TRPA
GOVERNING BOARD
PACKETS

APRIL
1984
TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on April 25 and 26, 1984, commencing at 9:30 a.m. each day 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.

NOTICE IS FURTHER GIVEN that on Wednesday, April 25, 1984, commencing at 8:30 a.m. in the same location, the TRPA Finance Committee will meet to discuss the Agency's budget and work program.

Date: April 6, 1984

By: Gary D. Mickiff
Acting 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

April 25, 1984 9:30 a.m.
April 26, 1984 9:30 a.m.

NOTE: There will be a meeting of the Finance Committee at the TRPA office at 8:30 a.m. on Wednesday, April 25 to discuss the Agency's budget and work program.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV SPECIAL DETERMINATIONS

A. Determination on Status of Pre-1980 Permits Not Requiring TRPA Approval

B. Glenbrook Co., Determination on Proposed Removal of Historical Piling, Douglas County

C. Hunton/Anderson vs. TRPA, Determination of Acceptance of Proposed Litigation Settlement, Douglas County APN 07-263-14

V ENFORCEMENT

A. Show Cause Hearings

1. Tahoe Equestrian Center, Inc., Unauthorized Operation of Commercial Off-Road Vehicle Rental, Placer County APN 33-110-03 and -04, TRPA File #82002

2. Barsotti, Unauthorized Land Coverage, Construction of a Deck, Lot 71, Elks Subdivision, Douglas County APN 05-232-32

B. Reports

VI ORDINANCE - Thursday, April 26 - 9:30 a.m.

Second Reading of Ordinance Adopting and Implementing the Regional Plan

VII PUBLIC HEARING - Thursday, April 26

A. Code of Ordinances

1. Grading
2. Resource Management

3. Transportation/Air Quality

B. Plan Area Statements

VIII PLANNING MATTERS - Thursday, April 26

A. Adoption of Mitigation Fee Schedules

B. Adoption of Project Peview Filing Fee Schedules

C. Adoption of Temporary Policy Regarding Replacement of Nonconforming Land Coverage

D. Other

IX ADMINISTRATIVE MATTERS

X REPORTS

A. Finance Committee Report

B. Litigation Committee Report

C. Acting Executive Director Report

D. Executive Session

E. Legal Counsel Report

F. Governing Body Members

G. Public Interest Comments

XI CORRESPONDENCE

XII RESOLUTIONS

XIII PENDING MATTERS

XIV ADJOURNMENT
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
MEMORANDUM

Date: April 13, 1984

To: Governing Board

From: Agency Staff

Subject: Determination on Status of Pre-1980 Permits Not Requiring TRPA Approval

This item was continued from the March Governing Board meeting so that impacts of this determination upon the local governments could be assessed.

Background

Prior to the revised TRPA Compact in December of 1980, various building permits issued by local governments did not require approval by this Agency. These include single family dwellings and commercial projects on less than 3 acres. When the revised Compact became effective, many of these building activities became TRPA projects requiring the review and approval of this Agency.

Agency legal counsel has stated that if a building activity under local government permit is determined to be a project as defined in Ordinance 81-1, it is subject to TRPA review and approval unless the activity is vested. In those cases where no construction has commenced, it is legal counsel's opinion that a vested right does not exist.

Recommendation

Agency legal counsel has recommended that if property owners have maintained valid building permits within the Tahoe Basin through various renewal procedures established by local governments, it may be advisable to inform these individuals and the local building authority that they have a specified time period in which to commence construction and thereby vest their project. Should these permit holders fail to vest their projects within the time specified, they should then be subject to TRPA review and permit procedures with respect to any future building plans.

In addition, Agency staff recommends that in granting any additional time period to allow for the start of construction on these projects, the construction plans are to be submitted for TRPA review to ensure compliance with Best Management Practices.

RP:b1
4-13-84

AGENDA ITEM IV.A.
Status of Pre-1980 Permits
April 13, 1984
Page Two

Currently, there are 111 building department permits divided among the following jurisdictions:

- Douglas: 43
- Washoe: 56
- Placer: 11
- El Dorado: 1
- City of South Lake Tahoe: 0

If the Governing Board were to grant an extension of the subject local building permits through the 1984 building season, these individuals would then have 5½ months in which to at least install a foundation, followed by successive building seasons with faithful performance towards completion of their vested project. Continued on-site progress could then be required in terms of a dollar amount or a particular stage of construction for each building season.

Impacts

Building Permits in the following jurisdictions are good for the following time periods:

- Placer: 2 years - 1 year extensions
- Washoe: 1.5 years - 1.5 year extensions
- El Dorado: 2 years - 1 year extensions
- City of S. Lake Tahoe: 6 months - 6 months extension (only 1 ext)
- Douglas: 3 years - 6 months extensions

In all jurisdictions except the City of South Lake Tahoe, a building permit can remain active indefinitely through payment of extension fees for the above-noted time periods. No construction need be started to maintain permit status.

In the City of South Lake Tahoe, the permittee is given 6 months plus one 6 month extension to start construction. If no construction has started in that time period, then the permit is revoked.
Glenbrook Co., Special Determination on
Proposed Removal of Historical Pilings,
Douglas County

Project History: The Glenbrook Company submitted an application to TRPA on
January 4, 1983 to install a boat lift on the south side of the community pier
in Glenbrook. Installation and accessing the proposed lift would necessitate
removal of 20 old pilings that were once part of the historical Glenbrook pier.
The item was scheduled to be heard as a project at the regular Governing Board
meeting in February, 1983. Between the time of application submittal and the
meeting, the Agency received approximately 12 letters in opposition to the
project stating that the pilings were of major historical and aesthetic value to
Glenbrook Bay. Further, the Nevada Division of Historical Preservation and
Archeology and the California Heritage Council have stated in writing that the
historical pilings should be retained as a reminder of Glenbrook Bay's colorful
past.

At the February 1983 TRPA Board meeting, Pam Wilcox, of the Nevada Division of
State Lands, recommended that a master plan be developed by all concerned
parties for the future development in Glenbrook Bay. This concept was agreeable
to all parties and residents at Glenbrook; and the TRPA Chairman Jim Reed
therefore continued the item to a later agenda.

The Nevada Division of State Lands held four meetings (April, May, June and
July, 1983) to discuss with the interested parties a shorezone development plan
for Glenbrook Bay. The pilings were always discussed, and all parties agreed on
a compromise on which pilings should be removed and which should remain. The
shorezone master plan for Glenbrook provided for removal of the first group of
seven deteriorated pilings west of the community pier and submerged pilings
south of the pier as indicated on Attachment A, as well as other miscellaneous
pilings in the Bay deemed hazardous. Then in February, 1984, the last meeting
was held, and the Glenbrook Company representatives stated that, after further
legal research, they had concluded that the historical pilings were a liability
hazard and that additional pilings should be removed. More specifically, the
additional pilings included the 17 pilings located adjacent to the south end of
the community pier which are closest to the shoreline. Of these 17 pilings,
approximately 10 are submerged. Nevada State Lands does not object to the
submerged pilings being removed, only to those 7 or 8 which are above the
water's surface.

Review Per Section: Section 3.90 of Ordinance 81-1 which reads as follows:

The demolition of existing single family residences and accessory
structures, except historical structures, is not a "project" within the
meaning of the Compact and is exempt from the Agency's review and
approval where such demolition is pursuant to a local government permit.
Agency staff has interpreted the above section to require that removal of historical structures of any type is a project requiring that an application be submitted and reviewed by the Agency. Pursuant to this interpretation, removal of the historical pilings in Glenbrook Bay is considered to be a "project" requiring approval by the Agency.

Impact Analysis and Mitigation Measures: The historical pilings in Glenbrook Bay are considered to have general historical significance by the Nevada Division of Historical Preservation and the California Heritage Council. The pilings are reminders of the role the lumbering activity at Tahoe had on the Comstock era. The pilings are all greater than one hundred years old and are some of the only remains at Tahoe of an industry which contributed to Nevada's admittance to the Union, which was of national significance. The Historic Preservation representatives feel that the most potentially hazardous pilings may be removed; however, the pilings that remain should represent an impression of the old piers and structures that once existed. They think that removal of the pilings closest to the shoreline along the south end of the community pier would remove the impression that the old pier was once located there.

The Glenbrook Company, which owns the littoral property landward of the subject pilings, feels that the deteriorated piling along the south side of the community pier should be removed because they pose a serious threat to human safety as well as an unacceptable liability to the Company. The Company has offered to remove the pilings at its own expense. Removal of the pilings would be done by cutting them at the lake bottom elevation. This method would minimize disturbance to the lake bottom.

Removal of the pilings along the south side of the community pier would also provide increased boat access to the multiple use pier.

Issues for Discussion:

The Glenbrook Company is concerned that the people, especially children, that utilize the community pier and beach area may harm themselves on the jagged, broken pilings adjacent to the pier and beach. If an injury or death occurred as a result of harm from a piling, the Glenbrook Company assumes it will be held liable. To date, there has been no confirmation as to who is responsible for the pilings. The State of Nevada owns the property lakeward of the low water elevation (elevation 6223.1) on which some of the pilings are located, and the Glenbrook Company owns the property between high and low water where the remaining pilings are proposed to be removed.

There may be alternatives other than removing the pilings that may lessen the possibility of someone being injured on the historical structures. Such an alternative includes installation of a railing or fence along the south end of the pier and posting signs that prohibit swimming in the vicinity of the piling.

4/16/84

AGENDA ITEM IV B.
MEMORANDUM

April 16, 1984

TO: Governing Board
FROM: Agency Staff
SUBJECT: Hunton/Anderson vs. TRPA, Determination of Acceptance of Proposed Litigation Settlement, Douglas County APN 07-263-14

Attached please find a summary prepared by staff for the Litigation Committee on the subject agenda item. This is followed by information submitted by Les Berkson, the attorney for Mrs. Hunton.

This item was heard by the Litigation Committee on January 26, 1984, and then again on March 29, 1984.

NLS: mlm
attachment

Agenda Item IV, C
MEMORANDUM

DATE: February 15, 1984

TO: Litigation Committee

FROM: Agency Staff

SUBJECT: Hunton/Anderson - Determination of Vested Status on Proposed Single Family Dwelling. APN 07-263-14, 272 Ridge Drive, TRPA File #81-1074

I. Project Description: The applicant, Cho Hunton, wishes to gain a finding of vested right to construct a single family dwelling on APN 07-263-14. Litigation has been filed on the issue, and the applicant wishes to settle the matter. The applicant has agreed to perform subdivision improvements consistent with the direction of 81-5 to bring the subject subdivision up to a "potentially adequate" standard.

II. Site Description: The subject parcel is .672 acres of Land Capability 2 (CaE soil type). There is an unimproved, dirt road, an extension of Ridge Drive, which leads to the subject parcel. This road existed prior to 1972. There is an existing foundation on the parcel, which has consisted of grading and placement of stem walls. The sewer and utilities have been brought into the building site adjacent to the existing dirt road.

III. Project History: The parcel was created in 1974 when a parcel map was filed with Douglas County to create 3 parcels. The split did not require action by the Agency. Douglas County, however, was required to review the parcel map in accordance with the regulations of the TRPA. Section 9.31 of the TRPA Land Use Ordinance requires that the allowable coverages be indicated on the plans. In 1977, a foundation only permit was issued by Douglas County on APN 07-263-14. Water and sewer were installed in the Fall of 1978. The foundation work was conducted in 1980. Douglas County "reinstated" a building permit on December 2, 1982 based upon review of full plans for a single family dwelling.

In September of 1981, Mr. Lou Thomas filed an application for case-by-case review on the subject parcel. He was notified that he was not eligible for the coverage overrides for case-by-case review since the parcel was created after 1972. The parcel is therefore allowed only 1% coverage.

At approximately the same time permits were being processed on APN 07-263-14 (1977), Mr. Bartholomew contacted Douglas County with the intent of obtaining a permit on APN 07-263-20. This parcel was also created as a result of the 1974 map. Douglas County referred him to this Agency since the parcel was created after 1972 and allowable coverage was an issue. Mr. Bartholomew proceeded to process a land capability challenge so that he could gain enough coverage to build a single family dwelling. The land capability challenge was approved by the Agency on October 31, 1977, a building permit was issued and the house was built.

AGENDA ITEM XI C.
MEMORANDUM
Litigation Committee
February 15, 1984
Page Two

The possibility of proceeding with a land capability challenge was discussed with Mr. Hunton in February of 1982. Based upon some preliminary information, however, it was decided that the land capability challenge on APN 07-263-14 would not be pursued.

IV. Issues:

A. Parcel Map Issue: According to Section 9.31 of the TRPA Land Use Ordinance (the ordinance in effect at the time the parcel map was filed), when a parcel is divided, the person making the division is to calculate the land coverage allocable to each of the resulting lots or parcels and is to note such allocations in the deeds to such resulting lots or parcels and on the lot or parcel map that records such division.

When the subject map was recorded in 1974, no such coverages were indicated. According to Section 9.24, if the coverages were noted, they would have been that which is allowed by land capability, or 1% of the total lot size. The overrides in Section 9.24 (see below) apply only to subdivisions created prior to February 10, 1972:

9.24 Pre-Existing Lots in Subdivisions: The following land coverage limitations, if greater than the amounts otherwise allowed in the land capability districts in which the lot in question is located, shall apply to lots contained in any subdivision, a final map of which was approved by a local government, and where required, by the Agency, prior to February 10, 1972, provided, however, that this section shall not apply where the final map of such subdivision was approved and filed for record more than five (5) years prior to February 10, 1972 and there has been no construction of roads, sewers, or other substantial facilities serving the subdivision, or the posting of performance bonds assuring such construction, prior to February 10, 1972.

<table>
<thead>
<tr>
<th>Lot Size (in Sq. Feet)</th>
<th>Lot Coverage (in Sq. Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 9,000</td>
<td>2,600</td>
</tr>
<tr>
<td>9,001 - 13,000</td>
<td>2,800</td>
</tr>
<tr>
<td>13,001 - 15,000</td>
<td>3,000</td>
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<tr>
<td>15,001 - 30,000</td>
<td>3,200</td>
</tr>
<tr>
<td>30,001 - 40,000</td>
<td>3,400</td>
</tr>
<tr>
<td>40,001 - 86,000</td>
<td>3,600</td>
</tr>
<tr>
<td>86,001 - 172,000</td>
<td>3,800</td>
</tr>
<tr>
<td>172,001 - 430,000</td>
<td>4,000</td>
</tr>
<tr>
<td>Over 430,000</td>
<td>1% of the Lot Area</td>
</tr>
</tbody>
</table>
Additionally, Section 9.30 states that "no person shall create a lot or parcel upon which will exist more than the . . . maximum percentage of land coverage permitted by this ordinance." The dirt road which accesses the property was existing when the parcel map was recorded in 1974. It therefore appears that nonconforming coverage (over the 1% allowable) was created when the parcel map was recorded. This is inconsistent with the provisions of Section 9.30.

B. Allowable Coverage and Foundation Permit: In 1977, when Douglas County issued the foundation only permit, the total amount of coverage which was indicated as being allowed was 5,417 square feet. This is approximately 20% of the total lot size. Since the parcel is a land capability 2, the allowable coverage was actually 1% of the total lot size, rather than 20%. The application for a building permit, dated August 19, 1977, indicates that the soil type is a CaD, land capability 4. This parcel is mapped, and has been mapped since 1972, as a CaE soil type, land capability 2. The information upon which the Foundation Permit was issued was therefore incorrect.

C. Vested Rights and a Foundation Permit: It has been the consistent opinion of the Agency’s legal counsel that a vested right is only appropriate if reliance has occurred on a valid Building Permit. The issue of a Foundation Permit has arisen several times, particularly in Douglas County. Legal Counsel has indicated that if a set of full building plans is on file at the time the Foundation Permit is issued, and substantial reliance has occurred thereafter, a finding of vested right may be appropriate. If no such plans were on file, however, a vested right may not be appropriate. There is no evidence that full plans were submitted when the Foundation Permit was issued in 1977 on APN 07-263-14.

V. Proposed Settlement: Cho Hunton requests authorization from the Board to continue construction of a single family dwelling utilizing the existing foundation. As a tradeoff, the applicant has offered to install drainage and stabilization improvements on Ridge Drive to bring it up to a standard which would be classified as "potentially adequate" based upon the case-by-case review criteria. These improvements include paving of Upper Ridge Drive (300 lineal feet) providing infiltration facilities, installing a toe slope retaining wall, revegetating cut slopes and placing of some riprap. The estimated cost of these improvements is $16,000. These would extend the improved portion of Ridge Drive by 300 feet to the Hunton parcel. At this time, it is anticipated that this extension of improvements will serve only the Hunton parcel. Another parcel (APN 07-263-15) owned by Mr. Hilmer Nelson is also served by this road. No approvals have been issued and no construction has commenced on this parcel, although Mr. Nelson has filed a case-by-case review application. Since the allowable coverage is only 1%, he has not been able to pursue the application.

/sf
APPLICATION FOR BUILDING PERMIT

Date of Application: AUG. 19, 1977

Parcels existing on 2/10/72: Yes ( ) No ( ) Lot Area: 29,272

Location of Work: 497-263-14, PARCEL 2, VXMP PORTION OF SEL OF ABS OF PPL

Section 23, T13N, R16E, STATELINE, DOUGLAS CO., NEVADA

Name of Applicant: ROBERT HUNTONG

Address: P.O. BOX 1462, ZEPHYR COVE, NV. 89448

Name of Architect or Engineer: CDF ASSOCIATES

Address: P.O. BOX 1462, ZEPHYR COVE, NV. 89448

Name of Contractor: N.C. WOODS

Address: P.O. BOX 1462, SOUTH LAKE TAHOE, CA.

DESCRIPTION OF WORK

New ( ) Alteration ( ) Addition ( ) Repair ( ) Moving ( )

Planned use of building: FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

Wall Covering: Roof Covering:

Describe briefly: FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

General Plan Designation: LDR Land Capability Classification: II Cap

Impermeable Surface Allowed: 5417 Proposed: 5336 Existing: 0

Total Land Coverage: 5335 Proposed Building Height:

SF. Valuation (including plumbing, wiring, etc.): $3,000.00

I will save, indemnify and keep harmless The County of Douglas its officers, employees and agents, against liabilities, judgments, costs, and expenses which may accrue against them in consequence of the granting of permit inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

Signature of Applicant:

[Signature]

APPLICANT DO NOT FILL OUT BLANKS BELOW

Submitted Plans: ( ) Plan Substitute Forms: ( ) Not Required: ( )

Zone Z-1 Building Department Note: FOUNDATION ONLY FOR PROPOSED FPD

Approved Building Department: [Signature]

Permit Fee: $24.00 Paid: ( ) Plan Check Fee: $12.00 Paid: ( ) TOTAL: $36.00 PD

Requirements for moved buildings met: ( ) Bond Filed: ( )

Permit No: 01048 Issued 8/24/77 By: [Signature]
January 11, 1984

Mr. Larry Sevison, Chairman
Litigation Committee
Tahoe Regional Planning Agency
P.O. Box 8896
South Lake Tahoe, CA 95731

Re: Cho Hunton Litigation

Gentlemen:

This letter and the enclosures is to supplement the information supplied to the Litigation Committee at the hearing on settlement held Thursday, December 22, 1983.

