February 1982

TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on February 24, 1982, at 9:30 a.m. at the Chateau, 955 Fairway Boulevard, Incline Village, Nevada, the Governing Body of the Tahoe Regional Planning Agency will conduct its regular meeting. The agenda for said meeting is attached to and made a part of this notice.

NOTICE IS FURTHER GIVEN that at 8:30 a.m. on Thursday, February 25, 1982 in the same location, the Finance Committee of said agency will meet to discuss TRPA's budget and financial status.

Dated: February 4, 1982

By: Philip A. Overeynder
Executive Director
Tahoe Regional Planning Agency

NOTE: ITEMS ON THE AGENDA WITHOUT A TIME DESIGNATION MAY NOT NECESSARILY BE CONSIDERED IN THE ORDER IN WHICH THEY APPEAR ON THE AGENDA.
NOTE: There will be a meeting of the Finance Committee at 8:30 a.m. at the Chateau on February 25, 1982. The purpose of said meeting is to discuss the Agency's budget and financial status.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA — Ryan Knowles —

III DISPOSITION OF MINUTES

IV CONSENT CALENDAR

V SPECIAL REPORTS - Federal Agency/TRPA Coordination Effort — Contract - USFS.

VI PUBLIC HEARING

A. Remedial Erosion and Runoff Control Ordinance

B. Amendments to Ordinance 81-1 Concerning Tree Removal Permits

VII SPECIAL DETERMINATIONS

A. Gary Sheerin, Rocky Point Subdivision, Block C, Lots 1-4, APN 055-345-01, Washoe County, TRPA File #81-1148

1. Determination to Reconsider

2. Status Under Section 9.13, Nevada Side Land Use Ordinance

B. Application Compliance with Compact Article VI(c) and Sections 4.21, 5.13 and 5.14 of the California Side Land Use Ordinance, Marshall Court Condominiums, Condominium Map for 5 Existing Apartment Units, El Dorado County

VIII PLANNING MATTERS

A. City of South Lake Tahoe/El Dorado County Joint Planning Program

B. Development of 1982 Air Quality Plan

C. Transfer of Development Rights

D. Status Report on 208 Plan
E. Progress Report on Compliance With the Tahoe Regional Planning Compact Pursuant to Article VI

F. Environmental Threshold Carrying Capacities - 1:30 p.m., February 24

IX APPEALS

A. Appeals of Staff Decisions Regarding Project Status Pursuant to Ordinance 81-5

1. Johnson/Nogle, Level 1A Dwelling, Lot 20, Uppaway Subdivision, Douglas County, APN 01-100-20, TRPA File #81158

2. D. Keown, Level 1A Dwelling, Lot 60, Blk F, Incline Village #4, Tyner Way, Washoe County, APN 125-512-06, TRPA File #81892

B. David Bale, Appeal of Staff Determination Regarding Excess Land Coverage at 452 Jill Court, Washoe County, APN 125-131-10

C. Rocky Point Subdivision, Washoe County - Applicant Paul Ferrari

1. Appeal of Staff Determination to Reject Application for an Administrative Permit for Tunnel Creek Road Improvements

2. Appeal of Subdivision Classification Pursuant to Ordinance 81-5

X AGENCY REVIEW

A. D'Alessandro/List, Single Family Dwelling, 1980 Status, Level 1A, Lot 50, Blk F, Incline Village #4, 508 Fallen Leaf Way, Washoe County, APN 125-511-23, TRPA File #81896

B. P. Pozzuoli, Case-by-Case Review of a Single Family Dwelling, Level 3, SEZ, Lot 68, Blk F, Incline Village #4, Washoe County, APN 125-581-18, TRPA File #81-1156

C. Agency Review and Notification of Intent to Certify Finding of No Significant Effect

1. Hawkins/Barrow, Land Capability Challenge, Lot 32, Blk I, Incline Village #4, Washoe County, APN 125-522-06, TRPA File #81-1026

2. Jeff Needham, Installation of Satellite TV Receptor Dish on Single Family Dwelling, Level 3, Douglas County, APN 03-241-03, TRPA File #82050


4. A. Horita, Duplex, Level 6, Alder Court, Washoe County, APN 124-041-16, TRPA File #81-1094

5. Robert Carter, Single Family Dwelling, Level 4, SEZ, Lot 53, Blk P, Incline Village #3, Washoe County, APN 125-281-20, TRPA File #81894

6. [Handwritten note]
ENFORCEMENT

A. Show Cause Hearings

1. Warner Odenthal, Unauthorized Dredging, 813 Lakeshore Drive, Incline Village, Washoe County, APN 122-181-45, TRPA File #81145

2. George Stalls, Unauthorized Grading, Excavation and Construction in an SEZ, Sawmill and Incline Roads, El Dorado County, APN 33-090-07

3. Reid Badgeley, Unauthorized Construction in an SEZ (1BR Land Capability), 2333 Tahoe Vista Drive, City of South Lake Tahoe

B. Reports

1. Caesar’s Tahoe, Status of Conditional Approval to Light the Hotel Tower, Douglas County, TRPA File #81560

2. Other

ORDINANCES

A. First Reading of Ordinance Amending the Land Use Element of the Regional Plan to Reclassify 2.1 Acres in Washoe County (Hyatt Tahoe) from Recreation to Tourist Commercial

OFF-B. First Reading of Ordinance Amending Ordinance 81-1 (see agenda item VI B)

REPORTS

A. Finance Committee Report

B. Executive Session

C. Executive Director Report

D. Administrative Matters

1. 1981-82 Budget and Work Program Revisions

2. 1982-83 Preliminary Budget and Work Program

3. Other

E. Legal Counsel Report

F. Governing Body Members

G. Public Interest Comments

RESOLUTIONS

CORRESPONDENCE

PENDING MATTERS

ADJOURNMENT
CONSENT CALENDAR

Approval of these items requires a finding of no significant environmental effect and approval with conditions and necessary findings.


2. Stanley Rupiper, Dwelling on a Lot Containing an SEZ, Level 5, 920 Woodside Drive, Placer County, APN 98-320-30, TRPA File #82018

3. Harold's Club, Dwelling on a Lot Containing an SEZ, Levels 4 and 1A, Cal Neva Drive, Washoe County, APN 123-04-12, TRPA File #81-1436

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

Applicant: Wally Leppanen

Land Use District: Low Density Residential

Land Capability Classification: Level 3

Project Location: 563 Len Way, Incline Village Unit #4, Washoe County

Review Per Section: Article VI(b) of the TRPA Bistate Compact; Section 12.00 of Ordinance 81-5

Site Description: The subject parcel is a flag shaped lot with a downhill slope of approximately 13%. The lot is well vegetated with Jefferey Pine, white fir, incence cedar and chinquapin, and manzanita. The fill slope adjacent to the road is 4' in height and is proposed to be stabilized by rock riprap and revegetation. No stream zones are located on or adjacent to the property.

Project Description: The applicant proposes to construct a 2 story single family dwelling on a land capability class 3 lot. Due to the flag shape of the parcel a long driveway will be required for access to the building site. The utilities will be located beneath the driveway. The proposed foundation is a step type, following the natural contours to eliminate any cuts or fills. The cut slope along the driveway and the road fill will be stabilized with rock riprap and vegetation.

Land Coverage:

<table>
<thead>
<tr>
<th>Lot Size:</th>
<th>15,353 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Coverage:</td>
<td>3,071 sq. ft. = 20%</td>
</tr>
<tr>
<td>Proposed Coverage:</td>
<td>2,896 sq. ft. = 18.8%</td>
</tr>
</tbody>
</table>

Building Height: Proposed: 26' Permitted: 35'

Impact Analysis and Mitigation Measures: The TRPA 1981 case-by-case lot review criteria were applied to the project. The parcel was considered a Low or Moderate Risk in each of the four categories. Staff has determined that all of the impacts will be mitigated to the extent possible. The determination is based on the following analysis:

1. Proximity to Stream or Wetland: The parcel is considered a Low Risk, as it is away from the direct area of influence of a stream environment zone. There is no riparian vegetation or evidence of a high water table.

2. Runoff Potential: The runoff potential of the parcel can be considered Low Risk. The Umpa series soils are well drained, with moderate permeability. Because the site is gently sloping and the vegetation is mature and well established, runoff potential is low.

2/5/82
KE/sf

CONSENT CALENDAR 1.
3. Land Stability: The site is considered low risk relative to land stability. The slope on the site is 10-13%. Dripline trenches which are to be placed under all eave lines and adjacent to the driveway, are designed to percolate a 50 year 1 hour storm. All cut slopes on the site will be riprapped and revegetated.

4. Vegetation: The site is vegetated with well established pine, cedar and fir trees with a moderate understory of manzanita and chinquapin. Eleven trees are proposed to be removed prior to construction. Since the vegetation on-site would sustain some damage due to construction activities the site can be considered a moderate risk.

Recommendations from the Handbook of Best Management Practices have been incorporated into the proposal to minimize the disturbance to the greatest extent possible.

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

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
</tr>
<tr>
<td>Nevada Side General Plan and Sub-Elements</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</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>

Project Analysis and Issues for Discussion: The staff recommends the following special conditions to assure that the identified impacts are mitigated to the greatest extent possible:

1. Tight vegetative protective fencing shall be utilized during construction to minimize vegetative disturbance.

2. 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 issuance of a TRPA permit. The mitigation fee is $4,480, as calculated below:

2/5/82  
KE/sf  

CONSENT CALENDAR 1.
Capability level: 3
Lot size: 15,353 sq. ft.
Allowed coverage by land capability: 767 sq. ft. = 5%
Proposed coverage: 2,896 sq. ft.
Coverage in excess of land capability: 2,129 sq. ft.
Mitigation fee: $4,480.00

**Required Actions and Findings:**

1. The special conditions listed above.
2. Actions and findings listed on Attachment A.
3. Actions and findings listed on Attachment G.
4. Standard conditions of approval listed on Attachment D.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Stanley Rupiper, Dwelling on a Lot containing an SEZ, Level 5, 920 Woodside Drive, Placer County, APN 98-320-30, TRPA #82018

Applicant: Stanley Rupiper

Land Use District: Low Density Residential

Land Capability Classification: Levels 4, 1b

Project Location: 920 Woodside Drive, Tahoma, Placer County, California

Review Per Section: Article VI(b) of the TRPA Compact; Article 6.3 of the TRPA Rules and Regulations; Section 7.80 of the TRPA Grading Ordinance; Section 3.00 of the TRPA Ordinance 81-5

Project Description: The applicant proposes to construct a single family residence containing 4 bedrooms, 2 bathrooms, and an attach 2 car garage.

Site Description: Vegetation in the area consists of a White fir, Jeffrey and sugar pine overstory, and a chinquapin and manzanita understory. Soils in the area of Tallac very stony coarse sandy loam. This particular soil type is moderately well drained, with a slight erosion hazard, and slow to medium runoff.

The outer most limit of the SEZ on the lot is identified by the 100 foot buffer strip measured from the centerline of McKinney Creek, and the existence of riparian growth at the western boundary of the lot.

The slope of the building site varies from 7.5% to 9%.

Land Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>Coverage (sq. ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot size</td>
<td>17,120</td>
</tr>
<tr>
<td>SEZ area of the Lot</td>
<td>6,650 sq. ft.</td>
</tr>
<tr>
<td>Non SEZ area of the lot</td>
<td>10,470 sq. ft.</td>
</tr>
<tr>
<td>Permitted coverage</td>
<td>2,617 sq. ft.</td>
</tr>
<tr>
<td>Proposed coverage</td>
<td></td>
</tr>
<tr>
<td>Residence</td>
<td>1,377 sq. ft.</td>
</tr>
<tr>
<td>Decks</td>
<td>212 sq. ft.</td>
</tr>
<tr>
<td>Garage</td>
<td>440 sq. ft.</td>
</tr>
<tr>
<td>Driveway</td>
<td>496 sq. ft.</td>
</tr>
<tr>
<td>Total</td>
<td>2,525 sq. ft.</td>
</tr>
</tbody>
</table>

Building Height: Proposed: 24'  Allowed: 25'

Impact Analysis and Mitigation Measures: Due to the physical characteristics of the lot, the type of construction proposed and the fact that no construction is proposed in the SEZ, staff cannot identify any adverse environmental impacts.

2/9/82
KS/sf

CONSENT CALENDAR 2.
Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Side Land Use and TRPA Grading Ordinance</td>
<td>Consistent</td>
</tr>
<tr>
<td>California Side General Plan and Sub-Elements</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>California Air Resources Board Nonattainment Air Quality Plan</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Staff Comment: Based on information submitted with the application and field review of the site, staff recommends approval of the project with the following special conditions:

1. Utilities shall be in a common trench runoff parallel and adjacent to the driveway.

Finding of No Significant Environmental Effect: Based on the information submitted with the application, including the completion of the environmental checklist, and field review, Agency staff finds that the subject project qualities for a finding of no significant environmental effect.

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

I  1. Pursuant to Article III(g)(2) 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.

II Findings that no grading, clearing, removal of vegetation, filling or creation of land coverage will occur within a stream environment zone.

III The standard conditions of approval (Attachment D).

IV The special conditions as indicated.

2/9/82
KS/sf

CONSENT CALENDAR 2.
Harold’s Club, Dwelling on a Lot Containing an SEZ, Levels 4 and 1A, Cal Neva Drive, Washoe County, APN 123-04-12, TRPA File #81-1436

Applicant: Harold’s Club

Land Use District: Low Density Residential

Land Capability Classification: Levels 1A, 4 and SEZ

Project Location: Cal Neva Drive, Crystal Bay, Washoe County, Nevada

Review Per Section: Article VI(b) of the TRPA Compact; Article 6.3 of the TRPA Rules and Regulations; Section 7.80 of the TRPA Grading Ordinance; Section 9.21(3b) of the TRPA Land Use Ordinance; Section 3.00 of the TRPA Ordinance 81-5

Site Description: The vegetation of the lot consists of Jeffrey Pine, White fir and manzanita. The soil type of the lot where the proposed building is to occur is a Cagwin-Rock outcrop complex. This soil type with its associated slope of 5% has a slow rate of runoff and a moderate erosion hazard.

The remainder of the lot is a rock outcrop Toem complex with slopes of 30 to 50%. No construction or earth disturbance is proposed in this area. The SEZ on the property is a stable drainageway running along the northern boundary of the lot. The outermost boundary of the SEZ is the 25' buffer strip.

Project Description: The applicant proposes to convert an existing garage into a caretakers residence. The current use of the lot consists of a 4 car garage, covered trailer parking and tool storage/workshop area. This structure serves a residence on an adjacent lot as an accessory structure. The proposed project consists of a residence with an attached two car garage. In addition to reconstruction of the residence, the applicant proposes to rip and revegetate 148 square feet of compacted unpaved parking areas thereby reducing the total amount of coverage on the lot. This overall reduction in coverage on the lot is consistent with Section 9.21(3)(b) of the TRPA Land Use Ordinance which states in part "Non-conforming land coverage may be replaced by a building or extension of a building only if other land coverage on the same parcel is removed in an amount equal to the amount of land coverage created by such buildings or extension of building."

Land Coverage:

<table>
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<tr>
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<tbody>
<tr>
<td>Lot Area:</td>
<td>32,702 sq. ft.</td>
</tr>
<tr>
<td>SEZ area of lot:</td>
<td>3,650 sq. ft.</td>
</tr>
<tr>
<td>Level 4 area of lot:</td>
<td>12,261 sq. ft.</td>
</tr>
<tr>
<td>Level 1A area of lot:</td>
<td>16,791 sq. ft.</td>
</tr>
<tr>
<td>Permitted Coverage:</td>
<td>2,488 sq. ft.</td>
</tr>
<tr>
<td>Existing Coverage:</td>
<td>5,420 sq. ft.</td>
</tr>
</tbody>
</table>

2/8/82

K5/sf

CONSENT CALENDAR 3.
Harold's Club
Page Two

Land Coverage: (continued)

Proposed Coverage:
Residence & Garage: 1,068 sq. ft.
Decks: 208 sq. ft.
Walks: 242 sq. ft.
Drive & Parking: 3,755 sq. ft.
Total: 5,272 sq. ft.

Building Height: Proposed: 23' Permitted: 25'

Impact Analysis and Mitigation Measures: Due to the relatively flat slope of the construction site, the nature of the project, and the overall reduction of impervious land coverage, the staff cannot identify any adverse environmental effects.

In addition to an overall reduction in impervious surfaces on the site, the applicant proposes to bring the site into conformance with current standards for infiltration of onsite runoff, slope stabilization, and revegetation.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

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<tr>
<td>Federal Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Staff Comment: Based on information submitted by the applicant and a field inspection of the lot, the staff cannot identify any issues for discussion. The staff recommends the following special conditions be placed on the project:

1. The applicant shall place parking barriers around the perimeter of the parking site to prevent parking on unpaved surfaces.

2/8/82
KS/sf

CONSENT CALENDAR 3.
2. Appropriate energy dissipation devices shall be placed at the outlet of the existing driveway culvert.

Finding of No Significant Environmental Effect: Based on the information submitted with the application, the completion of the environmental checklist, and field review, Agency staff finds that the subject project qualifies for a finding of no significant environmental effect.

Required Actions and Findings: Motion for approval of this project is based on the following findings and conditions:

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

II 1. Pursuant to Article III(g)(2) 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.

III Findings that no grading, clearing, removal of vegetation, filling or creation of land coverage will occur within or upon a stream environment zone.

IV The standard conditions of approval (Attachment D).

V The special conditions as indicated in the summary.
DRAFT OUTLINE:

REMEDIAL EROSION AND RUNOFF CONTROL ORDINANCE

I. Findings
   -- TRPA to implement adopted 208 Plan it is necessary to adopt this ordinance for remedial erosion runoff and control problems
   -- timely implementation of remedial controls is necessary to maintain water quality at current levels and to reverse the process of degradation of water quality
   -- ordinance establishes procedures, and provides for enforcement
   -- provisions of this ordinance are in accordance with the Tahoe Regional Planning Compact
   -- appropriate public hearings conducted as required by law
   -- Provisions in the Lake Tahoe Basin Water Quality Management Plan for prioritization and cost effectiveness of erosion and runoff control treatment practices shall be a basis for scheduling and implementing remedial erosion and runoff control projects

II. General Provisions
   -- Intent: To develop collaborative/cooperative program - Fed/State/Local/Priv. - Problem
   -- Compliance: Operation of basin-wide remedial program shall be in compliance with this ordinance; action plans shall be required for problems on a priority basis; TRPA will provide technical assistance and stress voluntary compliance with erosion and runoff control standards; where responsible parties fail to take acceptable action after sufficient time period, TRPA may take enforcement actions in accordance with the Tahoe Regional Planning Compact

III. Definitions

IV. Procedures
   A. Consultation
      -- TRPA will participate in meetings with various local associations, groups, governments and the state agencies which have administrative or legal jurisdiction in areas with in the Tahoe Basin to coordinate remedial erosion and runoff control efforts.

   - 1 - AGENDA ITEM VI A.
-- TRPA will provide assistance to the various entities involved with remedial erosion and runoff control to aid in development of priorities for treatment to be consistent with the Lake Tahoe Basin Water Quality Management Plan.

-- TRPA with consultation and coordination of those entities directly affected by remedial actions will develop priorities for erosion and/or runoff control, on a watershed basis for each county or city. The priorities for treatment practices shall be based on reduction of sedimentation, controlling runoff, and insuring cost effectiveness.

B. Notice

-- Based on the prioritizations developed after consultation with entities affected the Governing Board may issue notices to the entities responsible for remedial erosion and/or runoff control.

C. Planning

-- Those entities responsible for remedial controls must develop acceptable action plans (per part V of this ordinance) within specified time limit set by the notice. All action plans are subject to Governing Board approval.

-- TRPA staff would provide technical advice on action plan preparation and process requests for mitigation fee funds.

-- action plan must be consistent with any applicable State or Federal discharge permit; approval of an action plan by the Governing Board does not constitute a permit to discharge to surface of ground waters

D. Implementation & Compliance

-- if the responsible entity fails to submit plan within time limit, TRPA staff will prepare a plan for approval of both the responsible entity and the Governing Board

-- if staff fails to reach agreement with responsible entity on the action plan, responsible entity could appeal to TRPA Executive Director

-- if appeal to Executive Director fails to produce an acceptable action plan, responsible entity will be asked to appear to a show-cause hearing before the Governing Body

-- after show-cause hearing, Governing Board will direct staff to define an action plan for the responsible entity

-- if the terms of the final action plan are not met by the responsible entity, the Governing Body may direct staff to initiate enforcement action

- 2 -

AGENDA ITEM VI A.
V. Required Plans and Investigations

-- Those entities who are unable to abate erosion or runoff problems promptly or on a voluntary basis upon receipt of notice must submit an action plan specifying:

1) control measures to be used
2) time frame for completion
3) financial commitments
4) off-site impacts

VI. Inspections

-- After approval of action plan, TRPA staff will conduct periodic inspections to verify compliance with the Plan

VII. Standards

-- Responsible parties will base action plans on TRPA BMP Handbook; occasionally with Governing Body approval

VIII. Violations

-- failure to comply with compliance provisions of this ordinance constitutes to misdemeanor; responsible parties are subject to enforcement action under Tahoe Regional Planning Compact, Article VI, parts j, k, and l
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 82-

AN ORDINANCE AMENDING ORDINANCE 81-1 OF THE TAHOE REGIONAL PLANNING AGENCY
RELATING TO ENVIRONMENTAL REVIEW AND APPROVAL OF DEVELOPMENT ACTIVITIES;
AUTHORIZING AGENCY STAFF LEVEL REVIEW AND APPROVAL OF CERTAIN TREE REMOVALS;
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 This ordinance amending Ordinance No. 81-1 of the Tahoe Regional Planning Agency is necessary to implement Article VI(a) of the Tahoe Regional Planning Compact, requiring that the Agency prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the Lake Tahoe Region and thus not "projects" within the meaning of said Compact and not subject to review and approval by the Agency.

1.20 This ordinance is adopted pursuant to the requirements of the Tahoe Regional Planning Compact, is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Region, complies in all respects, procedural and substantive, with the Compact and the regional plan, ordinances, rules, regulations and policies of the Agency, and is necessary to effectuate and implement the same. This ordinance does not have a significant effect on the environment of the Region and does not require preparation of an Environmental Impact Statement.

Section 2.00 Amendment Specifying That Certain Tree Removals Must be Reviewed and May Be Approved by Agency Staff

Section 3.00 of Ordinance 81-1 of the Tahoe Regional Planning Agency is hereby amended by adding a new subsection 3.63 to read as follows:

3.63 Other New Resource Management Activities

The following activities are exempt from the requirement to prepare environmental documentation pursuant to Article VII(f) of the Compact or Article VI of the Rules and Regulations of the Agency and shall be granted a permit by the Agency staff within fifteen (15) days from the date of receipt by staff of a complete application therefor, providing the Agency staff determines that the activity is conforming and in compliance with the land coverage limitations of the land capability system and is determined to not have a significant or substantial effect on the land, water, air, space, environment or any other natural resources in the Region:

AGENDA ITEM VI B. AND ITEM XII B.
(1) Removal of dead, dying, diseased, infected or overstocked trees as certified by the area forester of the appropriate State Division of Forestry.

Section 3.00 Severability

The provisions of this ordinance shall be reasonably and liberally construed to effectuate their purposes. The provisions of this ordinance are severable, and if any phrase, clause, sentence or provision of this ordinance is declared to be contrary to the Constitution of any State or of the United States, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this ordinance and the applicability thereof to any person or circumstance shall not be affected thereby.

