this case, the County was told verbally well before receiving the 1981 letters that the 1971 letter was not correct. Discussion followed on applicability of the water quality ordinance and mitigation fees. Mr. Doescher suggested that Mr. Towle would be required to comply with ordinance regulations in effect prior to the effective date of the Compact. Mr. Towle agreed to abide by all conditions and requirements then in effect.

The motion carried on the following vote:

Ayes: Mr. Stewart, Mr. Kjer, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari
Nays: Mr. Steele
Abstain: Mr. Hall
Absent: None

Mr. Doescher explained that the equitable estoppel finding would not expire so long as Mr. Towle didn’t sell the property.

VIII ENFORCEMENT

A. Show Cause Hearings

2. David Nelson, Unauthorized Tree Cutting, 218 Canyon Circle, Douglas County, APN 03-171-22

Environmental Investigator Steve Chilton advised the Board that there was some question in this case of the culpable party since several property owners would benefit from a view standpoint with the removal of the trees. Dr. Nelson contends he has no knowledge of the tree cutting. Staff is recommending that the Board find a violation has occurred and that legal counsel be instructed to proceed with the discovery process. Eight trees have been cut on Lot 85, 2 trees on Lot 81 and 1 tree on Lot 86. Slides of the area were shown. Mr. Doescher advised that the ordinance provides that the property owner is responsible and is the first party looked at. The Compact does provide for up to a $5,000 fine, but a judge does have discretion to charge anywhere from $1 to $5,000 if he determines that the violation was performed not intentionally but rather negligently or innocently. There is a question whether the Agency wants to proceed with costly litigation only to have a minimal fine imposed. Discussion followed among the Board members on the necessity for an effective enforcement.
program to insure future incidents don't occur. Mr. Michael Laub, the brother of a nearby property owner, advised that Dr. Nelson was prepared to offer his cooperation in this matter and suggested that he had an idea who had cut the trees. Dr. Nelson was in his home when he heard the cutting. When he came out the cutting had ceased. Witnesses are available who can testify that the day before the cutting one lot owner was seen "eyeballing" and getting a vantage point of the trees. Dr. Nelson is out of the area and logistically it will be difficult for him to testify; it seems unfair to place the burden on him.

**MOTION** by Mr. Heikka to find that in the case of the tree cutting on the Nelson property and surrounding lots there has been a violation; staff and legal counsel will report back in December with a recommendation for a course of action. The motion carried on the following vote:

**Ayes:** Mr. Kjer, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari

**Nays:** Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Stewart

**Abstain:** None

**Absent:** None

3. Richard Solari, Unauthorized Modification of Existing Pier, Meeks Bay, El Dorado County, APN 16-091-16

Mr. Chilton presented a summary of the unauthorized pier work. Raymond Vail & Associates, Mr. Solari's engineer, could not be present at the meeting but has indicated Mr. Solari is willing to submit an application for the pier repair but wants TRPA to acknowledge that it was a preexisting structure. Staff's investigation does not show that to be the case. Photos from 1975 do not show any structure past 16 feet. The repairs that were undertaken are extensive and include a 12" steel I beam on a boulder sitting in the Lake and extension of the pier on that beam with 6" steel I beams as supports. The previous pier was 16 feet in length and 4 feet in width; the current structure is 36 feet in length and 6 feet in width. The ordinance requires TRPA review of any structural repairs to nonconforming piers. The pier lies between two mapped fish spawning areas and sits 5 feet from the adjacent pier to the north. Staff recommends the Board require Mr. Solari to submit to TRPA an application for the unauthorized pier construction within 60 days with double the filing fee. The plan must bring the pier into conformance and include restoration of disturbed areas. Any pier modifications required to bring the structure into compliance must be completed by June 1, 1983 and a security shall be posted in an amount equal to 150% of the estimated costs of any required modifications. Legal counsel shall be authorized to proceed with civil litigation to have the unauthorized structure removed if an application is not received by the Agency within 60 days.

**MOTION** by Mr. Steele to approve the staff recommendation in the Solari matter as outlined in the staff summary. The motion carried unanimously.

**IX PUBLIC HEARING**

To Consider Amendments to the Land Use Ordinance to Allow Condominium Conversions on Nonconforming Properties

Mr. Overeynder reminded the Board that this was continued from last month because of concerns regarding ordinance provisions requiring public access to
Lake Tahoe for lakefront structures and findings on low and moderate income housing impacts. Mr. Combs suggested that, even if the section requiring public access to the Lake is stricken from the ordinance, the California Subdivision Map Act still requires public access to the water in any condominium conversion approvals. In Nevada, public ownership does not begin until low water (6223 Feet Lake Tahoe Datum), and requiring public access would only be effective if access were to be provided across the waterway as well.

MOTION by Mr. Robertson to approve the condominium conversion ordinance for first reading deleting any reference to a requirement for public access or findings on low to moderate income housing impacts.

Mr. Ken Cokeley, owner of the 6 unit Holiday Shores motel, reminded the Board that his application, which was currently pending with the Agency, proposed to convert to allow sale of condominium units while continuing the operation of the units as motels. The application has been held up pending adoption of this ordinance. Without the ability to convert and change their financial base, many of these older motels will be out of business or will be sold to single owners for their private use, thus depleting the motel stock. Mr. Larry Hoffman, from the Tahoe Sierra Preservation Council, asked that the Board proceed with the first reading and take care of these concerns at the later meetings already scheduled between TRPA and CTRPA staffs and legal counsels. The ordinance appears to go beyond density and coverage concerns to clarify the inconsistencies between CTRPA and TRPA regulations. The ordinance does need more work.

The public hearing was closed. (See next item for roll call vote.)

XIII ORDINANCES

A. First Reading of Ordinance Amending the Land Use Ordinance to Allow Condominium Conversions on Nonconforming Properties

Mr. Robertson amended his previously-stated motion to approve the ordinance for first reading but to work on the ordinance before second reading to address the concerns discussed. The first reading is approved deleting references to public access to the Lake and low and moderate income housing.

When questioned on the Agency's plan for addressing public access to the Lake, staff suggested that this ordinance was not the proper battleground for a determination on public access to Lake Tahoe. Public access is being addressed in the Regional Plan along with financial and institutional mechanisms.

The motion carried on the following vote:

Ayes:  Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Woods, Mr. Ferrari
Nays:  Mr. Swackhammer, Mr. Combs, Mr. Hsieh, Mr. Steele
Abstain: None
Absent: None
B. Consideration of Adoption as an Emergency, Ordinance Amending Ordinance 81-5 to Extend the Case-by-Case Procedure to August 28, 1983

Vice Chairman Woods explained that the ordinance was noted on the agenda for emergency adoption because the required 30 day time period between the first reading (which took place at the October meeting) and second reading has not elapsed. Without adoption of the ordinance as an emergency at this meeting, the existing ordinance extending the case-by-case procedure expires the end of November. Mr. Steele raised a concern that the ordinance as drafted appeared to permit the reclassification of a portion of a subdivision for the purpose of constructing a home on a single family lot. The intent of the ordinance was not to allow reclassification of portions of subdivisions on a lot-by-lot basis, and it should be made clear to lot owners that the door is not now open to reclassifying a single family lot. Staff advised that the intent of the ordinance was that no application will be approved unless the application is amended to include all improvements necessary to bring the entire area up to adequate status. It is not the intent of the ordinance to consider reclassification of single family lots. Mr. Hall suggested that the ordinance was not intended to permit reclassification on a lot-by-lot basis unless the reclassification encompasses a large enough lot to exhibit discreet hydrologic characteristics.

MOTION by Mr. Kjer to find that an emergency situation exists. The motion carried unanimously.

MOTION by Mr. Stewart to adopt Ordinance 82-7. The motion carried unanimously.

Mr. Steele explained he had voted to adopt the ordinance only because it was not the intent of the ordinance to open the door to reclassifying single family lots.

Mr. Doescher read the ordinance by title.

"An Ordinance Amending Ordinance No. 79-10, as Amended of the Tahoe Regional Planning Agency, Implementing the Lake Tahoe Basin Water Quality Management Plan; Requiring, Under Certain Circumstances, Determination of Erosion Control Measures Necessary to Reclassify Definitive Portions of Subdivisions and Areas Presently Classified as 'In Need of Further Consideration'; Permitting Reclassification of Such Portions and Review of Applications for Construction of Single Family Houses Therein; Extending the Deadline Upon Submission of Applications Generally; Extending the Expiration Date of the Procedure for Review and Approval of Applications; Limiting the Number of Permits to be Issued; and Providing for Other Matters Properly Relating Thereto.'

X ADMINISTRATIVE MATTERS

A. Approval of Fiscal Year 1981-82 Audit Report

Mr. Overeynder advised that the Finance Committee had recommended approval of the audit.
MOTION by Mr. Reed to accept the FY 1981-82 Audit Report. The motion carried on the following vote:

Ayes: Mr. Reed, Ms. Nelson, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Woods, Mr. Ferrari
Nays: None
Abstain: None
Absent: Mr. Hall, Mr. Heikka, Mr. Kjer, and Mr. Steele were out of the room.

B. Approval of Preliminary Fiscal Year 1983-84 Budget and Work Program

Mr. Overynder advised that the Finance Committee had asked staff to look at alternatives to the previous proposal which would increase the level of staff effort to take over the administration of the Transportation Development Act, to increase enforcement in California, and to continue air quality planning in the Tahoe Basin (a program dropped in the preliminary budget and work program). After further discussion on these details at this morning's meeting, the Finance Committee has recommended adoption of the proposed FY 83-84 budget and work program shown on the handout as "alternate 1983-84 budget".

MOTION by Mr. Woods to approve the "alternate" 1983-84 budget and work program. The motion carried on the following vote:

Ayes: Ms. Nelson, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Robertson, Mr. Reed, Mr. Woods, Mr. Ferrari
Nays: None
Abstain: None
Absent: Mr. Hall, Mr. Heikka and Mr. Kjer were out of the room.

XI PLANNING MATTERS

A. Certification of Environmental Impact Statement, Tahoe Commercial Station, Placer County, TRPA File #82220

Mr. George gave a brief presentation on the EIS and commented that the Advisory Planning Commission had determined the document was technically adequate although some amendments were proposed. Staff concurs with the APC findings and recommends the document be certified as adequately identifying the impacts of a future project and the extent to which they can be mitigated. The specific APC amendments were briefly outlined, i.e. the EIS states the development site could be restored to its natural state; the APC prefers this statement (p. 7-2) be changed to state that the land would be devoted to development indefinitely since the potential for returning the land back to open space is not realistic. Staff also concurs with the APC's suggestion that to mitigate water use the landscape plan take advantage of native plants.

Mr. Andrew Sawyer, staff counsel for the California Water Resources Board (and APC member), asked what impact the project would have on the recently adopted environmental threshold carrying capacities. Mr. George suggested that staff was prepared to complete this comparison as part of the project review process. Mr. Sawyer suggested that the EIS be conditionally certified and an additional environmental document be prepared to specifically address the thresholds. Mr. Ron Nahas, on behalf of the project, explained that the EIS was prepared under a
scope of work prepared over a year ago as a joint effort by TRPA and CTRPA staffs. To amend the scope of the contract at this point for preparation of an added environmental document is a complicated procedure. Mr. George suggested that staff prepare an addendum to the EIS for consideration by the Board in a month.

**MOTION** by Mr. Heikka to certify the EIS for Tahoe Station with an analysis of the project's impact relative to the environmental threshold carrying capacities to be undertaken as part of the project review process.

**AMENDMENT** proposed by Mr. Steele to direct staff to prepare an analysis of the project's impacts relative to the thresholds for presentation to the Board in a month as an addendum to the EIS.

Mr. Reed suggested that the amendment would put the Agency in an undesirable legal position because an EIS must be given to the general public for a specific review period. The Board should not attach an addendum it has not reviewed to a previously-certified EIS without the benefit of public comment. This additional information should be considered as part of the substantial evidence when the project is approved or not approved.

Mr. Steele withdrew his amendment.

Mr. Heikka's motion carried unanimously. (Mr. Meder was out of the room.)

**XII REPORTS**

A. Finance Committee Report

1. Cost of Living Salary Adjustments

Mr. Overeynder explained that the staff's recommendation for an 8% adjustment was based on a detailed evaluation of similar pay scales for planning entities in California and Nevada. Also, during the past five years, there have been two years where, because of budget problems, the employees were not offered any cost of living adjustments. The Finance Committee has recommended approval of the 8% retroactive to July 1, 1982.

**MOTION** by Mr. Steele to approve the Finance Committee's recommendation for an 8% retroactive cost of living adjustment for the staff. The motion carried on the following vote:

<table>
<thead>
<tr>
<th>Ayes:</th>
<th>Mr. Heikka, Mr. Hsieh, Mr. Stewart, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Ferrari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nays:</td>
<td>Mr. Meder, Mr. Robertson, Mr. Woods</td>
</tr>
<tr>
<td>Abstain:</td>
<td>None</td>
</tr>
<tr>
<td>Absent:</td>
<td>Mr. Kjer</td>
</tr>
</tbody>
</table>

2. Status of Visual Quality Index Study

Although Board member Tom Hsieh was not able to attend the Finance Committee meeting this morning on this matter, he had met with some of the Committee members whose recommendation is to propose the alternative which would utilize the contract from Wagstaff & Brady to prepare the study at a cost of $29,300.
Staff had looked at other alternatives which would have been less costly, but the Finance Committee's concern was to provide for assurance of a credible quality product. Staff's concern with this alternative is that the money to pay for this study must come from the contingency fund which will leave the Agency in a position of completing the Regional Plan with only $20,000 in the contingency budget to finance any unforeseen activities to be undertaken in the Regional Plan. Mr. Heikka suggested that there was not a unanimous feeling on the part of the Finance Committee in this matter; it was felt by some that there was a less expensive way to complete the study.

MOTION by Mr. Hsieh to authorize this study to be carried out by the consultant. The motion carried on the following vote:

Ayes: Mr. Hsieh, Mr. Stewart, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Woods
Nays: Mr. Meder, Mr. Robertson, Mr. Heikka, Mr. Ferrari
Abstain: None
Absent: Mr. Kjer

3. Other

The Finance Committee has recommended approval of a $34,921 increase in the amount of the contract with Brown & Caldwell to accomplish additional work required as a result of delaying the threshold adoption process and additional work necessary to answer specific questions related to that adoption process.

MOTION by Mr. Steele to approve the increase in the Brown & Caldwell contract as outlined by staff. The motion carried unanimously. (Mr. Kjer was absent.)

XI PLANNING MATTERS (continued)

C. Building Permit Issuance Under the 1983 Compact Allocation

Mr. Combs explained that this matter was on the agenda at the request of Placer County to establish a procedure whereby permits allocated during the first third of 1983 can be issued with as little administrative problem as possible. One problem not realized by the drafters of the Compact was that issuance of these permits is not possible by May 1 because there must be field reviews and complete sets of plans checked and reviewed for each application. Under winter conditions, these requirements are difficult to accomplish. What is requested from the Governing Body is concurrence that no more than the allocated permits will be issued in 1983 but that the issuance of those permits may take place after May 1, 1983. To accomplish this the County can either issue a "conditional" building permit which would state that an individual has a right to pursue obtaining an actual permit, provided he has met all requirements; or to find that an assigned "development permit" or a development right meets the spirit and intent of the concept of a building permit as used in Article VI of the Compact. In any case, no permits will be issued in excess of those authorized by the Compact unless permitted under the new Regional Plan. The Board's concurrence with one of these options will make administration of the program easier.
MOTION by Mr. Woods to approve the first option described by Mr. Combs for handling of the 1983 allocation system in Placer County only, whereby "conditional" building permits will be issued by the County to meet the requirements of Compact Article VI(c). The motion carried on the following vote:

Ayes:    Mr. Stewart, Mr. Steele, Mr. Swackhamer, Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari

Nays:    None

Abstain: Mr. Combs

Absent:  Mr. Kjer

Mr. Heikka left the meeting at 5:30 p.m.

B. Report on Regional Plan Public Workshops

Ms. Lasta Tomasevich, the public involvement coordinator for the Regional Plan workshops, was introduced to the Governing Body and gave a presentation on the summary of comments received at the ten different workshop sessions. Copies of the November 10, 1982 document prepared by Ms. Tomasevich compiling all of the public comments were distributed to the Board members and were briefly discussed. No action was taken, and the Board complimented Ms. Tomasevich on the job she had done for the Agency in handling the public involvement aspects of the Regional Plan and in compiling a summary of the comments received.

XII REPORTS

C. Regional Plan Steering Committee Report

Mr. Randy Sheffield, Chief of the Long Range Planning Division, presented a brief summary of the November 4 meeting and reminded the Board members that there would be a joint APC/Governing Body workshop meeting on December 8 at the Round Hill Mall beginning at 9:30 a.m. Each Board member will be working with his counterpart on the APC to reach consensus on the subelements of the plan and management alternatives. Mr. Steele suggested that what the staff had presented on November 4 was much more complex than what Board members had envisioned and was perhaps too time-consuming in view of the Compact requirements for adoption by June. Already, the staff has indicated adoption of this Regional Plan may slip a month. The Board should consider working between now and June, 1983 only on what is mandated by the Compact and continue additional Regional Plan elements until after those requirements have been satisfied. Mr. Morgan suggested that while the Board did not need to know exactly how the Plan was put together and what all of the minor planning decisions were, the members did need to know that what results will work. Mr. Meder suggested that the Board continue to work with the staff in the current direction; many of the concerns will likely be allayed after December 8. Mr. Reed suggested that the Board listen to Mr. Steele's cautions. The more complex the Plan becomes, the less likely that deadlines will be met.

Mr. Overeynder advised the Board that staff felt quite confident that the route being followed was needed to address Tahoe's problems. At the December workshop, the staff will ask for the Board's concurrence in those areas where there is accord so that efforts can then be concentrated on where the real differences are.
Mr. Hsieh left the meeting at 6:00 p.m.

D. Executive Director Report

1. Interpretation of Shorezone Ordinance Regarding Repairs to Nonconforming Structures in the Shorezone

Mr. Overeynder suggested that this matter be continued to the next meeting.

2. List of Projects Approved at Staff Level

The procedure for approval of projects at staff level was presented last month. Lists of such projects will be included in all future packets.

3. Other

Mr. Overeynder advised that he and Dennis Winslow, CTRPA Executive Officer, have proposed an agreement that would authorize TRPA to review shorezone and SEZ projects in order to streamline the permit process. This is a significant move toward eventual centralization of all review processes within TRPA.

At the November APC meeting, a preliminary draft of the case-by-case review analysis was presented. Copies are now available for the Board members, and the document will be formally presented in December.

E. Legal Counsel Report

Mr. Doescher advised that a draft settlement agreement in the Bitterbrush litigation matter would be available within a week; however, Mr. Reed's signing of the document will not take place until after Phil has reviewed the language in the agreement on his return from vacation in a week.

F. Governing Board Members

Staff advised that the Loop Road analysis as part of the Regional Plan was still "on schedule".

Mr. Ferrari advised that the December 15 and 16 meeting would take place at the Chateau in Incline.

XV PENDING MATTERS - none

XVI ADJOURNMENT - The meeting adjourned at 6:05 p.m.

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (916) 541-0246. All written summaries are available for review in the TRPA office at 2155 South Avenue, South Lake Tahoe, California.

Respectfully submitted,

Julie D. Frame
Administrative Assistant
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Tabari/Cox, 15 Unit Apartment Complex, Mays Boulevard and Freel Peak Drive, Washoe County, APN 122-202-26, TRPA File #821170

Applicant: Dale Cox, Kuros Tabari

Project Description: The applicant proposes to construct a 15 unit apartment complex consisting of two separate buildings. One building will contain 7 units, and the other will contain 8 units. On the bottom floor there are 8 one bedroom apartments, and on the second and third floors are 7 two bedroom apartments. The units will be constructed to condominium specifications to meet structural and fire suppression standards.

Project Location: Corner of Mays Boulevard and Freel Peak Drive, Incline Village, Nevada.

Site Description: Vegetation in the area consists of Jeffrey Pine and manzanita. The soils in the area are an Inville stony coarse sandy loam with slopes of 2% to 9%. This soil and slope association has a moderately rapid permeability, slow runoff potential, and slight erosion hazard.

As indicated on the plans, there is a small clump of willows on the north property boundary. Although classified as a riparian species, and normally associated with a stream channel, investigation of the area indicates this is only a settling pond for storm water runoff from a nearby shopping center. No construction is proposed within 30 feet of these willows.

Review Per Section: Article VI(b) of the TRPA Compact
Section 7.52 of the Nevada Side Land Use Ordinance
Article 6.3 of the Rules and Regulations

Land Use District: High Density Residential (HDR) which permits up to 15 dwelling units per acre.

Land Capability Classification: Level 6

Land Coverage:

| Lot Size: | 43,995 sq. ft. |
| Permitted Coverage: | 13,199 sq. ft. 30% |
| Proposed Coverage: | Buildings: 6,256 sq. ft. |
| | Walks & Stairs: 678 sq. ft. |
| | Parking & Driveway 6,152 sq. ft. |
| Total | 13,086 sq. ft. |

Building Height: Proposed: 33' Permitted: 35'

11-30-82
KS:md

Consent Calendar #1.
Impact Analysis and Mitigation Measures:

Land and Water: - The proposed project should not have a significant effect on this element of the environment since the project complies with the land coverage limitations prescribed in the land capability system, and all existing disturbed areas and those resulting from the project are to be revegetated. The site improvements will include storm drainage facilities and infiltration systems designed in compliance with the TRPA 208 Water Quality Management Plan.

Indirect Source Review: - To determine site generated vehicle trips the applicant utilized 7 trips per day for each unit. The number of trips is consistent with TRPA's policy and the size of the project proposed. Due to the close proximity of the Village Shopping Mall and post office (directly across Mays Boulevard from the project) the applicant reduced the total number of site generated trips per day to 6 trips per unit. Agency staff agrees with the trip reduction and finds the applicant's assumptions consistent with previous Agency approvals. The "worse case" situation, therefore, would be a total of 90 site generated trips per day. In addition, the trips would not exceed 1% of the remaining roadway capacity. Therefore, the project is exempt from the indirect source review requirements.

The project will generate a total of 12 vehicle trips during the peak hour. The 12 trips consist of 6 left turns at Freel Peak Drive and 5 right turns and 3 left turns at Mays Boulevard. Neither turning movement would adversely impact existing capacity or level of service for these two local streets. The projected impacts on local intersections and adjacent roadway segments will be insignificant in view of existing capacities and volumes.

Public Services and Utilities - The project will be provided with all necessary services including fire protection and public utilities. However, water rights certified for the Incline Village General Improvement District are not currently sufficient to provide water service to all lots currently subdivided in the area. Creation of an additional 15 dwelling units will add to this problem.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

11-30-82

Consent Calendar #1.
Applicable Elements

Nevada Side Land Use Ordinance
Nevada Side General Plan and Sub-Elements
TRPA and Nevada Division of Environmental Protection Water Quality Plan
Federal Nondegradation Policy for Water Quality
Nevada Division of Environmental Protection Air Quality Plan
Federal Air Quality Standards
TRPA Ordinance 81-8

Findings
Consistent
Consistent
Consistent
Consistent
Consistent
Consistent
Consistent

Project Analysis and Issues for Discussion: Agency staff cannot identify any significant issues for discussion relative to the project. Based on the information submitted with the application, the completion of the environmental checklist, and a field review by the staff, the subject project qualifies for a finding of no significant effect.