The first enclosure is a letter from Douglas County verifying their position that they have issued a valid permit effective as of 1977 on which Hunton has relied in performing work.

The second enclosure is an Affidavit of Cho Hunton's former husband, Robert Hunton, verifying the work and expenditures on the subject property during 1977 and 1978. Mr. Hunton verifies that in addition to foundation plans, preliminary plans for the structure were submitted in 1977 to Douglas County. A copy of a portion of these plans is attached to Mr. Hunton's Affidavit.

Once again, it is submitted that Cho Hunton has acquired a vested right and should be allowed to complete her residence.

By request of Gary Owen I have agreed to carry the final consideration over to the February TRPA meeting. If the Committee requires any further information, please let me know.

Thank you for your consideration.

Sincerely yours,

LESTER H. BERKSON

cc: Mr. Gary Owen
    Cho Hunton
    Dave Anderson
    Litigation Committee Members
January 9, 1984

Litigation Committee
Tahoe Regional Planning Agency
Post Office Box 8896
South Lake Tahoe, California 95731

RE: Douglas County permit issued to Cho Hunton

Dear Sirs:

This Office is in receipt of a foundation permit issued August 24, 1977, and a residential permit modification, both of which pertain to Assessor's Parcel No. 07-263-14, and are attached to a complaint entitled Anderson, et al. vs. Douglas County, Nevada, et al., No. 14252, Ninth Judicial District Court of the State of Nevada, in and for the County of Douglas. After having said permit and its modification reviewed by the Douglas County Community Development Department, this office is informed that said permit is current and meets the requirements of Douglas County, Nevada, which would allow the construction of the single family residence.

Upon issuing the residential permit modification in 1981, Douglas County, Nevada, informed the applicant that the residential permit modification would relate back to the initial foundation permit issued in 1977. Douglas County, Nevada, is informed that in reliance on this foundation permit and the residential permit modification, applicant Hunton has performed work and expended funds in furtherance of its attempt to construct a residential dwelling on Assessor's Parcel No. 07-263-14. Accordingly, it is the position of Douglas County, Nevada, that applicant Hunton should be allowed to proceed to construct a single family residence on the aforementioned parcel number.

Should you have any questions, please feel free to contact me.

Sincerely yours,

Stephen C. Balkenbush
Chief Deputy District Attorney
Douglas County, Nevada

SCB:dp
AFFIDAVIT OF ROBERT HUNTON

STATE OF FLORIDA
COUNTY OF

ROBERT HUNTON, being first duly sworn deposes and says:

1. That affiant was formerly married to Cho Hunton during 1977 and 1978. That at that time affiant and Cho Hunton were the owners of parcel 2 being Douglas County Assessor's parcel 07-263-14 (subject property) which is involved before the Tahoe Regional Planning Agency Litigation Committee for determination of vested rights.

2. Presently affiant lives at Key West Seaside Resort, U.S. 1 and Boca Chica Road, Key West Florida 33040.

3. In 1977 affiant and Cho Hunton purchased the subject property for $34,675 in reliance on the issuance of a valid Douglas County building permit. That the terms of the purchase stated:

"Sale contingent upon Buyer obtaining building permit for single family residence not to exceed 3,200 square feet on or before August 25, 1977."

4. Prior to close of escrow Douglas County issued to affiant and Cho Hunton a building permit to construct a single family residence on the subject property. That although the permit issued was designated as a foundation permit for a single family residence, affiant was informed at the time of issuance of the permit by Douglas County that under Douglas County practices and procedures the permit gave affiant a vested right to complete a residence.

5. In order to obtain said permit affiant had prepared by Duke Crocket and submitted by Douglas County, foundation plans and, in addition, preliminary plans for the structure itself. A copy of a portion of the preliminary plans submitted to Douglas County is attached as Exhibit 1 to this Affidavit.

6. Affiant would not have purchased the subject property except for the fact that affiant was informed and believed that he and Cho Hunton had a permit that gave them a vested right to construct a single family residence.

7. Thereafter during 1978 affiant paid to the Kingsbury General Improvement District $850.00 for a sewer and water permit and $218.56 as an intercept fee. Copies of the checks for payment are attached as Exhibit 2.

8. During 1978 affiant had installed and paid for 265 feet of 4" sewer line and 265 feet of 1" water line to the building site on the subject property. In addition affiant had excavation and foundation work completed, all at cost of $4,914.91. Attached as Exhibit 3 are invoices and cancelled checks representing such work.

9. That the permit affiant obtained (attached as Exhibit 4) was renewed on September 14, 1978. On the permit is the wording "9/14/78 - this permit reinstated at 1/2 fee (18.00) this date see receipt #4401. That in fact the permit was current and the reinstatement was an extension of the then current permit. That to the best of
affiant's knowledge and information the word reinstatement used by Douglas County meant in fact "extension" as used in the context of the permit attached as Exhibit 4.

10. That soon thereafter affiant and Cho Hunton separated and later divorced during 1980 at which time affiant released and quitclaimed all interest to the subject property including all rights to the building permit to Cho Hunton.

Dated: December 31, 1983

[Signature]

ROBERT HUNTON

SUBSCRIBED and SWORN TO before me this 31st day of December, 1983.

[Signature]

Notary Public

[Seal]

(Notary Public, State of Florida at Large
My Commission Expires April 10, 1986
CLIFFORD CARTER, COMMISSIONER, NOTARY)

RECEIVED

[Stamp]

[Seal]

[Stamp]
MEMORANDUM

TO: TRPA LITIGATION COMMITTEE

FR: LESTER H. BERKSON
ATTORNEY FOR CHO HUNTON AND DAVE ANDERSON

DATE: DECEMBER 12, 1983

RE: PROPOSED SETTLEMENT – CHO HUNTON

This memorandum is written for the purpose of compromising and settling the Complaint of Cho Hunton (Exhibit A) against TRPA.

Following is an outline of the events leading up to the Litigation Committee hearing. Under separate cover a transcript of the supporting documents is presented.

September, 1974

On September 18, 1974 a parcel map (Exhibit B) was recorded in Douglas County. The Hunton parcel is parcel 2 of three parcels, being Douglas County Assessor's parcel number 07-263-14.

August, 1977

Cho Hunton and her former husband, Robert Hunton, purchased parcel 2 for $34,650, paying $20,000 cash down payment and executing a note secured by a deed of trust for $14,675. The note presently has a balance of less than $8,000 (Exhibit C).

The closing of escrow was contingent upon the Hunton's obtaining a building permit. Prior to close of escrow a building permit was issued to the Huntons by Douglas County.

August, 1977

A building foundation permit (Exhibit C) was approved by Douglas County on August 24, 1977. On December 2, 1982
a permit modification was issued by Douglas County with
an effective date of August 19, 1977. Under Douglas County
practices, procedure and policy, the Hunton's acquired a
vested right to build in 1977. At that time TRPA approval
was not required. The building permit of Hunton is current
and valid.

August 1977 to Date

From 1977 to date Cho Hunton has expended:

(1) $34,850 for the property purchase.

(2) In excess of $10,000 for permits, plans,
engineering, excavation and foundation.

(3) Real property taxes of approximately $2,500.00.

A partial listing of expenses is set forth in Exhibit D.

In 1980 Cho Hunton had separated from her husband and
sold the lot for $125,000 including the permit. The
purchaser completed a foundation of a value in excess of
$12,500. In 1981 the buyer walked away from the purchase
and refused to proceed with the purchase because of TRPA
staff interference claiming there was not a valid permit.
The buyer forfeited a nominal deposit of $500 and the
property was restored to Cho Hunton.

Prior Negotiation

In the latter part of 1982 and during 1983 there were
negotiations between Cho Hunton's attorney, Lester H.
Berkson, and her engineer, Ernie Jones, with the TRPA staff.
These negotiations were made in good faith by Cho Hunton
to resolve her vested rights administratively without
litigation. The final result of the negotiations was a
June 28, 1983 letter from Ernie Jones to Nora Shepard
(Exhibit E) wherein it was agreed by Cho Hunton that she
would complete substantial onsite and offsite drainage and
erosion improvements. It was the understanding of the
counsel for Cho Hunton that staff would then recommend a
settlement based on performance of the mitigation measures
and the vested permit right of Cho Hunton. When the matter
was reviewed by Phil Overeynder he squelched any settlement
on the rationale that it might set a precedent. Further,
unsuccessful efforts were made to have the Litigation
Committee review the matter without filing a lawsuit. A
lawsuit was finally filed October 17, 1983. After filing
Memo
Re: Hunton

of the lawsuit a Litigation Committee meeting was finally scheduled.

Contentions of Cho Hunton

Cho Hunton claims that she has acquired a vested right pursuant to:

(1) Issuance of a Douglas County building permit in 1977.

(2) Her purchase of parcel 2 in 1977 in reliance on a building permit.

(3) Her expending substantial funds in reliance on a building permit from 1977 through 1983.

(4) Completion of excavation and foundation work based on the permit. Excavation and foundation work was done from 1978 through 1981.

(5) Sale of the parcel in reliance on the building permit which sale was rescinded because of TRPA staff interference. The sale was made in 1980 and rescinded in 1981.

(6) Cooperation with TRPA staff to perform mitigation measures in an attempt to compromise instead of pursuing litigation.

Advantages of a Compromise to TRPA

1. A settlement will avoid setting any court precedent.

2. Cho Hunton will cooperate to perform onsite and offsite mitigation measures not originally required under her vested right permit.

3. Avoidance of substantial litigation costs.

4. Will eliminate the present unsightly foundation and help prevent erosion and runoff from the site.

5. Mitigation measures will also help eliminate erosion and improve offsite conditions.

It is respectfully requested that the Litigation Committee recommend a settlement allowing Cho Hunton a
MEMO
Re: Hunton

vested right to build subject to compliance with performance of mitigation measures previously agreed to with TRPA staff.

Respectfully submitted,

LESTER H. BERKSON
Attorney for Cho Hunton and Dave Anderson

APPROVED:

CHO HUNTON
IN THE NINTH JUDICIAL DISTRICT COURT
Of the State of Nevada, in and for the County of Douglas

DAVE ANDERSON and
CHO HUNTEN,

Plaintiffs

vs.

DOUGLAS COUNTY, NEVADA and
TANOE REGIONAL PLANNING AGENCY

Defendant

SUMMONS

The State of Nevada sends greetings to the above-named defendant:

You are hereby summoned and required to serve upon
plaintiffs' attorney, whose address is Lester H. Berkson
P.O. Box 349
Zephyr Cove, NV 89448
702/588-4555

an answer to the Complaint which is herewith served upon you, within 20 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. *

YVONNE BERNARD
Clerk of Court.

Date: October 17, 1983

*Note. — When service is by publication, insert a brief statement of the object of the action. See Rule 4.
RETURN OF SERVICE ON REVERSE SIDE

Exhibit "A"
IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

DAVE ANDERSON and
CHO HUNTEN,

Plaintiffs,

COMPLAINT FOR DECLARATORY RELIEF, INJUNCTION AND DAMAGES FOR INVERSE CONDEMNATION

vs.

DOUGLAS COUNTY, NEVADA and
TAHOE REGIONAL PLANNING AGENCY,

Defendants.

FIRST CAUSE OF ACTION

I

Plaintiffs are the owners of a valid, existing and duly approved building permit from Defendant Douglas County, permitting Plaintiffs to construct a single family residence on Assessor's Parcel Number 07-263-14 located at Stateline, Nevada. Plaintiffs' Permit No. 1048 attached as Exhibit A was issued August 24, 1977 meeting the requirements of Defendant Douglas County and the requirements of Defendant Tahoe Regional Planning Agency (TRPA).

II

Defendant Douglas County ever since 1977 has at all times mentioned herein and presently does recognize Plaintiffs' building permit as a valid, existing building permit entitling Plaintiffs to construct a single family residence on their lot. //
III

In reliance on Plaintiffs' permit, Plaintiffs have spent substantial time, effort and money for engineering, surveying, sewer and water permits, plans, grading, foundation work and other expenses in connection with implementing said permit. By reason of the issuance of Plaintiffs' permit and Plaintiffs' work, efforts and expenditures, Plaintiffs have acquired a vested right to said permit to construct a single family residence.

IV

Thereafter, on or about June 25, 1981, TRPA adopted Ordinance No. 81-5 which requires in part that building permits issued after the date of said Ordinance be reviewed and approved by TRPA,

V

An actual controversy has arisen between Plaintiffs and Defendant TRPA by reason of the following contentions:

1. Plaintiffs claim that they have a vested right to construct a single family dwelling pursuant to a valid building permit.

2. Defendant TRPA claims that Plaintiffs have no vested right to construct a single family residence and require review and approval of TRPA.

3. Defendant Douglas County claims that the permit issued by Douglas County is a valid permit predating any subsequently enacted approval requirements of TRPA.
VI

The contentions of Defendant TRPA are arbitrary and unreasonable and if allowed to continue, constitute a violation of Plaintiffs due process rights and a deprivation of a valuable property right under the 14th Amendment to the U.S. Constitution.

VII

Unless TRPA is restrained from asserting their claim, Plaintiffs will suffer irreparable harm and injury in that they will lose a valuable property right. By reason thereof, Plaintiffs will suffer damages in excess of $10,000.00.

VIII

It has been necessary for Plaintiffs to retain the services of Lester H. Berkson to bring this action and that reasonable attorney's fees should be allowed for his services.

SECOND CAUSE OF ACTION

I

All of the allegations of the first cause of action are incorporated by reference as part of this second cause of action.

II

Plaintiffs are the owners of real property located in the Lake Tahoe Basin of Douglas County as described in the first cause of action. Plaintiff Cho Hunton originally acquired the property in August 1977 for the purpose of developing and building a single family residence. Said Plaintiff paid in excess of $34,000 for the property and conditioned the completion of purchase on the issuance of a valid building.
permit. That effective August 24, 1977 Defendant Douglas County issued a valid permit to construct a residence on said property.

III
Pursuant to the policies, procedures, ordinances and administration of Douglas County said building permit permitted Plaintiffs to commence their residence in stages with construction of the foundation as the first stage. Upon completion of the foundation, Douglas County agreed the permit would be modified to allow completion of the balance of the structure. That such modification of the already issued permit is ministerial in nature and that Douglas County has complied with their agreement by modifying said permit.

IV
Defendant TRPA was aware of the ordinances, administration, practices and procedures in respect to the issuance of building permits by Defendant Douglas County and permitted Defendant Douglas County to do so. Defendant TRPA knew or should have known that Plaintiff and others similarly situated would rely, to their detriment, on the issuance of such permits.

V
That in reliance on the issuance of a building permit on August 24, 1977 and the practices, procedures, administration and ordinances of Defendant Douglas County and TRPA then in force, the Plaintiffs and their privies proceeded to spend substantial monies, work and effort for sewer and water permits, engineering and surveying fees, plans and specifications and construction of a foundation which was substantially completed prior to June 1981.
VI

That in reliance on the issuance of said building permit, Plaintiffs, about January 1981 sold said real property including the permit rights for $125,000. That soon thereafter the Buyers rescinded said sale because of the interference and unwarranted claims of TRPA that said building permit was not valid and did not entitle the completion of a residence on the property.

VII

That subsequent to the issuance of a building permit on August 24, 1977 the Defendant TRPA by and through its directors and staff commenced a scheme of ordinances and administration to prohibit building on Plaintiffs' property and to deprive Plaintiffs of their vested property right to build.

VIII

That on or about June 25, 1981 the Defendant TRPA enacted their Ordinance 81-5 which required review and approval of building permits for residential building lots by TRPA. That one of the purposes of such ordinance and the administration thereof was to wrongfully deprive Plaintiffs and other similarly situated of the right to use and develop their property for a residence. That said ordinance is invalid and unconstitutional as applied to Plaintiffs vested right to build in each and all of the following respects among others:

(a) Said ordinance is not applicable to Plaintiffs prior vested right to build and the retroactive application and administration by Defendant TRPA of said ordinance is discriminatory, capricious, unreasonable and confiscatory.

/////
(b) Said administration and application of Ordinance 81-5 to Plaintiffs' property and Plaintiffs vested prior right to build prohibits and prevents any and all beneficial and reasonable uses of Plaintiffs property.

(c) The administration and application of Ordinance 81-5 has effectively destroyed the value of Plaintiffs' property without any corresponding benefit to public health, safety, morals, general welfare or the protection of the environment.

(d) Said Ordinance 81-5 constitutes the confiscation and taking of Plaintiffs' property and land without payment of just or any compensation whatsoever therefor in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

IX

The Defendant TRPA by the wrongful administration of their ordinances have prohibited and prevented Plaintiffs from developing their property even though Plaintiffs have acquired a vested right to build pursuant to the Douglas County building permit issued August 24, 1977.

X

By reason of the foregoing, Plaintiffs ever since 1977 have had a vested right to construct a single family residence on their property.

XI

By reason of the wrongful and unlawful conduct of Defendant TRPA Plaintiffs have been deprived of a valuable property right and their property has been inversely condemned.
That such conduct by Defendant TRPA is in violation of
Plaintiffs' rights under the Constitution of the State of
Nevada and the United States Constitution.

XII

By reason of Defendant TRPA's wrongful conduct the
Plaintiffs have been unlawfully deprived of their property and
property rights to their damage in excess of $10,000. That such
damages include among other things legal costs and attorneys
fees required to protect and preserve the rights of Plaintiffs
against the wrongful, unlawful and discriminating conduct of
Defendant TRPA.

XIII

That unless Defendant TRPA is restrained from
interfering with Plaintiffs' vested right to construct a single
family residence on their property the Plaintiffs will suffer
irreparable damage.

WHEREFORE, Plaintiffs pray judgment:

1. For judgment confirming Plaintiffs' vested right
to build.

2. For damages for interference with Plaintiffs'
vested right to build.

3. In the alternative for an order declaring that
Plaintiffs' property has been inversely condemned and awarding
Plaintiffs' damages.

4. For reasonable attorneys' fees and court costs.

5. For such other relief as may be just.

DATED this 17th day of October, 1983.