Section 4.00 Effective Date

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

FIRST READING:

SECOND READING:

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

Ayes:

Nays:

Abstain:

Absent:

Chairman Roland D. Westergard
Determination of Status Under Section 9.13,
Nevada Side Land Use Ordinance
Gary Sheerin, Rocky Point Subdivision
Blk C, Lots 1-4, APN 055-345-01, Washoe County
TRPA File #81-1148

Request: The applicant, Gary A. Sheerin, is requesting that the Governing Board make the findings required under Section 9.13 of the Nevada Side Land Use Ordinance to recognize one single family dwelling as a permitted use on Lots 1-4, Block C of the Rocky Point Subdivision. This request was heard by the Governing Board in October, 1981. At that time, the Board failed to make the findings required to allow a residential use on the subject lots. Mr. Sheerin has requested that this matter be reheard at this time although he has submitted no new evidence for consideration.

Location: The Rocky Point Subdivision is located adjacent to State Highway 28 approximately 1/2 mile south of the Ponderosa Ranch (see Attachment A). The four subject lots are located above Tunnel Creek Road.

Land Use and Land Capability: The Rocky Point Subdivision is classified General Forest. The soils within the subdivision are identified as RfF, rock outcrop-Toem complex, 30 to 50% slopes. The land capability district is 1a permitting 1% land coverage. The property is in a high hazard geomorphic unit.

Subdivision History: The Rocky Point Subdivision was originally subdivided in 1908. In 1933, an amended map was filed for the purpose of deleting two streets, consolidating some lots and incorporating State Highway 28 as Second Street. Tunnel Creek Road corresponds to Fifth Street in the subdivision. In 1980, the owner of the Ponderosa Ranch barricaded Tunnel Creek Road restricting access to adjacent property owned by Paul Richards. Mr. Richards sued to regain access and prevailed in a court decision rendered by the Nevada Supreme Court in May of 1980 (see Attachment C). This court decision found that Tunnel Creek Road has been in existence since at least 1880, 28 years prior to the creation of the Rocky Point Subdivision.

In April, 1981, the TRPA Governing Board made the findings required under Section 9.13 of the Nevada Side Land Use Ordinance to recognize one single family dwelling as a permitted use on the 32 lots in Blocks D, E, F, and G of the Rocky Point Subdivision. These lots are all located below Tunnel Creek Road. The Governing Board did establish, however, that any proposed improvements to service the lots or proposed single family dwellings would be subject to TRPA permit requirements in effect at the time the applications are submitted.

Required Findings: Section 9.13 of the TRPA Land Use Ordinance reads as follows:

"One (1) single family house may be constructed on any existing legal lot or parcel of record as of February 10, 1972 that is located in any district except Tourist Commercial or General Commercial, provided, however, that
Gary Sheerin, Rocky Point Subdivision
Determination of Status
page two

this section shall not apply to lots in residential subdivisions where the
final map of such subdivision was approved and filed for record more than
five (5) years prior to February 10, 1972 and there has been no construction
of roads, sewers, or other substantial facilities serving the subdivision,
or the posting of performance bonds assuring such construction, prior to
February 10, 1972."

Since the Rocky Point Subdivision was recorded more than five years prior to
February 10, 1972 and there has been no performance bonds posted to assure
completion of subdivision improvements, the Governing Board must find that prior
to February 10, 1972, there had been the construction of roads, sewers or other
substantial facilities serving Lots 1 through 4 in Block C.

Subdivision Improvements:

Residential Development  - There are 11 existing single family dwellings on
the lots located adjacent to State Highway 28. All the remaining lots in
the subdivision are vacant.

Roadway Improvements  - The only improved roadway that presently provides
access to any of the lots in the subdivision is State Highway 28. The
highway provides access to the 16 lots that front the highway. The
applicant has not provided evidence substantiating that Tunnel Creek Road
was constructed in conjunction with planned subdivision improvements for the
Rocky Point Subdivision. In fact, evidence indicates that Tunnel Creek Road
was not constructed in conjunction with subdivision improvement plans since
the road existed in 1880, 28 years prior to creation of the subdivision.
Presently the travelway portion of Tunnel Creek Road is an average width of
12 feet. In a number of areas, the travelway is only 8 to 9 feet wide. The
width of the bench over which the roadway traverses is 20 feet or wider, for
the most part, although one portion is only approximately 18 feet in width.

Since the original construction of Tunnel Creek Road, substantial portions
of the travelway and bench area of the road and adjacent cut and fill slopes
have naturally revegetated (see Attachment D). Lower level vegetation also
exists in the center portion of the travelway and mature manzanita shrubbery
is present on portions of the bench area. Mature manzanita shrubbery also
exists on the lower portions of many of the adjacent cut slopes. Most of
the adjacent fill slopes also contain mature manzanita shrubbery.

Sewage Treatment  - The only lots that have been annexed into the Incline
Village General Improvement District (IVGID) are those lots fronting State
Highway 28. The other lots in the subdivision are not in IVGID's service
area.

2/10/82

AGENDA ITEM VII A. 1. and 2.
Domestic Water - In a letter received by TRPA from IVGID, the District indicates that it cannot provide domestic drinking water to the Rocky Point Subdivision. The application indicates that domestic water will be furnished by individual wells. The installation of a well is a "project" as defined under the TRPA Compact. In order to approve such a project, the cumulative impacts resulting from individual well construction would have to be found to be insignificant. The applicant has not documented any water rights associated with the project.

Electricity - There are electrical power lines running along State Highway 28 that provide electrical connections to the 11 existing residences fronting the highway. No extensions from the existing power line have been made to accommodate residential development elsewhere in the subdivision.

Natural Gas - There is an existing 8" diameter natural gas line in Tunnel Creek Road. According to Charles Smith, District Manager for Southwest Gas Company, this line is the major transmission line that extends from the Idaho border to Northern California. Locally, the line follows Tunnel Creek Road from Washoe Valley through Incline Village to Tahoma, then over the Sierra Range and on into the San Joaquin Valley. The line is maintained at high pressure (300 psi); therefore, connections can only be made through a major distribution station. Mr. Smith indicated that without special authorization connection of the Rocky Point Subdivision to this natural gas system would have to be made through the closest existing distribution station. The closest distribution station is located in Incline Village.

Required Agency Approvals for Proposed Improvements: The subdivision map for the Rocky Point Subdivision does not include plans for required improvements such as roads and water and sewer facilities. Therefore, an administrative permit is required for such improvements pursuant to Section 7.12 of the TRPA Land Use Ordinance and Article VI(b) of the Compact, as amended.

Agency action on an application for such a permit must be consistent with the regulations prescribed in Ordinance 81-5, the implementing ordinance for the 208 Water Quality Plan. Section 12.00 of that ordinance prohibits any grading, clearing, removal of vegetation, filling or creation of and coverage upon land within land capability districts 1a, 1c, 2 and 3, except for: 1) the construction of a single family dwelling unit approved by the Agency under the case-by-case review procedure; 2) on lands within subdivisions approved by the Agency after February 10, 1972 in accordance with the Agency's land capability district regulations; 3) the construction of a public works project by a public agency; or 4) on lands which the Agency finds to be man-modified as set forth under Section 8.29 of the Land Use Ordinance.

It is the opinion of Agency staff that the proposed road improvements to the Rocky Point Subdivision cannot be constructed without grading, clearing and the
Gary Sheerin, Rocky Point Subdivision
Determination of Status
page four

removal of vegetation upon land within land capability districts 1a, 12c, 2 or 3. Furthermore, the proposed road improvements do not fall under any of the exempt sections of Ordinance 81-5. Therefore, it is Agency staff's opinion that the proposed road improvements to the Rocky Point Subdivision cannot be considered by the Agency under the provisions of Ordinance 81-5 until adoption by the Agency of amendments to the regional plan pursuant to Article VI(c) of the Compact.

Applications for single family dwellings on the four subject lots would be subject to the regulations prescribed under the Agency's case-by-case review procedure as set forth under Section 12.00 of TRPA Ordinance 81-5.

Based on the current status of subdivision improvements, the upper portion of the Rocky Point Subdivision has been classified as "in need of further consideration", in accordance with the procedures set forth under Section 12.00 of Ordinance 81-5. This classification means that the lots in the Rocky Point Subdivision are not eligible for the Agency's case-by-case review procedure.

Agency staff has applied the Agency's case-by-case lot review criteria to the lots with access from Tunnel Creek Road. The slopes of the lots range from 28 to 34%. Based on this slope range, most of the lots would be rated as "high risk" relative to land stability. Access to the uphill lots would be difficult due to the steepness of adjacent road cuts.

According to the SCS Survey, the identified soil type of Rtf has a very high erosion hazard and severe ratings relative to seedling mortality, insects and diseases, road location, excavation and dwelling construction.

The Rocky Point Subdivision is also located on land classified as a high hazard geomorphic unit. The geomorphic classification of C3 ("steep strongly dissected lands") indicates that bedrock is massive granite overlain by grus or decomposed granite. Soils are shallow and are underlain by almost impermeable bedrock. Being coarse in texture and poorly bonded, these soils are easily eroded. The low water-holding capacity and natural infertility of the soil, with a short, dry growing season, make revegetation extremely difficult.

These general site characteristics, which have been field verified, in conjunction with the small lot sizes of 5,000 square feet (50' x 100') would result in high risk ratings relative to runoff potential and vegetation. The amount of land coverage permitted on each lot (1,000 square feet) also does not satisfy the general design criteria established for case-by-case review.

Agency Staff Findings: Based on the evidence in this staff summary, Agency staff cannot find, as required under Section 9.13 of the Land Use Ordinance, that roads, sewers and other substantial facilities were constructed prior to February 10, 1972 to serve the four subject lots.

2/10/82

AGENDA ITEM VII A. 1. and 2.
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM A. ANDERSON, PONDEROSA RANCH, AND PONDEROSA RANCH, INC., APPELLANTS, V. PAUL A. RICHARDS, RESPONDENT

No. 10025

March 28, 1980

Appeal from a judgment, Second Judicial District Court, Washoe County; John W. Barrett, Judge.
Affirmed.

Laxalt & Berry, Carson City, for Appellants.

Paul A. Richards, Reno, for Respondent.

OPINION

By the Court, BATHER, J.:
Immediately prior to April 9, 1970, appellants placed gates and obstructions across Tunnel Creek Road, the roadway which had been the customary access to the respondent's property. On April 9, 1970, respondent Paul A. Richards filed suit seeking the removal of the obstructions and alleging that he should have a right-of-way across appellants' property using that roadway.

On May 20, 1970, the district court denied Richards' request for a preliminary injunction and the case was tried, without a jury, on May 10, 1971. Additional evidence was taken on March 31, 1972. Judgment for respondent was entered on September 27, 1976, and appellants' motion for a new trial was denied on July 19, 1977. This appeal followed.

Tunnel Creek Road is a dirt road which begins at Nevada State Highway 28 near Incline Village, Nevada, runs south paralleling that state highway for approximately one mile, then turns due east. Richards claims that the other terminus of the road exits in Washoe Valley, Nevada, near the Cliff Ranch. Appellants own the land adjacent to, and directly north of, the Richards' property. Richards uses the Tunnel Creek Road across appellants' land for ingress to and egress from his property.

The district judge found that the road, which has been in

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BY

ATTACHMENT DEC 9 - 1981
existence since "at least" 1880, was originally constructed over public domain and is a public road from Richards' south property line to Nevada State Highway 28. He based his decision upon the ground that Richards and his predecessors in interest had adversely and continuously used the road, without the permission of appellants or their predecessors in interest, for more than the prescriptive period. He concluded that any obstructions prior to the time appellants blocked the road were for fire protection in accordance with NRS 475.210. The trial court made no finding on the status of that portion of Tunnel Creek Road beyond Richards' property to the south and east, because that issue was not directly before it.

During the course of the trial, numerous witnesses testified. Although there was conflict in their testimony regarding the extent of the use made of the roadway in controversy, nearly every map introduced by the parties showed a roadway from Nevada State Highway 28 to the south boundary of Richards' property and beyond.

The record leaves no doubt that there existed a road or trail from early pioneer days, first known as "the trail to Carson".

"The district court found that Tunnel Creek Road had been in existence since at least 1880 and had been "... used constantly, continuously, under a claim of right to use the land as a highway to the exclusion of any individual right of the owner inconsistent therewith, by the public without permission for at least the statutory period" and that the road had been used "for personal, governmental, recreational and business" purposes; including access to the Rocky Point Subdivision.

"Richards' exhibit ""R", Patent No. 24 from the United States to the C. P. Railroad Co., executed the 5th day of December, 1876, by the President, U. S. Grant, by D. D. Cole, Secretary, S. W. Clark, Recorder of the General Land Office, recorded in Volume 6, pages 223 to 281, inclusive, recorded at the request of D. H. Haskell, filed February 8, A. D. 1877, John B. Williams, Court Recorder, and certified on the 15th day of May, 1970, Aroio Brown, County Recorder, Washoe County, Nevada, by Allan C. Johnson, Deputy, indicates the beginning of private ownership of some of the lands traversed by the Tunnel Creek Road.

"NRS 475.210:"

1. Whenever the governor finds that conditions of extreme fire hazard exist, either in or out of the fire hazard season, he may proclaim such or partially close such land or areas as he may find to be in such condition of extreme hazard to the general public and prohibit or limit burning and other acts therein to such degree and in such ways as he deems necessary to reduce the danger of forest and other wildland fires.

2. The governor shall declare the end of any such emergency upon the finding that the conditions of extreme fire hazard no longer exist.

"The early map in evidence refers to the entire roadway as a road between the northern shore of Lake Tahoe (Lake Placid) as a "trail" and to that portion of the roadway from what is now Nevada State Highway 28 to the southern edge of Richards' property and beyond as the "trail to Carson". It was not unusual in that era to refer to roadways as trails. As an example, "Oregon Trail, an emigrant route to the Oregon Country..." Webster's New International Dictionary, 1718 (2nd ed., unabridged 1961)."
Marshall Court Condominiums, Condominium Map for 5
Existing Apartment Units, Application Compliance With
Compact Article VI(c) and Sections 4.21, 5.13,
and 5.14 of the California Side Land Use Ordinance,
El Dorado County

Special Determination: The Agency staff requests a Governing Board determination
on whether or not this proposed condominium map is permitted under Ordinance
81-1, an ordinance interpreting the prohibitions of Article VI(c) of the TRPA
Compact. Staff also requests a determination on the status of this subdivision
under Section 4.21 of the California Side Land Use Ordinance. This determination
will also provide direction to staff regarding several similar applications.

Summary: The existing 5 unit apartment complex is located in Montgomery Estates
and was constructed on one lot, just prior to the adoption of the TRPA General
Plan in 1972. The owner, Mr. Nick Pahkimi, indicates the units are not viable
rental units and has pursued this condominium map with the CTRPA to the point
where he has purchased two additional lots. The purchase of the two additional
lots was required so that additional condominium parking could be constructed as
required by El Dorado County and the CTRPA while still maintaining the land
coverage limitation of 25%. The 5 units on the .75 acre site still exceed the
ordinance limitation of 1 unit per acre density in Low Density Residential (LDR).

At issue is the status of the project under Section 3.31 of Ordinance 81-1
(excerpt attached) which does not exempt condominium conversions which result in
the creation of additional land coverage. It is staff's finding that the
requirement for additional parking (land coverage) may not allow the exception
outlined in Section 3.31 to apply to this project.

The second issue to be addressed is the creation of parcels which do not conform
to density. This is prohibited under Sections 4.21 and 5.13 of the California
Side Land Use Ordinance, and the variance Section 8.12 expressly prohibits
variances for density. The CTRPA policy is to permit the creation of such
nonconforming parcels with conversions of existing structures, with an insurance
provision to cover the buyer's potential loss if he cannot replace the unit.
This action is based on an interpretation of Section 5.13 that such divisions of
existing structures are exempt.
Impact upon the health, safety, general welfare or environment of the region.

3.30 Prohibition of New Condominium Projects.

No new condominium project may be approved unless a complete tentative or other map was approved prior to December 19, 1980 by all agencies having jurisdiction to approve it.

3.31 Exceptions to Prohibition.

The term "new condominium project" for purposes of this ordinance does not include the conversion of an existing structure or structures to a stock cooperative, community apartment, condominium, parcel or any other form of divided interest, which conversion does not result in any increase in development potential or in present or potential land coverage or density, and will not have an adverse impact on the health, safety, general welfare or environment of the region.

3.40 Prohibition of Apartments.

No apartment building may be erected unless the required permits for such building have been secured prior to December 19, 1980 from all agencies having jurisdiction to approve such buildings or issue permits for same.

3.41 Exceptions to Prohibition.

The prohibition set forth in subsection 3.40 does not apply to an apartment building constructed pursuant to lawful issuance of a building permit for the residential units therein in accordance with section 4.00 of this ordinance. Any such apartment building shall be subject to the otherwise applicable prohibitions of this ordinance.

3.50 Prohibition of Structures to House Gaming.

No structure to house gaming under a nonrestricted license may be erected except as expressly permitted by the Tahoe Regional Planning Compact.

3.60 Prohibition of New Highways.

No new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan of the Agency is adopted.
Section 4.20  Review of Subsequent Project Applications

The Agency Chairperson or Executive Officer shall not accept any application from an applicant or property owner who is in violation of any or has not complied with all of the conditions or provisions of a previous Agency permit or has not accepted permit conditions on another previous project in writing. All violations must be fully resolved to the satisfaction of the Agency Chairperson or Executive Officer before additional applications will be accepted. Any rejections of such an application by the Chairperson or Executive Officer may be appealed by the applicant to the Governing Board.

Section 4.21  Creation of Lots or Parcels

No person shall create a lot or parcel upon which there will exist more than the number of dwelling units or maximum percentage of land coverage permitted by this Ordinance, except that more than such maximums may be created in connection with portions of a subdivision, which subdivision meets such standards as a whole, and the tentative map of which is approved by the Agency pursuant to the provisions of the Tahoe Regional Planning Agency Subdivision Ordinance.

Section 4.22  Protection of Subsequent Purchasers

Where a lot or parcel is divided, the person making the division shall calculate the number of dwelling units and land coverage allocable to each of the resulting lots or parcels and shall note such allocations in the deeds to such resulting lots or parcels and on the lot or parcel map, if any that is used to record such division.

Section 4.23  Effect of Sections 4.21 and 4.22

The preceding two sections do not in any way limit or qualify the restriction on subdivision, lot splitting and parcel division set forth in sections 5.13, 7.14(a) and 8.15.
(a) To protect ecologically fragile areas and the quality of the lakes of the Tahoe Region.

(b) To maintain the natural scenic quality of the Lake Tahoe Region.

(c) To assure population levels within the region that will maintain an equilibrium between the region's natural endowment and its manmade environment.

(d) To protect the air quality of the region.

(e) To exist within the constraints posed by the water supply, transportation system and sewage disposal system of the region.

(f) To provide for a proportionally greater share in the enjoyment of the region by users of public lands, campers, and low income persons.

(g) To accomplish the above purposes through the establishment of equal or higher standards where necessary, than the minimum standards for the region established by the TRPA.

(h) To accomplish the goals and implement the policies of the Regional Plan.

Section 5.13 Residential Subdivision, Lot Splitting and Parcel Division Restriction

The Agency shall not consider or approve any proposal for subdivision, minor subdivision, lot split, or parcel division for residential development except that minor subdivisions and lot splits may be considered if they do not increase density or coverage from that which would be authorized in the absence of the split. The criteria for terminating this restriction include a requirement that the Agency make findings that

(a) 85% of the vacant parcels of record as of August 29, 1975, within the subregion have been utilized for the construction of at least one dwelling unit or allowable commercial structure. Furthermore, once the 85% build out level has been attained, before any subdivisions, PUD's or any other residential development except a single family house on an existing lot or parcel of record can be approved, findings must be made by the Agency that any such approvals would be consistent with the environmental constraints of the region, and that the goals of the land capability, water quality, air quality, and scenic beauty elements of the land use plan, the goals of the transportation, conservation, and public services and facilities plans, have been attained, and will be maintained if further subdivision is authorized.

In addition, if the subdivision restriction be terminated, the Agency shall require, among other things, that: The residential development authorized be confined to a minimum
portion of the parcel authorized for development, to keep
impervious surface coverage, land and vegetation disturbance,
and roads and sewers to a minimum.

(b) The planning subregions for purposes of this policy
are as follows:

Subregion #1. Northshore, including all of the
CTRPA jurisdictional area north of the TTSA southern
boundary.

Subregion #2. Southshore, including all CTRPA jurisdic-
tional area south of the TTSA boundary.

(c) For purposes of this policy, a parcel is defined
as any vacant legal parcel of record as of August 29, 1975
which is more than 2,500 square feet in area. Parcel expressly
includes, but is not limited to, any vacant legal lot which
is located within a residential subdivision as of August 29,
1975.

(d) An inventory/census of vacant parcels as defined
above will be established by the CTRPA staff and will be
revised every two years for purposes of making necessary deter-
minations.

Section 5.14 Commercial Subdivision, Lot Splitting and
Parcel Division Restriction

The Agency shall not consider or approve any proposal
for subdivision, minor subdivision, lot split or parcel division
for commercial development where such division or split may
allow greater land coverage than would be the case in the absence
of the division or split.

Section 5.15 Grading Restriction

The Agency shall not allow grading or other land distur-
bances between October 15 and May 1. The Agency may extend
the grading prohibition beyond May 1, upon a finding that the
weather conditions during a certain year justify, or are likely
to justify, the extension. This prohibition does not apply to
the construction of a single family house on a lawfully created
lot or parcel of record, located in land capability districts
5-7.

All disturbed areas shall be stabilized and protected from
erosion and siltation at all times.

Section 5.16 Existing Lot Consolidation and Transfer
of Development Rights

The Agency shall consider proposals and programs for lot
consolidation, transfer of development rights and resubdivision
to reduce the development allowed under the present grandfather
provisions in Chapters 7 and 9 of this Ordinance on existing lots
of record in residential subdivisions.
Section 8.12 Variances

Variances from the terms of this Ordinance shall be granted by the local government and the Agency only if it is found that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Ordinance deprives such property of privileges enjoyed by other property in the vicinity and within the same use district, and same or lower land capability district, and the applicant shows that he cannot make any reasonable use of the property if this Ordinance is applied. 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 violate the requirements set forth in section 8.11. In no case may a variance be granted that will provide the applicant with any special privileges not enjoyed by other properties in the vicinity. Maximum permissible additions for height or land coverage shall not exceed 10% of the limits set forth, and not more than one of said factors may be added to with respect to any particular project, except that height variances for public projects, ski lift towers, high voltage transmission line poles, and public ball field light poles may be granted to authorize a total height up to 40, 45, 65, and 80 feet respectively. Such variances shall be based on an individual project analysis of the safety standards and visual and environmental impacts of the proposal. Variances shall not be permitted to allow grading or other land disturbance between October 15, and May 1. Variances shall not be permitted for density, nor for the use or activity which is not otherwise expressly authorized by the land use district regulations governing the parcel of property.

Section 8.13 Findings

A final decision on a permit or variance requiring review by the CTRPA shall include a statement of law and findings of fact, separately stated. The statement of law shall specify the applicable statute, plan, ordinance or rule and whether the statute, plan, ordinance or rule has been complied with. The findings of fact shall specify the items of evidence in the administrative record which support the decision.

Section 8.14 Burden of Proof

The burden of proof in showing that an applicant is entitled to a permit or variance pursuant to this Ordinance is on the applicant.

