TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on February 22 and 23, 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, February 22, 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.

NOTICE IS FURTHER GIVEN that on Thursday, February 23, 1984,
commencing at 8:15 a.m. in the same location, the Litigation Committee will
meet to discuss pending litigation involving Hunton and Anderson.

Date: February 6, 1984

By: Gary D. Minkoff
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.
NOTE: There will be a meeting of the Finance Committee at the TRPA office at 8:30 a.m. on Wednesday, February 22, to discuss the Agency's budget and work program.

There will be a meeting of the Litigation Committee at the TRPA office at 8:15 a.m. on Thursday, February 23. The purpose of said meeting is to discuss pending litigation involving Hunton and Anderson.

PRELIMINARY AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV PLANNING MATTERS

A. Review of Final Draft Goals and Policy Plan

B. Certification of the Environmental Impact Statement for Amendments to the Regional Plan

V PUBLIC HEARING

Ordinance Adopting and Implementing the Amended Regional Plan

VI ORDINANCE

First Reading of Ordinance Adopting and Implementing the Amended Regional Plan

VII APPEALS

Edgar Scharruhn, Appeal of Staff Decision Regarding Status of the Kingsbury Terrace Subdivision Pursuant to Ordinance 81-5, Douglas County, TRPA File #80016

VIII SPECIAL DETERMINATIONS

A. Tom Watson, Third Creek Inn, Determination of Vested Right, Washoe County APN 124-100-06, TRPA File #84002

B. Dillingham Development Company, Interpretation of Permit Conditions, Clearinghouse Review of 30 Acre Donation to the U.S. Forest Service, City of South Lake Tahoe
IX ENFORCEMENT

A. Show Cause Hearings

1. Tahoe Paradise Executive Golf Course, Unauthorized Structure in a Stream Environment Zone, El Dorado County

2. Huttemayer, Tree Cutting Violation, Zephyr Heights Subdivision, Douglas County

3. Donald Marken, Unauthorized Construction of Rock Jetties, Violation of TRPA Approved Slope Stabilization Project, Douglas County APN 01-020-07, TRPA File #81141

B. Reports

X REPORTS

A. Litigation Committee

B. Finance Committee

C. Executive Session

D. Acting Executive Director Report

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

February 14, 1984

To: The TRPA Governing Board

From: Agency Staff

Subject: Review of Final Draft Goals and Policy Plan

For the subject agenda item, please bring to the meeting the Final Draft of the Regional Plan for the Lake Tahoe Basin, November 1983 (green cover) mailed to the Board members in December.

Upon completing the final draft of the Goals and Policies Plan, Agency staff has the following recommended changes to the Plan. These changes are the same as those presented but not discussed in December and January. These changes and the reasons for the changes are as follows:

Change #1: Clarify the Soils Subelement, Goal 1, Policy 1

This policy sets forth the five year prohibition of development on 1-3 land capability districts. Staff's recommended language includes all types of uses with the noted exceptions that exist through previous Governing Board direction. Also the new language keys new development to new land coverage. The prohibition on residential development is limited to the same five year period as other types of development. (Draft Language Attachment #1).

Change #2: Clarify the Land Use Subelement, Goal 4, Policy 1, Section F

This policy sets forth the land coverage limitations for regional public facilities. The Governing Body action to allow up to 50% land coverage for public service was not consistent with the stricter land coverage limitations for regional public facilities. The new language recognizes coverage associated with existing linear-type public regional public facilities as conforming. New coverage must conform to the 50% limit or be transferred in to account for additional land coverage. (Draft language Attachment #2)
Memo to the Governing Board
Review of Final Draft Plan
February 14, 1984
Page Two

Change #3: Clarify the Development and Implementation Priorities Subelement, Goal 1, Policy 1

This policy sets forth the development priorities for Phase I and Phase II. Agency staff proposes new clean-up language with the substantive change being that public service development is not limited to 4-7 land capability districts in existing urban areas as are the residential and commercial developments during Phase I. (Draft language Attachment #3)

Change #4: Transportation-Related Subelement, Goal #3, Policy #2

The narrative is necessary to clarify the intent of the policy. In this case, it is the intent of the TRPA to coordinate with all applicable agencies during the preparation of any programs or plans affecting transportation. Accordingly, it is TRPA's desire to review transportation plans and programs of other agencies as necessary to demonstrate compliance with the direction of the Regional Plan.

Along with these proposed modifications, Agency staff would request Governing Board direction on the following issue:

Does the prohibition of residential development in land capability districts apply to new land coverage for additions on lots receiving a passing score under the evaluation system?

The inconsistency is that 100 new residences may be constructed on lots receiving a passing score each year; however, an identical lot with a house would be ineligible for construction that would create new land coverage. Past case-by-case review allowed consideration of additions; however, there were no allocation limits under that system nor did that system relate to the other limitations of the Regional Plan.

2/14/84

AGENDA ITEM IV A.
Policies

1. NO NEW RESIDENTIAL, TOURIST, PUBLIC SERVICE, RECREATION, OR COMMERCIAL DEVELOPMENT SHALL BE PERMITTED ON LAND CAPABILITY DISTRICTS 1-3 DURING THE FIRST 5 YEAR PHASE OF THE PLAN IMPLEMENTATION, EXCEPT AS NOTED IN THE FOLLOWING POLICIES.

Development of environmentally sensitive lands in capability classes 1, 2, and 3 will not be permitted for five years after the regional plan is adopted. New development for purposes of this policy is development that creates additional land coverage. During this period, TRPA will conduct a thorough evaluation of the environmental consequences of development in these areas, and of the options available to land owners, before deciding what policies should apply during later phases of the plan implementation.

A. NO NEW RESIDENTIAL DEVELOPMENT SHALL BE PERMITTED ON LAND CAPABILITY DISTRICTS 1-3 EXCEPT THAT DURING THE FIRST 3 YEARS OF THE PLAN 100 NEW SINGLE FAMILY DWELLINGS RECEIVING A PASSING SCORE UNDER THE EVALUATION SYSTEM MAY BE PERMITTED.

The exception to this prohibition allows that no more than 100 new single family units receiving a passing score under the single family evaluation system (25 in California and 75 in Nevada), of the yearly residential allocation, shall be for residential permits outside areas mapped as land capability districts 4-7.

B. PUBLIC OUTDOOR RECREATION FACILITIES ARE PERMISSIBLE USES IN LAND CAPABILITY DISTRICTS 1-3 IF: (1) THE PROJECT IS A NECESSARY PART OF A PUBLIC AGENCY'S LONG RANGE PLANS FOR PUBLIC OUTDOOR RECREATION; (2) THE PROJECT IS CONSISTENT WITH THE RECREATION ELEMENT OF THE REGIONAL PLAN; (3) THE PROJECT, BY ITS VERY NATURE MUST BE SITED IN A LAND CAPABILITY DISTRICT 1-3; (4) THERE IS NO FEASIBLE ALTERNATIVE WHICH WOULD REDUCE THE EXTENT OF ENCROACHMENT IN A LAND CAPABILITY DISTRICT 1-3; (5) THE IMPACTS ARE FULLY MITIGATED; AND (6) LAND CAPABILITY DISTRICT 1-3 LANDS ARE RESTORED IN THE AMOUNT OF 1.5 TIMES THE AREA LAND CAPABILITY DISTRICT 1-3 WHICH IS DISTURBED OR DEVELOPED BY THE PROJECT.

To the fullest extent possible, recreation facilities must be sited outside of land capability districts 1-3. However, the six part test established by this policy allows encroachment of these lands where such encroachment is essential for public outdoor recreation, and precautions are taken to ensure that such lands are protected to the fullest extent possible.

C. PUBLIC WORKS PROJECTS ARE PERMISSIBLE USES IN LAND CAPABILITY DISTRICTS 1-3 IF: (1) THE PROJECT IS NECESSARY FOR PUBLIC HEALTH, SAFETY OR ENVIRONMENTAL PROTECTION; (2) THERE IS NO REASONABLE ALTERNATIVE,
WHICH AVOIDS OR REDUCES THE EXTENT OF ENCROACHMENT IN LAND CAPABILITY
DISTRICTS 1-3; (3) THE IMPACTS ARE FULLY MITIGATED; AND (4) LAND
CAPABILITY DISTRICTS 1-3 LANDS ARE RESTORED IN THE AMOUNT OF 1.5 TIMES
THE AREA OF LAND CAPABILITY DISTRICT 1-3 WHICH IS DISTURBED OR DEVELOPED BY THE PROJECT.