Required Actions and Findings: A motion for approval of this project based on the following findings:

I. Pursuant to Article VI of the TRPA Compact, the project qualifies for a finding of no significant environmental effect.

II. A motion for approval of this project based on the following findings:

A. Pursuant to Article III(g) (2) of the TRPA Compact, the project complies with the regional plan, ordinances, rules and regulations of the Agency.

B. Pursuant to Article VI(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality of the Region.

III. The following special conditions:

1. Prior to issuance of the TRPA permit the applicant shall contribute to the offsite mitigation fund. This fee is based on the proposed coverage and the land capability of the lot. This mitigation fee of $2,617.00 must be paid prior to issuance of a TRPA permit.

2. This approval is not for a condominium project. No parcel map or any other form of subdivision shall be approved or recorded for this project prior to May 1, 1983, or until the regional plan is amended pursuant to subdivision (c) of Article V of the TRPA Compact, as amended, whichever is earlier. Approval of this project is not binding the Agency at a subsequent time to approve a condominium project on the same parcel.

11-30-82

Consent Calendar #1.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Edgeking Venture (Nev-Pines Associates)
Administrative Permit for 2 Additional
Dwelling Units Pursuant to a Specific Plan
Douglas County, TRPA File #80100
APN 9-550-03-9 and 9-550-04-7

Applicant: R.E. Tout/D.M. Heller

Applicant's Request: Nev-Pines Association is requesting approval of an administrative permit to allow two additional single family dwelling units on an area which was the subject of a previous Agency approval for a Specific Development Plan permitting up to six single family dwelling units. On June 25, 1980, the Agency Governing Board approved an administrative permit for four units on the subject site, which approval required subsequent Agency review of any additional units or improvements. The approval of the current proposal would complete the Specific Development Plan for six units.

Project History: The two subject parcels were part of an 80 acre parcel which was initially classified as General Forest. The applicant, Mr. Tout, also owned five other large parcels of land in the Upper Kingsbury area of Douglas County, each of which would have been permitted a single family dwelling under the then existing TRPA Land Use Ordinance.

A land capability challenge was processed on the 80 acre site, at which time the Agency determined that approximately 5 acres of moderate capability land existed on the site. Subsequently, the Agency was requested to classify the 80 acre site to Conservation Reserve which was approved by the Governing Body in April, 1979. A Specific Development Plan was processed by the Agency in November, 1979, and the subsequent approval identified approximately 6.5 acres of predominantly moderate hazard lands on the site to be classified as Rural Estates, with the balance classified as General Forest. This Specific Plan permitted up to six single dwellings in the Rural Estates area. Pursuant to the Agency's Land Use Ordinance provisions which establish the procedures for development on lands classified as Conservation Reserve, an administrative permit is required for the specific construction proposals for off-site improvements and to authorize construction of individual units.

On June 25, 1980, the Governing Board approved an administrative permit which authorized the construction of roadways, utilities and four of the six dwelling units which would be permitted under the Specific Development Plan.

At the present time, the roadway, utility lines and balance of the off-site improvements servicing the area have been completed. Condition #1 of the June 1980 approval indicates:

"This approval is specifically for a parcel map for 4 units and related improvements including access roads and utilities. Any further improvements shall be subject to Agency review and approval pursuant to

12/1/82
PAO: jf

Consent Calendar Item 2.
Edgeking Venture - Administrative Permit
page two

Section 7.110 of the Land Use Ordinance and shall be consistent with the specific plan approved by TRPA on November 2, 1979.

Location: The project site is located in the Upper Kingsbury area of Douglas County, approximately 1/2 mile west of the Boulder Lodge and parking lot at Heavenly Valley. The parcels in question are designated as building sites 3 and 4 on the Specific Development Plan approved by the Agency.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
<thead>
<tr>
<th>Applicable Plans/Elements</th>
<th>Findings</th>
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</thead>
<tbody>
<tr>
<td>Specific Development Plan</td>
<td>Consistent*</td>
</tr>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
</tr>
<tr>
<td>Nevada Side General Plan and Subelements</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

* Section 7.113(3) of the Nevada Side Land Use Ordinance provides that the Agency shall issue an administrative permit provided that the proposal: 1) complies with the ordinances of the Agency; and 2) conforms with the Specific Development Plan. Agency staff has found that the proposal conforms in both respects.

Land Capability Classification: Level 4, CaD Soil Type

<table>
<thead>
<tr>
<th>Land Coverage</th>
<th>Building Site 3</th>
<th>Building Site 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size:</td>
<td>(Parcel B)</td>
<td>(Parcel 3)</td>
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<tr>
<td>.67 acres</td>
<td></td>
<td>.57 acres</td>
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<tr>
<td>Allowable Coverage:</td>
<td>3,500 sq. ft.</td>
<td>2,400 sq. ft.</td>
</tr>
<tr>
<td>Proposed Coverage:</td>
<td>3,500 sq. ft.</td>
<td></td>
</tr>
</tbody>
</table>

Permitted Building Height: 1 35 feet

Impact Analysis and Mitigation Measures: The off-site improvements for the project were designed and completed in accordance with construction standards set forth in the Agency's Handbook of Best Management Practices (BMP's). The

1The administrative permit only authorizes a building unit and allowable land coverage. All specific construction plans are subject to Agency staff review and must be within the allotted land coverage and building height.

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Consent Calendar Item 2.
allotted land coverages specified in the Specific Development Plan strictly
limit all land coverage on the site, including off-site improvements such as
roadways, in accordance with the land capability designation of the site.
Construction plans for individual units are reviewed by Agency staff to ensure
compliance with BMP’s.

Project Analysis and Issues for Discussion: Staff has found that the application
complies with the Specific Development Plan previously approved by the Agency.
The section of the Land Use Ordinance which provides for Conservation Reserve
and Specific Plans is a close analogy of “contract zoning” which requires
specific actions from the Agency and the applicant. The ordinance therefore
provides that the Agency shall issue an administrative permit provided that the
proposal is consistent with applicable ordinances and plans. Given that back-
ground, there are two relevant items of concern, both of which appear to be
satisfactorily resolved.

First, Section 7.113(4) provides that the Agency shall reclassify the property
involved to Conservation Reserve if the necessary permit required for
construction of the complete development, or any approved phase thereof is not
obtained within two years of the date of the initial reclassification, unless
good cause is shown otherwise. The applicant has, however, submitted a letter
indicating the justification for the delay of approximately 12 months beyond the
deadline which deals with Mr. Tout’s good faith effort to convey two adjacent 80
acre parcels to the Forest Service and representations made by the applicant
regarding his desire to do so prior to pursuing the administrative permit.
Given the applicant’s past representations and the project history, this appears
to be more than an adequate justification for the delay.

Second, the conveyance of the two adjacent 80 acre parcels will not be completed
until a later date. The applicant is willing to provide as a condition of
approval that all “voluntary mitigation acts” will be completed to the
satisfaction of staff prior to issuance of construction permits.

Required Actions and Findings:

1. Actions and findings required for the administrative permit to be issued:

   (a) The establishment, maintenance, or operation of the use or purpose in
       the particular case is not detrimental to health, safety, peace, morals,
       comfort and general welfare of persons residing or working in the
       neighborhood of such proposed use, or detrimental or injurious to property
       and improvements in the neighborhood or to the general welfare of the
       Region, and will not cause any substantial harmful environmental
       consequences on the land of the applicant or on other lands or waters.
       (Section 8.33 of the TRPA Land Use Ordinance)

   (b) The development complies with applicable ordinances of the Agency and
       those, if any, of the permit-issuing authority imposing stricter standards;

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Consent Calendar Item 2.
(c) The development substantially conforms with the Specific Plan.

2. Required actions and findings listed on Attachment A.


4. The following special condition:

   The applicant will complete the volunteered mitigation plan to the satisfaction of Agency staff.
TAHOE REGIONAL PLANNING AGENCY

ORDINANCE 82-

AN ORDINANCE RELATING TO CONDOMINIUM CONVERSIONS OF CERTAIN STRUCTURES NONCONFORMING AS TO DENSITY OR LAND COVERAGE, OR BOTH; AMENDING CALIFORNIA- AND NEVADA-SIDE LAND USE ORDINANCES TO PERMIT SUCH CONVERSIONS UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings.

1.10 It is necessary and desirable to amend Ordinance No. 4 of the Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of Nevada, and Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, to permit under certain circumstances the conversion to condominium ownership of certain structures nonconforming as to density or land coverage, or both.

1.20 As required by law, the Governing Body of the Tahoe Regional Planning Agency, prior to the adoption of this ordinance, conducted a duly noticed public hearing, at which hearing all persons desiring to present oral testimony or documentary evidence were permitted to do so.

1.30 This ordinance is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Lake Tahoe Region, complies in all respects, procedural and substantive, with the Tahoe Regional Planning Compact, and the regional plan, ordinances, rules, regulations and policies of the Tahoe Regional Planning Agency, and is necessary to effectuate and implement the same.

1.40 By virtue of the nature and purpose of the provisions of this ordinance, this ordinance will not have a significant effect on the environment of the Tahoe Region and is thus exempt from the requirement of preparation of an environmental impact statement pursuant to Article VII of the Tahoe Regional Planning Compact, as amended.

Agenda Item VI

- 1 -
Section 2.00 Amendment of Ordinance No. 4 of Tahoe Regional Planning Agency Permitting Condominium Conversions.

Section 9.00 of Ordinance No. 4 of the Tahoe Regional Planning Agency, as it applies to the portion of the Lake Tahoe Region located within the State of Nevada, is hereby amended by adding new subsection 9.40 to read as follows:

9.40 Condominium Conversions

Notwithstanding the provisions of Section 9.30 and other provisions of Agency ordinances requiring compliance with density and land coverage requirements, the Agency may approve a permit for the conversion to a condominium form of ownership of a structure lawfully in existence on February 10, 1972 in accordance with the provisions of this section.

9.41 Compliance With Use Regulations

An application for a condominium conversion pursuant to this section may be for residential or commercial purposes, provided the use resulting from the conversion is consistent with the types of uses permitted in the land use district within which the structure is located. While applicable density requirements need not be met, the extent of nonconformity therewith may be considered by the Agency in acting upon an application pursuant to this section.

9.42 Reduction of Nonconforming Land Coverage

The application shall comply with otherwise applicable requirements for replacement of nonconforming land coverage. Even though an application pursuant to this section proposes no replacement of or addition to nonconforming land coverage, the Agency, to the extent reasonably feasible, shall require a reduction of nonconforming land coverage on the site occupied by the structure.

9.43 Landscaping and Drainage Improvements

In acting upon an application pursuant to this section, the Agency shall require installation of landscaping, drainage or other appropriate improvements upon the site occupied by the structure, necessary to cause such site to comply with applicable water quality plans and ordinances of the Agency.

9.44 Parking

There shall be adequate parking for the use resulting from the conversion. Adequacy of parking shall depend upon the intensity of such resulting use and a comparison of same to the parking regulations of the county or city in which the project is located, which regulations shall serve as guidelines, only, for this purpose.
9.45 Reconstruction Limitations

(1) Application of Limitations

In the event of damage to or destruction of all or any portion of a structure, the conversion of which to condominium ownership is pursuant to a permit issued by the Agency under this section, reconstruction of such structure shall comply with all Agency ordinances and regulations governing the reconstruction of a nonconforming structure or a structure devoted to a nonconforming use. Any replacement-cost limitation prescribed by such ordinances and regulations shall be computed by reference to the replacement cost of all structures on the project site, rather than exclusively to the structure damaged or destroyed.

(2) Disclosure

In conducting negotiations, formal or informal, for the purchase, sale, lease or transfer of a condominium unit within a structure converted to condominium ownership pursuant to this section, the applicant for such conversion, and such applicant's successor(s) in interest, shall expressly disclose to all other persons involved in such negotiations the existence and terms of any and all Agency regulations of, or restrictions or limitations upon, reconstruction of the structure containing such unit. Such applicant shall also record in the office of the county recorder in which the project is situated, a notice, approved by Agency counsel, setting forth the matters otherwise required to be disclosed pursuant to this subsection, which notice shall be recorded together with the documents effectuating the conversion pursuant to this section.

9.46 Findings

An application for a permit pursuant to this section shall not be approved unless it is found by the Agency that the conversion will not result in any increase in development potential, in present or potential land coverage or density, will not cause a detrimental effect upon the availability of transient dwelling units in the general area of the project, and will not have an adverse impact upon the health, safety, general welfare or environment of the Region.

9.47 Compliance With Other Ordinances and Regulations

An application for a permit pursuant to this section shall not be approved unless it complies in all respects with otherwise applicable plans, ordinances and regulations of the Agency.
Chapter 4 of Ordinance No. 1 of the California Tahoe Regional Planning Agency, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, is hereby amended by adding new Section 4.24 thereto to read as follows:

4.24 Condominium Conversions

Notwithstanding the provisions of Section 4.21 and other provisions of Agency ordinances requiring compliance with density and land coverage requirements, the Agency may approve a permit for the conversion to a condominium form of ownership of a structure lawfully in existence on September 19, 1975 in accordance with the provisions of this section.

(a) Compliance With Use Regulations

An application for a condominium conversion pursuant to this section may be for residential or commercial purposes, provided the use resulting from the conversion is consistent with the types of uses permitted in the land use district within which the structure is located. While applicable density requirements need not be met, the extent of nonconformity therewith may be considered by the Agency in acting upon an application pursuant to this section.

(b) Reduction of Nonconforming Land Coverage

The application shall comply with otherwise applicable requirements for replacement of nonconforming land coverage. Even though an application pursuant to this section proposes no replacement of or addition to nonconforming land coverage, the Agency, to the extent reasonably feasible, shall require a reduction of nonconforming land coverage on the site occupied by the structure.

(c) Landscaping and Drainage Improvements

In acting upon an application pursuant to this section, the Agency shall require installation of landscaping, drainage or other appropriate improvements upon the site occupied by the structure, necessary to cause such site to comply with applicable water quality plans and ordinances of the Agency.

(d) Parking

There shall be adequate parking for the use resulting from the conversion. Adequacy of parking shall depend upon the intensity of such resulting use and a comparison of same to the parking regulations of the county or city in which the project is located, which regulations shall serve as guidelines, only, for this purpose.
(e) Reconstruction Limitations

(1) Application of Limitations

In the event of damage to or destruction of all or any portion of a structure, the conversion of which to condominium ownership is pursuant to a permit issued by the Agency under this section, reconstruction of such structure shall comply with all Agency ordinances and regulations governing the reconstruction of a nonconforming structure or a structure devoted to a nonconforming use. Any replacement-cost limitation prescribed by such ordinances and regulations shall be computed by reference to the replacement cost of all structures on the project site, rather than exclusively to the structure damaged or destroyed.

(2) Disclosure

In conducting negotiations, formal or informal, for the purchase, sale, lease or transfer of a condominium unit within a structure converted to condominium ownership pursuant to this section, the applicant for such conversion, and such applicant’s successor(s) in interest, shall expressly disclose to all other persons involved in such negotiations the existence and terms of any and all Agency regulations of, or restrictions or limitations upon, reconstruction of the structure containing such unit. Such applicant shall also record in the office of the county recorder in which the project is situated, a notice, approved by Agency counsel, setting forth the matters otherwise required to be disclosed pursuant to this subsection, which notice shall be recorded together with the documents effectuating the conversion pursuant to this section.

(f) Findings

An application for a permit pursuant to this section shall not be approved unless it is found by the Agency that the conversion will not result in any increase in development potential, in present or potential land coverage or density, will not cause a detrimental effect upon the availability of transient dwelling units in the general area of the project, and will not have an adverse impact upon the health, safety, general welfare or environment of the Region.

(g) Compliance With Other Ordinances and Regulations

An application for a permit pursuant to this section shall not be approved unless it complies in all respects with otherwise applicable plans, ordinances and regulations of the Agency.

Section 4.00 Interpretation and Severability.

The provisions of this ordinance shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. For this purpose, the provisions of this ordinance are hereby declared severable.
Section 5.00  Effective Date.

This ordinance shall be effective sixty (60) days after the date of its adoption.

FIRST READING:  November 17, 1982

SECOND READING:

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held ________________, 1982, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

_____________________________
Chairman
MEMORANDUM

November 4, 1982

To: The TRPA Governing Board

From: The Agency Staff

Subject: Reconsideration of Prior Action, Jeff Robinson Dwelling and Replacement of Nonconforming Coverage, Level 1B, Barrier Beach, City of South Lake Tahoe, APN 29-101-13, TRPA File #61110

Issue: The Governing Board considered the subject application in May and June, 1981. At the June meeting, the Board failed to find that the project would have no significant impacts on the environment based on issues presented in the staff summary. The Board directed staff to have the subdivision review team inspect the site to determine the extent of environmental impacts. The team found that the cumulative impacts of such reconstruction on the barrier beach and adjoining SEZ in Tahoe Meadows would constitute a significant impact on the environment. (Please refer to the Impact Analysis section of the May, 1981 staff summary, Attachment A). Based on the Board's action in June, 1981 and the findings of the subdivision review team in September, 1981, Agency staff notified the applicant that an Environmental Impact Statement would have to be prepared for the project before the application could be considered complete.

Request - Enclosed is a copy of a letter (Attachment B) provided by the applicant's attorney, Lawrence L. Hoffman, which sets forth the applicant's position regarding his request to have the subject application reconsidered.

In response to the issues raised in Mr. Hoffman's letter, the following information is provided:

1. In the last paragraph on the first page it is stated that the total coverage on the parcel will be reduced to 7.9%. The amount of existing land coverage on the parcel can only be estimated because much of the area designated on the site plan as existing land coverage contains native vegetation in the form of meadow grasses. Paving of the proposed parking pad will require the removal of some of this existing vegetation.

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Agenda Item VII A.
Reconsideration of Prior Action
Jeff Robinson
page two

2. In the last paragraph on the first page, it is stated that the new home will be placed upon the existing site of the present residence and will require only a very minor additional footprint. Approximately 630 square feet of the new structure will be constructed over either existing open space or existing patio. Construction of the new foundation in these areas will require excavation of approximately 50 cubic yards of material from the barrier beach.

3. On the fourth page, reference is made to three specific projects that have recently been approved by the Agency in the vicinity of the subject project. Based on these approvals, the applicant believes that he has been subject to inequitable and discriminatory treatment.

The Luerken application proposed a deck addition partially over an existing concrete patio. The site is located in Tahoe Meadows but not on the barrier beach. The deck created a total of 126 square feet of new land coverage. No excavation was required to construct the deck addition. In order to comply with the reduction requirements, 705 square feet of existing asphalt paving was removed from the site, and the resulting area revegetated with native meadow grasses. The entire site was brought up to 208 Plan standards relative to drainage improvements. In summary, the Luerken's were allowed an additional 126 square feet of redwood decking in exchange for the removal of 705 square feet of asphalt paving.

The Ragsdale application proposed a 285 square foot building addition to an existing single family dwelling. The site is located on the barrier beach in Tahoe Meadows. The addition was constructed entirely over an existing deck. To comply with the reduction requirements, 304 square feet of existing land coverage, consisting of a concrete patio and a portion of a compacted driveway, was removed. Parking barriers were installed on the site to restrict vehicle access and all disturbed areas were revegetated.

The Diekman/Ryan application proposed a 580 square foot addition to an existing single family dwelling located on a site not in Tahoe Meadows. The site is a lakefront property in the Stateline area of the City of South Lake Tahoe. The addition was constructed primarily in an area where a building existed and over existing deck and open space. Some very minor excavation was required for new foundations. An issue that was discussed prior to approval of the project was the status of the wet area adjacent to the building site. Investigation by the subdivision review team revealed that construction of the South Tahoe Public Utility District sewer line and the Edgewood golf course had effectively and permanently dewatered the area to the extent that it was no longer a functional flood plain.

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Agenda Item VII A.
Reconsideration of Prior Action

Jeff Robinson
page three

In comparison, the wet area adjacent to the Robinson parcel has not been dewatered and as recently as the spring of 1982 functioned as a substantial flood plain. In the spring of 1982, the wet area and adjacent lands, including the access road to the Robinson parcel and the parking pad on the parcel, were flooded.

5. On the last page, reference is made to the intent of the Shorezone Plan relative to construction activity permitted on a barrier beach. Agency staff is of the opinion that the intent of the Shorezone Plan is to severely restrict the construction of new residential development on barrier beaches; and, further, the Shorezone Plan and the Conservation, Recreation and Open Space Plan have designated the barrier beach area of Tahoe Meadows for low intensity day-use recreation.

Staff Findings:

1. The Diekman/Ryan application is not similar to the Robinson application for purposes of comparison for the following reasons:

   (a) The wet area adjacent to the Diekman/Ryan parcel has been effectively dewatered;

   (b) The Diekman/Ryan project is for a building addition; and

   (c) The Diekman/Ryan project will not have a significant impact on the environment.

2. The Luerken application is not similar to the Robinson application, for purposes of comparison, for the following reasons:

   (a) The Luerken parcel is not located on a barrier beach;

   (b) The Luerken project is for a minor deck addition; and

   (c) The Luerken project will not have a significant impact on the environment.

3. The Ragsdale application is the only project recently approved by the Agency that is similar to the Robinson application since the Ragsdale project is located on the barrier beach of Tahoe Meadows.

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Agenda Item VII A.
4. There are significant and identifiable distinctions between the Robinson application and the Ragsdale application which are:

(a) The Ragsdale application was for a minor building addition to an existing residence, whereas the Robinson application proposes to totally reconstruct and enlarge an existing residence. Therefore, the Ragsdale application did not extend the normal life expectancy of the primary structure as would the Robinson proposal. Based on this distinction, the Ragsdale application is consistent with the intent of the Shorezone Plan to restrict new residential development on barrier beaches, whereas the Robinson application is not.

(b) More importantly, the extent of site disturbance, especially grading, required to construct the minor building addition to the Ragsdale residence is substantially less than that required to totally reconstruct and enlarge the Robinson residence. The identifiable differences in impacts are such that the Ragsdale project will not result in a significant impact on the environment, whereas the Robinson project will.

Staff Comment: The Robinson application has not been rejected by the Agency. The options available to the applicant are to have an EIS prepared for the current proposal or to submit a modified proposal similar to the Ragsdale application.

Required Actions and Findings:

I. A motion for a finding of no significant effect with direction to staff to prepare the necessary certification document to be included with the permit.

II. A motion for approval of the project based on the following findings and conditions which are to be included in writing with the permit:

A. Pursuant to Article III(g)(2) of the Compact, the project complies with the regional plan, ordinances, rules and regulations of the Agency.

B. Pursuant to Article V(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Region.

C. Findings of Section 5.10 and Section 5.20 of the Shorezone Ordinance as noted on standard Attachment B.

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Agenda Item VII A.
D. Findings of Section 6.22(2) of the TRPA Shorezone Ordinance - The proposed residential use must be found as "otherwise permitted" by the Land Use Plan and as such provides the exception to the development standards of Section 6.23.

E. Findings of Section 8.11 of the California Side Land Use Ordinance as listed on standard Attachment I.

F. Standard conditions of approval listed on standard Attachment D, plus the following standard conditions:

1. Physical barriers shall be provided to confine any vehicles to designated parking and driveway areas.

2. The maximum land coverage on the site after completion of the project shall not exceed that existing on the site minus the areas to be restored.

3. No existing vegetation shall be removed or destroyed as part of this project. The applicant shall submit revised parking plans indicating parking only on areas barren of vegetation and such areas shall be paved.

