TRPA
APC
PACKETS

SEPTEMBER
1989
TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of
the Tahoe Regional Planning Agency will conduct its regular meeting at
9:30 a.m. on September 13, 1989, at the Chateau, 955 Fairway Boulevard,
Incline Village, Nevada. The agenda for said meeting is attached hereto and
made a part of this notice.

September 1, 1989

By: Susan E. Scholley
Acting Executive Director
AGENDA

I CALL TO ORDER AND DETERMINATION OF QUORUM

II APPROVAL OF AGENDA

III DISPOSITION OF MINUTES

IV PUBLIC HEARING AND RECOMMENDATION

A. Amendment of Chapter 4 (Project Review and Exempt Activities) to Provide for a Seasonal Lighting Exemption

B. Approval of Technical Adequacy and Recommendation on Certification of the Draft EIS for the South Tahoe Public Utility District 0.2 MGD Wastewater Treatment Facility Expansion

C. Draft EIS for Caltrans Emerald Bay Slope Stabilization and Highway Improvement Project

D. Amendment of the TRPA Code to Correct Citations, References, and Similar Technical Matters

E. Amendment of Chapters 20 and 36 Regarding Residential Construction in Tyrolian Village Units #1-5

V PLANNING MATTERS

A. Staff Report on the Rural/Urban Design Assistance Team Study

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A. Executive Director

B. Legal Counsel

C. Status Report on the Scenic Resources Management Package

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E. Public Interest Comments
VII RESOLUTIONS
VIII CORRESPONDENCE
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X ADJOURNMENT
MEMORANDUM

September 1, 1989

To: The TRPA Advisory Planning Commission

From: The Staff

Subject: Public Hearing and Recommendation - Amendment of Chapter 4 (Project Review and Exempt Activities) to Provide for a Seasonal Lighting Exemption

Background: TRPA staff is proposing to amend Subsection 4.2.A of Chapter 4 of the Code of Ordinances in order to exempt from TRPA review the installation and display of certain types of winter seasonal lighting. The proposed language is located in Attachment A.

Discussion: This past winter, several civic and community service groups led by the Lake Tahoe Visitors Authority (LTVA) installed a winter seasonal lighting program in order to create the appearance of a festival of lights. The lights were primarily installed on commercial and other uses along Highway 50 from the South Lake Tahoe Wye to Round Hill Mall and along Highway 89 from the northern City of South Lake Tahoe city limits to the airport, and was patterned after other communities in order to attract tourists. Prior to light installation, the program was reviewed and approved as a project by TRPA.

Chapter 30 of the Code establishes design standards for exterior lighting, including the type of lighting used in the LTVA's festival of lights. Subsection 30.8.A prohibits exterior string lights, building or roofline-type lighting, and exterior lights which are attached to trees, except for the Christmas season. The LTVA desires to extend the program beyond what is generally regarded as the Christmas season (from Thanksgiving to New Year's) and carry the program until March 1 of each year.

Last year the LTVA visited each participating business during the program to provide design and installation assistance. Last year's program was not implemented by all businesses along the two highway segments. While it did not result in significant adverse environmental impacts to visual or scenic resources, it presented a somewhat unplanned and uncoordinated appearance, and some of the lights were not removed in March.

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AS: jf

AGENDA ITEM IV A.
Memo to the APC
Chapter 4 Amendment to Provide for a Seasonal Lighting Exemption
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The LTVA has provided recommended design and installation guidelines (located in Attachment B). The guidelines, however, are vague and unclear with respect to creating advertising out of the lights (i.e., spelling out a business name or other information), geographic location, whether or not flashing lights are permissible, and program time frame. In order to solve the problem, TRPA staff proposes to exempt lighting programs from TRPA review when:

1) they are part of an organized program with specific geographic location; and

2) when they conform to TRPA Design Review Guidelines for seasonal lighting programs.

The guidelines would be added to Section 7 of TRPA's Design Review Guidelines, Exterior Lighting. The proposed guidelines are listed in Attachment C.

Environmental Analysis: Staff proposes a finding of no significant effect (FONSE) for this amendment for the following reasons:

1. Lights installed in accordance with LTVA guidelines are of a small enough size so as not to produce significant levels of glare.

2. The lights are generally off during the day; therefore, only the light strands are visible. The size and scale of the strands themselves do not adversely impact applicable scenic resources or community design thresholds.

Required Findings: Prior to adopting the proposed amendment, the Governing Board must make the following findings.

Chapter 6 Findings: Staff proposes to make the findings required in Chapter 6 based on the following rationale and evidence:

Findings:

1. The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, plan area statements and maps, the Code and other TRPA plans and programs.