Development within land capability district 1-3 is not consistent with
the goals to manage high hazard lands for their natural qualities and
shall generally be prohibited except under extraordinary circumstances
involving public works. Each circumstance shall be evaluated based on
the 4-prong test of this policy.
ATTACHMENT 2

Change #2: Land Use Subelement, Goal 4, Policy 1, Section F

G. REGIONAL PUBLIC FACILITIES WHOSE LINEAR CONFIGURATION MAKES IT IMPRAC-
TICAL TO COMPLY WITH THE APPLICABLE LAND COVERAGE LIMITATIONS SHALL
ALLOCATE LAND COVERAGE AS FOLLOWS:

(1) EXISTING LAND COVERAGE ASSOCIATED WITH REGIONAL PUBLIC FACILITIES
SHALL BE CONSIDERED CONFORMING LAND COVERAGE.

(2) NEW LAND COVERAGE SHALL BE LIMITED BY THE PROVISIONS OF "F"
ABOVE, HOWEVER IF ADDITIONAL LAND COVERAGE BEYOND THE LIMITS OF
"F" ARE REQUIRED, ADDITIONAL LAND COVERAGE MAY BE PERMITTED
THROUGH THE TRANSFER OF LAND COVERAGE.

extend to include all Regional Public Facilities

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ATTCHEMENT 3

Change #3: Development and Implementation Priorities Subelement, Goal 1, Policy 1

PHASE I DEVELOPMENT PRIORITIES

The following types of new development may be considered upon adoption of the Regional Plan:

A. PROJECTS IN AREAS DESIGNATED FOR REDIRECTION WITH AN APPROVED REDEVELOPMENT PLAN.

B. PROJECTS WITHOUT AN APPROVED REDEVELOPMENT PLAN WHICH INCLUDE:

1) NEW PUBLIC OUTDOOR RECREATION FACILITIES CONSISTENT WITH THE REGIONAL PLAN AND A GOVERNING BOARD APPROVED FIVE YEAR RECREATION DEVELOPMENT PLAN.

2) NEW RESIDENTIAL DWELLINGS IN EXISTING URBAN AREAS WHICH INCLUDES:
   a. NEW SINGLE FAMILY DWELLING DEVELOPMENT IN AREAS WITH THE CHARACTERISTICS OF LAND CAPABILITY CLASS 4-7 AS SELECTED WITH THE EVALUATION SYSTEM AS SET FORTH IN POLICY #2 OF THIS GOAL.
   b. AFFORDABLE OR GOVERNMENT ASSISTED HOUSING FOR LOWER AND VERY LOW INCOME HOUSEHOLDS.

3) NEW COMMERCIAL DEVELOPMENT ON LAND CAPABILITIES 4-7 NECESSARY TO SERVICE RESIDENTIAL GROWTH AND WHERE IMPACTS ARE FULLY MITIGATED.

4) NEW PUBLIC FACILITIES NECESSARY TO SUPPORT NEW RESIDENTIAL, COMMERCIAL, AND RECREATIONAL GROWTH PERMITTED BY THIS PLAN.

C. PROJECTS DEPENDENT ON TRANSFER OF DEVELOPMENT RIGHTS AS PERMITTED BY GOAL #3 OF THIS SUBELEMENT.

PHASE II PRIORITIES -- To commence no earlier than five years after the adoption of the Plan and upon a finding that the required fair share of the financial resources required to implement the Plan have been borne by each of the entities or groups with interests in the Region, including the State of California, the State of Nevada, the United States Government, entities of local sector and verification that Phase I targets have been achieved or monitoring data supports further development. In addition, as provided in TRPA Resolution 82-11 adopting environmental threshold carrying capacities, August 26, 1982: "The environmental threshold carrying capacities shall be reviewed by the staff and the Governing Body at the time of adoption of the Regional Plan to assure that said Plan and environmental threshold carrying capacities are consistent, and shall be reviewed at least every five years thereafter by the most appropriate means. After such review, the pertinent
environmental threshold standards shall be amended where the scientific evidence and technical information indicate: (a) two or more threshold standards are mutually exclusive; or (b) substantial evidence to provide a basis for a threshold standard does not exist; or (c) a threshold standard cannot be achieved; or (d) a threshold standard is not sufficient to maintain a significant value of the Region or additional threshold standards are required to maintain a significant value."

**PHASE II DEVELOPMENT PRIORITIES**

The following types of new development may be considered upon adoption of the Regional Plan:

A. **PROJECTS IN AREAS DESIGNATED FOR REDIRECTION WITH AN APPROVED REDEVELOPMENT PLAN.**

B. **PROJECTS WITHOUT AN APPROVED REDEVELOPMENT PLAN WHICH INCLUDE:**

1) **NEW PUBLIC OUTDOOR RECREATION FACILITIES CONSISTENT WITH THE REGIONAL PLAN AND A GOVERNING BOARD APPROVED FIVE YEAR RECREATION DEVELOPMENT PLAN.**

2) **NEW RESIDENTIAL DWELLINGS IN EXISTING URBAN AREAS WHICH INCLUDES:**

   a) **NEW RESIDENTIAL DEVELOPMENT WITH A DEVELOPMENT EVALUATION SYSTEM SET FORTH IN POLICY 2, BELOW. THE TRPA SHALL ADOPT A POLICY ESTABLISHING WHICH AREAS ARE ELIGIBLE FOR EVALUATION, BASED ON ITS CONCLUSIONS AS TO THE ENVIRONMENTAL CONSEQUENCES OF DEVELOPMENT IN THOSE AREAS AND OF THE OPTIONS AVAILABLE TO LANDOWNERS**

   b) **AFFORDABLE OR GOVERNMENT ASSISTED HOUSING FOR LOWER AND VERY LOW INCOME HOUSEHOLDS.**

3) **NEW COMMERCIAL DEVELOPMENT ON LAND CAPABILITIES 4-7 NECESSARY TO SERVICE RESIDENTIAL GROWTH AND WHERE IMPACTS ARE FULLY MITIGATED.**

4) **NEW PUBLIC FACILITIES NECESSARY TO SUPPORT NEW RESIDENTIAL, COMMERCIAL, AND RECREATIONAL GROWTH PERMITTED BY THIS PLAN.**

5) **MULTI-FAMILY HOUSING AND RELATED COMMERCIAL AND PUBLIC FACILITIES IN EXISTING URBAN AREAS:**

   a) **MULTI-FAMILY RESIDENTIAL AND OTHER AFFORDABLE HOUSING WHERE NODAL DEVELOPMENT IS EMPHASIZED;**

   b) **NEW COMMERCIAL DEVELOPMENT ON LAND CAPABILITIES 4-7 NECESSARY TO SERVICE MULTI-FAMILY RESIDENTIAL GROWTH WHERE NODAL DEVELOPMENT IS UTILIZED; OR**

   c) **PUBLIC FACILITIES NECESSARY TO SUPPORT MULTI-RESIDENTIAL AND COMMERCIAL FACILITIES.**
6) Projects dependent on transfer of development rights are permitted by goal #3 of this subelement.

7)* New tourist accommodations in existing urban areas, not part of a transfer of development rights program;

8)* Single family dwellings not eligible for evaluation under Phase II priority B2a; or

9)* Non-service commercial development in existing urban areas not required to support recreation and residential development under this plan.

*Note: Phase II development priorities A and B 1-4 must be substantially satisfied prior to consideration of priorities 7-9, and thresholds for air and water quality pertaining to pollution load and VMT reductions must be met.

In carrying out the provisions of this plan, the TRPA will make development decisions in accordance with these development priorities. Phase II development priorities will be initiated after five years, assuming availability of adequate funding for Phase II of the capital improvements program. If the criteria needed to implement Phase II are not met, Phase I shall continue if permitted or changed by the TRPA Governing Body. These development priorities will be reviewed every five years at a minimum to ensure that the development is being synchronized with the capital improvements program and other remedial programs required to meet environmental thresholds.

In administering each phase of the development priority system, the TRPA may allow lower priorities to be initiated prior to satisfying all higher development priorities, with the exception of Phase II priorities 7-9, which shall not be considered until all higher priorities are satisfied and thresholds for air and water quality pertaining to pollutant load and VMT reductions are met.
Change #4: Transportation Related, Goal 3, Policy 2

2. TRANSPORTATION PROGRAMS AND PLANS SHALL BE COORDINATED AND DEVELOPED IN COOPERATION WITH ALL REGULATORY AND TRANSPORTATION AGENCIES.

All transportation plans and programs developed by the TRPA shall include review by all affected agencies and jurisdictions.