4. The foundation plan shall be modified to utilize the existing pad foundation where possible. Excavation shall be limited to footings only, and this material shall be contained within the foundation. No portion of the structure shall be located in the 100 year flood plain or the wave runup area of a 100 year storm.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Applicant: Jeff Robinson

Application Type: New single family dwelling to replace existing dwelling in backshore and in a stream environment zone (SEZ)

Local Jurisdiction: City of South Lake Tahoe

Review Per Section: Section 4.11 TRPA Shorezone Ordinance
Section 7.80 TRPA Grading Ordinance
Appendix B, California Side Land Use Ordinance
Article VI(b) of the Compact

Project Description: The applicant requests a permit to construct a new 2-story log cabin on the site of an existing concrete block house. The new structure will be larger than the existing house and the applicant proposes to remove some existing structures to keep the land coverage below that existing on the site (see site plan). The construction of the new house will require minor excavation (approximately 50 cubic yards) and removal of vegetation in the parking pad area if it is constructed (not paved) as indicated on the plans.

The project is located on the lakefront in the Tahoe Meadows Subdivision (APN 29-101-13). Important facts are as follows:

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<th>Land Use District:</th>
<th>Low Density Residential</th>
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</thead>
<tbody>
<tr>
<td>Land Capability:</td>
<td>1b, high hazard/wet area, 1% land coverage</td>
</tr>
<tr>
<td>Shorezone Tolerance District:</td>
<td>1, high hazard, barrier beach (illustration enclosed)</td>
</tr>
</tbody>
</table>

| Permitted Coverage: | 3,200 square feet |
| Existing Coverage:  | 3,173 square feet (CTRPA estimate) |
| Proposed Coverage:  | 2,542 square feet |
| Building Height:    | 25 feet |

Impact Analysis/Mitigation Measures: The following are key impact areas identified by the initial environmental reports completed with this application:

Water Quality Impacts - The lot is identified as an SEZ lot and as a barrier beach lot; both ratings denote the most environmentally sensitive lots in regard to water quality.

Although the applicant proposes no new additional land coverage, the project does call for a significant redistribution of land coverage and foundation grading. The construction or use of the proposed 20 x 50 foot parking pad will cause the destruction of a significant amount of vegetation now growing in the area. The applicant’s proposed mitigation of this disturbance is the removal of existing land coverage which consists of removal of existing structures and the revegetation of sandy areas which are of questionable status as to being compacted areas.

An important water quality consideration which is related to the Tahoe Meadows Subdivision is the subdivision’s practice of dewatering the wet area adjacent to the barrier beach with ditches and culverts. The subdivision also has unimproved roads adjacent to and in the SEZ areas.

5/19/81
Visual Impact - The placement of a log cabin on the site will be consistent with the existing architecture and will result in a small impact due to the larger-sized structure if one considers the existing situation as a base point. The Shorezone Plan recommends no structures be placed on the beach as part of the recommended set back.

Consistency With Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency with the proposed project with the following findings:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Documentation of Consistency</th>
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</thead>
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<td>Inconsistent**</td>
</tr>
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<td>California Air Resources Board Nonattainment Plan</td>
<td>CTRPA Approval, no Indirect Source Review required</td>
</tr>
<tr>
<td>California Water Resources Control Board Water Quality Plan</td>
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<td>CTRPA Approval</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>CTRPA Approval, no Indirect Source Review required</td>
</tr>
</tbody>
</table>

* Excerpts from pgs 3, 37 and 38 of the Shorezone Plan (attached) indicate construction of residential development on barrier beaches to be inconsistent with Plans, Recommendations and Goals.

** The TRPA Summer Recreation Element (attached) indicates the area should be devoted to day-use recreation area.

5/19/81
Analysis and Issues for Discussion

The first issue relates to the status of residential uses in the barrier beach area of the Tahoe Meadows Subdivision. The Land Use Ordinance and Plan have designated this as a Low Density Residential area while the Shorezone Plan and the Conservation, Recreation and Open Space Plan have designated the area for low intensity day-use recreation.

The second issue, if one assumes the residential use to be conforming, relates to the CTRPA finding that the replacement of nonconforming coverage for this project mitigates water quality impacts of construction in an SEZ and on a barrier beach. There have been no CEQA documents prepared for this project because it is categorically exempt; however, it is not exempt under TRPA EIS requirements, and the Agency must make findings of no significant environmental effect.

The third issue relates to the interpretation of Sections 6.22 and 6.23 of the Shorezone Ordinance. A strict interpretation following the intent of the Shorezone Plan would prohibit new residential development on barrier beaches. A more liberal interpretation would refer to the Land Use Plan and Ordinance which would override these provisions and permit new residential development.

The fourth issue relates to the status of the Tahoe Meadows Subdivision with regard to improvement requirements and dewatering of the wet area. Tahoe Meadows is an old subdivision that has done much to preserve the old Tahoe summer recreation subdivision; however, with the trend to year-round homes, certain improvements may have to be made, particularly with regard to the road and drainage systems.

It would appear that the above-described issues would be topics for the threshold study and the new General Plan.
J. ROBINSON RESIDENCE PROJECT NO. 5934
ROBERT MASON, ARCHITECT
P.O. BOX 15110
SO. LAKE TAHOE, CA. 95742
544-2433

LAKE TAHOE

N 34° 51' 195.00'
10'-0'

NEW DECK
120 SQ. FT.

NEW RESIDENCE
1440 SQ. FT.

EXISTING DECK COVER TO BE REMOVED = 84 SQ. FT.
NEW WALKWAY = +26 SQ. FT.
EXISTING DRIVE TO BE REMOVED = -722 SQ. FT.
TOTAL TO BE REMOVED = 1,001.50 FT.

SUMMARY:
EXISTING COVER: 3,173 SQ FT
NEW BUILDING: +631
ALLOWED: 2,542 SQ FT

PROPOSED:
DECK: 136
WALK: 176
DRIVE: 716
TOTAL: 2,542 SQ FT

SCALE: 1" = 20'-0'
DATE: 4-2-81
PROJECT NO. 5934

PLOT PLAN

RECEIVED APR. 8 1981
TREES TO REMAIN
Class 1 Capability Shore-zone

Barrier Beach

Wetland or Lagoon
Shore-zone capability levels for Lake Tahoe are illustrated in Figure 4 and summarized in the following text. Class I shore-zones are those least capable of sustaining interference while Class 9 shore-zones are, theoretically at least, capable of tolerating maximum interference without damage to the system. In effect, there is no portion of the shore-zone for which one may unequivocally guarantee freedom from change following interference. Thus, there is no Class 9 shore-zone in reality. On the other hand, some portions of the shore-zone possess a comparatively high level of capability, as designated in Classes 7 and 8. Accordingly, and because of the problems inherent in designing such a system, the 9 capability levels have been further grouped into three broad categories in terms of high, moderate, and low hazard potential.

High-hazard shore-zones (Capability Levels 1 through 3) are those in which human interference is most likely to trigger unwanted responses in the form of cliff erosion, beach removal, nearshore instability, and backshore collapse. These areas are suited at best to recreational activities of low intensity, such as bathing and hiking, and in no instance should the materials and vegetation of the backshore zone be tampered with.

Moderate hazard shore-zones (Capability levels 4 through 6) may tolerate somewhat more intense recreational activity in the backshore and nearshore zones but the shoreline frequently remains unstable. Thus recreational facilities should be set back a reasonable distance from the shoreline, and great care should attend the construction of shoreline access paths.

Low hazard shore-zones (Capability levels 7 through 9) are capable of sustaining moderate to high recreational intensity, low to moderate dwelling densities, construction of shoreline access roads and paths, and marina development in appropriate locations. Where a small erosion hazard may exist, care should be taken with the vegetation and materials forming the shore. Shore protection structures should only be entertained after careful consideration of the problem and of alternative solutions.

Having introduced the Shore-zone Capabilities, let us now consider the salient points that determine the capability level of each shore-zone type.
The shoreline visual vulnerability as represented by the visual vulnerability map is a composite of all views from the encircling highway around Lake Tahoe based upon the obstructivity of the view from the road and the proximity of the shoreline to the road.

Thus, the shoreline can be divided into categories of high, medium and low visual vulnerability as viewed from the road in addition to the basic land elements of headlands, straight shore and bays for analysis in shore-zone planning decisions.

III. RECOMMENDATIONS AND goals

A. General

1. Acknowledgment of the Existing Development Status Within The Shore-zones Recognized on the Shore-zone Plan
   a. conflicts with plan - resolutions
   b. recognition of levels of environmental tolerance - possible revisions of General Plan to include Shore-zone buffer in some areas.

2. Acknowledgment of Socioeconomic and Conservation Goals of General Plan and Open Space Plan
   a. - possible revisions of General Plan and public acquisition

3. Implementation of Design Manual to include aesthetic considerations within the shore-zone to comply with visual element of the shore-zone plan.

4. Identify moderately tolerant sections of shoreline suitable for recreation and possible public acquisition.

The following guidelines are developed from Orme's recommendations for each capability level recognized in "Toward a Shore-zone Plan for Lake Tahoe."

The land use guidelines should be evaluated and expanded to either make changes in the General Plan or be taken into account through a shore-zone buffer, the Shoreline Ordinance, or the Design Manual.

B. RECOMMENDATIONS: Physical Capability Types.

Class I Capability Shore-zones (10.7%)

Goals:

1. Preserve in Natural State
   a. no removal of vegetation due to nature of unstable low sandy barrier
b. no drainage or modification of backshore wetlands

c. no disruption of nearshore zone (no offshore structures)

2. Activity Level

a. limited boat traffic for beach use.

1. restriction of access to planned pathways to avoid destruction of vegetation

b. access to wetlands limited to scientific or educational purposes

c. no construction activities in nearshore zone.

Class 2 Capability Shore-zones (10.9%)

Goals:

1. Protect and Enhance Eroding or Potentially Eroding Shoreline

a. no removal of vegetation in shore-zone

b. no construction activities in nearshore zone (no offshore structures)

c. revegetation programs to stabilize all areas of shore-zone and to protect the eroding areas from further destruction

2. Activity Level

a. limited foot traffic access for beach use where possible without accelerating backshore erosion or cliff collapse. Extreme care should be taken to avoid slopes greater than 15% and those areas featuring unconsolidated materials and a lakeward dip of material

Class 3 Capability Shore-zones (22.8%)

Goals:

1. Protection of Slope and Reduction of Erosion Potential in Backshore Zone

a. no removal of vegetation from backshore slopes

revegetation programs to stabilize steep banks

b. no construction activities on slopes greater than 15%

c. no intense recreation activities in steep nearshore zones

d. establishment of setback guideline to ensure no violation of steeper slopes

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Hoffman & Lien
Attorneys at Law

Lawrence L. Hoffman
Gregg R. Lien
Randall M. Faccinto
Mary Marsh Linde
of Counsel

Mail Address:
Post Office Box 7740
Tahoe City, California 95730

(916) 583-8542 . 546-2564

Suite B
Dollar Hill Professional Building
3000 North Lake Boulevard
Tahoe City, California

October 4, 1982

Honorable Governing Body
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, CA 95731

RE: Robinson Remodeling-Tahoe Meadows Subdivision
(APN 29-101-13)

Gentlemen:

This office represents Mr. and Mrs. Jeffrey Robinson, the owners of an older single-family home on the lakefront in the Tahoe Meadows subdivision. The Robinsons have had pending with your agency for nearly 1\1/2 years an application to remove the existing house and replace it with a new, two-story, log-type home. The matter was heard before your Board in May and June of 1982, at which time a motion to find "no significant environment effect" failed adoption by one vote. The matter was then continued for at least 90 days for further review. The main purpose of this letter is to request that the matter now be set on your agenda for further consideration, and that you reconsider your previous action effectively disapproving the Robinsons' request.

PROJECT DESCRIPTION:

The Robinsons are requesting authorization to remove an existing 35-year old concrete, block-type, uninsulated home located on the lakefront in Tahoe Meadows and replace it with a new, two-story, log-type home. The existing home is no longer suitable for the needs of the Robinson family, which has grown in size since they purchased the home, and due to the lack of insulation and high heating costs with the existing house.

As a result of the proposed rebuilding, the existing coverage on the parcel will be reduced so that the total coverage on the parcel will be 7.9% (the parcel is over one-half acre in size). The new home will be built to comply with all existing water quality standards and best management practices. It will be placed upon the existing site of the present residence, will require only a very minor additional footprint to accommodate the new structure, no trees or vegetation will be removed, and in general the new home will be an obvious aesthetic improvement to the area and much more in keeping with the architectural style of Lake Tahoe.
Honorable Governing Body  
Tahoe Regional Planning Agency  
October 4, 1982  
Page Two

While the property involved is in a so-called "Class 1B" land capability area, as well as in an SEZ area, nevertheless the proposed reconstruction was previously approved by CTRPA on April 8, 1981 as being "in conformance with all CTRPA regulations governing construction within the Lake Tahoe backshore". The CTRPA letter of approval made the following specific findings:

"1. The project will not cause significant harm to the shorezone and underlying land.

"2. The project will not cause significant harm to the aquatic habitats or fish spawning ground.

"3. The project will not cause significant harm to the natural beauty of the area.

"4. The project will not cause significant harm to navigation, safety, or health.

"5. The project will not cause significant harm to the water quality of Lake Tahoe.

"6. The project will not interfere with the public's use of Lake Tahoe's navigable waters.

"7. The applicant has substantiated that there is adequate sewer, water, natural gas and electrical capacity to serve the project.

"8. The project is in conformance with the CTRPA Land Use Ordinance.

"9. The project is not incompatible with existing surrounding uses."

Further, on April 8, 1982, the CTRPA approval was extended for an additional year, up to April 8th, 1983, based on the same conditions and findings as previously granted. (See attached CTRPA Letters of Approval).

PRIOR TRPA ACTIONS:

The matter was first heard by your Board at your meeting in May, 1981. At that time, there was extensive discussion about the Tahoe Meadows subdivision, and the fact that it was an SEZ area. As a result of a discussion during the meeting, it was suggested that the homeowners' association identify the problems within the area and attempt to develop
Honorable Governing Body  
Tahoe Regional Planning Agency  
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Page Three

a plan for the whole area. As a result, the matter was post-
poned with the concurrence of the applicants for one month.

The matter was again heard during the June meeting. At
that time, there was more discussion about the Tahoe Meadows
subdivision. Following the failure by one vote of Mr. Reed's
motion "to find no significant environmental effect", the
minutes reflect the following discussion:

"Mr. Steele explained that he was concerned with the
sensitivity of the area and wanted to open the area
for day-use recreation. TRPA should not ignore its
own Recreation Plan. Mr. Overeynder suggested that
the technical team scheduled to categorize subdivisions
for the case-by-case review in Nevada could take a look
at this subdivision and meet with the homeowners associa-
tion to come up with necessary subdivision improvements.
Mr. Kjer suggested the matter come back in 90 days after
the homeowners have met with staff and other entities to
resolve the problems in the area. Mr. Hoffman indicated he
would to continue the application."

SUBSEQUENT ACTIONS:

Since the summer of 1981, when Mr. Robinson's application
failed to receive TRPA Board approval, the Tahoe Meadows Sub-
division has taken a number of steps to work with the City and
regional agencies. At the time of the denial of his appli-
cation, Mr. Robinson was President of the Tahoe Meadows Associa-
tion. In that capacity, until new officers were elected in
late 1981, Mr. Robinson continued to cooperate with all the
requisite agencies in developing a number of programs for the
Tahoe Meadows. For instance:

a. The Tahoe Meadows Association has formally par-
ticipated in meetings with the TRPA, CTRPA and Lahontan
Regional Water Quality Control Board intended to develop
a long-term corrective program for the Wildwood drainage,
as well as the Tahoe Meadows, to make sure that the entire
area adequately handles the upstream water flows and with
the goal in mind of improving the total water quality
impacts of the area.

b. In cooperation with the City of South Lake Tahoe,
the Tahoe Meadows Association has undertaken an extensive
program to correct fire hazards within the Tahoe Meadows
subdivision, removing extensive amounts of dead trees, fallen
limbs, and other hazards.
c. A revegetation program has been initiated to landscape the fence area paralleling Hwy. 50, including the installation of a sprinkler system in that area.

d. As a result of flooding and related problems that occurred during the winter of 1982, a more comprehensive program for drainage improvements is also being considered for the Tahoe Meadows.

More importantly, however, from the Robinsons' standpoint, is the fact that at least two other projects have recently been approved by TRPA within the Tahoe Meadows subdivision, as well as at least one other project on an adjoining barrier beach, that involve substantial upgrading or remodeling of existing homes. These projects involved modifications to or remodelings of the homes of Mr. and Mrs. Luerken and Mr. and Mrs. Ragsdale, also located in the so-called "SEZ portion" of the Tahoe Meadows, as well as an extensive remodeling and reconstruction of the Diekman/Ryan single-family dwelling located on the barrier beach immediately adjacent to Tahoe Meadows to the east. In each instance, the approvals were for work that was extensive and involved substantial modifications, additions, or other work.

Mr. and Mrs. Robinson, of course, while not quarreling with the rights of their neighbors to proceed, feel they have been treated in an inequitable and discriminatory manner (see enclosed letter from Mr. Robinson). As they understood the import of the decision of the Governing Board in their case, it was to place a "freeze" on such upgradings or modifications in the area. Nevertheless, at least these three projects have been given the go-ahead, in a manner that can only leave the appearance that Mr. and Mrs. Robinson have been singled out for inequitable treatment.

**APPLICANTS' POSITION:**

The position of the applicants in regards to their request to upgrade their existing single-family home is rather straightforward.

In late 1980 and early 1981, they applied to and ultimately received approvals from the City of South Lake Tahoe, the Lahontan Regional Water Quality Control Board, and CTRPA. The CTRPA review was pursuant to the CTRPA's Regional Plan, Shorezone Ordinance, and other regulatory requirements. Through that detailed Shorezone review process, and particularly in view of the substantial environmental improvements involved in the Robinsons' request including the reduction of
Honorable Governing Body
Tahoe Regional Planning Agency
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Page Five

land coverage and the upgrading of the property, CTRPA determined that their project was "in conformance with all CTRPA regulations governing construction within the Lake Tahoe backshore" and accordingly approved the project.

From the applicants' standpoint, those CTRPA rules and regulations are the identical rules and regulations that the Compact requires TRPA to now apply. Accordingly, the applicants find themselves in the circumstance where one agency, CTRPA, has applied all of its ordinances, rules and regulations to their project, found it in full conformance, and approved the project, only to find that TRPA, who is duty-bound to implement the same ordinances, may have reached another conclusion. Obviously, this is a classic "rock and hard place" situation.

Additionally, at least some members of the TRPA Governing Board have expressed concern that the project may not be completely compatible with the 1972 Regional Plan adopted by TRPA, in view of the fact that the area is designated as being in Shorezone Tolerance District 1 (a barrier beach area), and therefore is somehow restricted from further building. Clearly, however, this has not been the consistent interpretation by TRPA since the adoption of the Regional Plan, as numerous homes have in fact been constructed or rehabilitated within this area over the last ten years (at least 18 new homes or remodelings in the last five years alone). In fact, most recently, at least three additional projects have been approved in this so-called "barrier beach" area that involved comparable remodelings and upgradings.

In brief, Mr. and Mrs. Robinson sincerely believe that they have been subjected to inequitable and discriminatory treatment—in spite of their efforts to work in a constructive and positive way with the City and the agencies. As a consequence, they are again requesting that your Honorable Board consider this matter, with the view in mind of obtaining the requisite approval so that they can proceed during the 1983 building season with their long sought rebuilding of their Tahoe Meadows home.

Sincerely,

[Signature]

Lawrence L. Hoffman

LLH/bt

Enclosures

cc: Mr. and Mrs. Jeffrey Robinson
September 2, 1982

Lawrence L. Hoffman, Esq.
Hoffman & Linde
P.O. Box 7740
Tahoe City, CA 95730

Dear Larry:

Per our phone conversation, I would appreciate your again bringing our Tahoe Meadows project before the TRPA Board.

In recent months, two projects in the Meadows were approved, again raising hopes that the stone wall we encountered may have cracked a bit. As you may recall, the California members who voted against our application acknowledged that the proposed house met all applicable environmental and TRPA criteria, but was turned down because of general (and extremely vague) concerns about the Meadows itself.

Now that others have been allowed to proceed, I really don't see why we should still be denied. The two projects permitted involved decking at the Luerken home and a major renovation and addition to the Ragsdale property ON THE LAKE just down the beach from us!

Dwight Steele voted against our application citing two major problems: 1) the public doesn't have permission to traverse Tahoe Meadows private property and use the beach, and 2) if Robinson is permitted to build his house, it will increase the value of his property and make it more expensive for the public to acquire at some time in the future.

Carlyle Hall expressed the thought that no permits should be issued to Meadows' residents until the new thresholds are established.

And Tom Stewart said no because of his long-time familiarity with the Meadows and his vague concerns about "problems" there.
All of the arguments noted above should have been just as applicable to the Luerken and Ragsdale cases as they were to ours—but somehow these people got a green light and their projects carried out. Does this mean that we are justified in seeking another airing? Or is there some deeper reason that we should still be denied while others are allowed to proceed? I hope all concerned can be made to realize that we have no objection to what the Luerkens and Ragsdales have been permitted to do. Their improvements are reasonable, conform to all applicable statutes, and are environmentally benign. While our project is more substantial, it too conforms to all Agency requirements and should be allowed to proceed.

Believe it or not, we have been involved in design and the application process nearly two years. While we still have confidence in the Agency and its ultimate fairness, I sincerely believe that we have been treated unrealistically, unfairly, and most painfully—unequally.

Sincerely,

[Signature]

JR: gj
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Tom Pitts, Variance to Allow Unauthorized Nonconforming Pier, 8391 Kehlet Drive, El Dorado County, APN 16-081-431, TRPA File #01149

Applicant: Tom Pitts

Project Description: The applicant is applying for a variance from the terms of the Shorezone Ordinance to authorize an existing unauthorized nonconforming structure located in the foreshore. The U.S. Army Corps of Engineers discovered that sometime between 1970 and 1975 Mr. Pitts constructed a deck-type walkway along the shoreline to provide access from his existing pier to an existing stairway. The pier is located along the southerly property line and the stairway along the northerly property line. The relationship of these two structures necessitates some form of access facility to connect the stairway to the pier (see attachment A).

In 1981, the unauthorized walkway was replaced with a sun deck that measures 14' 3" wide at the south end, 25 foot wide at the north end and is 32' 6" long. The pilings supporting the new deck are anchored to large granite boulders located below the high water line.

CTRPA, TRPA and the U.S. Army Corps of Engineers requested that an application be submitted to bring the unauthorized structure into conformance with the provisions of the TRPA Shorezone Ordinance by June 1982. Although an application was submitted, no modifications to the structure were proposed. There is no provision in the Shorezone Ordinance for a structure of this type running parallel to the shoreline. The definition of a pier as stated in the Shorezone Ordinance is stated as follows: "A fixed or floating platform extending from the shoreline over or upon the water". The standards for piers as per Section 7.30 of the Shorezone Ordinance provide for a ten foot maximum width including all appurtenant structures. Additionally, a 3 foot wide, 45 foot long catwalk may be permitted.

The applicant is now requesting a variance under Section 20.00 of the Shorezone Ordinance to be allowed to retain the unauthorized structure. Section 20.00 reads as follows:

"Variances from the terms of this ordinance may be granted by the Agency Governing Body only if it is found that because of special circumstances applicable to the property involved a strict application deprives such property of privileges or safety enjoyed by other similarly situated property. Where such conditions are found, the variance permitted shall be the minimum departure from existing regulations necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. In no case may a variance be granted that will provide the applicant with any special privileges not enjoyed by other similarly situated properties".