Section 8.15 Subdivision Restriction

No permits shall be issued for subdivisions, lot splits, or parcel divisions, for residential development, except that minor subdivisions and lot splits may be considered if they do not increase density or coverage from that which would be authorized in the absence of the split. No permits shall be issued for subdivisions, lot splits, or parcel divisions, for commercial development where such division or split may allow greater land coverage, than would be allowed in the absence of such division or split.
TO: The Governing Body

FROM: Staff

SUBJECT: Development of the 1982 Air Quality Plan for the Lake Tahoe Basin

I. Introduction and Background:

The purpose of this memo is to obtain direction from the Advisory Planning Commission (APC) and Governing Board concerning selection of a preferred alternative for the draft Environmental Impact Statement (EIS)/1982 Air Quality Plan, establish a series of milestones for developing those measures that will be included in the final EIS/1982 Air Quality Plan, and the finalization of the draft EIS/1982 Air Quality Plan.

At the January, 1982 APC and Governing Board meetings staff gave a presentation concerning the status of the development of the 1982 Air Quality Plan for the Basin. The APC and Governing Board generally concurred with the recommendations staff outlined in the memo and gave additional direction to staff in order to insure coordination between the Clean Air Act and the requirements of the Compact. This presentation discussed the following points:

1. Possible delay in development of an Air Quality Plan until after the Environment Threshold Study has been completed. The APC and Governing Board directed staff to proceed with development of the draft EIS/1982 Air Quality Plan.

2. Determine how to deal with implementation of Mass Transit Improvements and Measures to Encourage Ridesharing. The Board directed staff to develop a hybrid of the two options presented, which would establish an objective for a reduction in traffic volume on the Highway 50 Corridor and specific measures that would be developed and implemented before the TRPA Transportation Plan is adopted.

3. Establish a preliminary schedule for implementation, ordinance and policy development with respect to the control measures. The APC and Governing Board generally concurred with staff's recommendation.

4. Discuss the control measures staff is reviewing in developing the Air Quality Plan to determine if the APC and Governing Board objects to any, and to determine if any other measures should be included in the Air Quality Plan. The APC and Governing Board generally concurred with the list of measures staff is reviewing.
II. Potential Control Strategy Alternatives for the Areas Exceeding the Carbon Monoxide Air Quality Standards:

The purpose of this section is to present potential alternatives for solving the carbon monoxide air quality problem at those locations where the standards are exceeded within the Basin. In developing the Air Quality Plan, most major roads within the Basin were analyzed to determine the extent of the carbon monoxide air quality problem.

Figure 1 shows the locations where the federal carbon monoxide standards are predicted to be violated within the Basin in 1987. The major assumptions are that the state and federal automobile emission standards will not be changed significantly and the traffic volume will increase 4% per year to 1987.

Carbon monoxide is a tasteless, orderless, and colorless gas which is slightly lighter than air. It affects humans by replacing oxygen in the blood stream and therefore reducing the availability of oxygen to the body.

Carbon monoxide is the product of incomplete combustion of all types of fossil fuels. In Tahoe, combustion of gasoline by automobiles contributed over 94 percent of the total carbon monoxide in the Basin in 1977. Carbon monoxide also disperses fairly rapidly, and more emissions are generated when automobiles travel at lower speeds. As a result, carbon monoxide concentrations closely follow traffic patterns and the highest concentrations occur in areas with traffic congestion. In addition, although there are generally more cars in the Basin in the summer, carbon monoxide emissions are greater in the winter because lower temperatures cause less complete combustion of gasoline.

In addition to more emissions being generated in the winter due to lower temperatures, meteorological conditions that occur during the winter also trap carbon monoxide close to the ground. Higher concentrations occur during stable atmospheric conditions associated with nocturnal radiation inversions and low wind speeds. These conditions occur during the evening and early morning on most nonstorm nights from October through April. As a result of these considerations, the highest concentrations of carbon monoxide occur from 4:00 p.m. to 8:00 a.m. during the winter.

In general, there are three methods for reducing carbon monoxide emissions generated from automobiles. These methods include reducing emissions generated from automobiles, reducing the number of vehicle trips or increasing the speed of automobiles operating on a road. Reducing emissions generated from automobiles can be accomplished by automobile emission standards and an inspection and maintenance (I/M) program. The number of vehicle trips can be reduced by measures such as mass transit improvements or mail delivery, while increasing the speed of automobiles can be accomplished with traffic flow improvements.

Reducing the number of vehicle trips is more effective than traffic flow improvements for two reasons. First, there are fewer automobiles operating on a road and therefore less emissions being generated. Second, reducing trips has the same effect as traffic flow improvements because with fewer automobiles on the road system they operate at higher speeds.
The Federal 8-hour carbon monoxide standard is 9ppm.

- = Areas violating the standard.
Traffic flow improvements improve the operational characteristics of the road system and therefore increase the speed of automobiles. Traffic flow improvements include adding turn lanes, turning movement restrictions, lane use restrictions, and signal modifications. The amount of emissions generated from automobiles is very sensitive to speed. This is shown below for emissions generated from the 1987 fleet of automobiles:

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<th>Speed</th>
<th>Carbon Monoxide Emissions in Grams Per Mile</th>
<th>Percent Difference</th>
</tr>
</thead>
<tbody>
<tr>
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<td>202</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>170</td>
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</tr>
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</table>

Some of the measures staff is reviewing can be analyzed to estimate their effectiveness in decreasing ambient carbon monoxide concentrations while others cannot. Those measures for which estimates can be made include an I/M Program, Traffic Flow Improvements and Mail Delivery.

For Transit Improvements and Measures to Encourage Ridesharing, an objective that assumes a 7% reduction from the projected 1987 traffic volume on the U.S. 50 Corridor will be established. This reduction was based upon limiting the projected growth of traffic by 1987, which currently assumes a rate of 4% increase a year in the volume of traffic. This objective was primarily developed from the Highway 50 Corridor Study completed by JHK & Associates in 1979.

Staff feels that this objective is reasonable based on the continuation of the following occurrences since 1978:

1. The ridership of STAGE increased 27.3% from February, 1978 to February, 1981.

2. The ridership of the Heavenly Valley Bus Service increased 45% between February, 1979 and February, 1981.

3. The private sector has improved the various jitney services operating in the South Shore since 1979.

4. The Casino's have improved transit service from areas outside the Basin.

5. The Compact states that where increases in the capacity of the transportation system are required, the Agency shall give preference to providing such capacity through public transportation.

To achieve the 7% objective, the Air Quality Plan would provide specific control measures or improvements that can be implemented before the Transportation Plan is adopted, and it would be one of the goals of the Transportation Plan. The Air Quality Plan would also include possible mass transit systems that will be evaluated in the development of the transportation element of the General Plan.

The measures that cannot be quantified to show an improvement in air quality include Parking Management, Reduce Cold Start Conditions - Public Awareness
DEVELOPMENT OF THE 1982 AIR QUALITY PLAN FOR THE LAKE TAHOE BASIN

Program, Driver Advisories, Staggered Work Hours, Indirect Source Review and Idling Restrictions. However, these measures are still important to the overall program.

The staff recommendation is that the APC and Governing Board adopt the following as the preferred alternative in the draft EIS/1982 Air Quality Plan:

**Measures that Reduce Emissions from Automobiles**

Inspection/Maintenance Program  
Reduce Cold Start Conditions - Public Awareness Program

**Measures that Reduce Trips**

Mass Transit Improvements  
Measures to Encourage Ridesharing  
Mail Delivery

**Measures that Improve Traffic Flow**

Staggered Work Hours  
Driver Advisories  
Parking Management  
Traffic Flow Improvements

**Project Review Measures**

Indirect Source Review  
Idling Restrictions

Table 1 is a matrix that shows the control measures discussed at the January APC and Governing Board meetings that reduce concentrations of carbon monoxide and improvements in air quality that can be expected if they are implemented. Also, Figure 2 presents the locations of the receptors identified in Table 1. Not all the work has been completed on Table 1, and refinements may be made to these estimates. However, the work should be completed prior to the Governing Board meeting.

The preliminary results show that the carbon monoxide air quality standard probably cannot be attained in the Stateline area unless there are substantial traffic system modifications. Staff intends to explore the effectiveness of these potential modifications in the Air Quality Plan. However, any action would be deferred until adoption of the transportation element of the General Plan. Possible transportation system modifications include various Loop Road alternatives, and the concept of a pedestrian mall on U.S. 50 with a by-pass around the Stateline area.

### III. Staff Suggestions Concerning the Development of a Schedule for Those Measures Included in the Staff Recommended Preferred Alternative:

Table 2 is staff's suggestion concerning the development of a schedule that lists the major steps required to develop and implement those measures included in the staff recommended preferred alternative. In addition, all the measures adopted in the final Air Quality Plan will require TRPA Governing Board approval through either the project review process, or development of an ordinance, policy, program or plan.
<table>
<thead>
<tr>
<th>Individual Control Measures:</th>
<th>Maint.</th>
<th>Dunlap</th>
<th>Kaitlin</th>
<th>Carrow</th>
<th>Carol</th>
<th>Al Tahoe</th>
<th>Sonora</th>
<th>Travelodge</th>
<th>Cent'l</th>
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<td>E. Mail Delivery</td>
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<td>F. Transit Improvements</td>
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</table>
FIGURE 2
Locations of Receptors for the modeled 8-hour carbon monoxide concentrations

LAKE TAHOE

1 - Dunlap
2 - Maintenance Station
3 - Kaelin Building
4 - Carrows Restaurant
5 - Tulare
6 - Al Tahoe
7 - Sonora Fire Station
8 - Travel Lodge
9 - Crescent V Shopping Center
10 - Stateline, California
11 - Stateline, Nevada
### Table 2
Major Milestones for Developing the Measures Included in the Staff Recommended Preferred Alternative

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<td>Reduce Cold Start Conditions</td>
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<td>Measures to Encourage Ridesharing</td>
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<td>- Development of TRPA Transportation Plan</td>
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<td>- Increasing bus frequencies</td>
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<td>- Improving reliability of the system</td>
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<td>- Improving coordination between bicycle and pedestrian access</td>
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<td>- Improving coordination with inter-regional public transportation</td>
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<td>- Adding bus shelters and turnouts along U.S. 50.</td>
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<td>- Adding ski storage devices to buses</td>
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<td>- Providing airport and casino service</td>
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<td>- Providing bus passes and schedules to motel and hotel patrons</td>
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<td>- Improving the marketing program</td>
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<td>- Improving Service to Heavenly Valley</td>
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### Control Measures

#### Traffic Flow Improvements

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<tr>
<th>Description</th>
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<tbody>
<tr>
<td>South Avenue Extension</td>
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<tr>
<td>Intersection modification at the South Lake Tahoe WYE intersection</td>
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<tr>
<td>Intersection modification at the Tahoe Keys and U.S. 50 intersection</td>
<td>1984</td>
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<td>Intersection modification at the Sierra Boulevard and U.S. 50 intersection</td>
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<td>Intersection modification at the U.S. 50 and Al Tahoe Blvd. intersection</td>
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<td>Intersection modification at the O'Malley/Carson and U.S. 50 intersection</td>
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<tr>
<td>Intersection modification at the U.S. 50 and Ski Run Blvd. intersection</td>
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<tr>
<td>Installation of a free right turn lane at the U.S. 50 and Wildwood Ave.</td>
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<tr>
<td>intersection for traffic turning onto Wildwood Ave. from U.S. 50</td>
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<td>Intersection modification at the U.S. 50 and Pioneer Trail intersection</td>
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<td>Intersection modification at the U.S. 50 and Park Ave. intersection</td>
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<td>Intersection modification at the U.S. 50 and Stateline Avenue intersection</td>
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<tr>
<td>Installation of a pedestrian/vehicle separation between Sahara Tahoe</td>
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<td>and Caesars Casinos</td>
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<tr>
<td>Computerized traffic signalization system</td>
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<tr>
<td>Providing free right turn lanes</td>
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<tr>
<td>Widening driveways to expedite right turn movements</td>
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</tbody>
</table>

**FS** = Further Study - If any measures are found not to be feasible, substitute measures will be developed.

**PD** = Program or Plan Development

**OD** = Ordinance Development

**PI** = Proposed Implementation Date - Note: Some of the mass transit improvements are being developed on a yearly basis.
IV. Finalization of Draft EIS/1982 Air Quality Plan:

The purpose of this section is to determine how staff should proceed with finalizing the Draft EIS/1982 Air Quality Plan. Possible options include:

- Finalizing the draft plan and releasing the document for public comment.

- Finalizing the draft plan and having the APC and Governing Board review it before it is released for public comment.
MEMORANDUM

DATE:  February 9, 1982

TO:  The Governing Body

FROM:  Staff

SUBJECT:  Transfer of Development Rights, 1982 Building Season

Staff has been working with CTRPA and representatives of local governments on short-term issues related to transfer of development rights (TDR). Our immediate objectives are:

(1) To ensure that the existing California-side transfer system functions effectively in the 1982 building season; and

(2) To familiarize TRPA staff with existing ordinances and procedures in anticipation of the eventual transfer of responsibility from CTRPA to TRPA.

Our discussions to date have identified three issues which require staff attention in February and March. The following paragraphs summarize these issues and our recommended actions:

Expiration of CTRPA Urgency Ordinances

The City of South Lake Tahoe, Placer County, and El Dorado County all have ordinances in place pertaining to the allocation of building permits for the '82 building season. In general, these ordinances leave responsibility for implementing the adopted water quality plan to the regional agencies. CTRPA has two urgency ordinances which regulate new construction in accordance with the water quality plans, and which allow for transfers of allocated permits. Since both ordinances expire during the '82 building season, CTRPA plans to merge them into a new "umbrella" ordinance to cover the balance of the '82 season. However, it appears that TRPA will have to assume responsibility for permit transfers for the '83 building season and, therefore, consider an appropriate ordinance next winter. TRPA staff will continue to work with CTRPA on resolving policy issues related to these ordinances.

Permanent Lot Retirement

When lot owners transfer building allocations from high-hazard lots to low-hazard lots, they must permanently surrender their development rights under the existing CTRPA ordinances. They can accomplish this by direct donations of high-hazard lots, open space easements, or lot consolidations. TRPA staff will assist CTRPA staff on development of detailed policy in this area.

2/9/82

DZ/sf

AGENDA ITEM VIII.C.
MEMORANDUM

February 9, 1982
Page Two

Verification of Land Capability

After the local jurisdictions in California conduct their random allocations this spring, CTRPA, TRPA, and Lahontan staff must field check the capability of each lot receiving an allocation before any building permits are issued or transfers processed. This requirement may cause some difficulties for those receiving allocations since field checks are impossible while snow is on the ground. Staff anticipates field checks will be needed on roughly 500 lots this summer. Each check must be followed by notification to the owner. TRPA will work closely with the CTRPA and Lahontan staffs to ensure that the field work and notifications proceed efficiently as soon as the weather permits.
MEMORANDUM

DATE: February 9, 1982

TO: The Governing Body

FROM: Staff

SUBJECT: Status Report on 208 Plan

Staff gave the Governing Board a progress report on our water quality program in January. This memorandum summarizes recent additional activity in three areas: development of financial strategies, evaluation of BMP's, and remedial erosion control.

Financial Strategies for Plan Implementation

Since TRPA is committed to develop a financial program under the 208 work plan, staff has been studying the possibility of funding a contract on potential funding sources. Staff would also like to investigate the possibilities for integrated financing of water quality and transportation programs. On February 1, TRPA staff met with representatives of the City, Caltrans, CTRPA, and the Tahoe Transportation District to discuss a possible scope of work. The group concluded that any study should focus on regional sources of funding and legal issues related to the TRPA Compact, and that the group should reconvene in late February after the staffs have conducted further research.

BMP Evaluation

On February 9, TRPA held a meeting of an ad hoc committee to discuss BMP requirements, infiltration systems, and runoff calculations for single family dwellings. Similar to the work of the ad hoc committee on stream environment zone BMP's, the group attempted to resolve issues that affect either project review and enforcement or the revision of the general plan. Staff will give a report on the results of the meeting at the February Governing Board meeting.

Remedial Erosion Control

Staff has continued to work with the local jurisdictions to outline solutions to existing erosion problems and use existing mitigation funds "on the ground" as soon as possible. Also, in California, staff is encouraging local government to apply for matching funds from the State Assistance Grants. At the February Governing Board meeting, staff will present a status report on all proposed, pending, and ongoing remedial projects in the Basin. The report will cover projects of the counties, the City, the Forest Service, the utility districts, Caltrans, and NDOT.

AGENDA ITEM VIII.D.
MEMORANDUM

February 10, 1982

To: The TRPA Governing Body

From: The Staff

Subject: Progress Report on Compliance with the Tahoe Regional Planning Compact Pursuant to the Sections of Article VI Relating to Gaming Development

Sections (d), (e), (f), (g), (h) and (i) of Article VI of the Compact set forth the TRPA authority and review procedures on the regulation of gaming development within the Tahoe Basin (see attachment). Section (g) indicates that, in order for the TRPA to enforce the provisions of Sections (d), (e) and (f), the State of Nevada, through the Nevada Tahoe Regional Planning Agency, is to require certain information to be forwarded to TRPA. In general this requires all gaming establishments to furnish plans and calculations to the NTRPA and TRPA documenting the size, cubic volume, public and private areas, and gaming areas of each licensed facility. As further required, each subsequent modification shall be reported to the TRPA and will be reviewed under the criteria of Sections (d), (e) and (f).

As of this date, the Agency has not received the necessary documents nor has an official review procedure been established. The staffs of the TRPA, the NTRPA, Washoe County and Douglas County have been working together with some progress in resolving these problems. Mr. John Meder of the NTRPA will make a progress report to the Governing Body at the February meeting and will be present to answer any questions.

Attachment

cc: John Meder

GWB:jf AGENDA ITEM VIII F.
(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by article Vida:

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to one approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects
enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by article VI(g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (D) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the area open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.
MEMORANDUM

DATE: February 9, 1982

TO: The Governing Body
FROM: Agency Staff
SUBJECT: Environmental Threshold Carrying Capacities

Agency staff and the consultant team will make a presentation to the Governing Board on environmental threshold carrying capacities prior to opening the meeting for public comment. Staff will brief the overall process, establish a relationship between environmental components and values, and discuss the water and wildlife components in depth. A complete briefing paper will be mailed to Board members the week prior to the meeting.

Staff will respond to Board questions following the presentation and will then accept comment from the public. We will not respond to input unless a specific question is asked and the Chairman re-directs it to a staff or consultant team member. Opportunity will be provided for written questions to be submitted to staff and for the public to be placed on the newsletter mailing list.

2/9/82
RS/sf

AGENDA ITEM VIII.F.
Johnson/Nogle, Level 1A Dwelling, Lot 20, Uppaway Subdivision, Douglas County, APN 01-100-20, TRPA File #81158

Applicant: Larry Johnson/Gary Nogle

Land Use District: Rural Estates

Land Capability Classification: Level 1A, RtF Soil Type

Project Location: Lot 20, Uppaway

Review Per Section: Article VI(b) of the Compact; Section 12.22 of Ordinance 81-5

Project History: The applicant originally submitted the proposal for review on March 31, 1981. Because the subject parcel is located in a capability level 1A, it falls into the category of case-by-case review. The subdivision review team completed its evaluation of the Uppaway subdivision in early August. This portion of Uppaway was determined to be potentially adequate and was released for case-by-case review. The subject parcel was reviewed by TRPA staff in September, 1981. Primarily based on the 40% slope across the building site, the parcel was considered a high risk with regard to land stability. Mr. Nogle and Mr. Johnson met with Agency staff and it was decided that an attempt should be made to relocate the building site to an area with more gentle slopes. Initial discussion with the developer indicated that this change in location was a possibility. An alternate building site was designated. A staff field check of the area indicated that it was a more suitable location and that the alternative site was potentially releasable for case-by-case review.

Agency staff, however, felt that the project was still considered a high risk due to the amount of excavation proposed. Based upon a considerable investment in the original plans, the applicant did not wish to make revisions and therefore chose to appeal the staff rating of "high risk." This appeal was scheduled for the December Governing Board meeting. On December 14, 1981, the applicant submitted additional information which changed the status of the application. The application on the relocated site, with redesigned plans was to be considered as Agency Review of a case-by-Case application.

On December 15, 1981, Agency staff received a letter of protest from Uppaway Estates indicating that they strongly opposed the relocation of the building site. On December 16 the Governing Board felt that no determination could be made on the project until the matter was resolved.

The applicant has since met with Uppaway Estates. It appears that at this point in time, relocation of the building site is no longer a practical alternative. The applicant has no option but to pursue the original building site. Due to excessive slope, Agency staff still must classify the building site as high risk with regard to land stability, vegetation and runoff potential. This high risk determination is being appealed to the Board.

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AGENDA ITEM IX.A.1.
Site Description: The subject parcel is an uphill lot with an average slope of 40% across the building site. The site is heavily vegetated with manzanita. There is no SEZ on or near the subject parcel.

The soil type on the parcel is mapped as an Rtf, rock outcrop-Toem complex, 30 to 50% slopes. The property is in a high hazard geomorphic unit.

Project Description: The applicant proposes to construct a 3 story, 3 bedroom single family dwelling with approximately 3,600 square feet of living space. Excavation is proposed for the entire lower level. A driveway is also proposed to be cut into the site to provide access to the garage.

The lower level, consists of a garage, family room and two bedrooms. The cuts proposed involve 900 cubic yards of exported material requiring a maximum of 13 feet in height. The applicant has agreed to redesign to minimize the amount of excavation by further stepping the structure. No revised plans have been received to date by Agency staff, however.

Land Coverage:

<table>
<thead>
<tr>
<th>Permitted Coverage:*</th>
<th>2,500 sq. ft. for residence</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>280 sq. ft. for driveway</td>
</tr>
<tr>
<td>Total:</td>
<td>2,780 sq. ft.</td>
</tr>
<tr>
<td>Proposed Coverage:</td>
<td>2,767 sq. ft.</td>
</tr>
</tbody>
</table>

*according to Uppaway CC&R's

Building Height: Proposed: 34' Permitted: 35'

Impact Analysis and Mitigation Measures: The TRPA 1981 Case-by-Case Lot Review Criteria were applied to the subject parcel. The staff could not make the finding that all categories discussed were rated as Low or Moderate Risk. Although the applicant made initial efforts to minimize the impacts by moving the building site, the nature of the building site now being considered causes a High Risk rating with regard to land stability, runoff potential and vegetation. Ratings for the four criteria are as follows:

1. Proximity to Stream or Wetland: The parcel is considered a Low Risk as it is away from the direct area of influence of a stream environment zone. There is no indication of a high water table, so the proposed drainage plan should not interfere with groundwater flows.

2. Runoff Potential: According to the Soil Conservation Service soil survey, the identified soil type of Rtf has a very high erosion hazard. The geomorphic classification of C2 (strongly dissected lands) indicates that bedrock is massive granite overlain by grus or decomposed granite. Soils

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AGENDA ITEM IX.A.1.
are shallow and may be underlain by impermeable bedrock. The water holding capacity is fairly low. Staff therefore questions the ability of a drainage system to be designed to accommodate the necessary runoff on a 40% slope. Based upon these factors, the site can be considered a High Risk with regard to runoff potential.

3. Land Stability: The slope of the parcel averages approximately 40%. This slope falls within a High Risk classification with regard to land stability. The applicant has made an effort to minimize impact by 1) attempting to relocate the building site and 2) offering to redesign slightly. The proposal does require a great deal of excavation. According to the Soil Conservation Service Soil Survey, the identified soil type of RtF has a very high erosion hazard and severe ratings relative to seeding mortality, insects and diseases, road location, excavation and dwelling construction. Staff contends that the amount of disturbance proposed is excessive and is well above the "average situation" addressed in the EIS which was programmatically applied to all case-by-case projects.

4. Vegetation: The geomorphic unit of C, indicates that soils are shallow and easily eroded. The low water holding capacity and natural infertility of the soil, coupled with a short, dry, growing season, make revegetation extremely difficult. A High Risk rating can therefore be designed for this criteria.