All transportation plans and programs developed by local, county, regional, state, and federal agencies shall be submitted to review by the TRPA to evaluate consistencies with the Regional Plan.
RESOLUTION CERTIFYING ENVIRONMENTAL IMPACT STATEMENT ON AMENDMENTS TO REGIONAL PLAN

WHEREAS, the Tahoe Regional Planning Compact, as amended, sets forth in Article I findings with regard to Lake Tahoe's environment; and

WHEREAS, amendments to the regional plan of the Tahoe Regional Planning Agency are required to be adopted by Article V of the Compact; and

WHEREAS, prior to adoption of amendments to such regional plan, an environmental impact statement (EIS) must be prepared pursuant to Article VII of said Compact; and

WHEREAS, the EIS certified hereby is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Lake Tahoe Region; and

WHEREAS, the EIS was prepared utilizing a systematic, interdisciplinary approach and all available resources and information; and

WHEREAS, the EIS was prepared, considered, circulated, certified and otherwise processed, reviewed and approved by the TRPA in accordance with the substantive and procedural provisions of Article VII of the Compact and the applicable provisions of TRPA's Rules and Regulations of Practice and Procedure. Without limiting the generality of the foregoing, the Governing Body further finds that said EIS contained, among other things, 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, which alternatives included, but were not limited to, the regional plan of the TRPA presently in effect; (d) mitigation measures which must be implemented to assure meeting standards of the Lake Tahoe region; (e) the relationship between local short-term use 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 proposed amendments to TRPA's regional plan and provided the Governing Body substantial, detailed information and a proper disclosure, upon which it could base a reasoned, sufficient and deliberate review and evaluation of the environmental impacts and commitments of said plan amendments, as well as the various alternatives thereto set forth in said EIS; and

-1-
WHEREAS, the EIS was duly circulated to and reviewed by the public and interested public and private agencies and organizations, and was the subject of duly-noticed public hearings and other public meetings; and

WHEREAS, the EIS complies in all respects with the Tahoe Regional Planning Compact and the regional plan, ordinances, rules, regulations and policies of the TRPA, and is necessary to effectuate and implement same; and

WHEREAS, the EIS provides a reasonable and sufficient basis upon which the Governing Body can be informed of and review the potential environmental impacts and commitments of the proposed regional plan and its alternatives; and

WHEREAS, there is substantial evidence in the record upon which to base the foregoing findings;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body hereby certifies the environmental impact statement upon the proposed amendments to the regional plan.

PASSED and ADOPTED this ______________ day of February, nineteen hundred and eighty-four by the Governing Body of the Tahoe Regional Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Norman C. Woods, Chairman
Tahoe Regional Planning Agency
DRAFT: January 24, 1984

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(e) 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; REQUIRING PLAN ENFORCEMENT AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 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
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, 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 Tahoe Area Land Acquisition Commission ("TALAC"), created by Chapter 833 of the Statutes of 1980 of the State of California. 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.

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 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 amendment.

1.25 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.

1.26 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 under Agency Ordinance No. 79-10, as amended:

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

(2) Review of said pending projects is limited to a specific period of time, expiring August 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 August 31, 1984 as the deadline for the Agency to take final action on such pending projects.

(6) The Threshold Study Report (TRPA, 1982) and the Environmental Impact Statement ("EIS") for Adoption of a Regional Plan for the Lake Tahoe Basin (TRPA, February, 1983) identify and quantitatively assess the adverse impacts on soils, water quality, vegetation and wildlife resulting from existing land uses.

(7) The Addendum to the EIS for the Agency's 208 Water Quality Management Plan (revision date May 28, 1981) identifies and quantitatively assesses the adverse impacts on soils, water quality, vegetation and wildlife resulting from the construction of single-family residences on land classified within the Agency's Land Capability Districts 1 through 3.
(8) If all of said pending projects were approved, consistent with applicable Agency ordinances, standards and rules and regulations, pursuant to subsection 4.20 of this ordinance, the impacts resulting from said approvals on soils, water quality, vegetation and wildlife would not appreciably increase the impacts from existing land uses on said elements of the environment, and, therefore, said approvals would not adversely affect compliance with the mandate to adopt an amended regional plan that will achieve and maintain the adopted environmental threshold carrying capacities.

1.28 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 1.27:

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

(2) Review of said pending projects is limited to a specific period of time, expiring August 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.

1.29 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.

(2) In the case of Placer County, the number of building allocations issued is within a yearly allocation limitation for 1983 of 278 permits, said limitation for 1983 being consistent with the allocation limitations set forth in the Compact for previous years.

(3) A certain number of the recipients of the 278 allocations in Placer County received notice from the Califotnia Tahoe Regional Planning Agency (CTRPA) as to the developability of their lots and permission to proceed with the permit process prior to the effective date of Resolution 83-21.

(4) Said certain number of 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) In the case of El Dorado County, 252 of the 383 building allocations issued in 1983 shall be counted against a yearly allocation limitation for 1983 of 252 permits, said limitation for 1983 being consistent with the allocation limitations set forth in the Compact for previous years. The remaining 131 building allocations issued in 1983 shall be counted against El Dorado County's share of the allocation limitations set forth in the amended regional plan.

(6) Based on the foregoing findings, said provisions of Section 4.00 are 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.

1.30 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 consist exclusively of the following documents, each of which is incorporated herein by this reference as though fully set forth:

2.11 Plan Documents


2.12 Planning Area Statements


2.13 Regional Plan Maps

(1) "Plan Area Maps, July 1983", at scales of 1" = 400' and 1" = 2000', which maps shall be subject to the public hearing referred to in subsection 2.12.

(2) "Land Capability and Stream Environment Zone Maps, July 1983", at scales of 1" = 400' and 1" = 2000'.

(3) "Shorezone Capability and Pierhead Line Maps, July 1976", at a scale of 1" = 400'.

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

(5) "Prime Fish Habitat Maps and Stream Ranking Maps, August 1982" at a scale of 1" = 2000'.

(6) "Historical Site Maps, July 1983" at a scale of 1" = 2 miles.

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 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 4.10(1) and (3).

(1) The project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Lake Tahoe region.

(2) The project, including compliance with the conditions of approval, is consistent with, and thus will not adversely affect implementation of, the regional plan and all of its elements as amended pursuant to Article V(c) of the Compact.

(3) The project complies with the applicable standards and regulations set forth in the ordinances implementing the regional plan, including, without limitation, Section 5.00 of this ordinance.

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

(5) The project, including compliance with the conditions of approval, will not have a significant individual or cumulative impact on the environment.

(6) The establishment, maintenance and 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.

(7) The project will not be detrimental or injurious to the environment or general welfare of the Lake Tahoe region.

(8) The project will not cause the adopted environmental threshold carrying capacities of the region to be exceeded since the individual or cumulative impacts resulting from the project will not:

   (a) Increase the loading of dissolved phosphorus and inorganic nitrogen, iron, suspended sediments, and other algal nutrients into the waters of Lake Tahoe;

   (b) Adversely affect attainment of the applicable state standards for concentrations of dissolved phosphorus and dissolved iron and increase suspended sediment concentrations within tributaries to Lake Tahoe;
(c) Exceed the limitations on impervious cover set forth in the Land Capability Classification of the Lake Tahoe Basin, California-Nevada, a Guide for Planning, Bailey, 1974;

(d) Result in disturbance within a naturally functioning stream environment zone;

(e) Increase existing carbon monoxide concentrations within the Lake Tahoe region;

(f) Increase traffic volumes on the U.S. Highway 50 corridor;

(g) Increase existing ozone concentrations within the Lake Tahoe region;

(h) Increase existing particulate concentrations within the Lake Tahoe region;

(i) Increase the transport of nitrates into the Lake Tahoe region;

(j) Increase vehicle miles of travel in the Lake Tahoe region;

(k) Increase fumes from diesel engines within the Lake Tahoe region;

(l) Degrade common vegetation, uncommon plant communities, and sensitive plants as prescribed in the management standard for common vegetation and the numerical standards for uncommon plant communities and sensitive plants;

(m) Interfere with the minimum number of population sites and disturbance zones as prescribed in the wildlife threshold or degrade significant wildlife habitats as prescribed in the management standard of the wildlife threshold;

(n) Interfere with the numerical standard or management standard of the fisheries threshold;

(o) Cause noise levels in the Lake Tahoe region to exceed the limits set forth in the thresholds under the numerical standards for the single noise event or background noise levels;

(p) Be inconsistent with the goals and policies contained in the Recreation Element of the regional plan and will not adversely affect the insurance that a fair share of the total Basin capacity for outdoor recreation is available to the general public;
(q) Result in a decrease in the Scenic Resources Inventory ratings contained in Tables 13-3, 13-5, 13-8 and 13-9 of the Draft Study Report, or 1982 ratings for all roadway and shoreline units as shown in Tables 13-6 and 13-7 of the Draft Study Report, or violate the management standard of the scenic resources threshold;

(r) Be incompatible with the natural, scenic and recreational values of the Lake Tahoe region; or

(s) As an alternative to the specific findings listed in subsection 3.10(8) (a) through (r), inclusive, the Agency may find that:

(1) 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;

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

(3) A mitigation program is required as a condition of project approval which will ensure that the impacts of the project will not cause the thresholds to be exceeded; and

(4) 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(8)(s).

