TRPA
GOVERNING BOARD
PACKETS

JANUARY
1983
January 1983

NOTICE OF MEETING OF THE
GOVERNING BODY OF THE
TAHOE REGIONAL PLANNING AGENCY

NOTICE IS HEREBY GIVEN that on January 26, 1983 at
9:30 a.m. at the hearing room of the Tahoe
Regional Planning Agency, located at 2155 South Avenue, South
Lake Tahoe, California, the Governing Body of said agency will
conduct its regular meeting. The agenda for said meeting is
attached to and made a part of this notice.

Dated: January 7, 1983

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.
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

January 26, 1983 9:30 a.m.
January 27, 1983 9:30 a.m.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III ELECTION OF CHAIRMAN AND VICE CHAIRMAN

IV DISPOSITION OF MINUTES

V CONSENT CALENDAR

VI SPECIAL REPORT

A. Federal Agency/TRPA Coordination Effort

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

VII AGENCY REVIEW

A. Tom Pitts, Variance to Allow Unauthorized Nonconforming Structure in the Foreshore, 8391 Kehlet Drive, El Dorado County APN 16-081-431, TRPA File #81149

B. Richardson Marina - Raising, Transporting and Restoration of the Steamer "Tahoe", Glenbrook, Douglas County, TRPA File #82307

C. Caltrans, Highway 89 Reconstruction Between the 'Y' in South Lake Tahoe and Emerald Bay, El Dorado County, TRPA File #83014

D. ITEM 1 - CONSENT CALENDAR - MULBERRY

VIII PUBLIC HEARINGS

A. To Consider Amendment of the Land Use Element of the General Plan to Reclassify a 5.98 Acre Portion of El Dorado County Assessor Parcel No. 22-210-28 Located on the Northeast Corner of the Intersection of Tahoe Keys Boulevard and Venice Drive from High Density Residential to General Commercial, City of South Lake Tahoe

B. To Consider Amendment of Ordinance 81-5 to Permit Transfer of Permitted Coverage From Lots Within the Same Watershed to Lots or Parcels Upon Which a Public Works Project is Proposed

C. To Consider Amendments to the 1981 Case-by-Case Lot Review Criteria Pertaining to Land Stability (continued hearing from November 17, 1982), Resolution Amending 1981 Case-by-Case Lot Review Criteria
IX APPEALS

A. J. Rybicki, Appeal of Staff Determination Not to Refund Mitigation Fee, Washoe County APN 125-541-05, TRPA File #81878

B. Morrison/Martin, Appeal of Staff Rejection of an Application for Replacement of Nonconforming Land Coverage, Douglas County APN 07-038-05 and APN 11-070-02, TRPA File #82-1174

C. Rogers/Major Engineering, Appeal of Staff Decision Pursuant to the Case-by-Case Lot Review Criteria, Lot 136, Washoe County APN 126-082-03, TRPA File #82544

X SPECIAL DETERMINATIONS

A. Johnson/Uppaway Estates, Request for Determination of Subdivision Status Under Ordinance 81-1, Douglas County

B. J. Hunziker, Finding of Substantial Conformance With Local Building Permit, Commercial Bulk Storage, Washoe County

C. TRPA's Role in Recommending Priorities for Acquisition Programs Conducted Under Federal and State Laws

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

E. Other

XI ENFORCEMENT

A. Show Cause Hearings

1. J.A. Wickland/Tahoe Classic Marine, Unauthorized Pier Construction and Violation of Stop Work Order, Placer County APN 98-191-16

2. F. Motamed, Noncompliance With Previous Approval to Reconstruct a Boathouse in the Backshore, El Dorado County APN 16-131-05, TRPA File #81035

B. Reports

1. Status of Stanley Hiller Pier, Placer County APN 98-220-36, TRPA File #82319

2. Status of Odenthal Jetty Removal, Washoe County APN 122-181-45, TRPA File #81145

XII PLANNING MATTERS

A. Regional Plan Development

B. Status Report on Land Capability Redelineations
C. Redesignation Request for Attainment Status Under the Federal Clean Air Act

D. U.S. Postal Service, Action Plan for Mail Delivery

E. Annual Report for the Lake Tahoe Basin Air Quality Plan (Federal Clean Air Act)

XIII ADMINISTRATIVE MATTERS

A. Ratification of Contract for Nitrogen Deposition Study

B. Appointment of Lay Members to the Advisory Planning Commission

XIV ORDINANCES

A. First Reading of Ordinance Amending the Land Use Element of the General Plan to Reclassify 5.98 Acres in the City of South Lake Tahoe (see agenda item VIII A.)

B. First Reading of Ordinance Amending Ordinance 81-5 to Permit Transfer of Permitted Coverage for Public Works Projects (see agenda item VIII B.)

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

XV REPORTS

A. Executive Session

B. Executive Director Report

1. Calishun Motel, Status of Compliance With Conditions of Approval, City of South Lake Tahoe, APN 27-170-02, TRPA File #80206

2. Request From the Tahoe Transportation District for Status of Permitting Residential Uses Within Highway 50 Bypass Corridor

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

4. List of Projects Approved at Staff Level

5. Other Notice of Avail. of EIS/BPR Plan for Settlement

C. Legal Counsel Report

D. Governing Body Members

E. Public Interest Comments

XVI RESOLUTIONS

XVII PENDING MATTERS

XVIII ADJOURNMENT
CONSENT CALENDAR

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


2. Ocheltree/Tahoe Shores, Parking Lot Expansion on a Lot Containing an SEZ, Levels 6 and 1B, 999 Tahoe Boulevard, Washoe County APN 127-040-05, TRPA File #821246

3. Robinson/Larson, Light Manufacturing and Craft Sales Building, 290 Village Boulevard, Washoe County APN 122-288-13, TRPA File #821216

4. Incline Village General Improvement District/North Tahoe Broadcasting Company, Administrative Permit for Additional Height for an Antenna, Ski Incline, Washoe County, TRPA File #821336

5. Caesar's Tahoe, Administrative Permit for Temporary Snowmobile Operation, Douglas County, TRPA File #821438

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
Mulsberry/Sierra Concepts, Single Family Dwelling, 1980 Status, Lot 12, Zephyr Heights #6, Douglas County APN 05-172-24, TRPA File #821426

Applicant: Merril K. Mulsberry/Ron A. Brenier (Sierra Concepts)

Project Description: The applicant proposes to construct a two story single family dwelling with a detached garage. The garage is at street level with a walkway connecting it to the dwelling.

Project Location: Lot 12, Zephyr Heights #6, Lookout Road

Site Description: The subject parcel is a downhill lot with a slope of approximately 30% across the building site. There is some rock outcrop on the site, although the building is sited to avoid the majority of surface rock. The slope across the garage site is approximately 35%. The site contains a healthy understory vegetaiton and few trees.

Review Per Section: Section 12.20 of TRPA Ordinance 81-5

Land Use District: Low Density Residential (LDR)

Land Capability Classification: Level 1A, RtF soil type

Land Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Lot Size</td>
<td>12,617 sq. ft.</td>
</tr>
<tr>
<td>Allowable Coverage</td>
<td>2,800 sq. ft. (Section 9.24 of TRPA Land Use Ord.)</td>
</tr>
<tr>
<td>Proposed Coverage</td>
<td>2,153 sq. ft.</td>
</tr>
</tbody>
</table>

Building Height:

- Proposed: 35 ft.
- Permitted: 35 ft. + 15 ft. cross slope allowance

Impact Analysis and Mitigation Measures: The subject application has been determined to be eligible for 1980 building status. A building permit was originally issued in 1979. The applicant returned to the building department in 1980 with revisions. At that time the applicant was informed of the moritorium on building in the Zephyr Heights area due to the water problem.

The applicant was actively pursuing his permit in 1980 and, therefore, qualifies for 1980 status. The Douglas County Board of Commissioners voted to reinstate the subject permit in November, 1982. The Agency considers a reinstatement as a new project.

1-11-83

Consent Calendar #1.
Although the subject parcel is fairly steep, the proposal has been designed to minimize impacts. Excavation will be required for footings only. The house is set down the hill in the area of least slope. This also serves to soften the visual impact. A drainage plan is proposed to infiltrate all runoff concentrated by the proposed construction. The EIS for the 208 Plan amendments was programmatically applied to this category of projects.

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

<table>
<thead>
<tr>
<th>Applicable Elements</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>Consistent</td>
</tr>
<tr>
<td>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: Agency staff can identify no major issues for discussion. To insure that potential impacts are mitigated to the extent possible, the following special conditions are recommended:

1. Foundations and Utility trenches shall be hand dug unless a plan for limited equipment access is approved by Agency staff.

2. Final details of the drainage and slope stabilization plan shall be approved by Agency staff prior to TRPA permit issuance.

Required Actions and Findings:

1. Findings listed on Attachment A.

2. Standard Conditions of Approval (Attachment D).

3. Findings listed on Attachment H.

4. The special conditions listed herein.

1-11-83
Consent Calendar #1.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Ocheltree/Tahoe Shores, Parking Lot Expansion
on a Lot Containing an SEZ, Levels 6 and 1B,
999 Tahoe Boulevard, Washoe County APN 127-040-05,
TRPA File #821246

Applicant: Paul Ocheltree/Tahoe Shores Center

Project Description: The applicant proposes to construct an additional parking lot at the rear of an existing office/commercial building. There are currently 40 parking spaces on the site which were determined to be adequate by Washoe County when the building was constructed. Minor changes in previous uses and the types of businesses which rent space in the building have created a demand for approximately 63 spaces at peak periods. This is 20 spaces more than currently exist. Additionally this area is currently utilized as overflow parking and has highly compacted soils.

Project Location: 999 Tahoe Boulevard, Incline Village

Site Description: Vegetation in the area consists of Jeffrey Pine, white fir, bitterbrush and sage brush. The soils in the area are an Inville stony coarse sandy loam. The slope is approximately 8%. This soil and slope association has a slight erosion hazard and permeability is moderately rapid.

The outermost boundary of the stream environment zone is the 100 foot buffer strip from the centerline of Incline Creek.

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

Land Use District: Tourist Commercial

Land Capability Classification: Levels 6 and 1B

Level 6 Area: 700,171 sq. ft.
SEZ Area: 146,200 sq. ft.
Permitted Coverage: 211,513 sq. ft.
Proposed Coverage 9,725 sq. ft.

Impact Analysis and Mitigation Measures: Based on information submitted with the application, a field review by the staff, and review of the initial environmental checklist completed by the applicant, the staff cannot identify any significant issues for discussion. The project has been designed to minimize site disturbance and vegetation removal to the greatest extent possible. There is no disturbance proposed in the SEZ.

KS:jf
1/11/83

Consent Calendar Item 2.
Ocheltree/Tahoe Shores Parking Lot

page two

Required Actions and Findings: Should the Governing Body approve the project, following are the necessary findings and special condition:

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.

Findings that no grading, clearing, removal of vegetation, filling or creation of land coverage will occur within or upon an SEZ.

Based on the information submitted with the application, the completion of the environmental check list and the field review, the subject project qualifies for a conditional finding of no significant environmental effect.

Special condition as follows:

1. The applicant must contribute to an offsite mitigation fund. This fee is based on the proposed coverage in excess of that allowed by land capability and must be paid prior to issuance of a TRPA permit. The mitigation fee is $1,945, as calculated below:

   | Capability Levels: | 6 and 1B |
   | Lot Size:          | 846,371 sq. ft. |
   | Permitted Coverage:| 211,513 sq. ft. |
   | Proposed Coverage: | 9,725 sq. ft.  |
   | Mitigation Fee:    | $1,945        |

1/11/83

Consent Calendar Item 2.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Robinson/Larson, Light Manufacturing and Craft Sales Building, 200 Village Boulevard, Washoe County APN 122-286-13, TRPA File #821216

Applicant: Robinson/Larson/Ford

Project Description: The applicant is requesting approval to construct a crafts center for the production and sales of craft items. The center will consist of three buildings with a total of 2,240 square feet of commercial floor space. Eight parking spaces are proposed.

Project Location: The site is located on the northeast side of the intersection of Village and Southwood Boulevards within the commercial core area of Incline Village.

Site Description: The 22,655 square foot site slopes gently to the south at 7%. Vegetation consists of mature pine and fir trees with an understory of manzanita. Seven of the twenty-four trees on site are proposed for removal. Construction of Village and Southwood Boulevards resulted in cut slopes adjacent to the property. These slopes will be rock riprapped as part of the project. The roadside drainage channel will also be rock riprapped.

Land Use District: General Commercial (GC). The proposed use is permitted in the GC Use District.

Land Capability Classification: Soil Type IsC, Land Capability Level 6, Allowed Land Coverage 30%.

Land Coverage:

<table>
<thead>
<tr>
<th>Lot Size:</th>
<th>22,655 sq. ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Coverage:</td>
<td>6,796 sq. ft.</td>
</tr>
<tr>
<td>Proposed Coverage:</td>
<td>6,746 sq. ft.</td>
</tr>
</tbody>
</table>


Impact Analysis and Mitigation Measures:

Traffic: The subject proposal will generate 26 vehicle trips per day which is less than 100 per day and less than 1% of the remaining road capacity adjacent to the property. Therefore the project qualifies for a finding of no significant effect and no traffic and air quality mitigation fees are required. This determination is based on uses and tenant mix identified in the information submitted with the project. Any modifications which will increase the projected vehicle trip generation from the site will require review and approval by the Agency.

1/10/82

CONSENT CALENDAR #3
Water Quality: The subject project will incorporate the Agency recommended best management practices for control of erosion and drainage flows. These improvements include rock riprap, revegetation, and infiltration trenches. In addition, the existing cut slopes and roadside drainage ditch within the County right-of-way and fronting the project site, will be stabilized with rock riprap.

Commercial Square Footage: The project proposes 2,240 square feet of commercial space. There is sufficient commercial square footage allocation in Washoe County for 1983 to allow this proposal.

Parking: Washoe County has required that eight parking spaces be provided. The initial submittals to the Agency only reflected seven spaces. Revised plans showing eight spaces have been submitted by the applicant.

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

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</table>

Based upon the information submitted with the proposal and review of the initiate environmental impact checklist, Agency staff recommends that the project is consistent with applicable Agency standards and qualifies for a finding of no significant effect. There are no remaining unresolved issues requiring Governing Board discussion.

Required Actions and Findings:

1. Findings listed on Attachment A.
2. Standard conditions of approval listed on Attachment D.
3. The TRPA 208 Plan Water Quality Mitigation fee for the new land coverage proposed is $1,349.30.

1/10/82
JG; St

CONSENT CALENDAR #3
Incline Village General Improvement District/North Tahoe Broadcasting Company, Administrative Permit for Additional Height for an Antenna, Ski Incline, Washoe County, TRPA File #821336

Applicant: North Lake Tahoe Broadcasting Company

Project Description: The applicant proposes to construct a radio, TV antenna tower for Radio Station KLKT. The tower will be located 25 feet from the Snowflake Lodge at Ski Incline. The tower will be 45 feet in height, have a maximum diameter of 12 inches at the base and will be supported on a 4' x 4' x 9' concrete foundation. Twenty-five feet of trenching will be required to connect the tower to the equipment and transmitting room located inside the ski lodge.

Site Location: Snowflake Lodge, Ski Incline, Ski Way, Washoe County APN 120-010-57

Site Description: The area where the tower is to be constructed contains very sparse lower level vegetation but does contain a fairly dense stand of medium-sized pine trees.

Review Per Section: Article VI(b) of the Compact
Section 7.12(30) Nevada Side Land Use Ordinance
Section 7.13 Nevada Side Land Use Ordinance

Land Capability Classification: CaF soil type, land capability level 2, moderate hazard geomorphic unit

Land Use District: The subject property is classified General Forest (GF). Radio, TV and telephone relay stations and transmission lines and structures are listed as permitted public and quasi-public uses in the GF district.

Local Approvals: On November 24, 1982, Washoe County issued an administrative permit for the project as required under Section 7.13 of the Nevada Side Land Use Ordinance. This section requires issuance of an administrative permit for structures that exceed the height restrictions set forth in that section. The height restriction in the GF district is 35 feet. Approval of such an administrative permit issued by the permit-issuing authority is required by the TRPA Governing Board only if the structure exceeds 45 feet in height. The proposed tower will be 45 feet high. However, the TRPA Compact and subsequent implementing ordinances require review and approval of the proposed activity as a project.

A special use permit was conditionally approved by Washoe County on December 14, 1982. On September 9, 1982, the applicant obtained approval from the Incline Village GID, owners of the land, to construct the proposed tower.

CC:jf
1/13/83

Consent Calendar Item 4.
Land Coverage: The project will result in 16 square feet of new land coverage. The resulting land coverage within the affected land capability district will be less than 1%.

Impact Analysis and Mitigation Measures:

Water Quality - Provided adequate temporary erosion control measures are implemented on site and resulting disturbed areas are revegetated, the proposed project should not result in any significant impacts on water quality. Conditions of approval will require those measures to be taken.

Visual - The tower is being located in an area containing a fairly dense cover of tall pine trees, so the visual impacts should not be significant. The tower will also be painted a flat black color to further lessen its visual impact.

Prior Staff Action: In October, 1982, the applicant requested that staff authorize construction of the 16 square foot foundation for the tower as an emergency matter so that the foundation could be completed prior to the site being covered with snow. The applicant felt that a finding of emergency could be made based on the antenna's use for broadcasting important news and community announcements relative to emergency situations. It was also the applicant's opinion that the project could be exempt from the grading prohibition on capability district 2 lands due to the antenna's use for broadcasting public announcements and public service-related information.

Based on the applicant's position as stated above, but more so on the minor nature of the disturbance required to construct the foundation, on October 14, 1982, Agency staff authorized the foundation to be constructed.

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

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</tbody>
</table>

Issues for Discussion: Agency staff has determined that the project will not result in any significant impacts on the environment.

Consent Calendar Item 4
North Tahoe Broadcasting Antenna  
page three

Required Actions and Findings:

1. A finding that the project will have no significant effect on the environment with direction to staff to prepare the necessary certification document to be included with the permit.

2. A motion to conditionally approve the project based on the following findings and conditions, which are to be included in writing with the permit:

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

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

   C. The project is exempt from the prohibition on grading on capability district 2 lands under Section 12.62 of Ordinance 81-5.

   D. Construction of the foundation in a timely manner presented a situation demanding immediate action to preserve the public health, safety and general welfare.

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

   F. The standard conditions listed on Attachment D plus the special condition that the tower be painted a flat black color.

1/13/83  

Consent Calendar Item 4.
FUTURE SCALE UHF ANTENNA
MAXIMUM WIND LOAD 450 LBS.
SCALES PARABOLIC
MAXIMUM WIND LOAD 390 LBS.
FUTURE MICROWAVE DISH
MAXIMUM WIND LOAD 490 LBS.
12 DEGREES REFLECTOR
SCALES JULY 91
MAXIMUM WIND LOAD 280 LBS.

SPECIFICATIONS:

- 8/18 STEEL W 10 X 10 X 3/8"
- THREADS FOR 3/8" LUG AT 5/8" N.D.
- POLE WEIGHT 1000 LBS.
- STEEL LEGS
- TAPER 48" TO 24" WORKSMAN'S PERIOD
- FOOTING 3' X 3'
- FOOTING 5' x 5'
- HAND HOLE AT BASE AND EACH ANTENNA LEVEL.

COMM-WEST
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Caesar's Tahoe, Administrative Permit for Temporary Snowmobile Operation,
Douglas County, TRPA File #821438

Applicant: Caesar's Tahoe, Inc.

Project Description: The applicant is proposing to host a snowmobile race on
February 26 and 27, 1983 at the Edgewood Ranch directly northeast of Caesar's
Tahoe. The event will consist of two separate type of races, oval sprint and
snow cross, requiring two separate snow tracks. All activities other than the
time trials, snowmobile racing and spectator viewing will occur on the Caesar's
Tahoe site. The applicant has indicated that approximately 75 racers are
expected.

Project Location: Edgewood Ranch, U.S. Highway 50, Stateline

Site Description: The site is a very gently sloping meadow area. During the
summer months the property is utilized for cattle grazing and in the winter
months a horse drawn sleigh concession provides rides to the public. A cyclone
fence is located around the perimeters of the property adjacent to Highway 50 and
the Loop Road.