LESTER N. BERKSON
VERIFICATION

Under penalties of perjury, the undersigned declares that they are the Plaintiffs named in the foregoing COMPLAINT FOR DECLARATORY RELIEF, INJUNCTION AND DAMAGES FOR INVERSE CONDEMNATION and knows the contents thereof; that the pleading is true of their own knowledge, except as to those matters stated on information and belief, and that as to such matters, they believe it to be true.

October 14, 1983
Dated

[Signature]

October 14, 1983
Dated

[Signature]
Date of Application: AUG. 19, 1977
Parcel existing on 2/10/72: Yes, N. No.
LOT AREA: 29,272
Location of Work: 410-265-14, Parcel 7, Tax District of 41% of 50% of M.C.

SECTION 23, T13N, R11E, STATETLINE, DOUGLAS CO., NEVADA

Name of Applicant: DON HUNTON
Address: P.O. BOX 1462, SEPHRA CREEK, NV. 89448
Name of Architect or Engineer: CEB ASSOCIATES
Address: P.O. BOX 1462, SEPHRA CREEK, NV. 89448
Name of Contractor: J. R. HODGE 
Address: P.O. BOX 1462, SOUTH LAKE TAHLE, CA.

DESCRIPTION OF WORK
New ( ) Alteration ( ) Addition ( ) Repair ( ) Moving ( )
Planned use of building: FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

Will Covering: Roof Covering:

Describe briefly: FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

General Plan Designation: LDR, Land Capability Classification: MED, CEP
Incorporation Surface Allowed: 5447 Proposed: 5314 Existing: 0
Total Land Coverage: 5314 Proposed Building Height:

Total footage: Valuation (including plumbing, wiring, etc.) 14,000 sf.

I, the undersigned, do solemnly swear and affirm that the information contained in this application is true and correct to the best of my knowledge and belief and that I shall save, indemnify and keep harmless the County of Douglas its officers, employees and agents, against all liabilities, judgments, costs, and expenses which may accrue against them in consequence of the granting of permit, inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

Signature of Applicant

The applicant shall not fill out blanks below.

Submitted Plans: Plan Substitute Forms: Not Required:
Number Building Department Note: FOUNDATION ONLY FOR PROPOSED DWELLING

Approved Building Department:

Permit Fee: $24.00 Paid: Plan Check Fee: $12.00 Paid Total: $36.00 Paid:
Requirements for moved buildings met ( ) Bond Filed ( )
Permit 01948 Issued 9/24/77 By
Number Date

EX M
PERMIT MODIFICATION
DOUGLAS COUNTY
DEPARTMENT OF BUILDING & SAFETY

MODIFICATION TYPE
SUPPLEMENTAL ☐ AMENDMENT ☐ EXTENSION ☐ REINSTATEMENT ☒

ORIGINAL ISSUE DATE 8/19/77
APPLICATION DATE 10/26/81

ASSESSOR'S PARCEL NO. 02-263-14
WORK LOCATION
Foothill Estates

NAME OF APPLICANT
David Anderson/Ola Lynn Hunton

ADDRESS
P.O. Box 11050, Zephyr Cove, NV 89448

NAME OF ARCHITECT OR ENGINEER
Manlen Engineering Ltd

ADDRESS
205 S. Minnesota St., P.O. Box 89701

NAME OF CONTRACTOR
To be let
LICENSE NO.

DESCRIPTION OF WORK

SURFACE COVERAGE
ALLOWED 5298 sq. ft.
PROPOSED 5298 sq. ft.

BUILDING AREA

VALUATION $193,387.00

ARCHITECTURAL FEATURES
WALL COVERING 5/8 siding
ROOF COVERING Cedar shakes
NUMBER OF STORIES
BUILDING HEIGHT

I will save, indemnify and keep harmless the COUNTY OF DOUGLAS, its officers, employees and agents against all liabilities, judgments, costs and expenses which may accrue against them in consequence of the granting of permit, inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

SIGNATURE OF APPLICANT

RCPT EXEMPT Permit Precedes Ord.
APPROVED
PLANNING DEPT. JR DATE 12/2/82
ENGINEERING DEPT. JA DATE
BUILDING DEPT. Dave Mc DATE 12/2/82
TRPA DATE

PLAN CHECK FEE $134.00
PERMIT FEES $65.00
TOTAL FEES $112.00
LESS DEPOSIT $112.00 PAID 0
TOTAL DUE $112.00 PAID 0

ISSUED BY
DATE 4/4/82

[Signature]
50,000 CASH TO SELLER INCLUDING ABOVE DEPOSIT.

4.175 PERCENT MONTHLY FOR TEN YEARS AT NINE PERCENT AT $115.70 OR MORE TO SELLER.

SALE CONTINGENT UPON BUYER OBTAINING BUILDING PERMIT FOR SINGLE FAMILY RESIDENCE NOT TO EXCEED 2,000 SQUARE FEET ON OR BEFORE AUGUST 25, 1973.

SELLER AGREES TO SUBORDINATE FOR A PERIOD OF TEN YEARS.

BUYER IS LICENSED REAL ESTATE AGENT IN STATE OF NEW JERSEY.

CASH.

The following addition of same date, signed and attached to this is included in this agreement. Addendum No.______, Addendum No.______.

EXHIBIT C.
ESCROW INSTRUCTIONS

Date August 29, 1977

a. DOUGLAS COUNTY TITLE COMPANY, INC.

We have received funds indicated as per statement below. A Note and Deed of Trust, executed by the undersigned, in the amount of $14,675.00 payable 105.90 or more per month including 9% interest per annum, all to be due and payable on or before August, 1972. Said Deed of Trust contains a Subordination Clause for the term of the Note.

We are authorized to deliver and/or record when you have received for my account the following: A Grant Deed executed by Doug Picking and Connie Jo Picking in favor of the below named Vendee.

nd when you can issue your standard coverage form policy of title insurance with a liability of $34,675.00 on the property described as:

A Parcel of Land within the N/4 of the S/4 of the NW 1/4 of Section 23 T. 13 N, R 10 E, G&D & N. More particularly described in our Preliminary Report dated August 1, 1977.

Issued in connection with the above order number.

As the title vested in Robert B. Hunt on and Chon Lynn Houston, husband and wife as Joint Tenants.

pender for your order as of October 1977 from 1972.

Assessments and/or bonds not delinquent. None of Record.

Exceptions numbered 3, 4, 5, 6, 7, and 8 as shown in your preliminary title report dated August 1, 1977.

Issued in connection with the above order number.

Deed of Trust for $14,675.00 handed you hereabove for recording.

Upon consummation of this escrow, you are authorized to disburse in accordance with the following statement. Prior to the release of escrow funds on the basis of a 30 day month, taxes based on the latest available tax figures.

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<td>Total</td>
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These instructions are effective until September 19, 1977 and thereafter unless revoked by written demand and authorizations satisfactory to you. Incorporation herein and a part hereof by reference are the "General Provisions" and any additional instructions appearing on the reverse side of this page.

Received: 1977

Douglas County Title Co., Inc.

Address: P.O. Box 1462, Topaz, UT 84328

Phone No: 702-550-3504

[Signature]

[Date]
For value received, undersigned promise to pay to Dug Pickin and Connie Jo Pickin, 

joint and wife as Joint Tenants, 

an amount of 

$14,675.00 

as principal, plus interest thereon at the rate of 12% per annum, and interest thereon payable in 
stages of 

$775.00 one hundred seventy-five dollars, or more, 

each month beginning on 

the day of 

the month immediately following the month in which the 

month of 

and continuing until August 1977. Beneficiary hereby 

agrees to subordinate his lien evidenced by a promissory note herein described, to a first (1st) 

Deed of Trust in favor of a recognized lending company for purposes of a construction loan. 

Improvements to be erected on the herein described property. 

Should interest not be so paid it shall thereafter bear interest at the 

same rate as the principal. In the event the undersigned shall make a general assignment for the benefit of creditors or be adjudged bankrupt, or shall be in default in payment of any installment of principal or interest, or in performance of any obligation contained in the Deed of Trust by which this note is secured, the whole sum of principal and interest shall become immediately due at the option of the holder hereof. Principal and interest payable in lawful money of the United States. If action be instituted in any Court to enforce the 

obligation secured by such Deed of Trust, undersigned promise to pay such sum as the 

court may fix as attorney's fees in said action. 

The maker and endorsers severally waive presentment for payment, demand, notice, 

acceptance and notice of protest, diligence and nonpayment of this note, and all defenses 

on the ground of any extension, call or payment, or any other defense which they or any other party 

may have. This note is secured by a Deed of Trust, of even date herewith, 

Douglas County Title Co., Inc., a Nevada corporation. 

Robert & Hunton 

We, Lynn Hunton 

DO NOT DESTROY THIS NOTE: When paid, this note 

with Deed of Trust securing same, must be surrendered to Trustee for cancellation before 

reconveyance will be made. 

erin & O'Reilly 

attorneys at Law 

388 N. Box 666 

son City, Nevada 89701 

300 N. Box 1327 

Inverness, Nevada 89410
THIRD DEED OF TRUST, made this 27th day of AUGUST, 1965, between ROBERT H. HUNTEN AND CHO LYNN HUNTEN, HUSBAND AND WIFE, AS JOINT TENANTS, herein called TRUSTOR, and DOUG PICKING AND CONNIE J. PICKING, HUSBAND AND WIFE, AS JOINT TENANTS, herein called TRUSTEE, and DOUGLAS COUNTY TITLE CO., INC., a Nevada corporation, herein called TRUSTEE, and

WITNESSETH: That Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with power of sale, that property in DOUGLAS County, Nevada, described as:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

Together with the rents, issues and profits therefrom, subject, however, to the right, power and authority heretofore given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the purpose of securing the payment of the sum of $14,675.00, with interest thereon according to the terms of a promissory note or notes hereinafter made by Trustor, payable to order of Beneficiary, and all extensions or renewals thereof; and (2) the payment of expenses of this transaction, all of which may be advanced by Trustee to Trustor by reference to said promissory note or notes, and at any time required by Beneficiary, in the absence of a default, if such default is not cured within 30 days after written notice setting forth that default, all unpaid amounts thereunder shall be secured by the property described in this Deed of Trust, or to the successor or assigns, when advanced by a promissory note or notes stating that they are secured by this Deed of Trust.

The undersigned Trustee requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address as follows:

STATE OF NEVADA

COUNTY OF DOUGLAS

On , the
of 1965, personally

appeared before me, a Notary Public, and

ROBERT H. HUNTEN

and

CHO LYNN HUNTEN

who acknowledged that they executed the foregoing instrument.


FOR RECORDING USE

ORDER NO.

RECRED NO. 100173

WHEN RECORDED MAIL TO:

Doug and Connie J. Picking

P.O. Box 1307

Las Vegas, Nevada 89107

Note: Address above may be incorrect.
LEGAL DESCRIPTION

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A Parcel of land lying wholly within the Northeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 23, Township 13 North, Range 18 East, M.D.B.&M., Douglas County, Nevada, described as follows:

Beginning at the Northwest corner of Lot 1, Block C of that certain Map of Foothill Estates as recorded under Document No. 21268 Official Records of Douglas County, Nevada; thence North 20° 30' 00" West, 87.00 feet; thence North 30° 00' 00" East, 40.00 Feet; thence North 47° 00' 00" East, 30.00 feet to the True Point of Beginning; thence North 51° 42' 05" West, 96.45 feet; thence North 31° 12' 36" East, 79.00 feet; thence North 00° 20' 18" East, 65.85 feet (recorded as North 00° 20' 26" East, 65.85 feet) to the Southerly boundary of Summit Creek Amended Parcel Map, Official Records of Douglas County, Nevada; thence along said Southerly boundary South 89° 37' 06" East, 191.92 feet to the Easterly section line of Section 23; thence along said Section line South 00° 09' 17" East, 97.48 feet; thence South 75° 00' 00" West, 57.79 feet; thence South 59° 00' 00" West, 57.79 feet; thence South 59° 00' 00" West, 55.00 feet; thence South 47° 00' 00" West, 75.00 feet to the Point of Beginning.


Together with the following described access and utility easement; Beginning at the Northeast corner of Lot 2, Block B, of aforesaid Foothill Estates Subdivision, the True Point of Beginning; thence North 04° 02' 14" East, 85.80 feet; thence North 30° 00' 00" East, 45.70 feet; thence North 47° 00' 00" East, 29.94 feet; thence South 51° 42' 05" East, 15.17 feet; thence North 47° 00' 00" East, 75.00 feet; thence North 31° 00' 00" East, 15.00 feet; thence South 59° 00' 00" West, 53.41 feet; thence South 47° 00' 00" West, 101.01 feet; thence South 30° 00' 00" West, 34.55 feet; thence South 04° 02' 14" West, 76.92 feet; thence North 98° 32' 47" West, 30.06 feet to the Point of Beginning.

Assessor's Parcel No. 07-263-14

SUBORDINATION CLAUSE

Beneficiary hereby agrees to subordinate his lien, evidenced by a promissory note herein described, to a first (1st) Deed of Trust in favor of a recognized lending company for purposes of a construction loan for improvements to be erected on the herein described property.
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<td>Guy Brown</td>
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<td>Survey existing foundation</td>
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<td>14</td>
<td>Our Schodanley - Plans for house</td>
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**Exhibit "D"**
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY


Continuation of Hearing: This show cause hearing was continued from the March Governing Board meeting due to the Tahoe Equestrian Center (TEC) having a hearing at the Federal Bankruptcy Court in Reno on the same day. Representatives of the creditors have filed a petition for a court appointed trustee to oversee the management of the Center. Agency legal counsel has advised that due to the bankruptcy proceedings continuing under Chapter 11, the appropriate legal action will be determined at a later date pending resolution of the bankruptcy proceeding. The staff now recommends that the Governing Board find that a violation exists and direct the Tahoe Equestrian Center to cease all off-road vehicle activities on the subject parcels.

Property Owner: Tahoe Equestrian Center, et al., Janet Moore

Violation Description: During late February and March of 1984 the Tahoe Equestrian Center (TEC) (formerly Sunset Corrals) began commercial off-road vehicle rental (ORV) operation on its property located immediately south west of the Lake Tahoe Airport. The vehicles (four wheel motorcycle-type) were operated on wet and muddy ground within identified stream environment zones and land capability district 6 lands. Significant soil and vegetation disturbance occurred as a result of the operation.

A significant amount of the disturbance occurred on an area revegetated by the previous owner by order of this Agency to settle a violation of the TRPA Grading Ordinance. Such a commercial rental operation requires an Agency permit. The Agency did not issue such a permit nor did it authorize in any way the rental operation.

The TEC was noticed by Agency letter dated March 6, 1984 (attached) that they were in violation of Agency ordinances by operating the ORV (motorcycle) rental without an Agency or El Dorado County approval. They were required at that time to cease the operation. Subsequent telephone conversations with TEC management indicated that the ORV's would be rented in defiance of the TRPA order to cease the activity. In response a letter (attached) dated March 9, 1984, was sent to the TEC further stating the Agency position regarding the ORV rental activity and again explaining the penalties outlined in the Tahoe Regional Planning Compact. Agency staff witnessed and photographed the continued ORV activity on TEC property on March 17, 1984.

The Tahoe Equestrian Center (TEC) has a permit to operate a commercial snowmobile operation. The permit was renewed by Agency letter (attached) on January 27, 1984 with specific conditions including:

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9. "No environmental degradation due to the operation and no vegetation removal."

13. "The TRPA must be immediately informed of any modifications to the operation and any violations of the above conditions."

The TEC contends that the off road vehicle rental operation is only an extension of the snowmobile rental permit. Condition #13 clearly states that a modification requires Agency involvement. The Agency staff position is, as stated in the letters of March 6 and 9, 1984, that such an activity as ORV (motorcycle) rentals is a separate project and requires Agency review and approval. The possible and witnessed impacts of such a project would require that the project be reviewed by the Governing Board.

Violation Location: Tahoe Equestrian Center, El Dorado County, APN 33-110-03 and -04

Site Description: Stream environment zone, lodgepole pine trees, high water table, close proximity to the Upper Truckee River; land capability 6 land having a history of disturbance and subsequent revegetation.

Land Use District: Recreation

Violation Analysis: The Tahoe Equestrian Center rented off-road vehicles (motorcycles) on their property without an Agency permit. The owners were notified of the violation by letters and phone calls. They subsequently continued the activity, causing further environmental degradation in close proximity to the Upper Truckee River, a major tributary to Lake Tahoe. The initial violation consisted of significant environmental degradation which was willful. The second violation, in defiance of written Agency requirements to cease the activity, was also of a willful nature.

Staff Recommendations:

1. Agency staff recommends that the Governing Board find that a violation exists and direct the Tahoe Equestrian Center to cease all off-road vehicle activities on the subject parcels and that Agency legal counsel be authorized to take appropriate legal action.
MEMORANDUM

Date: April 13, 1984

To: Governing Body

From: Agency Staff

Subject: Barsotti, Unauthorized Land Coverage, Construction of a Deck, Lot 71, Elks Subdivision, Douglas County APN 05-232-32

Mr. Barsotti has requested a 30 day continuance so that he can obtain counsel to represent him in this matter. This agenda item will then be presented at the May, 1984 Governing Board meeting.
TAHOE REGIONAL PLANNING AGENCY

ORDINANCE NO. 84-

AN ORDINANCE RELATING TO THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; PRESCRIBING AMENDMENTS TO SAID REGIONAL PLAN, AS AMENDED TO DATE, PURSUANT TO ARTICLE V(c) OF THE TAHOE REGIONAL PLANNING COMPACT, AS AMENDED, SO THAT, AT A MINIMUM, THE PLAN AND ALL OF ITS ELEMENTS, AS IMPLEMENTED THROUGH AGENCY ORDINANCES, RULES AND REGULATIONS, ACHIEVES AND MAINTAINS THE ADOPTED ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES; MAKING FINDINGS REGARDING THE BACKGROUND FOR AND BASES OF THE AMENDMENTS TO SAID REGIONAL PLAN ADOPTED HEREBY; PRESCRIBING SPECIFIC WRITTEN FINDINGS PURSUANT TO ARTICLE V(g) OF SAID COMPACT ASSURING THAT APPROVAL OF A PROJECT WILL NOT ADVERSELY AFFECT IMPLEMENTATION OF THE REGIONAL PLAN, AS AMENDED HEREBY, AND NOT CAUSE THE ADOPTED ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES OF THE REGION TO BE EXCEEDED; PRESCRIBING PROCEDURES FOR IMPLEMENTATION; PRESCRIBING PROCEDURES FOR REVIEW OF APPLICATIONS FOR PROJECTS ON FILE PRIOR TO THE ADOPTION OF THIS ORDINANCE AND APPLICATIONS FOR OTHER SPECIFIED PROJECTS; REQUIRING PLAN ENFORCEMENT AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 On December 19, 1980, the Tahoe Regional Planning Compact ("Compact") was amended, requiring, among other things, that the Agency adopt environmental threshold carrying capacities for the Lake Tahoe region. The Compact further provided that, within one (1) year after the adoption of the environmental threshold carrying capacities, the Agency shall amend its regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities.