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

3.20 This 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

4.10 Permitted 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 amendment of subsection 2.12 of this ordinance, the Agency shall not accept, review or approve applications for projects, except the following:

- 12 -
4.11 Definitions

(1) "Single-family house" as used in subsection 4.10 means "single-family house" as defined by Section 3.00 of the Agency's Land Use Ordinance (No. 4), as amended.

(2) "Emergency" as used in subsection 4.10(2) refers exclusively to a project presenting a situation or circumstance demanding immediate action to preserve the public peace, health, safety or general welfare, to protect and enhance the environment of the Lake Tahoe Region, or to insure compliance with Agency plans, ordinances, regulations and standards resulting from enforcement activities.

4.20 Review of Pending Applications

Applications referred to in subsections 4.10(1) and (3) shall comply with the Agency plan, ordinances, rules, regulations and policies in effect on August 25, 1983, and, for activities in California, the CTRPA plan, ordinances, rules, regulations and policies in effect on August 25, 1983. Prior to approving such applications, the Agency shall make the following findings:

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

(2) The project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Lake Tahoe region.

(3) 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.
(4) The project will not be detrimental or injurious to the environment or general welfare of the Lake Tahoe region.

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

4.30 Review of New Applications

4.31 Applications referred to in subsection 4.10(2) shall be reviewed pursuant to Section 5.00, and, prior to approving said applications, the Agency shall make the findings required by Section 3.00.

4.32 Applications referred to in subsection 4.10(4) shall be reviewed pursuant to the CTRPA plan, ordinances, rules and regulations and policies in effect on August 25, 1983, where applicable, and the Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance. Final action on said applications shall not be taken until said code or other compilation is adopted.

4.40 Expiration

Except as otherwise provided by subsection 4.50 and except as necessary to implement subsection 4.32, 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.

4.50 Deadline for Processing Certain Applications

The Agency on or before August 31, 1984 shall take action on all projects referred to in subsections 4.10(1) and (3). 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 August 31, 1984, whichever occurs first.

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 the date of adoption of 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, said existing Agency ordinances, maps, rules, regulations and policies shall be utilized by the Agency to implement the regional plan, as amended, to the extent that they are consistent with said regional plan, as amended, 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, or with said carrying capacities, said 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.

Section 6.00 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 7.00 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 8.00 Effective Date

This ordinance shall be effective immediately upon adoption hereof.

FIRST READING:

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:

Chairman
Tahoe Regional Planning Agency
TAHoe REGIONAL PLANNING AGENCY
STAFF SUMMARY

Edgar Scharruhn, Appeal of Staff Decision
Regarding Status of the Kingsbury Terrace
Subdivision Pursuant to Ordinance 81-5,
Douglas County, TRPA File #80016

Applicant: Edgar Scharruhn

Applicant's Request: The applicant is requesting that the Governing Board allow the Kingsbury Terrace Subdivision, which was approved by TRPA on April 23, 1980, to be exempt from the regulations and prohibitions contained in TRPA Ordinance 81-5. The applicant generally contends that, due to unnecessary delays in processing the final map through Douglas County, he was prevented from obtaining building permits and commencing construction in 1980, prior to adoption of the amended Compact on December 19, 1980 (see Exhibit A). To date, neither the TRPA permit nor Douglas County permits have been issued to allow any portion of the project to commence.

Subdivision Description: The Kingsbury Terrace Subdivision contains 8 single family residential/condominium units in 4 duplex structures on a 1.11 acre site located adjacent to Kingsbury Grade.

Land Use District: Medium Density Residential (MDR)

Land Capability Classification: Level 1a, CaF soil type, Cagwin-Rock outcrop complex, 30 to 50% slopes

Land Coverage: The amount of land coverage permitted on the site under current TRPA ordinances is 1%. The amount of land coverage permitted on the site when the tentative map was approved in April, 1980 was 35%. The amount of land coverage approved on the tentative map is 27.3%.

Application of TRPA Ordinance 81-5: The subject tentative map has been reviewed in accordance with the regulations and prohibitions contained in Ordinance 81-5 and the following determinations have been made:

1. Construction of the required subdivision improvements is prohibited under Section 12.60 of said ordinance. This section prohibits any grading, clearing, removal of vegetation, filling or creation of land coverage upon land within land capability districts 1a, 1c, 2 and 3. The subject property is in a land capability district 1a. An exception to this prohibition is provided under Section 12.61 for subdivisions approved by TRPA after February 10, 1972, in accordance with the Agency's land capability district regulations without reliance upon Sections 7.83, 8.25(2), 8.28, 8.34 or 9.23 of the Agency's Land Use Ordinance. Although the subject subdivision was approved by the Agency on April 23, 1980, its
approval at 27.3% land coverage was based on the provisions of Section 9.23 of the Land Use Ordinance. This section permitted up to 35% land coverage in Medium Density Residential on parcels of 2 acres or less in size.

Therefore, the subdivision cannot be recognized as a TRPA-approved subdivision under Section 12.61 of Ordinance 81-5 because it was not approved in compliance with the land capability system.

2. Construction of residential units that are part of the subdivision is a project under the provisions of TRPA Ordinance 81-1, Section 3.12. This section establishes that the construction of a single family dwelling unit is exempt from Agency review and approval only if it is located on a lot in a subdivision approved by the Agency after February 10, 1972 in compliance with the land capability system. Again, the subject subdivision was approved at 27.3% land coverage. The land capability system would allow 1% land coverage on the subject property.

3. Even if the subdivision improvements could be constructed, the subdivision would not have qualified for review under the Agency's case-by-case procedures set forth under Section 12.00 of TRPA Ordinance 81-5. Section 12.10 of said ordinance limited application of the case-by-case procedures to lots or parcels lawfully of record as of December 19, 1980. Since the final map for the subject subdivision was not recorded prior to December 19, 1980, the lots contained therein would not have qualified for review under the Agency's case-by-case procedures.

In conclusion, the regulations and prohibitions contained in TRPA Ordinance 81-5, as stated above, prohibit the issuance of permits by Douglas County to allow either the construction of the subdivision improvements or buildings that are a part of the subject subdivision. There are no provisions contained in either Ordinance 81-1 or Ordinance 81-5 under which the Governing Board can legally find that construction of the subject subdivision is exempt from the prohibitions contained in those ordinances.
Mr. Greg George  
Chief of Project Review  
T.R.P.A.  
P.O. Box 8896  
South Lake Tahoe, CA. 95731  

July 6, 1983

Subject: KINGSBURY TERRACE; T.R.P.A., # 80016

Dear Greg:  
In response to your letter dated: July 6, 1983. I hereby apply for a hearing before the T.R.P.A. governing board. I request that we be exempt from the T.R.P.A. agency review for the following reasons: CHRONICLE OF EVENTS of Kingsbury Terrace Subdivision, Stateline, NV.

November 27, 1979: application made for tentative map-change of land use (C-1 to R-2)

December 18, 1979: Staff report

December 27, 1979: Planning Commission conditional approval of tentative map (6-0)

January 17, 1980: County Commissioners approval with conditions

April 24, 1980: Tahoe Regional Planning Agency letter of conditional approval on the basis of April 23, 1980 meeting.

Upon trying to process the final map, it was discovered that the Douglas County Planning Department had apparently NOT sent some of the maps for review by the State Agencies, (please refer to letter August 14, 1980) therefore causing the present problem.

It has: in fact taken until now to get this matter straightened out. Refer to letters of April 20, 1983 and June 6, 1983.

We, my associate and myself, have been severely damaged by this delay. It was our intention to proceed in 1980, including obtaining building permits and to in fact begin immediate construction. But, due to the above problem we were prevented from recording the final map.

I am now formally requesting that in view of the above stated facts, Douglas County come forth and issue us building permits under the 1980 conditions. We, of course, will meet all the conditions in those approvals.