Land Use District: Tourist Commercial (TC) and High Density Residential (HDR)

Land Capability Classification: 3

Impact Analysis and Mitigation Measures: The repairs and refueling of the
snowmobiles and parking for spectators and participants will take place at
Caesar's Tahoe. On the subject site a temporary food and beverage concession
will be provided. Adequate receptacles for trash and portable restrooms are
to be provided near the spectator viewing area.

Caesar's Tahoe will require that sound suppressors be used on all machines
participating in the oval sprint race. The suppressors will reduce the oval
sprint noise levels of 120 dba at 50 feet to the same level as those for the snow
cross machine which is 72-76 dba at 50 feet. The threshold study lists a single
event maximum level for snowmobiles of 82 dba at 50 feet.

To prevent the possibility of ground disturbance, the applicant will be required
to cease and desist all activity on site if the compacted snow depth is less than
6 inches.

In the past the TRPA Governing Board has taken action to restrict access to the
subject parcel from the Loop Road. This action was mainly to prevent additional
commercial development in that area. To date, the applicant has not indicated
where the spectators will enter the site, however, since this is not an ongoing
operation staff does not feel any impacts would result from spectators accessing
the event by foot from the Loop Road.

1-11-83
KBD:md

Consent Calendar #5.
Staff Comment: Agency staff recommends that the Governing Board approve the project and the special conditions.

Required Actions and Findings:

1. Actions and findings listed on Attachment A.

2. The following special conditions:
   a. All activities other than the actual time trials, snowmobile racing and spectator viewing, shall take place at Caesar's Tahoe.
   b. All repairs and refueling of the snowmobiles shall be accomplished in the motor pool area of Caesar's Tahoe.
   c. All parking for spectators and participants shall be at Caesar's Tahoe.
   d. There shall be no parking of vehicles at the Edgewood Ranch.
   e. Sanitary facilities in the form of portable restrooms shall be provided near the spectator viewing area for spectators and participants.
   f. All events shall be held during daylight hours.
   g. Adequate receptacles for trash shall be provided.
   h. Sound suppressors shall be used so that the vehicles do not exceed noise levels of 82 dba at 50 feet.
   i. The site shall be restored to its natural condition following the event.
   j. If the compacted snow depth on the site becomes less than 6 inches, this permit becomes void and all activities authorized under said permit shall immediately cease.
January 13, 1983

To: The TRPA Governing Board

From: The Staff

Subject: Special Report - Evaluation of Nevada Side
Case-by-Case Review Allowing Development on
High Hazard Lands

Staff is still in the process of updating and incorporating comments received on
the case-by-case evaluation report and will try to send out an updated analysis
to the Governing Body members under separate cover prior to the January meeting.
MEMORANDUM

January 11, 1983

TO: TRPA Governing Board

FROM: Agency Staff

SUBJECT: Tom Pitts, Variance to Allow Unauthorized Nonconforming Structure in the Foreshore, 8391 Kehlet Drive, El Dorado County APN 16-081-431, TRPA File #81149

At the December, 1982 Governing Board meeting the Board continued the subject item for one month and directed staff to verify the location of the high water line relative to the subject structure.

Staff revisited the site on December 20, 1982. The lake elevation on that day was 6227.6, approximately 1.5 feet below the high water elevation. It was apparent to staff that even the most landward footings for the deck were located below the high water elevation and that the pier deck itself was approximately 1 foot above the high water elevation.

Therefore, Agency staff has concluded that the entire structure extends beyond the high water line and may not be considered as land coverage in the backshore. At the December, 1982 Governing Board meeting, there was also some discussion as to what structure existed prior to Dr. Pitts’ acquiring the property and that perhaps he should be directed to modify the unauthorized structure to conform with the original structure. Based on information given to staff by Dr. Pitts and some poor quality photographs, it has been determined that a 6 foot wide walkway with a handrail existed in 1971 when Dr. Pitts acquired the property. After the December meeting, Dr. Pitts’ representative, Mr. Hoy, indicated to staff that the high water line shown on the plans submitted with the application was correct.

Staff is to meet with the applicant after the Governing Board packet is mailed but prior to the Governing Board meeting to discuss possible alternatives to the staff recommendation; however, as of this writing, the staff recommendation remains the same as outlined in December, 1982 (see the top of page 3 of the attached staff summary).

KE: md
1/11/83

Agenda Item VII A.
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY
PO BOX 8896
SOUTH LAKE TAHOE CA 95731

RE: HEARING DECEMBER 15 OR TOM PITTS TRPA FILE 81149.
WE REQUEST THAT THE GOVERNING BODY NOT GRANT A VARIANCE.

THE TERMS VARIANCE HARDLY APPLIES TO A NEW STRUCTURE WHICH IS A
RECREATION PLATFORM IN BOTH CONTOUR AND SIZE. WHEN CONSTRUCTION BEGAN
IT APPEARED OR PITTS INTENDED ONLY TO REPLACE AN EXISTING STRUCTURE.
IT SEEMS NO HARDSHIP TO REQUIRE THAT HE BE LIMITED TO SUCH A
REPLACEMENT.

ALL OTHERS IN THIS AREA HAVE UNDERGONE GOVERNING BODY AND COMMUNITY
DECISION AND TO OUR KNOWLEDGE THERE HAVE BEEN NO RECENT INSTANCES OF
UNAUTHORIZED NON-CONFORMING CONSTRUCTION.

IF THIS IS TO BE SUCH, AND IF THE CONSTRUCTION IS TO STAND AS IT IS
NOW, THEN WE WISH IT SO NOTED.

WARREN C AND CONSTANCE REIDENBACH
KEHLET DR, MEKS BAY
450 SUTTER ST
SAN FRANCISCO CA 94108

11:09 EST

MGHCOMP MGM
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Tom Pitts, Variance to Allow Unauthorized Nonconforming Pier, 8391 Kehlet Drive, El Dorado County, APN 16-081-431, TRPA File #81149

Applicant: Tom Pitts

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

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

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

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

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

11-29-82
KE:md

Agenda Item VII B.
Tom Pitts
Page 2

Project Location: 8381 Kehlet Drive, Rubicon Bay

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

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

Land Capability Classification: 1A

Shorezone Tolerance District: 2

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

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

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<td>Inconsistent*</td>
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*The subject structure is not permitted under the provisions of the Shorezone Ordinance.

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

11-29-82

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

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

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

1. Actions and findings listed on Attachment A
2. Findings listed on Attachment B
3. Conditions listed on Attachment F
4. Finding required for a variance. Because of special circumstances applicable to the property involved a strict application of the standards of the shorezone Ordinance deprives such property of privileges or safety enjoyed by other similarly situated property.

5. Plus the following special conditions:

   a. A revised plan must be submitted to show a 3 foot wide walkway in place of the existing structure. The plan must be submitted within 60 days and the modified structure must be constructed by July 30, 1983.

   b. Adequate security must be posted within 30 days to insure compliance with the conditions of approval. The security shall be in an amount equal to 150% of the costs to remove the unauthorized structure.

   c. Authorize legal counsel to take appropriate action if necessary to accomplish the objectives as listed above.

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

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

11-29-82

Agenda Item VII B.
EXISTING DECK AND PIER

LOCATION:
IN LAKE TAHOE
PARCEL # 16-081-481
EL DONADO CA.

APPLICATION BY:
DR TOM PITTS
3605 GRANT DR.
RENO NEVADA 89509

SHEET 1 of 3
3-8-82

Existing Deck

Existing Pier

Existing Buoy

Existing Structure

Unauthorized Structure

- LAKE TAHOE -

APN - 16-081-431

3.6' DECK

M NO ELEVATION (6229.1') Follows Rock Line (w/SHORE)

Palmiers Under Deck (TYP)

 Existing Stairs Down Path Up To House
P Ext. (139.1')

APN - 16-081-431

R Ext. (144.3')

Path Up To House

3.0' DECK

M NO ELEVATION (6229.1') Follows Rock Line (w/SHORE)

Existing Stairs Down Path Up To House

P Ext. (139.1')

APN - 16-081-431

R Ext. (144.3')

Authorized Structure

Unauthorized Structure

- LAKE TAHOE -

APN - 16-081-431

R Ext. (139.1')

Attachment A
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Richardson Marina - Raising, Transporting
and Restoration of the Steamer "Tahoe",
Glenbrook, Douglas County, TRPA File #82307

Applicant: Richard Schwartz

Project History: The steamer "Tahoe", once owned by William M. Bliss, was a
popular tour boat on Lake Tahoe between the years 1898 and 1940. It was
deliberately sunk by Mr. Bliss to prevent the ship's steel hull from being used
for scrap metal during the Second World War.

Project Description: The applicant is proposing to raise the historical cruise
boat from the bottom of Glenbrook Bay, where it currently rests, and to
transport it to Richardson's Marina for restoration to its original condition.

To raise the "SS Tahoe", a gym suit diver will connect a series of cables to the
boat. The cables will be attached to several submerged inflatable "lifting
bags" which are held in suspension by floats. The lifting bags are to be filled
with air until the boat is released from the lake bottom. Once the boat is
suspended, additional lifting bags will be placed around the perimeter of the
boat and filled with air raising the boat to the surface. At the surface,
additional air-filled bags will be placed underneath the hull while water is
being pumped out, raising the boat even further out of the water. Once the
steamer is floating adequately, it will be towed to Richardson Marina.

At the marina, a series of cradles will be placed on the beach from the
shoreline to the parking area. The steamer will then be towed with a diesel
truck from the water into the parking lot. There the restoration work will be
done to the ship's hull which is constructed out of steel plates riveted
together. After completion of the hull restoration, the boat will be placed
back into lake waters at the marina for the remainder of the restoration work.

Once the SS Tahoe is completely restored to its original condition, it will be
displayed and utilized as a natural history museum and tour boat. The operation
of the boat for public use will be reviewed by TRPA as a separate project. The
applicant has researched the question of current ownership of the vessel and has
concluded that there are no current claims. The Bliss family did not know of
any family ownership and prefers not to make any public comment. The Nevada
Division of State Lands has given its consent, and there is not any evidence to
show that an insurance mortgage company may claim ownership. Maritime law
permits any abandoned vessels to be salvaged with new right of ownership going
to the person who recovers the vessel.

KE: jf
1/12/83

Agenda Item VII B.
Richardson Marina
Restoration of the Steamer "Tahoe"
page two

Staff Comment: Agency staff recommends that the Governing Body approve the subject proposal with the standard shorezone conditions (Attachment F) and the following special conditions:

1. The applicant must submit a security in the amount of the cost of the project to insure that the restoration work is completed in a timely manner and the original character of the SS Tahoe is retained.

2. The applicant shall submit a time schedule for the restoration work to reduce the impacts associated with the steamer's exposure to the elements.

3. Any major modifications inconsistent with the original design of the vessel shall be considered a project and therefore require Agency review.

The applicant has indicated that the cost of raising and restoring the steamer is approximately $150,000. Staff feels that the boat's historical significance is important enough to require such a large security. If the applicant is unable to complete the project, the steamer may deteriorate rapidly as it would be subjected to the elements and not preserved as it was in the cold lake waters. If this type of situation were to occur, the Agency would use the security to return the boat to the bottom of the lake. The applicant feels that such an expensive security is unnecessary because the steamer will not deteriorate significantly while it is out of the water.

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Agenda Item VII B.
**TAHOE REGIONAL PLANNING AGENCY**

**STAFF SUMMARY**

Caltrans, Highway 89 Reconstruction Between the 'Y' in South Lake Tahoe and Emerald Bay, El Dorado County, TRPA File #83014

**Applicant:** State of California, Department of Transportation (Caltrans)

**Project Description:** Caltrans seeks approval to reconstruct portions of the existing roadway, placing asphalt concrete overlay, correcting existing drainage, improving alignment and superelevation (degree of banking) of four existing curves, cut slope improvements and revegetation of disturbed areas. The estimated cost of the project is $3,336,000.

The applicant has stated that the purpose of this project is to provide a safer highway facility, to reduce maintenance costs and flooding of the highway, and to reduce sediments in runoff water from cut slopes and unpaved areas. The principal deficiencies of the existing highway are: 1) some areas of very narrow roadway; 2) inadequate or incorrect cross slope of the pavement; 3) inadequate roadway structural section; 4) inadequate stormwater runoff control causing flooding and freezing on the existing pavement; and 5) fixed object proximity to the edge of the traveled way.

In general, the proposed project consists of:

1. Placement of a new asphalt concrete surface overlay on 5.2 miles of existing pavement.
2. Replacing and/or providing adequate drainage facilities under the highway at 24 locations.
3. Improving the drainage characteristics of roadside gutters at 8 locations.
4. Curve improvement by realigning the highway at 2 locations.
5. Reconstructing roadway by grade raise to provide for drainage and a 24 foot wide paved section at 4 locations.
6. Improving the cross slope of the highway at 2 locations.
7. Improving the sight distance by cut slope improvement at 1 location.
8. Improving stability on an existing slope.
9. Providing revegetation in disturbed areas.

**Project Location:** Highway 89 from 1.3 miles north of the Route 89/Highway 50 junction ('Y') to Eagle Creek at Emerald Bay.

GS:jf
1/12/83

Agenda Item VII C.
Caltrans Route 89 Reconstruction
page two

**Site Description:** The description of the sites where major work is to occur is presented below by mile post:

**Post Mile 10.86** - Land Capability Level 5, TcB Soil Type: The existing pipe at this location lacks sufficient capacity and is set too low, resulting in ponding and occasional freezing of water on the highway and in the middle of Pope Beach Campground. Nine accidents have occurred at this location in the three years from 1976 to 1978. The project proposes to raise the profile grade of the highway, to provide adequate pipes to handle the drainage and to improve the highway cross slope. Approximately 500 feet of highway will be affected. One pine tree 6" in diameter would be removed.

**Post Mile 11.00** - Land Capability Level 5, TcB Soil Type: The existing dip in the highway results in ponding and/or freezing of water on the highway and in the Camp Richardson Campground. Because the existing pipe is set low, siting of the pipe occurs requiring maintenance to keep it open. It is proposed to raise the highway grade, improve the pavement cross slope, and provide adequate drainage facilities. Approximately 500 feet of highway will be affected. One pine tree 19" in diameter would be removed.

**Post Mile 11.35** - Land Capability Level 5, TcB Soil Type: The proposal is to improve the highway alignment by grading and paving to reduce the potential of vehicles hitting the three large trees in this area. Four accidents in the past three years have been reported at this location. Approximately 1,000 feet of highway will be improved by the minor realignment and correcting of the highway cross slope. Approximately 13 pine trees from 6" to 22" will have to be removed to accommodate the realignment, but these are judged by the U.S. Forest Service to be less of an impact on the area than the removal of the three large trees.

**Post Mile 12.48** - Land Capability Level 5, TcC and TcB Soil Types, Mapped SEZ: The existing culvert's outlet ditch continues through an informally used turnout area. The project proposes to replace the existing 12" diameter pipe with a larger 18" diameter pipe that would extend through the turnout area and the adjacent bike path.

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**Agenda Item VII C.**
The pavement on this 250± foot radius horizontal curve varies in width from 19 to 23 feet with unpaved shoulders. The superelevation degree of parking through the curve varies from adverse to +6% northbound and from -3% to -10% in the southbound direction. The grade line is undulating with a sag vertical curve located near the end of the horizontal curve creating an undesirable condition. A 25 mph advisory speed sign with curve arrow is provided in advance of the curve in each direction to warn motorists of roadway conditions. Of the 11 accidents at this location in the last three years, six involved vehicles crossing the centerline, and five involved single vehicles losing control and running off the road.

It is proposed to improve the cross slope of the pavement, to replace the existing 12" pipe with an 18" pipe, and to construct a drop inlet at the inside of the curve to gather roadway drainage. Approximately 1,000 feet of highway will be affected.

Six pine and six fir trees will be removed. Six of the trees are 6" to 12" in diameter, two 13" to 19", two 20" to 26" and two 27" to 33".

Post Mile 13.28 – Land Capability Level 5, TcC Soil Type, Mapped SEZ: Presently the highway sags deeply where the existing 71"x47"x52' pipe arch culvert crosses the highway resulting in reduced sight distance and at times a flooded roadway. It is proposed to elevate the highway grade and remove trees on the inside of the curve to improve sight distance. Approximately 400 feet of highway will be affected. Thirteen fir trees 6" to 22" in diameter, one aspen 9" in diameter, and one pine tree 23" in diameter would be removed.

Post Miles 13.6 to 14.4 – Approximately 3,700 linear feet of toe of cut slope stabilization would be provided along the west side of the highway. A concrete barrier for a length of 1,100 feet and an asphalt concrete dike for a length of 2,600 feet is proposed along the cut slope toe. This would provide toe of slope stabilization, and a concrete barrier location would also allow a flatter slope to encourage natural revegetation. The barrier height would be 5 feet and would be located 14 to 25 feet from the existing centerline. The 0.50 foot high asphalt concrete dike would be located 12 feet from the existing centerline. Cut slope stabilization would consist of erosion control with seed and fertilizer, rock slope paving behind the concrete barrier walls, and willow wattle or similar devices.

Post Miles 14.5/14.6 – Land Capability Level 1A, MtG Soil Type: The proposal calls for realignment of the highway to eliminate an "S-type" curve with poor sight distance. Presently the alignment going northbound is as follows: curve radius 100 feet to the right, curve radius 75 feet to the left, curve radius 200 feet to the right, and curve radius 350 feet to the right. It is proposed to replace the above four curves with one 500 foot radius curve. Almost all of the 12 accidents occurring here in the past three years have been by vehicles going into the opposing lane on the

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sharp reversing curves. Field observation also shows that many northbound cars cut into the southbound lane on the center curve. A 32 foot wide pavement is proposed to provide two 12 foot traffic lanes and two 4 foot shoulders which will allow some width for bicycle traffic. Approximately 1,200 feet of highway will be affected. Twenty five trees would be removed – eleven trees from 6" to 8" in diameter, five from 10" to 17" and nine from 24" to 48". These trees consist of 13 pines and 12 firs.

Post Mile 15.0 – Land Capability Level 1A, MtG Soil Type: Widen the existing pavement from 18 feet to 22 feet. Approximately 350 feet of highway would be affected.

Post Mile 15.1/15.4 – Land Capability Level 1A, MtG Soil Type: Approximately 1,500 linear feet of toe of cut slope stabilization along the north side of the highway. A concrete barrier is proposed along the cut slope toe. This will provide toe slope stabilization with a resulting flatter slope to encourage natural revegetation and a safety shaped barrier adjacent to traffic. The barrier would be 60" in height and would be located 14 feet from the existing centerline. Two pine trees 9" and 19" in diameter would be removed.

This toe of slope stabilization has been included in the project as a result of consultation and coordination with the SCS, the U.S. Forest Service, TRPA, CRPCA and the Lahontan Regional Water Quality Control Board.

Post Mile 15.47/15.5 – Land Capability Level 1A, MtG Soil Type: During the past three years, 20 accidents have occurred at this location. Because of the existing terrain configuration, realignment of the highway cannot be reasonably accomplished. Improvement of the highway cross slope and widening on the inside of the curve will provide a wider, more uniform roadway with room on the inside for trucks and trailers to make the turn without encroaching into the opposing traffic lanes.

Post Mile 15.9 to 16.1 – Approximately 600 linear feet of toe of cut slope stabilization would be performed along the south side of the highway. An 8" high concrete curb located 11 feet from the existing centerline is proposed along the cut slope toe. In addition to the stabilization provided by the concrete curb, erosion control with seed and fertilizer would be provided. A new drop inlet and cross drain with a pipe downdrain and energy dissipator also are to be constructed at this location.

Post Mile 17.2 – Land Capability Level 1A, Rtg Soil Type, Mapped SEZ: Extend a 5 foot footpath approximately 200 feet north from Eagle Creek Bridge (Emerald Bay side). Pave shoulder and provide asphalt concrete dike, inlet and pipe downdrain with a rock energy dissipator at outlet. Provide the 80 foot rock gutters to reduce erosion of ditches and reduce silt from entering Eagle Creek. Approximately 500 feet of highway will be affected.

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General: In all cases where realignment takes place and slopes are disturbed, it is proposed to revegetate these slopes and thus reduce possible erosion, reducing adverse effects to water quality, and lessening possible adverse visual effects. Approximately 80 trees will be removed.

Background: The proposed project was initially proposed in 1979 by Caltrans, and the Negative Declaration was approved by the TRPA Governing Body in July, 1980. Based on concerns from Lahontan and the public over adequate erosion control and revegetation, the project was modified to reflect these concerns. Lahontan has approved the proposed project with the finding that the project is within the waste discharge requirements contained in Board Order 6-74-20. The modifications to the project still fit within the scope of the Negative Declaration approved by the TRPA Governing Body in 1979.