1.11 The Compact finds, among other things, that: (a) the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region; (b) the public and private interests and investments in the region are substantial; (c) the region exhibits unique environmental and ecological values which are irreplaceable; (d) said region is experiencing problems of resource use and deficiencies of environmental control; (e) increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands; (f) maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by said region; (g) there is a public interest in protecting, preserving and enhancing such values for the residents of the region and for visitors to the

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region; (h) in order to preserve the scenic beauty and outdoor recreational opportunities of said region, there is a need to insure an equilibrium between said region's natural endowment and its manmade environment; and (i) it is imperative that there be established an agency with powers, among others, to establish environmental threshold carrying capacities and adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

1.12 The Agency Governing Body unanimously approved Resolution No. 82-11, adopting environmental threshold carrying capacities for the Lake Tahoe region pursuant to Article V(b) of the Compact. Said carrying capacities were adopted subsequent to consideration by the Agency Governing Body of an environmental impact statement, including response to comments, thereon, a lengthy, detailed study report, and oral testimony and documentary evidence received at public hearings concerning said carrying capacities.

1.13 Prior to the adoption of this ordinance, the Advisory Planning Commission ("APC") of the Tahoe Regional Planning Agency conducted a duly-noticed public hearing in accordance with Article V(a) of the Compact, at which hearing considerable oral testimony and documentary evidence concerning the proposed amendments to the Agency's regional plan were received and considered by the APC. The Governing Body has received and considered the recommendations of the APC, which recommendations were formulated after said public hearing. In addition to said APC public hearing, the Governing Body, both prior and subsequent to said APC public hearing, has conducted duly-noticed public hearings in accordance with said Article V(a), at which hearings considerable oral testimony and documentary evidence were received and considered. The substance of the amendments including, but not limited to, the documents and maps adopted by this ordinance was the subject of said public hearings. In addition to said formal public hearings, the Governing Body and staff conducted numerous public meetings and forums in various locations within the States of California and Nevada, at which meetings and forums the proposed amendments were discussed.

1.14 The provisions of this ordinance, themselves, were also the subject of a duly-noticed public hearing before the Governing Body as required by the Agency's Rules and Regulations of Practice and Procedure.

1.15 As required by Article V(c) of the Compact, the amendments to the Agency's regional plan adopted by this ordinance, including all the elements thereof, as implemented by this ordinance and as to be implemented through other agency ordinances, rules and regulations, at a minimum will achieve and maintain the adopted environmental threshold carrying capacities, while providing opportunities for orderly growth and development consistent with such capacities. Each element of the regional plan, as amended hereby, contains implementation provisions and time schedules for such implementation by ordinance in compliance with said Article V(c).
1.16 As further required by said Article V(c), the regional plan, as amended by this ordinance, consists of a single, enforceable plan and includes correlated elements consisting of a land use plan, a transportation plan, a conservation plan, a recreation plan, a public services and facilities plan, and an implementation element, each of which plans sets forth the material required by, and otherwise complies with, said Article V(c) of the Compact.

1.17 As required by Article V(d) of the Compact, the regional plan, as amended by this ordinance, provides for the attaining and maintaining of federal, state or local air and water quality standards, whichever are strictest, in the respective portions of the Lake Tahoe region for which such standards are applicable. To the extent said plan, as amended, imposes air or water quality standards or control measures more stringent than the applicable state implementation plan or applicable federal, state or local standards for the Lake Tahoe region, the Governing Body finds that such additional standards or control measures are necessary to achieve the purposes of the Compact. Each element of said regional plan, as amended hereby, where applicable, identifies the means and time schedule by which air and water quality standards will be attained in compliance with said Article V(d).

1.18 The provisions of this ordinance prescribing specific written findings pursuant to Article V(g) of the Compact relate to environmental protection and insure that the project under review will not adversely affect implementation of the Agency's regional plan, as amended hereby, and will not cause the environmental threshold carrying capacities of the Lake Tahoe region to be exceeded.

1.19 This ordinance is necessary and desirable to promote, and is reasonably related to, a legitimate governmental interest, consisting of the public health, safety, general welfare, and environment of the Lake Tahoe region. In addition to the specific findings of compliance set forth hereinabove, this ordinance otherwise complies in all respects, procedural and substantive, with the Compact and is necessary to effectuate and implement the same.

1.20 The amendments to the Agency's regional plan, adopted by this ordinance, were the subject of an environmental impact statement ("EIS"), which was processed, reviewed and approved by the Agency in accordance with the substantive and procedural provisions of Article VII of the Compact and the applicable provisions of the Agency's Rules and Regulations of Practice and Procedure. Without limiting the generality of the foregoing, the Governing Body further finds that said EIS contained the following information required by Article VII(a)(2) of the Compact: (a) the significant environmental impacts of the proposed amendments to said plan; (b) any significant adverse environmental effects, which cannot be avoided should said amendments be implemented; (c) alternatives to the proposed plan amendments, the number, description and types of which are hereby found to be appropriate and adequate for purposes of said Article VII of the Compact; (d) mitigation measures which must be implemented to assure
meeting the standards of the Lake Tahoe region; (e) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; (f) any significant irreversible and irretrievable commitments of resources which would be involved in the proposed amendments, should they be implemented; and (g) the growth-inducing impact of the proposed amendments. The Governing Body further finds that said EIS adequately addressed the amendments to the regional plan, adopted by this ordinance, and provided the Governing Body substantial, detailed information and a proper disclosure, upon which it has based a reasoned, sufficient and deliberate review and evaluation of the environmental impacts and commitments of said plan amendments adopted hereby, as well as those of various alternatives thereto set forth in said EIS. The Governing Body further finds that, prior to adopting this ordinance, the Governing Body complied with the findings requirements of Article VII(d) of the Compact, a separate written finding having been made for each significant effect identified in said EIS as resulting from the amendments to the regional plan adopted hereby. The Governing Body further finds that said written findings pursuant to Article VII(d) are supported by substantial evidence in the record.

1.21 The administrative record for purposes of consideration and adoption of this ordinance is hereby declared to include, but not be limited to: all documents adopted hereby as comprising the amendments to the Agency's regional plan; the environmental impact statement, including response to comments, and documents incorporated therein, prepared with respect to said amendments; all reports or studies received, prepared or authorized by the Agency with respect to said amendments, including, but not limited to, the report of the Urban Land Institute; Resolution No. 82-11, adopting environmental threshold carrying capacities; the environmental impact statement and documents incorporated therein, prepared with respect to said environmental threshold carrying capacities; the Study Report prepared with respect to said environmental threshold carrying capacities; the Agency's Lake Tahoe Region Water Quality Management Plan, including all documents incorporated therein and supplemental thereto; the environmental impact statement and documents incorporated therein and supplemental thereto, prepared with respect to said water quality management plan; the Findings and Declarations contained in Article I of the Compact; all oral testimony and documentary evidence received or noticed by the Governing Body or APC relating to all of the foregoing; and the minutes and transcripts of the Governing Body and APC relating or referring to preparation, consideration, or adoption of the amendments to the Agency's regional plan and the environmental threshold carrying capacities upon which such amendments are based.

1.22 The Governing Body incorporates herein, as though fully set forth, the findings and provisions of Resolution No. 82-11, adopting environmental threshold carrying capacities for the Lake Tahoe region.

1.23 The Governing Body acknowledges the existence of the Santini-Burton Act (P.L. 96-586, 94 Stat. 3381) and the Lake Tahoe Acquisition Bond Act (California Government Code, Section 66950 et seq.). The Agency recognizes said federal and state programs as separate and
distinct from the Agency, an entity having no power of eminent domain, vested exclusively with authority to regionally plan and zone for the use of property pursuant to the police power. While the Agency, including its regional plan and ordinances, and said land acquisition programs are legally and operationally separate and distinct, the Agency recognizes that substantial acquisition of land through said independent programs may affect the environment of the Lake Tahoe region to some degree. As required by Article V(c) of the Compact, it is the present intent of the Governing Body to reexamine the provisions of the amendments to the regional plan, adopted by this ordinance. As part of said review, the effect, if any, upon said region resulting from said acquisition programs shall be noted. Said intent to reexamine the provisions of said amendments is not to be construed as a suggestion or advocacy by the Agency that the governmental entities administering said programs, or any other governmental entity, purchase or otherwise acquire any real property situated within the Lake Tahoe region. The regional plan, as amended hereby, is not conditioned in any respect on an acquisition program, nor is it intended to designate any lands to be acquired, or to assist in such acquisition.

1.24

The land use regulatory provisions of the amendments to the regional plan, adopted by this ordinance, turn upon the provision of a reasonable, beneficial use of land under all the circumstances within the Lake Tahoe region, including, but not limited to, the circumstances identified in Article I of the Compact. The goals of such regulatory provisions comply with the intent and purpose of the Compact, including, but not limited to, the protection of the quality of the water of Lake Tahoe. It is not the intent of the amendments to the regional plan adopted hereby to reduce or otherwise affect the value of real property in the Lake Tahoe region, the desire being that the value thereof remain as that of property subject to a reasonable, beneficial use pursuant to the regulations set forth in said amendments. The portions of the amendments adopted hereby concerning stream environment zones recognize the necessity of said wetlands for protection and maintenance of the quality of water in Lake Tahoe, as documented in the Agency's Water Quality Management Plan and Environmental Threshold Carrying Capacities, including the environmental impact statements prepared for same, and that development of said wetlands has an immediate, adverse impact upon the quality of said water. The portions of the amendments adopted hereby concerning land classified within Land Capability Districts 1 through 3 recognize that development of said fragile lands has an adverse impact upon the quality of water within Lake Tahoe, as documented in said water quality management plan and environmental thresholds, including said environmental impact statements, and that the Agency has no environmentally documentable or supportable development screening system to adequately review and control development upon said fragile lands without harming the quality of said water. There is thus a necessity to temporarily prohibit development upon said lands in the manner set forth in the amendments adopted hereby subject to the preparation of said development screening system.
Although the framers of the Compact were aware of the difficulty of the mandate set forth in Article V, the process of amending the regional plan has been even more arduous than anticipated due to the exceedingly complex nature of the task. The Governing Body has deliberated for many months with due diligence and made many difficult decisions, which decisions have resulted in the amendments to the regional plan adopted hereby.

The Governing Body, by the adoption of this ordinance, does not intend, and the amendments to the regional plan adopted hereby shall not be construed as authorizing the Agency, to exercise its regulatory power to grant or deny a permit in a manner which shall take or damage private property for public use without payment of just compensation or due process of law. Nothing in said amendments is intended to increase or decrease the rights of any property owner under the Constitutions of the United States, the State of California, or the State of Nevada.

It is the intent of the Governing Body, by the adoption of this ordinance, to amend the regional plan heretofore in effect, including, but not limited to, the regional plan of the California Tahoe Regional Planning Agency otherwise applicable to the portion of the Lake Tahoe Region located in the State of California pursuant to Article V(e) of the Compact. It is also the intent of the Governing Body, by adoption of this ordinance, to amend the Agency's "Lake Tahoe Basin Water Quality Management Plan, January, 1978". The amendments to said water quality management plan are set forth in the Regional Plan for the Lake Tahoe Basin, Part I, Goals and Policies, referred to in subsection 2.11(1). The amendments to said water quality management plan shall take effect upon certification by the States of California and Nevada and approval by the U.S. Environmental Protection Agency pursuant to Section 208 of P.L. 92-500.

The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to pending projects reviewed under the provisions of Agency Ordinance No. 79-10, as amended:

1. Said provisions of Section 4.00 are limited to a finite number of projects, which number is 87.

2. Review of said pending projects is limited to a specific period of time, expiring December 31, 1984.

3. The amendments to the Water Quality Management Plan and the provisions of Agency Ordinance 79-10 for review and approval of applications for construction of single family residences upon high erosion and high runoff hazard lands, including the environmental impacts resulting therefrom, were the subject of an environmental impact statement prepared, circulated, certified and otherwise processed, reviewed and approved by the Tahoe Regional Planning Agency in accordance with the substantive and procedural provisions of Article VII of the Tahoe Regional Planning Compact. Said environmental impact statement adequately addressed the effects of construction upon Land Capability
Districts 1 through 3 as proposed by the pending projects under Agency Ordinance No. 79-10, as amended, and thus provided the Governing Body a proper disclosure upon which it has based a reasoned, sufficient and deliberate review and evaluation of the environmental impacts and commitments of said projects.

(4) The review procedure for said pending projects adopted by this ordinance is necessary to allow them to be processed, to the greatest extent possible, under the standards and regulations in effect at the time said applications were accepted by the Agency. The provisions of this finding are not to be construed as granting said applications the status of a common law vested right.

(5) It is necessary and desirable to set December 31, 1984 as the deadline for the Agency to take final action on such pending projects.

(6) The Addendum to the Environmental Impact Statement for the Agency's 208 Water Quality Management Plan (revision date May 28, 1981) assesses the adverse impacts on soils, water quality, vegetation and wildlife resulting from the construction of a typical single family residence on land classified as Land Capability Districts 1 through 3, and generally concludes that a significant adverse impact on water quality will result from such construction, due primarily to sediment loading amounting to approximately .44 metric tons per year for each such residence.

(7) The Environmental Impact Statement for Adoption of a Regional Plan for the Lake Tahoe Basin (TRPA, February, 1983) assesses the adverse impacts resulting from the existing land uses in the region and concludes that such uses result in significant adverse impacts on water quality due to, but not limited to, sediment loading amounting to 42,000 metric tons per year from "controllable erosion".

(8) Under a worst case scenario of all pending projects reviewed under the provisions of Agency Ordinance No. 79-10, as amended, being approved pursuant to Section 4.00 of this ordinance, the resulting significant adverse impacts on water quality due to sediment loading will amount to a .09% increase over that amount presently resulting from existing land uses.

The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to pending projects other than those referred to in subsection 1.28:

(1) Said provisions of Section 4.00 are limited to a finite number of projects, which number is 56.

(2) Review of said pending projects is limited to a specific period of time, expiring December 31, 1984.
(3) In view of said limitations, the provisions of Agency Ordinance No. 81-1, and the assessment and conclusions contained in the EIS for Adoption of a Regional Plan for the Lake Tahoe Basin (TRPA, February, 1983), the approval of said pending projects will not cause the adopted environmental threshold carrying capacities of the region to be exceeded and will not adversely affect implementation of the regional plan.

The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to 1983 building allocations issued in El Dorado and Placer Counties:

(1) Said provisions of Section 4.00 are limited to a finite number of projects, which projects will consist exclusively of single family houses located on land classified as Land Capability Districts 4-7 and in compliance with the land coverage limitations of said districts.

(2) The number of 1983 building allocations issued in Placer County of 278 is consistent with the allocation limitations set forth in the Compact for Placer County for previous years, using said limitations as a guideline for the entirety for 1983.

(3) One-hundred and five of the recipients of the 278 allocations in Placer County have received notice from the California Tahoe Regional Planning Agency (CTRPA) that their lots are buildable and that they should proceed with the permit process, including development of plans.

(4) Said 105 of the recipients, in the absence of Agency Resolution No. 83-21, may have proceeded with the permit process subject to all applicable CTRPA and Agency plans, ordinances, rules, regulations and policies in effect at that time.

(5) The number of 1983 building allocations issued in El Dorado County of 374 exceeds by 122 the allocation limitations set forth in the Compact for El Dorado County for previous years, using said limitations as a guideline for the entirety for 1983. To be consistent with the intent of the Compact, said excess number shall be counted against El Dorado County's share of the allocation limitations set forth in the amended regional plan.

(6) None of the 299 recipients of the 1983 allocations issued by El Dorado County on September 8, 1983 has received notice from the CTRPA that their lots are buildable or that they should proceed with the permit process.

(7) Placer County issued all 278 allocations in 1983 prior to the effective date of Agency Resolution No. 83-21 (August 26, 1983), and El Dorado County did not issue 299 of the 374 allocations in 1983 until September 8, 1983.
(8) Based on the foregoing findings, said provisions of Section 4.00 with respect to 1983 building allocations issued by El Dorado and Placer Counties are equitable and consistent with the intent of the Compact and the Agency's amended regional plan, adopted hereby, and therefore will not adversely affect compliance with the mandate to adopt an amended regional plan that will achieve and maintain the adopted environmental threshold carrying capacities.

1.31 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Adoption of Amendments to the Regional Plan

2.10 The regional plan of the Agency, as amended to date, is hereby further amended to include the following documents, each of which is incorporated herein by this reference as though fully set forth:

2.11 Plan Documents


2.12 Plan Area Statements

The document entitled Draft, Regional Plan for the Lake Tahoe Basin, Part I: Plan Area Statements, Tahoe Regional Planning Agency, is adopted as an interim policy guideline, effective until July 1, 1984, unless otherwise provided by amendment to this ordinance. The Governing Body shall amend said document and the Plan Area Overlay Maps referred to in subsection 2.13(1), pursuant to at least one duly-noticed public hearing, the subject of which hearing shall be the adoption of said document and said maps, as they may be amended, as final land use regulations.

2.13 Regional Plan Maps

(1) Plan Area Overlays for base maps at scales of 1"=400' and 1"=2000' (July 1983), which maps shall be subject to the public hearing referred to in subsection 2.12 and as they may be amended pursuant thereto.

(2) Land Capability Overlays for base maps at scales of 1"=400' and 1"=2000' (July 1983).

(3) Shorezone Tolerance/Pierhead Line Maps (Photographs) at an approximate scale of 1"=400' (July 1976).

(4) Special Interest Species and Sensitive/Uncommon Plant Maps at the scale of 1"=2000' (August 1982).

(5) Prime Fish Habitat Map at the scale of 2"=1 mile (August 1981).

(6) Stream Habitat Quality Maps at the scale of 1"=2000' (August 1982).

(7) Historical Sites Map at the scale of 2"=1 mile (July 1983).

2.14 Said maps are subject to variation in a particular case upon a demonstration that the land in question, based upon a detailed site investigation, is not accurately classified, delineated or depicted.
2.20 Plan Reference Documents

The following documents represent reference documents for the regional plan. Said documents are to be used when necessary for interpretation of the regional plan. In the event of an inconsistency or conflict between any said document and the regional plan, said plan, to the extent of said inconsistency or conflict, prevails.