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>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
</tr>
<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>

* Due to the High Risk rating for land stability
Project Analysis and Issues for Discussion: Staff finds that the project is not eligible for further review due to High Risk ratings with regard to land stability, vegetation and runoff potential. The nature of the parcel requires that excessive excavation and disturbance occur as a result of the proposal. Since the inception of case-by-case review, no applications have been approved on lots this steep and sensitive to disturbance. The parcel does not fall within the "buildable" limits as set forth by the 1981 TRPA Case-by-Case Lot Review Criteria. Because of the slope of the lot and the soil characteristics, there is no way to adequately mitigate the impacts.

Required Actions and Findings: The applicant is requesting that the Governing Board reverse the staff's decision and make the determination that the proposal is not a High Risk and can be approved for case-by-case review. If the Board wishes to make this decision, the following actions, findings and conditions are required to approve the project.

A motion for approval of the project based on the following findings and conditions:

I. 1. Pursuant to Article III(g)(2) 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.

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AGENDA ITEM IX.A.1.
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 of no adverse effect on quality of water in the region under this subsection.

3. Findings required by Section 12.22(a) and (b) of Ordinance 81-1:

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 shall be satisfied prior to issuance of the TRPA permit:

1. The drainage plan shall be revised and evidence provided that runoff can be infiltrated.

2. A revised set of plans shall be submitted to reflect the changes in the amount of excavation proposed.

3. 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.

   Capability level: 1A
   Lot size: 2,780 sq. ft.
   Allowed coverage by land capability: 28 sq. ft.
   Proposed coverage: 2,767 sq. ft.
   Coverage in excess of land capability: 2,739 sq. ft.
   Mitigation fee: $8,325.00

AGENDA ITEM IX.A.1.
December 15, 1981

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

Relocation of Lot #20
Uppaway Estates, located at Glenbrook, Nevada
(See Attached Map.)

Gentlemen:

PROTEST

It has recently come to my attention that the TRPA Staff has stated "they will not allow a single family dwelling to be constructed on Lot #20 as it stands today, TRPA will allow a single family dwelling to be built about 135 feet East of the present legal location, if allowed by the TRPA Board." The preceding wording in quotes is hearsay.

Bringing to your attention the fact that this subdivision was approved 'as planned by the U. S. District Court on October 24, 1975', which includes Lot #20 as referred to above. Lot #20 was approved for reconfiguration on April 2, 1981, and approved and recorded by Douglas County, Nev. (I assume this reconfiguration was approved by TRPA as I have heard of NO protests from that quarter.)

Upon approval by U. S. District Court in the 1976 the subdivision proceeded as planned and all utilities were installed to within ten (10) feet of EACH building site. These utilities to Lot #20 consist of the following:

WATER
SEWER
POWER
TELEPHONE
TELEVISION, and
GATE CONTROL.

All of these installations were installed and approved by Douglas County in 1977. I assume the present owner of Lot #20 purchased this lot 'WHEREIS' and with utilities installed.
CONTINUED: No. 2

TO: Tahoe Regional Planning Agency

NOW the TRPA Staff desires to move said Lot 135 feet East to a new location WITHOUT utilities installed. Any environmental damage to this property was done in 1977 and moving Lot #20 will, if anything, add 'NEW' environmental damage. Moving Lot #20 would entail:

Tearing up paved street,

Ditching across hill side (across 'OLD' Lot #20 site) plus more,

Re-engineering of POWER, TELEPHONE, TELEVISION junction boxes and supply lines.

A great deal of additional real estate will be disturbed.

Each of the 'OLD' and 'NEW' sites are above two (2) cinder filled drain trenches engineered so no run off could reach Lake Tahoe.

I would invite the entire TRPA Board to inspect the present and proposed new site (this would take about 15 minutes) and let me explain where said utilities are installed and what it would entail to move said Lot #20 site.

I understand the building plans for Lot #20 (in the present location) have been approved by the Uppaway Estates, Inc. Architectural Committee, Douglas County Planning and Building Departments several months ago. The present plan for building and driveway are well within the allotted land coverage for this subdivision.

We further protest the re-location of Lot #20 because it would interfere with the aesthetic value and view of other lots and because we have not been formally notified of any such change by the Tahoe Regional Planning Agency.

In closing I doubt very much that the Board of Directors of Uppaway Estates, Inc., (Homeowners' Association), will approve the relocation of Lot #20.

This letter is written at the request and on behalf of William Cody Kelly, President and Chief Executive Officer of Uppaway Estates, Inc., and as President and Chief Executive Officer
CONTINUED: No. 3

TO: Tahoe Regional Planning Agency

of Uppaway Development Company, who is presently overseas and will return to the States December 18, 1981. Both of these companies have a vital interest in the relocation of the above-referred to lot.

Very truly yours,

Robert F. Lahmann
Vice President

encl.

cc: William Cody Kelly
    Daniel R. Walsh
    Lawrence Johnson
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

D. Keown, Appeal of Staff Determination, Level 1A Dwelling, Lot 60, Blk E, Incline Village #4, Tyner Way, Washoe County, APN 125-512-06, TRPA File #81158

Applicant: Don Keown

Land Use District: Low Density Residential

Land Capability Classification: Level 1A, UMF Soil Type

Project Location: Lot 60, Blk E, Tyner Way

Review Per Section: Article VI(b) of the Compact; Section 12.22 of Ordinance 81-5

Project History: The subject application was reviewed in the field by Agency staff in September, 1981. At that time, the 1981 Case-by-Case Lot Review Criteria were applied to the subject parcel. The initial staff determination was that the parcel was a high risk in that at least two of the four categories evaluated (Attachment B). The lot was therefore not initially released for case-by-case review. The applicant was notified by mail on September 17, 1981.

The Tahoe Sierra Preservation Council, then representing the project, requested that this decision be appealed to the Executive Director. The staff determination was not reversed. Mr. Keown requested an appeal hearing and was heard by the executive director on January 5, 1982. After some discussion, Philip Oversynder determined that the staff had properly classified the subject lot and applied the criteria in an appropriate manner (Attachment C). The appeal was therefore denied. On February 1, 1982, the Agency received a letter from Mr. Keown requesting an appeal of this staff decision to the Governing Body (Attachment D).

Project Description: The applicant proposes to construct a 3 story, 3,250 sq. ft. single family dwelling with a suspended driveway. The structure is to be supported on a post and pile type foundation.

Site Description: The subject property is a downhill lot with a slope of approximately 39% across the building site. The site is well vegetated with manzanita and there are some mature pines on the parcel. There is a first order stream environment zone in close proximity to the building site.

Land Coverage:

| Land Capability: | 1A |
| Total Lot Size: | 17,209 sq. ft. |
| Allowable Coverage | 3,200 sq. ft. (Section 9.24 of TRPA Land Use Ordinance) |
| Total Proposed Coverage: | 2,653 sq. ft. |
| Residence using 60% rule: | 2,085 sq. ft. |
| Parking Deck using 60% rule: | 418 sq. ft. |
| Deck: | 150 sq. ft. |

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AGENDA ITEM IX.A.2.
Building Height: Average proposed: 36' Allowed: 35' + 19' cross slope allowance

Impact Analysis and Mitigation Measures: The 1981 TRPA Case-by-Case Lot Review Criteria were applied to the subject parcel. The staff could not make the finding that all categories discussed were rated as Low or Moderate Risk. The nature of the parcel causes a High Risk rating with regard to both Land Stability and Proximity to Stream or Wetland. These determinations were based on the following analysis:

1. **Proximity to Stream or Wetland:** The parcel is considered a High Risk with regard to this criteria. There is a first order stream environment zone which skirts the lower edge of the parcel. A sewer easement runs through this stream environment zone and in order for the proposal to connect to the sewer, disturbance in the SEZ would be required. The building site itself drains towards the stream zone.

2. **Runoff Potential:** The runoff potential for the parcel is rated as a moderate risk. The Umpa series soils are generally well drained. Designing a drainage system that would infiltrate all the runoff from a 2 year-6 hour storm may be difficult on a 39% slope. Standard infiltration trenches would not function efficiently on slopes this extreme. No provisions for the slope have been incorporated into the drainage system.

3. **Land Stability:** The slope of the lot is well in excess of 30%, thereby causing the parcel to be rated as a High Risk. The parcel is a downhill lot and construction can take place with a minimum of disturbance. Slopes of this magnitude however, create difficulties with land stability, erosion and access. The presence of the stream environment zone may create further concern with regard to Land Stability.

4. **Vegetation:** A Moderate Risk rating can be given to the parcel with respect to vegetation. The parcel and particularly the building site are is well vegetated with manzanita which is a somewhat sensitive vegetation type. The applicant is willing to use vegetation protective fencing as per the Handbook of Best Management Practices.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

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</tr>
</tbody>
</table>

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AGENDA ITEM IX.A.2.
Applicable Elements (Continued)

TRPA 208 Water Quality Plan
Nevada Division of Environmental Protection Air Quality Plan
Federal Air Quality Standards

Findings
inconsistent*
Consistent
Consistent

* Due to a High Risk rating for land stability

Project Analysis and Issues for Discussion: Staff finds that the project is not eligible for further review due to a High Risk rating with regard to land stability. The nature of the parcel is such that any land disturbance may cause erosion and land stability problems. Since the inception of case-by-case review, no applications have been approved on lots with slopes of this extreme. The parcel does not fall within the "buildable" limits as set forth by the 1981 Case-by-Case Lot Review Criteria. Because of the slope of the lot, there is no way to adequately mitigate the impacts. Staff discussed with the applicant the possibility of incorporating further design and construction techniques as part of the application which would assist in minimizing the adverse impacts on water quality. Although specific measures which would assist in minimizing each identified impact were discussed, the applicant does not propose to substantially alter the design at this time.

Required Actions and Findings: The applicant is requesting that the Governing Board reverse the staff's decision and make the determination that the proposal is not a High Risk and can be approved for case-by-case review. If the Board wishes to make this decision, the following actions, findings and conditions are required to approve the project.

A motion for approval of the project based on the following findings and conditions:

I. 1. Pursuant to Article III(g)(2) 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.

2/5/82
AGENDA ITEM IX.A.2.
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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 of no adverse effect on quality of water in the region under this subsection.

3. Findings required by Section 12.22(a) and (b) of Ordinance 81-1:

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 shall be satisfied prior to issuance of the TRPA permit:

1. The drainage plan shall be revised to accommodate runoff taking into account the slope of the parcel.

2. 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.

2/5/82
NS/sf

AGENDA ITEM IX.A.2
Capability level: 1A
Lot size: 17,209 sq. ft.
Allowed coverage by land capability: 172 sq. ft.
Proposed coverage: 2,653 sq. ft.
Coverage in excess of land capability: 2,481 sq. ft.
Mitigation fee: $7,617.00
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
September 17, 1981

TSPC
P. O. Drawer BB
Tahoe City, CA 95730

Re: Keown Application for Case-by-Case Review
TRPA File #81892
Lot 60, Block E, Unit 4

Gentlemen:

The subject application has been considered by the TRPA staff for Case-by-Case Review as set forth by TRPA Ordinance 81-5. It has been determined that the parcel is in a potentially adequate subdivision and is therefore subject to the 1981 TRPA Case-by-Case Lot Review Criteria. (Copy Enclosed.)

A field check of the site, taking into consideration the Review Criteria and the information in the file, indicates that the parcel is in a "High Risk" category for at least one of the four rated characteristics. According to Section 12.22 of the TRPA Ordinance 81-5, this determination precludes your lot from further consideration for Case-by-Case Review. Specifically, this decision was based on the following:

1. The parcel is considered a "High Risk" with regard to land stability. the slope of the building site exceeds the 30% standard.

2. The building site is in close proximity to a water course.

Your lot has therefore not been released for consideration by the TRPA Governing Board.

This decision can be appealed to our Executive Director. If you wish to file an appeal, please bring it to our attention in the form of a letter. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

[Signature]

Greg Geoge
Senior Planner

GC; sf
January 14, 1982

Mr. Don Keown
P. O. Box 6245
Incline Village, Nevada 89450

Subject: Appeal of TRPA Staff Decision [TRPA File #81516]

Dear Mr. Keown,

This letter will serve to confirm our discussion of January 5, 1982, regarding your appeal of the TRPA staff classification of Washoe County Lot 60, Block E, Incline Village #8 as high risk under the established case-by-case review criteria.

As we discussed, there are four factors which are evaluated in determining the restrictions to be applied to an individual building site under the Lot Review Criteria (enclosed). These factors include proximity to streams, land stability, runoff and vegetative characteristics.

The lot in question was classified as high risk in two separate categories: land stability and proximity to streams. Slopes in excess of 30% are classified as high risk with regard to land stability. The slope of the subject lot through the building site was estimated using a clinometer at approximately 39%. The parcel is in close proximity to a water course zone which causes it to be a high risk with regard to this category. Additionally, the vegetation on the parcel can be considered sensitive.

For these reasons, I have determined that the TRPA staff properly classified the subject lot and applied the criteria in an appropriate manner. I am therefore denying your appeal. This decision may of course be appealed to the Governing Body by transmittal of a letter indicating the basis of the appeal.

As we discussed, the limitations imposed by the case-by-case review procedures will expire upon adoption of the amendments to the TRPA General Plan (scheduled June, 1983). Review of TRPA records indicate that only one filing fee has been paid for case-by-case review. This fee was paid on the original lot (on Fairview Boulevard) and was transferred over to the new lot on August 28, 1981.

Please contact me if I can be of any further assistance in this matter.

Sincerely,

Philip A. Overeynder
Executive Director

PAO: jg
Enclosure

cc: Major Engineering

ATTACHMENT C
TO:  MR. PHILIP OVEREYNDER

SUBJ: APPEAL OF TAPA STAFF DECISION

TO THE GOVERNING BOARD REGARDING

WASHOE COUNTY LOT 60 BLOCK E

INCLINE VILLAGE UNIT # 4

(TAPA FILE # 81516)

DEAR PHIL:

I AM IN RECEIPT OF YOUR LETTER
OF JAN. 14, 1982. AN IMMEDIATE APPEAL
TO THE GOVERNING BOARD (TO BE HEARD
DURING THE FEBRUARY MEETING) IS REQUESTED
THE BASIS OF THE APPEAL IS:

(1) THE SLOPE OF SAID LOT IS GROSSLY
OVERTATED AT 39%. (2) THIS PARCEL
(LAND ESPECIALLY THE BUILDING PAD) IS NOT
IN CLOSE PROXIMITY TO ANY STREAM ZONE.
(3) THE VEGETATION ON THIS PARCEL
IS NO MORE SENSITIVE THAN ON OTHER
LOTS APPROVED BY THE TAPA. (4) THE
VIOLATION OF MY CONSTITUTIONAL RIGHT TO
OWN AND DEVELOP PRIVATE PROPERTY.

ATTACHMENT D
Enclosed are copies of two (2) receipts for payment of case by case & reviews. Please review your records and adjust accordingly.

Sincerely,

[Signature]

Don Keown
P.O. Box 6245
Incline Village, NV 89450
MEMORANDUM

Date: January 12, 1982

To: TRPA Governing Body
From: TRPA Staff
Subject: David Bale, Appeal of Staff Determination Regarding Excess Land Coverage of a Single Family Dwelling, 452 Jill Court, Incline Village, APN 125-131-10

In March of 1978, Washoe County Building Department issued a building permit, with an approved set of plans, for construction of a single family dwelling and detached garage. The architect who drew up the plans provided inaccurate allowable impervious coverage calculations. However, the County Building Department accepted and approved these calculations, and the house was built under these plans. In 1978, TRPA was not reviewing single family dwellings.

In April of 1981, Washoe County Building Department issued a building permit with an approved set of plans to the same address for construction of a second story addition to the garage. Once again, the inaccurate impervious coverage calculation was taken from the original house plans and both the Building Department and TRPA staff accepted and approved the plans. While the new addition was under construction, it was discovered that inaccurate figures had been used, and that there was excessive impervious coverage.

In resolving this situation, staff chose to recognize these same calculations as the basis for establishing a plan for removal of the excessive land coverage. Staff considered this to be a fair solution, rather than forcing the owner to correct a mistake made nearly four years ago.

Actual Allowable Impervious Coverage - 2,668 sq. ft.
Inaccurate Calculation - 2,964 sq. ft.
Current Impervious Coverage - 3,375 sq. ft.
Excessive Coverage to be Removed - 411 sq. ft.

Staff has worked out and approved a plan with the owner that will reduce the total land coverage on the site to 2,964 square feet. The neighbor, Mr. Bale, is contesting this decision.

RP: jg

AGENDA ITEM VII C.
Rocky Point Subdivision, Washoe County
Applicant Paul Ferrari - Appeal of Staff
Determination to Reject Application for an
Administrative Permit for Tunnel Creek
Road Improvements

Request: Mr. Paul A. Ferrari is appealing a staff decision to reject an
application for an administrative permit to allow subdivision improvements to be
made to Tunnel Creek Road. Tunnel Creek Road traverses the Rocky Point
Subdivision between Blocks D and C (see Attachment B). In letters dated August
31, 1981 and January 20, 1982, Mr. Ferrari was informed of Agency staff's
intention to reject an application for an administrative permit for subdivision
improvements to Tunnel Creek Road in accordance with Article V of the TRPA Rules
and Regulations of Practice and Procedure. Such an application would be rejected
due to the construction activities proposed therein being expressly prohibited
under Section 12.60 of the 208 Water Quality Plan Ordinance (No. 81-5).

Location: The Rocky Point Subdivision is located adjacent to State Highway 28
approximately 1/2 mile south of the Ponderosa Ranch (see Attachment A).

Land Use and Land Capability: The Rocky Point Subdivision is classified General
Forest. The soils within the subdivision are identified as RtF, rock
outcrop-Toom complex, 30 to 50% slopes. The land capability district is 1a
permitting 1% land coverage. The property is in a high hazard geomorphic unit.

Subdivision History: The Rocky Point Subdivision was originally subdivided in
1908. In 1933, an amended map was filed for the purpose of deleting two streets,
consolidating some lots and incorporating State Highway 28 as Second Street.
Tunnel Creek Road corresponds to Fifth Street in the subdivision.

In 1970, the owner of the Ponderosa Ranch barricaded Tunnel Creek Road
restricting access to adjacent property owned by Paul Richards. Mr. Richards
sued to regain access and prevailed in a court decision rendered by the Nevada
Supreme Court in May of 1980 (see Attachment C). This court decision found that
Tunnel Creek Road has been in existence since at least 1880, 28 years prior to
the creation of the Rocky Point Subdivision.

In April, 1981, the TRPA Governing Board made the findings required under Section
9.13 of the Nevada Side Land Use Ordinance to recognize one single family
dwelling as a permitted use on the 32 lots in Blocks D, E, F and G of the Rocky
Point Subdivision. The Governing Board did establish, however, that any proposed
improvements to service the lots or proposed single family dwellings would be
subject to TRPA permit requirements in effect at the time the applications are
submitted.

2/9/82
GG:jf

AGENDA ITEM IX C. 1.
Present Improvements:

Residential Development - There are 11 existing single family dwellings on the lots that front State Highway 28. All the other lots in the subdivision, including the 16 lots in Blocks D and E, are vacant.

Roadway Improvements - The only improved roadway that presently provides access to any of the lots in the subdivision is State Highway 28. The highway provides access to the 16 lots that front the highway. The applicant has not provided evidence substantiating that Tunnel Creek Road was constructed in conjunction with planned subdivision improvements for the Rocky Point Subdivision. In fact, evidence indicates that Tunnel Creek Road was not constructed in conjunction with subdivision improvement plans since the road existed in 1880, 28 years prior to creation of the subdivision.

Presently the travelway portion of Tunnel Creek Road is an average width of 12 feet. In a number of areas, the travelway is only 8 to 9 feet wide. The width of the bench over which the roadway traverses is 20 feet or wider, for the most part, although one portion is only approximately 18 feet in width.

Since the original construction of Tunnel Creek Road, substantial portions of the travelway and bench area of the road and adjacent cut and fill slopes have naturally revegetated (see Attachment D). Lower level vegetation also exists in the center portion of the travelway and mature manzanita shrubbery is present on portions of the bench area. Mature manzanita shrubbery also exists on the lower portions of many of the adjacent cut slopes. Most of the adjacent fill slopes also contain mature manzanita shrubbery.

Sewage Treatment - The only lots that have been annexed into the Incline Village General Improvement District (IVGID) are those lots fronting State Highway 28. The other lots in the subdivision are not in IVGID's service area.

Domestic Water - In a letter received by TRPA from IVGID, the District indicates that it cannot provide domestic drinking water to the Rocky Point Subdivision. The application indicates that domestic water will be furnished by individual wells. The installation of a well is a "project" as defined under the TRPA Compact. In order to approve such a project, the cumulative impacts resulting from individual well construction would have to be found to be insignificant. The applicant has not documented any water rights associated with the project.

Electricity - There are electrical power lines running along State Highway 28 that provide electrical connections to the 11 existing residences fronting the highway. No extensions from the existing power line have been made to accommodate residential development elsewhere in the subdivision. The subdivision improvement plans indicate that proposed electrical connection would be made above ground.
Natural Gas - There is an existing 8" diameter natural gas line in Tunnel Creek Road. According to Charles Smith, District Manager for Southwest Gas Company, this line is the major transmission line that extends from the Idaho border to northern California. Locally, the line follows Tunnel Creek Road from Washoe Valley through Incline Village to Tahoe, then over the Sierra Range and on into the San Joaquin Valley. The line is maintained at high pressure (300 psi); therefore, connections can only be made through a major distribution station. Mr. Smith indicated that, without special authorization, connection of the Rocky Point Subdivision to this natural gas system would have to be made through the closest existing distribution station. The closest distribution station is located in Incline Village.

The subdivision improvement plans do not show a new natural gas line to be installed in Tunnel Creek Road, so it must be assumed that natural gas is not being provided to the subdivision.

Proposed Improvements: To provide adequate physical access and utility services to the upper portion of the Rocky Point Subdivision, the applicant proposes to pave a 20 foot wide road and install a 6" diameter domestic water main along the present alignment of Tunnel Creek Road. These improvements will extend generally from the point where Tunnel Creek Road intersects Parvin Road to the southerly boundary of the subdivision, a total distance of 1,800 feet. The total width of the road section, including drainage facilities, is 30 feet (see Attachment E).

To provide an adequate turn-around area, a 65 foot diameter cul-de-sac is to be constructed 220 feet from the southerly end of the proposed paved roadway. The improvement plans indicate that a 2 to 3 foot high "crib wall" will be constructed as needed to support the turn-around. The present width of the travelway at this location is approximately 9 feet and the width of the bench only 23 feet.

The improvement plans also show a 6" diameter sewer line to be extended 447 feet from an existing manhole adjacent to State Highway 28 to Tunnel Creek Road. Installation will require trenching in an extremely steep area that is presently undisturbed and heavily vegetated with mature manzanita shrubbery. This area where trenching is proposed has a slope of approximately 32%, and the improvement plans show trenching in one area to a depth of 15 feet. From a proposed manhole in Tunnel Creek Road, the sewer line is to extend along the road for a distance of 196 feet in a southerly direction and 205 feet in a northerly direction.

In summary, the improvement plans propose the installation of 878 feet of sewer line, 401 feet along the existing bench of Tunnel Creek Road and 477 feet in high hazard land that is presently undisturbed.