The CTRPA Governing Board approved the project at its January 1983 meeting with the condition that a speed study be conducted and speed limit signs be posted if necessary.

Impact Analysis and Mitigation Measures:

Surface Disturbance - The project would create some new cut and fill slopes and disturb some additional areas for drainage improvements. Many of the cut and fill slopes are presently unstable and result in erosion and siltation. The project would have the potential to cause erosion, siltation and to affect water quality. Mitigation of the unstable cut and fill slopes will include recontouring or flattening of slopes and seeding with mulch to stabilize and vegetate the cut and fill slopes. Drainage improvements will include drop inlets with sediment traps and outlet aprons. Temporary erosion control will include straw bale barriers, earth berms, sediment basins, and plastic sheeting depending on the locations.

Vegetation Removal - Approximately 80 trees 6" DBH or greater would be removed as a result of the four realignment areas and the drainage improvements. Other vegetation will be disturbed or removed in some areas from the realignment and slope contouring. The project proposes to mitigate these impacts by revegetation of the disturbed areas with grasses and shrub species and planting of tree species for replacement of those removed.

Traffic Flow - The construction phase of the project would cause problems with traffic movement. There would be delays and restricted traffic movement. The realignment could allow traffic to travel this section of highway at greater speeds. Standard construction traffic controls, which include warning signs, reduced speed limits, and flag persons, would be utilized to control traffic. Speed limit signs will be posted in various locations to restrict speeding on this portion of the highway.
Consistency With Applicable Plans, Ordinances, Regulations and Standards: Prior to approval of the project, the Governing Body must make written findings pursuant to Article VI(b) of the Compact regarding consistency with applicable plans, ordinances, regulations and standards of federal, state and regional agencies. The staff has analyzed applicable elements for consistency and has made the following findings:

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Staff Comments: The realignment portions of the proposed project have been minimized to only address those portions of the project area where the accident rate is higher than the State average for 2 lane rural highways. Alternatives for reducing the accident rate would require more extensive land disturbance due to more extensive realignment. The proposed project does not include substantial additional coverage and does provide for reclamation of many disturbed areas adjacent to the highway.

Required Actions and Findings:

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 of the Region.

3. Pursuant to Section 13.31 of TRPA Ordinance 81-5, the project is necessary for the protection of the public health, safety, and general welfare.

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

Conditions –

1. Incorporate the special conditions set by CTRPA approval for a speed study.

2. The replacement ratio for the removed trees shall be 2 to 1 to account for mortality of the small replacement trees.

1/12/83

Agenda Item VII C.
Dillingham Development Company, General Plan Amendment,
El Dorado County Assessor Parcel No. 22-210-28,
High Density Residential to General Commercial,
City of South Lake Tahoe, TRPA File #821264

Amendment Request: The Dillingham Development Company is requesting an
amendment to the TRPA Land Use Element of the General Plan to reclassify a 5.98
acre parcel from High Density Residential (HDR) to General Commercial (GC).

Property Location and Description: The property is located at the northeast
corner of Tahoe Keys Boulevard and Venice Drive in Tahoe Keys (see Attachment
A). The site was filled in the mid-1960's as part of the original Tahoe Keys
development. The site is flat and relatively void of vegetation, except for a
row of small pine trees along Tahoe Keys Boulevard. These trees appear to have
been planted approximately 15 years ago.

Settlement Agreement: On October 28, 1982, the TRPA Governing Board approved a
"Partial Settlement Agreement" between TRPA and the Dillingham Development
Company. This agreement was entered into as a settlement of a lawsuit filed by
the Dillingham Development Company alleging that the restrictions and
prohibitions contained in the amended Compact had the effect of depriving
Dillingham's land of all reasonable use and economic value. The land affected
by the settlement agreement consists of approximately 238 acres of undeveloped
land located in Tahoe Keys. The affected land consists of five parcels as
identified on Attachment B. The subject parcel is Parcel 2.

As part of the settlement agreement, the TRPA Governing Board has agreed to
approve a neighborhood convenience shopping center on Parcel 2. The settlement
states that the shopping center may contain convenience stores, a branch post
office, offices, restaurants, and other neighborhood business facilities of the
types described in the EIR (see Attachment C). An EIR has been prepared for the
shopping center project by the City of South Lake Tahoe to satisfy the
requirements of CEQA.

The settlement further states that land coverage on Parcel 2 shall not exceed
35%, and land coverage permitted on Parcels 3 and 4 shall be reduced by 1 square
foot for each square foot of coverage on Parcel 2 in excess of 30%.

Environmental Documents: A draft EIS has been prepared for the convenience
shopping center project to satisfy the TRPA Compact requirements. On December
14, 1982, the draft EIS was sent out for the required 60 day circulation. The
draft EIS is scheduled for a determination of technical adequacy by the Advisory
Planning Commission on February 9, 1983. The Governing Board is scheduled to
consider certification of the draft EIS and action on the project on February
23, 1983.

GG:jf
1/11/83

Agenda Item VIII A.
Dillingham Development Company
General Plan Amendment
page two

Although the Governing Board has agreed to approve a convenience shopping center on Parcel 2, in doing so the Board must find, as required by the Compact, that the significant impacts will be mitigated to a less-than-significant level or that specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the EIS for the project. The draft EIS identifies and assesses a number of feasible mitigation measures which, if implemented, will reduce the significant impacts to a less-than-significant level.

Purpose for Amendment: The amendment from HDR to GC is being requested so that the proposed shopping center is a permitted and conforming use on the subject parcel.

Land Coverage: The ordinance effectuating the amendment will also limit the allowable land coverage on the parcel to that set forth in the settlement agreement. The settlement agreement actually limits land coverage to 30% with the requirement that coverage up to 35% be transferred from Parcels 3 and 4. Although the Agency has not officially recognized the unsubdivided portions of Tahoe Keys as man-modified, the subdivided portions have been recognized as such and permitted 30% land coverage.

Local Zoning: The City of South Lake Tahoe has Parcel 2 zoned General Commercial. The proposed shopping center is a permitted and conforming use in the City's General Commercial zone district.

Land Use: To the west of the subject parcel is Tahoe Keys Unit No. 1, a single family lot subdivision which is essentially built out in the vicinity of the subject parcel. Immediately to the north along Tahoe Keys Boulevard is the Marina Cove townhouse development. Adjacent to and north of the parcel is a sailing lagoon with boat docks and parking area.

To the east along Venice Drive is Parcel 3 (9.38 acres). Parcel 3 is vacant and similar in appearance to Parcel 2. Beyond Parcel 3 is an existing commercial marina providing boat launching and berthing facilities, marina-oriented stores, warehouse space and a restaurant.

Analysis: Notwithstanding the Governing Board's agreement to approve a convenience shopping center on Parcel 2, the proposed reclassification to GC is not inconsistent with the surrounding land uses, and there would be no substantial difference in the amount of permitted land coverage. If the parcel remains HDR, it is likely that, based on a man-modified application, the permitted land coverage would be 30%. Also, it would be desirable to reclassify the parcel to GC so that the proposed shopping center is a permitted and conforming use.

1/11/83

Agenda Item VIII A.
The draft EIS identifies feasible mitigation measures which will mitigate the significant impacts to a less-than-significant level. To avoid reclassifying Parcel 2 to GC prior to the Governing Board's approval of the shopping center project as set forth in the settlement agreement, the ordinance effectuating the amendment will not be scheduled for second reading until the EIS for the project has been certified and the commercial project considered for approval.
TAHOE KEYS
VICINITY MAP - TRAFFIC
SOUTH LAKE TAHOE, CALIFORNIA

JERE E. WILLIAMS
Consulting Engineer
P.O. Box 1162  Zephyr Cove, NV 89448  (702) 598-7178

ATTACHMENT A
NEIGHBORHOOD CONVENIENCE CENTER
DILLINGHAM DEVELOPMENT CO.
SOUTH LAKE TAHOE, CALIFORNIA

PROJECT NO. 5373  5-20-82

TAHOE REGIONAL PLANNING AGENCY
MEMORANDUM

January 14, 1983

To:      The TRPA Governing Board
From:    The Staff
Subject: Environmental Assessment of Proposed Ordinance Amendment to Allow Transfer of Coverage Within the Same Watershed for Public Projects

The Addendum to the EIS for the Lake Tahoe Basin Water Quality Plan addresses the transfer of permitted coverage within the same watershed for commercial additions, remodeling and reconstruction. Agency staff finds that broadening this transfer capability to include public projects is consistent with the intent of the original provision.

The same restrictions shall apply to public projects as currently apply to commercial uses. Agency staff therefore recommends that the inclusion of public projects in Section 12.42 of TRPA Ordinance 79-10, as amended, will not result in a significant environmental effect.

NS: jf  
1/14/83

Agenda Item VIII B.
MEMORANDUM

January 11, 1983

To: The TRPA Governing Board

From: The Staff

Subject: Public Hearing to Consider Amendments to the 1981 Case-by-Case Lot Review Criteria (Land Stability)

This is a continued public hearing from the November, 1982 Governing Body meeting. Included in this packet, please find the staff's report on the case-by-case procedure which addresses the criteria for lot review (see agenda item VI B.).
J. Rybicki, Appeal of Staff Determination Not To Refund Mitigation Fee, Washoe County, APN 125-541-05, TRPA File #81878

Project History: On September 23 and 24, 1981, the Governing Body conditionally approved a Case-by-Case Review for the subject parcel. The original application was processed by Joseph and Ida Tripoli. In November, 1981, James Rybicki satisfied the conditions of approval and was issued a TRPA permit. These conditions included payment of a $8,763 mitigation fee. A building permit was issued on December 11, 1981. To date work has not commenced on the site. The building permit is valid until June 11, 1983.

The subject parcel is in an area which is currently under consideration for a redelineation of the land capability districts. The subject parcel is designated as being changed to a JwE soil type land capability 4. If the applicant were to commence process on the subject application at this time, an administrative permit for additional land coverage could be issued. The mitigation fee would be $750. Mr. Rybicki therefore requests that the difference in mitigation fees be refunded.

Issue

The Governing Body discussed the issue of mitigation fee refunds at the July, 1982 meeting. The minutes from the meeting read as follows:

E. Executive Director Report

Mr. Overeynder advised the Board that requests are being received from applicants for return of mitigation fees paid pursuant to TRPA approvals. Staff recommends that these fees, once paid, not be returned since the Agency has entered into agreements with local jurisdictions obligating these funds for completion of various erosion control projects. Should the Board so direct, staff will notify each applicant upon payment of a mitigation fee that it is nonrefundable unless the permit is revoked or otherwise removed from active status for reasons beyond the applicant's control.

MOTION by Mr. Weise that staff be directed to advise applicants that mitigation fees are forfeited if a project is not completed, unless the project is prohibited because of a jurisdictional limitation. The motion carried unanimously.

Agency staff therefore informed Mr. Rybicki that since the mitigation fee had been paid it was not refundable.

At the time the subject application was being processed, many land capability challenges were being processed in this area. The applicant chose to pursue case-by-case review, rather than a land capability challenge. He also chose to pay the mitigation fee and secure his permit more than 1 year before commencing construction.

1/10/82
NLS;sf

AGENDA ITEM IX.A.
Morrison/Martin, Appeal of Staff Rejection of an Application for Replacement of Nonconforming Coverage, Douglas County, APN 07-038-05 and APN 11-070-02, TRPA File #82-1174

Applicant: Walter Morrison/Gary Schnakenberg

Project Description: The applicant proposes to construct a one story single family dwelling and a separate guest house/garage structure. The dwelling is to be placed at the top of a rocky knoll with a garage structure at a distance of approximately 600 horizontal feet, at the base of the hill. The elevation difference between the proposed garage and dwelling is approximately 200 feet. A funicular is proposed to be used as the access from the garage to the dwelling.

Project Location: North Benjamin Drive, Kingsbury Grade.

Site Description: The applicant owns two adjacent parcels, one 16.8 acres and the other 4.2 acres, totaling 21 acres. There are a number of existing dirt roads on the property. There is a stream environment zone adjacent to the parcels, but it is well away from the proposed building sites. A majority of the parcel is very steep terrain, and there is some rock outcrop. The primary building site is in the saddle of a rocky knoll. The garage/guest house is adjacent to a road which traverses the 16.8 acre parcel. Because of unauthorized off-road vehicle use, there are a number of disturbed areas.

Review Per Section: Section 9.21 of the Nevada Side Land Use Ordinance

Land Use District: General Forest (GF)

Land Capability Classification:

CaE, Land Capability Classification 2 80,000 sq. ft.
CaF, Land Capability Classification 1A 611,600 sq. ft.
RtF, Land Capability Classification 1A 224,000 sq. ft.

Land Coverage:

Lot Area: 915,600 sq. ft. Proposed Coverage:
Allowable Coverage (1%): 9,156 sq. ft. House 3,212 sq. ft.
Existing Coverage: 34,250 sq. ft. Garage/Guest House 1,690 sq. ft.
Proposed New Coverage: 4,954 sq. ft. Road & Drive 10,560 sq. ft.
Required Reduction: 7,463 sq. ft. Tramway 342 sq. ft.

14,250 sq. ft.
- 7,463 sq. ft.

Permitted Coverage After Reduction 26,787 sq. ft.

1-13-83
NL5:md

Agenda Item IX B.
Project History: The subject application was received by the Agency on August 13, 1982. The proposal was preliminarily reviewed in the field by Agency staff in October of 1982. Based upon this review, Agency staff determined that the necessary findings for approval of replacement of nonconforming coverage could not be made with regard to the specific proposal and the application was, therefore, rejected. The applicant met with Agency staff on November 11, 1982 and expressed a desire to appeal this determination to the Advisory Planning Commission and Governing Body.

Impact Analysis and Mitigation Measures: The applicant is proposing to create new coverage on the subject parcel and remove existing coverage elsewhere on the parcel. The new coverage consists of a new single family dwelling in the saddle of a rocky knoll, while the existing coverage to be removed consists of the over-widened portions of dirt roads. In order to permit new coverage in this situation, the following findings must be made:

1. The applicant demonstrates beyond any reasonable doubt that the relocation to the alternative site will protect and enhance the natural environment of the parcel and surrounding lands to a substantially better extent than replacement on the original site.

2. The total nonconforming land coverage that exists on the parcel before the replacement will be reduced in amount by at least ten (10) percent, provided, however, that in the case of a replacement to which the provisions of subsection (b)(i) or (b)(ii) apply the reduction must be to ten (10) percent less than would otherwise be required.

The second finding can be satisfied by the applicant. Agency staff finds however, that the first finding is not satisfied by the proposal under review. The proposal will result in revegetation and stabilization of portions of an existing steep dirt road where erosion is evident. This road cannot be completely removed, however, as the U.S. Forest Service wishes to retain it as fire access. The road proceeds up the hill at a slope in excess of 30%.

The applicant is willing to use whatever construction techniques become necessary to minimize disturbance. He has contacted a helicopter service and has proposed using helicopters to transport building materials to the building site. Agency staff contends, however, that construction on top is not the most appropriate building site and will result in excessive disturbance. Some specific areas of concern include:

1. New Coverage: The proposed building site is in an area which is currently undisturbed. Construction will avoid the major rock outcrops on the knoll, but the general character of the area is very rocky (RF soil type). The dwelling construction will cause a great deal of disturbance. There is an existing disturbed area adjacent to the lower portion of the road, which staff has suggested as a more suitable building site meeting the requirements of finding #1 above. The proposed new coverage encroaches into an area which is entirely undisturbed. Agency staff contends that the new development should occur on areas already disturbed.
2. Proposed Funicular: The applicant proposes to use a tramway to access the dwelling. Only 342 square feet of coverage is being claimed for this structure. Based upon the preliminary plans submitted it appears as though construction of the tram will cause a great deal of disturbance. The structure is to be approximately 600 feet in length. It appears as though abutments will be required every 23 feet. Installation of these concrete abutments will be difficult to achieve without excessive site disturbance on a steep and rocky hill slope. It is evident from the existing erosion on site that this hill slope has a high erosion potential if vegetation is removed.

3. Utilities: Agency staff also questions the ability of the applicant to provide utilities to the primary building site without it causing excessive land disturbance. The building site is at least 900 feet from the existing utilities. Trenching up the steep slopes would result in erosion and soil loss.

The applicant is proposing to put a guest house in a General Forest Land Use District. This requires that the Governing Body make a finding of similar and appropriate that a guest house is not a specifically outlined permitted use in General Forest; it is, however in Rural Estates. If the character of the area were similar to a Rural Estate Land Use District, a finding of similar and appropriate would be recommended. Staff feels, however that the nature of this property is truely that of a General Forest Land Use Area and no guest house should be permitted.

The Advisory Planning Commission heard the project on January 12, 1983 and voted unanimously to deny the appeal but did indicate that the Commission would support the alternative of placing the primary structure where the garage is proposed.

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

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*Based on Section 9.21 of the Nevada Side Land Use Ordinance and the fact that there are reasonable doubts regarding whether the proposed siting of the structure would best protect the environment as compared to other available locations for the dwelling.

1-13-83

Agenda Item IX B.
Morrison/Martin
Page 4.

Project Analysis and Issues for Discussion: If the applicant were willing to modify the application and construct the principal residence in the approximate location of the proposed guest house/garage, staff would reevaluate the application and could probably make the necessary findings. The current proposal, however, results in excessive land disturbance in a highly critical area. The required finding states that the Agency must find, beyond any reasonable doubt that the coverage relocation protects, and in fact enhances the natural environment of the parcel and surrounding lands to a substantially better extent than replacement on the original site. Although some erosion and slope stabilization problems will be solved, staff feels that the impacts resulting from the current proposal would be greater than the existing situation. There is an alternative site, however, for which the necessary finding could be made. The required findings of Section 9.21 of the TRPA Land Use Ordinance are not satisfied in the staff’s opinion, and the current application has been rejected at a staff level.

Findings and Conditions: If the Governing Body decides to grant this appeal, the following findings and conditions are required:

1. A finding of no significant effect (Attachment A).

2. The findings necessary to permit coverage in a new location:

   a. The applicant demonstrates beyond any reasonable doubt that the relocation to the alternative site will protect and enhance the natural environment of the parcel and surrounding lands to a substantially better extent than replacement on the original site.

   b. The total nonconforming land coverage that exists on the parcel before the replacement will be reduced in amount by at least ten (10) percent, provided, however, that in the case of a replacement to which the provisions of subsection (b)(i) or (b)(ii) apply the reduction must be to ten (10) percent less than would otherwise be required.

3. The standard conditions of approval (Attachment D).

4. The following special conditions:

   a. A detailed construction sequence shall be submitted by the applicant and approved by Agency staff prior to TRPA permit issuance.

   b. Foundations shall be hand dug. Building materials shall be brought into the primary building site by helicopter.

   c. Details for revegetation and stabilization of existing slopes shall be submitted and approved prior to TRPA permit issuance.

1-13-83

Agenda Item IX B.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Rogers/Major Engineering, Appeal of Staff Decision Pursuant to the Case-by-Case Lot Review Criteria, Lot 136, Washoe County, APN 126-082-03, TRPA File #82544

Applicant: Jim Rogers/Major Engineering

Project Description: The applicant is proposing to construct a 2 bedroom, Tyrolean style single family dwelling with a two car garage.

Project Location: Lot 136, Tyrolian Village Unit #7.

Site Description: The subject parcel is an uphill lot with a slope of approximately 25% across the building site. There is a road cut which is approximately 8 feet in height. This slope is currently gnnnitted as it is designated by the subdivision map as a building site that must contain a garage. The site is well vegetated with manzanita and pines. The soil is rocky in nature.

Review Per Section: Section 12.20 of TRPA Ordinance 81-5 Article VI(b) of the TRPA Compact

Land Use District: Low Density Residential (LDR)

Land Capability Classification: Level 1A, UMF soil type

Land Coverage:

Total Lot Size: 1,600 sq. ft. (40' x 40' building envelope)
Allowable Coverage: 1,600 sq. ft.
Proposed Coverage: 1,571 sq. ft.

Building Height: Allowable: 35' + 12 ft. cross slope allowance
Proposed: 30'

Project History: The application was received in June of 1982. The site was field checked in August, 1982. Based upon a preliminary staff review, the project was considered a high risk with regard to land stability. Concern was also raised regarding the runoff potential due to the rocky nature of the soil. This preliminary decision was appealed to Philip Overeynder, Executive Director. He concurred with the staff determination.