11-29-82
KE:md

Agenda Item VII B.
Project Location: 8381 Kehlet Drive, Rubicon Bay

Site Description: The site is very steep, approximately 50% and is densely vegetated with manzanita and pine trees.

Review Per Section: Article VI(b) of the TRPA Compact
Section 20.00 of the Shorezone Ordinance

Land Capability Classification: 1A

Shorezone Tolerance District: 2

Impact Analysis and Mitigation Measures: Staff and the applicant agree that a deck-type access located along the shoreline would have less environmental impact than a new pathway in the backshore due to the steepness of the subject property and the excessive amount of vegetation removal and grading that would be required. The existing structure was constructed by pouring concrete footing on rocks located below the high water line. Pouring concrete below the highwater line is prohibited by the Lahontan Water Quality Control Board. In addition, the existing structure, due to its size, has a visual impact from the Lake. If additional decks of this type were permitted there may be a significant cumulative visual impact.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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*The subject structure is not permitted under the provisions of the Shorezone Ordinance.

Project Analysis and Issues for Discussion: The subject pier was constructed without the authorization of any of the agencies having review authority and violates Section 4.11 of the Shorezone Ordinance. Section 18.00 of the Shorezone Ordinance states that permits for existing unauthorized structures shall be granted or denied according to the provisions of the Shorezone Ordinance in the same manner as permits for proposed structures.*

11-29-82

Agenda Item VII B.
*Since the subject structure is not permitted under the Shorezone Ordinance, under normal circumstances, Agency staff would recommend that the entire structure be removed. However, due to the special circumstances relative to the access difficulties and site characteristics, Agency staff feels that under a variance consideration, enough of the structure should be retained to provide a 3 foot wide walkway from the stairway to the existing pier. Such a variance would be a minimum departure from the standards and would not provide the applicant with any special privileges not enjoyed by other similarly situated properties. The variance would allow the applicant to gain access to his pier, which is a privilege enjoyed by other similarly situated properties.

To allow anything more than a 3 foot wide walkway to remain would not be a minimum departure from the standards and would permit a structure that is not permitted within the foreshore. Therefore staff would recommend against permitting a variance for the existing structure.

Required Actions and Findings: If the Governing Board wishes to approve the variance as recommended by Agency staff, the following actions and findings must be approved:

1. Actions and findings listed on Attachment A
2. Findings listed on Attachment B
3. Conditions listed on Attachment F
4. Finding required for a variance. Because of special circumstances applicable to the property involved a strict application of the standards of the shorezone Ordinance deprives such property of privileges or safety enjoyed by other similarly situated property.
5. Plus the following special conditions:
   a. A revised plan must be submitted to show a 3 foot wide walkway in place of the existing structure. The plan must be submitted within 60 days and the modified structure must be constructed by July 30, 1983.
   b. Adequate security must be posted within 30 days to insure compliance with the conditions of approval. The security shall be in an amount equal to 150% of the costs to remove the unauthorized structure.
   c. Authorize legal counsel to take appropriate action if necessary to accomplish the objectives as listed above.

If the Governing Board wishes to approve the variance as requested by the applicant to retain the existing structure the following actions and findings must be approved:

1. Actions and findings listed on Attachment A
2. Findings listed on Attachment B
3. Conditions listed on Attachment F

11-29-82

Agenda Item VII B.
Typical Pier Construction:

4.5" Girder inside of Pier
2x8" Ties
1x6" Framing (Redwood)

Property Line

Shore Line

Note:
- Pier follows Boulder Line
- 2x40" of Joists @ 16" O.C. (Typ)

Boulders Under (Typ)

6" x 10" Beam

4x4" Post @ 6'-0" O.C.

25'-7"

 existing buoy

- Scale: 1/2" = 1'-0"

NPS: 5'-0" and 10'-0" No Scale To Pier

0'-10.3' (Not to Scale)

R5 = Soundings in Feet.
Stanley Hiller, Appeal of Staff Decision to Reject Application for Multiple Use Pier, Variance to Allow Unauthorized Nonconforming Appurtenant Structures to a Single Use Pier, 6860 West Lake Boulevard, Placer County, APN 98-200-36, TRPA File #82319

Appellant: Stanley Hiller

Project History:

In 1977 Mr. Hiller obtained a permit from the Agency to replace his old pier with a new pier. The new pier was constructed in 1977. In 1979 Agency staff inspected the site and discovered the five violations as noted below:

1. Rock cribbing had been reconstructed.
2. The pier extended past elevation 6219.
3. Two boat lifts had been constructed.
4. A 30 foot flag pole had been installed.
5. A rail-type boat launching ramp, had been constructed, instead of a boat ramp as approved.

TRPA sent Mr. Hiller a letter requesting conformance with the approved 1977 plans or an application for the modifications. In March, 1981 Mr. Hiller submitted an application to recognize the subject pier as a multiple use pier and, therefore be allowed to retain the unauthorized appurtenant structures. Included in the application was a study which found the unauthorized cribbing to have no significant environmental impact. The application was approved at the September 23, 1981 Governing Board meeting with the special condition requiring the neighboring property owner, who is party to the multiple use agreement to deed restrict his property from future pier construction. To date, no such agreement has been submitted.

Project Description: The appellant has proposed two methods of establishing a multiple use agreement to authorize the existing nonconforming pier. Mr. Hiller has also applied for a variance to permit the nonconforming portions of the pier if neither of the multiple use proposals are accepted by the Governing Board.

Appeal of Multiple Use Agreement

The two methods of establishing a multiple use agreement as proposed by the applicant are as follows:

1. Enter into an agreement with the adjoining property owner to the north in which the Hillers would agree to share the use of the pier with the neighbors at any time. No deed restriction on the adjoining property is proposed.

2. Divide the Hiller property into two parcels and deed restrict the new parcel without the pier from future pier development.

11-29-82

Agenda Item VII C.
The appellant contends that the alternatives proposed meet the criteria for multiple use. Staff does not agree for the following reasons:

1. TRPA policy and the September 23, 1981 Governing Board direction require that a deed restriction is obtained for a multiple use agreement. Mr. Williamson, representing the appellant at that meeting, petitioned the Governing Board to remove that condition. The request was denied by the Governing Board.

2. The TRPA compact, ordinance 81-8 and the TRPA Water Quality Plan prohibits the creation of new subdivisions, which include parcel maps.

Variance:

The provisions for permitting a variance are stated as follows:

Section 20.00 Variances

Variances from the terms of this ordinance may be granted by the Agency Governing Body only if it is found that because of special circumstances applicable to the property involved a strict application deprives such property of privileges or safety enjoyed by other similarly situated property. Where such conditions are found, the variance permitted shall be the minimum departure from existing regulations necessary to avoid such deprivation of privileges enjoyed by other similarly situated properties.

The applicant has given the following reasons as to why strict application of the existing regulations deprive such property of privileges enjoyed by neighboring properties:

1. Rock cribbing - no reason was given as to why the cribbing is necessary, however it has been found by a qualified expert that the cribbing has no significant environmental effect. At the September 23, 1981 Governing Board meeting the Board approved a finding that no significant impact for the subject project. However, cumulatively rock crib structures do have an impact on the shoreline configuration and fish habitat.

2. Pier extension beyond elevation 6219 to elevation 6215 - The applicant states he cannot moor his boats safely during periods of low water (elevation 6223). All individual use piers approved by the Agency do not extend beyond elevation 6219. There are alternatives such as Mr. Hiller's two existing buoys and Obxers Marina a half mile to the north that may provide for a more safe mooring.
3. Two boat lifts - the boat lifts exceed the 10' width standard for individual use piers. The applicant asserts that his ownership of two antique boats necessitates the use of boat lifts. Again, staff feels that alternative moorings are available, including storing the boats utilizing the applicant's existing marine railway system located at the residence.

4. Flag Pole - the applicant justifies the deviation from the height limit on piers because there is no provision for flag poles in the Shorezone Ordinance.

Staff Recommendation:

Staff recommends that the Board deny the appeal of the staff's decision to reject the multiple use agreement and deny the application for a variance. In addition, staff recommends the Board direct Mr. Hiller to either submit an application for a multiple use agreement that includes a deed restriction on a neighboring littoral parcel or submit a bond in the amount of 150% of the cost required to bring the pier into conformance. The work that needs to be done includes reducing the length of the pier by 15 feet to elevation 6219 remove the two boat lifts, remove the flag pole, and remove the rock cribbing. Staff recommends that an adequate multiple use agreement or a bond be submitted within 30 days. Further, authorize legal counsel to take appropriate action, if necessary, to accomplish the objectives set forth above.

Required Actions and Findings:

If the appeal is approved, the Governing Board may only approve the alternative that would permit a multiple use agreement with the adjoining property without a deed restriction. The parcel split proposal is prohibited under the Compact, Ordinance 81-8 and TRPA's Water Quality Plan.

1. Actions and findings listed on Attachment A.

2. Reconsider the decision made at the September 23, 1981 Governing Board meeting that the multiple use agreement must include a deed restriction on the neighboring property owner's property restricting future pier development.

3. Find that the Multiple Use Agreement submitted on Attachment I is adequate.

If the variance is approved, the Governing Board must do the following:

1. Actions and findings listed on Attachment A.

2. Finding required for a variance: because of special circumstances applicable to the property involved, a strict application of the existing regulations deprives such property of privileges or safety enjoyed by other similarly situated property.

11-29-82

Agenda Item VII C.
NOTES:
1) EXIST. PIER IS 11' WIDE. WITH 2 LANDING ON EACH SIDE.
2) REMAINDER OF EXIST. PIER WAS LOST IN STORM.

SCALE IN FEET

PLAN VIEW

105' DECK ELEV. = 6231-7

10 15 20 25 30 35 40 45 50

SCALE IN FEET

ELEVATION VIEW

Purpose: Private Recreational Pier, Boat Ramp & Boat Buoys

Datum: Lake Tahoe

Applicant Property Owners:
1) AP: 098-200-06 Roberts
2) AP: 098-200-09 Setzer

Remodel Existing Private Pier & Boat Ramp, Install 2 Post Buoys W/ Anchors

In Lake Tahoe Near Tahoma, Placer Co., California Application By
Stanley Miller Jr.
3000 Old Hill Rd.
Helio Park, Calif.
May 21, 1977

Approved Plan 1977
10’ x 6’ steel piles in pairs 6’ apart driven 35’ O.C. to 6’ penetration or refusal. Historic rock crib restored and repaired.

Purpose: Use existing private pier, boat hoists and boat ramp for multiple use facilities.

Datum: Lake Tahoe

Adjacent owners:
1. AP 098-200-06 Roberts
2. AP 098-200-09 Setzer

Proposed multiple use pier, boat, boat ramp & hoists

In: Lake Tahoe
Near: Tahoma Placer Co., Calif.

Application by
STANLEY HILLER JR.
3000 SAND HILL RD
MENLO PARK, CALIF.
94023

11/80

As Built Plan 1981
COMMON PIER
Multiple Use Agreement

This agreement is made this ___ day of ____________, 1981, between Stanley Miller, Jr. (hereinafter "Owner") and ________________ (hereinafter "Permittee") with respect to the use by Permittee of that certain pier (the "Pier") located on the shore of Lake Tahoe on real property commonly described as follows: 6860 West Lake Boulevard, Tahoma, California (the "Property").

This agreement is made with reference to the following:

A. Permittee wishes access to watercraft requiring the use of a pier of the physical characteristics of the Pier.

B. Owner is willing to grant such occasional access on the terms and conditions herein provided.

WHEREFORE: It is agreed as follows:

Owner hereby grants this permission to Permittee to use the Pier on the conditions hereinafter provided:

1. Term: The rights of Permittee hereunder shall continue for a period of twenty (20) years unless this permit is otherwise terminated as herein provided.

2. Use: The use permitted Permittee herein shall be solely to load and unload watercraft from the Pier, and to hold such watercraft alongside for the reasonable period of such loading and unloading during the period between sunrise and sunset. No right to store, permanently or temporarily, dock, or to maintain or repair watercraft from such Pier is granted hereby. The use herein permitted is limited to watercraft owned by the undersigned.

3. Access by Permittees: Permittees are hereby granted, subject to the other terms and conditions herein provided, a non-exclusive easement for pedestrian access to the Pier, for the sole purpose of the use of the Pier herein permitted, across that part of the Property in area not more than 10 feet from the then edge of the water of Lake Tahoe, and between the Pier and the property owned by the undersigned Permittee. Permittee shall not use such easement for any other purpose and shall not place any materials on, or make any changes in, the area of this easement.

Attachment I
4. Consideration: In consideration of the permission herein provided, Permitee shall:

4.1 Observe all of the terms and conditions of this agreement.

4.2 Pay to Owner on or before July 31 of each year $________ as a base license fee for such use.

4.3 In addition to the base license fee, Permitee shall pay to Owner on or before July 31 of each year, prorated among all persons who are holders of permits of the same character as this permit, and based upon the number of watercraft owned thereby and operated on Lake Tahoe, the sum of (i) one half of all property taxes, license costs and fees paid by Owner during the preceding twelve (12) months, for the use and ownership of the Pier, (ii) one half of all maintenance and repair costs of the Pier paid by Owner during the preceding twelve (12) months, and (iii) (without proration) all costs of maintenance and repair of the Pier, when incurred by Owner as a result of the use by Permitee of the Pier.

4.4 Permitee shall post a bond acceptable to Owner assuring Permitee's full performance hereunder.

4.5 For so long as this agreement has not been terminated, Permitee shall not construct or permit to be constructed any pier on the property owned by Permitee adjacent to the Property.

5. Insurance: Prior to any use by Permitee of the rights herein provided, Permitee, at its cost, shall deliver to Owner a loss payable certificate issued by an insurance company in form and consideration acceptable to Owner, providing that (i) Permitee and Owner, as their interests then exist, are insured in an amount of not less than $1,000,000, for any public liability or property damage claims made arising out of the use of the Pier herein provided, including any use by Permitee in violation of this agreement; (ii) that such policy shall not be cancelled upon less than thirty (30) days notice to Owner.

6. Indemnification: The undersigned Permitee hereby undertakes to indemnify and defend Owner from any liability to persons or property, including all costs of defense thereof, incurred by virtue of any action which is willful or negligent taken by Permitee or any agent, representative or invitee thereof.
7. Rules of Use: Owner may make rules reasonably necessary for the safety of all users of the Pier from time to time in Owner's best judgment, and Permitee shall obey such rules upon notice thereof as a part of the conditions of this permission.

8. Default: Should any person holding a permit for use of the Pier default in performance of any of the conditions of this license, Owner may, without further notice or opportunity to cure, terminate any further use by any person holding a permit for use of the Pier. Permitee reserves the right to revoke this agreement at his discretion upon thirty (30) days written notice to Owner.

9. Assignment: The rights of Permitee hereunder are personal to Permitee and may not be assigned to any other person, without the prior written consent of Owner, or otherwise transferred by will or the laws of descent, or by operation of law.

10. Destruction of Pier: In the event that the Pier is totally destroyed or destroyed to the extent that it would have to be rebuilt rather than repaired, then this agreement shall terminate and neither party shall have any further liability hereunder.

11. The obligations of each party hereto are expressly conditioned upon them receiving from all governmental agencies having jurisdiction of such matters all permits, licenses or other authority for the referenced Pier.

IN WITNESS THEREOF the parties hereto have set their hands the date and the year first hereinabove written.

Stanley Hiller, Jr., Owner

Permitee
Holiday Shores Commercial Condominium Conversion
7276 North Lake Boulevard, Placer County
APN 89-143-15, TRPA File #82112

Applicant: Kenneth Cokeley

Project Description: The applicant proposes to subdivide an existing 9 unit motel into 8 individually-owned units. Each owner will have the right to occupy his unit for a specified period of time each year. When the unit is not occupied by the owner, it will be rented to the general public as a motel room. The Placer County approval specifically states that the development must continue to be operated as a commercial motel and cannot be occupied by full-time residents. The County approval restricts use of the units to transient residential for consecutive periods of not more than 30 days.

The reduction of one unit is being accomplished by installing a door between two existing motel rooms and removing one kitchen facility. All 9 of the existing units contain kitchen facilities, and all of the remaining 8 units will contain kitchen facilities.

The applicant proposes to remove 95 square feet of existing walkways and concrete walls in addition to 455 square feet of existing parking and driveway areas for a total reduction in land coverage of 550 square feet. These areas are to be landscaped and revegetated.

The plans submitted by the applicant show a proposed pier to be built at a future date. The proposed pier is not permitted by either the TRPA or the CTRPA under their policies prohibiting acceptance of further applications for multi-use or single-use piers.

Project Location: 7276 North Lake Boulevard, Tahoe Vista, Placer County

Site Description: The site currently contains a 9 unit motel and associated parking areas. The property is located between Highway 28 and Lake Tahoe and has approximately 100 feet of lake frontage.

Review Per Section: Section 4.24, California Side Land Use Ordinance as amended by TRPA Ordinance 82-8
Section 3.11(6) TRPA Ordinance 81-8
Article VI(b) of the Tahoe Regional Planning Compact

Land Use District: General Commercial (GC)

Land Capability Classification: UmD Soil Type, level 5, 25% coverage (3,772 sq. ft.)

GG: jf
12/1/82

Agenda Item VII D.
Holiday Shores Conversion
page two

Land Coverage:  

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<td>Decks:</td>
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<td>Total:</td>
<td>11,965 sq. ft. 79.3%</td>
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Building Height:  Existing: 25 feet  Proposed: No change  Permitted: 30 feet

Parking: There are 18 existing on-site parking spaces which staff considers adequate for the proposed use.

Impact Analysis and Mitigation Measures:

Density - The subject site would be allowed 7 units in conformance with current regulations. The applicant proposes 8 units, which is a reduction of 1 unit. The proposed density is not in compliance with the applicable standards and is therefore nonconforming.

Land Coverage - The subject site is allowed up to 25% land coverage in conformance with the California Side Land Use Ordinance. Although the land coverage is being reduced from 82.8% to 79.3%, the resulting land coverage will still be nonconforming.

Erosion Controls and Drainage Improvements - The site does not comply with the Agency's 208 Plan standards relative to erosion control and drainage improvements. As part of this approval, the applicant will be required to bring the site up to these standards.

Indirect Source Review - The proposed use will not generate 100 new trips per day or exceed 1% of the remaining roadway capacity and therefore is not subject to review under the Indirect Source Review Ordinance.

Tourist Accommodation - The project should not have a significant effect on tourist accommodations since the units will be rented to the general public as motel rooms when not occupied by the owners.

12/1/82  Agenda Item VII D.
Consistency With Applicable Plans, Ordinances, Regulations and Standards:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
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<td>TRPA Compact and Ordinances</td>
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<td>California Side General Plan</td>
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<tr>
<td>California Side Land Use Ordinance</td>
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<td>Lahontan Regional Water Quality Control Plan</td>
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<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
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* The proposed conversion is allowed under Section 3.11(6) of TRPA Ordinance 81-8 since the applicant proposes conversion of an existing structure and there will be no increase in development potential or in present or potential land coverage or density, and there will be no adverse impacts on the health, safety, general welfare or environment of the Region.

** The proposed conversion is consistent with the California Side Land Use Ordinance as amended by TRPA Ordinance 82-8. This ordinance is scheduled for second reading at the December, 1982 TRPA Board meeting. This project is consistent with the California Side Land Use Ordinance only if Ordinance 82-8, adding Section 4.24, receives second reading as scheduled.

The following information is provided relative to the requirements of Section 4.24:

(a) **Compliance With Use Regulations** - The proposed use is permitted in the applicable use district (General Commercial) and the proposed density of 8 units exceeds the permitted density by only 1 unit.

(b) **Reduction of Nonconforming Land Coverage** - Although the application is not subject to the requirements for the replacement of nonconforming land coverage, the applicant proposes to reduce the existing land coverage by 4.4%.

(c) **Landscaping and Drainage Improvements** - As part of the approval, the subject property will be brought into compliance with the Agency's 208 Plan standards relative to drainage improvements, revegetation and erosion control.

(d) **Parking** - Agency staff has determined that the 18 existing on-site parking spaces are adequate for the proposed use. This number of parking spaces also satisfies Placer County parking requirements.

12/1/82

Agenda Item VII D.
Holiday Shores Conversion

Project Analysis and Issues for Discussion: The only reason this project is not on the consent calendar is that the project cannot be found to be consistent with the California Side Land Use Ordinance until Ordinance 82-8 is adopted. TRPA Ordinance 82-8, which adds Section 4.24, is scheduled for second reading as agenda item VI on the December, 1982 TRPA Governing Board agenda.

Required Actions and Findings:

I. A motion for a finding of no significant effect with direction to staff to prepare the necessary certification document to be included with the permit.

II. A motion to conditionally approve the project based on the following findings and conditions:

   A. Pursuant to Article III(g)(2) of the Compact, the project complies with the regional plan, ordinances, rules and regulations of the Agency.

   B. Pursuant to Article VI(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Region.

   C. The findings listed on standard Attachment I, with the following conditions deleted:

      1e TRPA security
      1g Security for compliance
      8 Tree/vegetation damage
      7 Lahontan waste discharge requirements
      13 Construction practices
      16 Traffic
      18 Provisions for bicycles
      23 Mail box facilities

   D. There is substantial evidence in the record supporting the foregoing findings.

   E. The following special conditions (conditions 1 and 2 are required under the provisions of Section 4.24 of TRPA Ordinance 82-8):

      1. In the event of damage to or destruction of all or any portion of a structure on the subject property, reconstruction of such structure shall comply with all Agency ordinances and regulations governing the reconstruction of a nonconforming structure or a structure devoted to a nonconforming use. Any replacement cost limitation prescribed by such ordinances and regulations shall be computed by reference to the replacement cost of all structures on the project site, rather than exclusively to the structure damaged or destroyed.

12/1/82

Agenda Item VII D.
2. In conducting negotiations, formal or informal, for the purchase, sale, lease or transfer of a condominium unit within the structure located on the subject property, the applicant for such conversion, and such applicant's successor(s) in interest, shall expressly disclose to all other persons involved in such negotiations the existence and terms of any and all Agency regulations of, or restrictions or limitations upon, reconstruction of the structure containing such unit. Such applicant shall also record in the office of the county recorder in which the project is situated, a notice, approved by Agency counsel, setting forth the matters otherwise required to be disclosed pursuant to this subsection, which notice shall be recorded together with the documents effectuating the conversion pursuant to this section.

3. This approval does not include approval of the pier shown on the site plan submitted with the application.
MEMORANDUM

December 1, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Agenda Item VII E, Tahoe Station Commercial/Professional Office Complex, TRPA File #82220

The applicant has requested that the subject project be continued for 60 days.

12/1/82
GG:jf

Agenda Item VII E.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Caltrans, Upper Truckee River Bridge Widening, U.S. Highway 50, El Dorado County, TRPA File #821344

Applicant: Caltrans

Project Description: This application seeks approval to rehabilitate and widen the existing two-lane bridge to provide for shoulders, a sidewalk, concrete barrier rails and a left-turn lane transition.

Project Location: Highway 50 at the base of the Echo Summit grade, Meyers.

Site Description: The improvements are proposed to rehabilitate the existing bridge, reduce accidents, and increase vehicular and pedestrian safety. The bridge, built in 1941, is showing signs of surface and structural deterioration caused by weathering and salt leaching. Between January 1977 and January 1981 (48 months) there have been 45 accidents, including 13 injuries and 1 fatality within the proposed project limits. This accident rate is nearly twice the statewide rate for similar facilities. Development and increased recreational use of the area since construction of the bridge in 1941 has created a need for a bridge with a sidewalk and adequate shoulders to accommodate pedestrians and non-motorized traffic.