The improvement plans show 3 to 4 foot high gabion retaining walls at the toe of the road cut to maintain a 2:1 slope. These slopes are to be stabilized with jute matting and hydroseeding. A drainage system consisting of infiltration trenches, cross culverts and drywells is to provide for infiltration of stormwater runoff emanating from the new asphalt surface.
Compliance With the 208 Water Quality Plan (Ordinance 81-5): Section 12.60 of TRPA Ordinance 81-5 states that "no person shall perform any grading, clearing, removal of vegetation, filling or creation of land coverage upon land within land capability districts 1a, 1c, 2 and 3." This prohibition does not apply to: 1) construction of a single family dwelling approved by the Agency under the case-by-case review procedure; 2) construction on lands within a subdivision approved by the Agency after February 10, 1972 in accordance with the land capability system; 3) construction of a public works project by a public agency; or 4) construction on lands which the Agency finds to be man modified as set forth under Section 8.29 of the Land Use Ordinance.

The proposed construction activity does not fall within any of the exempt provisions of Section 12.60 and is in conflict with the above-stated prohibition with respect to the following impacts:

1. Grading - Installation of the proposed underground water and sewer lines will require trenching for a distance of 2,000 feet along the bench area of Tunnel Creek Road. Installation of the sewer line connection between State Highway 28 and Tunnel Creek Road will require trenching to a depth of up to 15 feet for a distance of 477 feet in a high hazard area (slopes exceeding 31%) that is presently undisturbed. Excavation for footings will be required to construct the 2 to 3 foot high "crib wall" necessary to support the proposed turn-around. Excavation will also be required to construct the crib walls proposed to stabilize the road cuts.

2. Clearing and Removal of Vegetation - The mature native vegetation located immediately adjacent to and in the middle of the travelway will be removed in order to construct the proposed road section of 30 feet (see Attachment D). In addition, mature native vegetation will be removed to allow for construction of the proposed sewer line between State Highway 28 and Tunnel Creek Road. Revegetation of this area may be extremely difficult due to the 32% slope.

3. Creation of Land Coverage - The applicant contends, based on information provided by Pezonella Associates, Inc. (consulting engineers and geologists in Reno), that Tunnel Creek Road has a relative compaction of 85 to 95% and should therefore be recognized as existing land coverage. Although there may be areas of Tunnel Creek Road that have been substantially compacted, the fact remains that existing vegetation must be removed to pave the proposed road to a width of 20 feet. The areas that contain existing vegetation cannot be recognized as existing land coverage. Therefore, based on the average width of the actual travelway being 12 feet, approximately 14,400 square feet of new land coverage will be created to pave the proposed road to a width of 20 feet. Approximately 36,000 square feet of new asphalt paving will be required to construct the proposed road.

2/9/82

AGENDA ITEM IX C. 1.
Appeal, Rocky Point Subdivision
Tunnel Creek Road Improvements
page five

Secondary Impacts: Based on the current status of subdivision improvements, the upper portion of the Rocky Point Subdivision has been classified as "in need of further consideration", in accordance with the procedures set forth under Section 12.00 of Ordinance 81-5. This classification means that the lots in the Rocky Point Subdivision are not eligible for the Agency's case-by-case review procedure. One of the reasons that the subject subdivision improvements are being proposed is so that the present classification of the subdivision improvements can be reconsidered.

Agency staff has applied the Agency's case-by-case lot review criteria to the 16 lots with access from Tunnel Creek Road. The slopes of the lots range from 28 to 34%. Based on this slope range, most of the lots would be rated as "high risk" relative to land stability. Access to the uphill lots would be difficult due to the steepness of adjacent road cuts.

According to the Soil Conservation Service Soil Survey, the identified soil type of RfF has a very high erosion hazard and severe ratings relative to seedling mortality, insects and diseases, road location, excavation and dwelling construction.

The Rocky Point Subdivision is also located on land classified as a high hazard geomorphic unit. The geomorphic classification of C₃ ("steep strongly dissected lands") indicates that bedrock is massive granite overlain by grus or decomposed granite. Soils are shallow and are underlain by almost impermeable bedrock. Being coarse in texture and poorly bonded, these soils are easily eroded. The low water-holding capacity and natural infertility of the soil, with a short, dry growing season, make revegetation extremely difficult.

These general site characteristics, which have been field-verified, in conjunction with the small lot sizes of 5,000 square feet (50' x 100') would result in high risk ratings relative to runoff potential and vegetation. The amount of land coverage permitted on each lot (1,000 square feet) also does not satisfy the general design criteria established for case-by-case review.

Agency Staff Action: By letter dated January 6, 1982, Agency staff was informed that the Washoe County Commissioners had granted a variance to allow Tunnel Creek Road to serve as access to building lots in the Rocky Point Subdivision. This variance was conditioned on TRPA approval of an administrative permit for the subdivision improvements. The letter also indicated that the Washoe County Building and Safety Division granted an administrative permit to allow the applicant to pursue his application with TRPA.

On January 20, 1982, Agency staff notified the applicant of the staff's intention to reject an application for the required administrative permit. This decision to reject the application is based on the fact that the construction activities required to construct the proposed improvements are in conflict with the expressed objective of Section 12.60 of TRPA Ordinance 81-5.

2/9/82
AGENDA ITEM IX C. 1.
Staff Comment: Based on the new evidence presented in this staff summary relative to the existence of Tunnel Creek Road since at least 1880, 23 years prior to the creation of the Rocky Point Subdivision, and the fact that the 8" diameter natural gas line in Tunnel Creek Road is a major transmission line, the Governing Body may want to reconsider the action taken in April, 1981 regarding the Rocky Point Subdivision. At that time, the Board, under separate motion, found that there had been the construction of roads, sewers or other substantial facilities serving Blocks D and E, thereby establishing one single family dwelling as a permitted use on the 16 lots contained therein.
IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM A. ANDERSON, PONDEROSA RANCH, AND PONDEROSA RANCH, INC., APPELLANTS, v. PAUL A. RICHARDS, RESPONDENT

No. 10025

March 28, 1980

Appeal from a judgment, Second Judicial District Court, Washoe County; John W. Barrett, Judge.

Affirmed.

Laxalt & Berry, Carson City, for Appellants.

Paul A. Richards, Reno, for Respondent.

OPINION

By the Court, BATER, J.:

Immediately prior to April 9, 1970, appellants placed gates and obstructions across Tunnel Creek Road, the roadway which had been the customary access to the respondent's property. On April 9, 1970, respondent Paul A. Richards filed suit seeking the removal of the obstructions and alleging that he should have a right-of-way across appellants' property using that roadway.

On May 20, 1970, the district court denied Richards' request for a preliminary injunction and the case was tried, without a jury, on May 10, 1971. Additional evidence was taken on March 31, 1972. Judgment for respondent was entered on September 27, 1976, and appellants' motion for a new trial was denied on July 19, 1977. This appeal followed.

Tunnel Creek Road is a dirt road which begins at Nevada State Highway 28 near Incline Village, Nevada, runs south parallel to the state highway for approximately one mile, then turns due east. Richards claims that the other terminus of the road exits in Washoe Valley, Nevada, near the Cliff Ranch. Appellants own the land adjacent to, and directly north of, the Richards' property. Richards uses the Tunnel Creek Road across appellants' land for ingress to and egress from his property.

The district judge found that the road, which has been in

RECEIVED

BY

ATTACHMENT C

DEC 9 - 1981
existence since "at least" 1880, was originally constructed over public domain and is a public road from Richards' south property line to Nevada State Highway 28. He based his decision upon the ground that Richards and his predecessors in interest had adversely and continuously used the road, without the permission of appellants or their predecessors in interest, for more than the prescriptive period. He concluded that any obstructions prior to the time appellants blocked the road were for fire protection in accordance with NRS 475.210. The trial court made no finding on the status of that portion of Tunnel Creek Road beyond Richards' property to the south and east, because that issue was not directly before it.

During the course of the trial, numerous witnesses testified. Although there was conflict in their testimony regarding the extent of the use made of the roadway in controversy, nearly every map introduced by the parties showed a roadway from Nevada State Highway 28 to the south boundary of Richards' property and beyond.

The record leaves no doubt that there existed a road or trail from early pioneer days, first known as "the trail to Carson".

"The district court found that Tunnel Creek Road had been in existence since at least 1880 and had been "... used continuously, continuously, under a claim of right to use the land as a highway to the exclusion of any individual right of the owner inconsistent therewith, by the public without permission for at least the statutory period" and that the road had been used "for personal, governmental, recreational and business" purposes, including access to the Rocky Point Subdivision.

"Richards' exhibit "R", Patent No. 24 from the United States to the C. P. Railroad Co., executed the 3th day of December, 1876, by the President, U. S. Grant, by D. D. Cone, Secretary, S. W. Clark, Recorder of the General Land Office, recorded in Volume 8, pages 225 to 261, inclusive, recorded at the request of D. H. Haskell, filed February 18, A. D. 1878, John B. Williams, Court Recorder, and certified on the 15th day of May, 1878, Ardis Brown, County Recorder, Washoe County, Nevada, by Allan C. Johnson, Deputy, indicates the beginning of private ownership of some of the lands traversed by the Tunnel Creek Road.

"NRS 475.210:
1. Whenever the governor finds that conditions of extreme fire hazard exist, either in or out of the fire hazard season, he may by proclamation close or partially close such land or areas as he may find to be in such condition of extreme hazard to the general public and prohibit or limit burning and other acts thereon to such degree and in such ways as he deems necessary to reduce the danger of forest and other wildland fires.
2. The governor shall declare the end of any such emergency upon a finding that the conditions of extreme fire hazard no longer exist.

The early maps in evidence referred to the entire roadway along the northern shore of Lake Tahoe (Lake Hupper) as a "trail" and to that portion of the roadway from what is now Nevada State Highway 28 to the southern edge of Richards' property and beyond as the "road to Carson". It was not unusual in that era to refer to roadways as trails. As an example, "Oregon Trail, an emigrant route to the Oregon Country...", Webster's New International Dictionary, 1778 (2nd ed., unabridged 1961).
NOTE B:
THE PORTION OF TUNNEL CREEK NOT PAVED (SHOULDS) WILL BE STABILIZED WITH HAY SEEDING.

NOTE A:
CUT TO BE 12' WIDE AND 12' DEEP.
STABILIZATION WILL BE COMPLETED IN ALL DIRECTIONS.
SHALL ENCLOSURE 6" A.C.P. WATER MAIN (CL. 150)

TYPICAL TUNNEL CREEK ROADWAY SECTION

SCALE: 1" = 5'

ATTACHMENT E
Rocky Point Subdivision, Washoe County
Applicant-Paul Ferrari, Appeal of Subdivision
Classification Pursuant to Ordinance 81-5

Summary: On December 31, 1981, TRPA staff reviewed the portion of the Rocky Point Subdivision that does not front State Highway 28 (Blocks A, B, C, D, and E) to classify the area under the Agency's Water Quality Management Ordinance. Based on the criteria adopted under that ordinance (see Attachment A) and after consulting with TRPA's subdivision review team, the subject area of the Rocky Point Subdivision was classified as "In Need of Further Consideration". Initially, the upper portion of the Rocky Point Subdivision was not rated by the subdivision review team due to difficulties in applying the adopted criteria. The upper portion of the subdivision does not contain any subdivision improvements such as paved roads, drainage facilities or residential structures. However, the criteria that does apply clearly supports a subdivision classification of "In Need of Further Consideration".

The upper portion of the subdivision was evaluated separately from the portion fronting State Highway 28 due to the significant difference in existing improvements. Most of the lots fronting the highway contain single family dwellings and some drainage facilities existing adjacent to the highway.

Request: In a letter dated January 25, 1982, the applicant requested to be placed on the February agenda to appeal the staff's classification of the subject area. The letter indicates that the classification made by the staff is in error for the following reasons:

1. The subdivision does contain residential structures.

2. Blocks A, B, and C (above Tunnel Creek Road) should not be classified or reviewed since the vested rights determination did not apply to the lots above Tunnel Creek Road.

3. The cuts and fills are capable of satisfactory rehabilitation and there has been substantial construction of roads which would allow classification as 'potentially adequate'.

2/9/82
GG: ff

AGENDA ITEM IX C. 2.
December 31, 1981

Mr. Stephen C. Mollath, Esq.
Security Bank of Nevada Building
One East Liberty Street, Suite 412
Reno, Nevada 89501

Subject: Rocky Point Subdivision, Classification of Development Characteristics, Portion above State Highway 28, Blocks A, B, C, D and E

Dear Mr. Mollath:

Agency staff has reviewed the classification of the subject area under the Agency's Water Quality Management Ordinance. Based on the criteria adopted under that ordinance (copy enclosed), and after consulting with TRPA's subdivision review team, the subject area has been classified as "In Need of Further Consideration".

It has been determined that this classification is most appropriate even though all the specific criteria set forth under this classification does not directly apply. The criteria does not apply because the subject area does not contain any subdivision improvements, such as paved roadways, drainage facilities, or slope stabilization. The subject area also does not contain any residential structures.

Areas classified as "In Need of Further Consideration" are not eligible for the case-by-case review procedure set forth under Section 12.20 of Ordinance 81-5.

If you have any questions concerning this matter, please contact me.

Sincerely,

[Signature]

Greg George
Chief, Project Review
& Enforcement Division

GG:jg
Enclosure
SUBDIVISION: Rocky Point Subdivision
Sub-Area: Portion of subdivision above State Hwy. 28.
Drainage Area: Tunnel Creek (Blocks ABC, D&E)

1. Road Placement
   - Good Placement in Relation to Natural Features
   - Fair Placement in Relation to Natural Features
   - Poor Placement in Relation to Natural Features
   - Remarks: The only road, Tunnel Creek Rd., is unimproved.

2. Drainage System
   - Good Placement in Relation to Natural Features
   - Fair Placement in Relation to Natural Features
   - Poor Placement in Relation to Natural Features
   - Remarks: There are no drainage improvements in place.

3. Maintenance
   - Good Maintenance of Vegetation/Structures/Snow
   - Fair Maintenance of Vegetation/Structures/Snow
   - Facilities Not Adequately Maintained
   - Remarks: There are no facilities.

4. Downstream Impacts
   - No Channel Cutting, Flooding, Deposition Evident
   - Some Channel Cutting, Flooding, Deposition Evident
   - Channel Cutting, Flooding, Deposition is Evident
   - Remarks: No existing impervious surfaces, so very little actual run off.

5. Stable Cuts and Fills
   - Cuts & Fills Stabilized by Vegetation/Structures
   - Some Cuts & Fills Stabilized by Vegetation/Structures
   - Inadequate Stabilization
   - Remarks: Some slopes have naturally revegetated.
6. Stable Internal Drainage

No Internal Channel Instability/Cutting Deposition
Some Internal Channel Instability/Cutting Deposition
Internal Channel Instability
Remarks - **No imperious surface so very little actual runoff.**

7. Access Difficulties

Low Percentage of Lots with Severe Access
Moderate Percentage of Lots with Severe Access
High Percentage of Lots with Severe Access
Remarks - Presently no improved access, steep lots, and large cut slopes.

8. Land Coverage

Land Coverage Generally in Conformance with Land Capability
Land Coverage Generally Not in Conformance with TRPA Ords.
Land Coverage in Excess of TRPA Ords.
Remarks - Presently there is no actual land coverage, no homes, no paved streets, etc.

Planning Team Classification

Adequate
Potentially Adequate
Needs Further Evaluation
Remarks - The subdivision is currently unimproved. The only graded road is not paved, no drainage improvements, no structures, and graded road has naturally revegetated to a great extent.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

D'Alessandro/List, Single Family Dwelling, 1980 Status, Level 1A, Lot 50, Blk F, Incline Village #4, Washoe County, APC 125-581-18, TRPA File #81896

Applicant: Joseph D'Alessandro/Mel List

Land Use District: Low Density Residential

Land Capability Classification: 1A, Ump Soil Type

Project Location: 507 Fallen Leaf Way, Incline Village, APN 125-511-23

Review Per Section: Article VI(b) of the Compact; Section 20.32 of the TRPA Ordinance 81-5

Project History: This application was before the Board in September of 1981. At that time, it was determined that the level of impacts resulting from the original proposal exceeded that which was covered in the EIS which is programmatically applied to the project. Since that time, the applicant has:

1) Relocated the building site to the least steep area on the lot.
2) Redesigned the structure to lessen its mass and visual impact.
3) Redesigned the drainage system and provided calculations to substantiate it.

Project Description: The applicant proposes to construct a 3 story single family dwelling with a suspended driveway. The application is one of 20 which Washoe County has determined to be eligible for a 1980 Building Permit number. Mr. D'Alessandro had applied for a building permit and had paid for sewer and water prior to December 19, 1980.

Site Description: The parcel is a downhill lot with a slope of approximately 32% across the building site. There is a road fill which is somewhat steeper. The site is very well vegetated with mature pines and healthy understory vegetation. There is no stream environment zone on or adjacent to the subject parcel.

Land Coverage:

<table>
<thead>
<tr>
<th>Land Capability:</th>
<th>1A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Lot Size:</td>
<td>45,800 sq. ft.</td>
</tr>
<tr>
<td>Allowed Coverage:</td>
<td>3,400 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>(Section 9.24 of TRPA Land Use Ordinance)</td>
</tr>
<tr>
<td>Total Proposed Coverage:</td>
<td>3,256 sq. ft.</td>
</tr>
<tr>
<td>House:</td>
<td>1,756 sq. ft.</td>
</tr>
<tr>
<td>Deck &amp; Stairway:</td>
<td>810 sq. ft.</td>
</tr>
<tr>
<td>Parking Deck:</td>
<td>550 sq. ft.</td>
</tr>
<tr>
<td>AC Paving:</td>
<td>140 sq. ft.</td>
</tr>
</tbody>
</table>

2/5/82
MS/sf

AGENDA ITEM X.A.
Building Height: Proposed: 45 ft. Permitted: 35 ft. + 16 ft. cross slope allowance

Impact Analysis and Mitigation Measures: The applicant is eligible for 1980 building status (as determined by Washoe County) and has received a 1980 sewer and water allocation. This qualifies the project for exemption from the 208 regulatory ordinance 81-5, Section 20.32, described as follows:

"20.32. The single-family house is within, or is to be built within, the portion of the Region located within the State of Nevada, and the applicant for permits pertaining thereto received both of the following: (a) Sewer and water permits, receipt of which occurred prior to December 19, 1960; and (b) An allocation for a building permit with the limitations imposed for calendar year 1980 pursuant to Article VI(c) of the Compact."

The proposed project is not exempt from the TRPA Compact which requires an EIS be prepared for such projects. However, the EIS for the 208 Plan amendments was programmatically applied to this category of projects described herein at the May, 1981 TRPA Governing Board meeting. Section 9.24 of the TRPA Land Use Ordinance was applied to determine the allowable coverage. Since the project is not exempt from the Compact, it is still subject to TRPA review.

Because the parcel is a downhill lot, construction can take place with a minimum of disturbance. Excavation shall be necessary for footings. The applicant has redesigned the drainage system to accommodate for the slope. The proposed coverage is in excess of 3,200 sq. ft. but is only 7.1% of the total lot size.

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(h) 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>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side General Plan</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal Nondegradation Policy</td>
<td>Inconsistent*</td>
</tr>
<tr>
<td>Federal/State Air Quality Standards</td>
<td>Consistent</td>
</tr>
<tr>
<td>Federal/State Water Quality Standards</td>
<td>Inconsistent*</td>
</tr>
</tbody>
</table>

* The above-stated elements documented as "Inconsistent" are as such because the project does not meet the land capability requirements.

Project Analysis and Issues for Discussion: Agency staff suggests that the Governing Board find that this project falls within the category of projects exempt from Ordinance 81-5. Under Article VII(d)(2) of the TRPA Compact, the Board can make either the following written findings before approving a project for which an environmental impact statement was prepared:

2/5/82
NS/sf

AGENDA ITEM X.A.
1. Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

2. Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

The issues upon which the Board should concentrate include:

1. The slope of the lot is a consideration. The applicant has moved the building site to minimize the slope and proposes little site disturbance.

2. The size of the structure should be evaluated. Although the proposal involves 3,256 sq. ft. of coverage, the applicant has provided staff with information that the runoff from this structure can be infiltrated on site.

3. The proposed structure is large in mass and may cause a visual impact. The applicant has however decreased the height of the structure by over 10 feet from the original plans.

Additional Findings and Conditions Required to Approve the Project:

1. Actions and findings listed on Attachment A.

2. Actions and findings listed on Attachment H.


4. Special condition:
   
   A. Foundations and utility trenches shall be hand-dug unless an plan for limited equipment access is approved by Agency staff.
P. Pozzuoli, Case-by-Case Review of a Single Family Dwelling, Level 3, SEZ, Lot 68, Blk F, Incline Village #4, Washoe County, APW 125-581-18, TRPA File #81-1156

Applicant: Mr. & Mrs. Peter Pozzuoli

Land Use District: Low Density Residential

Land Capability Classification: Level 3 (UmE), SEZ

Project Location: 669 Tumbleweed Circle, Lot 68, Block F, Incline Village Unit #4, Washoe County Nevada

Review Per Section: Article VI(b) of the TRPA Compact; Article 6.3 of the TRPA Rules and Regulations; Section 7.80 of the TRPA Grading Ordinance; Section 3.00 of the TRPA Ordinance 81-5.

Project Description: The applicant proposes to construct a single family dwelling consisting of a 3 bedroom, 2 bathroom residence with an attached 2 car garage. Due to the relatively small area of the lot which can be utilized for coverage (1,459 sq. ft.), the applicant proposes to utilize a steel grate driveway. This steel grate driveway is approximately 82% open space. The proposed driveway will span from the street to the garage, a distance of approximately 21 feet.

Site Description: The site is well vegetated with Jeffrey pine and white fir and has an understory of manzanita. The soils in the area are an Umpa very stony sandy loam. The slope of the lot is approximately 21%. If this soil and slope association is bare of vegetation surface runoff is medium, and the erosion hazard is moderate.

The stream environment zone consists of a snowmelt channel running parallel to the properties eastern boundary. No riparian vegetation or alluvial soils exist on the site.

Land Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot size</td>
<td>11,347 sq. ft.</td>
</tr>
<tr>
<td>SEZ portion of the lot</td>
<td>4,261 sq. ft.</td>
</tr>
<tr>
<td>Non SEZ portion of the lot</td>
<td>7,086 sq. ft.</td>
</tr>
<tr>
<td>Permitted coverage (20%, 1%)</td>
<td>1,459 sq. ft.</td>
</tr>
<tr>
<td>Proposed coverage</td>
<td></td>
</tr>
<tr>
<td>Residence &amp; Garage</td>
<td>1,224 sq. ft.</td>
</tr>
<tr>
<td>Decks &amp; Walks</td>
<td>105 sq. ft.</td>
</tr>
<tr>
<td>Total Land Coverage</td>
<td>1,329 sq. ft.</td>
</tr>
<tr>
<td>Additional land disturbed</td>
<td>357 sq. ft.</td>
</tr>
<tr>
<td>Total earth disturbance and land</td>
<td>1,686 sq. ft.</td>
</tr>
</tbody>
</table>


2/9/82
KS/sf

AGENDA ITEM X.B.
Compliance with 1981 TRPA Case-by-Case Lot Review Criteria: The case-by-case lot review criteria were applied to the subject parcel, and the following findings were made:

1) Proximity to Stream or Wetland: The parcel is considered a moderate risk as it is adjacent to an SEZ. There is no indication of a high water table. The channel is currently in stable condition. No construction is proposed in the SEZ.

2) Runoff Potential: The runoff potential of the parcel can be considered a Low Risk. The Umpa series soils are well drained, with a moderate permeability rate. Because the site is well vegetated, runoff potential is low.

3) Land Stability: Because the slope of the lot is 21% it is classified a Moderate Risk with regards to land stability. The management criteria recommended by the case-by-case procedure includes:
   - Special considerations for siting.
   - Restricting land coverage and disturbance.
   - Minimization of modifications to stable cut and fill slopes.
   - Revegetation of disturbed areas.