At the appeal hearing, staff discussed the off-street parking problem in Tyrolian Village. The applicant has redesigned the plans to utilize a one car garage, thereby reducing excavation, but prefers to be able to build the original two car garage. Staff finds that both proposals are High Risk with regard to Land Stability. The applicant now wishes to appeal this determination.

1-13-83
NLS:md

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

Proximity to a Stream or Wetland: Low Risk. The parcel is away from the direct area of influence of a stream environment zone.

Runoff Potential: Moderate to High Risk. The soil in the area is rocky in nature; this coupled with the 25% slope may cause infiltration difficulties. Additional information would be required to properly assess the runoff potential.

Land Stability: High Risk. The Case-by-Case Lot Review Criteria defines a High Risk with regard to Land Stability as follows:

**High Risk (Class I)**

These areas include over-steepened slopes between 30-60% on the construction site, contain some spring and seep areas with the potential for land instability, and contain some lots with steep road cuts or fills causing access difficulties for either driveways or utilities. Conformance with local requirements for on-site parking and setback standards or construction of utilities would require excessive excavation.

A High Risk rating in any one of the four criteria precludes an application from further case-by-case review. Agency staff finds that an 8 foot road cut slope, which would result in a maximum cut of approximately 10 feet, is excessive and causes access difficulties as described in the criteria. A cut of this height requires a retaining wall with supporting footings. Construction of these footings requires substantial excavation and backfill. The area of disturbance is therefore much greater than is reflected on the plans. Additionally, the drainage system is designed so that roof drainage is "infiltrated" into this unconsolidated backfill. This would not function efficiently, and the runoff would be discharged at street level. Cuts such as this cause stability problems as well as potential interference with ground water flows. Such a cut is necessary due to the subdivision requirement that this parcel provide at least one off-street parking place.

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

The Advisory Planning Commission heard the project on January 12, 1983 and voted to uphold the appeal and suggested the following:

1. Impacts during construction be carefully monitored.
2. All construction shall occur from within the building envelope.

1-10-83

Agenda Item IX C.
3. Special consideration be given to drainage, particularly behind the garage.

4. A two car garage be allowed.

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

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

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

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

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

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

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

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

1-13-83

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

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

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

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

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

3. Findings required by Section 12.22(a) and (b) of Ordinance 81-5:

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

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

III The standard conditions of approval (Attachment D).

1-13-83

Agenda Item IX C.
IV The following special conditions:

1. The applicant must contribute to an offsite mitigation fund. This fee is based on the proposed coverage in excess of that allowed by land capability and must be paid prior to the issuance of a TRPA permit. The mitigation fee is $4,680, as calculated below:

   | Capability Level: | 1A |
   | Lot Size:         | 1,600 sq. ft. |
   | Allowed Coverage by Land Capability: | 16 sq. ft. |
   | Proposed Coverage: | 1,571 sq. ft. |
   | Coverage in Excess of Land Capability: | 1,555 sq. ft. |
   | Mitigation Fee:   | $4,680 |

2. The applicant shall redesign the project to include a 1 car garage.

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

4. Final details of the drainage plan shall be approved prior to TRPA permit issuance.
January 12, 1983

To: The TRPA Governing Board

From: The Staff

Subject: Johnson/Uppaway Estates, Request for Determination of Subdivision's Status Under Ordinance 81-1, Douglas County

Request

The applicant, Mr. Johnson, is requesting a special determination on the status of Uppaway Subdivision under TRPA Ordinance 81-1. The applicant contends that the construction of a single family dwelling should be exempt from TRPA review under Section 3.12 of the ordinance. The Governing Body is asked to find that Uppaway Subdivision is a "TRPA approved subdivision" under the criteria set forth in the ordinance. If this finding is made, construction of single family dwellings in the subdivision would be allowed without TRPA permit.

Attached is a letter from Agency legal counsel detailing why Agency staff and counsel do not find that Uppaway is subject to the provisions of Section 3.12. It should be noted that, since the adoption of Ordinance 81-1 and within this subdivision, the Agency has approved several permits for single family dwellings on good capability lots, approved two case-by-case permits and denied Mr. Johnson's case-by-case application.

Background

Mr. Johnson 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 area in early August, 1981; 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. With regard to the 1981 case-by-case lot review criteria, primarily based upon the slope, the parcel was considered a high risk with regard to three categories. This decision was appealed to the staff, and Mr. Nogle and Mr. Johnson met with staff member Gordon Barrett who was assigned to hear the appeal. 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. When the item came before the Uppaway Board of Directors, it was denied.
The project was brought before the Governing Body in February, 1982. It was denied at that time due to the high risk ratings. The item was reconsidered in April of 1982. The Board did not approve the project at that time as it was clearly a high risk (40% slope) for at least one of the case-by-case criteria.
Ms. Nora Shepard
Associate Planner
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Re: Status of Uppaway Subdivision Under Ordinance No. 81-1
of the Tahoe Regional Planning Agency

Dear Nora:

It is my understanding that Jeffrey K. Rahbeck, Esq., upon
behalf of his client, Larry Johnson, owner of Lot No. 20, in
Uppaway Estates, has requested a determination of the status of
the Uppaway Subdivision under Ordinance No. 81-1 of the Tahoe
Regional Planning Agency ("TRPA"). Specifically, it is my under-
standing Mr. Rahbeck contends Uppaway Estates is a "subdivision
approved by the agency" under Section 3.12 of Ordinance No. 81-1,
thus entitling certain residential activities therein to be
conditionally exempt from TRPA's review and approval. You, in
turn, have requested our opinion on the subject.

Section 3.12 provides that certain residential activities are
exempt:

"[I]f they are located in a subdivision approved
by the agency after February 10, 1972, which
subdivision was approved without reliance upon
Sections 7.83, 8.25(2), 8.28, 8.34 or 9.23 of the
Agency Land Use Ordinance, as amended or renumbered
from time to time. . . ." (Emphasis added.)

As information attached to Mr. Rahbeck's Request for Deter-
mination indicates, the Douglas County Board of Commissioners
approved the Uppaway Subdivision on September 24, 1974. On April 24,
1975 the project came before the TRPA Governing Body, which failed
to take action on the project through a "dual-majority" vote for
approval, rejection or modification thereof.

While there is no question but what Uppaway Estates is a
lawfully existing subdivision, it was not "approved by the agency"
January 7, 1983
Ms. Nora Shepard
Page -2-

within the meaning of Section 3.12 of Ordinance No. 81-1. Addressing a situation similar to that involving Uppaway, where the TRPA Governing Body failed to act upon certain hotel-casino projects, the Ninth Circuit United States Court of Appeals in Younger v. Tahoe Regional Planning Agency, 516 F.2d 215 (9th Cir. 1975) observed that the TRPA created by the 1969 Tahoe Regional Planning Compact was not envisioned as a bi-state zoning board whose approval was prerequisite to all land development. Its failure to act to approve the hotel-casinos thus did not render them invalid.

By the same token, TRPA's failure to approve the Uppaway Estates project did not render the subdivision invalid. TRPA's inaction simply allowed the county approval of the development to stand affirmed. No decision was ever rendered, nor final action taken, by TRPA, however, and the subdivision thus was not "approved by the agency" within the meaning of Section 3.12 of Ordinance No. 81-1.

Finally, assuming exclusively for the purposes of discussion that the TRPA Governing Body acted to approve Uppaway Estates, it would have had to do so in reliance upon a variance to land coverage under at least one of the sections of the Land Use Ordinance referred to in Section 3.12 of Ordinance No. 81-1. That reliance equally obviates reliance upon the exemption of Section 3.12.

Finally, regardless of the nature of the approval of Uppaway Estates, subdivision approval, alone, does not perfect a vested right for construction of individual residential units therein. Absent receipt of a building permit and substantial reliance thereon prior to imposition of new TRPA regulations, persons proposing new residential construction are subject to presently applicable requirements.

Accordingly, it is our opinion that the proposed construction of a dwelling by Mr. Johnson on Lot No. 20 of Uppaway Estates is subject to otherwise applicable TRPA rules and regulations for project-review.

Sincerely yours,

SHAW, HEATON, DOBSCHER & OWEN, LTD.

By

Gary A. Owen

GAO:am

cc: Jeffrey K. Rahbeck, Esq.
J. Hunziker, Finding of Substantial Conformance With Local Building Permit, Commercial Bulk Storage, Washoe County

Applicant: J. Hunziker

Summary: In 1980, prior to adoption of the amended TRPA Compact, the applicant received a building permit from Washoe County to construct two mini-warehouse buildings containing a combined square footage of 12,960, on a .75 acre parcel located in the light industrial area of Incline Village. The plans for which the building permit was issued were for single story buildings with an average height of 23 feet and 70% land coverage. The building permit was properly issued by the County, since at that time commercial projects less than 3 acres in size did not require approval by the Agency, and the permitted land coverage for commercial projects was 70%. The applicant relied on the building permit by doing some preconstruction site preparation, including the installation of some utility lines.

At the request of the applicant after adoption of the TRPA Compact, Agency staff reviewed the building permit and construction plans and considered the extent of reliance on that permit. Based on this review, Agency staff determined that the applicant had a vested right to construct the improvements depicted on the plans for which the building permit was issued without review and approval by the Agency.

In December, 1982, the applicant requested Agency staff to approve a set of construction drawings for the subject site depicting the following modifications:

1. The buildings had been redesigned to accommodate boat storage. The building footprints and their orientation on the site were modified, and the average height of the buildings was increased from 23 feet to 37.5 feet.

2. The building setback from Oriole Way was reduced from 16 feet to zero.

3. The total building square footage was reduced from 12,960 square feet to 12,600 square feet, a reduction of 360 square feet.

4. Access to the site was changed from continuous access along Oriole Way to two driveways, one at each end of the frontage along Oriole Way.

The total amount of land coverage proposed remained the same (70%).

The applicant is requesting the Agency to approve the modified plans as being substantially the same as the vested plans to avoid review of the modified plans as a new project under current TRPA requirements and regulations. If the modified plans were now reviewed as a project, the allowable land coverage would be 30%, and the project would be subject to mitigation fees.

CG: jf
1/14/83

Agenda Item X B.
Hunziker Special Determination

Washoe County Status: According to a December 30, 1982 letter from Tony Taormina, Washoe County Chief Building Inspector, the modified plans must be approved by the Architectural Review Committee and the North Lake Tahoe Fire Protection District. Once these approvals have been obtained, the Building Department will review the modified plans as an amendment to the original permit issued in 1980. This process will allow the County to count the commercial square footage against the 1980 allocation, instead of the 1983 allocation.

As of this date (January 14, 1983), the modified plans have not been approved by the Architectural Review Committee or the North Lake Tahoe Fire Protection District.

Staff Position: To approve the modified plans under the vested building permit, it must be found that said plans are substantially the same as the plans for which the permit was issued. Agency staff can make this finding relative to all the proposed modifications, except for the increase in building height and the reduction in front setback. The modified plans propose a 200 foot long wall, 35 feet in height, with no setback from the front property line. This wall will be an average distance of 9 feet from the edge of the pavement of Oriole Way. The wall will also have no visual relief and no doors or windows. The approved plans propose two 20 foot high walls, each being 108 feet long. The two buildings are separated by a 15 foot driveway. These buildings are set back 16 feet from the front setback, or 25 feet from the edge of the pavement. The building elevations fronting Oriole Way will also contain evenly spaced garage doors and a small roof overhang that will provide some visual relief.

Based on this analysis, Agency staff feels that the modified plans will have a substantially greater visual impact from the public right-of-way of Oriole Way than the vested plans.

Agency staff has discussed with the applicant the possibility of reducing the building height and increasing the front setback so they are equal to or less than those shown on the vested plans. The applicant has indicated that such modifications are not feasible.

1/14/83

Agenda Item X B.
Special Determination, Reclassification of Zephyr Heights
Subdivision to Potentially Adequate Status Pursuant to the
Case-by-Case Review Ordinance

Background: During the subdivision evaluations conducted in July of 1981, the
subdivision review team did not rate Zephyr Heights due to a building moratorium
which was in effect because of inadequacy of the water system in the Zephyr Cove
area. Douglas County has temporarily lifted this moratorium, however. Although
some progress has been made toward correcting the inadequacies with the water
system, no final resolution of this matter has been reached. Agency staff has
not yet reviewed plans for the water system improvements. Any such plan would
be subject to current Agency ordinances. Because there is no longer any local
restrictions on issuance of building permits, a subdivision rating is required
for this area.

Douglas County and the Nevada Tahoe Conservation District sponsored the Marla
Bay/Zephyr Heights Critical Area Treatment Project which involved extensive
erosion and runoff control work on the public portions of the two subdivisions.
The project incorporated slope stabilization, revegetation, drainage
stabilization, drainage routing to reduce the sediment and runoff loads from
this area. The project focused primarily on the problems associated with road
cuts, roadside drainage, and disturbed areas adjacent to the roadways. The
project has been successful in reducing the amount of sediment generated from
cut slopes and delivered to Lake Tahoe (approximately 90% reduction from road
cuts and a 74% reduction in delivered sediment).

Subdivision Evaluations:

Road Placement - Poor - Many of the roadways require switchbacks because
of the steep slopes resulting in highly dissected slopes and steep grades.
The roadway often intercepts ephemeral drainage patterns and results in
substantial cut slopes.

Drainage System - Good - The drainage system adequately handles runoff
from the natural drainage system and conveys the runoff to natural or
stabilized courses. Drain inlets, rock-lined drains, and curbs and gutters
adequately handle the natural and roadway drainage.

Maintenance - Fair - The erosion control structures and vegetation have
been adequately maintained and are in good condition. Snow removal has
resulted in some damage to erosion control structures and vegetation
primarily due to the narrow streets and steep slopes.

Downstream Impacts - Minimized - The sedimentation has been reduced in
the downstream areas and to Lake Tahoe. There is still evidence in some
downstream areas of channel cutting from runoff but this can be attributed
to unstable drainages along Highway 50 and routing of drainage out of
natural drainage courses.

GS:jf
1/12/83

Agenda Item X D.
Zephyr Heights Special Determination

Stable Cuts and Fills - Stabilized - The slope treatments within the subdivision are some of the best in the Lake Tahoe Basin. Revegetation has been fairly successful with the retaining walls and gabions providing excellent toe slope stabilization.

Stable Internal Drainage - Stabilized - The curbs and gutters provide stable drainage for road runoff. The rock-lined ditches and culvert inlets provide for energy dissipation and prevent road runoff discharges from cutting the drainage channels.

Access Difficulties - Moderate to Severe - All of the uphill lots have access difficulties in that development of those lots requires considerable excavation. Many of the driveways are steep and narrow which cause problems with snow removal and icing. Parking decks are common on most downhill lots.

Land Coverage - Not in Conformance - The subdivision is within two watersheds - McPaul Creek and an intervening area #63. The intervening area is significantly overcovered and the McPaul Creek Watershed is under the coverage allowed. On a lot-by-lot basis, the subdivision is probably not in conformance for coverage for those developed properties.

Agency staff finds that the Zephyr Heights Subdivision Units 1, 2, 3 and 4 qualify for a rating of potentially adequate. The discharge and cut slope criteria have been adequately addressed within the subdivision. Although the slopes in the area are generally over-steepened and access difficulties exist in some areas, there are isolated areas within the subject subdivision which would appear to meet the criteria for individual lots under case-by-case review. The extent of the erosion control improvements in the subdivision and the fact that roadways and drainages within an entire drainage area were treated in conformance with Best Management Practices qualify the subdivision for a rating of potentially adequate.

1/12/83

Agenda Item X D.
J.A. Wickland/Tahoe Classic Marine, Unauthorized Pier Construction and Violation of Stop Work Order, Placer County APN 98-191-16

Property Owner: Mr. J.A. Wickland  
1776 Jeffery Lane  
Carmichael, CA 95608

Contractor: Mr. Lee Barbera  
Tahoe Classic Marine  
P. O. Box 763  
Homewood, CA 95718

Violation Description: Mr. Wickland contracted with Tahoe Classic Marine to construct a pier in Lake Tahoe. On November 18, 1982 Agency staff was contacted by a neighbor in the subdivision and advised that pilings were being driven in Lake Tahoe at APN 98-191-16. Staff determined that no permits had been issued for the pier and therefore, posted a stop work order on the site on the same day. At that time four (4) pilings had been driven into place. The stop work order was followed up on November 22 with a letter requiring that the activity cease and advising Mr. Wickland that a show cause hearing would be scheduled for the January, 1983 Governing Board meeting. Mr. Barbera of Tahoe Classic Marine met with staff at the TRPA offices after receiving a letter from Mr. Wickland dated November 25, 1982. At that time Mr. Barbera was advised that TRPA could not review any new pier applications, that the four pilings would have to be removed and that in no way could a new pier be approved at this time. Staff sent Mr. Wickland another letter on December 14, 1982 explaining why TRPA could not review a new pier application and requiring Mr. Wickland to submit a security and a schedule for removing the piling. Mr. Wickland was again advised that if satisfactory compliance was not achieved a show cause hearing would be scheduled. TRPA received a letter from Mr. Wickland dated December 21, 1982 indicating that he was reviewing the entire matter and would be responding further.

On January 3, 1983 staff received a phone call from a resident of the subdivision informing the TRPA that further construction had occurred on the pier. A field investigation the same day showed that the pier was 90% completed including planking to a distance of one hundred feet (100') from the shoreline. Two barges and a crew were actively driving pilings and completing the deck work. Lee Barbera of Tahoe Classic Marine was in charge of the crew. He stated that he was working under Mr. Wickland's direction. The contractor was instructed to cease all work and a second stop work order was posted for violating the previous stop work order and to document the event.

On January 4, 1983 a meeting was held at the TRPA offices with Mr. Wickland, TRPA staff and Ron Shunk of the Army Corps of Engineers. The entire matter was discussed and Mr. Wickland was informed that a show cause hearing would be scheduled for the January Governing Board meeting.

1/12/83  
SC;sf  

AGENDA ITEM XI.A.1.
The Army Corps of Engineers and the Placer County Building Department have posted stop work orders on the site and the California Contractor's Licensing Board has been notified.

TRPA staff received a hand carried letter on January 7, 1983 at 1:45 p.m. requesting a 30 day continuance of the hearing. At that time the Governing Board Agenda had already been set.

Violation Location: APN 98-191-16, Lot 15 Moana Circle, Moana Beach Subdivision, Placer County

Site Description: Shorezone Tolerance District 7. The site lies within a mapped fishery spawning area. Authorized piers exist on each adjacent lot.

Consistency with Applicable Plans, Ordinances, Regulations, and Standards: The violation is not consistent with the TRPA Shorezone Ordinance and Governing Board directions.

The TRPA Governing Board voted at the July 23, 1981 meeting to direct TRPA staff to discontinue accepting new pier applications until the general plan update and the California State Lands Commission impact study are completed. Section 4:00 of the Shorezone Ordinance requires that a permit be obtained from the Agency for new construction of a pier.

Issues for Discussion: The pier was built without an Agency or other governmental entity issued permit.

Construction continued in violation of a posted and mailed stop work order.

The pier lies within a mapped fish spawning area.

TRPA cannot authorize the pier and be consistent with the temporary moratorium of new pier construction. Agency staff has rejected numerous applications for new piers and has caused numerous applications to not be submitted by informing people of the temporary moratorium.

Required Actions: In order for Agency legal counsel to pursue the matter through civil litigation, the Board must find that the violation has occurred.

Staff Recommendation: Staff feels that this matter is a flagrant violation of Agency ordinances. Legal counsel should pursue the matter to require that the pier construction be entirely removed, all disturbed land be restored and that the courts impose the maximum fine allowable under the TRPA Compact.
January 5, 1983

Mr. J. A. Wickland
1776 Jeffery Lane
Carmichael, CA 95608

Subject: Unauthorized Pier Construction, APN 98 191 16

Dear Mr. Wickland:

I appreciated the opportunity to meet with you and your son-in-law at our offices yesterday. The discussion of your unauthorized pier focused on the concerns I had expressed in previous correspondence and with the violation of the stop work order which was posted on your property on November 18, 1982 and mailed to you on November 22, 1982. The violation consisted of the continuation of construction on the unauthorized pier. On November 18, 1982 the work had consisted only of four steel pilings driven into the beach. During an inspection on January 3, 1983, your contractor, Mr. Lee Barbera, was actively completing the pier, having completed nearly the entire one-hundred (100) foot long pier. We consider this a serious violation of a stop work order.