Sincerely yours;

EDGAR SCHARRUHN  
P.O. Box 2333  
Stateline, NV. 89449

copies: file  
Commissioner Witt

EXHIBIT A
MEMORANDUM

February 15, 1984

To: The TRPA Governing Board

From: The Staff

Subject: Tom Watson, Third Creek Inn, Determination of Vested Right, Washoe County APN 124-100-06, TRPA File #84002

History

1. On July 25, 1979, the TRPA Governing Board conditionally approved a tentative map for 190 residential condominium units and an administrative permit for a 60 unit Inn on a 26.25 acre site located at the northwesterly corner of the intersection of Northwood and Tahoe Boulevards in Incline Village. The TRPA conditions of approval relative to the tentative map were satisfied on April 11, 1980, and a final map was recorded in July, 1980.

2. On July 15, 1980, a Subdivision Improvement Agreement was entered into between Washoe County and the Third Creek Associates, a Nevada Limited Partnership. On July 18, 1980, a contract was entered into between Third Creek Associates and Williams & Burrows, Inc. for the construction of all site and civil improvements depicted on the final construction drawings approved by Washoe County and the TRPA. These improvements included roads, underground water, sewer and power lines, and drainage facilities. Construction under this contract began shortly thereafter and was completed in November, 1981.

3. On August 19, 1980, building permits were issued by Washoe County for the first 24 residential units. Construction of these units is completed.

4. On September 4, 1980, a building permit was issued for a parking garage. The construction site for the garage was cleared and leveled shortly thereafter for use as a storage area for construction equipment and materials. Actual construction of the garage structure has not commenced. The building permit for the garage is still valid.

5. In June, 1983, a building permit was issued for a recreation complex, including a multi-purpose recreation building, tennis court and swimming pool. Construction of the recreation complex is completed.

GG:jf
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Watson Vested Rights Determination
February 15, 1984
page two

6. Building permits were issued on September 11, 1981 for the next 32 residential units, but construction of these units has not commenced. These building permits are still valid.

7. In November, 1981, the TRPA Governing Board granted a vested rights determination to allow construction of the 190 condominium units and associated improvements, including the parking garage and recreation complex, pursuant to the approval granted by the Agency on July 25, 1979. The 60 unit Inn was specifically excluded from this determination.

Applicant's Request: The applicant is requesting that the TRPA Governing Board grant a vested rights determination to allow construction of the Inn pursuant to the approval granted by the Agency on July 25, 1979.

Staff Analysis: The following information is provided relative to a determination of vested rights:

1. By law, as set forth in the TRPA Compact, the administrative permit approved in 1979 for the 60 unit Inn expired on December 19, 1983. Therefore, absent a finding of vested right by the TRPA Governing Board, the 60 unit Inn, being a project as defined in the amended TRPA Compact, cannot be constructed unless a new TRPA permit is issued in compliance with current TRPA plans, standards and rules and regulations.

2. Although no building permit has been issued by Washoe County for the 60 unit Inn, all the civil improvements for the Inn have been constructed pursuant to permits issued by Washoe County. The applicant has provided information identifying 6 specific improvements that were constructed exclusively for the Inn site (see Attachment A). According to the applicant, the approximate construction costs for these improvements is $45,000. The applicant also claims that approximately $25,000 has been spent for landscaping and revegetation of existing cut slopes adjacent to and on the Inn property.

The applicant has also provided information (see Attachment B) indicating that, after receiving Agency approval in July, 1979, certain other costs were incurred relative to the Inn for items including land purchase, architecture, engineering, marketing and finance fees. The total amount of these expenditures is estimated by the applicant to be $1,214,000.

3. Absent the issuance of a building permit for the Inn, the extent to which the Inn and 190 unit subdivision is an integrated project is significant in determining a vested right. To the extent the two are integrated, the building permits issued for the subdivision and reliance thereon may apply to the Inn.

The subdivision and Inn were submitted as one project under one application (TRPA File #79144) entitled "Third Creek Inn and Condominiums". The Environmental Information Report was prepared for the entire project, including both the Inn and condominiums, and the staff analysis and

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recommendation were on a single project. The Inn and condominiums were considered by the Governing Board at the same time, and the Board approval was granted under one motion: "to approve the Third Creek Inn and Condominiums". The Subdivision Ordinance in effect in 1979 required approval of a tentative map for the subdivision and the Land Use Ordinance in effect in 1979 required approval of an administrative permit for the Inn. The Governing Board action based on the motion made was interpreted by Agency staff to constitute approval of the required tentative map and administrative permit. The Governing Board action was subject to one set of conditions of approval.

4. Condition #16 of the original July 25, 1979 project approval reads as follows:

"Except for delays in work directly resulting from litigation challenging the validity of any approval required for this project or the interruption is not at the fault of the applicant, construction of all improvements shall be completed within twenty-four (24) months from the initiation of construction. If the construction is not completed within said time, this approval shall expire and the applicant or his successor in interest shall immediately remove all partially completed work and return the site, as far as possible, to its original condition."

Review of Agency records indicates that apparently the intent of this condition was to require all civil improvements to be completed within two years from the initiation of construction. It was not the intent to require construction of the entire project to be completed within two years. In fact, a phasing plan submitted as part of the project indicates that construction of the entire project would take a minimum of three years. Construction of the civil improvements began during the summer of 1980 and was completed at the end of the summer in 1981.

5. Except for approval of the final construction drawings by Agency staff, the conditions of approval have been satisfied relative to the Inn.

6. Since it appears from John Frankovich’s summary that the subject claim is based partly on the construction of the civil improvements (including roads, water, sewer, power and drainage) and the recreation complex, and issuance of a permit for the parking garage, it is important to establish when these events took place in relationship to the effective date of the amended TRPA Compact.
Construction of the offsite improvements started during the summer of 1980. The offsite improvements were completed in November 1981. According to Larry Bogdon, of the Washoe County Engineering Department, most of the offsite improvements were constructed during the summer of 1981.

As of December 19, 1980, no permits had been issued for construction of the recreation complex. The Washoe County building permit for the complex was not issued until June, 1983. Construction was completed on November 30, 1983. The building permit for the parking garage was issued on September 4, 1980. As stated earlier, the construction site was cleared and leveled shortly after issuance of the permit and used for storage of construction equipment and materials. Construction of the actual garage structure has not commenced.

7. In determining a vested right, consideration may be given to the specificity of the plans for the Inn that were part of the record when Governing Board approval was granted. The precise footprint of the Inn structure was depicted on the project site plan and the tentative map. Architectural elevations of the Inn structure and typical sections, including finish floor elevations, were part of the record at the time of project approval. These drawings will be displayed at the Board meeting.

Agency counsel Gary Owen will be prepared to discuss this matter in detail at the Board meeting. Attachment C is a brief summary prepared by the applicant's attorney, John Frankovich.
February 1, 1984

Mr. Robert Medearis
THIRD CREEK JOINT VENTURE
735 Live Oak
Menlo Park, CA 94025

RE: Third Creek Joint Venture; Inn Site Development
    Incline Village, Nevada

Dear Bob:

As a supplement to my previous summary letter of January 19, 1984, I am submitting this approximate cost breakdown. Attached, also, please find an "As-Built" plan which indicates the location of the 6 items that were discussed as having been exclusively built for the Inn site. The following are the estimated construction costs for those 6 specific items of improvement:

1) 550' of 9" water @ $25 per lin. ft. ........................................ $13,750
   1 - 3" Gate Valve @ $1,250 .............................................. 1,250

2) "Up-Sizing" of the gas supply by Southwest Gas Co. .............. (?)

3) 225' of 3 - 4" pvc conduits @ $4 per lin. ft. ................. 2,700

4) 280' of 4" pvc conduit @ $10 per lin. ft
   1 - 3'x6' utility box @ $1,000 ........................................ 2,300
   ................................................................. 1,000

5) Cost of easement appropriation (Engr. only) ................. 1,500

5) Approx. 220'x24' of Roadway (5,290 SF) @ $3 SF ........... 15,840
   ................................................................. 38,740

In addition to these estimated construction costs, there were additional mark ups for contractors' overhead and profit; financing fees; inspection; As built plans preparation, etc. in the order of 15% $39,840 + (15%) $5,5826 = $44,666. This is how the approximate construction costs of $45,000 associated with the Inn site were calculated.

* Direct landscaping cost for hydroseal, drainage work, planting, and earth shaping work was $25,000, expended in 1980, '81 & '82.