Rationale and Evidence: The amendment (project) is consistent with the applicable elements of the Regional Plan package provided it is implemented in conformance with the Seasonal Lighting Display Design Review Guidelines. The guideline has been prepared based upon time, manner, and place considerations for the display of seasonal lighting which will not adversely affect Community Design Subelement, Goal #2, Policy 1D of the Goals and Policies. The policy states the following should be taken into consideration regarding exterior lighting:

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a. Exterior lighting should be minimized with an emphasis on safety
and should be consistent with the architectural design.

b. Overall levels should be compatible with the neighborhood light
level. Emphasis should be placed on a few, well placed, low
intensity lights.

c. Lights should not blink, flash, or change intensity.

Lighting programs which conform to the identified design guideline
would be consistent with this policy and with applicable scenic
resource thresholds because of their location in commercial and
tourist areas which currently contain significant levels of exterior
lighting, are restricted to the winter months and are not operated on
a year-round basis, and are of a scale and intensity so as to not
produce significant adverse light and glare impacts.

2. The project will not cause the environmental thresholds to be
exceeded.

Rationale and Evidence: Same as for finding 1 above.

3. Wherever federal, state and local air and water quality standards
applicable for the Region, whichever are strictest, must be attained
and maintained pursuant to Article V(d) of the Compact, the project
meets or exceeds such standards.

Rationale and Evidence: Same as for finding 1 above.

4. The Regional Plan and all of its elements, as implemented through the
Code, Rules and other TRPA plans and programs, as amended, achieves
and maintains the thresholds.

Rationale and Evidence: Same as for finding 1 above.

Ordinance 87-8 Findings: Staff proposes to make the findings required in
Ordinance 87-8 based on the following rationale and evidence:

Findings

1. That the amendment provides for an equal or better means of attainment
or maintenance of the thresholds.

Rationale and Evidence: The amendment when implemented pursuant to
the identified design guide for seasonal lighting displays, will attain
and maintain applicable thresholds because the guideline specifies
lighting location, size, intensity, design, and timing which will not
adversely affect threshold attainment and maintenance.
2. That the amendment is consistent with the Compact and with the attainment or maintenance of the thresholds.

Rationale and Evidence: Same as for finding 1 above.

3. One or more of the following:

   a) There is demonstrated conflict between provisions of the Regional Plan Package and the conflict threatens to preclude attainment or maintenance of thresholds;

   b) That legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code;

   c) That technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code;

   d) That the provision to be amended has been shown, through experience and time, to be counter-productive to or ineffective in attainment or maintenance of the thresholds;

   e) That implementation of the provision sought to be amended has been demonstrated to be impracticable or impossible because of one or more of the following reasons:

      (1) The cost of implementation outweighs the environmental gain to be achieved;

      (2) Implementation will result in unacceptable impacts on public health and safety; or

      (3) Fiscal support for implementation is insufficient and such insufficiency is expected to be a long-term problem.

   f) That the provision to be amended has been shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan Package and complying with the Compact.

Staff proposes to make finding f.
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Rationale and Evidence: Based on experience with the seasonal lighting program displayed during the winter of 1988-89 and based on implementation of future programs which conform to the Design Review Guidelines, the proposed amendment will correct an existing counter-productive provision which requires annual review and approval by TRPA of seasonal lighting programs. The nature of the lighting program, i.e., the intensity, scale, and location, does not have a substantial effect on the land, water, air, space, or any other natural resources in the Region, and, therefore, does not need to be reviewed as a project by TRPA.

The Compact Article VI(a) finding is required prior to amending Chapter 4 (exempting activities from TRPA review). The required finding is:

Finding

The Agency may exempt from its review and approval those activities which it has determined will not have a substantial effect on the land, water, air, spaces or any other natural resources in the region.

Rationale and Evidence

TRPA’s analysis has concluded that exempting seasonal lighting displays from its review, as proposed, will not have a substantial effect on the land, water, air, space, or any other natural resources in the region.

Staff Recommendation: Based on the outcome of the public hearing, staff recommends the APC recommend approval of the amendment to the Governing Board. Staff will begin this item with a brief presentation. Please contact Gordon Barrett at (702) 588-4547 if you have questions or comments regarding this item.

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AGENDA ITEM IV A.
PROPOSED EXEMPTION OF SEASONAL LIGHTING DISPLAYS

Amend Subsection 4.2.A as follows:
(Underlined language is to be added)

4.2 List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or relocation of land coverage. Exemption of activities from TRPA review and approval shall not be construed to exempt such activities from applicable provisions of the Code.

4.2.A General Activities: The following residential, commercial, tourist accommodation, public service, recreation and resource management activities are exempt:

(1) Ordinary maintenance and repair, which is the upkeep, or preservation of the condition of property and includes: painting; reroofing; replacement of windows, siding, doors, floor coverings, interior ceiling and wall coverings and decorations, health and safety devices, noncombustion heaters, appliances, air conditioning, sewer, water and electrical equipment, and other fixtures.