4) Vegetation: The site is well vegetated with manzanita and trees and therefore can be considered a Low Risk.

Although the slope of the lot is 21%, the proposal is designed to minimize earth disturbance to the extent possible. Recommendations from the Handbook of Best Management Practices have been incorporated into the proposal.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Consistent</td>
</tr>
<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>
</tbody>
</table>

2/9/82
KS/sf

AGENDA ITEM X.B.
Applicable Elements (Continued)

Federal Air Quality Standards

Findings

Consistent

*The staff cannot find this project is consistent with the agencies 208 Water Quality Plan, due to proposed earth disturbance in excess of that prescribed in the land capability system.

Staff Comment: Since this lot is a downhill lot, no extensive excavation will be necessary for construction of the dwelling or installation of the driveway bridge. However, the staff would like direction from the Governing Board concerning the utilization of a permeable, open steel grate driveway. Although this facility would technically be pervious, the earth disturbance associated with installation of the bridge would exceed the lot's capability as prescribed under the land capability system.

The area of earth disturbance in excess of land coverage would be approximately 357 square feet.

Although there is the potential for revegetation of the disturbed area under the driveway, the reduction of available sunlight for plant growth must be considered. The position and height of the residence will not allow adequate sunlight for plant growth.

Additionally, the open grate cannot be considered pervious when vehicles are parked on it. Staff is also concerned with the safety, and practicality aspects of the grate relative to high heeled shoes and other related problems. Staff questions the Agency's ability to enforce a restriction to maintain the steel grate as pervious surface in the future.

The staff recommends the following special conditions to assure that the impacts are more fully mitigated:

1) The project be redesigned to conform to land capability, including the area of the driveway.

2) Foundations shall be hand dug, unless a plan for limited equipment access is approved by Agency staff.

3) An extensive revegetation or slope stabilization plan be submitted for the area under the driveway.

4) The applicant must contribute to an offsite mitigation fund. This fee is based on the proposed land coverage in excess of that allowed by land capability, and must be paid prior to issuance of a TRPA permit. The mitigation fee is $1,608 as calculated below:

2/9/62
KS/sf

AGENDA ITEM X.B.
Capability Level: 3
Lot Size: 11,347 sq. ft.
Permitted Coverage: 567 sq. ft.
Proposed Coverage: 1,329 sq. ft.
Mitigation Fee: $1,608.00*

*A reassessment of this fee would reflect any action taken by the Governing Board to include the driveway portion of the project as impervious surface.

Required Actions and Findings: Motion for approval of this project is based on the following findings and conditions:

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

II 1. Pursuant to Article III(g)(2) 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.

III Findings that no grading, clearing, removal of vegetation, filling or creation of land coverage will occur within or upon a stream environment zone.

IV The standard conditions of approval (Attachment D).

V The special conditions as indicated in the summary.
Hawkins/Barrow, Land Capability Challenge, Lot 32, Blk I, Incline Village #4, Washoe County, APN 125-522-06, TRPA file #81-1026

Applicant: Hawkins/Barrow

Review Per Section: Section 8.25 Nevada Side Land Use Ordinance; Article VI(b) TRPA Compact Revisions

Land Use District: Low Density Residential

Project Location: Lot 32, Block I, Incline Village Unit #4, corner of Antler Court and Tumbleweed Circle

Lot Size: 9,400 sq. ft.

Administrative Permit Request: The applicant is requesting approval of a reclassification of the land capability designation of the subject property. The currently mapped land capability classification of the subject property is:

<table>
<thead>
<tr>
<th>Land Capability District</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Type:</td>
<td>UmE</td>
</tr>
<tr>
<td>Allowed Land Coverage:</td>
<td>5%</td>
</tr>
</tbody>
</table>

The applicant has submitted information which indicates that the property should be re-evaluated for reclassification into the following land capability district:

<table>
<thead>
<tr>
<th>Land Capability District</th>
<th>6 &amp; 1B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Type:</td>
<td>TaD &amp; SEZ</td>
</tr>
<tr>
<td>Allowed Land Coverage:</td>
<td>30% &amp; 1%</td>
</tr>
<tr>
<td></td>
<td>TaD - 4,700 sq. ft. - 1,410 sq. ft.</td>
</tr>
<tr>
<td></td>
<td>SEZ - 4,700 sq. ft. - 47 sq. ft.</td>
</tr>
<tr>
<td>Total Allowed Land Coverage:</td>
<td>1,457 sq. ft.</td>
</tr>
</tbody>
</table>

Land Capability Review Team Analysis:

Hydrology: An intermittent stream channel runs along the eastern lot boundary. Bifurcation of the stream channel about half way along the lot boundary indicates the potential for further stream channel migration. The drainage area above the parcel is substantial and includes urbanizing acreage above Saddlehorn Drive. Surface runoff is conveyed beneath Saddlehorn Drive by a 30-inch diameter culvert which discharges into a well-defined reach upstream of the parcel. In addition, the 30-inch culvert at the base of the site is clogged completely with sediment and will require considerable effort to clear.

2/8/82
JD/sf

AGENDA ITEM X.C.1.
Stream Environment Zone Identification:

The following definitions shall be used with respect to identification criteria for stream environment zones.

A) Stream Environment Zone - That region: 1) which surrounds a stream, including major streams, minor streams and drainageways, which owes its biological and physical characteristics to the presence of water; 2) which may be inundated by a stream; or 3) in which actions of man or nature may directly or indirectly affect the stream. A stream includes small lakes, ponds, and marshy areas through which the stream flows.

B) Minimum Buffer Strip - A strip of land containing the stream or drainage channel and a designated width of land which is considered the minimum width necessary to protect the integrity of the various characteristics of the stream environment zone.

Minimum Buffer Strip:

The Agency is required to delineate a stream environment zone if it occurs on property being analyzed for a land capability challenge. This delineation includes the stream channel, riparian vegetation, 100 year flood plain, and a minimum buffer strip. The minimum buffer strip for a first order stream is 25 feet on each side of the stream channel. This buffer strip is then calculated at 1% allowed land coverage because the area within this buffer strip is part of a SEZ. In this instance the stream channel runs along the easterly property boundary and the minimum buffer strip places approximately half of the lot within the SEZ. The remaining area is 4,700 square feet and would be allowed up to 30% land coverage or 1,410 square feet.

Required Actions and Findings:

A motion for approval of the project based upon the following findings and conditions:

1) Findings and conditions listed on Attachment A.

2) Standard conditions of approval listed on Attachment D.

3) The improvement plans shall include a provision for cleaning out of the culvert and continued maintenance.

4) CC&R's shall be recorded for the benefit of adjacent property owners requiring that the SEZ be left or maintained in its natural state.

2/8/82
JD/sf

AGENDA ITEM X.C.1.
Report of the Land Capability Review Team
To the Tahoe Regional Planning Agency
File # 811026

Location: Incline Village, Unit No. 4, parcel I, lot 32, on Tumbleweed Circle at the intersection of Antler Court. Owner: Jim Hawkins

Investigated by: Robert Leonard, Ecologist; John Munn, Soil Scientist; Paul Seidelman, Geologist; William Vandivere, Hydrologist on September 29, 1981

Summary of Appeal

The present UmE (Umpa very stony sandy loam, 15 to 30 percent slopes) soil map unit delineated in this area by the Tahoe Basin Area Soil Survey (Rogers 1974) is disputed in a report prepared by soil scientist Grant Kennedy. This report concludes that the proper map unit is TaD (Tahoma stony sandy loam, 2 to 15 percent slopes). This soil unit change would result in upgrading the land capability classification (Bailey 1974) from class 3 (5 percent allowable surface cover) to class 6 (30 percent allowable surface cover).

Site Description

Geomorphology: This site is underlain by units of volcanic mudflow and flow breccia. Slopes averaged less than 15%. No mass wasting is evident at the site although some minor incision by surface flows of water is occurring above the culvert at the base of the parcel.

Soils: The soil profile described by Kennedy at this site is within the range of characteristics of the Tahoma soil series, and the area encompassed by similar topography is large enough to constitute a separate map unit.

Hydrology: An intermittent stream channel runs along the eastern lot boundary (not the western boundary as indicated in the Kennedy report). Bifurcation of the stream channel about half way along the lot boundary indicates the potential for further stream channel migration. The drainage area above the parcel is substantial and includes urbanizing acreage above Saddlehorn Drive. Surface runoff is conveyed beneath Saddlehorn Drive by a 30-inch diameter culvert which discharges into a well-defined reach upstream of the parcel. In addition, the 30-inch culvert at the base of the site is clogged completely with sediment and will require considerable effort to clear.

Vegetation: Tree cover on the lot consists of Jeffrey pine and white fir with a crown cover of about 50%. A few manzanita plants are on the site but are being shaded out. The soil is covered in some places by squaw carpet and snowberry. The remainder of the soil has a good needle cover. The lot is now well protected from surface erosion. Soluble nutrient cycling effectiveness is high.

Conclusions

The TRPA Interdisciplinary Team agrees that the correct soil map unit for this parcel is TaD (Tahoma stony sandy loam, 2 to 15 percent slopes). However, there is a definite flooding potential on the site due to its proximity to an actively migrating stream channel which drains an urbanizing watershed. Erosion and sedimentation problems on the lot itself are also likely since there is no effective buffer zone to prevent lateral migration of sediments to the channel. It is likely that provision of an adequate stream environment zone would greatly limit the options for siting a structure on the lot.
Respectfully submitted,
October 20, 1981

Robert L. Leonard

John R. Munn, Jr.

Paul J. Seidelman

William B. Vandivere

References


25 foot buffer strip

100 year flood plain
Jeff Needham, Installation of Satellite TV Receptor Dish on Single Family Dwelling, Level 1A, Douglas County, APN 03-241-03, TRPA File #82050

Applicant: Jeff Needham

Land Use District: General Forest

Land Capability Classification: Level 1A - CaE

Project Location: Lot 3, Lincoln Meadows Subdivision, 1250 Hiddenwoods Drive, Douglas County

Review Per Section: Article VI(b) TRPA Compact Revisions

Project Description: The applicant proposes to place a 12 foot diameter satellite reception dish on an existing single family dwelling on a lot in a critical area. To avoid creating new land coverage in a critical area, which would require case-by-case review, the applicant proposes to place the dish on the roof of the residence.

Land Coverage: No change to existing land coverage is proposed.

Building Height:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing residence</td>
<td>30'</td>
</tr>
<tr>
<td>Allowed in General Forest</td>
<td>35'</td>
</tr>
<tr>
<td>Allowed with appurtenance</td>
<td>40.25'</td>
</tr>
<tr>
<td>Proposed</td>
<td>40'</td>
</tr>
</tbody>
</table>

Impact Analysis and Mitigation Measures:

Height: The maximum allowed height is 35 feet with an allowance of additional height for appurtenances. Appurtenances under the Nevada Side Land Use Ordinance include such things as chimneys and vents which are clearly subordinate to, but part of the main structure. A receptor dish is a separate structure and is not an integral part of the main structure. Therefore, a satellite dish does not appear to be consistent with the definition of appurtenance. If the dish is not considered an appurtenance a variance to the Agency height limit must be granted. This variance must be first approved by Douglas County. Without a finding of appurtenance or approval of a height variance the dish cannot be allowed on the roof of the residence. Staff would recommend that the dish not be considered as an appurtenance because the dish is not clearly an integral part of the residence.

2/8/82
JD/sf

AGENDA ITEM X.C.2.
Visual: Lot 3 is located on the upper portion of Lincoln Meadows. The structure and the dish would not be visible from Highway 50 but would be visible to the other residents of Lincoln Meadows. Placement of the dish on the roof will make it visible against the forested hillside above the residence. The dish will be most visible to people on the subdivision road entering and leaving Lincoln Meadows. The placement of the dish at ground level would involve the creation of land coverage unless it could be placed over existing coverage. The applicant has indicated he does not want to place the dish over existing decks or patio. Placement of the dish at ground level with proper screening would have the least visual impact.

Accessory Structures: Agency staff has considered the proposed dish as a structure accessory to the existing residential use. Therefore, placement options have been limited to this particular lot. If the dish is to be used by other property owners in the area then the dish location options are greater than evaluated, including location on other portions of the subdivision. Further, if other residences are to be connected to the dish additional grading will be required to provide connections. Providing service to other residences would reduce, if not eliminate, the accessory nature of the proposed dish, and would require review by the Agency as a quasi-public activity.

Agency Review: The reasons this proposal is being heard by the Governing Board are two-fold. First, this proposal is not exempt under Ordinance 81-1. Under Ordinance 81-1 TRPA staff could exempt such a proposal if the site was located in a noncritical area and conformed to the applicable land capability constraints.

Second, placement of this type of dish could result in a significant visual impact.

Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada Side Land Use Ordinance</td>
<td>Inconsistent*</td>
</tr>
<tr>
<td>Nevada Side General Plan and Sub-Elements</td>
<td>Consistent</td>
</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

2/8/82
JD/sf

AGENDA ITEM X.C.2.
Applicable Elements

- Nevada Division of Environmental Protection Air Quality Plan
- Federal Air Quality Standards

Findings
- Consistent
- Consistent

*The proposed height is inconsistent with the Nevada Side Land Use Ordinance since the proposed dish is not an appurtenance to the existing residence.

Project Analysis and Issues for Discussion:

1. Discussion regarding the visual impacts of the subject proposal.

Required Actions and Findings: If the Governing Board decides to act favorable on the project as proposed with the satellite dish on the roof of the residence the following findings and actions are required.

1. Find that a T.V. Satellite reception dish is an appurtenance to the residence, and therefore the subject proposal conforms to the Agency height limit.

2. Find that the proposed dish is an accessory structure to the existing use.

3. Actions and findings listed on Attachment A.

4. The following special condition of approval:

   A. This dish shall be for the exclusive use of the occupants of the residence on Douglas County APN 03-241-03.

   B. This dish will be located as per the plans submitted to the Agency.
Residence

James Reddix
1260 Hiddenwoods Dr.

Hiddenwoods Dr.

Driveway
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Ionola Dykes, Duplex, Level 5, Lake Village Unit 2D,
Lots 69 A & B, Douglas County, APN 07-063-31 and -32,
TRPA File #81518

Applicant: Vincent Ionola

Land Use District: High Density Residential

Land Capability Classification: Level 5, JaC Soil Type, Low Hazard Geomorphic Unit

Project Location: Lots 69 A and B, Lake Village Unit 2D; Lake Village is located approximately 1.1 miles north of South Stateline, on the east side of U.S. Highway 50. The lot is located adjacent to Echo Drive.

Review Per Section: Section VI(b) of the TRPA Compact

Site Description: The lot is presently located adjacent to an existing paved parking area that was constructed as part of the original subdivision improvements to provide accessory parking for Lot 69. The applicant proposes to relocate the lot so that it occupies a portion of the existing parking area. This lot relocation has been approved by the Lake Village Homeowners Association and is being proposed to avoid construction on a steep embankment located behind the parking lot. Adequate space will be maintained in the parking lot to meet accessory parking requirements.

The slope across the proposed building site is approximately 14%. The upper story vegetation consists of 3 medium size Jeffery pines. There is very little lower story vegetation. The site is presently covered with natural forest duff. There are no SEZ's on or adjacent to the building site. There are also no rock outcroppings on the site or evidence of subsurface rock.

Project Description: The applicant proposes to construct a 3-story duplex. Each unit will contain 4 bedrooms, 3 baths, and an over-sized single car garage. The subject lot is circular in shape and is 2,375 square feet in size.

Land Coverage: To demonstrate compliance with the land capability system, the applicant has provided calculations showing that, within the land capability district in which the subject lot is located, Unit 2D conforms to the allowable land coverage of 25%. In addition to the proposed duplex, the land capability district contains an existing duplex structure on Lot 68, portions of a duplex structure on Lot 67, and land coverage associated with Echo Court. The total area of the identified land capability district within Unit 2D is 49,203 square feet. The allowable land coverage within the district at 25% is 12,300 square feet. The total existing coverage is 6,952 square feet; the total amount of land coverage proposed is 1,887 square feet. Therefore, with construction of the proposed duplex, the total amount of land coverage within Unit 2D is in conformance with the applicable land capability district.

2/10/82
GG:jf

AGENDA ITEM X C. 3.
Ionola/Dykes Dwelling
page two

Building Height: The average building height of the proposed structure is 33 feet 9 inches. The average permitted height is 35 feet.

Impact Analysis and Mitigation Measures:

Land - Construction of the proposed duplex should not significantly impact this element of the environment due primarily to the moderate slope of the building site. The construction proposed will also require a minimum amount of grading and the proposed land coverage is in compliance with the land capability system.

Drainage - The applicant will be required to implement a drainage plan in conformance with present 208 Plan standards for the proposed structure, as well as for the existing parking area.

Plant Life - Due to the virtual absence of lower story vegetation on the site and the requirement to remove only 3 medium size pine trees, the impacts on plant life should be minimal.

Traffic - The projected trip generation from the project of 14 vehicle trips per day will not exceed 1% of the remaining roadway capacity of the section of U.S. Highway 50 adjacent to Lake Village.

Public Services and Utilities - Based on all available information, the subject project can legally be supplied with all required public services and utilities, including domestic water supply and sewage treatment.

Conformance With Ordinance 81-8: Information obtained by Agency staff indicates that a condominium parcel map was recorded for the subject lot prior to adoption of the amended TRPA Compact. Therefore, approval of the proposed duplex may constitute approval of a new condominium project.

Consistency With Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project, the Governing Board 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 made the following findings relative to consistency with applicable elements:

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<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>Consistent</td>
</tr>
</tbody>
</table>

2/10/82 AGENDA ITEM X C. 3.
Applicable Elements (continued)

Nevada Division of Environmental Protection Air Quality Plan

Federal Air Quality Standards

Findings

Consistent

Consistent

Project Analysis and Issues for Discussion: Based on assessments of the identified impacts, the proposed project will not have a significant effect on the environment. However, approving a duplex structure on a lot that has been subdivided by recordation of a condominium parcel map may not be consistent with the intent of Ordinance 81-8 which prohibits approval of new condominium projects.

Required Actions and Findings: The Governing Body must take the following actions and make the following findings to approve the project.

1. Actions and findings listed on Attachment A.

Agency staff recommends that the following conditions of approval be placed on the project:

1. Standard conditions of approval listed on Attachment D.

2. Special conditions listed below:

   a. Prior to issuance of the TRPA permit, an amended map shall be recorded to relocate the building site as proposed as part of the application.

   b. The applicant shall pay an offsite mitigation fee of $750 prior to issuance of the TRPA permit.

2/10/82

AGENDA ITEM X C. 3.
A. Horita, Duplex, Level 6, Alder Court, Washoe County, APN 124-041-16, TRPA File #81-1094

Applicant: Amin Horita

Land Use District: High Density Residential

Land Capability Classification: Level 6

Project Location: Lot 22, Alder Court, Northwood Subdivision #1, Incline Village, Washoe County

Review Per Section: Section VI(b) of the TRPA Compact

Project Description: The applicant proposes to construct a two story duplex on a land capability level 6 lot. Thirteen trees are to be removed as part of the proposal. The foundation is to be a step type to minimize grading disturbance. A three car garage is proposed which meets the parking requirements of 1 1/2 spaces per dwelling. Further, an additional 3 parking spaces are provided in the driveway to accommodate visitor parking. The drainage plan has been designed to contain a 20 year 1 hour storm, but will be modified to accommodate a 50 year 1 hour storm in lieu of providing overflow facilities.

Site Description: The subject parcel has a cross slope of less than 10%. There is some rock outcrop in one isolated area of the site, none of which is proposed to be disturbed. Vegetation on the property consists of a healthy, mature stand of pine trees and manzanita ground cover. There is no evidence of a stream zone on or adjacent to the property.

Land Coverage:

<table>
<thead>
<tr>
<th>Total Lot Size</th>
<th>8,309 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Land Coverage:</td>
<td>2,493 sq. ft.</td>
</tr>
<tr>
<td>Proposed Land Coverage:</td>
<td>2,485 sq. ft.</td>
</tr>
</tbody>
</table>

Building Height: Proposed: 27', Permitted: 35'

Impact Analysis and Mitigation Measures: The proposed project is a conforming use in the High Density Residential land use district. The location of the building on the site is such that no rock outcrop will be disturbed and minimal grading disturbance is required. The applicant proposes to utilize tight vegetative protective fencing and temporary erosion control barriers to minimize construction impacts and the potential for increase or continuation of runoff. Erosion will be mitigated through the application of TRPA Handbook of Best Management Practices.
Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

<table>
<thead>
<tr>
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<th>Findings</th>
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<tbody>
<tr>
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</tr>
<tr>
<td>TRPA 208 Water Quality Plan</td>
<td>Consistent</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>

Project Analysis and Issues for Discussion: At the December Governing Board meeting staff presented a report on the Water, sewer and traffic status in Incline Village.

Water: The staff report indicated that the current utilization of existing water rights is 85%. Incline Village General Improvement District (IVCID) does not presently have adequate water rights to accommodate total projected buildout. IVCID has attempted to purchase other existing water rights, however, no new water supplies have been acquired by IVCID.

Sewer: The Douglas county Commissioners have conceptually approved a specific method of waste disposal under a locally adopted ordinance. This method of disposal would allow IVCID to treat the estimated design capacity sewage flows from Incline Village and meet currently applicable standards.

Traffic: Agency staff found that the traffic study conducted by OMNI-MEANS in Incline Village showed that by the year 2000 estimated traffic volumes will approach the design capacity of identified critical intersections and would result in deteriorating service levels. The OMNI-MEANS study did not provide sufficient information to assess the effects of individual projects on localized circulation.

Agency staff feels that no significant adverse impacts on the water, sewage and traffic capacities at Incline Village will result from the proposed duplex project.

The following special conditions should be placed on the project:

2/5/82
KE/sf

AGENDA ITEM X.C.4.
1. The drainage plan shall be modified to accommodate a 50 year 1 hour storm.

2. The site plan must be revised to show driveway drainage.

3. The applicant must contribute to an offsite mitigation fund. This fee is based on the and must be paid prior to the issuance of a TRPA permit. The mitigation fee is $750, as calculated below:

   Capacity level: 6
   Lot size: 8,309
   Allowed coverage by land capability: 2,493
   Proposed coverage: 2,485
   Mitigation fee: $750.00

**Required Actions and Findings:**

1. Actions and findings listed on Attachment A.

2. Standard conditions of approval listed on Attachment D.

3. Special conditions listed above.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Robert Carter, Single family Dwelling, Level 4, SEZ, Lot 53, Blk P, Incline Village #3, Washoe County, APN 125-281-20, TRPA File #81894

Applicant: Robert Carter

Land Use District: Low Density Residential

Land Capability Classification: Level 4, 1b

Project Location: Lot 53, Block P, Incline Village #3

Review Per Section: Article VI(b) of the Revised TRPA Compact;
Article 6.3 of the TRPA Rules and Regulations;
Section 7.80 of the TRPA Grading Ordinance;
Section 3.00 of the TRPA Ordinance 81-5

Project Description: The applicant proposes to construct a single family dwelling containing 3 bedrooms, 2 baths and an attached 2 car garage.

The proposed project does not include construction or earth disturbance in the SEZ.

The proposed project utilizes four concrete driveway strips approximately 18 inches wide. Three steel grates placed on grade will be installed between these strips. This special driveway construction techniques is being utilized as an attempt to bring the project into conformance with the land capability system. The previous Agency policy concerning steel grate driveways has been limited to those necessary for drainage or infiltration systems on enforcement settlements, where the size of the drainage facility corresponds to the dimensions of the grate area. This particular project does not incorporate infiltration trenches nor drainage facilities into these strips. There will be gravel underneath these steel grate strips. Although these strip driveways could not be counted as land coverage under a strict interpretation of the coverage definition, they obviously allow extensive earth disturbance in excess of land capability. For all practical purposes this disturbed area cannot be vegetatively reclaimed.