ATTACHMENT A
THIRD CREEK ASSOCIATES

Expenditures for Inn land after July 25, 1979

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$1,214,000.00

* These expense area's totals are 24% (60/250) of the actual year's expenditures for the total project.
THIRD CREEK INN
ATTACHMENT 1

The sixty-unit Third Creek Inn (see Site Plan, Exhibit "A") is part of the total Third Creek Project which consists of 190 condominiums, together with the 60-unit Inn. From its inception, the Third Creek Project, including the Inn and condominiums, has been an integrated project, utilizing common access, utilities, easements, parking and recreational facilities. The entire development and approval process for the project has proceeded as a single project. In April, 1979, the Washoe County Commissioners approved the Third Creek Tentative Map and Special Use Permit covering both the condominiums and the Inn, subject to 44 conditions (Exhibit "B"). Thereafter, in July, 1979, the TRPA approved both the Tentative Map and Administrative Permit for the Inn and condominiums subject to 17 conditions (Exhibit "C"). All the conditions of approval for the Inn imposed by Washoe County and the TRPA were fully satisfied by July, 1980, when the Final Map for the condominiums was recorded. Shortly thereafter, work commenced on the first 24 condominium units and on the offsite improvements for the entire project, including the Inn.

All offsite improvements for the Inn and the condominiums, including roads, water, sewer, power and drainage, were completed in September, 1981, at a cost in

ATTACHMENT C
excess of $1,000,000. These offsites are in place ready to serve the Inn property, including water meters, for which annual payments have been made since their completion in 1981.

The first 24 condominium units have been fully completed. Building permits have been issued and are outstanding for the next 32 condominium units, and construction plans are complete on the following 24 units. In November, 1981, the TRPA granted a vested rights determination for construction of the 190 condominium units within the Third Creek Project. While this vested rights determination was applicable only to the 190 condominium units, it specifically did not preclude a subsequent determination of vested rights on the Inn. Indeed, the application for vested rights, a copy of which is attached hereto as Exhibit "D", specifically indicated that the Third Creek Project consisted of 190 condominium units, together with the 60-unit Inn, and that the project was designed to be an integrated project with both the Inn and the condominiums contributing a proportionate share of the expenses for the maintenance and operation of the common area improvements. The CC&R's encumbering the Third Creek condominiums specifically provide for the right of the Inn property to utilize the recreational and parking facilities within the condominium portion of the project. In addition, the CC&R's, together with a Declaration of Mutual Restrictions encumbering both
the condominium and Inn properties filed concurrently there-
with, grants specific rights in the recreational facilities
to the Inn property and further requires a pro rata payment
of costs and expenses to maintain and support these facili-
ties (Exhibit "E").

A substantial portion of the recreational facili-
ties to be utilized and paid for by the Inn property have
already been constructed. As indicated, all offsite improve-
ments and utilities are fully completed. In addition, the
recreational building, consisting of a recreation room,
pool, spa and tennis court to be utilized by the Inn, has
been fully completed. The construction cost of this
building was $517,000. The development plan, together with
the CC&R's and Mutual Restrictions and Covenants and the
original applications for approval, provided for parking for
the Inn within the garage to be located on the condominium
site. A valid and issued building permit is outstanding for
the construction of this parking garage (Exhibit "F").

To date, the owners and developers of the Third
Creek Project have expended $15,600,000 for the entire
project. An itemization of these expenditures is attached
hereeto as Exhibit "G".

It is anticipated that construction of the Inn
will commence in 1984 and that the estimated construction
cost is $7.2 million.

In addition to the Exhibits attached hereto,
construction drawings for the completed recreational building and the parking garage are available upon request. At the time of submitting the application for the vested rights determination on the condominium portion of the project (Exhibit "D" hereto), other documentation was submitted to the TRPA which is also relied on and incorporated herein by reference, including the following:

1. Information and Environmental Impact Report submitted to the TRPA in obtaining approval of entire project.
2. Final Subdivision Map.
3. Subdivision Improvement Agreement with Washoe County.
4. Final Improvement (Civil) Drawing accepted by the TRPA.
5. Contract for Civil Improvements.

If there are any additional questions regarding this matter or if any additional information is required, please feel free to contact me.

There can be no question that the owners and developers of the Third Creek Project have made substantial and significant reliance upon the initial approval of the entire project consisting of the 190 condominium units plus the 60-unit Inn. The project was always anticipated to be constructed in phases, with portions of the condominiums being constructed in the initial phases with the Inn to follow. The Third Creek owners have endured difficult
economic times and have expended considerable sums of money and have now reached the stage in the project for the construction of the Inn. The Inn has been previously fully reviewed and approved, all conditions of approval have been satisfied, all the offsite work has been completed, substantial portions of the recreational facilities have been completed and a building permit has been issued for the construction of the parking garage to service the Inn site. Therefore, it is submitted that Third Creek Joint Venture has proceeded in good faith in reliance on the approval by the Washoe County Commissioners and the TRPA and have completed substantial work thereon and are entitled to construct the Third Creek Inn in accordance with these existing permits and approvals.

John Frankovich
McDonald, Carano, Wilson, Bergin, Frankovich & Hicks
241 Ridge Street, Suite 440
P. O. Box 2670
Reno, Nevada 89505
Telephone (702)322-0635

JF: nz T/f
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731

MEMORANDUM

February 14, 1984

To: The TRPA Governing Board

From: The Staff

Subject: Dillingham Development Company, Interpretation of Permit Conditions, City of South Lake Tahoe

On October 29, 1982, the TRPA Governing Board approved a "Partial Settlement Agreement" between TRPA and the Dillingham Development Company. This agreement was entered into as a settlement of a lawsuit filed by the Dillingham Development Company alleging that the restrictions and prohibitions contained in the amended Compact had the effect of depriving Dillingham's land of all reasonable use and economic value. The land affected by the settlement agreement consists of five parcels (see Exhibit A) totaling 238 acres of undeveloped land located in Tahoe Keys.

As part of the settlement agreement, the TRPA Governing Board agreed to approve a neighborhood convenience shopping center on Parcel 2. On March 24, 1983, the Governing Board approved a shopping center on Parcel 2 which will contain 6 separate buildings totaling 31,680 square feet of floor space.

Conditions of approval imposed by the Governing Board included the following:

9. To mitigate off-site impacts on water quality, wildlife and vegetation, the applicant shall:
   ....
   b. Donate land worth $117,000 to a public agency in lieu of payment of the $117,000 Lahontan mitigation fee.
   c. In lieu of payment of the $18,226 TRPA mitigation fee, donate to a public agency a 100 foot wide strip of land running along the easterly edge of Parcel 4. Said strip of land shall contain approximately 3.2 acres and the 100 foot distance shall be measured from the center line of the stream channel adjacent to and to the east of Parcel 4.
Memo to the Governing Board
February 14, 1984
Page Two

The applicant has now requested that the Agency approve the recordation of the subject parcel maps in order to comply with Conditions 9b. and 9c.

Proposal

The applicant has prepared two parcel maps to reflect the transfer of ownership required under Conditions 9b. and 9c. Exhibit B reflects the division ofParcel 1 into four separate parcels: A, B, C, and D. Parcel B is to be donated to the U.S. Forest Service to satisfy Condition 9b. The appraised value of this portion of land is $110,000. Lahontan has agreed to accept an additional $7,000 in cash to satisfy the required $117,000 mitigation fee. Parcels C and D (Tallac Lagoon) will be retained by the Dillingham Development Company. Parcel A shall also be retained by the Dillingham Development Company; however, as provided in the CTRPA settlement agreement, the City of South Lake Tahoe has an option to purchase this parcel for $1.00, exclusively for the use of constructing senior housing. This option is due to expire on February 22, 1987.

Exhibit C reflects the second of the proposed parcel maps submitted by the applicant. Parcel 1, as identified on Exhibit C, is to be donated to a public entity to satisfy Condition 9c. of the Agency conditions of approval. As of this date, the public entity to which this parcel is to be donated has not been designated. Parcels 2, 3 and 4 are to be retained by the Dillingham Development Company and are subject to the provisions set forth in the settlement agreement between TRPA, CTRPA, the City of South Lake Tahoe, and the Dillingham Development Company.

Clearinghouse Review

As the areawide clearinghouse for the Tahoe Basin, TRPA has been requested by the U.S. Forest Service to comment on the compatibility of the donation of Parcel B (Exhibit B) with the Regional Plan and other applicable Agency documents. Staff recommends that a letter be forwarded to the Forest Service indicating that no conflicts are foreseen between the proposed donation and the Regional Plan documents drafted to date.

Compliance With Section 4.22 of the California Side Land Use Ordinance

Section 4.22 provides that:

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

2/14/84

AGENDA ITEM VIII B.
Memo to the Governing Board  
February 14, 1984  
Page Three  

As the proposed parcel maps are a result of project approval and settlement agreements, staff is further researching with legal counsel the applicability of this provision. Further recommendations will be presented by staff at the Governing Board meeting regarding compliance with Section 4.22.