(2) Maintenance of existing landscaping and gardening. Maintenance of existing landscaping does not include the creation or replacement of lawns or plants, except that the placement or replacement of bedding plants, or plants from the TRPA-approved plant list, is exempt.

(3) Interior nonstructural remodeling.

(4) Repair of fences not located in SEZs or bodies of water.

(5) Replacement, repair, or service connection, including reinforcement of telephone lines in connection with a service connection, of utilities provided any excavation associated with the activity is exempt pursuant to subparagraph (6) below or pursuant to subparagraph 4.3.A(6).

(6) Excavation and backfilling for grave sites, or for a volume not in excess of three cubic yards is exempt provided the activity is completed within a 48 hour period and the excavation site is stabilized to prevent erosion. This exemption shall not be construed to exempt a series of excavations, which, when viewed as a whole, would constitute a project.
(7) Removal of dead trees on parcels of five acres or less, removal of dead limbs, and removal of live limbs not resulting in material damage to a tree.

(8) Seasonal lighting displays which are part of a program implemented by a community service organization, which conform to TRPA's Design Review Guidelines for seasonal lighting displays, and which are displayed between Thanksgiving and March 1 of the following year. Seasonal lighting displays shall be removed no later than March 1 of each year.
In Order to make the FESTIVAL OF LIGHTS truly spectacular we ask that each building try to conform to a uniform standard for decorating.

1. Please use only white miniature lights
2. Lights should be strung neatly and securely
3. Follow the natural contours of your building including window frames, roof line etc.
4. Decorate as much shrubbery and trees around your building as possible.
5. Decorate any fencing around your building

Example Building Decoration

* = LIGHTS

RECEIVED
BY
AUG 28 1989
TAHOE REGIONAL PLANNING AGENCY

ATTACHMENT B
Proposed seasonal lighting display guidelines to be added to Section 7, Exterior Lighting, of TRPA's Design Review Guidelines (not yet adopted).

(underlined language is to be added)

(6) **Winter Seasonal Lighting Displays.** Winter seasonal lighting displays should be displayed in commercial or tourist plan areas and should use miniature light strands which are neatly strung and securely attached to buildings, fences, shrubs, or trees. Any color of lights may be used; however, the lights should not be used to create advertising messages or signs (e.g., spelling out the name of a business is not permitted). Seasonal lighting displays may blink or flash. Winter seasonal lighting displays should only be displayed between Thanksgiving and March 1 of the following year.
MEMORANDUM

August 31, 1989

To: Advisory Planning Commission Members

From: Agency Staff

Subject: Final EIS for South Tahoe Public Utility District 0.2 MGD Plant Expansion Project

The Final Environmental Impact Statement (EIS) for the above-referenced project was mailed to Advisory Planning Commission members on September 1, 1989. Copies of the Draft EIS were distributed to the APC on March 10, 1989. The Draft EIS circulation period ended May 8, 1989. The Final EIS includes a summary of all impacts and mitigation measures identified as well as responses to all comments received on the Draft EIS.

Agency staff is requesting the APC to make a finding of technical adequacy at the September 13, 1989 APC meeting. It is further recommended that the APC direct staff to forward a recommendation to the Governing Board to certify the subject document. A staff presentation will be made at the APC meeting.

If you have any comments or questions on this matter, please contact Rick Angiolocci of the TRPA staff at (702) 588-4547.

RA: cs
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AGENDA ITEM IV. B.
MEMORANDUM

August 31, 1989

To: TRPA Advisory Planning Commission

From: Agency Staff

Subject: Discussion of Draft EIS for Caltrans Emerald Bay Slope Stabilization and Highway Improvement Project


At the September APC meeting, Agency staff and Caltrans will make a presentation of the document for the APC's review and comment.

The comment/circulation period for this EIS closes on September 18, 1989. If you have any comments or questions on this matter, please contact Jerry Wells, Chief of Project Review at (702) 588-4547.

JW:cs
8/31/89

AGENDA ITEM IV. C.
MEMORANDUM

August 29, 1989

TO: TRPA Advisory Planning Commission
FROM: Susan E. Scholley, Agency Counsel
RE: Amendment of the TRPA Code of Ordinances to Correct Citations, References, and Similar Technical Matters

BACKGROUND: Since the adoption of the Code in May 1987, TRPA staff has become aware of various incorrect citations, references, and other technical errors in the TRPA Code of Ordinances. None of these matters have any substantive effect except to correct these items so that readers of the Code will be correctly referred to other sections and so that numbering systems and other references are correct.