Site Description: The lot contains two land capability classifications, level 4 and a SEZ. The vegetation on the level 4 portion of the lot includes Jeffrey pine and manzanita. The SEZ portion of the lot contains willows, meadow grasses, and alders. The outermost boundary of the SEZ is established by the riparian vegetation.

Soils on the lot are an Inville stony coarse sandy loam. The slope on the lot is approximately 10%. This combination of soil type and slope produces a slight erosion hazard, and a negligible runoff hazard.

2/5/82
KS/sf

AGENDA ITEM X.C.5.
Land Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>10,501 sq. ft.</td>
</tr>
<tr>
<td>SEZ Portion of the Lot</td>
<td>4,539 sq. ft.</td>
</tr>
<tr>
<td>Non SEZ Portion of Lot</td>
<td>5,962 sq. ft.</td>
</tr>
<tr>
<td>Permitted Coverage</td>
<td>1,237 sq. ft.</td>
</tr>
<tr>
<td>Proposed Coverage: Residence:</td>
<td>1,026 sq. ft.</td>
</tr>
<tr>
<td>Driveway &amp; Walks</td>
<td>211 sq. ft.</td>
</tr>
<tr>
<td>Total</td>
<td>1,237 sq. ft.*</td>
</tr>
<tr>
<td>Proposed additional land disturbance under steel grates:</td>
<td>816 sq. ft.</td>
</tr>
<tr>
<td>Total land coverage and earth disturbance</td>
<td>2,053 sq. ft.</td>
</tr>
</tbody>
</table>

*Although this figure is total land coverage, the actual area of earth disturbance is approximately 816 square feet greater. This additional earth disturbance is attributed to construction activity underneath the deck, and the area covered by the steel grates in the driveway.

Building Height: Proposed: 36’  Permitted: 35’ plus 5 feet cross slope allowance

Impact Analysis and Mitigation Measures: Due to the limited amount of land coverage available on the lot, the overhang allowance has been utilized. Although this overhang allowance will bring the proposed project into conformance with coverage as allowed by the land capability system, the actual earth disturbance associated with the project is far in excess of that allowed under the land capability system.

An overhang reduction allowance is proposed to be utilized for a cantilevered deck. Due to the height of the deck no actual land coverage is incurred. However, the earth disturbance associated with placement of the six piers required to support the deck will cause soil compaction and vegetation removal over an area greater than that allowed by the land capability system. Since this area is not technically considered land coverage, no infiltration or drainage improvements are proposed by the applicant.

In addition to the cantilevered deck, the applicant proposes to utilize steel grating between four strip driveways. The actual earth disturbance and removal of vegetation is beyond that allowed in the land capability system. Although the Agency does not include drainage facilities as land coverage, the subject grates are not integrated as part of a drainage system and should be included as land coverage.

Due to the design of the roof, the proposed infiltration system is located within two feet of the SEZ. The SEZ is identified by the existence of riparian vegetation which is normally found in an area of high soil moisture content. The effectiveness of an infiltration system in an area of high ground water is questionable.

2/5/82
KS/sf

AGENDA ITEM X.C.4.
Consistency with Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of this project the Governing Board 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 made the following findings relative to consistency with applicable elements:

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<td>TRPA 208 Water Quality Plan</td>
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<td>Consistent</td>
</tr>
<tr>
<td>Federal Air Quality Standards</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

*Staff cannot find this project is consistent with the Agency's 208 Water Quality Plan due to land disturbance in excess of that prescribed in the land capability system.

Staff Comment: Staff recommends that the following special conditions be placed on the project to assure that adverse impacts be mitigated to the extent possible:

1. Engineer the cantilevered deck so no post and pier supports are necessary.
2. Design a proper infiltration system for the deck.
3. Redesign the project so that a standard continuous driveway can be used and the project still conform to the permitted land coverage.
4. Redesign the infiltration system to minimize impacts on the SEZ.
5. The applicant must contribute to an offsite mitigation fund. The fee is based on the proposed coverage and the land capability of the lot.
Capability level: 4 and lb
Lot size: 10,501 sq. ft.
Allowed coverage by
land capability: 1,237 sq. ft.
Proposed coverage: 1,237 sq. ft.
Mitigation fee: $618.00*

*A reassessment of this mitigation fee would occur pursuant to possible actions taken by the Governing Board.

Finding of No Significant Environmental Effect: Based on the information submitted with the application, the completion of the environmental checklist, and field review, Agency staff finds that the subject project qualifies for a conditional finding of no significant environmental effect if the project is modified as suggested.

Required Actions and Findings: Motion for approval of this project is based on the following findings and conditions:

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

II 1. Pursuant to Article III(g)(2) 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.

III Findings that no grading, clearing, removal of vegetation, filling or creation of land coverage will occur within or upon a stream environment zone.

IV The standard conditions of approval (Attachment D).

V The special conditions as indicated in the summary.

2/5/82
KS/sf

AGENDA ITEM X.C.4.
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731

MEMORANDUM

DATE: February 4, 1982

TO: The Governing Board
FROM: The Staff

SUBJECT: Show Cause Hearing, Warner Odenthal Unauthorized dredging, Incline Village, 817 Lakeshore Drive, Washoe County, APN 122-181-45, TRPA File #81145

Background:

1970 - Aerial photographs show a small jetty existing on Mr. Odenthal's property.

March, 1978 - Army Corps of Engineers discovered that the jetty had been enlarged and a harbor created on Mr. Odenthal's property.

April, 1978 - Army Corps of Engineers issued a cease and desist order to Mr. Odenthal to prevent further work from being done.

September, 1978 - Agency staff was made aware of unauthorized beach grading and the building up of a jetty creating a harbor on the subject parcel.

October 15, 1979 - Army Corps of Engineers informed Mr. Odenthal that the unauthorized work was not in the public interest and directed him to remove the rock breakwater and restore the shoreline to its natural condition.

October 18, 1979 - Agency staff informed Mr. Odenthal that he had 90 days to submit an application for the unauthorized work.

November 20, 1980 - The Nevada Department of Fish and Wildlife recommended to the Nevada Division of State Lands that the jetty be removed and that some of the rocks be placed in the harbor to restore the Prime Fish Habitat.

December 30, 1980 - Pat Cashill, attorney representing adjacent property owners Carlson and Kjelland, wrote a letter to TRPA Executive Director requesting that TRPA take appropriate measures to enforce the provisions of the Shorezone Ordinance that would require Mr. Odenthal to remove the jetty.

January 7, 1981 - Agency staff wrote Mr. Odenthal a letter to inform him that no application had been received as was the direction in October, 1979 and that enforcement action would be pursued.
January 15, 1981 - Division of State Lands sent a letter to Mr. Odenthal by certified mail to remove the man made breakwater and return the shorezone to a natural condition before February 28, 1981.

February 3, 1981 - A meeting was held at the TRPA offices with all concerned government agencies, Mr. Odenthal and Pat Cashill, the adjoining property owners' attorney, to resolve the Army Corps of Engineer's concerns regarding the issue of the subject jetty. At the meeting an agreement was made by all concerned parties that the jetty be restored to its natural condition as it existed in the 1975 aerial photographs. The rocks to be removed were to be placed back in the lake from whence they came to restore the Prime Fish Habitat.

May 19, 1981 - The Army Corps of Engineers and Nevada Division of State Lands met with Mr. Odenthal and his contractor on the site to oversee the work to be done in accordance with the agreement. The work was done at a period of low water and the aerial photograph taken in 1975 used for the model was taken at a period of high water but the agencies felt the work that was done that day was adequate to meet the requirements of the agreement and that wave action would eventually return the jetty to the original condition.

October 29, 1981 - The TRPA Governing Board approved the removal of the portion of the jetty that was located on Mr. Kjellands property.

November 3 & 4, 1981 - Mr. Kjellands contractor removed that portion of the jetty on his property under TRPA & State Lands supervision. The work took two days and was done satisfactorily.

November 6, 1981 - TRPA staff, Army Corps and Nevada State Lands made an inspection, initiated by a complaint, of Mr. Odenthal's property. During the inspection we discovered that Mr. Odenthal had hired a contractor with a loader to enlarge his harbor by dredging the rocks on the landward side of the jetty and dumping the material on the lakeward side of the jetty. There were tire marks leading into the heavily turbid water and piles of spoil material in the lake and on the jetty. The work was done without any authorization on November 5, 1981.

November 10, 1981 - Agency staff directed Mr. Odenthal to submit an application to the Agency for the unauthorized work that was completed by November 30, 1981.

November 18, 1981 - Nevada Department of State Lands directed Mr. Odenthal to remove the entire breakwater and return the shorezone to the natural condition by December 15, 1981.

AGENDA ITEM XI.A.1.
MEMORANDUM
Ware Odenthal
Page Three

November 19, 1981 - Army Corps of Engineers wrote a letter directing Mr. Odenthal to show cause as to why he should not be required to remove the rock jetty or to prepare a plan for restoration of the area to its natural configuration by December 31, 1981.

As of this writing, January 14, 1982, no response from Mr. Odenthal has been received by any of the three agencies.

Staff Recommendation: The staff would recommend that the Board take the following action:

1. Direct Mr. Odenthal to remove the entire jetty and restore the Prime Fish Habitat by covering the lake bottom, in the vicinity of the harbor, with rocks and cobbles and placing the remainder of the rocks above high water line (Elevation 6229.1) by April 30, 1982. The required removal and restoration work shall be pursuant to plans approved by Agency staff as part of an appropriate application to be submitted to the TRPA by March 1, 1982.

2. Authorize legal counsel to take appropriate action to accomplish the objectives set forth above.
TO: The TRPA Governing Board
FROM: Staff
SUBJECT: Show Cause Hearing, Mr. George Stalls

Mr. Stall's property, located at Sawmill and Incline Roads in El Dorado County has been the subject of enforcement correspondence since October of 1979. Since that time, violations have continued in spite of attempts by El Dorado County, Lahontan, the CTRPA and the TRPA to cease them. Briefly, the violations include unauthorized grading, excavation and construction. A portion of the area in question lies within a stream environment zone.

George Stalls was taken to court on November 12, 1981 by El Dorado County. He was charged with four counts of violating County Ordinances. They were: two counts of burying 12,000 gallon fuel tanks on property zoned R-1, one count of construction upon a structure without the necessary building permits and one count of completing the structure after having received an El Dorado County Building Department Stop Work Order. He was found guilty on all four counts, fined $1,400 and given six months in the county jail. The jail time was suspended and Mr. Stalls was placed on two years probation with the provision that he either remove the nonconforming construction or receive building permits for the construction within sixty days. A condition of the probation is that he not violate any ordinances or regulations of any political subdivision whose jurisdiction includes his property. The County was to return to court on January 29, 1982 to hear Mr. Stalls' version of what he has done to rectify the violations.

Mr. Stalls did not appear for the court date and according to the El Dorado County Justice Court, a bench warrant will be issued soon for Mr. Stalls' arrest.

During the period from his sentencing to date, Mr. Stalls has not contacted either the El Dorado Court Building Department, the CTRPA, nor the TRPA to rectify the violations.

The two fuel storage tanks are owned by Executive Aero Systems located at the South Lake Tahoe Airport. They were placed into the ground on Stall's property on December 6, 1980. The property is in a Low Density Residential land use district and a stream environment zone. The operation commenced after October 15, without the required permits and against a CTRPA Stop Work Order. The two tanks have since been removed from the property. The area is highly disturbed and no attempts have been made to revegetate.

One structure in question is a building which was converted from an office to a living unit by the addition of a shower, toilet and vanity. The unit was then illegally hooked up to the STPUD system from a septic system. STPUD then discon-
MEMORANDUM
Show Cause Hearing - George Stalls
February 8, 1982
Page Two

nected the sewer lateral. Because the conversion of the nonconforming commercial use to a residence occurred within the past three years, it does not qualify as an allowable hookup under the STPUD resolution of March 15, 1979, which set policy for allowing existing dwellings on septic systems to hook up to the plant's sewage disposal system. Therefore the structure cannot be hooked up and because the office is nonconforming, the structure cannot be used as an office or as a living unit. Another unauthorized structure is a carport erected on or about August 26, 1981. A CTRPA Stop Work Order was issued for that structure.

A TRPA Stop Work Order was issued to Mr. Stalls' commercial property fronting Highway 50 across from the Sunset Corral on September 21, 1981. The violation was grading without a TRPA permit. Mr. Stalls had deposited approximately four cubic yards of fill on the southern end of the asphalt parking lot, effectively enlarging the parking area. A letter sent to Mr. Stalls addressed this and advised him that the Agency would be monitoring the enforcement activities of the county and the CTRPA concerning the County and CTRPA Ordinance violations.

The court judgment Mr. Stalls received does not adequately address the questions of controlling runoff and erosion from the highly disturbed site. The property contains a multitude of fill piles, vehicle parts, construction materials and equipment and buildings, all or part of which constitute an eyesore and public nuisance. On May 22, 1981, a CTRPA Stop Work Order was mailed to Mr. Stalls citing the storage of earthen material in a stream environment zone and the use of his property as a redwood burl shop. The burl shop is no longer in evidence, but there are many piles of earthen material on the site. Again, on August 26, 1981 the CTRPA Stop Work Order was issued for the construction of the carport without the necessary permits. It appears at this time that CTRPA will not proceed any further with any of the George Stalls' violations, but will monitor the County's actions.

Listed below are the ordinance violations to date:

<table>
<thead>
<tr>
<th>ORDINANCE</th>
<th>VIOLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>TRPA</td>
<td>CTRPA</td>
</tr>
<tr>
<td>#5, Section 4.10</td>
<td>Grading on parcel number 33-061-03 without TRPA authorization on or about September 21, 1981</td>
</tr>
<tr>
<td>#81-1, Section 3.30 and/or Section 3.30</td>
<td>Construction of a carport without TRPA authorization, on or about August 26, 1981</td>
</tr>
</tbody>
</table>

AGENDA ITEM XI.A.2.
<table>
<thead>
<tr>
<th>ORDINANCE</th>
<th>VIOLATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>#4, Section 7.52(b)</td>
<td>Operation of a commercial use in a Low Density Residential District on or about November 26, 1980 and May 22, 1981. (Fuel tanks, burlshop and fill slope.)</td>
</tr>
<tr>
<td></td>
<td>Violation of a CTRPA Stop Work Order on or about December 1, 1980. (Fuel tanks.)</td>
</tr>
<tr>
<td>#4, Section 9.10</td>
<td>Modification to a non-conforming use without a permit on or about December 10, 1980 and November 26, 1980. (Office conversion and fuel tanks.)</td>
</tr>
<tr>
<td>#5, Section 7.11</td>
<td>Grading after October 15 deadline on or about November 26, 1980 (Fuel tanks.)</td>
</tr>
<tr>
<td>#5, Section 7.80 (1)</td>
<td>Excavation and filling in a Stream Environment Zone without proper permits on or about November 26, 1980, December 8, 1980 and May 20, 1981. (Fuel tanks and fill storage.)</td>
</tr>
<tr>
<td>#81-5, Section 12.21</td>
<td></td>
</tr>
<tr>
<td>#5, Section 7.32</td>
<td></td>
</tr>
</tbody>
</table>

In order to best rectify the problems on the Stalls' property, the violations should be pursued through legal channels to insure that:

1. The disturbed areas are restored;
2. Commercial operations do not resume on the site;
3. The unauthorized construction is removed; and
4. The parcel is neither connected to a sewage collection system nor to septic system.

Staff further recommends that the Governing Body support El Dorado County in their efforts in this matter.

2/8/82
SC/sf

AGENDA ITEM XI.A.2.
COUNTY OF EL DORADO
STATE OF CALIFORNIA

THE PEOPLE vs George Smith

ORDER, NOTICE, SENTENCE, COMMITMENT FORM

EXT COURT APPEARANCE DATE

FOR

- Continued arraignment.
- Entry of plea.
- Pretrial conference.
- Preliminary Examination.

- Jury Trial.
- Court Trial.
- Probation/Sentencing.
- Guilty by plea/verdict.

- Time waived
- Diversion Hearing.
- Defense ally

ORDER

- Appointment of Public Defender ordered.
- Other.

OTHER CHARGES

CUSTODIAL STATUS

DEFENDANT, BEING RELEASED ON HIS OWN RECOGNIZANCE, AGREES THAT: (a) He will appear at all times and places as ordered by the Court or magistrate releasing him and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending. (b) If he fails to so appear and is apprehended outside the State of California, he waives extradition. (c) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him to custody or require that he give bail or other assurance of his appearance as provided in part 2, title 10, chapter 1 of the Penal Code.

- Order of Release of Defendant on Own Recognizance

Witnessed by Defendan.

- Remanded to custody of Sheriff until next appearance.
- Remain at liberty on bail.
- Fine: pay line of $100.00 including penalty assessment, less $ for time served, and spend one day in jail for each $ of line unpaid by due date of JANUARY 29, 1982.
- Serve 180 days in jail, with credit for times served pursuant to P.C. 2900.6. SUSPENDED.

SENTENCE

- Court Probation for period of 2 YEARS.
- Sentence to be served consecutively with

- Stay of execution granted until at and defendant ordered to surrender to Sheriff at that time.
- Serve weekends from to commencing

- Although not a condition of Probation, it is the Judgment and Order of this Court that the defendant pay (Court appointed Attorney) (Public Defender) costs of $ to EL DORADO COUNTY COUNSEL.

1. OBTAIN NECESSARY PERMITS OR REMOVE STRUCTURE.
2. OBEY ALL LAWS.

I certify the foregoing is a true copy of the judgment rendered on the above date

CLERK OF THE ABOVE NAMED COURT.

TO THE SHERIFF: The foregoing certified copy of judgment in the above entitled action is your authority for the execution thereof.

DISTRIBUTION: D.A. P.D. JAIL PROBATION DEFENDANT CT. RPTR. OFFICER ATTY.
In the Justice Court for the LAKE VALLEY Judicial District
County of El Dorado, State of California

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.  

GEORGE STALLS, Defendant

No. 24776   
LM 81-556

AMENDED
Criminal Complaint

STATE OF CALIFORNIA, ss.
County of El Dorado

being first duly sworn, states that he is informed and believes and thereon alleges that the above
named defendant committed the crime of violation of County Ordinance Sections 9475(c)/9501(a), two counts, 10,231(a), one count, and 10,233(b), one count, misdemeanors, four counts; as follows:

COUNT I

The said GEORGE STALLS,
on or about the 8th day of December 1980, in the County of El Dorado, State
of California, and before the filing of this complaint, did willfully and unlawfully install one twelve thousand gallon fuel storage tank in R-1 property in the County of El Dorado, in violation of County Ordinance Sections 9475(c)/9501(a), one count, a misdemeanor.

COUNT II

For a further and separate cause of action, being a different offense from, but of the same class of crime and offense as the charge set forth in Count I hereof, the said GEORGE STALLS, on or about the 8th day of December, 1980, in the County of El Dorado, State of California, and before the filing of this complaint, did willfully and unlawfully install one twelve thousand gallon fuel storage tank in R-1 property in the County of El Dorado, in violation of County Ordinance Sections 9475(c)/9501(a), one count, a misdemeanor.
COUNT III

For a further and separate cause of action, being a different offense from, but of the same class of crime and offense as the charges set forth in prior Counts hereof, the said GEORGE STALLS, on or about the 27th day of August, 1981, in the County of El Dorado, State of California, and before the filing of this complaint, did willfully and unlawfully erect, construct, alter, improve and convert a structure on his property located on Old Saw Mill Road, in El Dorado County without obtaining a building permit, in violation of County Ordinance Section 10,231(a), one count, a misdemeanor.

COUNT IV

For a further and separate cause of action, being a different offense from, but of the same class of crime and offense as the charges set forth in prior Counts hereof, the said GEORGE STALLS, on or about the 27th day of August, 1981, in the County of El Dorado, State of California, and before the filing of this complaint, did willfully and unlawfully complete the construction, altering, and improving a structure on his property in violation of a stop work order as provided in El Dorado County Ordinance 10,233(b), in violation of County Ordinance Section 10,233(b), one count, a misdemeanor.

Said complainant therefore prays that a warrant may be issued for the arrest of said defendant and that he be dealt with according to law.

[Signature]

Subscribed and sworn to before me this
23rd day of October, 1981

[Signature]
December 15, 1981

Mr. George Stalls
P.O. Box 13527
South Lake Tahoe, California 95702

Subject: Court Judgement

Dear Mr. Stalls:

We have been closely following the actions of the Justice Court of El Dorado County. I would like to make you aware of specific sections of Agency ordinances which we will be closely monitoring along with other ordinance provisions which may apply. These include:

1. Excavation and filling in a stream environment zone (TRPA Grading Ordinance #5, Section 7.80-1 and CTRPA Section 7.14(d).)

2. Grading after the October 15 deadline (TRPA Grading Ordinance #5, Section 7.11 and CTRPA Section 5.15)

3. Modifications to a non-conforming commercial use (CTRPA Section 6.11 and 9.12)

4. Operation of a commercial operation in a Low Density Residential District (TRPA Ordinance #4, Section 7.52 and CTRPA Section 7.18)

Please be aware that violation of these ordinances or any other Agency ordinances will result in a stop work order being issued and notification of the El Dorado County District Attorney's office.

Sincerely,

Steve Chilton
Environmental Investigator

CC: CTRPA
Lanontan
El Dorado County Buil

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)
September 21, 1981

Mr. George Stalls
P. O. Box 13527
South Lake Tahoe, CA 95702

Re: Stop Work Order #212

Dear Mr. Stalls:

A Stop Work Order was issued on September 15, 1981 concerning grading which had occurred at your property located at 1566 Emerald Bay Road, South Lake Tahoe. The grading occurred at the south end of the property effectively expanding the parking area and depositing loose fill material over the bank. This activity is not exempt from Agency review under TRPA Ordinance 81-1 and therefore requires a permit through this Agency.

The TRPA is also actively concerned with the violations on your property located at Sawmill and Incline Roads, APN 33-090-07. I understand that CTRPA and El Dorado County are pursuing these violations and the Agency will be monitoring their enforcement activities.

The violations we are aware of include:

1. Excavation and filling in a Stream Environment Zone without permit (TRPA Grading Ordinance #5, Sec. 7.80-1)

2. Grading after October 15 deadline (TRPA Grading Ordinance #5, Section 7.11)

3. Modifications to an existing non-conforming commercial operation without a CTRPA permit (CTRPA Section 6.11 and 9.12)

4. Violation of a CTRPA STOP WORK ORDER (CTRPA Section 4.10)

5. Operation of a commercial operation in a Low Density Residential District (TRPA Ordinance #4, Section 7.52)

6. Grading without TRPA permit (TRPA Grading Ordinance #5, Section 4.10)
Please contact me if you have any questions on this matter.

Sincerely,

Steve Chilton
Environmental Investigator

cc: CTRPA
    Lahontan
    El Dorado County District Attorney
    El Dorado County Building Department
MEMORANDUM

DATE: February 8, 1982

TO: TRPA Governing Body

FROM: Staff

SUBJECT: Show Cause Hearing, Reid Badgeley, Unauthorized Construction in an SEZ (1B Land Capability), 2333 Tahoe Vista Drive, City of South Lake Tahoe, APN 23-661-39

The above-mentioned parcel, according to El Dorado County Assessor's Office records, is owned by Gayle Badgeley of Peoria, Arizona. Reid Badgeley is currently occupying the structure.