The California design standards for rural highways call for 12 foot travel lanes and 8 foot shoulders. The proposed improvements will provide sufficient width to improve the existing sub-standard shoulders and to create a sidewalk and left turn lane transition.

In addition there are existing unstable cut and fill slopes in the area of the project contributing sediments which are being released into the Upper Truckee River.

Review Per Section: Section 4.12 of the California Side Land Use Ordinance
Section 6.12 of the California Side Land Use Ordinance
Section 7.14 of the California Side Land Use Ordinance
Section 13.31 of Ordinance 81-5

Land Use District: General Forest, (GF) and General Commercial (GC)

Land Capability Classification: Capability District 1B

Land Coverage: Projects contained within the CTRPA Transportation Plan are not subject to the land coverage requirements of the Land Use Ordinance. TRPA allows excess land coverage for projects proposed for public health, safety, and welfare. Staff has recommended that retaining walls be used to minimize the additional land coverage within the designated SEZ of the Upper Truckee River. The use of retaining walls will reduce the proposed amount of fill by one half to 600 yards.

11-29-82
JD:md

Agenda Item VII F.
Impact Analysis and Mitigation Measures:

Land Coverage: TRPA Ordinance 81-5 allows disturbance within a SEZ if it is found that the project is necessary for public health, safety, and welfare and that all feasible alternatives have been exhausted. Due to the location of the bridge there are no options for location of the proposed improvements outside of the SEZ. Staff recommends that retaining walls be used to minimize the proposed disturbance and land coverage within the SEZ.

Sediment Control: The project site is in need of restabilization of existing cut and fill slopes and the provision of adequate drainage devices. The placement of these facilities will reduce the amount of sediments reaching the Upper Truckee River. Staff has recommended that infiltration trenches and paved swales, fitted with drop inlets, be provided as well as revegetation of the adjacent cut and fill slopes.

Mitigation of SEZ Disturbance: TRPA and Lahontan staff's have determined that the appropriate mitigation measure to offset the new land coverage being proposed within the SEZ is to restore adjacent portions of the same SEZ. There are currently two dirt roads in the area which are periodically used to provide access to the Upper Truckee River. Both of these roads are disturbed and reduce the effective treatment capacity of the SEZ. One of the roads is within the project area and staff has recommended that this road be closed off and revegetated.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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<td>Federal/State Air Quality Standards</td>
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11-29-82

Agenda Item VII F.
Project Analysis and Issues for Discussion:

1. Agency staff recommends that a retaining wall be used rather than a 2:1 fill slope to minimize encroachment and disturbance within the SEZ.

2. Agency staff recommends acceptance of the proposal to barrier and revegetate the existing dirt road as the mitigation measure for additional disturbance within the SEZ. The reduction in disturbance from placement of a retaining wall in combination with the road removal will provide for an increase in the effective treatment area of the subject SEZ.

Required Actions and Findings: Findings required under Section 13.31 of Ordinance 81-5:

1. The project is necessary for the protection of public health, safety, and general welfare, and,

2. All feasible alternatives not involving construction within the SEZ have been exhausted.

Findings required under Section 6.12(a) of the California Side Land Use Ordinance:

1. The project is contained in the CTRPA Transportation Plan, and,

2. The proposed land coverage is the minimum departure from the standards.

Findings required under Section 7.14 of the California Side Land Use Ordinance:

Findings listed on Attachment A.
Findings listed on Attachment C

Standard conditions of approval listed on Attachment I

Delete: Conditions:  
1e: TRPA Security
12: Consolidation of lots
17: Provision of Handicapped Facilities
18: Provisions for bicycle parking
23: Mail Box Facilities

Add: Conditions:
24: A retaining wall shall be used on the north side of the proposed road to minimize disturbance to the SEZ
25: A slope stabilization and revegetation plan shall be submitted including provisions for revegetation of cut and fill slopes from Upper Truckee River Road to Cirugu Street. A drainage plan for this area shall also be submitted and completed.
26: The applicant shall barrier and revegetate the existing dirt road to offset the proposed new land coverage and disturbance within the SEZ.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Joe Tveten, Replacement of Nonconforming Land Coverage, Meyers, El Dorado County, APN 34-321-13 and -12, TRPA File #821404

Applicant: Joe Tveten

Project Description: The applicant seeks approval to construct a 507 square foot single story addition to the Exxon Station in Meyers. The addition is to be used for storage of gas station related materials.

Project Location: Highway 50, across from the intersection of Highway 50 and Highway 89, in Meyers.

Site Description: The subject application contains two parcels. Parcel 12 contains the Sierra Hi-Fi store. Parcel 13, on which the addition is proposed, includes the Tahoe Paradise Exxon, a take out deli, Tveten Oil Co. wholesale bulk gasoline sales, and Tveten Auto Sales.

Review Per Section: Section 9.16 California Side Land Use Ordinance Article VI(b) of the TRPA Compact

Land Use District: General Commercial (GC)

Land Capability Classification: Capability level 5, allowable coverage 25%

Land Coverage: Parcel 13

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<td>1,265 sq. ft.</td>
<td>1,772 sq. ft.</td>
<td>3,750 sq. ft.</td>
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<td>13,735 sq. ft.</td>
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</table>

Parcel 13 contains nonconforming land coverage in excess of both the land capability system and the 70% override once applicable in the General Commercial Land Use District. In order to allow any modifications to the existing nonconforming land coverage a net reduction in land coverage to within 70% must be made under the requirements of Section 9.16 of the California Side Land Use Ordinance. The applicant proposes to reduce the existing land coverage by 1,072 square feet. The proposed reduction does not bring the project site down to 70% land coverage.

12-1-82
JD:md

Agenda Item VII G.
Parcel 12

Existing: Building: 2,430 sq. ft.
             Paving: 11,567 sq. ft.
            Total: 13,997 sq. ft. (23.9%)

Proposed: Same

Allowed: 14,626 sq. ft. (25%)

The applicant has indicated that he is unable to comply with the requirements of Section 9.16 to reduce existing land coverage to 70% on parcel 13. The required reduction would be 4,500 square feet. Since parcel 12 is contiguous and also owned by the applicant, the CTRPA staff recommended that parcels 12 and 13 be consolidated for purposes of land coverage calculations. This consolidation would require the applicant to process a lot consolidation map through El Dorado County. Consolidation of the parcels would bring the project area within the 70% land coverage requirement. The applicant rejected the recommendation based on his concern that such a consolidation would reduce the development potential of parcel 12. The applicant then reapplied to the Agency with a proposal to burden both parcels for the purposes of land coverage calculation instead of consolidating the parcels. The proposed method is a deed restriction recorded on both parcels indicating that they are to be used in combination for determining land coverage, but allowing retention of the two separate parcels for purposes of sale. The deed restriction would be binding on subsequent purchasers subject to Agency enforcement (Attachment B).

The effect of the deed restriction proposed would be to dedicate a portion of parcel 12 to parcel 13 for coverage calculations without physically transferring the land area. This type of proposal is not specifically provided for in the California Side Land Use Ordinance and raises questions concerning purchaser awareness of the restriction and the Agency's ability to monitor and enforce the deed restriction requirements.

The subject proposal is being reviewed by TRPA legal counsel and will be heard by the CTRPA Governing Board on December 3, 1982. TRPA legal counsel has indicated that he will withhold a final recommendation pending CTRPA action. Therefore, a final recommendation by legal counsel and staff will be presented at the Agency Governing Board meeting assuming the proposed deed restriction is accepted by the CTRPA.

Building Height: Existing: 15 feet
                      Proposed: 15 feet
                      Allowed: 30 feet

12-1-82

Agenda Item VII G.
Joe Tveten
Page 3

Impact Analysis and Mitigation Measures:

Water Quality: Both parcels will need to be retrofitted with drainage devices to control runoff and revegetate. These improvements will result in a net water quality benefit.

Traffic: The proposed storage room addition will not result in generation of additional vehicle trips and, therefore, is not subject to review under the Indirect Source Review Ordinance.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Side General Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>California Side Land Use Ordinance</td>
<td>Inconsistent*</td>
</tr>
<tr>
<td>Lahontan Regional Water Quality Control Plan</td>
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<tr>
<td>TRPA 208 Water Quality Plan</td>
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<tr>
<td>California Side Indirect Source Review Ordinance</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

*Pending review by legal counsel it is uncertain if the proposed deed restriction is consistent with the requirements of the California Side Land Use Ordinance. Section 6.13 of the California Side Land Use Ordinance provides that allowable land coverage shall be calculated using all that land constituting the area of development for which the permit is sought. Therefore, if parcel 12 is to be included it should be an inseparable part of the project site.

Project Analysis and Issues for Discussion:

1. Does the proposed mechanism comply with the Agency requirements for land coverage to be reduced on the same parcel.

2. Does the Agency have the reasonable ability to monitor and enforce special land coverage limitations created when a parcel is burdened with a requirement for additional open space through a deed restriction.

Required Actions and Findings:

1. Find that the applicant's proposed deed restriction complies with the Agency's requirements of Section 9.16 of the California Side Land Use Ordinance.

12-1-82

Agenda Item VII G.
2. Findings listed on Attachment A.

3. Findings listed on Attachment C.

4. Standard Conditions of Approval listed on Attachment I

5. Conditions as recommended by Agency legal counsel to insure enforceability of the proposed deed restriction.

6. All subsequent modifications to land coverages or uses shall be reviewed by the Agency.
MEMORANDUM AGREEMENT OF UNDERSTANDING
BETWEEN CALIFORNIA TAHOE REGIONAL PLANNING AGENCY
AND JOE TVETEN

THIS AGREEMENT is made and entered into this ___ day of October, 1982, in the State of California, by and between the CALIFORNIA TAHOE REGIONAL PLANNING AGENCY (CTRPA), through its Executive Officer, Dennis Winslow, and JOE TVETEN (TVETEN).

This Memorandum Agreement of Understanding sets forth the respective responsibilities of the parties to this Agreement, pursuant to which, the parties will burden the land coverage rights of the two parcels of real property owned by TVETEN located across from the intersection of U.S. Highway 50 and U.S. Highway 89, Meyers, California, commonly known as the Tahoe Paradise Exxon Station, described with particularity on Exhibit "A", attached hereto and made a part hereof (the property).

Recitals

A. On or about May 7, 1982, TVETEN applied to CTRPA to modify the commercial structure situated on the property.

B. On or about June 9, 1982, CTRPA staff advised that the proposed project did not comply with the CTRPA Land Use Ordinance Section 9.16 in that the proposed modification
would not result in a reduction of coverage to 70 percent in the General Commercial Land Use District.

C. As indicated on Exhibit "A", TVETEN owns the parcel of real property behind and contiguous to the proposed project, Assessor's Parcel No. 34:321:12.

D. The existing project site contains 100 percent land coverage. The proposed modification will reduce land coverage from 100 percent (15,000 square feet) to 92.8 percent (13,928 square feet).

E. On or about September 16, 1982, CTRPA staff indicated that although the proposed modification would result in a reduction of coverage, staff could not recommend approval of the project unless TVETEN agreed to consolidate the rear contiguous parcel for the purpose of calculating land coverage pursuant to Section 9.16 of the CTRPA Land Use Ordinance.

F. On October 8, 1982, TVETEN advised the CTRPA staff that it would burden both parcels for the purposes of the land coverage calculation, however, the parcels would not be consolidated into a single parcel for the purpose of sale, lease or other form of alienation.

AGREEMENT

1. TVETEN hereby agrees to consolidate, for the purposes of total land coverage calculation, the two contiguous parcels described on Exhibit "A" hereof.
2. CTRPA shall approve modification of the structure upon consolidation, for land coverage purposes of the lots described on Exhibit "A" hereof.

3. Pursuant to this agreement, TVETEN shall record a Declaration of Restrictions concerning the property described in Exhibit "A", consolidating both parcels for the purpose of land coverage calculation. The benefit and burden created thereby, shall run with the land and shall be binding on the heirs, successors and assigns of TVETEN.

4. The documents, deeds, or other evidence of restriction shall be recorded prior to May 15, 1983, and the document, deed or other method of restriction shall be approved, prior to recordation, by counsel for both parties.

DATED: CALIFORNIA TAHOE REGIONAL PLANNING AGENCY

By: Dennis Winslow
Executive Officer

APPROVED AS TO FORM & CONTENT:

By: Craig Thompson
Deputy Attorney General

JOE TVETEN

APPROVED AS TO FORM & CONTENT:

FELDMAN, SHAW & DE VORE

By: Lewis S. Feldman
Lifschez, Appeal of Staff Decision to Approve Pier Repair, 740 W. Lake Blvd., Placer County APN 94-200-17, TRPA File #82261

Appellant: Robert Cook

Project Description: The applicant is proposing to reconstruct an existing nonconforming pier that has been damaged by storms. Currently, the pier is nonconforming in that it contains a sundeck which exceeds the height and width standards for individual use piers, and the pier does not conform to the required property line setback of 5 feet. In reconstructing the pier the applicant proposes to bring the pier into total conformance with the standards set forth in the Shorezone Ordinance by eliminating the sundeck and increasing the property line set back to 5 feet.

Project History: The subject application was received September 8, 1982. On September 22, 1982 staff sent out the "Notice of Intent to Approve" to the adjoining property owners. The project was being reviewed under Section 17.40 of the Shorezone Ordinance which states as follows:

17.40 Conformity

Within the time specified by this ordinance, a nonconforming structure shall either be repaired to conform with the provisions of this ordinance or removed by the owner at his expense; provided, however, that when a structure cannot be repaired to conform with the provisions of this ordinance and its removal would cause more environmental harm than its continuance or expose additional boating hazards, the structure need not be removed, but such alterations as are necessary to minimize the nonconformity shall be required.

Staff determined that the application, as submitted, would bring the existing nonconforming pier into conformance with the provisions of the Shorezone Ordinance. Agency staff received an objection from the adjoining neighbor, Mr. Cook, on September 27, 1982. Mr. Cook formally applied for an appeal to the Governing Board on September 24, 1982.

Appeal: The appellant's objection to the staff approval is with regard to the setback to the property line and that reconstruction of the pier should be considered as a new pier, and therefore prohibited under the Governing Board's temporary moratorium on the construction of new piers.

APC Action: After hearing the staff summary and listening to Ms. Lifschez's comments, the APC denied the appeal. Mr. Cook was not present at the meeting.

11-29-82
KE:md

Agenda Item VIII A.
Buchbinder/Elegant, Appeal of Staff Decision Pursuant to Lot Review Criteria, Case-by-Case Review of Single Family Dwelling, Lot 17 Geraldine Drive, Level 1A, Washoe County, APN 125-232-06, TRPA File #81-1392

Applicant: Harris Buchbinder/Ira Elegant/Foster Engineering

Project Description: The applicant proposes to construct a 2-story single family dwelling with a 2 car garage. A driveway and garage is proposed to be cut in with retaining walls as stabilization. No substantial cut would be required for the balance of the structure.

Project Location: Lot 17, Geraldine Drive, Incline Village Unit #1

Site Description: The subject parcel is an uphill lot with a slope of approximately 10% across the building site. There is a large road cut which is in excess of 15 feet in height. The soil is very rocky in nature and the site is moderately well vegetated.

Land Use District: Low Density Residential (LDR)

Land Capability Classification: Level 1A, MSe and UmF soil types

Land Coverage: Total Lot Size 14,000 sq. ft.
Allowable Coverage 2,800 sq. ft. (20% of total lot size)
Proposed Coverage 2,784 sq. ft.

Building Height: Proposed: 30ft. Permitted: 35 ft.

Project History: The application was received in November of 1981. The site was field checked in December, 1981. Based upon a preliminary staff review, the project was considered a high risk with regard to land stability. Concern was also raised regarding the runoff potential due to the rocky nature of the soil. This preliminary decision was appealed to Philip Overeynder, Executive Director. He concurred with the staff determination.

At the appeal hearing, the possibility of a zero setback parking pad was discussed. This concept would minimize the cut by eliminating the driveway. Foster Engineering determined that a minimum of a 15 foot cut would be required for this alternative. Staff contends that this amount of excavation is excessive and classifies the project as a high risk with regard to land stability.

The applicant now wishes to appeal this determination of high risk with regard to land stability.

Impact Analysis and Mitigation Measures: The Case-by-Case Lot Review Criteria have been applied to the subject parcel. Staff finds that the parcel is considered a high risk with regard to at least one of the four criteria.

11-30-82
NLS:md

AGENDA ITEM VIIIB.
Proximity to a Stream or Wetland: Low Risk. There is no stream environment zone on or adjacent to the subject parcel.

Runoff Potential: Moderate to High Risk. The soil is extremely rocky in nature. This is evident in the cut slope adjacent to Geraldine Drive. The cemented substratum, characteristic of the MsE soil type, appears to be very close to the surface. This could result in a lack of infiltration capacity. Additional information, such as percolation tests, would be required to accurately assess the infiltration capacity.

Land Stability: High Risk. The nature of the parcel is such that excavation for the required off street parking is excessive. A minimum of a 15 foot cut is required. According to the criteria this is considered access difficulties and is a high risk. Further, the rocky nature of the soil would create excavation difficulty.

Vegetation: Moderate Risk. The site is currently well vegetated. Because of the rocky nature of the soil, however, revegetation of disturbed areas may be difficult.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

<table>
<thead>
<tr>
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<th>Findings</th>
</tr>
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<tbody>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
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<tr>
<td>Nevada Side General Plan and Sub-Elements</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Inconsistent*</td>
</tr>
<tr>
<td>Nevada Division of Environmental Protection Air Quality Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

*This project is inconsistent with the 208 Water Quality Plan since it is not within the parameters of the Lot Review Criteria.

Project Analysis and Issues for Discussion: Agency staff finds that the impacts resulting from the proposed project are excessive and cannot be minimized to an acceptable level. The project does not fit within the parameters of the Case-by-Case Lot Review Criteria.

This item is scheduled for the December 8, 1982 APC meeting. In the event that a resolution is reached, this item may not need to be heard before the Governing Board.

11-30-82

AGENDA ITEM VIIIB.
Required Actions and Findings: If the Board wishes to approve the project, the following findings must be made:

A motion for approval of the project based on the following findings and foregoing conditions recommended by Agency staff:

I  1. Pursuant to Article III(g) of the Compact, the project complies with the Regional Plan, ordinances, rules and regulations of the Agency.

   2. Pursuant to Article VI(b) of the Compact, the project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Region.

   3. There is substantial evidence in the record supporting the foregoing findings.

II 1. Findings pursuant to Section 12.10 of Ordinance 81-5 that the subdivision in which the subject parcel is located has been reviewed by the planning team and has been determined to be "Potentially Adequate". This determination therefore allows parcels in this subdivision to be eligible for case-by-case review.

   2. Findings required by Section 12.22 of Ordinance 81-5:

   A. That the subject parcel has been reviewed with respect to all potential effects upon water quality of the construction of a single family house. Such review includes the factors of vegetative cover, proximity of the project to a stream or wetland, runoff potential and land stability as set forth in the "1981 Case-by-Case Lot Review Criteria". Based upon this review, the lot has been determined to be "buildable" and therefore eligible for case-by-case review.

   B. That the construction, work, use or activity proposed thereby will not adversely affect the quality of water within the region, and that it is in accordance with the Handbook of Best Management Practices, and the Plan and all other applicable plans, ordinances, rules, regulations and policies of the Agency.

   C. That the project will mitigate, below levels of significance, the cumulative adverse effects upon water quality of development of land within land capability districts 1 through 3 for purposes of issuance of a permit under Section 12.00 and the making of a finding of no adverse effect on quality of water in the region under this subsection.

11-30-82 AGENDA ITEM VIII B.
3. Findings required by Section 12.22(a) and (b) of Ordinance 81-5:

A. The project may individually and cumulatively contribute to continued erosion and nutrient increases causing degradation of Lake Tahoe.

B. Mitigation measures have been incorporated into the project, including application of construction or contribution toward construction of offsite remedial erosion control measures which will offset any anticipated adverse effects. These measures constitute changes or alterations required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less-than significant level pursuant to Article VII of the Compact.

III The standard conditions of approval (Attachment D).

IV. The following special conditions:

1. The applicant must contribute to an offsite mitigation fund. This fee is based on the proposed coverage in excess of that allowed by land capability and must be paid prior to the issuance of a TRPA permit. The mitigation fee is $7,972, as calculated below:

<table>
<thead>
<tr>
<th>Capability Level:</th>
<th>1A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size:</td>
<td>14,000 sq. ft.</td>
</tr>
<tr>
<td>Allowed Coverage by Land Capability:</td>
<td>140 sq. ft.</td>
</tr>
<tr>
<td>Proposed Coverage:</td>
<td>2,784 sq. ft.</td>
</tr>
<tr>
<td>Coverage in Excess of Land Capability:</td>
<td>2,608 sq. ft.</td>
</tr>
<tr>
<td>Mitigation Fee:</td>
<td>$7,972</td>
</tr>
</tbody>
</table>

2. The applicant shall redesign the project to include a zero setback parking pad with stairs leading to the main structure other than for the parking area.

3. Other than for the parking area, foundations and utility trenches shall be hand dug.

4. Final details of the drainage plan shall be approved prior to TRPA permit issuance.
MEMORANDUM

December 2, 1982

To: The TRPA Governing Body

From: The Staff

Subject: Agenda Item VIII C. - Sells/Lundahl Appeal

The applicant has requested that the subject appeal be continued from the December Governing Board agenda. Mr. Grant Kennedy, representing the applicant, is preparing additional information relative to the location of the geomorphic unit boundaries for review by the Land Capability Review Team. Due to the lack of time to review these submittals prior to the December meeting, staff concurs with this request. If the information submitted by Mr. Kennedy regarding the geomorphic unit classification satisfies the team that the current designation is incorrect, the team will recommend that the designation be changed and that the land capability challenge be processed. Further processing of the challenge request can be done at the staff level.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Gary Brand, Appeal of Staff Decision to Require an Amended Final Map to Transfer Additional Land Coverage to Lighthouse Shores, City of South Lake Tahoe

Appellant: Gary Brand

Project Description: The applicant is proposing to construct two single family dwellings on lots 7 and 12 in the Lighthouse Shores Subdivision.

Project History: Lighthouse Shores is a TRPA approved subdivision containing 13 lots and is located along the shoreline in the area of Tahoe Keys. The final subdivision map included land coverage allocations upon each of the lots. The appellant was informed by the CTRPA that it was permissible to transfer development rights from lots in Tahoe Keys to the Lighthouse Shores Subdivision. Relying on this information, the appellant purchased two lots in the Keys, deed restricted them from future development, and transferred the coverage to the lots in Lighthouse Shores.

Appeal: The appellant is appealing the decision of Agency staff requiring amendment of coverage of the final map for Lighthouse Shores prior to approving the two single family dwellings.

Staff Recommendation: The appellant must receive a final building permit prior to December 31, 1982 to retain his 1982 water and sewer allocation status. The County will continue plan check and issue a building permit so that the applicant may retain his 1982 allocations if tentative approval is granted by the TRPA.

It is the opinion of TRPA legal counsel that the Governing Board may amend their prior approval of the Lighthouse Shores tentative map to permit additional coverage on lots 7 and 12. This amendment could be based on the special circumstances relative to the appellant’s reliance on information received from CTRPA. Agency staff recommends that a condition of approval for the single family dwellings be that the appellant amend the recorded final map for Lighthouse Shores Subdivision prior to commencement of construction.