I believe the Agency's position has been adequately presented both at our meeting and in the forementioned correspondence. We will not deviate substantially from that course. You had indicated that a 30 day continuation of the show cause hearing tentatively scheduled for our January Governing Board meeting would provide you with the necessary time to retain legal counsel. A letter was to be forthcoming from you to that effect. As I mentioned at our meeting, the Governing Board meeting agenda will be mailed out on Friday, January 7, 1983. The letter must reach us by that time or the hearing will remain on the agenda.

I will be sending a letter to the California Contractors Licensing Board notifying them of the circumstances as it relates to your contractor, Mr. Barbera. I will recommend that at the least, a fine be assessed.
Mr. J. A. Wickland  
January 5, 1983  
Page Two

Please contact me if you have any questions on this matter.

Sincerely,

[Signature]

Steve Chilton  
Environmental Investigator

cc: Army Corps of Engineers, Regulatory Section  
CTRPA  
Lahontan  
California Division of State Lands  
Mr. Lee Barbera  
Placer County Building Dept. w/enclosures  
California State Dept. of Fish & Game w/enclosures  
California Contractors Licensing Board
January 5, 1983

Ms. Barbara Hall  
California Contractors Licensing Board  
7171 Bowling Ave., Suite 410  
Sacramento, CA 95823

Subject: Violation of a Stop Work Order

Dear Ms. Hall:

This Agency is pursuing an enforcement action against a Lake Tahoe property owner who had a pier constructed in the waters of Lake Tahoe without any Agency, Army Corps of Engineers, Placer County or other governmental entity permit. A TRPA stop work order was placed on the project at a very early stage. Subsequently the contractor, Mr. Lee Barbera of Tahoe Classic Marine, began work again and when this Agency became aware of the continued construction, ninety percent of the structure was completed. We regard this as a flagrant abuse of law and a very poor reflection upon the many reputable contractors in the area.

We strongly encourage that the State Board take a strong stand on this matter. We are willing to provide any further information necessary for your investigation and hope that the information I have enclosed will provide the basic facts of the case. We recommend that the State Board pursue revoking Mr. Barbera's contractor's license.

Please contact me if you have any questions on this matter.

Sincerely,

Steve Chilton  
Environmental Investigator

Enclosure

cc: Army Corps of Engineers, Regulatory Section  
CTRPA  
Lahontan  
California Division of State Lands  
Mr. Lee Barbera  
Placer County Building Dept.  
California State Dept. of Fish & Game
Mr. Steve Chilton  
Environmental Investigator  
Tahoe Regional Planning Agency  
2155 South Avenue  
P.O. Box 8896  
South Lake Tahoe, California 95731

Dear Mr. Chilton:

In accordance with our discussions of last Tuesday, I am hereby requesting that the show cause hearing you have tentatively scheduled for the January meeting of the TRPA Governing Board regarding the partially constructed pier at 40 Moana Circle (Placer County APN 98-191-16) be continued until the February meeting of the Board.

Until my meeting with you, I was under the impression that TRPA's issuance of pier permits was basically a ministerial function. Given the current situation, I need to consult with legal counsel as well as contact the other governmental bodies that you informed me have jurisdiction over the shoreline in the vicinity of my property. Frankly, I do not have enough time between now and January 26 to fully analyze the scope of my problem and adequately prepare for the show cause hearing.

Should you approve my request for continuance, I guarantee that I will be present at the February TRPA Governing Board meeting. No further construction will occur on the pier until this matter has been resolved. Lee Barbera has already been instructed to remove his equipment and materials from the site and cease all work on the structure. In no way should this letter be interpreted as waiving any legal arguments, either substantive or procedural, that I may have regarding this issue.

Very truly yours,

J. Al Wickland, Jr.
December 14, 1982

Mr. J. A. Wickland, Jr.
1776 Jeffery Lane
Carmichael, California 95608

Subject: Unauthorized Pier Construction, APN 98-191-16

Dear Mr. Wickland:

Since the initial letter sent by this Agency on November 22, 1982, we have not received any written correspondence from you or your representatives concerning the unauthorized pier construction on your property on Moana Circle in Placer County. Your contractor, Mr. Barbara, did come into our office and the matter was discussed at some length.

At the TRPA Governing Board meeting on July 23, 1981 (an excerpt from the meeting minutes is enclosed), the Board voted to discontinue accepting applications for new piers. For that reason we cannot accept an application for pier construction from you. The California Division of State Lands also has suspended accepting new pier applications.

As the four pilings in place at this time are unauthorized and cannot be authorized by this Agency they must be removed immediately. To insure their removal we require that a $4,000 security and a piling removal schedule be submitted to this Agency within 30 days. The security may be in the form of a check or a bond indicating the Tahoe Regional Planning Agency as the payee. Piling removal must take place within 60 days unless it can be proven that weather conditions or other factors entirely beyond your control prevent removal at this time. The complete security will be returned, plus interest, at such time that the matter is concluded.
Satisfactory compliance must be achieved within the time period stated or the matter will be scheduled for a show cause hearing and referred to the Governing Board for action.

Sincerely,

[Signature]

Steve Chilton
Environmental Investigator

SC: md

Enclosure

cc: Army Corps of Engineers, Regulatory Section
    California Tahoe Regional Planning Agency
    California Division of State Lands
    Lee Barbera
    Lahontan Regional Water Quality Control Board
Nov 25, 1982

Lee Barbera
P.O. Box 763
Homewood, Ca 95418

Dear Lee,

I tried to reach you today and got no answer except the recorder.

I have been gone for a couple days and opened the mail today and found the attached. Please go see Mr. Chilton and discuss our situation. We need to comply at once and start the process of obtaining a pier permit.

I am leaving tomorrow AM for the far east and will return Friday, Dec 3rd. As soon as I arrive there, I will call you to see where we stand. In the meantime we better halt any further activity or the job.

Best wishes, CB
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

F. Motamedi, Noncompliance With Previous Approval to Reconstruct a Boathouse in
the Backshore, El Dorado County APN 16-131-05, TRPA File #81053

Applicant: Fred Motamedi

Project History: In August 1978 Mr. Motamedi received a TRPA permit to recon-struct an existing boathouse located in the backshore above the high water line
(6229.1). The original boathouse was 20 feet long and 18 feet wide. During a
Shorezone Development Review Committee (DRC) field trip in the fall of 1981 the
Army Corps of Engineers measured the reconstructed boat house and found it to be
24.8 feet long and 20 feet wide. The extension of approximately 5 feet in length
was constructed lakeward of the original foundation to an elevation of 6227.7,
approximately 1.4 feet below the high water line. In addition, the structure was
not reconstructed as a boat house as approved, but as living area with a dry bar
and sitting area.

The Shorezone DRC met with Mr. Motamedi on December 21, 1981 and found that the
structure was nonconforming to the regulations of the TRPA and U.S. Army Corps of
Engineers and further encroached on the State of California Public Trust Land.
The Public Trust is located between high and low water on the California side of
Lake Tahoe. Mr. Motamedi contended at that meeting the boathouse was
reconstructed to the same dimensions as the original boat house. However, the
plans approved by TRPA in 1978 depict an 18 foot x 20 foot structure. On January
18, 1982 Agency staff wrote Mr. Motamedi a letter directing him to remove that
portion of the structure located below the high water line by August, 1982.

Agency staff again inspected the site in November, 1982 and found that no work
had been done. The issue was scheduled for the December 1982 Shorezone DRC
meeting where the committee informed Mr. Motamedi that the TRPA would schedule
the matter for the January Governing Board meeting.

Project Description: The original boathouse was constructed into the side of a
cliff area along the shoreline. The structure resembled a garage and was most
likely used for the storage of boats. The new structure is detached living
space. The interior is carpeted and contains a dry bar and sitting area. The
roof of the structure is utilized as a sundeck.

Project Location: Lot #5 Rubicon Properties Subdivision

Site Description: The subject 3.28 acre parcel is moderately sloping up to the
shoreline where it drops off at a vertical distance of 40 feet to the beach area,
at approximately 80% slope. There exists a problem of accelerated erosion due to
the steep slopes. The backshore contains a single family dwelling, the subject
structure in the backshore and a pier with a boathouse in the foreshore and
nearshore.

Review Per Section: Article VI(B) of the TRPA Compact
TRPA Shorezone Ordinance Section 4.11

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AGENDA ITEM XI.2.
Land Use District: LDR

Land Capability Classification: EcE Level 4

Shorezone Tolerance District: 2

District 2 as described in the shorezone ordinance is characterized by volcanic and morainic debris shorezones with slopes 30% and over. Present and potential shoreline erosion is high as is potential for erosion and cliff collapse in the backshore.

Impact Analysis and Mitigation Measures: The subject structure is located below the high water elevation. During periods of high water the wave energy that comes into contact with the solid foundation is directed downward causing increased erosion and cliff collapse in the vicinity of the reconstructed boathouse. The total erosion problem may not be resulting from the subject structure, however, a solid structure located below the high water line does accelerate shoreline erosion and cliff collapse.

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

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<tr>
<th>Applicable Elements</th>
<th>Findings</th>
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<tr>
<td>California Side General Plan and Sub-Elements</td>
<td>Inconsistent 1</td>
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<tr>
<td>TRPA Shorezone Ordinance and Plan</td>
<td>Inconsistent 2</td>
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<tr>
<td>TRPA Water Quality Plan</td>
<td>Consistent</td>
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<td>California Water Quality Plan</td>
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<td>Federal Nondegradation Policy for Water Quality</td>
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<tr>
<td>California Air Quality Plan</td>
<td>Consistent</td>
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<tr>
<td>Federal Air Quality Standards</td>
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1 Section 7.18(b)(1)(a) of the California Side Land Use Ordinance states that in a low density residential district only one single family house may be constructed per legal lot of record. No detached living quarters are permitted.

2 Section 6.32(2) of the TRPA Shorezone Ordinance states that in a Shorezone Tolerance District 2 no new structures shall be permitted in the backshore unless it is established that such structure and its attendant construction activity will not accelerate backshore erosion or cliff collapse.
Project Analysis and Issues for Discussion: The subject structure violates the 1978 TRPA approval because the boathouse was converted into living space and extended to below the high water elevation (6229.1).

Staff Recommendation: Agency staff recommends that the Governing Board take the following action:

1) Make a finding that due to the size of the parcel, its characteristics are similar and appropriate to those parcels zoned Rural Estates thereby permitting the detached living area.

2) Direct Mr. Motamedi to remove that portion of the boathouse that extends below the high water elevation (6229.1). To assure that the work is completed correctly, plans shall be submitted depicting the work to be done and a security be posted in the amount of 150% of the cost of the required modification.

3) Authorize legal counsel to take appropriate legal action if necessary to accomplish the directives set forth above.
Section C-C, Boothouse

Scale: 1' = 60'

Existing Pier & Buoys

Scale: 1' = 100'

Sheet 3 of 3
Date: 10/25-80

Prop. Redwood Reddst, Lot 5, A.P. 16-131-05
Rubicon Estates, El Dorado
Application by:
Fred Maroni, Jr.
P.O. Box 494
Clio, CA 95711-0949
MEMORANDUM

January 11, 1983

To: The TRPA Governing Body

From: The Staff

Subject: Status of Stanley Hillel Pier, Placer County
TRPA File #82319

Executive Director Phil Overeynder met with the applicant in this matter; and it appears, at this point, that the Agency's concerns will be resolved by filing a multiple use agreement consistent with previous Governing Body action. Staff will report at the meeting on the status of that agreement.
MEMORANDUM

January 11, 1983

To: The TRPA Governing Board
From: The Staff

Subject: Status of Odenthal Jetty Removal, Washoe County
APN 122-191-45, TRPA File #81145

At the February 24, 1982 TRPA Governing Board meeting, Mr. Odenthal was directed to completely remove the subject jetty and restore the prime fish habitat in the vicinity of the harbor with rocks and cobbles and to place the remainder of the rocks above the high water line.

Mr. Odenthal submitted a security to TRPA in the amount of $3,000 on April 23, 1982, to assure that the work was done adequately. During the second week of September, 1982, a contractor was hired to remove the jetty and to restore the fish habitat. The operation required 4 days of work. Agency staff reviewed the site from the shore while the work was underway; and, based on what could be observed from the shoreline, it appeared that the work was being done satisfactorily.

On September 21, 1982, representatives from the Nevada Division of State Lands, the U.S. Army Corps of Engineers, the Nevada Department of Wildlife, and TRPA made an inspection of the subject site by boat to determine if the direction from the TRPA Governing Board had been accomplished. It was discovered that 6 to 10 large boulders that had been dismantled from the jetty had been placed randomly in the area lakeward of the jetty. The tops of some of the larger boulders were measured to be above the low water elevation (6223.1). The Army Corps of Engineers staff person suggested that the boulders would be a navigational hazard during periods of low water. It did appear from observation from the boat that the jetty had been dismantled as directed by TRPA.

On September 24, the Agency received a letter from the Nevada Division of State Lands stating that the jetty had not been dismantled and that the large boulders that were relocated created a severe navigational hazard. Further, the Division requested that TRPA pull Mr. Odenthal's $3,000 bond and have the work completed. No written comments have been received from the Army Corps regarding its position on the work that was done. TRPA staff felt that the jetty had been

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Agenda Item XI B. 2.
satisfactorily removed. In addition, staff was aware of the location of the large boulders but did not consider them to be a navigational hazard due to their close proximity to the shoreline and to the surrounding piers and jetties.

Due to the conflicting opinions of the agencies involved, a second boat trip was arranged on November 24 to review the site. Present on that inspection were TRPA staff members Greg George and Kristina Elving and Nevada State Lands representatives Jac Shaw and Keith-Ann Marien. It was Agency staff's understanding that those persons attending the field trip agreed that the jetty had been satisfactorily removed and that the only remaining concern was that some of the larger boulders had not been relocated to deep enough water and may pose a navigational hazard. Agency staff contacted the contractor, Jim Williamson, and he explained that the large boulders were too big to be picked up by his equipment. He said that to dismantle the jetty as much as possible the larger boulders were dragged off the jetty into water as deep as possible. It is Mr. Williamson's opinion that the only way these boulders can be moved further is to blast them into several pieces that may then be loaded onto a barge. Originally, these boulders had been placed on the jetty with a large front loader during periods of low water.

Staff has contacted two other contractors who do work in Lake Tahoe to determine the feasibility of relocating the large boulders. Both have stated that they could not relocate the boulders without blasting them into smaller pieces. Agency staff feels that blasting the rocks is not a preferred alternative due to the impacts on aquatic life. Additionally, it is staff's opinion that it is unlikely that a navigating vessel would ever be in the area of these boulders due to their close proximity to the shoreline and adjacent piers, jetties and buoys. The Nevada Division of State Lands has not retracted its request that the Agency pull the security to do additional work.

Agency staff has not been able to find a contractor who could do any additional work without blasting the rocks. In addition, staff feels that the work was done satisfactorily based on the February 24 direction and the conditions agreed to by all parties and that the $3,000 security should be returned to Mr. Odenthal.

1/11/83

Agency Item XI B. 2.
Greg George  
Chief, Project Review  
Tahoe Regional Planning Agency  
P.O. Box 8896  
South Lake Tahoe, California 95731  

SUBJECT: Odenthal Jetty Removal  

Dear Mr. George:

This letter is in response to your letter of December 6, 1982, regarding decisions made during the field inspection of Mr. Odenthal's jetty. We do not agree with the statements made in your letter.

It was not the understanding of those present on the boat inspection that the jetty had been removed. It was agreed, however, as you stated, the jetty was dismantled to the extent that the environmental impacts associated with the structure should not occur during high water years. The jetty has not been completely removed as originally directed. It is the opinion of this office that during low water years the impacts on the shoreline will be the same as they have been during previous low water years.

No one to my knowledge agreed that the fish habitat had been restored. I believe that all present agreed that wave action would replace the cobble, etc., and in order to compromise there would be no reason to pursue the replacement at this time.

The large boulders that were moved and placed in front of Mr. Kjelland's and that still remain lakeward of Odenthal's are a navigational hazard. While there with the Coast Guard boat (November 24), we could not navigate through the rocks to the shore. You might also remember that the Coast Guard people said the rocks were a hazard and if they were not removed, they would have to be indicated on the Coast Guard map of navigational hazards.

Mr. Williamson's opinion of the rocks is not relevant to the case. Since Mr. Williamson's equipment moved these rocks to their present location, it would, therefore, make sense that they could be moved to deeper water.
Greg George
December 10, 1982
Page 2

Your understanding regarding blasting rocks at Lake Tahoe is correct; however, it is not reasonable for Agency staff to make another determination as to the feasibility of moving the boulders. That determination has been made many times over - if Agency staff cannot comply with the Governing Board's directive then this matter should be turned over to legal counsel.

It was the understanding of this office that relocation would be pursued immediately. Agency staff and all other involved agencies have wasted entirely too much time on this project.

Our request of November 4, 1982, and our understanding of the purpose and the results of the field trip should be pursued immediately.

Sincerely,

Jac R. Shaw
Administrator

JRS/KAM/js

cc: Department of the Army, Corps of Engineers
   A. Scott Bodeau
   Department of Wildlife
   Pat Cashill
   Gary Owen
   Bennie Ferrari
   Richard Heikka
   Harold Jacobson
   Ken Kjer
   John Meder
   William Swackhamer
   Jim Robertson
CONFIDENTIAL COMMUNICATION FROM ATTORNEY TO CLIENT

LAW OFFICES
SHAW, HEATON, DOESCHER & OWEN, LTD.
304 SOUTH MINNESOTA STREET
P. O. BOX 605
CARSON CITY, NEVADA 89702
January 21, 1983

Members of the Governing Body
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Re: Memorandum Concerning Land-Acquisition Programs and Their Bearing Upon the Tahoe Regional Planning Agency and its Regional Planning Process

Dear Members of the Governing Body:

Request for Memorandum

Governing Body member, James Reed, at the Governing Body's regularly adjourned meeting on January 5, 1983 requested preparation by this office of a memorandum of guidelines relating to the land-acquisition programs and their bearing upon the Tahoe Regional Planning Agency ("TRPA") and its regional planning process. The following memorandum is an endeavor to comply with Mr. Reed's request.

Introduction

The subject of our discussion, needless to say, is as sensitive as it is difficult to address. The competing interests, both public and private, are many and varied and virtually impossible to reconcile. Compounding our task, moreover, is the lack of high-court judicial precedent squarely treating all questions coming to mind. The following, nevertheless, represents our best judgment at this juncture.

Santini-Burton Legislation

The Santini-Burton Act (P.L. 96-586, 94 Stat. 3381) represents the principal federal endeavor to acquire "environmentally sensitive lands" in the Lake Tahoe Basin. The United States Secretary of Agriculture is to act "in consultation with" the States of Nevada and California and TRPA to "prepare a map of the lands to be acquired". (Id. at §3(a)(2)(A).) The Secretary is to file "a map which in the Secretary of Agriculture's judgment best achieves the
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Members of the Governing Body
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objectives" set forth in the Act. (Id. at §3(a)(2)(B).)

Prior to commencing acquisition of any lands, the Secretary of Agriculture is required to "consult annually with state and local government agencies [and] the Tahoe Regional Planning Agency as to the necessity for such acquisition, the potential impacts on state and local government, and other appropriate aspects of the acquisition". (Id. at §3(a)(3); emphasis added.)

With respect to the California portion of the Lake Tahoe Basin, the Secretary may acquire improved lands with the consent of the owner or upon a finding by the Secretary that "such lands are being used, or that an imminent threat exists that they will be used, in a manner detrimental to the preservation of the existing water quality of the basin". (Id. at §3(c)(1).) No improvement consisting of a single-family dwelling, however, may be acquired without the consent of the owner unless:

"[T]he Secretary of Agriculture with the concurrence of the Tahoe Regional Planning Agency finds that (A) a change in the use of such dwelling has occurred subsequent to the date of enactment of this act or that such a change in use is threatened, and (B) in the case of a single-family dwelling having a change or threatened change in use but maintained as a single-family dwelling, such change or threatened change will result in a detriment to the preservation of the existing water quality of the basin."
(Id. at §3(c)(2); emphasis added.)

The foregoing findings by the Secretary of Agriculture are required to be made "[a]t such time as the Tahoe Regional Planning Agency has adopted final requirements for the protection of the water quality of the basin". (Id. at §3(c)(3).) The findings, moreover, must be "in a manner consistent with" TRPA's "requirements for the protection of water quality of the basin". (Id.)