A garage and addition were constructed on the parcel without City of South Lake Tahoe, CTRPA or TRPA authorization. The front of the lot not occupied by structures is actively used for parking by the residents of the structure. Construction of the garage commenced on a Friday with the foundation being poured and continued on that Saturday and Sunday with framing and enclosing. The City of South Lake Tahoe advised Mr. Reid Badgeley by letter on May 27, 1981 that they would institute appropriate legal action to insure that the unauthorized construction would be removed. The City has subsequently sued Reid Badgeley of South Lake Tahoe and Gayle Badgeley of Peoria, Arizona, found them to be in default of the suit and advised the California State Contractor's Board of the action (Reid Badgeley is a licensed contractor). Gayle Badgeley contends that the structures were constructed without her knowledge.

Mr. Badgeley submitted an incomplete application to CTRPA on June 8, 1981 for the already constructed garage and addition. The application did not show the existing, proposed or authorized coverage for the parcel. Subsequent investigation found the plot plan to be inaccurate. Structure dimensions were unreliable and the setback from the street was only 8'2".

The entire lot lies within a Stream Environment Zone and a 1b (Ev) land classification. A channel runs parallel to the rear property line. The channel is 105 feet from the rear of the garage.

Staff has determined that available coverage does not exist to allow the garage and addition using replacement of non-conforming coverage calculations or standard lot coverage calculations. A breakdown of the calculations can be found on the attachment.

Staff recommends that the Board take the following actions:

1. Indicate support of the City of South Lake Tahoe in their suit to secure removal of the unauthorized construction.

2. Institute legal action to insure that the unauthorized construction is removed, the disturbed areas are revegetated and that suitable off street parking areas are identified with appropriate parking barriers.

2/8/82
SC: SF

AGENDA ITEM XI A. 3.
Gayle Badgeley Residence  
2333 Tahoe Vista Drive, APN 23-661-39  
South Lake Tahoe

**Coverage Calculations:**

**Land Coverage:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot size</td>
<td>7,500 sq. ft.</td>
</tr>
<tr>
<td>SEZ area of lot (1b) as</td>
<td>7,500 sq. ft.</td>
</tr>
<tr>
<td>delineated under BMP's:</td>
<td></td>
</tr>
<tr>
<td>Permitted coverage (1b):</td>
<td>75 sq. ft.</td>
</tr>
<tr>
<td>Existing coverage:</td>
<td></td>
</tr>
<tr>
<td>Residence:</td>
<td>696 sq. ft.</td>
</tr>
<tr>
<td>Deck &amp; Walk:</td>
<td>400 sq. ft.</td>
</tr>
<tr>
<td>Parking (20x24)</td>
<td>480 sq. ft.</td>
</tr>
<tr>
<td>Total</td>
<td>1,576 sq. ft.</td>
</tr>
</tbody>
</table>

**New, unauthorized coverage:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Sq. Ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Garage:</td>
<td>440 sq. ft.</td>
</tr>
<tr>
<td>Driveway:</td>
<td>364 sq. ft.</td>
</tr>
<tr>
<td>Addition:</td>
<td>160 sq. ft.</td>
</tr>
<tr>
<td>Total</td>
<td>964 sq. ft.</td>
</tr>
</tbody>
</table>

**Total coverage on lot:** 2,540 sq. ft.
February 2, 1982

Mr. Badgley  
P. O. Box 8171  
S. Lake Tahoe, CA 95731

Re: APN 23-661-39

Dear Mr. Badgley:

It has come to our attention that you have constructed a garage on a 1b land capability lot located at 2333 Tahoe Vista Drive in South Lake Tahoe. You have no authorization for such construction from this Agency. Your case has been scheduled for a hearing before our Governing Board to show cause as to why this construction has taken place and to ascertain what steps will be taken to place your lot into conformity with the land capability system. You may suspend this hearing by submitting to this Agency proof that you do have the necessary permits for the said construction.

Contact this office if you have any questions regarding this matter.

Sincerely,

Steve Chilton  
Environmental Investigator

SC:sf

cc: Dennis Crabb, Esq.  
CTRPA  
Lahontan
May 27, 1981

CERTIFIED MAIL

Reid and Gayle Badgley
P.O. Box 8171
South Lake Tahoe, CA 95731

Dear Mr. and Mrs. Badgley:

On or about 1981, a garage and an addition to the existing structure at 2333 Tahoe Vista Drive were discovered by this department. These improvements were constructed without any of the necessary building permits from the City, nor to the best of our knowledge were any of the necessary regional agency approvals obtained.

Please be advised that unless you have commenced removal of these improvements within ten days from the date of this letter the matter will be turned over to the City Attorney for the institution of appropriate legal action to insure that they are removed.

If there are any questions, please contact this office at any time.

Sincerely,

William Niles
Director of Building and Safety

WN/sew

B.C.C. City Manager
Carol Drawbaugh
C.T.R.P.A.
T.R.P.A.
February 5, 1982

Steve Chilton, Environmental Investigator
Tahoe Regional Planning Agency
P.O. Box 8896
South Lake Tahoe, CA 95731

Dear Steve:

Pursuant to our telephone conversation, please find enclosed the pleadings in the City's lawsuit against Mr. Badgley and his ex-wife as well as the most recent letter to him. There is a significant amount of background correspondence, including previous letters from this office and other City departments. I have elected not to include them here, but you are certainly welcome to review them if you wish.

By way of background, the illegal construction first came to the City's attention by way of a citizen complaint. The construction took place, for practical purposes, over a week-end, with virtually a fully complete and painted garage and addition in place on Monday. The City then investigated and determined that no permits had been issued and that the garage encroached into the required set back.

We then notified Mr. Badgley of the violation. He requested a variance of the set-back from the City Council and was denied. After additional warning notices were sent the litigation was instituted. He was then given time to obtain regional agency approvals for the plans he submitted. The most recent deadline was February 1. He did not obtain the approvals, and still has not submitted corrected plans to the City.

It is to be noted that he no longer owns the residence. It is now the property of his ex-wife, Gail Badgley, who is living in Arizona. I do not have her address in front of me, however, her telephone number is (602) 979-8525. She claims, and her story has been substantiated to my satisfaction, that he built the improvements without her knowledge or permission. She wishes to sell the house, but it is presently difficult to sell due to the recorded City notice of zoning violation. She has indicated to me over the telephone that she is willing to meet any reasonable condition to allow part or all of the improvements to stay.
The City also intends to pursue a formal complaint with the Contractor's Licensing Board against Mr. Badgley if the matter is not resolved. The litigation is presently on hold, pending a determination by TRPA as to whether they are willing to approve it. If that answer is in the negative, we will then reinstitute the litigation.

It is my belief that, based upon the impact upon Mrs. Badgley, the City could live with a compromise that is, the garage to be totally removed, addition can stay upon payment to TRPA of a substantial mitigation fee. Whether or not TRPA wishes to adopt that approach is, of course, totally up to you. I would urge you to call or write Mrs. Badgley before making a decision, however.

If there are any further questions, please contact me at any time.

Sincerely,

J. Dennis Crabb
City Attorney

JDC/sew

cc: Reid Badgley
    Carol Badgley
    Dennis Winslow

Enclosure
MEMORANDUM

February 8, 1982

To: The TRPA Governing Body

From: The Staff

Subject: Caesar's Tahoe, Status of Conditional Approval to Light the Hotel Tower, Douglas County, TRPA File #81560

In September of 1981, the TRPA Governing Body granted a modification of the prior approval to light Caesar's hotel tower. The project was conditionally approved with a list of special provisions to be met that would significantly reduce the amount of spill light. Progress towards completion has been slow, apparently due to the lighting equipment manufacturer (see attached).

Staff has instructed Caesar's to keep the Agency informed as to the progress of the work schedule, with consideration toward Board action if any additional delays should occur.

Attachment
February 1, 1982

Mr. Gordon W. Barrett
Tahoe Regional Planning Agency
2155 South Avenue
South Lake Tahoe, California 95713

Re: Caesar's Tahoe - Tower Light Modification

Dear Mr. Barrett:

I spoke with Mr. Jack Young of Young Lighting Company on Friday, January 29, 1982. Mr. Young advised that the manufacturer of the transformers to convert the tower lights at Caesar's from 1000 watts to 400 watts had extreme difficulty in getting the necessary transformers to Young Lighting. He advised that the manufacturer was manufacturing the needed transformers one-third at a time. Moreover, when the latest shipment was received, it was discovered that they were the wrong voltage. Needless to say this caused additional delay.

Mr. Young advises that all lights should be reduced to 400 watts by the end of this week. The necessary shielding should be completed by February 12, 1982. As soon as that is complete Caesar's will make arrangements to have Mr. Tom Lemons of TLA-Lighting Consultants return to check the modifications for conformance with the limits adopted by the Governing Body.

If you have any questions concerning any of the above, please do not hesitate to call. Best regards,

Sincerely yours,

Gordon H. DePaoli

GHD/cp
C: Bill Wortman
Dexter D. Simmons
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 82 -

AN ORDINANCE AMENDING THE LAND USE ELEMENT OF THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY BY AMENDING EXHIBIT "A" TO ORDINANCE NO. 22 BY ADDING PARAGRAPH 104 THERETO, TO CHANGE THE LAND USE DISTRICT APPLICABLE TO CERTAIN REAL PROPERTY

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

Section 1.00 Findings

1.10 The Governing Body of the Tahoe Regional Planning Agency finds that the following amendment to the land use element of the Regional Plan is in accordance with the provisions and purposes of the Tahoe Regional Planning Compact, and that all required notices have been given and public hearings held as required by Article V of said Compact.

1.20 By virtue of the nature and purpose of the provisions of this ordinance and the effect and application of said provisions themselves, 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.

Section 2.00 Change in Land Use District

Exhibit "A" to Ordinance No. 22 of the Tahoe Regional Planning Agency, as amended, is hereby amended by adding thereto new paragraph 104 to accomplish a change in the applicable land use district, which paragraph shall read as follows:

"104. Commencing at the intersection of the western line of Lot 1 in Block A with the northern line of Nevada State Highway No. 28, as said lot, block and highway are shown on the map of Mill Creek Estates, Washoe County, Nevada, filed in the office of the County Recorder of Washoe County, State of Nevada, on October 27, 1960; thence North 69°24'25" West, along said northern line of Nevada State Highway No. 28, a distance of 592.07 feet to the true point of beginning; thence North 69°24'25" West, along said northern line of Nevada State Highway No. 28, a distance of 619.97 feet; thence North 37°48'16" East 1159.50 feet; thence South 64°04'50" East 344.47 feet; thence Southeasterly on the arc of a curve to the right with a radius of 1030.00 feet and tangent to the preceding course, a distance of 449.42 feet; thence South 39°04'50" East and tangent to the preceding arc, a distance of 85.00 feet; thence Southeasterly, Southerly and Southwesterly on the arc of a curve to the right with a radius of 40.00 feet and tangent to the preceding course, a distance of 62.83 feet; thence South 50°55'10" West and tangent to the preceding arc, a distance of 888.83 feet; thence
Southwesterly, Westerly and Northwesterly on the arc of a curve to the right with a radius of 150.00 feet and tangent to the preceding course, a distance of 156.22 feet to the true point of beginning. Situate in the East 1/2 of Section 22, Township 16 North, Range 18 East, MDB&H.

Said described property, owned by Hyatt Lake Tahoe, includes the 2.1 acre portion west of the centerline of Incline Creek that is hereby reclassified from Recreation to Tourist Commercial. With this reclassification, the entire above-described parcel is classified Tourist Commercial."

Section 3.00  Prohibition of Additional Density

The land use reclassification effected by this ordinance shall not be the basis for, or permit, a future request for additional land use density on the subject property.

Section 4.00  Severability

If any part or provision of this ordinance, or the application thereof to any person, thing or circumstance, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the parts, provisions or application, and to this end the parts and provisions hereof are severable.

Section 5.00  Effective Date

This ordinance shall be effective immediately upon its adoption.

FIRST READING:

SECOND READING:

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at its regular meeting held by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Chairman Roland D. Westergard
History: Odenthal Violations

The early history of this violation prior to the fall of 1978 is unclear. Apparently Mr. Odenthal's first dredging occurred in 1975 with at least 1 other dredging in 1976. The violation was first reported to us in 1978 and TRPA, Nevada State Lands, and the Corps began investigations at that time. The following sequence of events is a partial listing of events because a total listing of the numerous phone calls, inspections, meetings, and correspondence would be voluminous.

6 Sep 78 - TRPA provided a statement by Wirlis Fisher that Mr. Odenthal had employed a workboat to dredge a channel and considerably enlarge the jetty with spoil.

24 Nov 78 - Mr. Carlson provided photos and a statement that Mr. Odenthal had utilized bulldozers to build up the jetty.

NOTE - These reports may have been two separate incidents or there may have been confusion on the equipment utilized, for example equipment may have been barged to the site.

20 Dec 78 - Corps letter advised Mr. Odenthal of federal laws, issued Cease and Desist order, and invited Mr. Odenthal to present any information he felt we should consider.

15 Jan 79 - Mr. Odenthal called and stated he had not altered the jetty but he had raked the area to make it a sand beach. He asked that we not inspect the area because his wife was recovering from an operation and he did not want her upset.

NOTE - We withheld further action until April.

17 Apr 79 - We sent a violation report to other agencies requesting their views on the violation. The consensus of comments was to remove the jetty and restore the shoreline to its natural configuration.

25 Jul 79 - Our inspection found construction of a portable pier and more material placed on jetties.

17 Aug 79 - We received a report (confirmed by inspection) that Mr. Odenthal was planting trees on the jetty.

27 Aug 79 - We received a call from Nevada Deputy Attorney General stating that on 24 August state personnel had observed a substantial turbidity plume in Lake Tahoe and had traced it to Mr. Odenthal's and found a backhoe in the water dredging and placing material on the jetty.

28 Aug 79 - Our inspection found new material on the jetty and in front (lakeward side) of the jetty.
4 Oct 79 - We sent a letter to Mr. Odenthal directing him to disperse the jetty and restore the area by 15 Nov 79. All work was to be coordinated with Nevada Environmental Protection and Fish and Game.

15 Nov 79 - Mr. Odenthal called and stated he had just received our letter. Asked for more time and a meeting.

4 Dec 79 - Mr. Odenthal sent a letter stating reasons he should be allowed to retain jetty. He stated that in 1976 the bay bottom was high and dry by the end of summer and he had rented a loader and pushed the exposed rock up onto the jetty to restore it.

NOTE - During this period Mr. Odenthal made several requests for information and for delays to allow him to contact other agencies.

9 Apr 80 - Our office of Counsel requested Mr. Odenthal to establish a timetable for compliance.

1 May 80 - Mr. Odenthal sent letter stating wave action had substantially restored the area. He stated he would be willing to rearrange some rocks. He further stated "Altogether, I estimate that I moved less than 30 cubic yards of rock, and spent less than three hundred dollars ($300) in so doing."

27 May 80 - Corps, Nevada State Lands and Fish and Game, and USFW Service met with Mr. Odenthal on site to allow him to present his case. All agencies agreed that the jetty should be removed.

3 Jun 80 - Mr. Odenthal sent letter stating he was willing to remove material placed on his jetty, but stated that since a portion of the jetty was on Mr. Kjelland's property he would have to wait until Mr. Kjelland returned from Europe.

9 Jul 80 - Mr. Odenthal stated Mr. Kjelland had agreed to removal and that the large rock on Sharffs property line should be placed on the end of his groin to stabilize the groin. He stated work should be done in fall when lake drops to 6224.

15 Jan 81 - Nevada State Lands directed Mr. Odenthal to remove the jetty to natural substrata and place the rocks in the harbor to restore natural contours.

5 Feb 81 - TRPA, Nevada State Lands, and Corps met with Mr. Odenthal and Mr. Cashell who represented Mr. Kjelland and Mr. Carlson. Mr. Odenthal admitted pushing rocks onto the point of the jetty in 1975, but claimed he had done no work before this time. Mr. Odenthal agreed to restore jetty to configuration on 1975 aerial photos. The agencies agreed to accept this rather than go to court.

NOTE - Nevada Fish and Game strongly objected (they wanted complete restoration of the shoreline).
4 & 5 Jun 81 - Partial restoration was accomplished. The work did not restore the area to the desired degree. High water was a significant limiting factor. However, our inspector felt that wave action would complete the work. Therefore, the case was closed.

October 81 - Mr. Kjelland was not satisfied with the work performed and requested approval to remove the remaining material on his property. We indicated that as long as only the artificially placed material above the natural shoreline was removed and they obtained the necessary approvals from other agencies we would consider this work restoration and would not require a permit. This work was completed to our satisfaction.

5 Nov 81 - Corps and Nevada State Lands met with Mr. Odenthal and Mr. and Mrs. Scharff on site at his request. Mr. Odenthal had requested the meeting to discuss completing the jetty project. When we arrived Mr. Odenthal proposed dredging the inside of the harbor and the channel mouth and placing the material on the face of the jetty. The Scharffs proposed removing material on front of their property to enlarge the harbor. We stated that no material could be removed below the natural lake bottom and no material could be placed on the jetty unless permits were obtained. We pointed out where the natural lake bottom was located, approximately one foot above the water surface and 10' to 15' back from the water on the gravel and cobble area near the end of the breakwater. Mr. Odenthal stated that removing this material would not do him any good and he would not do any work, but he and the Scharffs would apply for permits. We supplied an application form to the Scharffs. Mr. Odenthal stated he had a form. On returning to the office Nevada State Lands advised us that Mr. Odenthal had proceeded to dredge his harbor, and had caused a severe turbidity problem.

6 Nov 81 - Corps and Nevada State Lands inspected the site and found that the harbor and channel mouth had been dredged and material placed on the jetty. Mr. Odenthal stated the contractor exceeded his instructions in the harbor but admitted he had directed the contractor to dredge the channel mouth. He stated dredging the mouth was necessary and admitted he knew a permit was required.

6 Nov 81 - Mr. Kjelland called to state his son had observed the dredging. The loader had entered through Mr. Kjelland's property and had worked in the water in Mr. Odenthal's harbor for 2 hours. Rock had been removed and fine material had been placed to cover the disturbance.

19 Nov 81 - We sent Mr. Odenthal a letter stating his actions have abrogated any previous agreements and directed him to either show cause why he should not be required to remove the rock groin and restore the shoreline, or prepare a plan for restoration of the area to its natural configuration by 31 Dec 81. We have not received a response.
Summary

Mr. Odenthal has dredged and filled in Lake Tahoe without any permits five times that we know of. Three times that we know of since the Corps issued our Cease and Desist Order.

Mr. Odenthal states he had only moved a minor amount of material. He also stated he had only moved a few rocks in the channel entrance during his November 5, 1981 dredging. Our inspector who viewed the site before the work on the 5th and after on the 6th indicated the size of the channel entrance was approximately doubled and a large amount of material was removed from the harbor. We have always had a problem with Mr. Odenthal’s assessment of the amount of work he performed. In his letter of 1 May 1980 he stated “Altogether, I estimate that I moved less than 30 cubic yards of rock and spent less than three hundred dollars ($300) in so doing.” Yet by using information Mr. Odenthal provided in this letter and his letter of 4 December 1979 we come up with a very conservative estimate of 500 cubic yards removed from the harbor without considering any sediment buildups or redredging. In actuality a figure of 600 to 800 cubic yards is probably much more likely.

The work Mr. Odenthal has performed has resulted in significant turbidity and repeated violations of water quality standards. It has damaged his neighbors property and according to Fish and Game personnel the work has been harmful to aquatic resources. Certainly Mr. Odenthal’s repeated violations have forced the various agencies to expend a vast amount of time and money to meet the obligations imposed on them by statute or regulation. We believe that if Mr. Odenthal is permitted to retain any portion of the jetty and harbor he will continue to dredge and place fill material on the jetty whenever it suits his purposes, and he will do so without providing turbidity control and the other measures we require of all other parties doing work in Lake Tahoe.
## ODENTHAL VIOLATIONS

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 17, 1978</td>
<td>Division of State Lands received initial complaint RE: Jetty</td>
</tr>
<tr>
<td>November 24, 1978</td>
<td>Carlson sent letter to Corps registering complaint</td>
</tr>
<tr>
<td>February 5, 1979</td>
<td>Letter from Odenthal's attorney stating &quot;he has done nothing other than minimal maintenance&quot; - Also &quot;Should he undertake to perform any major maintenance activity of the groin, he has assured us that he will seek a permit&quot;.</td>
</tr>
<tr>
<td>April 17, 1979</td>
<td>Comments solicited RE: unauthorized work</td>
</tr>
<tr>
<td>May 3, 1979</td>
<td>Comments to Corps and State Lands from the Division of Environmental Protection recommending removal</td>
</tr>
<tr>
<td>May 7, 1979</td>
<td>Department of Wildlife sent statement to Corps regarding impacts</td>
</tr>
<tr>
<td>May 9, 1979</td>
<td>U.S. Environmental Protection Agency commented that &quot;Restoration of site to its original condition&quot;</td>
</tr>
<tr>
<td>May 11, 1979</td>
<td>Carlson sent second letter to Corps regarding complaint</td>
</tr>
<tr>
<td>May 29, 1979</td>
<td>Lands comments to Corps</td>
</tr>
<tr>
<td>June 5, 1979</td>
<td>U.S. Department of Agriculture commented that it &quot;should be obliterated ... and the lakeshore restored to its more natural contours&quot;.</td>
</tr>
<tr>
<td>August 24, 1979</td>
<td>Turbidity caused by work in Lake at Odenthal's</td>
</tr>
<tr>
<td>September 20, 1979</td>
<td>U.S. Fish and Wildlife Service comments RE: removal and returning area to natural condition</td>
</tr>
<tr>
<td>October 11, 1979</td>
<td>Corps letter to Odenthal - Directed to remove the jetty and return the shoreline to previous condition</td>
</tr>
<tr>
<td>October 18, 1979</td>
<td>TRPA notified Odenthal of requirement to make application for the unauthorized work</td>
</tr>
<tr>
<td>January 5, 1980</td>
<td>Cashill requested State Lands to take action</td>
</tr>
<tr>
<td>June 3, 1980</td>
<td>Odenthal letter to Corps</td>
</tr>
<tr>
<td>June 4, 1980</td>
<td>Department of Wildlife comments to State Lands recommending removal</td>
</tr>
<tr>
<td>November 20, 1980</td>
<td>Department of Wildlife further comments regarding removal</td>
</tr>
</tbody>
</table>
Lands  January 15, 1981  -  Lands requested removal
Cashill  February 3, 1981  -  Cashill is notified of intended legal action
Lands  February 3, 1981  -  Meeting with all concerned agencies
Lands  April 7, 1981  -  Corps drawings received by State Lands
DOW  April 24, 1981  -  Department of Wildlife comments RE: restoration
DEP  April 28, 1981  -  Division of Environmental Protection authorizes removal
Lands  June 2, 1981  -  Removal took place
Lands  June 2, 1981  -  On-site comments - State Lands
Lands  November 3, 1981  -  Odenthal called to request meeting
Lands  November 5, 1981  -  Odenthal meeting - work done without authorization
DEP  November 5, 1981  -  Harbor turbid due to work in Lake
Corps  November 5, 1981  -  Corps on-site - no work to be done
Lands  November 6, 1981  -  Second review of unauthorized work
Lands  November 13, 1981  -  Agencies met - agreed to again seek removal
Lands  November 16, 1981  -  Statement received from equipment operator
Lands  November 18, 1981  -  Odenthal requested to remove jetty on or before December 15, 1981; letter returned
Corps  November 19, 1981  -  Corps orders Odenthal to remove or submit plan by December 19, 1981
Corps  December 11, 1981  -  Corps sent letter to contractor
Odenthal  January 20, 1982  -  Odenthal letter to State Lands
Odenthal  January 21, 1982  -  Odenthal letter to State Lands - stating he did work after 1978
Lands  February 8, 1982  -  Inspection - November 5, 1981, work knocked out