Section 3.00 Article V(g) Findings for Project Review Pending Adoption of Agency Regulatory Code

3.10 Pursuant to Article V(g) of the Compact, the Agency shall make the following specific, written findings prior to approving any project in the region, except those pending projects referred to in subsections 4.20(1) and (2).

(1) The project is consistent and complies with the CTRPA and Agency ordinances, maps, rules, regulations and policies in effect on August 25, 1983 where said ordinances, maps, rules, regulations and policies are not inconsistent or in conflict with the amendments to the regional plan adopted by this ordinance. In the event said ordinances, maps, rules, regulations or policies are inconsistent or in conflict with said amendments to the regional plan, the Agency shall find that the project is consistent and complies with said amendments to the regional plan.

(2) The project has been processed in accordance with the Agency's Rules and Regulations of Practice and Procedure.

(3) With respect to projects for which an environmental impact statement has been prepared, changes or alterations have been required in or incorporated into the project which avoid or reduce the significant adverse environmental effects to a less than significant level; or specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project; and that a separate written
finding has been made for each significant effect identified in the environmental impact statement on the project, which said findings are supported by substantial evidence in the record.

(4) With respect to projects for which an environmental impact statement has not been prepared, the project, including compliance with the conditions of approval, will not have an adverse significant, individual or cumulative impact on the environment.

(5) The establishment, maintenance and operation of the project will not be detrimental to the health, safety, peace, comfort or general welfare of the Lake Tahoe Region.

(6) The project, including compliance with the conditions of approval, is consistent with, and thus will not adversely affect implementation of the regional plan, as amended hereby, including but not limited to the Land Use, Transportation, Conservation, Recreation, Public Services and Facilities and Implementation Elements of said plan.

(7) The project is consistent with the goals and policies of the Water Quality Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for water quality to be exceeded.

(8) The project is consistent with the goals and policies of the Transportation and Air Quality Elements of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for air quality to be exceeded.

(9) The project is consistent with the goals and policies of the Conservation Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for vegetation, wildlife, fisheries, soils and scenic quality to be exceeded.

(10) The project is consistent with the goals and policies of the Recreation Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for recreation development to be exceeded.

(11) The project is consistent with the goals and policies of the Public Services and Facilities Element of the regional plan, as amended hereby.

(12) The project is consistent with the goals and policies of the Implementation Element of the regional plan, as amended hereby.

(13) It has been demonstrated that the suppliers of water, sewage treatment, fire protection, educational services, police protection and other appropriate utilities have or will have the physical and legal capacity to supply said services to the project.
(14) As an alternative to the specific findings listed in subsection 3.10(7) through (13), inclusive, the Agency may find that:

(a) The project presents a situation or circumstance demanding immediate action to preserve the public peace, health, safety or general welfare, or to protect and enhance the environment of the Lake Tahoe Region;

(b) The project will not individually cause the adopted thresholds to be exceeded;

(c) A mitigation program is required as a condition of project approval which will ensure that the impacts of the project will be mitigated to the greatest extent possible; and

(d) Conditions of approval have been placed on the project to insure that as soon as possible after such situation or circumstance ceases to exist, a complete application for said project, including the appropriate environmental document, shall be submitted to the Agency, at which time approval of said project shall be subject to the findings required under Section 3.00, other than those in subsection 3.10(14).

(15) There is substantial evidence in the record supporting the foregoing findings.

3.20 Section 3.00 expires upon adoption by the Agency Governing Body of the Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, which code or other compilation shall include the findings required by Article V(g) of the Compact.

Section 4.00 Interim Project Review

Pending adoption of the Agency's Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and pending adoption of Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12 of this ordinance, the Agency shall accept, review and approve applications for projects only in accordance with Section 4.00.

4.10 Definitions

(1) "Single-family house" as used in Section 4.00 means "single-family house" as defined by Section 3.00 of the Agency's Land Use Ordinance (No. 4), as amended.

(2) "Emergency" refers exclusively to a project presenting a situation or circumstance demanding immediate action to preserve the public peace, health, safety or general welfare, or to protect and enhance the environment of the Lake Tahoe Region.
4.20 Review of Certain Pending Applications

Applications for the following classes of projects shall be accepted, where applicable, reviewed and may be approved pursuant to the Agency plan, ordinances, rules, regulations and policies in effect on August 25, 1983, and for activities in California, pursuant to the CTRPA plan, ordinances, rules, regulations and policies in effect on May 1, 1983:

(1) Complete applications for single family houses or additions thereto received by the Agency on or before 5:00 p.m. August 26, 1983. For purposes of reviewing and approving any of said applications that are pursuant to Agency Ordinance No. 79-10, as amended, the provisions of said ordinance, as amended, including but not limited to those that may have otherwise expired, shall be in effect.

(2) Complete applications for single family houses on lots having valid 1983 Placer County development allocations and for which letters have been issued by the CTRPA establishing that said lots are buildable. For purposes of reviewing and approving any of said applications, or, where applicable, applications referred to in subsection 4.20(1), the provisions of CTRPA Urgency Ordinances entitled "Development Permit Allocation for Placer County" (adopted on July 30, 1982 and extended on December 3, 1982) and "Development Permit Allocation for El Dorado County" (adopted on May 6, 1983), notwithstanding the expiration of said ordinances, shall be the standards for review and approval of said applications pursuant to this ordinance.

4.21 Required Findings

Prior to approving any of the projects identified in subsection 4.20, the Agency shall make the following findings:

(1) The findings set forth in Agency Ordinance No. 79-10, as amended, if applicable to the application.

(2) The findings set forth in the CTRPA Urgency Ordinances, if applicable to the application.

(3) The project is consistent with the Agency's regional plan in effect on August 25, 1983, and the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Lake Tahoe region.

(4) The establishment, maintenance or operation of the project will not be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood of the project.
(5) The project will not be detrimental or injurious to the environment or general welfare of the Lake Tahoe region.

(6) There is substantial evidence in the record supporting the foregoing findings.

4.30 Review of Other Pending and New Projects

Applications for the following classes of projects shall be accepted, where applicable, reviewed and may be approved pursuant to Section 5.00, and prior to approving such projects, the Agency shall make the findings set forth under Section 3.00:

(1) Complete applications received by the Agency on or before 5:00 p.m. August 26, 1983, other than those identified under subsection 4.20(1), pursuant to the requirements of Section 4.60, where applicable.

(2) Complete applications for projects received after the effective date of this ordinance, other than those identified under subsection 4.20(2), pursuant to the requirements of Section 4.60, where applicable, and other than those identified as being prohibited in the document entitled "Project Review Under Adopting Ordinance", dated March 28, 1984, which document is incorporated herein by this reference as the same may be amended from time to time by resolution of the Governing Body.

4.31 Review Criteria

Prior to approving any of the projects referred to in subsection 4.30, the Agency shall find that:


(2) Pending adoption of the Plan Area Statements and Plan Area Overlay Maps as final land use regulations, pursuant to subsection 2.12, the project does not propose density in excess of one (1) single family house per lot or parcel of record prior to the effective date of this ordinance and the use is not inconsistent with the applicable Plan Area Statement and Plan Area Overlay Map.

(3) With respect to applications for single family houses, or additions thereto, the project complies with the following development criteria:

(a) Under the limitations of the land capability system, a lot or parcel shall contain sufficient high capability (Class 4-7) land so that at least 1,200 square feet of impervious surface area can be created on the lot or parcel. The limitations imposed by the land capability system
specify what percentage of a lot or parcel may be covered by impervious surface area. For high capability lands, these limits range from 20 to 30 percent, depending upon the land classification.

(b) The lot or parcel shall be located in a Development Priority Area. A lot or parcel is within a Development Priority Area if it is serviced by at least three of the following:

i. Paved road.

ii. Water service.

iii. Sewer service.

iv. Electric utility.

(c) If a lot or parcel does not have sufficient high capability land and thus cannot create 1,200 square feet of impervious surface area, or is not in a Development Priority Area, the owner shall do one of the following:

i. Relinquish any development allocation issued pursuant to the regional plan, as amended hereby.

ii. Transfer said allocation to a high capability lot or parcel which does meet the criteria referred to in subsection 4.31(3).

iii. Combine one or more adjacent lots or parcels with the lot or parcel that received the said allocation in order to meet said criteria.

iv. Appeal to the TRPA Governing Board and explain why or how the lot or parcel that received said allocation meets said criteria.

4.40 Deadline for Processing Certain Applications

The Agency on or before December 31, 1984 shall take final action on all projects referred to in subsection 4.20. The applicable provisions of Section 4.00 shall remain in effect for this purpose until all such applications have received final action by the Agency or December 31, 1984, whichever occurs first.

4.50 Expiration

Except as otherwise provided by subsection 4.40, Section 4.00 expires upon adoption by the Agency Governing Body of the Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12.
4.60 Development Permit Allocations

Applications for projects identified under subsection 4.30 shall not be accepted, reviewed or approved by the Agency unless the applicant has received either of the following:

(1) A 1983 Placer or El Dorado County development allocation and, with respect to El Dorado County, an allocation having been determined by El Dorado County to be one of the 177 allocations issued in 1983; or


Section 5.00 Implementation of Regional Plan

5.10 Except as otherwise provided by this section, all Agency ordinances, maps, rules, regulations and policies in effect on August 25, 1983, including, but not limited to, those otherwise expiring upon the adoption of the amendments to the regional plan pursuant to this ordinance, shall remain in effect until otherwise amended or repealed. Pending adoption of the Agency's Regulatory Code, or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12, said existing Agency ordinances, maps, rules, regulations and policies shall be utilized by the Agency to implement the regional plan, as amended hereby, to the extent that they are consistent with said regional plan, as amended hereby, and the environmental threshold carrying capacities. In the event said ordinances, maps, rules, regulations or policies are inconsistent or in conflict with said regional plan, as amended hereby, or with said carrying capacities, said amended regional plan and carrying capacities, to the extent of said inconsistency or conflict, prevail.

5.20 This section expires upon adoption by the Governing Body of the Regulatory Code, or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12.

Section 6.00 Compliance With Agency's 208 Water Quality Management Plan

Notwithstanding Section 5.00, all projects referred to in subsection 4.30 shall comply, at a minimum, with the ordinances implementing the Agency's 208 Water Quality Management Plan, January 1978, unless and until said ordinances and 208 Plan are amended and said amendments are certified by the States of California and Nevada and approved by the U.S. Environmental Protection Agency pursuant to Section 208 of P.L. 92-500.
Section 7.00 Enforcement

The provisions of this ordinance and the amendments to the Agency’s regional plan adopted by this ordinance shall be enforced by the Agency, the States of California and Nevada, the City of South Lake Tahoe, and the Counties of El Dorado, Placer, Washoe, Carson City and Douglas.

Section 8.00 Interpretation and Severability

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

Section 9.00 Effective Date

This ordinance shall be effective immediately upon adoption hereof.

FIRST READING: March 28, 1984

SECOND READING:

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held ____________ 1984, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Norman C. Woods, Chairman
Tahoe Regional Planning Agency
PROJECT REVIEW UNDER ADOPTING ORDINANCE

I. Project Review Pursuant to Previous Plan and Ordinances: All those projects accepted and reviewed pursuant to Section 4.20 of the adopting ordinance may be approved if determined to comply with the plan, ordinances, rules, regulations and policies in effect on August 25, 1983. This class of projects includes 87 pending single family case-by-case applications, 56 other pending applications for single family residences or additions thereto, and 105 Placer County 1983 allocations for single family residences that received "buildable" letters from CTRPA.

II. Project Review Pursuant to Amended Plan: (This information is in summary form in the table in Appendix B)

A. Pending distribution by TBAG of the allocation limitations set forth in the Regional Plan for the Lake Tahoe Basin, Part 1: Goals and Policies, February 1984:

1. No projects proposing a new single family dwelling or new commercial floor area.

B. Pending Establishment of Water and Air Quality Mitigation Fee Schedules:

1. No projects that create new land coverage or generate new vehicle trips or miles travelled in the Basin. Projects proposing to replace existing conforming or nonconforming land coverage could be accepted and processed, provided no new vehicle trips or miles travelled are generated. Projects that are otherwise exempt from these mitigation fees could be accepted and processed.

C. Pending Final Adoption of Plan Area Statements:

1. No new multiple density residential or tourist accommodations since the plan area statements will identify in which plan areas these uses are allowed, special or prohibited uses and establish maximum densities.

2. No new commercial floor area since the plan area statements will identify where new commercial floor area is an allowed, special or prohibited use and will establish maximum limits for new commercial floor area within each plan area.

3. No uses that are identified as a special use in a plan area since the findings required for a special use to become an allowed use will not be established until adoption of the TRPA Code of Ordinances.

4. No uses that are identified as a prohibited use in a plan area.
5. Applications for uses that are identified as an allowed use in a plan area, other than those set forth in 1 and 2 above, could be accepted and processed, provided the actions identified under A. and B. above have been taken by the Governing Board.

D. Pending Approval by Both States and EPA of the Amendments to the Agency's Water Quality Management Plan:

1. No projects proposing land coverage in land capability districts 1, 2, or 3 or in excess of the limits set forth in land capability districts 4, 5, 6, and 7, except for regional public facilities, public outdoor recreation facilities and public works projects provided the required findings are made as set forth in the Regional Plan for the Lake Tahoe Basin, Part 1: Goals and Policies, February 1984.

E. Pending Adoption of TRPA Code of Ordinances: Appendix A lists projects and activities that can not be processed by the Agency until adoption of the TRPA Code of Ordinances. These projects and activities can not be processed because the Code, as currently drafted, establishes specific standards and regulations relative to these projects and activities that are not included in current Agency ordinances or addressed in adequate detail in the Goals and Policies Plan.
PROJECTS AND ACTIVITIES THAT CANNOT BE PROCESSED UNTIL ADOPTION OF
TRPA CODE OF ORDINANCES*  
(Appendix A)

1. Transfers of land coverage.

2. Reconstruction of structures creating nonconforming density or a use, nonconforming if reconstruction exceeds 50% of replacement value.

3. Division of land for tourist accommodation units.

4. Changes in shorezone tolerance district based on man-modified designation.

5. Extensions for grading after October 15.

6. Tree removal or harvesting within streams environment zones, land capability districts 1, 2, and 3, or on areas of 5 acres or more, unless exempt under applicable memorandum of understanding (MOU).

7. Tree removal for solar access.

8. Tree removal for purposes of enhancing scenic viewpoints from public roadways.

9. Permits for livestock grazing.

10. Prescribed burning, unless exempt under applicable MOU.

11. Landscaping with other than approved species listed in Handbook of Best Management Practices.

12. Modifications to stream channels or other uses that may physically alter the natural characteristics of a stream, except stream improvement projects.

13. Modifications to wetlands, except the creation of artificial nesting sites for waterfowl.

14. Approval for the use of holding tanks or other no-discharge systems.

15. Approval of sewage spill contingency plans.

16. Approval for the use of pesticides, except use in connection with prevention and eradication of structural pests such as termites and carpenter ants in buildings, which is exempt from Agency review.

17. New development requiring water unless it is demonstrated that there is adequate water supply with an existing water right.

18. New development that does not employ appropriate devices to conserve water and reduce water consumption.
19. New development requiring water unless there exists adequate storage and distribution systems to deliver adequate quantity and quality of water for domestic consumption and fire protection.

20. Transfer of a single family residence or commercial allocation issued under the amended regional plan.

21. Transfers of development rights.

22. Projects that are not included in Phase I Priorities in the amended regional plan.

23. Redevelopment projects.

24. New piers, buoys or other foreshore/nearshore structures.

25. Structural repairs to nonconforming structures in the nearshore and foreshore unless the applicant agrees to remove the nonconforming structure by 1999.

26. Approvals resulting in increased use of diesel engines in the Basin.

27. Approvals creating new stationary sources of air pollution.

28. Use of off road vehicles.

29. New signs.

30. New aviation facilities.

31. New construction of transportation facilities.

32. Increases in noise levels from the Lake Tahoe Airport.

33. Disturbance within stream environment zones or the removal of riparian vegetation.

34. Removal of vegetation in the interface between the backshore and foreshore.

35. New projects that restrict public access to the shorezone.

36. New hydroelectric projects.

37. New approvals for snowmobile use.

38. Expansion of existing ski facilities.

39. Density credits.

*Some projects or activities not listed may require individual review to determine if they can be processed.
### Project Review Under Adopting Ordinance

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1. Provided trees are not in land capability districts 1, 2 or 3 or on sites larger than 5 acres.
2. Except for regional public facilities, public outdoor recreation facilities, and public works projects when the findings set forth in the goals and policies plan are made.
3. Only in accord with the development criteria under Section 4.31(3) of adopting ordinance and only on lots in Plan Areas classified residential-mitigation.
MEMORANDUM

April 16, 1984

To:       The TRPA Governing Board

From:     The Staff

Subject:  Public Hearing on Code of Ordinances

The APC has been reviewing four chapters of the code of ordinances since January. Each of these chapters has undergone numerous revisions in response to both public and APC comments and recommendations. Most of the input from APC has been provided at the subcommittee level. Only after the subcommittee is satisfied with the wording of an ordinance chapter is it forwarded to the full APC for its review and approval.

At the present time, only two of the four chapters originally received by the APC have been reviewed by the full APC. Both the Grading and Resource Management chapters have been approved unanimously by the APC. The Water Quality and Transportation/Air Quality chapters are still in review at the subcommittee level. These two chapters may be ready for full APC review during the regularly scheduled meeting in May.

For purposes of the public hearing scheduled on the code of ordinances, staff suggests that the Board continue the public hearing to a later date after the Governing Board subcommittees have had an opportunity to review and comment to the full Board on the chapters of the code approved by the APC. Ample opportunity still exists for public comment during scheduled subcommittee meetings and later when the ordinances come before the full Board for discussion and vote.
CHAPTER 5

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CHAPTER 5

5.00.00.0 GRADING PROVISIONS:

5.00.01.0 General Explanation: Soil within the Lake Tahoe Basin is an integral part of the structure and function of the natural ecosystem. The disturbance of soil allows the possibility of erosion and the degradation of water quality in the region. Proper techniques and constraints can minimize the impacts of grading. Grading activities, except as set forth under Section 1.07.00.0, shall require an Agency permit and be reviewed against the following criteria:

5.01.00.0 SPECIAL INFORMATION REPORT REQUIREMENTS: Applicants for grading permits shall submit a complete application to the Agency pursuant to the Rules and Regulations of Practice and Procedure.