Required Actions and Findings:

1. Amend the prior approval of the Lighthouse Shores final map to allow for additional land coverage on lots 7 and 12.

12-2-82
KE:md

Agenda Item VIII D.
Special Determination
Applicability Land Coverage Exemptions for
Local Public Roads Under Case by Case Review

Background

In April of 1982, the Governing Body made a determination that an exception for a local public road would be considered on a case by case basis in non critical areas. This was based upon some flexibility in the language of Section 14.00 of Ordinance 81-5. At that time, the Board did not directly address the coverage limitations in land capabilities 1, 2 and 3. It was brought out that the wording in Ordinance 81-5 does not include exemptions for additional land coverage for case by case review.

At this time, an application has been submitted to the Agency which proposes to utilize excess coverage resulting from a local public road finding. The applicant wishes a Board clarification on this issue.

Issue

Section 8.25(4) of the Nevada Side Land Use Ordinance allows the Governing Board to authorize excess land coverage in connection with the construction of a "local road", provided: 1) the road is required to provide access to property other than that owned by the applicant; 2) the road will be constructed or maintained by a public agency or is required to be constructed by the terms of a lawfully created easement recorded prior to February 10, 1972; 3) the road is designed to minimize land alteration and prevent erosion; and 4) the road is designed to minimize the additional coverage.

If these findings can be made, the excess coverage permitted is 50% of the total land covered by the local road unless the road is located in a General Forest or Recreation District in which event the excess coverage shall be 100% of the total land covered by the road, and the road shall not exceed 20 feet in width.

More recently, however, preparation of the Environmental Impact Statement (EIS) for the 208 Water Quality Plan was based on an alternative action for land capability and coverage limitations which assumed the elimination of the land coverage overrides included in the TRPA Land Use Ordinance. Accordingly, those sections of the 208 Water Quality Plan Ordinance (Ordinance 81-5) that establish land coverage limitations (Sections 12.23 and 12.40) do not include specific exemptions for additional land coverage for "local roads". Ordinance 81-5 supercedes the provisions in the Land Use Ordinance.

Section 12.23 addresses the allowable land coverage for development in land capabilities 1, 2, and 3. The only way any construction, work, use or activity can be performed in these capabilities is through the case by case review procedure (Section 12.21 of TRPA Ordinance 81-5). The allowable coverage is for case by case review is established in Section 12.23, which reads as follows:

11-30-82
NLS:md

Agenda Item IX A.
12.23 Permitted Land Coverage.

No permit issued pursuant to subsection 12.21 shall authorize, and no person shall create, or perform any construction, work, use or activity for the purpose of creation of land coverage in excess of that permitted pursuant to section 9.24 of the Agency's Land Use Ordinance (Ordinance No. 4) or twenty percent (20%) of the area of the pertinent lot or parcel, whichever is less. For this purpose, "lot" within the meaning of said section 9.24 shall include "parcel" as used in this ordinance, and land coverage shall be calculated in accordance with sections 8.22, 8.23 and 8.24 of said Land Use Ordinance.

It is clear that this language does not allow exemptions from the coverage limits provided for case by case review for "Local Roads". It is Agency staff's position that the coverage of any roadway on a parcel must be included in the allowable land coverage as described above. In land capabilities 1, 2, and 3 there are no provisions for excess land coverage.

Agency legal counsel concurs with this staff interpretation. A written opinion from Gary Owen will be prepared for presentation of the Governing Board meeting.
DATE: December 1, 1982

TO: Governing Board

FROM: Agency Staff

SUBJECT: Application of Section 12.42(c) of Ordinance 81-5 to Public Projects, Transfer of Permitted Coverage from Lot or Parcel Within Same Watershed.

Background: Section 12.42(c) of TRPA Ordinance 81-5 permits transfer of permitted coverage within the same watershed for "commercial construction, uses or activities occurring within land capability districts 4, 5, 6, and 7...", so that coverage in excess of that permitted by the pertinent land capability district may be approved.

The Public Library in Incline Village wishes to expand its facilities and requests that a transfer of permitted coverage be allowed. The facility was approved by the Agency and is currently at its allowable coverage. Washoe County requests that the Board determine whether or not section 12.42(c) of Ordinance 81-5 could be applied to public projects. The County wishes to transfer coverage off of another County owned parcel in the same watershed. A deed restriction will then be placed on the parcel from which the coverage is transferred.

Issue: It is Agency staff's opinion that as Section 12.42(c) currently reads, there is no provision for transfer of permitted coverage for a public facility. This section is specific to commercial uses. Agency Legal counsel concurs with this interpretation. Agency staff does feel, however, that the transfer of permitted coverage for public facilities is consistent with the intent of this ordinance. The intent being to allow concentration of commercial uses into "nodes." Public facilities should therefore also be concentrated into these centralized areas. It may be appropriate for an ordinance amendment to be initiated to allow coverage transfers for public uses as well as commercial uses. If it is the wish of the Board, Agency staff will return next month with such an amendment to Ordinance 81-5.

AGENDA ITEM IX.B.
TO: TRPA Governing Body
FROM: Agency staff
SUBJECT: Show Cause Hearing - R. Butler, Single Family Dwelling, Grading on High Hazard Lands After October 15th, 739 Burgundy Lane, Incline Village, Washoe County, TRPA File #81088

Enforcement Report

The project permittee was found to be backfilling a sewer line excavation in conjunction with the construction of the above-referenced single family dwelling after the October 15th grading deadline, without benefit of a TRPA grading extension. Recent information received from the Incline Village General Improvement District indicates a sewer inspection was made on the subject site on October 15th, with the remaining backfilling work occurring after that date.

Although Agency approval had been given permitting excavation work to occur on the class IA parcel, including the use of equipment for the trenching work, the backfilling should not have commenced without a permit extension and staff review. In addition, no temporary or permanent erosion controls were in place to stabilize the approximately 200 foot long sewer trench.

As a solution to this infraction of the grading ordinance, Agency staff will work out a site restoration plan with the permittee for effective permanent erosion control measures to stabilize the site. If compliance is not obtained on the subject matter, this item may be brought before the Governing Board for further action.

BP: sf

AGENDA ITEM X.A.
MEMORANDUM

DATE: December 1, 1982

TO: Governing Board

FROM: The Staff

SUBJECT: David Nelson, Enforcement Report

A verbal report will be presented to the TRPA Governing Board at the Board meeting. Agency legal counsel has sent letters to all involved parties requiring responses in writing stating their positions relative to the violation.

STATUS?

SC;sf
12/1/82

AGENDA ITEM X.B.1.
MEMORANDUM

December 3, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Draft Study Report: Nevada-Side Case-by-Case Review Policy for Development on High Hazard Lands

Attached for your review and comment is the subject draft report. Staff distributed a previous draft in November and received a limited number of comments from the Governing Body, the APC and the public. More comments are anticipated.

At the December meeting, staff will present a briefing on the report and request your feedback. The Governing Body will be asked to clear the report for transmittal to EPA at the January meeting.

If you have any questions or comments, please contact Phil Overeynder or Dave Ziegler.
STAFF REPORT:

NEVADA-SIDE CASE-BY-CASE REVIEW POLICY
FOR DEVELOPMENT ON HIGH-HAZARD LANDS

TAHOE REGIONAL PLANNING AGENCY

DRAFT

November 15, 1982
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<td>III EVALUATION METHOD</td>
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I. INTRODUCTION

A. Purpose of This Report

On May 28, 1981, the Tahoe Regional Planning Agency (TRPA) adopted the Lake Tahoe Basin Water Quality Management Plan and submitted it to the Environmental Protection Agency (EPA) for approval under section 208 of the Federal Clean Water Act. One of the features of the plan was a case-by-case review program for development on high erosion and runoff hazard lands on the Nevada side of the Tahoe Basin. The case-by-case program would remain in effect until November 30, 1982, at which time TRPA could extend it.

In approving the plan, EPA placed a condition on plan approval that "TRPA shall by November 30, 1982 submit to EPA for approval a final report demonstrating that the case-by-case review program is consistent with environmental thresholds and water quality objectives for Lake Tahoe".

The purpose of this staff report is both to fulfill the EPA condition of plan approval and to provide direction for the update of the regional plan, in progress.

Staff will present this working draft to the Advisory Planning Commission (APC) at its regular November meeting and revise the working draft for the December Governing Board meeting. The resulting delay in meeting the deadline is necessary to provide opportunity for public review and comment.

B. Scope of the Report

This report covers the Nevada-side case-by-case program which TRPA has operated since the adoption of the water quality management plan. However, because of the small number of case-by-case projects which have actually gone to construction since the adoption of the water quality plan, staff extended its field evaluations to other recent single-family construction on the Nevada side of the Basin. (The details of the field methodology appear in the body of this report and its appendices.) TRPA also considered the results of the California-side case-by-case program which the California Tahoe Regional Planning Agency (CTRPA) operated in 1980, especially in the areas of administrative impacts and performance of applicants.

Following this introduction, the staff report covers:

- background
- issues and answers
- summary and conclusions
II. BACKGROUND

A. Setting

Lake Tahoe is a large, deep water body of exceptional purity. The Lake Tahoe Basin is located on the California-Nevada border, between the crests of the Sierra Nevada and the Carson Range. Roughly two-thirds of the Basin is in California and one-third in Nevada. The steep slopes of the Basin are composed primarily of granitic and volcanic rock. Soils in the region are coarse in texture with low cohesion and low water-holding capacity, making the establishment and maintenance of vegetation difficult, and the erosion potential high.


B. Water Quality

The water quality of Lake Tahoe is virtually unparalleled, yet has diminished within the last several decades. Concern about the trend of decreasing water clarity, due to increased algal productivity, has led to comprehensive studies of the factors affecting Lake Tahoe's water quality. (See the Draft Study Report on Environmental Threshold Carrying Capacities, May 1982.)

The quality of surface and groundwater drainage into Lake Tahoe is largely determined by the natural soil conditions and land activities within the watershed. In its natural state, the vegetative cover surrounding the Lake limits soil erosion, collects sediment, and absorbs dissolved nutrients in surface runoff which would otherwise be carried to the Lake. Once this protective covering is disturbed, this natural treatment is diminished and the Lake is subjected to increased sediment and nutrient loads. Nutrient loading of the Lake stimulates algal growth, reduces clarity, and degrades overall water quality.

C. Land Capability

Different land types can withstand different levels of use before they suffer permanent damage. The Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) defines the level of use an area can tolerate without sustaining permanent damage through erosion, compaction, and other factors. The classification is based on evaluation of geomorphology, soil characteristics (erodability and infiltration capacity), slope (length and shape), and climate.

The Bailey report classifies Lake Tahoe Basin lands in seven capability levels and assigns allowable land coverage limits. These limits represent the percentage of each area that can be used for impervious cover.
D. Case-by-Case Review

Based on land capability, TRPA's 208 plan and its implementing ordinances regulate and prohibit development in stream environment zones, on high-erosion-hazard lands, and in excess of standards for impervious cover. However, each State is subject to different development control policies. Development on high-hazard land classes 1, 2, and 3 is currently prohibited in the California portion of the Basin while development on land classes 1, 2, and 3 is permitted on a case-by-case review basis in Nevada.

Lots within capability districts 1a, 1c, 2, and 3 are eligible for case-by-case review only if they were on record with the counties on December 19, 1980. Under the 208 plan, applications for review were to be received through May 31, 1982. The TRPA Governing Body has subsequently extended this deadline to August, 1983.

E. The Review Process

The case-by-case review policy regulating development on high-hazard land is outlined in Section 2 of TRPA Ordinance 81-5. A three-step review procedure is used to assess proposals for single family development on high-hazard lands. The first step of the review process involves the classification of the subdivision in which the lot is located.

Subdivision review criteria (Appendix D) include evaluation of road placement, drainage, maintenance, downstream impacts, stable cuts and fills, stable internal drainage, access difficulties, and land classification. Based on these criteria, the subdivision, or individual areas within the subdivision, are classified as adequate, potentially adequate, or in need of further evaluation. A planning team consisting of a team leader, ecologist, hydrologist, soil scientist, engineer, and architect decides the appropriate classification, which is subject to appeal to the Governing Board.

TRPA recently streamlined the process of upgrading a subdivision's classification from "needs further evaluation" to "potentially adequate". This process includes requirements for erosion control improvements to be incorporated in specific areas.

Lots located in subdivisions classified as "adequate" or "potentially adequate" are eligible for case-by-case review of the building site if the owner wishes. High-hazard lots in subdivisions classified "needs further evaluation" are not eligible for further review.

Individual lot review criteria (Appendix E) include evaluation of the proximity to streams or wetlands, runoff potential, land stability, and vegetation. If any of these characteristics is rated a high risk under the review criteria, development is not permitted on the lot. Lot classification is subject to appeal first to the Executive Director of TRPA and then to the Governing Board. Development on lots in which all four review criteria are classified a moderate or low risk may proceed in compliance with required mitigation measures.

To minimize the erosion and runoff impacts of development on high-hazard lots, mitigation measures are incorporated into the building permit. On-site
mitigation requires the application of Best Management Practices (BMP's) for revegetation, slope stabilization on and adjacent to the property, and drainage facilities. Additional on-site requirements concerning the siting of the house, land coverage, and land disturbance are stipulations of the building permit approval.

A second mitigation program involves the assessment of an off-site mitigation fee. The fee represents a 150 percent offset of the increased erosion which will take place after development. Fees go into mitigation funds which are used by local government to finance construction of the most cost-effective remedial erosion control measures. In lieu of the mitigation fee, an applicant may provide services of equal value.

After an applicant submits an application, TRPA staff reviews the plans and the site and meets with the applicant. If the subdivision classification, lot review, and on-site and off-site mitigation measures are acceptable, the staff may approve the application. If the staff denies the application, the applicant may appeal first to the TRPA Executive Director and second to the Advisory Planning Commission and the Governing Body.

F. Environmental Thresholds

Under the provisions of the Tahoe Regional Planning Compact, the TRPA Governing Board adopted environmental threshold carrying capacities for the Tahoe Basin on August 27, 1982. These "thresholds" consist of numerical standards, management standards, and policy statements representing a level of desired environmental quality in the following areas: water quality, soil conservation, air quality, vegetation preservation, wildlife, fisheries, noise, recreation, and scenic resources.

The Compact further requires TRPA to amend its regional plan to achieve and maintain the environmental threshold carrying capacities. This amendment is now underway.
III. EVALUATION METHOD

A. Case Studies of Individual Lots

During the summer of 1982, TRPA staff reviewed 32 single-family homesites in Nevada and prepared case studies on each site (Appendix A). An interdisciplinary team evaluated sites in Washoe and Douglas Counties, under construction and complete, in both high-hazard and moderate-hazard lands. The distribution of lots in these categories is shown in Table 1.

Each case study includes background information (basic data, conditions of approval, and plan stipulations) and results of the field evaluation for conformance with plans, adequacy of BMP's, and identification of special problems.

Since few homes released under case-by-case review had actually progressed to the construction phase at the time of the field evaluations, staff expanded the case studies to include three "Washoe 20" lots which are similar to the case-by-case lots. In 1981, Washoe County ruled that 20 projects which had applied for a building permit prior to December 19, 1980, were eligible for 1980 sewer and water allocations. Under the revised Bi-state Compact, however, they required an EIS, so the TRPA Governing Body, at its regular May 1981 meeting, applied the existing 208 Plan EIS to these projects. The individual projects then went through a TRPA review and approval process, very similar to the case-by-case process.

B. Case Studies of Subdivisions

Staff selected twelve subdivisions for office and field evaluation, covering the range of adequate, potentially adequate, and in need of further evaluation. The field evaluation included assessment of the existing classification, determination of current status, and identification of management practices necessary to upgrade the subdivision. Staff also reviewed project files pertaining to appeals for reclassification and agreements for conditional release. Appendix B includes the subdivision case studies and other related information.

<table>
<thead>
<tr>
<th>Description</th>
<th>Prior to Case-by-Case</th>
<th>After Case-by-Case</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>LCC 1-3</td>
<td>LCC 4-7</td>
<td>LCC 1-3</td>
</tr>
<tr>
<td>Under Construction</td>
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<td></td>
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<tr>
<td>Washoe County</td>
<td>3</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>Under Construction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Douglas County</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Completed</td>
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<tr>
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<tr>
<td>Completed</td>
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<tr>
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</tr>
<tr>
<td>TOTAL</td>
<td>9</td>
<td>8</td>
<td>10</td>
</tr>
</tbody>
</table>
C. Effectiveness of BMP's

TRPA has an ongoing task to determine the effectiveness of Best Management Practices (BMP's). In addition, this staff report includes the results of four separate evaluations of the effectiveness of BMP's in the Basin, covering the following projects:

- The Washoe County Clean Lakes Grant study of sediment and nutrient yields from First Creek, Incline Village (1980)
- The Nevada Tahoe Conservation District project to control sediment and nutrient loads from development at Marla Bay/Zephyr Heights (1979)
- The California State Water Resources Control Board's demonstration of erosion and sediment control technology at Rubicon and Northstar (1978)
- The United States Forest Service's restoration of the Jennings Casino site, completed in 1980.

Summaries of these four projects are included in Appendix C. See the bibliography for exact citations.

D. Other Analysis

In the areas of financial and administrative impacts, TRPA conducted a series of interviews with utility and improvement districts and other agencies. To determine cumulative environmental impacts, the staff reviewed water quality data compiled for the threshold study and the regional plan update, and analyzed the impacts of the case-by-case program on each threshold standard.
IV. ISSUES AND ANSWERS

The bulk of this staff report on the Nevada-side case-by-case review policy discusses 15 key issues raised during preparation of the work program, conduct of field evaluations, and discussions with the APC and the Governing Body. Following the issues and answers, below, is Part V, Summary and Conclusions.

ISSUE NO. 1

How many single-family lots are there in land capabilities 1-3 in the Basin? Where are they located?

In Nevada, there are about 3,700 vacant lots, almost 2,300 of which are in land capabilities 1-3. Basin-wide, there are over 17,000 vacant lots, over 8,000 of which are in land capabilities 1-3. (For details, see Table 2.) Some of the high-hazard lots also have moderate- or good-capability portions which may be large enough to site a home and, therefore, may be "buildable" under existing rules.

The figures in Table 2 are preliminary results from the geographic data base and are subject to verification and change. The figures represent the situation at the end of the 1981 building season.

<table>
<thead>
<tr>
<th>Location</th>
<th>Total Vacant Lots</th>
<th>High-Erosion Hazard</th>
<th>SEZ</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washoe County</td>
<td>2,172</td>
<td>655</td>
<td>566</td>
</tr>
<tr>
<td>Douglas County</td>
<td>1,571</td>
<td>714</td>
<td>338</td>
</tr>
<tr>
<td>Nevada Total</td>
<td>3,743</td>
<td>1,369</td>
<td>904</td>
</tr>
<tr>
<td>Basin Total</td>
<td>17,528</td>
<td>4,657</td>
<td>3,519</td>
</tr>
</tbody>
</table>

Note: figures are preliminary, subject to change and verification; represents conditions at end of 1981 building season
ISSUE NO. 2

What is the status of case-by-case review applications received at TRPA to date?

As of November 5, 1982, TRPA had received 480 applications and approved 225 to be released for construction. (See Table 3.) TRPA had issued 49 building permits and collected $258,000 in mitigation fees.

TRPA has rejected many case-by-case applications because of the inadequacy of their subdivisions. Because lot owners in subdivisions that need further evaluation cannot apply for case-by-case review, several entities - including county government, homeowners associations, and individuals - have agreed to upgrade all or part of certain subdivisions to have them reclassified to potentially adequate. To date, three subdivisions in Washoe County (Scotchwood, Chateau Acres, and Country Club of Incline) and two in Douglas County (Elk Point and Hidden Woods) have been reclassified. Several additional reclassifications are pending at the TRPA offices.

TABLE 3
STATUS OF CASE-BY-CASE APPLICATIONS
(NOVEMBER 1982)

1. Applications received and logged in 480
2. Applications approved 225
3. Rejected - subdivision inadequate 80
4. Rejected - high risk rating 85
5. Pending 90
6. TRPA building permit issued 49
7. Under construction 16
8. Complete 9

ISSUE NO. 3

How well have owners of case-by-case lots performed in complying with their conditions of approval regarding (a) construction BMP's, (b) permanent BMP's, and (c) vegetation removal?

Compliance with BMP's in construction on high-hazard lands is very inconsistent. Both construction and permanent BMP's were either inadequate or missing on about 50 percent of the lots reviewed. However, the limited data set indicates that performance improved under case-by-case review.
For a summary of performance on construction and permanent BMP's, see Table 4. This table shows performance data for:

- 10 lots released since the initiation of case-by-case review (including the "Washoe 20")
- 19 lots on land capability 1-3 in Nevada which have gone to construction since 1979 (includes the 10 lots above)
- 13 control lots on land capabilities 4-7 in Nevada.

With respect to impacts on vegetation, removal of vegetation was excessive in 37 percent of construction reviewed on high-hazard land. However, vegetation removal was also excessive on 47 percent of the control (capability 4-7) lots.

Although there are some excellent examples of good construction and pride of ownership, staff encountered several common problems during the field evaluations: improper storage and disposal of construction materials; requirements ignored - especially regarding hand-dug foundations and revegetation; and inconsistent construction practices.

| TABLE 4 |
| ADEQUACY OF BMP'S |

<table>
<thead>
<tr>
<th>1. 19 lots, LCC 1-3, Nevada</th>
<th>Adequate</th>
<th>Inadequate</th>
<th>Absent</th>
<th>Too Early</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constr. BMP's</td>
<td>36%</td>
<td>30%</td>
<td>29%</td>
<td>---</td>
</tr>
<tr>
<td>Permanent BMP's</td>
<td>10%</td>
<td>21%</td>
<td>32%</td>
<td>37%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. 10 lots, Nevada Case-by-Case and Washoe 20</th>
<th>Adequate</th>
<th>Inadequate</th>
<th>Absent</th>
<th>Too Early</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constr. BMP's</td>
<td>55%</td>
<td>22%</td>
<td>22%</td>
<td>---</td>
</tr>
<tr>
<td>Permanent BMP's</td>
<td>20%</td>
<td>10%</td>
<td>20%</td>
<td>50%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Control - 13 lots, LCC 4-7, Nevada</th>
<th>Adequate</th>
<th>Inadequate</th>
<th>Absent</th>
<th>Too Early</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constr. BMP's</td>
<td>16%</td>
<td>50%</td>
<td>33%</td>
<td>---</td>
</tr>
<tr>
<td>Permanent BMP's</td>
<td>8%</td>
<td>31%</td>
<td>15%</td>
<td>37%</td>
</tr>
</tbody>
</table>
ISSUE NO. 4

Considering ONLY on-site problems, what percentage of case-by-case lots could be considered successful in terms of controlling or minimizing water quality impacts?

Considering only the 10 case-by-case (and Washoe 20) case-study lots which had gone to construction on high-hazard land, the success rate appears to be 40-60 percent, based on provision of permanent and temporary BMP’s, vegetation protection, and the inherent characteristics of the lots. A successful project is one which minimizes water quality impacts at an acceptable cost. Staff assumes that owners of successful lots will maintain their BMP’s.

Expanding the sample to cover 19 high-hazard lots in Nevada gives about the same results. Unfortunately, these figures seem fairly representative of recent construction in the Tahoe Basin. (See Appendix A.)

ISSUE NO. 5

What are the other factors, besides BMP’s and removal of vegetation, which affect the success of construction on high-hazard lots?