Recommendation

Staff recommends the Governing Board approve the proposed parcel maps based upon the following findings:

1. The proposed parcel splits are in compliance with the Regional Plan and ordinances of the Agency.

2. The proposed parcel splits will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed parcel splits.

3. The proposed parcel splits will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters.

4. The proposed parcel splits are a result of an Agency project approval and litigation settlement occurring prior to August 27, 1983 and, subsequently, are not subject to the moratorium set forth under Resolution 83-21.
POOR QUALITY ORIGINAL (S) TO FOLLOW

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

February 9, 1984

To: The TRPA Governing Board

From: The Staff

Subject: Show Cause Hearing, Tahoe Paradise Executive Golf Course

This item was discussed during the January Governing Board meeting and continued to this month's meeting to allow the golf course management to submit a probate court order. The court order would be in lieu of a $2,500 security and would hold Mr. John Bost, trustee of the estate owning the golf course, in contempt of court if the order was not complied with.

The probate court order has been submitted by Mr. Ken Rollston, attorney for the golf course, and the staff has concluded that the order is not adequate and requires further clarification regarding a detailed site and water quality mitigation plan for the course. The staff initially felt that a $5,000 fine was called for in this case, but because the golf course management expressed a sincere willingness to explore and implement a long-range plan for the course to improve water quality, it was felt that, in lieu of such a fine, a long-term mitigation plan would be applicable. As such, the probate court order, a copy of which is attached, does not address a long-term mitigation plan.

The Agency has requested that the probate court order be redrafted to include the site and water quality mitigation plan including dates when the design would begin, when the plan would be submitted to the Agency for review, and over what period of time it would be implemented. The new probate court order should be available to the staff for review prior to the Board meeting and to the Governing Board during the February 22 and 23 meeting.

In the event the probate court order is not forthcoming by the Governing Board meeting and in time for staff review, the complete staff recommendations set forth within the staff summary should be acted upon.

SC: jf
2/9/84

AGENDA ITEM IX A. 1.
Memo to the Governing Board  
Subject: Tahoe Paradise Golf Course  
2/9/84 - page two  

These staff recommendations are:

1. That the Governing Board find that a violation exists and direct the Tahoe Paradise Executive Golf Course to completely remove the unauthorized structure and to restore all disturbed areas;

2. That the Governing Board direct the Tahoe Paradise Golf Course to complete a detailed site plan of the property including all land coverages;

3. That the Board require a $2,500 security within 30 days to insure that the above occurs;

4. That the Tahoe Paradise Golf Course pay a penalty of $5,000 to TRPA in lieu of civil litigation; and

5. That the Board direct Agency legal counsel to pursue civil litigation and seek the maximum allowable penalty under Article VI(1) of the Compact for willful violations of Agency ordinances if the above are not complied with during the time specified, or by May 30, 1984.

Attachment
The Ex Parte Petition of JOHN C. BOST, Trustee, for an 
Order Directing Trustee to Comply with TRPA Regulations, was 
heard ______JAN 23 1984_____, in Department G. Petitioner 
appeared by counsel, William C. Pultz.

IT IS ORDERED THAT:

1. Trustee John C. Bost shall comply with the require-
ments of the Tahoe Regional Planning Agency regarding the 
location and erosion control measures necessary proximate to said 
storage structure.

2. If it is determined by the Tahoe Regional Planning 
Agency Governing Board that removal of said structure is 
required, the Trustee shall cause same to be removed within 
thirty (30) days of TRPA's Governing Board's direction to do so, 
but not later than October 1, 1984.
3. That upon written notice from Tahoe Regional Planning Agency or its designated agent that the Trustee has failed to comply with their determination and request for compliance, Trustee John C. Bost may be cited by this court for contempt and ordered to comply with TRPA's requirements.

Dated: JAN 2 3 1984

DON MARTINSON

Judge of the Superior Court

The foregoing instrument is a full, true and correct copy of the original on file in this office.

Agent: JAN 2 3 1984

ROBERT D. ZUNHLALT, County Clerk and Clerk of the Superior Court of the State of California, in and for the County of San Diego.

By: ____________________________
    DEPUTY

__________________________
    ROBERT A. HENRY
Show Cause Hearing - Tahoe Paradise Executive Golf Course, Unauthorized Structure in a Stream Environment Zone, El Dorado County, APN 34-071-11 and 13, TRPA File #82024

**Property Owner** Bruce Beeman Trust, John Bost, Trustee

**Violation Description** During late October and early November of 1983 the management of the Tahoe Paradise Executive Golf Course caused to be constructed a 24 foot wide by 48 foot long concrete floored storage building on the golf course property. The area disturbed for the building is within a functioning stream environment zone. The construction occurred without any Agency, El Dorado County or other review and approval.

On November 4, 1983, Mr. Mike Barbone, manager of the golf course property, was contacted by Agency staff. Stream environment zone regulations and Agency review procedures were explained to him. He was instructed to remove the structure and restore the stream environment zone.

An inspection of the site was made on November 18, 1983 at which time it was found that further work on the structure had occurred and no steps had been taken to remove it. A notice to stop work was posted. It was followed up by an El Dorado County Building Department stop work order.

Grading and the creation of land coverage within or upon a stream environment zone is expressly prohibited by Section 13.10 of TRPA Ordinance No. 79-10 as amended by Section 3.00 of Ordinance No. 81-5.

**Violation Location** Tahoe Paradise Executive Golf Course, El Dorado County, APN 34-071-11 and 13.

**Site Description** Stream Environment Zone, lodgepole pine trees, willows and turf.

**Land Use District** Recreation

**Land Capability Classification** Jabu coarse sandy loam, (JaD) land capability 3; loamy alluvial land (Lo) land capability 1B and stream environment zone.

**Violation Analysis** The construction of a structure of this size involved considerable scheduling, expense and labor. It could not have occurred without such a commitment from the golf course management. Mr. Barbone has stated that the structure was built to house a number of new golf carts purchased this past summer and that he was not aware of Agency ordinances prohibiting such disturbances to stream environment zones, nor of county building code requirements. The golf course has had two proposals reviewed and approved by the regional agencies within the past three years, i.e., an ice skating rink and a commercial snowmobile operation. Ignorance of Agency rules and regulations, given the course's past involvement with the agencies is incomprehensible. Alternative storage is readily available off site from various space rental firms.

SC:md 12-12-83

AGENDA ITEM X A.
Show Cause Hearing – Tahoe Paradise Executive Golf Course

A comparison of 1974 and 1983 aerial photographs of the area does not show a disturbed area where the structure was built. The photos do show significant unauthorized soil disturbance of stream environment zones occurring over a number of years.

Staff Recommendations

1. Agency staff recommends that the Governing Board find that a violation exists and direct the Tahoe Paradise Executive Golf Course to completely remove the unauthorized structure and to restore all disturbed areas, and

2. That the Board direct the Tahoe Paradise Golf Course to complete a detailed site plan of the property including all land coverages, and

3. That the Board require a $2,500 security within thirty days to insure that the above occurs, and

4. That the Tahoe Paradise Golf Course pay a penalty of $5,000 to the TRPA in lieu of civil litigation, and

5. That the Board direct Agency legal counsel to pursue civil litigation and seek the maximum allowable penalty under Article VI (1) of the Compact for willful violations of Agency ordinances if the above are not complied with during the time specified or by May 30, 1984.

Note: The Tahoe Paradise Golf Course must waive the statute of limitations as set forth in Article VI (j) of the Tahoe Regional Planning Compact, stating that legal actions must commence within 60 days of action by the Agency if the above May 30, 1984 date is concurred with. In the event a waiver is not forthcoming the Agency must commence legal actions within the 60 day period to protect its interests.
MEMORANDUM

February 10, 1984

TO: TRPA Governing Body
FROM: Agency Staff
SUBJECT: Huttenmayer, Tree Cutting Violation, Zephyr Heights Subdivision, Douglas County

Background:

In December of 1983, Helmet Huttenmayer telephoned Agency staff to request a tree cutting permit. Mr. Huttenmayer was informed that a site inspection would be made within 48 hours to look at the diseased trees; however, he did not wait for the required site check before cutting down three trees. In addition, the trees that were cut were located on his neighbor's property. The pine trees in question were afflicted with both mistletoe and bark beetles, and would have died within a short period of time.

Although a cutting permit would have been issued to remove these trees, Mr. Huttenmayer did not have authorization from his neighbor or a cutting permit from TRPA.

Recommendation:

Staff recommends that in lieu of civil litigation, Mr. Huttenmayer be required to make a $200.00 payment to TRPA to go toward the Douglas County mitigation fund, along with a restoration plan consisting of planting three Jeffrey pine trees, each a minimum of 2 feet in height, in the same location on the neighboring property where the trees were cut.