Tahoe Area Land Acquisition Commission and Lake Tahoe Acquisitions
Bond Act of 1982

Tahoe Area Land Acquisition Commission ("TALAC")

Chapter 833 of the Statutes of 1980 of the State of California (Assembly Bill No. 2873) created the TALAC "to study all aspects of a state land purchase program for the Lake Tahoe region and to report thereon to the Legislature and the Governor, together with recommendations thereon in accordance with the provisions of this act". (Id. at §3.) The TALAC is required to study and make recommendations
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concerning the use of funds which may become available to the state for purchasing land to protect the resources of Lake Tahoe, including funds available pursuant to the Lake Tahoe Acquisitions Bond Act of 1982. (Id. at §5, as amended, §2, Ch. 519, Statutes of 1982.)

The TALAC's study and recommendations, culminating in a report to be submitted to the California State Legislature in 1983, are to address the following questions, among others:

1. What agency or agencies should be created or designated to make land purchases in the Lake Tahoe region?

2. How should the lands acquired be managed?

3. What priorities should be set for land purchases so as to best serve the need to protect water quality and other resources of the region?

Lake Tahoe Acquisitions Bond Act of 1982

The Lake Tahoe Acquisitions Bond Act, added by Chapter 305 of the Statutes of 1982 (Senate Bill No. 12), is codified in California Government Code §§66950 et seq. Section 66957 of the code provides that moneys in the Lake Tahoe Acquisitions Fund shall be available for expenditure by a new or existing federal, state, regional or local agency, or any combination thereof, to be designated in accordance with the recommendations of the TALAC.

The purposes for which moneys in the Lake Tahoe Acquisitions Fund may be expended include, among others, acquisition of undeveloped lands threatened with development that will adversely affect the Tahoe region's natural environment, or will adversely affect public lands in the vicinity of the development. (Cal. Govt. Code §66957(a).) The law provides, however, that acquisitions pursuant to its authority "are not intended to replace, wholly or partially, the exercise of any authority conferred by law for the protection of the region's natural environment. . . ." (Id.)

Moneys in the Lake Tahoe Acquisitions Fund "shall not be used to acquire land which has been designated and authorized for purchase by the United States Forest Service". (Cal. Govt. Code §66957(c).)

Finally, the law provides that "[i]f the value of any land to be purchased by the agency has been substantially reduced by any
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statute, ordinance, rule, regulation or other order adopted after January 1, 1980, by state or local government for the purpose of protecting water quality or other resources in the region, the agency [designated through recommendation of TALAC] may purchase the land for a price it determines would assure fairness to the landowner". (Cal. Govt. Code §66959.)

TRPA's Interface with Acquisition Programs

TRPA can scarcely ignore the Santini-Burton and TALAC programs. Indeed, the Santini-Burton Bill specifically requires the Secretary of Agriculture to consult TRPA for various purposes. The TALAC program is not so direct, but it appears inevitable that the TALAC, in preparing its study of land purchase, will seek information from TRPA.

TRPA's wealth of environmental knowledge and data appears the cornerstone of TRPA's involvement with the acquisition programs. We see no reason why TRPA, at the behest of the Secretary of Agriculture or the TALAC, should refuse to freely cooperate by supplying such vital information. We caution, however, that service as a source of information must be distinguished and assiduously kept distant from advocacy of acquisition.

While the Santini-Burton Bill, at first glance, appears to involve TRPA to a greater degree, we do not so interpret it. The legislation's provisions relating to "consultation", "concurrence", and "findings", appear to simply require the Secretary of Agriculture to seek all available information, not only from TRPA but state and local government, prior to making various decisions. Parallel dynamics pertain to the Secretary of Agriculture's reliance upon TRPA's requirements for protection of water quality in the region. Those requirements are prescribed by TRPA in an independent planning endeavor, wholly unrelated to Santini-Burton's acquisition program.

A potentially troublesome aspect of Santini-Burton is the requirement in §3(a)(3), above, that the Secretary of Agriculture consult TRPA and others "as to the necessity for such acquisition". (Emphasis added.) We again caution that TRPA should not express necessity in terms of advocacy of purchase. Were advocacy to occur, the only apparent objective bases therefor would be TRPA's regional plan and implementing ordinances, which, as we shall discuss below, legally should not depend upon or relate to acquisition of private property for public use. Advocacy, therefore, could be misconstrued as an indication or indeed concession by TRPA that its plan and
ordinances are founded upon an exercise of eminent domain, albeit by an entity other than TRPA. We thus assume that "necessity" for purposes of this provision is confined to an innocuous although meaningful expression of opinion that, regardless of the provisions of TRPA's plans and ordinances, the information possessed by TRPA indicates that, from the standpoint of optimum environmental protection, the pertinent land should remain undeveloped. The focus is thus again upon TRPA's wealth of environmental data and documentation. We feel any such expression of opinion should be accompanied by an appropriate written caveat or disclaimer that, in rendering it, TRPA has no power to acquire the property, thus does not intend to acquire it, and does not urge or suggest that another entity purchase it.

Acquisition and the Land-Use Planning and Regulatory Process

While many dynamics of the relationship between acquisition and land-use planning and regulation have yet to receive high-court disposition, certain principles have been distilled to date. For example, it is clear that TRPA has no power of eminent domain. Moreover, a land-use planning and regulatory agency, such as TRPA, cannot exercise its zoning powers in a fashion precipitating an exercise of the power of eminent domain. Nor can TRPA, or any similar agency for that matter, exercise its zoning power in a manner designed to lower the value of property for the very purpose that it be subsequently acquired for an extraordinarily low purchase price.

The circumstances surrounding this issue are especially complex at Lake Tahoe. While we have TRPA on the one hand, an entity without the power of eminent domain, vested exclusively with authority to plan and zone property, there exist at least two active land-acquisition programs in the very region comprising TRPA's jurisdiction. To further blur the picture, the acquisition programs depend on an identification of sensitive lands within the region, whose development would jeopardize Lake Tahoe's water quality and other magnificent resources. Ironically, identification of such sensitive lands is also one of the chief, if not the chief, tasks of TRPA's land-use planning and regulatory endeavor. Indeed, during past programs, not to mention the planning update presently underway, TRPA has identified, to one degree or another, various areas of such sensitive lands and thus can likely expect requests for such information from the acquiring entities.

The comparatively recent decisions by the California and United States Supreme Courts in Agins v. City of Tiburon, 24 Cal.3d 266, 157 Cal.Rptr. 372 (1979), affirmed, 447 U.S. 255, 65 L. Ed.2d 106
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100 S.Ct. 2138 (1980) appear to indicate that, during the course of good-faith municipal planning, the inclusion of real property for public use in the general plan does not give rise to a cause of action for inverse condemnation. At the same time, however, Agins pertained to a city, an entity possessing the power of eminent domain, which was held not to have committed an act of inverse condemnation simply by studying acquisition of the plaintiff's land, issuing bonds to finance purchase of general areas of land within the city, and commencing and subsequently abandoning eminent domain proceedings against the pertinent property. A different result would perhaps have occurred had the city engaged in some form of unreasonable delay in commencing the eminent domain proceedings or some other improper conduct relating to them, unfairly resulting in a loss of property value.

Thus, it is difficult and sensitive enough in attempting to reconcile the powers of acquisition and land-use regulation when dealing with an entity possessing both types of authority. The difficulty is compounded when you address an agency such as TRPA, possessing abundant land-use regulatory powers, but no power to acquire property. One compounding feature is manifest: when you have no authority to acquire land but you nevertheless plan or zone with acquisition in mind, you must concede there is a possibility acquisition will never occur. The ultimate taking, an action over which you have no control, could be indefinitely delayed. Were that delay to occasion a marked drop in property values, at least allegations of some TRPA responsibility could be expected. As we have noted on numerous occasions, there presently exist allegations that TRPA adopted its original regional plan for the purposes of downzoning property in order that it might be purchased at a windfall price by acquiring entities within the region.

Recommendations

We recommend the following:

1. Leave the planning of acquisition to the agencies possessing authority to execute the plan. If you feel compelled to designate certain areas appropriate for acquisition, we recommend it be pursuant to a request by officials in charge of the Santini-Burton and TALAC programs.

2. If you receive such a request from those or other acquiring entities, cooperate to the fullest by providing the information requested, accompanying it, however, with a written caveat or disclaimer that the information was requested by the
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particular acquiring agency, and that, by providing it, TRPA, an entity without the power of eminent domain, does not advocate the purchase, nor administer a land-use planning and zoning program that suggests or requires such purchase. In short, do not extend TRPA's cooperation beyond the service of providing information.

3. Do not plan or zone land for purposes of acquisition. Your planning and zoning must be strictly independent of any notion of acquisition, turning upon provision of a reasonable, beneficial use under all the circumstances. Those circumstances, especially at Lake Tahoe, of course, are numerous and varied and lend themselves to a broad spectrum of land-use regulatory measures presently under study by the planning staff.

Request for Confidentiality

Due to the pendency of litigation relating to many of the issues discussed in this memorandum, we respectfully request that the contents hereof remain strictly confidential and be treated as a matter within the attorney-client privilege. Thank you.

Respectfully submitted this 24th day of January, 1983.

SHAW, HEATON, DOESCHER & OWEN, LTD.

By

Gary A. Owen

GAO:am
MEMORANDUM

January 10, 1983

To: The TRPA Governing Body
From: The Staff
Subject: Regional Plan Development

Agenda Item XII A.

Agency staff is continuing to develop the Regional Plan and accompanying environmental impact statement. An update will be provided Board members on status of the alternatives and the EIS document.

RS:jf
1/10/83

Agenda Item XII A.
Status Report On Land Capability Redelineations

The subject redelineation maps which were scheduled for Governing Board review this month have been delayed for the following reasons.

1. Additional information on the location of mapped stream environmental zones is being incorporated. Currently the SEZ's are not reflected on the Agency land capability maps.

2. The redelineation maps have been incorporated with the existing land capability maps and some discrepancies have occurred. In particular one boundary line has been shifted which results in an area previously shown as an Umpa soil type with slopes greater than 30% (UmF) now being shown as an Inville Soil Type. The slopes in this area exceed 30% and the land capability system does not have a classification category for Inville soils with slopes in excess of 30%. The closest Inville soil type is IsE which includes slopes up to but not in excess of 30%. The IsE land capability district is a level 4 which would not be consistent with the natural sensitivity of a site with slopes in excess of 30% even with Inville type soils.

The Agency staff has requested that the team reanalyze this area prior to Governing Board action on the redelineation.

The potential recommendations of the team are:

1. Even with the excess steepness of the slopes that this area be included in the IsE soil type with a land capability designation of level 4.

2. Inclusion of this area within another soil & slope group which more accurately reflects the natural sensitivity. This may result in retention of the existing soil & slope grouping (UmF) rather than redelineating.

3. The creation of a new soil and slope group (IsF) which would accurately reflect the soil type and sensitivity of slopes in excess of 30%. The potential land capability classification would be 1 or 2.

The results of the teams analysis will be presented along with the redelineation maps at the February 1983 meeting.
January 13, 1983

To: TRPA Governing Body

From: The Staff

Subject: Redesignation Request for Attainment Status
        Under the Federal Clean Air Act, Agenda Item XII C.

The Environmental Protection Agency (EPA) designated the entire Lake Tahoe Basin as a nonattainment area for carbon monoxide on March 3, 1978. This designation was requested from the California Air Resources Board (ARB) and Nevada Division of Environmental Protection (NDEP) under Section 107(d)(1) of the Federal Clean Air Act.

Since 1978, air quality monitoring and modeling data have shown that the carbon monoxide air quality problem is limited to the U.S. 50 corridor in South Lake Tahoe. This information is included in the Federal Air Quality Plan adopted by the Governing Board in August, 1982. As a result, the Placer County Board of Supervisors has formally requested redesignation of Placer County to attainment.

Agency staff discussed this issue with the APC in November, 1982, and the APC directed staff to proceed with the request at that time. Staff prepared a resolution to process the request and brought it back to the APC for consideration at the January 12, 1983 meeting. Stan Randolph of the California Air Resources Board stated that it may be premature to take action at this time because information being collected in the south shore area may show that the standard is being exceeded in Placer County. The APC passed a motion to defer the matter for 60 days.

If the Governing Board takes action on this matter, a finding needs to be made under the Rules and Regulations of Practice and Procedure, Article VII (7.2 APC Review). This provision requires that the Governing Body determine that a particular matter is of such urgency that the public interest requires it to act without delay and without review and recommendation of the APC.

Attachment

DN:jf
WHEREAS, the State of California, Air Resources Board, on December 2, 1977, requested, pursuant to Section 107(d)(1) of the Federal Clean Air Act, that the Federal Environmental Protection Agency designate the Placer County portion of the Lake Tahoe Air Basin as a nonattainment area for the National Ambient Air Quality Standard for Carbon Monoxide; and

WHEREAS, subsequent to the State of California's request, the Federal Environmental Protection Agency, formally designated the Placer County portion of the Lake Tahoe Air Basin as a nonattainment area for the National Ambient Air Quality Standard for Carbon Monoxide; and

WHEREAS, the California Air Resources Board has modeled ambient carbon monoxide concentrations at selected sites in the Placer County portion of the Lake Tahoe Air Basin; and

WHEREAS, the California Air Resources Board and the Placer County Air Pollution Control District have conducted ambient air monitoring for carbon monoxide at selected sites in the Placer County portion of the Lake Tahoe Air Basin; and

WHEREAS, this data demonstrates that the Placer County portion of the Lake Tahoe Air Basin is in attainment with the National Ambient Air Quality Standard for carbon monoxide and that future concentrations will not exceed this Standard;

NOW, THEREFORE BE IT RESOLVED that the Tahoe Regional Planning Agency Governing Body hereby petitions the State of California Air Resources Board and the Federal Environmental Protection Agency to redesignate the Placer County portion of the Lake Tahoe Air Basin as an attainment area for the National Ambient Air Quality Standard for Carbon Monoxide.

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency this ________________ day of January, 1983, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Chairman
MEMORANDUM

DATE: January 12, 1983

TO: TRPA Governing Body

FROM: Agency Staff

SUBJECT: U.S. Postal Service Action Plan, Agenda Item XII D.

Introduction:

The Federal Air Quality Plan adopted by the TRPA Governing Body in August, 1982 required that a study concerning a change in mail delivery be completed by November, 1982. Staff has worked with the U.S. Postal Service to complete this study. The study is conceptual in nature and is consistent with the Air Quality Plan and is attached for your review and comment.

Background:

In May of 1982, TRPA staff contacted the U.S. Postal Service to determine if the mode of mail delivery in the Basin could be changed. The purpose of this change would be to improve mail delivery service, reduce trips on the U.S. 50 Corridor, and to reduce the number of vehicle miles of travel (VMT) basinwide.

After this initial contact, staff of TRPA met with representatives of the Postal Service in June to determine if a change in service was possible. The Postal Service representatives indicated that they would be willing to consider a change in service. It was agreed that TRPA staff would write a letter requesting that the Postal Service consider a change in service, outline possible options, outline the pros and cons with each option, and provide a recommendation. This letter was mailed in the latter part of July, 1982. It was also agreed that TRPA staff would assist the Postal Service in coordinating any change in service with the various governmental agencies involved with planning matters in the Tahoe Basin.

The Postal Service hired a consultant (Dena L. Schwarte & Associates) to complete an evaluation of possible alternatives and to obtain input from local elected representatives, the public, and the local agencies in the Basin. The purpose of this evaluation was to respond to TRPA's letter. This process was completed in November, 1982 when a report was delivered to the Postal Service.

Agenda Item XII D.
The Postal Service modified this report (Action Plan) and submitted it to TRPA staff for review. TRPA staff reviewed the Action Plan and met with the Postal Service to request that a number of minor changes be made in the Plan. The Postal Service modified the Plan and then resubmitted it to TRPA.

The Postal Service would like to begin putting the Action Plan into effect in 1983. If the Postal Service is to accomplish this, they need to know the status of the Action Plan and achieve project approval of the main postal facility in the City of South Lake Tahoe by at least March 1, 1983.

**Advisory Planning Commission Action:**

The Advisory Planning Commission (APC) had a number of concerns which are outlined in Attachment A. The APC also passed a motion to continue consideration of the Action Plan to February so that the comments included in Attachment A can be addressed in an addendum to the Plan.

**Governing Board Action:**

If the Governing Board decides to take action on this matter, a finding needs to be made under the RULES AND REGULATIONS OF PRACTICE AND PROCEDURE, ARTICLE VII (V.2 APC Review). This provision requires that the Governing Board determine that a particular matter is of such urgency that the public interest requires the Board to act without delay and without review and recommendation of the APC.

If the Governing Board approves the Action Plan, a finding should also be made that the Federal 1982 Air Quality Plan adopted by the Governing Board in August, 1982 and the U.S. Postal Service Action Plan provide sufficient environmental documentation to satisfy the requirements of the TNFA Compact. Agency staff is of the opinion that, as required by the TRPA Rules and Regulations, there is sufficient evidence in the record to support a finding of no significant effect relative to implementation of the U.S. Postal Service Action Plan and, therefore, that no EIS needs to be prepared.

Staff also recommends that if the Action Plan is approved, that it be approved as an implementing element of the Federal Air Quality Plan and with the understanding that all localized impacts resulting from implementation of the plan must be mitigated to a less than significant level. Approval of the plan should be subject to the following conditions:

- The main postal facility and neighborhood delivery centers be reviewed and evaluated for their potential environmental consequences on an individual basis.

- The locations of the first three neighborhood delivery centers and a time schedule for their construction will be agreed upon by TRPA, City of South Lake Tahoe and U.S. Postal Service as a condition of approval on the main postal facility.
- The locations of all the remaining neighborhood delivery centers be agreed upon by the affected local governmental entity, TRPA and U.S. Postal Service.

- Within six months after any neighborhood delivery center has been in operation, the U.S. Postal Service, local governmental entity and TRPA will evaluate the success of the program to determine if any modifications need to be made.

- The U.S. Postal Service will obtain any permits requested by TRPA and the local governmental entity for the main postal office facility in the City of South Lake Tahoe and for all neighborhood delivery centers.
January 13, 1983

TO: The TRPA Governing Board

FROM: The Advisory Planning Commission

SUBJECT: Agenda Item XII E - Review of U.S. Postal Service Action Plan For Mail Delivery

At its January 12, 1983 meeting, the Advisory Planning Commission reviewed the U.S. Postal Service Action Plan for mail delivery. During discussion, the APC concurred that the Action Plan is a positive step to improve the Basin's air quality and supported the concept of using the Action Plan as an implementation element of the 1982 Air Quality Plan.

However, before the APC could take positive action, the Commission felt that additional clarification and information was required. The APC continued consideration of the Plan to its February meeting and requested that the following be addressed in an addendum to the Action Plan:

- Explore additional alternatives using combinations of the alternatives presented in the Plan. The alternatives outlined are not mutually exclusive and a combination of strategies using Neighborhood Delivery Centers (NDC's) and cluster boxes for example, may be more effective, as opposed to the Neighborhood Delivery Centers (NDC's) recommended.

- Discuss the feasibility of alternatives in a more detail, addressing research, surveys, public acceptance etc. For example, document why home mail delivery is or is not feasible and how mail delivery systems affect the feasibility of alternatives.

- Include a cost analysis of alternatives addressing cost to the post office, local government (vs. snow removal costs and residents).

- Include an analysis of vehicle miles traveled (VMT) reductions and improved traffic for each alternative.

- Address the relationship between the Action Plan, 1982 Air Quality Plan, the Regional Transportation Plan and the Regional Plan.

- Regional and local agencies should review and approve post office buildings and NDC's including siting and design review. The plan should state this.
- A determination should be made whether an environmental assessment or EIS should be required for the Action Plan and/or individual projects implementing the Action Plan, or if the 1982 Air Quality Plan EIS covers the Action Plan.

Additional more technical comments on the Action Plan have been forwarded to staff.

The APC recommends that the Governing Board:

- Continue consideration of the Action Plan to its February meeting.

- Review the Plan and forward any additional comments to staff to be addressed in the addendum.

The Plan and addendum will be considered by the APC at our February meeting. We will forward our recommendations to you in February so that action can be taken. This timetable is consistent with the Postal Service's request for a determination on the Action Plan by March 1, 1983 so that implementation can begin this year.

A member of the APC will be present at the Governing Board meeting to answer any questions you may have about our recommendations.