5.01.01.0 Required Investigations, Reports, and Plans:

5.01.01.1 General Requirements of Subsurface Investigations: If a subsurface soil and geological report is required pursuant to Subset 5.01.01.2, subsurface investigations shall be performed, by a qualified expert, throughout the area to sufficiently describe the existing conditions.

5.01.01.2 Specific Requirements of Subsurface Investigations: Subsurface investigations shall be conducted, and a subsurface soil and geological report prepared, where stability may be lessened by the proposed grading or filling or when such grading or filling will be performed at any of the following locations:

a. Fault zones;
b. Contact zones between two or more geologic formations;
c. Zones of trapped water or high water table;
d. Where bodies of intrusive materials (rocks, boulders, etc.) are prevalent;
e. Historic landslides or where the topography is indicative of prehistoric landslides;
f. Adversely sloped bedding planes, short-range folding areas, overturned folds, fractures and other geologic formations of similar importance;
g. Where a fill slope is to be placed above a cut slope;
h. Proposed or existing cuts exceeding twenty (20) feet in height, unless in competent rock;
i. Proposed or existing fills exceeding twenty (20) feet in height;

j. Where fills are to be placed on existing slopes steeper than sixteen percent (16%);

k. Wherever groundwater from either the grading project or adjoining properties is likely to substantially reduce the subsurface stability;

l. In areas showing characteristics of seeped soils or within areas of water influence; or

m. Where grading is proposed in the vicinity of historic sites (refer to Section 5.07.00.0) as identified by Agency maps or in other locations where objects of antiquity could be located.

5.01.01.3 Revegetation and Slope Stabilization:

a. Plan Required: The applicant shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and its disposal, the vegetation to be planted, erosion control, percentage of compaction, and slope stabilization measures to be installed. The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality, and fish and wildlife.

b. Submittal of Plan: The revegetation and slope stabilization plan in a, above, shall be submitted with the other required information reports unless the revegetation plan is a part of an application for clearing of vegetation which does not include or contemplate grading or filling.

5.01.01.4 Additional Investigations and Reports: When requested by the Agency, the applicant shall procure and furnish at his own expense additional engineering, geologic and ownership reports, plans or surveys and other material necessary to determine and evaluate site conditions and the effect of the proposed work on abutting properties, public ways and public welfare and safety within the purposes of this ordinance.

5.02.00.0 INSPECTIONS

5.02.01.0 Work Subject to Inspection: All construction or work for which a permit or other Agency review is required shall be subject to inspections at any time by the Agency.
5.02.02.0 Required Inspections:

a. Prior to any grading activity commencing, a pregrading inspection by Agency staff shall be required at which time all temporary erosion control and vegetation protection and construction site boundary fencing shall be in place.

b. An inspection by Agency staff shall be required to assure that installation of permanent mechanical erosion control devices, drainage improvements and revegetation be accomplished as soon as feasible after the start of construction.

c. Upon completion of all construction activities and prior to release of securities, a final site inspection by Agency staff shall be required at which time all improvements and revegetation shown on the final construction drawings approved by the Agency shall be properly installed and all conditions of approval satisfied.

5.03.00.0 CONSTRUCTION/INSPECTION SCHEDULE: The construction/inspection schedule that may be required for any project pursuant to Section 1.15.00.0 shall require information for purposes of establishing an appropriate sequence for installation of permanent mechanical erosion control, drainage improvements and revegetation consistent with the final construction drawings approved by the Agency. Said schedule is also for the purpose of assuring compliance with the seasonal and weather limitations on grading activities set forth in Subsection 5.05.01.0. In no instance shall a construction/inspection schedule be approved which would allow a construction site to be inactive more than seven months or beyond October 15 of the year following that which construction commenced without completion of permanent erosion control and drainage improvements and revegetation as necessary to stabilize the site pursuant to BMP’s. The following are those information items that may be required pursuant to this Section:

a. When installation of temporary erosion control, and vegetation protection and construction site boundary fencing will occur;

b. When construction will start;

c. When all disturbed areas will be stabilized;

d. When initial grading will be completed;

e. When all construction slash and debris will be removed;

f. When driveways, parking areas and other paved surfaces will be paved;

g. When installation of permanent mechanical erosion control devices will occur;

h. When installation of permanent drainage improvements will occur;

i. When revegetation will occur;

j. When construction will be completed;

k. When the site will be winterized, if appropriate; and

l. Other information deemed necessary by Agency staff to assure compliance with the purpose of this Section as stated above.
5.04.00.0 WINTERIZATION: All construction sites shall be winterized by October 15, in the following manner:

a. Sites that will remain inactive between October 15 and May 1 shall contain erosion and drainage improvements necessary to prevent discharge from the construction site, including but not limited to:

1. Installation of temporary erosion controls;
2. Installation of temporary vegetation protection fencing;
3. Stabilization of all disturbed areas;
4. Clean-up and removal of all on-site construction slash and debris;
5. Installation of mechanical stabilization and drainage improvements where feasible; and
6. Removal of all spoil piles from the site.

b. Sites that will remain active between October 15 and May 1 shall, in addition to the requirements of Section 5.04.00.0(a), include:

1. Installation of all permanent mechanical erosion control devices including paving of all driveway and parking areas;
2. Installation of all permanent drainage improvements; and
3. All parking of vehicles and storage of building materials shall be restricted to paved areas on site.

5.05.00.0 STANDARDS OF GRADING, FILLING AND CLEARING:

5.05.01.0 Seasonal Limitations:

5.05.01.1 Grading Seasons: Grading, filling, clearing of vegetation or other disturbance of the soil may not occur between October 15 and May 1 unless an extension has been granted by the Agency pursuant to Subset 5.05.01.2. Prior to the period of October 15 to May 1, all construction sites shall be winterized per Section 5.04.00.0.

5.05.01.2 Grading Extensions: Approval may be granted by the Agency to allow grading after October 15 when the Agency finds that it is in the best interests of the public health and safety, is for erosion control purposes or otherwise for improvement of water quality. The applicant must show that an extension will not increase the risk of environmental damage caused by the grading, filling or clearing of vegetation. Grading may be permitted to facilitate the construction of nearshore/foreshore structures during periods of low water.
5.05.01.3 Prohibition of Grading During Inclement Weather: Grading, filling, clearing of vegetation (which disturbs soil) or other disturbance of the soil are prohibited during inclement weather and for the resulting period of time when the site is covered with snow or is in a saturated, muddy or unstable condition. This prohibition extends to snow removal on unpaved construction sites.

5.05.02.0 Criteria for Grading, Filling and Clearing Operations: All grading, filling and clearing activities, including the construction and/or maintenance of unsurfaced roads whether or not requiring a permit under this ordinance, shall be designed to the maximum extent feasible to be consistent with the Grading and Drainage Guidelines of the Agency and with the standards of vegetation protection set forth in Chapter 6.

5.05.03.0 Discharge Prohibitions:

5.05.03.1 Direct Discharge: New point source discharges of solid or liquid waste materials including soil, silt, clay, sand or other organic or earthen materials are prohibited within the Tahoe Basin unless written approval is obtained from this Agency.

5.05.03.2 Indirect Discharge: Any materials susceptible to erosion shall be controlled with discharge devices.

5.05.03.3 Discharge Control Devices: Approved erosion and siltation control devices and measures shall be required for all grading, filling, and clearing operations. Control devices and measures which may be required include, but are not limited to, approved temporary and permanent erosion and sedimentation control devices and facilities and measures as depicted in the Handbook of Best Management Practices.

5.05.04.0 Dust Control: Dust control methods shall be required for any activity creating substantial quantities of dust.

5.05.05.0 Disposal of Earthen Materials: Earthen material excavated during operations hereunder shall be disposed of in a manner approved by the Agency. These may include:

a. Stockpiling all or some of the top soil on the site for use on areas to be revegetated.

b. Disposal of the material at a location approved by the Agency.
5.05.06.0 Cuts, Fills, Setbacks: The Agency's Design Review Guidelines shall include provisions for:

a. Maximum cut slope;
b. Stability of slope material;
c. Maximum fill slope;
d. Appropriate type of fill material;
e. Borrowing of fill material;
f. Fill compaction requirements;
g. Appropriate moisture content of compacted fill; and
h. Appropriate property line setbacks from cutslopes.

5.06.00.0 VEGETATION PROTECTION:

a. Restriction of Vehicles to Graded Areas: There shall be no excavation on the site before the Agency has approved the location of the stake-out of the drives, parking sites, building sites and other areas to be graded or filled. Construction equipment shall be limited to the area specified in the final plans to be graded according to the approved plans. No vehicles of any kind shall pass over areas outside of the construction site boundary.

b. Tree Buffer Zone: No grading or operation of heavy equipment shall take place within the area bounded by the drip line of any tree or off the property. This does not apply to those trees which have been approved for removal by the Agency.

c. Protective Barriers: During construction the permittee shall install and maintain appropriate barriers around all native vegetation proposed for retention pursuant to Section 6.05.00.0.

5.07.00.0 OBJECTS OF ANTIQUITY:

a. Prohibition of Grading: No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic or prehistoric ruins or monuments or objects of antiquity are present or could be damaged by grading except in accordance with an approved recovery plan. The grading plan shall indicate all such areas on the site and shall indicate the measures that will be taken to protect these areas.

b. Discovery of Antiquities: Whenever during excavation any historic or prehistoric ruins or monuments or objects of antiquity not previously accounted for in the grading plan are uncovered or become apparent, all work in the immediate area shall cease until the Agency, in cooperation with other local units of government, determines that appropriate precautions have been taken to preserve the historic artifacts. The Historical Sites Map will be amended as often as necessary to reflect the discovery of any new historical sites.
CHAPTER 6

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CHAPTER 6

6.00.00.0 RESOURCE MANAGEMENT PROVISIONS:

6.00.01.0 General Explanation: The purpose of this chapter is to set forth standards and guidelines for the management and protection of vegetation, wildlife, and fisheries. Such standards shall apply to the review of all projects and to existing development and uses when remedial actions are determined to be necessary.

6.01.00.0 TREE REMOVAL: Proper management of the Basin's forest resources will improve forest health in the region. Management will enhance species and structural diversity where lacking at this time, thereby lessening the chance of devastating insect and disease outbreaks while providing more favorable conditions to support abundant and diverse populations of wildlife.

In order to provide for diversity and long term health, all components of the forest must be managed. Included as components are snags and fallen logs, understory shrubs, forbs and grasses, as well as trees of all ages from seedlings to those that are overmature. Since much of the forest in the Basin is composed of trees that are mature or are approaching maturity, greater emphasis should be placed upon the establishment and protection of small trees. This emphasis is especially important where the ground and vegetation are subjected to substantial disturbance by human activities. Protection of small trees is expected to be fulfilled through vegetation protection measures outlined in this chapter including open space protection, landscaping, and revegetation requirements.

Trees 6 inches dbh and larger may be removed from the forest for the purposes described in this chapter provided that the standards of performance also described herein are followed.

6.01.01.0 General Performance Standards:

a. The cutting, moving, removing, killing, or materially damaging of live trees, the removal of disease infested and hazardous trees, and the attachment of appurtenances to trees shall be in compliance with the terms of this Section, and permits shall be granted or denied in conformity with the provisions of this Section. All such tree cutting shall also conform to the provisions of all other applicable sections of the Agency ordinance.

b. Existing trees and vegetation not approved for removal shall be preserved and protected during tree removal activity.

c. Tree removal within stream environment zones shall be limited to cutting diseased or hazardous trees or to thinning needed to protect the health and vigor of
remaining trees or to improve fish or wildlife habitat except as permitted under Subset 6.01.03.7.

d. Trees damaged during removal operations in urban areas or developed sites shall be treated as necessary to prevent future damage from insects or disease.

e. All tree removal sites shall be stabilized prior to, during, and after operations so as to prevent erosion from the site.

f. A qualified forester must determine, and the Agency find, that all tree removal proposals on private, state, federal or local government property are in substantial compliance with the practices permitted under Subsection 6.01.03.0.

g. Sites where significant numbers of trees are proposed to be removed must have adequate restocking potential such that reforestation is feasible as determined by site characteristics of soil productivity, slope, aspect, and precipitation. (See procedures for substantial tree removal, Subset 6.01.02.9.)

6.01.02.0 Minimum Standards for Tree Removal:

6.01.02.1 Management Practices: Techniques shall be encouraged that accomplish the following objectives:

a. Restoration/expansion of stream environment zones and riparian vegetation;

b. Improvement to the structural diversity of yellow pine and red fir forests including the protection and establishment of younger-aged trees;

c. Enhancement of species diversity;

d. Provision for the enhancement/protection of such minor tree species as incense cedar, sugar pine, western white pine, mountain hemlock, whitebark pine, and western juniper;

e. Protection of sensitive lands;

f. Minimization of construction of new roads;

g. Revegetation of existing temporary roads;

h. Minimization of disturbance of stream environment zones;

i. Utilization of existing openings or disturbed areas as landings;

j. Provision for revegetation; and/or

k. Limited use of patch cuts to be consistent with adopted thresholds.

6.01.02.2 Cutting Practices:

a. Sufficient trees shall be reserved and left uncut and undamaged to meet the standards described herein under definition of minimum acceptable stocking except where patch cutting is necessary for regeneration harvest or early successional stage management.
b. All trees to be cut are to be marked on bole and stump with paint prior to Agency approval. Trees to be removed or protected may be designated by other means in situations involving clear cuts or thinning of exceptionally dense thickets.

c. Damage to unmarked trees and residual vegetation shall be avoided and all trees shall be felled in line with the skidding direction wherever possible.

d. All trees shall be limbed on three (3) sides and topped prior to skidding.

e. Stumps shall be kept to a height of six (6) inches or less on the side adjacent to the highest ground, except where safety or imbedded metal make this impractical.

6.01.02.3 Harvests within Stream Environment Zones: Harvest within stream environment zones is permitted to allow for early successional stage vegetation management, sanitation cuts, and fish and wildlife habitat improvement projects when adverse impacts can be minimized or avoided. At a minimum the following standards shall apply:

a. All vehicles shall be restricted to areas outside of the stream environment zones or to existing roads within stream environment zones except for vehicles used in over snow tree removal.

b. Work within stream environment zones shall be limited to times of the year when soil conditions are dry and stable or when snow depth is adequate enough for over snow removal without causing damage to soil or vegetation. (Refer to Subset 6.01.02.6.)

c. Felled trees and harvest debris shall be kept out of all perennial and intermittent streams and if deposited shall be removed immediately.

d. The traversing of perennial streams or other wet areas shall be limited to improved crossings meeting Best Management Practices or to temporary bridge spans that can be removed upon project completion or at the end of the work season whichever is sooner. Any damage or disturbance to the stream environment associated with the crossing must be restored within one year of its removal. In no instance shall any method requiring the placing of rock and earthen material into the stream or streambed be considered an improved crossings except where such methods will reduce the water quality impacts of an
existing stream crossing and the Governing Body finds that the requirements of Goal #1, Policy #7, of the Stream Environment Zone Subelement of the Regional Plan are met. Other temporary measures may be permitted for dry stream crossings provided that impacts can be adequately mitigated.

e. Special conditions shall apply to all tree harvests within stream environment zones and within the transition or edge zone adjoining stream environment zones as necessary to protect instream values and habitat diversity.

6.01.02.4 Skidding:

a. Ground skidding shall be limited to land capability districts 4, 5, 6, and 7. Special limitations shall apply to land capability 3 lands. Ground skidding is prohibited in land capability districts 1a, 1b, 1c and 2 except as allowed by Subset 6.01.02.5.

b. No logging arches other than integral arch equipment is permissible.

c. Best Management Practices shall be installed, as required by this section and the Handbook of Best Management Practices prior to seasonal shutdown for all skid trails, landings, and other roads.

(1) Cross drains shall be spaced as follows:

<table>
<thead>
<tr>
<th>Gradient</th>
<th>5-7</th>
<th>3-4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10%</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>10 - 20%</td>
<td>150</td>
<td>90</td>
</tr>
<tr>
<td>21 - 30%</td>
<td>90</td>
<td>50</td>
</tr>
</tbody>
</table>

(2) Cross drains shall be placed at such lesser intervals as may be necessary to prevent soil erosion caused by firebreaks, trails, or landings.

(3) Construction of cross drains shall be kept current with operations or at time of seasonal shutdown, whichever is sooner. Erosion control work including the design and interval of cross drains, shall be subject to approval of the Agency.

(4) Landing areas shall be properly drained in a manner to prevent soil erosion and stream pollution.

(5) Logs shall only be skidded endwise.
(6) Skid trails shall be located so as to protect residual stands through utilization of natural openings and topographic characteristics. Every effort shall be made to keep the number of skid trails at a minimum and to restrict their width to fifteen (15) feet or less. Main skid trails will be flagged in advance of felling operations and subject to the approval of the Agency.

6.01.02.5 Removal Methods: The following tree removal methods shall be the only methods that may be used on lands located within the land capability districts shown on the official Land Capability Maps of the Agency.