If a settlement cannot be reached on this recommendation, Agency legal counsel shall be directed to proceed with litigation in this matter.

RP: md
2-10-84

AGENDA ITEM IX A.2.
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8996
South Lake Tahoe, California 95731

MEMORANDUM

DATE: February 6, 1984

TO: TRPA Governing Body

FROM: Agency staff

SUBJECT: Donald Marken, Unauthorized Construction of Rock Jetties, Violation of a TRPA Approved Slope Stabilization Project, Douglas County, APN 01-020-07, TRPA File #81141

Background: In May of 1982, the Tahoe Regional Planning Agency (TRPA) issued a permit to Mr. Marken for a slope stabilization and erosion control project in the shorezone along Glenbrook Bay. The approved plan included a series of retaining walls and rock riprap to prevent further slope deterioration and sediment deposition, along with an electric tramway to allow access to the beach area. At the time of approval, the Governing Board made the finding required by Section 5.10 of the Shorezone Ordinance that no significant harm would result from this project, which is located in the backshore of a prime fish habitat and spawning area.

In the process of placing the rock riprap, Mr. Marken and his contractor extended the rock material approximately 25 feet into Lake Tahoe to form a jetty. Additional rocks have been placed on the opposite side of the cove to form another small jetty. These rock structures are not a part of the approved plans or permitted project, and were constructed without authorization from this Agency.

Recommended Action: Mr. Marken was granted an extension from the December, 1983 Governing Board meeting (contingent upon his waiver of the 60 day time period for Agency action) so that he could meet with his construction contractor and soils engineer to review the subject jetties. In return, Mr. Marken's representatives have met on site with staff to remedy unstable areas with proper erosion control measures.

Staff now recommends that Mr. Marken be required to remove the unauthorized jetties from the waters of Lake Tahoe within sixty (60) days, and to restore the nearshore area to its previously existing condition. To ensure compliance on this matter, a security deposit of $2,280.00 shall be posted with this Agency within 10 days. If compliance is not obtained within the respective time periods, Agency legal counsel shall be directed to proceed with civil litigation to have the jetties removed.
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.
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 AFN 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.

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</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 $15,000. 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

Parcel existing on 2/10/72: XX

Name of Applicant: DON HUNTON

Address: P.O. BOX 1462, ZEPHYR COVE, NV. 89441

Name of Architect or Engineer: CHI ASSOCIATES

Address: P.O. BOX 1462, ZEPHYR COVE, NV. 89441

Name of Contractor: M.C. WOODS, 5975A

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

DESCRIPTION OF WORK

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

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

Wall Covering: 

Describe briefly: FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

General Plan Designation: LDA

Land Capability Classification: CPD

Inverted Surface Allowed: 5437

Proposed 5336

Existing 0

Total Land Coverage: 5336

Proposed Building Height:

Structural Valuation (including plumbing, wiring, etc.): $31,000.00

I will, save, indemnify and keep harmless The County of Douglas its officers, employees and agents, against any 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]

This permit issued under [State Law] this [Date]

APPLICANT DO NOT FILL OUT BLANKS BELOW

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

Zone E-1 Building Department Note: FOUNDATION ONLY FOR PROPOSED SEFD

Approved Building Department: [Signature]

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

Requirements for moved buildings met ( ) Bond Filed

Permit 01048 Issued 8/24/77 By [Signature]
MEMORANDUM

February 21, 1984

To: The TRPA Governing Board

From: The Staff

Subject: Recommended Amendments to Regional Goals and Policies Plan to
Incorporate the January 25, 1984 Governing Board Action Regarding
Residential Development in Land Capability Districts 4-7

The following are staff recommended changes to the November 1983 final draft of
the Regional Goals and Policies Plan to reflect the most recent action by the
Governing Board regarding single family dwelling development on capability 4-7
lands. It should be noted that some changes such as local control of
allocations, application of the evaluation system, application of BMP's, etc.,
are already included in the Plan. Further amendments may be necessary upon
resolution of the residential development issue on land capability district 1-3
lands.

A. Amend Development and Implementation Subelement, Goal #2 Policy #2 to read
   as follows (page 124)

2. A MAXIMUM OF 650 1,800 NEW SINGLE-FAMILY PERMITS FOR RESIDENTIAL UNITS
   MAY BE AUTHORIZED TO BE ISSUED IN ANY-CALENDAR-YEAR; THE THREE YEAR
   PERIOD FOLLOWING THE ADOPTION OF THIS PLAN.

New-residential-development-will-be-phased-over-the-20-year-capital
improvements-program—in-this-way, regional-development-patterns-will
not-outpace-the-Region's-ability-to-improve-transportation-systems-and
water-quality.

New residential development is to be phased over the 20 year time
period of the Plan with 1,800 residential units authorized for
construction during the first three years of the Plan. At the end of
the three years, TRPA will reevaluate the allocation system and
associated programs to insure that the environmental thresholds and
Compact requirements are being met. Further allocations will be based
on this reevaluation. This allocation limit includes single family
lots and units associated with residential redirection.
Memo to the Governing Board
February 21, 1984
Page Two

B. Delete Development and Implementation Subelement, Goal #2 Policy #4 (page 124)

4. **150-of-the-650-authorised-units-for-residential-development-in-a-given calendar-year-shall-be-reserved-for-residential-redirection.**

The Plan encourages residential redirection to improve the visual, aesthetic, and water-quality characteristics of certain parts of the Region. Redevelopment will result in increased densities necessary to support transportation systems and provides an opportunity to create affordable housing. It is necessary to reserve capacity for these programs as an incentive.

GWB:jf
LOT COUNT SUMMARY

Based on Land Use Maps as of Winter 1981–82 -

City of South Lake Tahoe

SEZ 925
Other Land Capability 1 234
Land Capability 2 60
Land Capability 3 55

El Dorado County

SEZ 1,234
Other Land Capability 1 714
Land Capability 2 19
Land Capability 3 1,170

Placer County

SEZ 274
Other Land Capability 1 501
Land Capability 2 29
Land Capability 3 410

Washoe County

SEZ 382
Other Land Capability 1 968
Land Capability 2 117
Land Capability 3 299

Douglas County

SEZ 110
Other Land Capability 1 685
Land Capability 2 187
Land Capability 3 53

U.S. Forest Service, Burton/Santini -

Deeds recorded as of 2/8/84

Douglas County 14
Washoe County 39

El Dorado County 159
Placer County 11

170
PROJECT REVIEW RECOMMENDATION

I. Pending Pipeline

A. Definitions:

1. Single family and additions thereto received by the Agency on or before 5:00 p.m., August 26. (87 case-by-case in Nevada and 56 others).

2. Applications received from recipients of 1983 allocations issued by El Dorado or Placer Counties. (278 in Placer, 299 in El Dorado). Of those issued by El Dorado County, 131 should be counted against allocation limits set forth in amended plan.

B. Review: Must be in compliance with Agency plan, ordinances, rules, regulations and policies if effect on August 25, 1983, and, for activities in California, the CTRPA plan, ordinances, rules, regulations and policies in effect on August 25, 1983. Prior to approving said projects the following findings must be made:

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

2. The project is consistent with the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Lake Tahoe region.

3. 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.

4. The project will not be detrimental or injurious to the environment or general welfare of the Lake Tahoe region.

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

II. Other Pending and New Projects

A. Review: Must be reviewed pursuant to existing CTRPA and TRPA ordinances, maps, rules, regulations and policies in effect on August 26, 1983 to the extent they are consistent with the Regional Plan, Goals and Policies, Part I, as amended on February 22, 1984. In the event that said ordinances, maps, rules, regulations and policies are inconsistent or in conflict with said regional plan, the goals and policies prevail. Prior to approval V(g) finding must be made and only those types of projects identified as permitted in Phase I under applicable Plan Area Statements may be approved.
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 4.10(1) and (3).

(1)  The project is consistent and complies with the CTRPA and TRPA 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.

(2)  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.

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

(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 persons residing or working in the neighborhood of the project.

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

(7)  The project will not cause the adopted environmental threshold carrying capacities for water quality to be exceeded since the project is consistent with the goals and policies of the Water Quality Element of the amended regional plan.
(8) The project will not cause the adopted environmental threshold carrying capacities for air quality to be exceeded since the project is consistent with the goals and policies of the Transportation and Air Quality Elements of the amended regional plan, and specifically, complies with the policies set forth under goal #5 of the Transportation Element.

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

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

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

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

(13) As an alternative to the specific finding listed in subsection 3.10(7) through (12), 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 not cause the thresholds to be exceeded; and

(d) 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(13).

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

Projects which require EIS, but have not begun or completed preparation or Certification...