Mike Harper, Chairman
TRPA Advisory Planning Commission
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731
(916) 541-0246

MEMORANDUM

January 11, 1983

TO: TRPA Governing Body
FROM: Agency Staff
Subject: Annual Report for the Lake Tahoe Basin Air Quality Plan (Federal Clean Air Act), Agenda Item XII E.

An annual report is required to be prepared each year and submitted to the state agency(s) responsible for air quality planning by the Clean Air Act. The purpose of the report is to evaluate progress made towards attaining the federal air quality standard(s) and implementation of measures included in federal air quality plans.

Staff has prepared a draft annual report which is attached for your review. The schedule for completing and submitting the report to California and Nevada is listed below:

- Comments from the TRPA Advisory Planning Commission (APC), Environmental Protection Agency (EPA), state agencies and local agencies due by January 28, 1983.
- APC recommendation to the Governing Board at the February 9, 1983 meeting.
- TRPA Governing Board certifies the report at the February 23, 1983 meeting.
- Submit the report to the California Air Resources Board (ARB) and Nevada Division of Environmental Protection (NDEP) in March, 1983.

DN: md
Attachment

1/11/83

Agenda Item XII E.
DRAFT ANNUAL REPORT
FOR THE
LAKE TAHOE BASIN
FEDERAL AIR QUALITY PLAN

Tahoe Regional Planning Agency
January 1983
ANNUAL REPORT
FOR THE
LAKE TAHOE BASIN
FEDERAL AIR QUALITY PLAN
CALENDAR YEAR 1982

Responsible Agency: Tahoe Regional Planning Agency
2155 South Avenue
P.O. Box 8896
South Lake Tahoe, California 95731

For Further Information Contact: Dale W. Neiman
Senior Planner
Tahoe Regional Planning Agency
2155 South Avenue
P.O. Box 8896
South Lake Tahoe, California 95731
(916) 541-0249

Abstract: This document is an annual report regarding the Lake Tahoe Basin Federal Air Quality Plan. This report is required to be prepared each year by the Clean Air Act Amendments of 1977. The purpose of the report is to evaluate progress made towards attaining the federal carbon monoxide air quality standard in the Tahoe Basin over the last six years and progress made toward funding and implementing measures to reduce carbon monoxide levels over the last year.
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**APPENDIX**

A. Feasibility Studies
I. Introduction:

The purpose of this report is to evaluate progress made towards attaining the federal carbon monoxide air quality standard in the Tahoe Basin over the last six years and to evaluate progress made towards funding and implementing the measures adopted in the Lake Tahoe Basin Federal Air Quality Plan on August 26, 1982.

There are three parts to the report which are listed below.

- What trends are we seeing in those factors that affect the amount of carbon monoxide in the air?
- Is there less carbon monoxide in the air today compared to the past?
- What measures have been funded and/or put into effect during calendar year 1982 that will reduce the amount of carbon monoxide in the air in the future?

This report is required to be prepared each year by the Clean Air Act Amendments of 1977. The purpose of the report is to evaluate if reasonable further progress is being made towards attaining the federal carbon monoxide air quality standard in the Tahoe Basin. The 1977 Amendments define reasonable further progress as annual reductions in air pollution which are sufficient in the judgement of the Environmental Protection Agency (EPA) to provide for the attainment of the federal carbon monoxide air quality standard by December 31, 1987.

The Clean Air Act also requires that a contingency plan be included in each air quality plan. The purpose of this plan is to provide a description of what measures will be developed and implemented if reasonable further progress is not being made towards the attainment of the federal carbon monoxide standard. If EPA determines that reasonable further progress is not being made, they will require that the air quality plan be revised and resubmitted to both states and EPA. The adopted Lake Tahoe Basin Federal Air Quality Plan provides that additional transit measures, ridesharing, driver advisories, parking management, indirect source review and idling restrictions be considered as contingency measures.

II. Trends in Factors Related to Carbon Monoxide Air Quality:

The carbon monoxide air quality problem in the Tahoe Basin is caused almost exclusively by automobiles. The problem is also very localized, occurring only in those areas that experience traffic congestion. The federal standard generally is only exceeded on weekends between December and February because of the increase in the number of automobiles in the South Shore area from visitors and because the weather conditions tend to create higher carbon monoxide values at that time. The weather and traffic conditions also generally limit violations of the standard to 4:00 p.m. and 12:00 midnight. Figure 1 shows those areas that are projected not to attain the federal carbon monoxide standard by 1987 unless the measures in the Plan are put into effect.
Figure 1  Areas Predicted to Exceed the Federal 8 Hour Carbon Monoxide Air Quality Standard (9 ppm) in 1987
Trends in carbon monoxide air quality can be evaluated by reviewing those factors that reduce the amount of carbon monoxide emitted from automobiles and factors related to traffic congestion. The amount of carbon monoxide emitted from automobiles can be reduced by requiring stricter air pollution controls on new automobiles (emission standards) and by inspecting automobiles to insure that they are properly tuned and that the pollution control devices are operating properly (inspection and maintenance (I/M) program). Traffic congestion can be reduced by developing measures to decrease dependency on the automobile and by making improvements to traffic flow.

During the last six years, the only measure that has decreased the amount of carbon monoxide emitted from automobiles is stricter emission standards for new cars and trucks. This program has resulted in approximately a 15 to 20% reduction in carbon monoxide emitted from vehicles driven by the public over the last six years.

There have been two significant improvements that have occurred over the last six years that decreased the number of automobile trips in the South Shore area. The first is the initiation of the Heavenly Valley Ski Bus service. The system averaged 710 riders per day between January 1 and February 28, 1982. The Heavenly Valley Ski Area spent approximately $232,000 to purchase the buses, and provides approximately $28,000 to the City of South Lake Tahoe (City) each year to operate the service. Figure 2 shows the January and February trends in ridership for the system over the last four winters.

The second significant factor that has decreased the number of trips in the South Shore area is improvements to the STAGE bus system. The City and Caltrans have provided $1,643,600 in funds for projects to improve the system since 1978. The City of South Lake Tahoe also initiated a monthly pass provision in 1981. The STAGE system averaged 2656 riders per day between January 1 and February 28, 1982. This represents a 21% increase in ridership since 1977. Figure 3 shows the January and February trends in ridership levels since 1977.

The improvements to transit have resulted in fewer trips on the U.S. 50 Corridor. Figure 4 shows trends in traffic volumes on the U.S. 50 corridor for President's Weekend at three locations and the volume that has to be reached by 1987 to attain the federal carbon monoxide standard. Figure 5 also shows the locations of each traffic counter. Trends are shown for President's Weekend because the highest carbon monoxide values are generally measured at that time. The traffic volumes have generally decreased or remained about the same since 1977 at all three locations with the exception of 1981. Traffic volumes are also shown for the third weekend in January for comparison. These trends are also similar to the President's Weekend trends.

Figure 6 shows trends in average daily traffic volumes for the month of February at two locations. February was selected to evaluate monthly trends because it usually has the most violations of the carbon monoxide standard. The volumes at the Upper Truckee River Bridge have generally remained the same since 1979. However, the volumes at the Kingsbury Grade counter have increased by approximately 4% a year.

The trends in traffic volumes over the last six years at the California locations have probably remained the same and decreased because the transit improvements have decreased the number of trips in the California portion of the
Figure 2
Total Ridership for Heavenly Valley Bus System
for January and February

Ridership

- 40,000
- 30,000
- 20,000
- 10,000
- 0


(a) Did Not Operate Due to Lack of Snow
(b) Did Not Operate Four Days Due to Weather

Total January Ridership Values
Total February Ridership Values
Figure 3
Total Ridership for Stage Bus System
for January and February

Ridership


Total January Ridership Values

Total February Ridership Values
Figure 4

Historical Traffic Volumes (4:00 to 12:00 Midnight)
Traffic Counter

1. Kingsbury Grade
2. Park Avenue
3. Upper Truckee River Bridge

Figure 5  Traffic Counters
Figure 6
Historic Average Daily Traffic Volumes for February
U.S. Highway 50 at Kingsbury Grade and Upper Truckee River Bridge

Traffic Volumes

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<td>U.S. Highway 50 at Kingsbury Grade</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Upper Truckee River Bridge</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Kingsbury Grade</td>
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<td>0</td>
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</tbody>
</table>
Basin and because the level of growth has been somewhat lower in California than Nevada.

A number of projects have also been put into effect that improve traffic flow on the U.S. 50 Corridor. The City initiated a program to prevent trucks from blocking traffic and modified chain-up control procedures on Ski Run Boulevard. The State of Nevada installed a pedestrian/vehicle separation and removed a pedestrian stop light at the South Shore casino core area. Caltrans also funded and installed an intersection modification at the U.S. 50/Sierra Blvd. intersection.

III. Trends in Carbon Monoxide Air Quality:

The improvements discussed above have generally decreased the amount of carbon monoxide in the air in the South Shore area. Figure 7 shows the highest and second highest carbon monoxide values measured at four locations over the last six years. The locations of the monitors are shown in Figure 8. In general, both the maximum and second highest values have decreased. There has also been a significant improvement in air quality at the Stateline, CA and Sonora Fire station sites. The fluctuations that have occurred are probably related to weather conditions and/or traffic volumes between winters.

Figure 9 shows the number of times the carbon monoxide standard has been exceeded at three locations. A dramatic decrease in the number of violations occurred at the Sonora Fire Station site. The number of violations at the Dunlap and Stateline, CA sites have generally remained the same.

IV. Funding and Implementation Status of the Measures Adopted in the Federal Air Quality Plan:

The purpose of this section is to evaluate progress made during calendar year 1982 to fund and implement measures designed to improve air quality with respect to carbon monoxide.

The most significant improvement in air quality planning in the Tahoe Basin was probably the adoption of the Lake Tahoe Basin Federal Air Quality Plan by the TRPA Governing Board in August, 1982 and its general acceptance by the entities responsible for funding the measures included in the Plan. Past air quality planning efforts in the Basin have been fragmented and the various jurisdictions having responsibility could not agree on a program. Staff of the City of South Lake Tahoe, District 3 Caltrans, U.S. Forest Service, Nevada Division of Environmental Protection (NDEP), Placer County Air Pollution Control District (APCD), El Dorado County APCD, California Tahoe Regional Planning Agency (CTRPA), Douglas County Planning Department, Washoe County Planning Department, Nevada Department of Transportation (NDOT), California Air Resources Board (ARB) and EPA put forth a substantial effort to develop the Plan. The South Tahoe Public Utilities District (STPUD) was also very helpful in resolving a number of issues related to the Plan.

The Air Quality Plan provided for a five year implementation program to solve the carbon monoxide air quality problem in the South Shore area. The Plan also identified projects that should be funded each year and measures that should be
Figure 7
8-Hour Average Carbon Monoxide Concentrations Recorded Between 1977 and 1982

(a) Federal Standard
(b) January - March
Figure 8  Locations of the Carbon Monoxide Air Quality Monitors
Figure 9
Violations of the 8 Hour Federal Carbon Monoxide Standard Between 1977 and 1982

(a) January — March,
studied to determine if they should be implemented. The measures identified for implementation and further study during calendar year 1982 are listed below:

**Implementation**

- Purchase two buses
- Fund five bus pullouts
- Fund eight bus shelters
- South Avenue extension
- Ski Run Avenue intersection modification
- Upgrade the computerized signalization system by installing Model 170 controllers at the Rufus Allen Boulevard, Ski Run Boulevard, and Wildwood Avenue intersections

**Further Study**

- Mail delivery
- Driver advisories
- Idling restrictions
- Pedestrian incentives

As discussed below, substantial progress was made towards funding and implementing these measures during 1982 in addition to measures identified for implementation after 1982.

A number of improvements to the STAGE system were funded during 1982. The City budgeted $150,000 to purchase two mid-size buses. The City and Caltrans have provided funds to complete 6 bus shelters and 11 pullouts. Another $72,500 has been committed to install additional bus shelters and pullouts. CTRPA also has required that 9 bus shelters and 2 bus turnouts be installed through the Indirect Source Review Program. The total cost of these improvements is approximately $286,500. Tahoe TV Cable also provided 30 hours of transportation messages for marketing. Heavenly Valley also purchased two additional buses at a cost of $61,000.

The City and Caltrans budgeted funds for the completion of the South Avenue extension and Ski Run Avenue intersection modification. The Air Quality Plan indicated that the computerized signalization system should be upgraded by installing Model 170 controllers at a number of intersections along the U.S. 50 Corridor between 1982 and 1987. Caltrans, however, decided that this improvement could be completed as one project. The cost of this project is approximately $170,000. Caltrans has committed funds to complete this project if all the approvals can be obtained by February 1, 1983. The City and Caltrans also budgeted $1,437,000 to complete intersection improvements at U.S. 50 and Third Street, O'Malley and Tallac Avenue intersections and to extend Third Street.

The U.S. Postal Service completed an Action Plan concerning a change in the mode of mail delivery. The study evaluates a number of alternatives and recommends that a number of small postal facilities be built in neighborhoods in the Basin.

Staff completed a study regarding the effectiveness of idling restrictions and driver advisories. The study regarding idling restrictions concluded that this measure would not lower the amount of carbon monoxide emitted from automobiles. However, prohibiting drive-up facilities could be an incentive to increase pedestrian traffic and likewise a disincentive to using the automobile. The
study regarding driver advisories also concluded that this measure would not be effective. Both of the studies and comments received are included in Appendix A.

A study evaluating pedestrian incentives has not been completed. Staff has requested that the City assume lead responsibility for this measure because local government can develop and implement this measure more effectively than regional government. The City has not yet responded to this request.

The California State Legislature adopted authorizing legislation in September to implement an inspection and maintenance (I/M) program in the urbanized areas of California. This measure is estimated to reduce the carbon monoxide concentrations along the U.S. 50 Corridor between 4 and 8% depending upon the location.

The California Tahoe Regional Planning Agency (CTRPA) also has $30,000 available to fund projects and another $210,000 owed from the Indirect Source Review Program. TRPA staff has been working with CTRPA and the City to identify projects that can be funded with this money to improve air quality.

Table 1 shows the measures discussed in this section, the projected completion date, the effect they are estimated to have on improving air quality, the estimated cost, and the funding agency(s).

V. Summary and Conclusions:

In general, there is less carbon monoxide in the air today than the past. This has occurred because a number of measures have been put into effect since 1977 that lowered the amount of carbon monoxide emitted from automobiles, decreased the number of trips and improved traffic flow.

There has also been substantial progress made by the City and Caltrans during 1982 to fund and implement the measures identified in the Federal Air Quality Plan. In addition, during 1982 $2,969,600 has been committed to fund measures that will improve air quality with respect to carbon monoxide in the South Shore area. The Plan estimated that the total capital cost to attain the carbon monoxide standard would be approximately $5,543,600. As a result, over 50% of the capital cost identified in the Plan has been committed by various agencies.
<table>
<thead>
<tr>
<th>Measure</th>
<th>Projected Completion</th>
<th>Estimated Air Quality Improvement</th>
<th>Capital &amp; Planning Expenditures/Agency</th>
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<tr>
<td>Inspection and Maintenance (1/4)</td>
<td>1983/84</td>
<td>N/A</td>
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<td>Mail Delivery</td>
<td>1983/84</td>
<td>1% to 6% along the U.S. 50 Corridor</td>
<td>7/U.S. Postal Service</td>
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<td>Idling Restrictions</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<td>Transit Improvements</td>
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<tr>
<td>- New Buses</td>
<td>1982/83</td>
<td>N/A</td>
<td>$150,000/SLT</td>
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<tr>
<td>- Installation of Bus Turnouts and Shelters</td>
<td>1982/83</td>
<td>N/A</td>
<td>$94,000/Caltrans and SLT</td>
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<td>- CTPRA Bus Turnout and Shelter Mitigation Projects</td>
<td>1982/83</td>
<td>N/A</td>
<td>$100,000/Caltrans and BIP</td>
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<td>- CTPRA Fishing</td>
<td>1982/83</td>
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<td>$80,000/SLT</td>
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<td>Individual Intersection Modifications</td>
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<tr>
<td>- South Avenue Extension</td>
<td>1983/84</td>
<td>5% between SLT</td>
<td>$330,000/SLT</td>
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<td>- Intersection Modification at the U.S. 50/Third Street Intersection</td>
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<td>WTE and U.S. 50</td>
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<td>- Intersection Modification at the U.S. 50/O' Malley Avenue Intersection</td>
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<td>5% between SLT</td>
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<td>$450,000/Caltrans</td>
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<td>- Transportation System</td>
<td>1983</td>
<td>5% between SLT</td>
<td>$130,000/SLT</td>
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<td>- Intersection modification at U.S. 50/Tallar intersection</td>
<td>1983</td>
<td>WTE and U.S. 50</td>
<td>$20,000/Caltrans</td>
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<td>- Upgrade of existing computerized traffic signals</td>
<td>5/1983</td>
<td>7% in the vicinity of the intersection</td>
<td>$13,500/Caltrans</td>
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<td>CTPRA Indirect Source Review South Shore Mitigation Funds</td>
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<td>- Available</td>
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<td>$2,000/Caltrans</td>
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<td>- Outstanding</td>
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CTPRA Indirect Source Review South Shore Mitigation Funds
APPENDIX A

Feasibility Studies

(Available on Request)
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 83 -

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 106 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 106 to
accomplish a change in the applicable land use district, which paragraph
shall read as follows:

"106. The land hereinafter described is situated in the State of California,
County of El Dorado and is reclassified from High Density Residential
to General Commercial.

All that portion of Sections 4 and 5, Township 12 North, Range 18
East, MDB&M, located in the City of South Lake Tahoe, County of El
Dorado, State of California, more particularly described as follows:
Beginning at the northwest corner of Parcel 3, as said Parcel is shown
on that certain Parcel Map recorded on September 1, 1971, in Book 1,
Page 4, in the El Dorado County Recorder's Office; thence along the
westerly and southerly boundaries of said Parcel 3 the following
courses, along a curve concave to the East with a radius of 290 feet
and a central angle of 12°58'56"; the chord of said curve bears S
18°17'15" E 65.57 feet, thence S 24°46'43" E 60.50 feet; thence S
21°41'16" E 65.55 feet to the beginning of a curve to the left with a
radius of 35.00 feet and a central angle of 110°36'23"; thence along
the chord of said curve S 76°59'17" E 57.55 feet; thence N 47°42'31" E
41.66 feet; thence N 52°22'17" E 156.50 feet to the beginning of a curve to the right with a radius of 400 feet and a central angle of 18°45'00"; thence along the chord of said curve N 61°44'37" E 130.32 feet; thence N 71°07'07" E 31.22 feet; thence S 36°34'55" E 198.85 feet to the beginning of a curve to the right with a radius of 20 feet and a central angle of 90°00'00"; thence along the chord of said curve S 08°25'05" W 28.28 feet to a point on the southerly boundary of said Parcel 3; thence leaving said southerly boundary S 53°25'05" W 75.00 feet to the beginning of a tangent curve to the left with a radius of 430 feet and a central angle of 28°22'25"; thence along said curve an arc length of 212.94 feet; thence along a curve concave to the northwest with a radius of 312.95 feet, a central angle of 34°25'37", and an arc length of 188.04 feet; thence S 59°28'17" W 177.72 feet; thence N 24°46'43" W 62.33 feet; thence S 65°13'17" W 60.00 feet to a point on the Easterly Right of Way of Tahoe Keys Boulevard, thence along said easterly Right of Way N 24°46'43" W 463.86 feet to the beginning of a tangent curve to the right with a radius of 540.00 feet and a central angle of 6°49'46"; thence along said curve an arc length of 64.37 feet; thence N 65°13'17" E 253.24 feet to the point of beginning and containing 5.979 acres, more or less.

Coverage on the above-described parcel shall not exceed the limits set forth under paragraph 1 B. on page 4 of the Partial Settlement Agreement between the Dillingham Development Company and the Tahoe Regional Planning Agency.”

Section 3.00 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 4.00 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
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 83-

AN ORDINANCE AMENDING ORDINANCE NO. 79-10, AS AMENDED, OF THE TAHOE REGIONAL PLANNING AGENCY IMPLEMENTING THE LAKE TAHOE BASIN WATER QUALITY MANAGEMENT PLAN; ALLOWING TRANSFER OF PERMITTED COVERAGE WITHIN THE SAME WATERSHED FOR PUBLIC FACILITIES CONSTRUCTION, USES OR ACTIVITIES OCCURRING WITHIN LAND CAPABILITY DISTRICTS 4, 5, 6, AND 7; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend Ordinance No. 79-10 of the Tahoe Regional Planning Agency, as amended, implementing the Lake Tahoe Basin Water Quality Management Plan to allow transfer of permitted coverage within the same watershed for public facilities construction, uses or activities occurring within land capability districts 4, 5, 6 and 7.