<table>
<thead>
<tr>
<th>Land Capability District</th>
<th>Removal Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a, 1c, 2</td>
<td>Aerial removal, hand carry and use of existing roads in conformance with Subset 6.01.02.6. Over-the snow-removal may be permitted on occasions when suitable snow conditions exist.</td>
</tr>
<tr>
<td>1b</td>
<td>As permitted in District 1a and cable skidding over snow. End lining may be acceptable when site conditions are suitable so as to avoid adverse impacts to the soil and vegetation.</td>
</tr>
<tr>
<td>3</td>
<td>As permitted in district 1a and ground skidding with special limitations.</td>
</tr>
<tr>
<td>4 - 7</td>
<td>As permitted in District 1b and ground skidding as well as other acceptable methods for removing felled trees from approved project sites.</td>
</tr>
</tbody>
</table>

6.01.02.6 Logging Roads and Skid Trails: No road or skid trail shall be constructed or otherwise created or maintained other than in accordance with the requirements of this section and the Handbook of Best Management Practices. The construction of new roads is discouraged and should only be considered after all other alternatives have been explored. Existing roads shall be used to the greatest extent possible. Notwithstanding Subset 5.05.01.1, existing roads and landings may be
accessed in the winter to help prepare for over-the-snow tree removal. Such preparation shall be limited to packing of snow over the roadways as necessary to obtain a firm snow base to allow movement of logs and equipment without disturbance of the soil.

a. Standards: The requirements and standards for design, grade, tree felling in right-of-way, slash cleanup, width, and maintenance, by road type as determined by the Agency shall be as follows:

<table>
<thead>
<tr>
<th>ROAD TYPE</th>
<th>DESIGN</th>
<th>MAXIMUM GRADE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Administrative Roads</td>
<td>Plans and Specifications</td>
<td>10%</td>
</tr>
<tr>
<td>Limited Use*</td>
<td>Plans and Specifications</td>
<td>10% with occasional 15%</td>
</tr>
<tr>
<td>Limited Use*</td>
<td>Plans and Specifications</td>
<td>10% with occasional 15%</td>
</tr>
<tr>
<td>Limited Use* Roads closed after logging</td>
<td>Plans and Specifications</td>
<td>10% with occasional 15%</td>
</tr>
<tr>
<td>Temporary Road</td>
<td>Flag line</td>
<td>20%</td>
</tr>
<tr>
<td>Tractor Roads and Main Skid Trails</td>
<td>Flag line</td>
<td>30%</td>
</tr>
<tr>
<td>Secondary Skid Trail</td>
<td>None</td>
<td>30%</td>
</tr>
</tbody>
</table>

*Roads, cuts, and fills shall be stabilized in a manner approved by the Agency.*
<table>
<thead>
<tr>
<th>ROAD TYPE</th>
<th>RIGHT OF WAY</th>
<th>MINIMUM SLASH CLEANUP</th>
<th>MAXIMUM WIDTH</th>
<th>MAINTENANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Administrative Roads</td>
<td>Prefall</td>
<td>Removal within 50 feet of road</td>
<td>30 feet *</td>
<td>As determined by Agency</td>
</tr>
<tr>
<td>Limited Use Roads Remaining Open</td>
<td>Prefall</td>
<td>Removal within 50 feet of road</td>
<td>15 feet w/turnouts *</td>
<td>Annual maintenance required**</td>
</tr>
<tr>
<td>Limited Use Roads Closed After logging</td>
<td>Prefall</td>
<td>Lop and scatter</td>
<td>15 feet w/turnouts *</td>
<td>Close to vehicle use and revegetate</td>
</tr>
<tr>
<td>Temporary Roads</td>
<td>Prefall</td>
<td>Lop and scatter</td>
<td>15 feet *</td>
<td>Close to vehicle use and revegetate</td>
</tr>
<tr>
<td>Tractor Roads and Main Skid Trails</td>
<td>Concurrent</td>
<td>Lop and Scatter</td>
<td>15 feet</td>
<td>Close to vehicle use and revegetate</td>
</tr>
<tr>
<td>Secondary Skid Trails</td>
<td>Concurrent</td>
<td>Lop and scatter</td>
<td>15 feet</td>
<td>Close to vehicle use and revegetate</td>
</tr>
</tbody>
</table>

* Unless the Agency determines that greater width is necessary for feasible use or safety.

** "Annual Maintenance" means such activities as restoring drainage features and making other road repairs as necessary.

Drainage and live stream crossings are as per Subset 6.01.02.3 and the Handbook of Best Management Practices.
6.01.02.7 Slash Disposal: Slash shall be disposed of by the following methods:

a. Lop and scatter, pile and burn (consistent with air quality subsection of this ordinance), chipping, and haul away. All burns shall be located beyond 50 feet of any stream channel.

b. Cull logs and other material shall be disposed of in a manner consistent with the permit conditions.

c. Disposal operations shall be completed within one year following project completion.

6.01.02.8 Restocking: Trees shall be planted and nurtured elsewhere on the property if deemed appropriate for proper stocking levels. The appropriate size of the replacement trees, species and location for planting shall be determined by a qualified forester.

6.01.02.9 Substantial Tree Removal: Tree removals determined to be substantial (generally five acres or more in size) shall be reviewed in the following manner:

a. All public and private tree harvests shall be initially reviewed by the appropriate state and federal agencies in coordination with the Agency.

b. Review on Private Lands.

(1) Harvest plan written by registered professional forester or other professional forester;

(2) Harvest proposal submitted to the Agency;

(3) Agency Review:

i. Pre-approval field review;

ii. Pre-harvest field review; and

iii. Post-harvest review.

c. Review on Public Lands.

(1) U. S. Forest Service administered lands:

i. Coordination with the Agency at the initial planning stages;

ii. Environmental assessment, review, and a finding that the proposal is in conformance with all applicable provisions of the ordinance; and

iii. Agency monitoring and evaluation.
(2) Other Public Lands:

1. Same as applicable to private land review.

6.01.03.0 Acceptable Cause for Tree Removal:


a. The Agency, upon receipt of a written report from an individual competent in the discipline of solar design may issue a permit to allow the removal of healthy trees that unreasonably impede the operation of a solar energy system.

b. The solar energy system shall be properly located so as to minimize the need for tree removal.

c. The number of healthy trees that may be removed shall be the minimum necessary to remove the impediment.

d. The only trees that shall be considered for removal are those that lie generally south of the proposed solar collector and are in the sun's path between an 18° vertical angle measured from the base of the solar collector and a 70° vertical angle from the same base measurement.

6.01.03.2 Dead, Dying, or Diseased Tree Removal: To enhance forest health, trees certified by a qualified forester to be dead, dying or diseased may be removed following approval by the Agency. (See also Subset 6.08.01.4.) Insect-infested wood must be disposed of or treated as appropriate and specified by a qualified forester.

6.01.03.3 Hazardous Tree Removal: To protect lives and property, trees certified by a qualified forester to be hazardous to property or people may be removed upon approval by the Agency. Other vegetation must be protected during removal operations to prevent their injury.

6.01.03.4 Tree Removal for Enhancement of Forest Health and Diversity: Tree removal may be permitted where the species or structural diversity of an area is unacceptable. The determination of when and where tree removal to enhance forest health and diversity is appropriate shall be guided by the following criteria:
a. A management plan must be prepared to demonstrate the need for the project and the means of accomplishing specific objectives.

(1) If improvement to forest health is the objective, removal of trees must not exceed minimum stocking levels as determined by a qualified forester.

(2) If improvement to structural diversity is the objective, removal of trees must be linked to a reforestation program that provides for the establishment of younger aged trees.

(3) If improvement to species diversity is the objective, removal of trees must be linked to a reforestation program that provides for the establishment of native species other than the local dominant.

(4) On lots of five acres or less in size, the tree removal permit may suffice as the management plan.

b. The site proposed for tree removal for forest diversity must be within a contiguous area of at least 5 acres in which a single tree species of similar age class dominates. There is no minimum acreage when removing trees for forest health or for successional management of stream environment zones.

6.01.03.5 Ski Area and Right-of-Way Tree Removal:

a. The following standards apply to ski areas, utility and public right-of-ways.

(1) The expansion of ski areas, including but not limited to, the widening of runs and the addition and/or replacement of lifts shall be in accordance with this Ordinance and other applicable Agency regulations. Only the minimum number of trees shall be removed consistent with the safe operation of the ski area.

(2) The removal of trees within utility and public right-of-ways may be allowed when the Agency determines that said removal is for the public health and safety. When an emergency exists, immediately threatening the public health and safety with a tree-related incident, the utility or public agency may remove the
tree or trees, advising the Agency of the action upon the next business day. At that time the Agency may set forth conditions in approving the removal.

6.01.03.6 Cutting and Cultivation of Christmas Trees: To allow for the continuance of existing Christmas tree cultivation operations, such operations, when certified by a qualified forester to be utilizing proper silvicultural methods, may continue upon approval by the Agency. New Christmas tree farm operations may be permitted when found to be in compliance with other applicable Agency regulations.

6.01.03.7 Tree Removal For Development: Trees may be removed in conjunction with a valid Agency development permit from within the building envelope and from within a distance six feet outside of the foundation edge. All trees to be removed must be depicted on an approved site plan.

6.01.03.8 Tree Removal During Emergency Fire Suppression Activities: Trees may be removed when an emergency fire suppression need exists as determined by the local, state or federal fire suppression agency involved in a fire suppression effort.

6.01.03.9 Tree Removal to Enhance Scenic Viewpoints from Public Roadways: Trees may be selectively removed to maintain scenic viewpoints from approved scenic turnouts located on major highway corridors. Such tree removal shall be consistent with the provisions of a longterm management program for the turnout facility.

6.01.04.0 Commercial Tree Removal: Trees may be removed as a commercial enterprise pursuant to the tree removal practices of Subsets 6.01.03.2, 6.01.03.3, 6.01.03.4, 6.01.03.5, 6.01.03.6, and/or 6.01.03.7.

6.02.00.0 PRESCRIBED BURNING PROGRAMS:

6.02.01.0 Information Report: All applicants shall file a prescribed burning plan with the Agency. The information to be included in the plan will be specified by Agency staff.

6.02.02.0 Lands Suitable for Prescribed Burning: Prescribed burning activities shall be limited to lands deemed suitable in writing by the responsible public fire protection agency.
6.02.03.0 Purpose of Prescribed Burn: Prescribed burning shall be limited to the following practices:

a. Seral stage management;
b. Slash disposal;
c. Fuels management;
d. Wildlife habitat management; or
e. Silviculture.

6.02.04.0 Scope and Timing: The scope and timing of prescribed burning shall be consistent with other provisions of this ordinance. (Refer to Section 8.05.00.0.) Prescribed burning shall be conducted utilizing state of the art practices so as to minimize the risk of wildfire, excessive smoke, and to meet the goals of the prescription.

6.03.00.0 LIVESTOCK GRAZING: Grazing of livestock in the Lake Tahoe Basin shall be a regulated use and comply with the following standards:

a. Livestock are allowed on the site only when the soil is firm enough to prevent trampling damage to soil and vegetation.
b. The use of the area by wildlife shall be considered when determining whether the property is suitable for grazing.
c. Livestock shall not be allowed in areas where sensitive plant species could be jeopardized.
d. The use of livestock as a seral stage management technique may be encouraged.
e. Range improvements shall not interfere with migration routes of deer and other wildlife.
f. The applicant shall provide sufficient information to determine the proper forage carrying capacity and then shall not exceed that number.
g. Livestock use shall not conflict with the attainment of water quality standards.
h. Livestock confinement facilities shall be in conformance with BMP XII-A.
i. All existing livestock confinement facilities which are not in conformance with BMP VII-A shall be brought into conformance within five years from the date of this Regional Plan.
j. Livestock shall be restricted from the banks of streams in areas where there is an identified erosion or water quality problem.

6.04.00.0 REMEDIAL VEGETATION MANAGEMENT: The Agency may require the preparation of remedial vegetation management plans when it is found that there is a need for vegetation management within identified areas to achieve environmental thresholds for vegetation.

6.04.01.0 Problem Identification: During phase I of plan implementation, the TRPA and the respective state forestry departments will identify areas where remedial management of vegetation is necessary for the purposes of improving plant diversity or maintaining forest health. The minimum size of an area to be considered for remedial action is 5 acres.
6.04.02.0 Preparation of Management Plans: Upon request by the Agency, management plans will be prepared by the land owners of areas identified for remedial management in cooperation with the Agency and the state forestry departments.

6.04.02.1 Plan Content: Remedial management plans shall contain at a minimum, the following information:

a. Purpose of management plan including list of objectives;
b. Description of existing vegetation including the abundance, distribution, and age class of all major tree species;
c. Remedial measures necessary to achieve stated objectives including details of harvest and revegetation plans; and
d. Implementation schedule including a monitoring program to report progress on reestablishment of vegetation.

6.04.03.0 Compliance:

6.04.03.1 Voluntary Compliance: Individuals, neighborhoods, homeowners associations, and others are encouraged to submit remedial vegetation plans at any time regardless of whether the area of interest has been identified by the Agency for remedial management.

6.04.03.2 Procedural Compliance: Requests by the Agency to cause the preparation of remedial management plans for specified areas shall follow the procedures for the abatement of a nuisance set forth in Subsection 1.16.02.0.

6.05.00.0 VEGETATION PROTECTION: The preservation of vegetation is necessary to help maintain the significant scenic, recreational, educational, scientific, and natural values of the region. The standards for the preservation/management of vegetation contained herein are necessary to provide for that purpose.

6.05.01.0 Project Design: The siting and design of a project shall provide for the maximum protection of existing vegetation and require a plan for revegetation of existing disturbed sites within the affected parcel.

6.05.02.0 During Construction: The contractor and the property owner shall be responsible to insure maximum protection of all vegetation on the project site except where disturbance is otherwise allowed by the Agency.
6.05.02.1 General Provisions for the Protection of Vegetation:

a. Vegetation may not be disturbed, injured, or removed without approval by the Agency.
b. All trees, major roots, and other vegetation not specifically designated and approved for removal shall be protected.
c. Construction equipment and associated activity shall be limited to designated areas and approved access ways.
d. Prior to Agency approval, equipment of a size and type that, under prevailing site conditions, will do the least amount of damage to the environment may be specified.
e. No slash, trees cut for the project, uprooted stumps, or other vegetative debris may remain on the site after final foundation inspection except bucked and stacked firewood in designated areas. Any remaining stumps must be cut within 6 inches of the ground on the uphill side of trees.
f. Revegetation in accordance with an approved revegetation plan and other applicable provisions of Agency ordinances shall be required for all disturbed areas outside of the building footprint and approved access.
g. Removal of trees and other materials in conjunction with an approved project shall be accomplished in the fashion least damaging to the environment.

6.05.02.2 Minimum Standards for Vegetation Protection:

a. Construction equipment and materials shall be restricted to designated roads and as otherwise permitted under other applicable provisions of Agency ordinances.
b. Landscaping involving the removal of existing native vegetation shall generally be prohibited except as otherwise permitted under Section 6.06.00.0 of this ordinance and for purposes of remedial erosion control.
c. A plan to treat trees found on the parcel may be required in conjunction with other project permit requirements. Initial review of whether a plan may be necessary shall be accomplished as part of project review. At a minimum, the plan shall include the following:

(1) Identification and treatment provisions for diseased or insect infested trees;
(2) Identification and removal provisions for hazardous trees; and

(3) Provisions for optimum stocking levels of trees including the protection and establishment of younger-aged trees.

d. Trees may be removed from within 6 feet of foundation footprint as per Subset 6.01.03.7 and when approved construction activities involving soil compaction, excavation or paving encroach into more than 25% of a tree's dripline.

e. All vegetation beyond 6 feet of the foundation footprint must be suitably protected from construction damage by installing temporary fencing to prevent encroachment of machinery or construction materials. (See Section 5.06.00.0(a))

f. Large roots (4 inches in diameter and larger) encountered during excavation of utility trenches should not be severed, if avoidable.

g. All roots of residual trees 4 inches in diameter or larger severed during excavation of foundations or roadways shall be cut flush and cleaned.

h. All trees designated for removal must be felled and removed in such a manner that damage to residual trees and vegetation will be minimized. Inadvertent injury to the bole of any tree shall be immediately treated in a prudent manner including cleansing of the wound and shaping of the wound to prevent collection of moisture.

i. Tree trunks shall not be used for the purpose of sign posts, telephone wires or temporary power, bracing for forms, or other similar types of uses.

6.05.03.0 Open Space Protection: Encroachments upon open space can cause loss of vegetation, erosion, and other water quality impacts. Restrictions of activities are necessary to allow existing disturbance to heal and to prevent disturbance of new land areas. At a minimum, the following standards shall apply to open space lands:

a. Motorized vehicles shall not be allowed off of improved roads or designated trails except where permitted by an approved off highway vehicle plan or otherwise permitted by the Agency.

b. Physical barriers shall be erected and maintained as necessary to prevent vehicular encroachment into areas where disturbance and/or coverage has not been authorized.
c. Barrier materials shall blend to the extent feasible with the natural background. Preferred materials include wooden posts treated with preservatives, boulders, and wooden fence material.

d. Locations and/or situations where barriers may be required are as follows:

   (1) Open space islands within parking lots and lands adjoining commercial and industrial parking lots;
   (2) Open space areas adjacent to residential and recreational facilities;
   (3) Sensitive lands;
   (4) Revegetated sites;
   (5) Unauthorized roads/trails; and
   (6) Other areas as deemed necessary to prevent damage or destruction of vegetation.

6.05.04.0 Sensitive Plants/Uncommon Plant Communities: Distinction of plants for special significance is usually determined based on such values as scarcity and uniqueness. The following standards shall apply to all sensitive plants and uncommon plant communities for which environmental thresholds apply and to any other plant or plant community later identified for such distinction. The general locations of sensitive plant habitat are depicted on Agency maps.

6.05.04.1 Sensitive Plants: Individual species and the habitat on which they depend shall be preserved. At a minimum, the following standards for protection shall apply:

   a. As a condition of project approval, the applicant shall consult with the TRPA staff to determine whether sensitive species and/or habitat for sensitive species are likely to occur on the project site.

   b. Activities and/or development proposed or currently existing in the vicinity of sensitive species and associated habitat will be regulated as necessary to preserve the species and its habitat. Any use or activity that is likely to harm, destroy, or otherwise jeopardize the species or its habitat and which cannot be fully mitigated shall be prohibited. Acceptable measures to protect the species and/or associated habitat from existing or intended uses may include the following:

      (1) Fencing to enclose individual populations or habitat;
(2) Restricted access and permitted intensity of use;  
(3) Modifications to project design as necessary to avoid or minimize impacts;  
(4) Dedication of open space to include entire area of suitable habitat; and  
(5) Restoration of already disturbed habitat.

6.05.04.2 Uncommon Plant Communities: Uncommon plant communities shall be managed and protected as necessary to preserve their unique ecological attributes and other associated values. Activities/uses proposed on or in the vicinity of uncommon plant communities shall require a permit from the Agency. The locations of uncommon plant communities are depicted on Agency maps. At a minimum, the following standards for protection shall apply:

a. No use or activity shall be undertaken that may adversely impact uncommon plant communities such that normal ecological functions or natural qualities of the community are impaired.

b. Management practices that enhance the qualities of the plant community without artificially interfering with natural plant succession are permitted uses when approved by the TRPA.

6.05.05.0 Vegetation Removal to Prevent the Spread of Wildfire: Within areas of significant fire hazard as determined by local fire agencies, flammable or other combustable vegetation may be removed, thinned, or manipulated up to 30 feet from any structure as necessary to prevent the spread of wildfire. Sufficient quantities of residual vegetation should remain in this zone to help stabilize the soil and to prevent erosion. Whenever possible, vegetation in this zone should be thinned, tapered, cutback, or otherwise selectively manipulated as opposed to total removal of vegetation. Revegetation shall be required using approved species on sites where vegetative ground cover has been eliminated or where erosion problems may occur.

6.06.00.0 LANDSCAPING: The use of ornamental vegetation and landscape practices that involve the removal of existing native vegetation shall generally be discouraged according to the following criteria:

a. Landscaping with other than native or approved plant species shall not be permitted except under Section 6.06.03.0 of this ordinance.

b. Revegetation plans shall emphasize the use of native or approved species that require minimal use of water and fertilizer.
6.06.01.0 **Approved Species:** Only native or other approved plant species shall be used for all landscaping and revegetation programs/projects. The list of acceptable species is found in the Handbook of Best Management Practices. Until the current list is amended (within one year following adoption of this Ordinance), all revegetation and landscaping plans must demonstrate compliance with the intent of this ordinance.