The field evaluation team identified seven additional factors which adversely affect the success of construction on high-hazard lands:

(1) Frequently, impacts from development are increased as a result of poor design and siting of the house on the lot. Design problems can make some BMP’s infeasible. For example, drip-line infiltration trenches are ineffective for walls over about 35 feet tall. Occasionally, houses have been sited on the highest or most sensitive area of the lot - frequently as a result of the owner attempting to maximize his view. Often these areas do not have adequate area for infiltration or are extremely susceptible to erosion.

(2) Some building contractors working in the Basin appear to be uninformed or unconcerned about the impacts of construction practices which may be acceptable in other locations outside the Basin, e.g., careless placement of excavated materials or building materials.

(3) Compliance with required conditions of approval is a problem, and the enforcement process has not been effective at achieving compliance. (See also Issue No. 11.)

(4) In some cases, construction is inactive or abandoned, often after construction of the foundation only. In such cases, construction BMP’s, if present, are destroyed by weather, and permanent BMP’s are not installed.
(5) In some cases, the performance security TRPA collects is not large enough to either (a) provide an incentive for the owner to provide temporary and permanent BMP's or (b) allow TRPA to provide these items for the owner, if he does not.

(6) Occasionally, unforeseen problems arise during construction that neither the owner, the contractor, nor TRPA anticipate. The most common example of this is high groundwater under what appeared to be a dry lot.

(7) Often, there is poor communication between the owner or applicant and the contractor, with regard to conditions of approval. More accountability should be placed on the contractor doing the site work, possibly by bonding contractors working in the Basin or having them sign a copy of the permit and conditions.

ISSUE NO. 6

Theoretically, how effective can on-site BMP's be at reducing sediment and nutrient loads from single-family development on high-hazard lands? On SEZ lots?

The typical on-site BMP's for single family homes are infiltration of runoff, slope stabilization, vegetation protection, and revegetation. On good capability lands, these BMP's can reduce suspended sediment loads 75-95 percent, assuming state-of-the-art practices. These BMP's are less effective for reducing loads of dissolved nutrients, since this is accomplished primarily through vegetative uptake and is less affected by mechanical practices.

On high-erosion-hazard lots, BMP's are less effective, that is, perform at or below the low end of the stated range. This is primarily a function of slope, since infiltration decreases as slope increases, more excavation is generally required, and revegetation is more difficult to achieve. In extreme cases, the slope or other physical site characteristics result in extensive land and vegetation disturbance which more than offset any controls gained by infiltration or other on-site BMP's.

Construction within stream zones cannot be minimized with BMP's. Assuming that setbacks are observed and BMP's properly applied, installed, and maintained, the impacts of construction adjacent to stream zones can be minimized. However, long-term protection of the stream zone is an issue, since "normal" human use seems to involve trampling of vegetation, alteration of drainage patterns, and impacts on other qualities of the stream zone, such as its value as a wildlife habitat.

Two issues relating to on-site BMP's are maintenance and cost. Infiltration devices, for example, must be cleaned periodically - usually at least once every three years. On high-erosion-hazard lots, proper maintenance may be difficult or infeasible. Also, the cost of BMP's increases on high-hazard lands, since they require more sophisticated infiltration facilities and more slope stabilization, and since revegetation is less cost-effective.
ISSUE NO. 7

How effective are off-site efforts at mitigating water quality impacts of construction on high-hazard lands? Are we really seeing a 150 percent offset of development impacts?

Off-site BMP's basically involve solutions to problems on public rights-of-way, especially stabilization of cuts, fills, and drainages. In advanced cases, off-site BMP's can include routing and treating runoff in a detention facility, such as a pond incorporating vegetation. Based on experience of various public entities in the Basin at Incline Village, Marla Bay/Zephyr Heights, Rubicon, and the Jennings site, off-site BMP's appear to remove 75-95 percent of the incoming sediment load. (See Appendix C for details.) The opinion of those involved in these projects is that removal of dissolved nutrients is lower, since they are more difficult to keep on-site.

Although combined on-site and off-site BMP's can reduce man-made sediment and nutrient loads dramatically, they cannot return these loads to natural levels for development on high-hazard lands. Biological treatment of runoff in detention ponds or artificial stream zones is a possibility, but it requires large land areas in the right locations. Steep lands (i.e., high-erosion hazard lands) deliver more pollutants to streams and Lake Tahoe because these lands create higher runoff velocities, greater kinetic energy in the runoff, and therefore, more transport of pollutants.

There are no on-site or off-site BMP's which can mitigate water quality impacts of development in SEZ's, since development in stream zones removes existing, natural treatment of pollutants.

It is difficult to judge whether existing off-site mitigation fees are truly producing the desired 150 percent offset because of limited experience with case-by-case review. Typical off-site mitigation fees for development on high-erosion hazard lands are $4,000-$7,000. In Marla Bay/Zephyr Heights, the Nevada Tahoe Conservation District installed extensive BMP's at a cost of about $600,000 or about $2,000 per lot. In the SWRCB's study of the Rubicon area, off-site BMP's cost about $3,000 per lot. However, these figures raise many questions:

First, it is not known whether comparison of these various costs estimates is valid. Second, the long-term efficiency of the BMP's is unknown, especially for dissolved nutrients. Will the Rubicon and Marla Bay/Zephyr Heights programs protect downstream and near-shore (littoral) water quality, or will there be significant cumulative impacts? Whether a 150 percent offset has really been accomplished depends on the answers to these questions.

ISSUE NO. 8

What are the cumulative water quality impacts of case-by-case review?

The evaluation of cumulative impacts of case-by-case review is an issue of great interest to the Tahoe Basin. This discussion of cumulative impacts is limited to water quality impacts. For discussion of other impacts, see Issue 14. In the water quality area, staff defines the cumulative impact of case-by-case
review as the impact of increased sediment and nutrient loads on pelagic Lake Tahoe, littoral Lake Tahoe, and the tributary streams.

To estimate the additional suspended sediment loads resulting from further development on high-hazard lands in the Basin, the staff first determined typical loading rates from existing development on such lands. When high-hazard lands are developed with minimal application of BMP's, the resulting loading rates (tonnes/hectare/yr) are 50 to 100 times the natural level. The estimated breakdown of this loading rate among natural sources, roads, and homes, assuming minimal BMP's, is as follows:

3.0 tonnes/ha/yr*

1.5 T/ha/yr homes (50%)

1.4 T/ha/yr roads (48%)

0.06 T/ha/yr natural (2%)

*assumes suspended sediment loading rate is 50 times natural

Based on these estimates and assuming that the roads in case-by-case subdivisions are already in place, staff calculated the additional sediment loads which would result from various levels of build-out of high-erosion-hazard lots. The additional loads were calculated with this equation:

Additional Load = (loading rate) x (number of lots) x (average size of lot)

The following figures represent the additional sediment loads which would result from additional case-by-case construction, if minimal BMP's are provided:

Lots released to date - 0.2 percent increase

Full build-out of high-erosion-hazard lots in Nevada - 2 percent increase

Full build-out of high-erosion-hazard lots Basin-wide - 5 percent increase

If we assume that every case-by-case lot were accompanied by state-of-the-art on-site and off-site BMP's which would reduce suspended sediment loads 90 percent, the following figures represent the additional suspended sediment loads to the Lake:

Lots released to date - 0.02 percent increase

Full build-out of high-erosion-hazard lots in Nevada - 0.2 percent increase

Full build-out of high-erosion-hazard lots Basin-wide - 0.6 percent increase
For nutrients associated with land disturbance (phosphorous, iron, and many nitrogen compounds), the increased loads resulting from case-by-case review are higher, since BMP's are less effective at controlling dissolved nutrients. In reality, the cumulative increase in loads from case-by-case review would be between the two scenarios above. For example, full build-out of all high-hazard lots in Nevada would probably increase suspended sediment loads by more than one percent, and full build-out of all high-erosion-hazard lots in the Basin would increase loads by about three percent. Although these increases may sound small, they represent significant and costly increases, which would compound the difficulty of meeting adopted environmental thresholds for nutrient and sediment loading to Lake Tahoe.

The impacts of these additional sediment loads would vary among the pelagic Lake, the littoral Lake, and the tributary streams. The cumulative impact on the pelagic zone would be a small but finite increase in algal productivity and decrease in clarity. The cumulative impact on the littoral zone, however, would be more pronounced, since loading rates even after the application of BMP's are far above normal, and since case-by-case review is concentrated only in certain areas of the Basin. Littoral zone impacts would include a significant decrease in clarity, and a significant increase in the productivity of attached and floating algae.

Tributary streams are probably most affected by cumulative impacts, and could suffer serious water quality degradation from a full-scale case-by-case program, with subsequent impacts on aesthetics, fish, and recreation. Small watersheds or sub-watersheds with intensive case-by-case activity would be most seriously affected. Available data indicate that such tributaries would have difficulty meeting the 60 mg/l threshold for suspended sediment in the tributary itself, or the 250 mg/l threshold for suspended sediment in surface runoff.

Under the existing Nevada-side program, case-by-case review is concentrated in the following watersheds:

- **Crystal Bay.** First, Second, Wood, Third, Incline, and Mill Creeks
- **East Shore.** Lincoln Creek
- **Marla Bay.** McFaul Creek
- **South Stateline Area.** Burke and Edgewood Creeks

**ISSUE NO. 9**

**Are the case-by-case lot review criteria appropriate? Could the program be improved by modifying the criteria?**

The lot review criteria include detailed criteria for proximity to streams and wetlands, runoff potential, land stability, and vegetation. Based on the field evaluations and the performance under the program to date, it appears that the criteria are appropriate and could possibly be revised to provide a better margin of safety when performance is less than adequate.
Some persons have questioned the appropriateness of the land stability criteria, which says that lots over 30 percent slope are a high risk and automatically unsuited for development. Staff's opinion is that this criterion is fully supportable, is based on research results from around the country and is widely accepted.

The uniform soil loss equation (USLE) indicates that the risk of serious erosion increases at slopes over 30 percent and development of steep slopes invites rill and gully erosion. The nationwide soil surveys of the U.S. Department of Agriculture use 30 percent (or less) as the cut-off between high-erosion-hazard and moderate-erosion-hazard soils, and this cut-off has been incorporated into the management standards of many other Federal, State, and local agencies. Finally, the effectiveness of BMP's decreases significantly on slopes over 30 percent. At these slopes, infiltration decreases drastically, gravel won't stay in place, revegetation becomes extremely difficult because of high rates of soil loss, and soil and vegetative disturbance to install BMP's become major.

TRPA staff proposes to develop revised criteria for applying case-by-case review in the regional plan, based on conformance with thresholds and the availability of other programs such as transfer of development rights and buy-out efforts.

ISSUE NO. 10

Are the case-by-case subdivision review criteria appropriate? Could the program be improved by modifying the criteria?

The subdivision review criteria include criteria pertaining to road placement, drainage systems, maintenance, downstream impacts, stable cuts and fills, stable internal drainage, access difficulties, and land coverage. Based on its evaluations of 12 subdivisions in Nevada, the staff concluded that the classifications of the subdivisions by the subdivision review team were accurate and fair. (See Appendix B.)

Since the adoption of case-by-case review, four subdivisions have been reclassified, from "needs further evaluation" to "potentially adequate" because governmental or private entities assembled mitigation package for upgrading drainage, erosion, and runoff characteristics. Several similar reclassifications are pending. It appears that reclassification provides an incentive for timely correction of water quality problems, in subdivisions with serious problems which otherwise have no alternative way of mitigating their problems.

Within the context of the regional plan update, TRPA staff will evaluate the subdivision classification system to determine whether it is compatible with the thresholds and with alternative programs to case-by-case, such as transfer of development rights and buy-out programs.
ISSUE NO. 11

What level of administrative effort does case-by-case review require? How does this compare to the actual effort dedicated to the program?

The July, 1982 report on the 1980 California-side case-by-case program concluded that "administrative impacts of case-by-case review present some of the most serious problems for the process. To operate effectively, the case-by-case review should have adequate staffing levels, thorough and consistent reviews, adequate securities to ensure compliance, and vigorous inspections and enforcement".

TRPA staff estimates that project review functions for projects processed to date have taken 2 person-days per project. Staff classifies this level of review as marginally adequate.

The performance of owners and builders with respect to provision of temporary and permanent BMP's indicates a need for increased inspections and enforcement and a more effective bonding program. According to staff involved in these efforts, inspections and enforcement should be formal and rigorous, should include detailed records, and utilize a minimum of 16 hours per project.

Also, the Agency should gear its inspection program to the various stages of construction (footings, sheetrock, and final) to ensure that builders do not proceed to the next stage until all requirements for BMP's are met.

Changes in ownership of released lots will also cause administrative problems in the future. If lots change hands after clearing case-by-case review, the new owners may not be fully aware of the requirements on them, causing additional administrative loads in project review, inspections, and enforcement.

ISSUE NO. 12

What does it cost an individual applicant to go through the case-by-case process?

An applicant for case-by-case review can expect to pay increased costs, compared to construction on a high-capability lot, for application fees, additional BMP's, higher off-site mitigation fees, topographic surveys, site plans, and, in most cases, professional assistance.

The TRPA application fee for case-by-case review is $220, which is $100 more than the application fee for construction on land capabilities 4-7.

Additional BMP's necessary for construction on high-hazard land normally cost each applicant $1,000 or more. The cost increases with slope, and involves more extensive than normal infiltration facilities, revegetation, and possibly irrigation of new growth. Assuming BMP's are feasible on a given lot, the cost of the BMP's raises the cost of the house slightly.
Those applicants who successfully pass case-by-case review typically must pay an off-site mitigation fee of $4,000–$7,000, while mitigation fees for those who build on high-capability land rarely exceed $1,000. Thus, the additional cost of off-site mitigation is $3,000–$6,000.

To process a lot through case-by-case review, the owner must provide an accurate topographic map and a site plan, and must represent the project to staff, the governing board and the development review committee (DRC). Although it is not required, most applicants hire an engineer or attorney to handle these items. A local engineering firm estimates its typical fees at $1,000 or more, depending on the complexity of the project.

Thus, the additional cost associated with processing and constructing a residence under case-by-case review ranges from $4,000 to $8,000. Based on the fact that TRPA has received 500 applications since initiating case-by-case, the additional costs do not discourage applications. Although case-by-case review raises the cost of a house, it also protects property values, both for owners of vacant lots and for existing homes through the use of off-site mitigation projects.

**ISSUE NO. 13**

What impact does case-by-case review have on the finances of the affected utility districts and improvement districts?

Although the details vary from district to district, based on interviews of district management personnel, there are two common principles that apply to all districts:

- When adequate sewer and water capacity are already in place, additional homes built under case-by-case review allow the districts to spread their costs over more users.

- Additional hook-up fees from case-by-case lots are beneficial to district finances.

Since the utility districts provide essential services (sewer, water, and roads), it does not appear that bankruptcy is a concern because users will pay whatever rate is required, within reason. Utility rates in Nevada are reasonable, considering the difficulties of providing services at Lake Tahoe.

For example, monthly sewer rates for individual homes are as follows:

- IVGID - $13/month
- DCSID No. 1 - $8/month
- KEGID - $20/month

Because sewage treatment entities in the Basin are required to export their sewage, energy costs are very high for all the districts.
IVGID, which provides water, sewers, roads, drainage, and other services in the Incline Village area, has its entire water and sewer system in place. Thus, operations and maintenance are the main needs of the system. There appears to be no problem with sewage capacity since water rights probably will be more constraining to growth.

DCSID No. 1 provides sewage treatment only for the Douglas County portion of the Basin. Two collection systems (KGID and T-DSD) contract with the District for sewage treatment. Within its own service area (not including KGRID and T-DSD), residential build-out is almost 100 percent. According to District staff, the lack of future hook-up fees makes it difficult for the District to borrow money, raising the possibility of a need for emergency assessments in the future. DCSID sewer rates are low for its individual users since the casinos pay for treatment at an industrial rate.

KGID provides water, roads, and drainage services in the Kingsbury Grade area, and contracts with DCSID for sewage treatment. The District is currently paying off bonds for providing sewer and water, and may have to borrow money in the future to pay for road maintenance and drainage.

ISSUE NO. 14

How would continuation of case-by-case review affect the attainment of adopted environmental thresholds? Could case-by-case review be modified to meet the thresholds?

As directed by the revised bi-state compact, the TRPA Governing Body adopted environmental thresholds in August, 1982. (See TRPA Resolution 82-11.) The thresholds set environmental standards for water quality, soils, air quality, vegetation, wildlife, fish, noise, recreation, and scenic resources.

In 1980, when TRPA was developing the 208 plan, including case-by-case review, the Agency did not have the benefit of environmental thresholds in developing criteria. As a consequence, the existing case-by-case program conflicts significantly with the adopted thresholds. However, it is possible to modify the case-by-case program to make it consistent.

A fairly large-scale case-by-case program (e.g., review of all land capability 1-3 lots in Nevada at current approval rates) would conflict with the water quality, soil, air quality, vegetation, wildlife, fish and scenic thresholds. The major problem areas are the thresholds for tributary and littoral water quality, fisheries, air quality, and impervious cover. Conflicts with the scenic threshold could also be significant, due to the sensitive scenic character of many high-hazard lots.

With respect to the impervious cover threshold, preliminary data from TRPA's geographic data base indicate that the high-erosion-hazard lands and stream zones in the Basin are already overcovered, although there may be extensive possibilities for rehabilitation and recovery of disturbed areas. A large-scale case-by-case program could make attainment of this threshold particularly difficult.
To make case-by-case review consistent with the thresholds, several policy options are available. Some are:

- applying case-by-case review only to the high-hazard lots which are least sensitive in terms of soils and vegetation;
- applying case-by-case review in areas where water quality, fish, vegetation, and scenic quality are not particularly vulnerable or sensitive to increased land use;
- applying case-by-case review in areas which meet the threshold for impervious cover;
- applying case-by-case review in combination with the desired transportation system.

It is also possible that case-by-case review could contribute to the attainment of some thresholds through the collection and use of mitigation fees.

**ISSUE NO. 15**

What alternatives to case-by-case review are available to owners of high-hazard lots? How desirable or effective are they?

Staff has identified three possible alternatives to case-by-case review: transfer of development rights, buy-out, and donation of lots for tax benefits. From an environmental standpoint, all of these options are preferable to a large-scale case-by-case review program. (See also Issue 14.)

Transfer of development rights (TDR) has the potential to both maintain or broaden the tax base and cluster development, which would have beneficial impacts on air quality. Buy-out and donation tend to diminish the tax base.
V. SUMMARY AND CONCLUSIONS

A. Advantages and Disadvantages of Case-by-Case Review

Based on the preceding discussions of the 15 issues, staff has identified the following advantages of the Nevada-side case-by-case program:

- The program provides compensation for lot owners who would otherwise be temporarily prohibited from building, while maintaining property values.

- The program has the potential for individual offsets of water quality impacts greater than 100 percent, during the early phases of developing erosion controls.

- The program helps utility and improvement districts through increased hook-up fees and spread the costs to individual users.

- The program has provided seed money for erosion control projects and accelerated the rate of program implementation, which otherwise has been sluggish.

The disadvantages of the program are as follows:

- Inconsistent performance in terms of compliance with requirements (to date) has adversely affected the Tahoe environment.

- The costs of installing appropriate BMP's on high-hazard lands are high, and the likelihood of continued maintenance is very uncertain.

- The program adds to the cost and difficulty of meeting environmental thresholds for soil, air quality, vegetation, fisheries, and scenic resources. For water quality, the program may increase the total cost and affect the attainability of threshold standards.

- Construction under case-by-case review may cause significant water quality impacts on tributary streams and the near-shore (littoral) zone of Lake Tahoe.

- The administrative burden of the program is high; monetary and time burdens are high on staff and on the applicant.

B. Conclusions

The Tahoe Regional Planning Compact, in Article V(1)(c), requires TRPA, within one year of the adoption of environmental threshold carrying capacities to update a regional plan which achieves and maintains those thresholds. TRPA staff, with the advice of the public, the APC, and the Governing Board, is now developing plan alternatives which set forth different ways of meeting the thresholds while accommodating orderly growth and development in the Basin.
With respect to the possible inclusion of case-by-case review in the regional plan update, TRPA staff makes the following conclusions, based on the issues and answers above:

- A full-scale, intensive case-by-case program would have a major negative environmental impact on the Tahoe Basin and make it increasingly difficult to meet or maintain the adopted environmental thresholds.

- On the other hand, if TRPA devises a case-by-case program which is in harmony with the environmental thresholds, which is in balance with other resource requirements (natural and administrative), and which is used in conjunction with other programs (TDR and buy-out), its cumulative impacts on the environment could be minimized and offset with remedial programs.

- The advantages of case-by-case review are primarily economic, not environmental.

- Development of high-erosion-hazard land is more damaging to the environment than development on good capability land, primarily as a function of steepness. Development within stream zones cannot be tolerated.

- Construction practices and general performance of contractors under the case-by-case program are inconsistent; this may indicate a need for more specific criteria and better enforcement to minimize the risk of environmental damage.

- The most significant cumulative water quality impacts of case-by-case review are localized, primarily on specific tributary streams and the littoral zone.

- It is important to remember that development of high-hazard lands is just one of several development practices in the Tahoe Basin which have caused environmental harm and water quality degradation, including development in stream zones, poor road construction and placement, and lack of adequate drainage.
MEMORANDUM

December 1, 1982

To: The TRPA Governing Board

From: The Staff

Subject: Proposed Ordinance Amendment to Permit Maintenance and Reconstruction of Nonconforming Structures Possessing Historical Value

The CTRPA is currently processing the following Land Use Ordinance amendment and has requested that TRPA consider a similar amendment. In general, the problem arises when old structures which are historically or architecturally significant are found to be nonconforming under Agency ordinances. Regulations regarding nonconforming structures generally preclude major repairs without significant structural alterations. In most cases, this conflicts with the desired result of historical preservation. Also attached for the Board's review is the proposed criteria for determination of historically-significant structures, standard conditions of approval, and CTRPA environmental documentation for a finding of no significant effect.

8.121 Variance for Historically Significant Structures

In order to encourage the maintenance or rebuilding of structures possessing significant historical value, the TRPA Governing Body may grant a variance from the limitations of this ordinance to allow the rebuilding of a structure in the event of destruction by fire or other calamity, or to allow modifications or repairs to a structure; provided, the Governing Body first determines the structure possesses significant historical value and the reconstruction, modification, or repair will be in the best interests of the public and the Lake Tahoe environment and will preserve the historical design or nature of the structure and will, insofar as possible, comply with the provisions of this ordinance. Such variance shall be based on the Findings and Conditions listed below.

In no event shall any modifications permitted under this section result in or increase nonconforming land coverage, exceed the height limits of this ordinance, or expand an existing nonconforming use.

GWB:jf
12/2/82

Agenda Item XII
Criteria for the Determination of Historical Significance

Structures eligible for consideration under ordinance number 8.121 which are of historical, cultural or architectural significance to the Tahoe Basin, the State or the Nation must meet one of the following criteria:

1. **Buildings or structures that are associated with events that have made a significant contribution to the broad patterns of our history.**
   
   Resources recognized under this section must exemplify the broad cultural, political, economic, social, civic or military history of the State or Nation. Buildings of significance to the Tahoe Basin must meet one or more of the following conditions:
   
   (1) association with important community function in the past;
   (2) association with a memorable happening in the past; or;
   (3) contains outstanding qualities that remind one of an early stage of development in the area.

2. **Buildings and structures that are associated with the lives of persons significant in our past.**
   
   Under this section, buildings or structures that are associated with a locally, regionally or nationally known person(s) or group of people would be recognized. Notable examples or the best surviving works of a pioneer architect, designer or a master builder would be considered, as would structures associated with the life or work of significant persons.