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

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

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

Section 2.00 Amendment Permitting Transfer of Permitted Coverage Within the Same Watershed for Public Facilities

Section 12.40 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency is hereby amended as follows:

Agenda Item XIV B.
12.41 Prohibition.

Except as otherwise provided in this subsection, the Agency shall accept and review applications, and issue permits, for new commercial or public facilities construction, uses and activities within the region pursuant to the Compact and otherwise applicable ordinances by the Agency. No such application shall be accepted or reviewed, and no permit thereunder issued, by the Agency unless the construction, use or activity proposes land coverage in accordance with that permitted by the pertinent land capability district. For purposes of this subsection, the term "new commercial or public facilities construction, uses and activities" includes commercial or public facilities remodeling, additions and reconstruction involving creation of new land coverage.

12.42 Exceptions to Prohibition.

Land coverage in excess of that permitted by the pertinent land capability district, and otherwise authorized by the Agency's Land Use Ordinance, may be approved by the Agency for commercial or public facilities construction, uses or activities occurring within land capability districts 4, 5, 6 and 7, provided such approval is pursuant to:

(a) Replacement of nonconforming land coverage pursuant to Section 9.21 of said Land Use Ordinance;

(b) The consolidation of the lot or parcel upon which the construction, use or activity is to occur within another lot or parcel, upon which there is to be created no additional land coverage, such consolidation resulting in land coverage in accordance with the pertinent land capability district; or

(c) The transfer, by an appropriate recorded document prescribed by the Agency, of permitted land coverage from a lot or parcel within the same watershed as the lot or parcel upon which the construction, use or activity is to occur, such transfer resulting in land coverage in accordance with the land capability district or districts applicable to the transferor and transferee lots or parcels as a whole.

Section 3.00 Interpretation and Severability.

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

Except as otherwise provided in this subsection, the Agency shall accept and review applications, and issue permits, for new commercial construction, uses and activities within the region pursuant to the Compact and otherwise applicable ordinances by the Agency. No such application shall be accepted or reviewed, and no permit thereunder issued, by the Agency unless the construction, use or activity proposes land coverage in accordance with that permitted by the pertinent land capability district. For purposes of this subsection, the term "new commercial or public facilities construction, uses and activities" includes commercial or public facilities remodeling, additions and reconstruction involving creation of new land coverage.

12.42 Exceptions to Prohibition.

Land coverage in excess of that permitted by the pertinent land capability district, and otherwise authorized by the Agency's Land Use Ordinance, may be approved by the Agency for commercial or public construction, uses or activities occurring within land capability districts 4, 5, 6 and 7, provided such approval is pursuant to:

(a) Replacement of nonconforming land coverage pursuant to Section 9.21 of said Land Use Ordinance;

(b) The consolidation of the lot or parcel upon which the construction, use or activity is to occur within another lot or parcel, upon which there is to be created no additional land coverage, such consolidation resulting in land coverage in accordance with the pertinent land capability district; or

(c) The transfer, by an appropriate recorded document prescribed by the Agency, of permitted land coverage from a lot or parcel within the same watershed as the lot or parcel upon which the construction, use or activity is to occur, such transfer resulting in land coverage in accordance with the land capability district or districts applicable to the transferor and transferee lots or parcels as a while.

Section 3.00 Interpretation and Severability.

The provisions of this ordinance shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. For this purpose, the provisions of this ordinance are hereby declared severable.
Section 4.00 Effective Date.

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

FIRST READING:

SECOND READING:

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

Ayes:

Nays:

Abstain:

Absent:

__________________________
Chairman
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 83-

AN ORDINANCE RELATING TO VARIANCES FOR MAINTENANCE AND
RECONSTRUCTION OF NONCONFORMING STRUCTURES POSSESSING
SIGNIFICANT HISTORICAL VALUE; AMENDING THE CALIFORNIA SIDE
LAND USE ORDINANCE TO PERMIT MAINTENANCE AND RECONSTRUCTION; AND
PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings.

1.10 It is necessary and desirable to amend Ordinance No. 1 of the
California Tahoe Regional Planning Agency, as amended, as it
applies to the portion of the Region located within the State of
California pursuant to Article V(e) of the Tahoe Regional
Planning Compact, as amended, to permit maintenance and
reconstruction of nonconforming structures of significant value.

1.20 This ordinance is necessary and desirable to preserve historical
facilities pursuant to the requirements of Article V(c)(3) of the
Tahoe Regional Planning Compact.

1.30 There are special conditions and circumstances in regards to the
preservation of structures possessing significant historical
value to warrant an ordinance amendment to permit maintenance and
reconstruction of such structures.

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

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

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

Agenda Item XIV C.
Section 2.00 Amendment of Ordinance No. 1 of California Tahoe Regional Planning Agency Permitting Maintenance and Reconstruction of Nonconforming Structures Possessing Significant Historical Value.

Chapter 8 of Ordinance No. 1 of the California Tahoe Regional Planning Agency, as amended, as it applies to the portion of the Lake Tahoe Region located within the State of California pursuant to Article V(e) of the Tahoe Regional Planning Compact, as amended, is hereby amended by adding new Section 8.121 thereto to read as follows:

8.121 Variance for Historically Significant Structures

In order to encourage the maintenance or rebuilding of structures possessing significant historical value, the TRPA Governing Body may grant a variance from the limitations of this ordinance to allow the rebuilding of a structure in the event of destruction by fire or other calamity, or to allow modifications or repairs to a structure; provided, the Governing Body first determines the structure possesses significant historical value and the reconstruction, modification, or repair will be in the best interests of the public and the Lake Tahoe environment and will preserve the historical design or nature of the structure and will, insofar as possible, comply with the provisions of this ordinance. Such variance shall be based on the Findings and Conditions listed below.

In no event shall any modifications permitted under this section result in or increase nonconforming land coverage, exceed the height limits of this ordinance, or expand an existing nonconforming use.

Section 3.00 Interpretation and Severability.

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

Section 4.00 Effective Date.

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

FIRST READING: December 15, 1982

SECOND READING:
PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held _______________, 1983, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

__________________________
Chairman
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Calishun Motel, Status of Compliance With
Conditions of Approval, City of South Lake Tahoe,
APN 27-170-02, TRPA File #80206

Summary: In November, 1980, the TRPA Governing Board approved the 66 unit
Calishun Motel with a special condition applicable to a 2 acre portion of the
site containing an existing trailer park. Retention of the trailer park is in
conflict with the use regulations of the Land Use Ordinance and the erosion and
The CTRPA approved the motel project and allowed the trailer park to remain due
to the benefits derived relative to maintaining existing low income housing.
The TRPA Governing Board generally agreed with the CTRPA action but placed a
condition on the TRPA approval requiring the applicant to submit a development
plan to bring the site into compliance with TRPA standards. The plan was to be
submitted within one year from the date of project approval.

In the fall of 1981, the applicant and his representatives met with the staffs
of TRPA, CTRPA and the City of South Lake Tahoe to discuss the required
development plan. It was generally agreed at that meeting that such a
development plan would be extremely difficult to prepare at that time due to the
different, and sometimes conflicting, standards of the three entities involved.

In January, 1982, the TRPA Governing Board granted the applicant a 1 year
continuance on compliance with the condition.

It is Agency's staff's position that the current situation is still
unacceptable. The 40 trailers on 2 acres far exceeds the TRPA standard of 8
units per acre; and the nonconforming, high density use results in land coverage
on the site being 90%, which far exceeds TRPA land coverage standards. To
compound the problem, there are no Best Management Practices, as required in the
208 Plan, on the trailer park site. However, Agency staff recommends that the
applicant be given a reasonable time after adoption of the Regional Plan and
implementing ordinances in which to submit the required development plan. Such
an extension will allow the plan to be developed based on the new standards and
regulations developed as part of the Regional Plan and at a time when there
should be fewer conflicting standards with which to comply. Therefore, Agency
staff recommends that the condition of approval be revised to require the
development plan to be submitted 90 days after adoption of the Regional Plan and
implementing ordinances.

GG:jf
1/14/83

Agenda Item XV B. 1.
January 3, 1983

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

Dear Chairman of the Board:

The City of South Lake Tahoe and El Dorado County have a strip of property designated as a U.S. 50 by-pass. Portions of this strip have been acquired by Caltrans. Several years ago the City and County designated the property intended for the by-pass as a transportation corridor. The City adopted a local zoning ordinance setting a TRC (Transportation Corridor) zone on the lands shown within the intended by-pass. The allowed uses within the TRC zone are limited. To date neither the City nor the State of California have indicated that the corridor is not to be used for anything except a transportation mode.

The City has experienced a property owner of a parcel which had been zoned single family use prior to the change to transportation corridor becoming eligible for a building permit through the random selection program. Subsequent to the owner gaining eligibility for a permit to build the City Council referred the subject of reconciling the possible future corridor against construction to the City Planning Commission for recommendation. One of the alternatives being considered by that body is to adopt a zone change that would permit single family residential construction upon approval of a special use permit obtained from the TRPA. At the same time this alternative was being considered, the Planning Commission referred the subject to the Tahoe Transportation District for review and comment. The District board will take up the matter at its January 5, 1983 meeting. Meanwhile, the advisory committee to this Board recommended that the matter also be considered by your agency so that appropriate comments can be submitted to the South Lake Tahoe City Council when they deliberate the recommendations of their Planning Commission.

It would be appreciated if you would discuss this at your January meeting at which time your staff can appraise you of the results of our discussion. Please do not hesitate to call upon me should you wish me to be present during your deliberations.

Sincerely,

Del Laine
Chairwoman

DL/sew

cc: Norm Woods, Councilmember
    Phil Overeynder, TRPA
Mr. Gordon W. Barrett
Senior Planner
Tahoe Regional Planning Agency
P. O. Box 8896
South Lake Tahoe, California 95731

Re: Repairs to Boathouses and Other Superstructures

Dear Gabby:

You have requested an opinion concerning the extent to which a boathouse or other superstructure may be repaired pursuant to the TRPA Shorezone Ordinance, Ordinance No. 76-3, as amended. A review of Section 17.00 ("nonconforming structures") and related provisions appears to indicate repairs to boathouses and other superstructures are to be strictly limited.

Section 17.30 provides that nonconforming "superstructures", which includes boathouses, on piers located within the nearshore or foreshore "shall be removed or made conforming on or before December 31, 1999". Section 17.40 declares, moreover, that "within the time specified by this ordinance, a nonconforming structure shall either be repaired to conform with the provisions of this ordinance or removed by the owner at his expense . . . ."

Section 17.30, alone, and when read in conjunction with 17.40, indicates that nonconforming superstructures are not to have perpetual existence. To the contrary, they are to be removed or made conforming, through repair, within a limited period of time. To be contrasted are the provisions in Section 17.10(2), relating to height and width of piers, permitting replacement of nonconforming piers, presumably through repairs, if the piers are removed, damaged or destroyed in an amount equal to 50% or less of the replacement cost thereof.

The foregoing provisions, permitting limited perpetuation of nonconforming height and width aspects of piers, but extending no similar treatment to nonconforming superstructures, appear to intend that repairs of a nature otherwise perpetuating nonconforming superstructures, such as structural repairs, not be permitted. We feel that conclusion evident not only from the provisions of Section 17.00, above, but Section 16.40,
August 31, 1982
Mr. Gordon W. Barrett

requiring that repairs to existing structures "be performed in substantial compliance with the provisions of this ordinance".

Accordingly, it is our opinion that a nonconforming superstructure may not be repaired through structural alterations or improvements in a manner otherwise perpetuating its nonconforming existence. Repairs not perpetuating such existence, however, such as repairs of a minor, nonstructural nature, would not violate the prohibition.

While the foregoing represents our best legal judgment as to the meaning and effect of the pertinent provisions of the Shorezone Ordinance, we acknowledge the lack of a totally explicit basis for our opinion. As a result, we recommend any substantial dispute concerning the foregoing interpretation be resolved through a clarifying amendment to the ordinance.

Sincerely yours,

SHAW, HEATON, DOESCHER & OWEN, LTD.

By

Gary A. Owen

GAO:am
MEMORANDUM

January 10, 1983

To: The TRPA Governing Board

From: The Staff

Subject: List of Projects Approved at Staff Level

Attached is a list of projects approved at staff level from December 2, 1982 (date of previous memo listing staff approvals) to the present. Notice of these approvals was provided to all affected property owners, and posting of the determinations and appeal procedures were followed in all cases. All approvals were granted with necessary findings and conditions.

Attachment

jf
1/10/83

Agenda Item XV B. 4.
List of TRPA Staff Approvals
12/3/82 - 1/10/83  page one

Single Family Dwellings Proposed on Lots Containing a Stream Environment Zone

1. Barbara Harootunian, Land Capability Levels 6 and 1b, 750 El Dorado Court, El Dorado County, APN 26-122-16, TRPA File #821324

2. Paul Huard, Land Capability Levels 6 and 1b, 776 El Dorado Court, El Dorado County, APN 26-141-05, TRPA File #821356

3. James Casey, Land Capability Levels 5 and 1b, 535 Pioneer Way, Placer County, APN 94-031-05, TRPA File #821340

4. Dan Goldenberg, Land Capability Levels 5 and 1b, East River Park Drive, El Dorado County, APN 36-475-03, TRPA File #821384

5. J.S. Warner, Wood Shed, Land Capability Level 6, 1494 Ormsby, El Dorado County, APN 25-271-12, TRPA File #821382

6. D. Newman, Levels 4 and 1b, Lot 177 Montgomery Estates, El Dorado County, APN 25-643-07, TRPA File #821376

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7. A. Weiss, Administrative Permit for Additional Land Coverage, Washoe County, APN 125-541-27, Lot 15, Block L, Incline Village #4, TRPA File #82494

8. Philip Gilan-Farr, Administrative Permit for Additional Land Coverage (Land Capability Challenge - Level 1A to Level 4), Washoe County APN 125-141-24, TRPA File #821054


Single Family Dwellings Reviewed Pursuant to the 1981 Case-by-Case Lot Review Criteria

10. Masterson/Jones, Lot 35, Lakeridge, Douglas County APN 03-172-10, TRPA File #82872

11. Peters/Williams, Lot 16, Tyrolia #7, Washoe County APN 126-081-26, TRPA File #821394

12. Schaffner/Kaufman, Lot 11, Block H, Country Club, Washoe County APN 124-225-11, TRPA File #821070

13. Storjohn/Smiser, Lot 16, Block D, Incline Village, Washoe County APN 125-471-03, TRPA File #82568

14. Bear/Sharp, Lot 12, Block B, Round Hill Unit #3, Douglas County APN 05-321-11, TRPA File #82890

15. Bill Ledson, Levels 1A and 1B, 801 Jennifer, Washoe County APN 125-192-13, TRPA File #82328

1/10/83

Agenda Item XV B. 4.
List of TRPA Staff Approvals
12/3/82 - 1/10/83  page two

16. Jerry Hall, Dwelling on a Lot Containing a Stream Environment Zone, Case-by-Case Review, Level 2, Kingsbury Heights #1, Douglas County APN 07-226-04, TRPA File #82518

17. Rose Asduran, Land Capability Level 2, Lot 22b, Hall Court, Douglas County APN 07-234-16, TRPA File #82824

18. I. Farootan, Dwelling, Case-by-Case Review, Land Capability Levels IA, IB, and 3, Lot 7, Block H, Country Club of Incline, Washoe County APN 124-233-07, TRPA File #81242

19. Davis, Backshore Dwelling, 4176 Ferguson, Placer County APN 92-200-12, TRPA File #82325

20. Bohannon, Pier Repair, 3655 Idlewild Way, Placer County APN 85-190-01, TRPA File #82309

21. Alpha Properties, Backshore Dwelling, Lot 12, Lighthouse Shores, City of South Lake Tahoe, El Dorado County APN 22-431-12, TRPA File #82313

22. LeBrun, Addition to a Single Family Dwelling in the Backshore, Lot 1, Lighthouse Shores, City of South Lake Tahoe, El Dorado County Assessor Parcel Number 22-431-01, TRPA File #82337

23. Mitchell, Pier Repair, Fallen Leaf Lake Road, El Dorado County APN 21-381-03, TRPA File #82321

Land Capability Challenges:

24. Ken Menzer, Lot 8, Block B, Whispering Pines, 1040 Tomahawk Trail, Washoe County, APN 126-068-08, TRPA File #82766

25. Betty Elkins, Lot 5, Block P, Incline Village #4, 673 Saddlehorn, Washoe County, APN 125-561-05, TRPA File #821196

26. Neal Ward, Lot 4, Block L, Incline Village #4, 965 Jennifer Street, Washoe County, APN 125-386-06, TRPA File #821236

27. Ben Thomas, Lot 1, Block H, Country Club of Incline, 357 Fairview Boulevard, Washoe County, APN 124-233-01, TRPA File #821238

28. Ernest Conant, Lot 12, Block C, Incline Village #1, 801 Charles Court, Washoe County, APN 125-254-08, TRPA File #821242

29. David Olingy, Lot 12, Block L, Incline Village #1A, 941 Jennifer Street, Washoe County, APN 125-373-22, TRPA File #821244

30. Arnold Hindenae, Lot 2, Block J, Country Club of Incline, First Green Drive, Washoe County, APN 122-234-05, TRPA File #82792

1/10/83

Agenda Item XV B. 4.
WHEREAS Bennie D. Ferrari, hereinafter referred to as Bennie, was appointed, effective November 1, 1979, to serve the citizens of Washoe County on the Governing Body of the Tahoe Regional Planning Agency and attended his first meeting on the 28th of that month; and

WHEREAS, in recognition of Bennie's ability to identify and summarize the significant issues facing the Governing Body and his effectiveness as a mediator, he was selected by the other members to take over the chairmanship of the Agency on April 28, 1982; and

WHEREAS Bennie's statements on assuming this office pointed out the importance of the Agency's mandate to adopt environmental threshold carrying capacities for the Tahoe Basin and the far-reaching effect such action would have on the Region's history, people and surrounding areas; and

WHEREAS the task of bringing fifteen Board members (representing six different local governments, two states, and the Federal Government) into a position of accord on the data base and environmental standards to be used as the foundation for the ultimate Regional Plan appeared to be a monumental and, at times, impossible feat; and

WHEREAS Bennie presided over the discussions, arguments, agreements and ultimate adoption of the environmental thresholds in August, 1982, with a steady hand and cool head; and

WHEREAS Bennie appropriately donned the shirt of a referee to oversee that final act of adoption, the setting of the ground rules for future actions, and the successful conclusion of a complex task; and

WHEREAS Bennie now intends to apply his talents and energies to other endeavors and enterprises and to leave the public, governmental forum;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Tahoe Regional Planning Agency hereby expresses its sincere thanks to Bennie for his service to the Agency and for his efforts on behalf of Washoe County and wishes him the very best of luck and success in the future.

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency this twenty-sixth day of January, nineteen hundred and eighty-three.

______________________________
______________________________
______________________________

FTC. (signature lines for all Governing Body members)
WHEREAS Kenneth Kjer, hereinafter referred to as Ken, was first appointed to serve as the representative from Douglas County on the Governing Body of the Tahoe Regional Planning Agency in January, 1977 and attended his first meeting on the 26th of that month; and

WHEREAS the Douglas County Commissioners, in appointing Ken to sit on said Governing Body, determined that he would "be an asset to the Agency"; and

WHEREAS, throughout his tenure with the Agency, Ken has served the citizens of Douglas County diligently, steadfastly and courageously and has indeed been an asset in his continuing efforts to represent the views of all those who reside in and visit the County; and

WHEREAS Ken has played a vital role in addressing the present and future transportation needs of the Tahoe Basin; and

WHEREAS Ken was instrumental in the acquisition of the Kahle casino site and the eventual action by the Governing Body to approve a county administrative center and community park to serve the needs of the residents and workers of Douglas County; and

WHEREAS Ken has continuously, and successfully, urged that the Board not lose sight of the need to protect public health, safety and welfare of the Basin's residents and visitors alike and to see that all persons are treated equitably;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Tahoe Regional Planning Agency does hereby thank Ken for his dedication to public service and for his efforts on behalf of the citizens of Douglas County and wishes him success in his future endeavors.

PASSED and ADOPTED this twenty-sixth day of January, nineteen hundred and eighty-three.