6.06.02.0 **Fertilizer Management:**

a. A fertilizer management program to be incorporated into the Handbook of Best Management Practices shall guide the use of all fertilizer in the Basin. At a minimum, the program will develop standards for:

1. The appropriate type of fertilizer to avoid rapid release of nutrients;
2. The rate of application to avoid excessive application;
3. The frequency of application to minimize the use of fertilizer;
4. Appropriate watering schedules to avoid excessive leaching and runoff of nutrients;
5. Preferred plant materials to minimize the need of fertilizer;
6. Landscape design that minimizes the use and impacts of fertilizer application;
7. Critical areas where the use of fertilizer shall be avoided;
8. Design and maintenance of drainage control systems including holding ponds where necessary; and
9. Surface and groundwater monitoring programs, where appropriate.

b. Until such time as standards are developed for each component of the fertilizer management program, all new projects that include provisions for landscaping or revegetation must incorporate a fertilizer management program that addresses each of the above considerations.

c. Existing uses that require regular fertilizer maintenance such as golf courses, parks, cemeteries, recreational ball fields, and residential yards shall comply with the Agency's fertilizer management program within 1 year following its adoption.

6.06.03.0 **Landscaping With Other Than Approved Species:**

a. Landscaping shall emphasize the use of approved plant species. The following exceptions may be permitted:

1. Lawns for recreation ballfields and cemeteries;
(2) Lawns for areas of intensive pedestrian traffic adjoining commercial or tourist facilities where other types of landscaping are infeasible due to problems of trampling or constant disturbance;
(3) Lawns for limited areas adjoining community or public pools;
(4) Lawns for limited areas within public or community parks;
(5) Areas landscaped with other than approved species on or before the date of plan adoption; and
(6) Relocation of existing landscaping in sensitive areas (class 1, 2, 3, SEZ and shorezone lands) to less sensitive areas.

b. New lawns and/or turfed areas shall be prohibited within 50 feet of all water bodies and adjacent to or within stream environment zones.

c. The Agency may require removal or relocation of existing lawn/turf located in close proximity to water bodies and stream environment zones or require mitigation of any adverse impacts to water quality, soil stability, or wildlife and fish habitat.

6.07.00.0 REVEGETATION: Revegetation may be required as a condition of project approval or as necessary to effectuate other provisions of Agency ordinances. In general, the purpose of revegetation is to stabilize soil and to improve the mix of vegetative cover.

6.07.01.0 Approved Species:

a. All revegetation programs shall require the use of Agency approved plant species (refer to Section 6.06.01.0).

b. Selection of plant species shall be appropriate to site conditions and all revegetation plans shall specify whether reestablishment of vegetation will be accomplished with or without irrigation.

c. Small scale revegetation programs will emphasize the use of approved grass species in conjunction with mulching or other temporary soil stabilization treatments as suggested by the Handbook of Best Management Practices.

d. Revegetation of disturbed sites larger than 10,000 square feet will require reseeding with grass species as well as planting with appropriate shrub and tree species.

e. Fertilizer may be permitted as necessary to help establish vegetation immediately following planting but should not be a long term solution to the maintenance of vegetation on disturbed sites.
6.07.02.0 Soil Stabilization:
   a. Site preparation for revegetation shall include both permanent and temporary measures as necessary to stabilize the soil until such time as revegetation is successful.
   b. Revegetation programs for disturbed sites should minimize the use of extensive grading whenever practical. Situations where extensive grading and/or contour change may be necessary include the following:
      (1) Oversteepened cut slopes;
      (2) Quarry sites;
      (3) Abandoned landfills;
      (4) Reclamation of already developed sites; or
      (5) Abandoned roads.
   c. Revegetation plans may include provisions that allow for the importation of top soil for sites that lack an acceptable growth medium.

6.08.00.0 WILDLIFE RESOURCES: This section of the ordinance establishes minimum standards for the management and protection of the region's fish and wildlife resources. Standards are also presented for the control of non-native species.

6.08.01.0 Wildlife Habitat: Wildlife habitat is a generic term that describes the basic requirements necessary for the survival of wildlife populations. For any particular species, the basic requirements include food, water, cover, and space. Standards for the preservation/management of wildlife habitat include, but are not limited to, the following:

6.08.01.1 Riparian Vegetation:
   a. No activity or use shall be undertaken within the boundaries of a riparian plant community except as otherwise permitted for habitat improvement, dispersed recreation, or vegetation management and when demonstrated not to be detrimental to water quality and scenic quality.
   b. All development shall be set back from riparian vegetation such that undisturbed vegetation will be maintained as a buffer for use by wildlife and for maximizing plant diversity. The setback from riparian areas adjoining perennial streams and wetlands shall be a minimum of 50 feet. Setbacks from minor riparian plant communities such as isolated seep areas and depressions shall also be required, but in no case shall the required setback be more than 25 feet.
6.08.01.2 Movement/Migration Corridors:

a. Stream environment zones adjoining creeks and major drainages link islands of habitat and shall be managed, in part, for use by wildlife as movement corridors. Structures, such as bridges, proposed within these movement corridors shall be designed so as not to impede the movement of wildlife.
b. Activities and/or proposed uses in the vicinity of deer migration areas may be required to mitigate or avoid any significant adverse impacts. The location of deer migration areas shall be verified by respective State Wildlife or Fish and Game agencies.

6.08.01.3 Critical Habitat:

a. Under no circumstance shall any project and/or activity cause, or threaten to cause, the loss of any habitat component considered critical to the survival of a particular wildlife species.
b. No project and/or activity shall threaten, damage, or destroy nesting habitat of raptors and waterfowl or fawning habitat of deer.

6.08.01.4 Snags

a. Standing dead trees with diameters (dbh) 11 inches or greater and at least 20 feet tall should not be removed except when otherwise necessary for reasons of public safety or when densities of snags in the immediate area exceed 2 per acre.
b. Provisions for the protection of snags suitable for wildlife habitat shall be incorporated into all tree harvest plans and other conditions of project approval when applicable.
c. Where appropriate, cull logs may be left for wildlife.

6.08.02.0 Special Interest Species: The habitat locations of special interest species are depicted on Agency maps. At a minimum, the following standards shall apply for the protection of special interest species and associated habitat:

a. Perching sites and nesting trees of goshawks, eagles, and osprey shall not be physically disturbed in any manner nor shall the habitat in the disturbance zone be manipulated in any manner unless such manipulation is necessary to enhance the quality of the habitat.
b. All activities outside existing developed areas shall be regulated within the disturbance zone of special interest species. Any activity/use proposed within this zone must demonstrate that the proposed use will not directly or indirectly adversely affect the habitat or cause the extirpation of the population.

c. Conditions of project approval may be required to mitigate or avoid adverse impacts to recovery species or special-interest species listed by the TRPA or the U.S. Forest Service for the Lake Tahoe Basin.

d. Provisions a through c above, shall not apply to situations where special interest species choose to nest in close proximity to existing developed sites.

6.08.03.0 Non-Native Species: Animal species other than those indigeneous to the Basin impact native wildlife and vegetation. This Subsection sets forth standards and guidelines for the regulation of domestic animals and beaver.

6.08.03.1 Domestic Animals:

a. Local animal control agencies, in association with state wildlife agencies, shall require a permit declaring ownership and liability for possession of any animal species that could (a) pose a threat to the health of the residing household or public in general or (b) could create an imbalance to native wildlife populations should the exotic escape or be freed into the wild.

b. The raising and/or release of domestic waterfowl including ducks, geese, and swans is prohibited. Any such species found in the waters of the Basin shall be removed in the most appropriate and efficient manner.

c. Local jurisdictions should amend existing animal control ordinances as necessary carry out the following guidelines:

(1) Provisions to require the vaccination of all dogs over 4 months of age for rabies.

(2) Provisions to require the licensing of all dogs as a measure to enforce vaccination requirements.

(3) Provisions that require paying four to five fold the license fee for dogs not spayed or neutered.

(4) Provisions that set forth substantial monetary penalties for dogs picked-up for local ordinance violations. A citation shall be issued to the owner of the dog whenever it is possible to return the dog to its owner prior to
impoundment. Such citation shall allow for a fine reduction should the pet owner choose to pay the fine rather than contest the citation in court. The citation fee shall increase for subsequent violations such that the base citation fee will double for a second citation, triple for a third, and so forth. For impounded dogs, a base fee shall be required plus any costs associated with the care and feeding of the dog and for license fees and rabies shots, if appropriate. Owners refusing to pay the citation or impoundment fees shall be cited for abandonment.

(5) Provisions that prohibit the keeping of more than 2 mature dogs per household without a valid kennel license.

(6) In addition to the provisions of the aforementioned and language of existing animal control ordinances (when consistent with the aforementioned), the intent of the following language shall apply to all animal control ordinances:

It shall be unlawful for any person owning or having charge of any stray dog as defined herein, to cause, permit or allow such dogs, whether licensed or unlicensed to stray, wander or otherwise be at loose or at large upon any public street, alley, park, beach, way or other public property, or upon any private property other than private property of which the owner of the dog has ownership or control, unless such dog is kept securely confined by a leash, rope, cord or chain not over ten feet in length held by some person or securely attached to some stationary object. Nothing contained in this section shall be deemed to prevent a dog from being used without a leash to herd, guard or gather domestic animals in the normal and customary manner of working dogs. Nor shall this section be deemed to prohibit participation in obedience trials or dog shows or licensed hunting activities without a leash so long as the dog is under the charge and control of a person competent to control such dog and the dog does not harm or damage, or threaten to harm or damage, any person or public or private property.
6.08.03.2 Beaver: This animal should be appropriately controlled as necessary to protect the fishery, minimize destruction of riparian vegetation, and prevent downstream degradation of water quality.

6.09.00.0 FISH RESOURCES: The health of the Tahoe fishery depends upon a complex set of ecological relationships linked to both the lake and stream environments. In general, all fishes require sufficient quantities of habitat to satisfy needs for spawning, food, and escape cover. The location and quality of fish habitat in the Lake Tahoe Basin is depicted on Agency maps. In general, new and existing uses within identified habitat areas must provide for the protection and improvement of the habitat as indicated by said maps. The following standards shall apply when reviewing projects proposed in areas of stream and lake habitat.

6.09.01.0 Lake Habitat:

a. Activities and/or uses in the shorezone of the region's lakes may be prohibited, limited, or otherwise regulated in areas designated by this Agency as being especially vulnerable or critical to the needs of fishes.

b. Special conditions of project approval may be required for development proposals in the shorezone as necessary to mitigate or avoid impacts to the habitat and to the normal activities of fishes.

c. Habitat restoration projects may be permitted in the nearshore/foreshore.

d. Development in the nearshore/foreshore shall be prohibited within 200 feet of any stream identified by the Agency's Stream Habitat Quality Maps as providing migratory habitat for spawning fishes.

e. The physical alteration of the substrate in areas of prime fish habitat is prohibited except as otherwise permitted by this ordinance.

f. The placement of nearshore/foreshore structures shall be prohibited in areas of significant spawning habitat pending further research on impacts of development to fishes (see Section 4.03.00.0) and development within other areas of prime fish habitat shall be regulated as necessary to achieve environmental threshold carrying capacities. This limitation on permitted uses in the area of prime fish habitat shall not extend to approved erosion control projects in the nearshore or to habitat improvement projects.

6.09.02.0 Stream Habitat:

a. No modifications to stream channels or other uses that may physically alter the natural characteristics of the stream will be permitted unless such actions avoid negative impacts to the fishery.
b. All stream crossings as otherwise permitted under other provisions of Agency ordinances shall in no way restrict the upstream or downstream movement of fishes.

c. Existing structures within stream environment zones that pose as unnatural barriers to fish migration shall be removed or modified within 5 years as necessary to effectuate attainment of environmental thresholds for the fishery. Areas targeted for remedial action shall be consistent with those identified by Appendix D of the Study Report For The Establishment of Environmental Threshold Carrying Capacities. The process for obtaining compliance with this provision shall include the preparation of action plans as per the process outlined in Subsection 1.16.02.0.

d. Stream improvement projects should include provisions for the planting and management of trees, when necessary to supplement streamside shade.

e. Development proposed adjacent to tributaries may be required to mitigate any offsite impacts to the fishery.

f. Wildlife habitat improvement projects or other projects requiring the diversion of stream water shall minimize any detrimental impacts to the tributary by:

   (1) Ensuring adequate instream flows adjacent and downstream from the project site;
   (2) Preventing the introduction of nutrients or sediment-enriched water from reentering the tributary; and
   (3) Allowing unobstructed migration of fishes through the main stream channel.

g. Small scale hydroelectric projects may be permitted if the project provides for:

   (1) A net improvement to instream flows through improved flow regulation;
   (2) Protection of riparian vegetation;
   (3) Protection of other relevant instream values such as recreation, aesthetics, and wildlife habitat; and

   (4) Enhancement of the fishery pursuant to those remedial measures identified in Appendix D of the Study Report for the Establishment of Environmental Threshold Carrying Capacities.

h. Whenever possible, existing points of water diversion from streams shall be transferred to the Lake when said diversions negatively impact instream beneficial uses.

i. An Instream Beneficial Use Assessment, such as the type established by Title 23, Section 670.6 of the California Administrative Code, shall be required for all projects involving the diversion of water from a stream where inflow standards have not been established. Said
Assessment may also be required on streams where existing diversions are creating identified problems such as non-compliance with environmental threshold carrying capacities. Application fees for proposed stream flow diversions shall include the cost of the Assessment. Prior to permit issuance, standards of stream flow shall be established pursuant to the findings of the Assessment. Project approval will be conditioned on compliance with standards and any other mitigation deemed necessary to achieve or maintain environmental threshold carrying capacities.

6.09.03.0 Wetland Habitat:

a. Wetlands shall be preserved and managed for their ecological significance including their value as nursery habitat to fishes, nesting and resting sites for waterfowl, and as a source of stream recharge.

b. Acceptable projects within wetlands may include the creation of artificial nesting sites for waterfowl.
MEMORANDUM

April 17, 1984

To: The TRPA Governing Board
From: The Staff
Subject: Plan Area Statement Update

The Agency staff has completed a revised draft of the Planning Area Statements for Washoe County and has almost completed the drafts for Placer County and the City of South Lake Tahoe. The APC subcommittee has had one meeting to review the Washoe County Plan Areas and the general Plan Area format. It has been agreed that the APC subcommittee will schedule a meeting to review each jurisdiction's Plan Statements, and at that meeting the local APC planner and the local APC citizen representative will attend.

At its regular April meeting, the APC expressed concern about the July 1, 1984 deadline in the Regional Plan adopting ordinance relative to Plan Area Statements. The general concern was that the revised Plan Area Statements were significantly more detailed than previous drafts, and the members should have further public hearing. Also, a two-month schedule, which is to include staff completion of all Plan Area drafts, APC review of and recommendation on those drafts, and Governing Body public hearing, review and adoption, was considered a very ambitious schedule. An APC member will be present at the April meeting to discuss this with the Governing Body.
MEMORANDUM

Date: April 16, 1984

To: Governing Board

From: Agency Staff

Subject: Mitigation Fee Schedule Development

Water Quality and Transportation

On April 11, 1984, Agency staff and the Advisory Planning Commission (APC) Subcommittees for water quality and transportation reviewed draft mitigation fee schedules. Both committees recommended that additional work be completed before a final presentation is made to the APC and the Governing Board. The following represents the recommendations of the respective committees:

Water Quality Schedule:

The committee recommended that the schedule be based on establishing the average cost of mitigating a square foot of land coverage in the Basin. Based upon the estimated cost of $120 million (1982 dollars) and the total amount of land coverage that would exist under buildout of the Plan, the average cost per square foot is $.37 per square foot (1982 dollars).

In accordance with the Agency policy, the fee schedule should be based upon a 150% offset.

There should be a separate fee charged for the amount of coverage in compliance with land capability and for coverage in excess of land capability.

The fee schedule should be based in 1986 dollars, which represents the average cost that would be incurred during Phase I.

Transportation/Air Quality Fee Schedule:

The committee recommended that the schedule be based on providing funding under a flexible approach with the funding needs based upon the anticipated shortfall for both transit and nontransit improvements.

The fee should be assessed on a per trip basis as established through a use and trip generation table.

In accordance with the direction received from both committees the staff will continue to develop the respective schedules. Additional information on each schedule will be presented at the April Governing Board meeting.

JPD:bl
4-16-84

AGENDA ITEM VIII A.
MEMORANDUM

April 12, 1984

To: The TRPA Governing Board

From: The Staff

Subject: Adoption of Project Review Filing Fee Schedule

In light of the Governing Board's adoption of the Finance Committee report on March 28, which included a recommendation to amend the filing fee schedule, Agency staff has prepared a revised filing fee schedule for Board adoption by resolution. Included with this attached resolution and schedule of fees is a computer read-out which sets forth the actual Agency costs incurred in the review of projects.

Attachments

RA:jf
4/12/84

AGENDA ITEM VIII B.
MEMORANDUM

April 17, 1984

To: Governing Board
From: Agency Staff

Subject: Adoption of Temporary Policy Regarding Replacement of Nonconforming Land Coverage

In discussions with legal counsel subsequent to mailing of the Agenda, it was determined that the Goals and Policies statement of the Regional Plan is specific enough to implement a policy on nonconforming coverage, and there is no need for the Board to adopt an interim policy. A copy of staff's interpretation of the nonconforming coverage policy will be distributed at the meeting for the Board's concurrence.
MEMORANDUM

Date: April 16, 1984

To: Governing Body

From: Agency Staff

Subject: Availability of the Bitterbrush Draft EIS

In December, 1982, the Tahoe Regional Planning Agency and Leroy Land Development Corporation (Leroy) entered into an agreement relative to completion of development of Ski Lane - Bitterbrush Subdivision, Unit No. 2, at Incline Village, Washoe County, Nevada. The implementation of the Agreement could have a significant effect on the environment, and an environmental impact statement is therefore necessary under the requirement of Article VII of the Compact. The agreement between the Agency and Leroy requires that an EIS be prepared and specifies scope, extent and limitations on subject matter of the EIS.

The DEIS was distributed to the APC on April 11, 1984. It will be scheduled for the June APC and Governing Board meetings for certification. If you would like to review the DEIS, please contact Agency staff. The public comment period will run until June 1, 1984.

NS:bl