3. **Buildings or structures that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.**
   
   Works of a master builder, designer or architect would be considered significant under this section.
   
   Buildings and structures may also be classified as significant if they are prototype of, or a representative example of a period style, architectural movement, or method of construction unique in the Tahoe Basin, the State or the Nation.

4. **Buildings and structures that have yielded, or are likely to yield, information important in pre-history or history.**
   
   Under this section would be identified resources that are of potential archeological and/or paleontological significance.
Height Variance Findings and Conditions of Approval

Findings:

1. Find that the variance has been based on an individual project analysis of the safety standards, visual and environmental impacts of the proposal, and the maintenance of views and scenic corridors has been considered.

2. Find that consideration has been given to the existing and proposed intensity of use of the structure.

3. Find that the structure exemplifies an architectural style that is unique and historically significant to the Tahoe environment.

Conditions:

1. Public notice to all surrounding property owners within 300' of the property boundaries is required if modifications to a structure or its use is authorized.

2. Site improvements shall be required wherever feasible, including but not limited to:

   - land coverage reductions
   - landscaping
   - drainage improvement
   - architectural improvements

   The extent of these improvements shall be determined by the Governing Body on a case-by-case review.

3. All modifications proposed to the structure shall conform to the provisions of the TRPA Land Use Ordinance.

4. No modifications may be made to a structure qualifying under the provisions of this variance that will endanger or negatively impact the historic, cultural or architectural qualities of the building or structure.

5. In processing applications under this variance, staff will work with applicants to assure that existing provisions for designating historical structures at the Federal and State level are utilized so duplication of work can be minimized and to assure consistency with these existing programs.
NEGATIVE DECLARATION

Project Name: CTRPA Land Use Ordinance Amendment New Section 8.121 Variance for Historically Significant Structures

Project Sponsor: California Tahoe Regional Planning Agency

Location: CTRPA Jurisdictional Area - California Portion of Lake Tahoe

Project Description:

The CTRPA proposes to amend Section 8.12, Variances, of the existing Land Use Ordinance. The proposed Amendment will provide that buildings of historical or architectural significance which are non-conforming as to height may be allowed to reconstruct to the previous non-conforming height in the event of fire or calamity. This Amendment would also allow modifications to be made to a historically significant structure which is non-conforming to height. (See attached Amendment)

Mitigation Measures:

Although the project could potentially have a significant effect on the environment, there will not be a significant effect in that the following mitigation measures will apply to the project:

1. CTRPA Regional Plan, Land Use Ordinance, Soil and Vegetation Protection Ordinance and Indirect Source Review Ordinance. These restrictions ensure that significant environmental impacts will not occur in that they contain requirements for revegetation, offset of traffic impacts, limitations on site development, etc.

2. The Amendment provides that projects reviewed and approved under this provision will be required to provide site improvements including but not limited to:
   - land coverage reductions
   - revegetation/landscaping
   - drainage improvements

3. Sewer constraints - establish restrictions on use intensification and site development.

Finding:

In accordance with Section 15083 of the Guidelines for the implementation of the California Environmental Quality Act of 1970, I have reviewed the project documents and have concluded that the project
WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT and the
preparation of an Environmental Impact Report is not required.

Additional details on the proposal and copies of this Negative Declaration
are available at the CTRPA office.

Dennis Winslow
Executive Officer

Laura Hoover
Associate Planner

Distribution:
California State Clearinghouse (10 copies)
Areawide Clearinghouse (TRPA)
El Dorado County Planning Department
California Regional Water Quality Control Board, Lahontan Region
League to Save Lake Tahoe
Placer County Library
Kings Beach Public Library
South Lake Tahoe Public Library
Placer County Planning Department
City of South Lake Tahoe
/dw
MEMORANDUM

December 2, 1982

To:      The TRPA Governing Body

From:    The Staff

Subject: Agenda Item XIII A. - Reconsideration of Emergency Ordinance

Attached is a copy of Ordinance 82-7 adopted at the November 17, 1982 as an emergency. This ordinance extends the case-by-case review procedure to August 28, 1983, or the adoption of amendments to the regional plan. The ordinance previously extending the case-by-case review procedure would have expired on November 30, 1982, so this Ordinance 82-7 was adopted as an emergency on November 17, 1982.

Section 4.9 of the Agency's Rules and Regulations of Practice and Procedure requires that an ordinance adopted as an emergency be transmitted to the governing body and civil legal adviser of each jurisdiction within the Basin. The ordinance then is to be reconsidered by the Governing Body at its next regular meeting for review of any comments which have been received. To date, no comments have been received.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 82-7

AN ORDINANCE AMENDING ORDINANCE NO. 79-10, AS AMENDED, OF THE TAHOE REGIONAL PLANNING AGENCY, IMPLEMENTING THE LAKE TAHOE BASIN WATER QUALITY MANAGEMENT PLAN; REQUIRING, UNDER CERTAIN CIRCUMSTANCES, DETERMINATION OF EROSION CONTROL MEASURES NECESSARY TO RECLASSIFY DEFINITIVE PORTIONS OF SUBDIVISIONS AND AREAS PRESENTLY CLASSIFIED AS "IN NEED OF FURTHER CONSIDERATION"; PERMITTING RECLASSIFICATION OF SUCH PORTIONS AND REVIEW OF APPLICATIONS FOR CONSTRUCTION OF SINGLE-FAMILY HOUSES THEREIN; EXTENDING THE DEADLINE UPON SUBMISSION OF APPLICATIONS GENERALLY; EXTENDING THE EXPIRATION DATE OF THE PROCEDURE FOR REVIEW AND APPROVAL OF APPLICATIONS; LIMITING THE NUMBER OF PERMITS TO BE ISSUED; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00  Findings.

1.10  It is necessary and desirable to amend Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, implementing the Lake Tahoe Basin Water Quality Management Plan, to require the determination of erosion control measures necessary to reclassify definitive portions of subdivisions and areas presently classified as "in need of further consideration", to permit reclassification of such portions in appropriate cases, to permit the review of applications for construction of single-family houses therein pursuant to applicable requirements, and to limit the number of permits to be issued.

1.20  It is also necessary and desirable to amend said Ordinance No. 79-10 to extend the deadline upon submission of applications for construction of single-family residences upon high-erosion and high-runoff hazard lands from August 2, 1982 to May 28, 1983 and to extend the expiration date of the procedure for review and approval of such applications from November 30, 1982 to the earlier of August 28, 1983 or the adoption of amendments to the regional plan pursuant to Article V(c) of the Tahoe Regional Planning Compact, as amended.

1.30  As required by law, the Governing Body of the Tahoe Regional Planning Agency, prior to the adoption of this ordinance, conducted a duly noticed public hearing, at which hearing all persons desiring to present oral testimony or documentary evidence were permitted to do so.

1.40  This ordinance is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Lake Tahoe Region, complies in all respects, procedural and substantive, with the Tahoe Regional Planning Compact and the regional plan, including the Water Quality
Management Plan as amended to date, ordinances, rules, regulations and policies of the Tahoe Regional Planning Agency, and is necessary to effectuate and implement the same.

1.50 The procedure set forth in Ordinance No. 79-10 of the Tahoe Regional Planning Agency for review and approval of applications for construction of single-family residences upon high-erosion and high-runoff hazard lands, including the environmental impact resulting therefrom, was the subject of an environmental impact statement, prepared, circulated, certified and otherwise processed, reviewed and approved by the Tahoe Regional Planning Agency in accordance with the substantive and procedural provisions of Article VII of the Tahoe Regional Planning Compact. Said environmental impact statement thus applies for purposes of adoption of this ordinance.

Section 2.00 Amendment Permitting Reclassification of Definitive Portions of Subdivisions or Areas Classified As "In Need of Further Consideration".

Section 12.00 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, is hereby amended by adding new subsection 12.14 thereto to read as follows:

12.14 Reclassification of Definitive Portions.

Notwithstanding any other provision of this ordinance, upon receipt of an application for a permit pursuant to subsection 12.21 for a single-family house to be constructed in a subdivision or area classified as "in need of further consideration", the Executive Officer of the Agency shall determine whether such house is proposed to be constructed in a portion of such subdivision or area that is reasonably definitive and susceptible to reclassification as "adequate" or "potentially adequate" pursuant to the standards for classification set forth in subsection 12.11, as applied pursuant to subsections 12.12(a) and (b). If such determination is affirmative, the Executive Officer shall further determine the erosion control and other measures, placement of which is necessary to so reclassify such portion.

The Executive Officer may accept such application, provided the application, singularly or together with other applications considered concurrently, includes, or is modified to include, such erosion control and other measures determined by the Executive Officer as necessary to reclassify such portion. Until so modified, the application is not complete and shall not be accepted by the Agency. If accepted, the Governing Body shall review the application pursuant to subsections 12.20, 12.21, 12.22, and 12.23, but shall not approve it unless the Governing Body first finds that the area under consideration constitutes a significant and definitive portion of a drainage and reclassifies
such portion as "adequate" or "potentially adequate" upon condition of the placement of the erosion control and other measures referred to in the application or applications or such other measures as may be prescribed by the Governing Body.

Section 3.00 Amendment Limiting Number of Permits to Be Issued During 1983.

Section 12.00 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, is hereby amended by adding new subsection 12.24 thereto to read as follows:

12.24 Limitation Upon Number of Permits.

The maximum number of permits pursuant to subsection 12.21 to be issued by the Agency at any time during 1983, but prior to the expiration of such subsection, for construction within a particular county or city within the Region, shall not exceed an amount equal to the number of building permits for new residential units prescribed for such county or city by Article VI(c)(3) of the Compact for the period of January through April, 1983, less the amount of permits issued during that period that are not issued pursuant to subsection 12.21 and are otherwise required to be deducted from said number prescribed by said Article VI(c)(3). The limitation imposed by this subsection shall be administered by the Agency through regular issuance of permits pursuant to applicable ordinances, rules and regulations, individual permits to be processed on a priority relating to the date of receipt by the Agency of a complete application therefor.


Subsection 12.21 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, is hereby amended to read as follows:

12.21 Permit Required.

Except as otherwise provided by this ordinance, no person shall perform any construction, work, use or activity, including without limitation, grading, clearing, removal of vegetation, filling or creation of land coverage, upon land within land capability districts la, lc, 2 and 3 without first obtaining a permit from the Agency. The application for such permit shall be reviewed and approved as a "project" pursuant to the Compact and the Rules and Regulations of Practice and Procedure of the Agency. Such application shall not be accepted or reviewed, and no permit pursuant thereto issued, by the Agency unless the application, in complete form, is received by the Agency on or before May 28, 1983 and the construction, work, use or activity proposed is for a single-family house to be constructed on a lot within a subdivision classified pursuant to subsection 12.10 as adequate or potentially adequate, on a parcel within an area so classified, or within a definitive portion thereof so classified pursuant to subsection 12.14.
Section 5.00 Amendment Extending Expiration Date of Procedure for Review and Approval of Applications.

Section 21.00 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, is hereby amended to read as follows:

Section 21.00 Expiration of Provisions.

The provisions of Section 12.00, excluding subsections 12.40, 12.41, 12.42, 12.43, 12.50, 12.51, 12.52, 12.60, 12.61, 12.62, 12.63, 12.64, 12.65, and 12.70 of this ordinance shall expire on August 28, 1983 or the adoption by the Agency of amendments to the Regional Plan pursuant to Article V(c) of the Compact, whichever occurs first. The provisions of subsections 12.40, 12.41, 12.42, 12.43, 12.60, 12.61, 12.62, 12.63, 12.64, 12.65, 12.70, Sections 13.00, 14.00, 16.00 and subsections 20.20, 20.21, 20.22, 20.23, 20.24, and 20.25 of this ordinance shall expire upon the adoption by the Agency of amendments to the Regional Plan pursuant to Article V(c) of the Compact.

Section 6.00 Interpretation and Severability.

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

Section 7.00 Effective Date.

This ordinance shall be effective sixty (60) days after the date of its adoption unless adopted as an emergency, in which case the ordinance shall be effective immediately.

FIRST READING: October 28, 1982

EMERGENCY ADOPTION: November 17, 1982

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held November 17, 1982, by the following vote:

Ayes: Mr. Robertson, Mr. Reed, Ms. Nelson, Mr. Hall, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Steele, Mr. Swackhamer, Mr. Combs, Mr. Woods, Mr. Ferrari

Nays: None

Abstain: None

Absent: None

Bennie Ferrari, Chairman
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 83-

AN ORDINANCE RELATING TO VARIANCES FOR MAINTENANCE AND RECONSTRUCTION OF NONCONFORMING STRUCTURES POSSESSING SIGNIFICANT HISTORICAL VALUE; AMENDING THE CALIFORNIA SIDE LAND USE ORDINANCE TO PERMIT MAINTENANCE AND RECONSTRUCTION; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings.

1.10 It is necessary and desirable to amend Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, to permit maintenance and reconstruction of nonconforming structures of significant value.

1.20 This ordinance is necessary and desirable to preserve historical facilities pursuant to the requirements of Article V(c)(3) of the Tahoe Regional Planning Compact.

1.30 There are special conditions and circumstances in regards to the preservation of structures possessing significant historical value to warrant an ordinance amendment to permit maintenance and reconstruction of such structures.

Section 2.00 Amendment of Ordinance No. 1 of California Tahoe Regional Planning Agency Permitting Maintenance and Reconstruction of Nonconforming Structures Possessing Significant Historical Value.

Chapter 8 of Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, is hereby amended by adding new Section 8.121 thereto to read as follows:

8.121 Variance for Historically Significant Structures

In order to encourage the maintenance or rebuilding of structures possessing significant historical value, the TRPA Governing Body may grant a variance from the limitations of this ordinance to allow the rebuilding of a structure in the event of destruction by fire or other calamity, or to allow modifications or repairs to a structure; provided, the Governing Body first determines the structure possesses significant historical value and the reconstruction, modification, or repair will be in the best interests of the public and the Lake Tahoe environment and will preserve the historical design or nature of the structure and will, insofar as possible, comply with the provisions of this ordinance. Such variance shall be based on the Findings and Conditions listed below.

Agenda Item XIII B.
In no event shall any modifications permitted under this section result in or increase nonconforming land coverage, exceed the height limits of this ordinance, or expand an existing nonconforming use.

Section 3.00 Interpretation and Severability.

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

Section 4.00 Effective Date.

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held ____________, 1983, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

__________________________
Chairman
MEMORANDUM

December 2, 1983

To: The TRPA Governing Board

From: The Staff

Subject: Agenda Item XV A. - Nevada Department of Transportation (NDOT) Erosion Control Study, U.S. Highway 50, Stateline to Spooner Summit

The staff sent the enclosed letter to NDOT which preliminarily explores the various funding sources for this project. We have also offered assistance in working on funding strategies for the project which could coincide with the financial strategies being developed for the Regional Plan. The pending gas tax legislation could provide possible funding for this project, and the staff will continue to look into this possible funding source as it evolves.

The staff completed the review of the project and submitted to NDOT specific comments and recommendations in a November 15 letter. NDOT will submit the final plans for the January Governing Board meeting.
November 17, 1982

Ronald W. Hill  
Chief Road Design Engineer  
Nevada Department of Transportation  
1263 South Stewart Street  
Carson City, NV 89712  

Dear Ron: 

The Tahoe Regional Planning Agency Governing Body at its October 1982 meeting discussed the NDOT Preliminary Erosion Control Plan for Highway 50 from Stateline to Spooner Summit. A major concern expressed by staff and the Board was over the funding of the project. The Board felt the ability of the State of Nevada to appropriate special funds for the total project was not realistic due to the present revenue shortfalls. Alternative funding sources must be evaluated to determine the potential to fund the project. The Federal Forest Highway funds may be a potential source of funding but would require NDOT to coordinate with the U.S. Forest Service Regional Forester for Region 5 to explore the possibility of assigning a high priority to this project. The Burton-Santini program has provisions for erosion control funding but to date no monies have been earmarked for erosion control. It would probably require congressional support in order to get these funds included in future Burton-Santini appropriations. NDOT should pursue legislative support for the project which could generate the necessary backing Burton-Santini erosion control appropriations.

TRPA staff is available to work with NDOT to incorporate the financial demands of the project with the financial strategies being developed in the Lake Tahoe Basin Regional Plan. The erosion and runoff problems associated with the Stateline to Spooner Summit portion of Highway 50 fall under the TRPA remedial erosion control program. This program stresses a voluntary approach for compliance and we anticipate NDOT to resolve the erosion and runoff problems along this portion of Highway 50 over the next 20 years. For this reason it is important that NDOT allocate some portion of its annual budget to implement erosion and runoff control within the Lake Tahoe Basin. We recognize NDOT will have to pursue additional funding sources to implement this entire project and TRPA will provide assistance where possible to obtain these funds.

If there are questions regarding this project and financial strategies, please contact Gary Shellhorn at our office.

Sincerely,

Phillip A. Overeynder  
Executive Director  

PAO: bl  

cc: Zane Smith, Regional Forester  
    TRPA Governing Body
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8806
South Lake Tahoe, California 96151

MEMORANDUM

November 30, 1982

TO: TRPA Governing Body
FROM: Agency Staff

SUBJECT: Classification of Zephyr Heights Subdivision as Potentially Adequate

Background

During the subdivision evaluations conducted in July of 1981 the subdivision review team did not rate Zephyr Heights. This area was not rated due to a building moratorium which was in effect because of inadequacy of the water system in the Zephyr Cove area. Douglas County has temporarily lifted this moratorium, however. Although some progress has been made toward correcting the inadequacies with the water system, no final resolution of this matter has been reached. Agency staff has not yet reviewed plans for the water system improvements. Any such plan would be subject to current Agency ordinances. Because there is no longer any local restrictions on issuance of building permits, a subdivision rating is required for this area.

To date Agency staff has conducted an evaluation of the Zephyr Heights Subdivision. The balance of the area will be rated as soon as the weather allows. This includes Zephyr Cove and Zephyr Knolls.

Subdivision Evaluation

Agency staff finds that Zephyr Heights units 1, 2, 3 and 4 qualify for a rating of Potentially Adequate. A substantial amount of slope stabilization and drainage work has been completed in the subdivision. This work was a joint Douglas County and Soil Conservation District project and is consistent with the type of improvements which the Agency would require to provide erosion control on high hazard lands. Although slopes in the area are generally over steepened, and access difficulties exist in some areas, there are isolated areas within the subject subdivisions which would appear to meet the criteria for individual lots under case by case review. The extent of the erosion control improvements in the subdivision and the fact that roadways and drainages within an entire watershed were treated in conformance with Best Management Practices, qualifies the subject subdivisions for a rating of potentially adequate.
MEMORANDUM

December 2, 1982

To: The TRPA Governing Board
From: The Staff

Subject: List of Projects Approved at Staff Level

Attached is a list of projects approved at staff level from November 3, 1982 (date of previous memo listing staff approvals) to the present. Notice of these approvals was provided to all affected property owners, and posting of the determinations and appeal procedures were followed in all cases. All approvals were granted with necessary findings and conditions.

Attachment

Agenda Item XV C. 3.
List of TRPA Staff Approvals
November 4 - December 2, 1982

1. Sangiacomo/Jones & Turner, Local Public Road Finding, 1528 Debra Lane, Washoe County, APN 122-331-12, TRPA File #82-1226

2. McKinney Landing, Pier Repair, Brockway, Placer County, APN 90-410-01, TRPA File #82297

3. Elks Point Yacht Club, Boat Storage Addition, Douglas County, APN 05-250-15, TRPA File #82303

4. Carolyn Plake, Backshore Single Family Dwelling Remodel, 973 Lakeview, City of South Lake Tahoe, APN 26-048-06, TRPA File #82305

5. Harrison, Single Family Dwelling in Backshore, Beach Drive, City of South Lake Tahoe, APN 22-261-03, TRPA File #82301

Administrative Permits for Additional Land Coverage:

6. Taylor/Curtis, Lot 39, Block N, Incline Village #4, Washoe County, APN 125-564-01, TRPA File #82950

7. William Rose, 586 Fallen Leaf Way, Washoe County, APN 125-531-12, TRPA File #82768

8. Ulloe/Foster, Lot 45, Block N, Incline Village #4, Washoe County, APN 125-551-16, TRPA File #82588

9. Postich/Foster, Lot 1, Block 1, Incline Village #4, Washoe County, APN 124-552-24, TRPA File #82500

10. Waterous/Foster, Lot 10, Block N, Incline Village #4, Washoe County, APN 125-172-04, TRPA File #821066

11. Applegate/Foster, Lot 1, Block N, Incline Village #4, Washoe County, APN 125-551-06, TRPA File #821042

12. Bliss/Foster, Lot 19, Block F, Incline Village #4, Washoe County, APN 125-511-12, TRPA File #821072

13. Smith/Foster, Lot 44, Block L, Incline Village #4, Washoe County, APN 125-563-02, TRPA File #821040

14. Belda/Foster, Lot 1, Block N, Incline Village #2, Washoe County, APN 125-151-26, TRPA File #821078

15. Hefferman/Foster, Lot 60, Block F, Incline Village #4, Washoe County, APN 125-511-06, TRPA File #821076

16. Weiss/Foster, Lot 11, Block H, Incline Village #4, Washoe County, APN 125-503-14, TRPA File #82914
List of TRPA Staff Approvals
November 4 - December 2, 1982
page two

17. James Brett, Dwelling, Levels 5 and 1b, Fallen Leaf Lake, El Dorado County, APN 21-251-13, TRPA File #82259

Case-by-Case Review of Single Family Dwellings, Nevada

18. Gene Empey, Level 3, Lot 8, Tyrolia Village #7, Washoe County, APN 126-083-19, TRPA File #82644

19. Gene Empey, Level 3, Lot 109, Tyrolia Village #7, Washoe County, APN 126-083-17, TRPA File #82646

20. Gary McGibbon, Level 3, Lot 12, Block L, Country Club of Incline, Washoe County, APN 124-231-12, TRPA File #82806

21. Philip Doersam, Level 2, Lot 8, Block A, Round Hill Village #2, Douglas County, APN 05-312-08, TRPA File #82778

22. Leon/Foster, Lot 3, Block J, Country Club of Incline, Washoe County, APN 124-234-07, TRPA File #821068

23. Clemens/Foster, Lot 118, Tyrolian Village #7, Washoe County, APN 126-083-05, TRPA File #82584 (NS)

Dwellings Located on Lots Containing a Stream Environment Zone

24. Laura Ann Lambert, Levels 4 and 1b, Hazel Court, Washoe County, APN 125-243-08, TRPA File #82586

25. Bo Jackson, Levels 4 and 1b, Lot 5, Block B, Incline Village #5, Washoe County, APN 125-411-01, TRPA File #82718

26. David LaRoche, Levels 6 and 1b, Lot 19, Block K, Lakeview Subdivision, Washoe County, APN 122-211-09, TRPA File #821326

Administrative Permits for Replacement of Nonconforming Land Coverage

27. Edith Nemetz, 680 Tumbleweed Circle, Washoe County, APN 125-522-15, TRPA File #82482

28. George Bozoki, Lot 23, Block G, Incline Village Unit #4, Washoe County, APN 125-492-06, TRPA File #82928

29. Ted Giezler, Dwelling Addition, Lot A, Block 12, Crystal Bay Subdivision, Washoe County, APN 123-146-04, TRPA File #821308

30. Mulvey/Jones, 708 Lakeview, Lot 79, Zephyr Knolls, Douglas County, APN 05-131-06, TRPA File #82-1182