PROPOSED AMENDMENTS: The following is a list of the proposed amendments:

Chapter 4

Subparagraph 4.3.A(1) - reference to paragraph 7 should be to paragraph 6.

Chapter 12

Section 12.3 - reference to 12.2.B should be to 12.2.C.

Chapter 20

Subparagraph 20.3.D(2)(b) - reference to 20.2.B should be corrected in both instances to 20.3.B.

Subparagraph 20.3.A(3) - the description of the method of calculation is inconsistent with the rule as stated and the example, so the phrase "and common area" in the fifth line at the top of page 20-9 should be deleted.

Subparagraph 20.3.B(1)(d) - reference to Chapter 27 should be corrected to Chapter 24.

SES: jm
8/29/89

AGENDA ITEM IV D.
Chapter 51

Subsection 51.1.D and 51.1.C - the letters "C" and "D" are transposed and should be re-lettered.

Chapter 52

Subparagraph 52.3.G(2)(d) - reference to 53.9 should be 53.10.

Chapter 71

Subparagraph 71.3.B(2) - the numbers in parentheses in the table at the top of the next page (71-3) should be deleted.

Chapter 93

Subparagraph 93.4.E(3) - should be renumbered 93.4.E(1).

ENVIRONMENTAL DOCUMENTATION: Given the technical nature of these amendments, staff proposes a finding of no significant effect.

RECOMMENDATION: TRPA staff asks that the APC recommend adoption of these technical amendments to correct errors in the Code.
MEMORANDUM

August 29, 1989

TO: TRPA Advisory Planning Commission

FROM: Susan E. Scholley, Agency Counsel

RE: Amendment of Chapters 20 and 36 in connection with Settlement of Tyrolian Village v. TRPA, Case No. CV-N-87-420-ECR, U.S. District Court, District of Nevada

Background: In 1981, TRPA adopted Ordinance No. 81-5 (case-by-case ordinance) which permitted review of new single family houses in land capability districts 1, 2 and 3.

The case-by-case system required the classification of each subdivision in the Basin as "adequate", "potentially adequate" or "in need of further consideration". Only parcels in subdivisions rated "adequate" or "potentially adequate" were eligible for case-by-case review.

If the parcel was located in an eligible subdivision, the parcel was individually reviewed to determine its "risk class" in four impact areas. If the parcel was identified as "high risk" in any area, it was disqualified from further consideration.

The case-by-case system was adopted on an interim basis in Nevada and the deadline for applications (originally set for mid-1982) was May 28, 1983. The expiration of the system was set for August 28, 1989, or the adoption of the new regional plan, whichever came first. On August 26, 1983, due to the failure of TRPA to adopt a regional plan within one year after the thresholds, TRPA enacted a moratorium which froze all pending applications, including case-by-case.

Although the 1984 Plan provided for an exemption for pending case-by-case applications, that provision was never implemented due to the preliminary injunction and the Ninth Circuit's decision that TRPA could not exempt pending applications from its new plan.

Upper Tyrolian Village (Units #1-5) was classified as a subdivision in need of further consideration. On May 26, 1983, after several months of negotiations, TRPA and Tyrolian Village Homeowner's Association entered into a Memorandum of
Understanding (MOU). Under the MOU, Tyrolian Village was to construct erosion control and drainage improvements in Units #1-5 and TRPA was to reclassify the subdivision as "potentially adequate."

The MOU called for three phases of improvement. Phases I and II were funded by an assessment against the property owners and has been completed at a cost of approximately $200,000. Phase III is to be funded by TRPA water quality mitigation fees collected in Units #1-5. Phase III had a projected cost of $230,000 and has not been started.

Under the MOU, TRPA reclassified the subdivision and began processing case-by-case applications in Units #1-5.

Although some applications had been filed in 1982, most applications were received at or near the May 1983 deadline. Of the 67 applications filed, six were in a high risk category and rejected, 28 were approved and 32 applications were on file when the August 1983 moratorium stopped permit processing.

Pending Litigation: On August 21, 1987, Tyrolian Village filed suit against TRPA alleging, among other things, that TRPA has breached its contract with Tyrolian Village by failing to approve the remaining 32 applications. The complaint also alleges inverse condemnation of the vacant parcels in Upper Tyrolian.

TRPA answered the complaint in January of 1989 after negotiations with Tyrolian Village failed to produce any encouraging response. Tyrolian Village subsequently changed attorneys and elected a new board of directors and reinstigated settlement discussions.

SETTLEMENT: The focus of the settlement discussions has been on the two policy statements adopted by TRPA in 1986 and 1987 with respect to upper Tyrolian Village.

The Goals and Policies Plan, Implementation Element, Development and Implementation Priorities Subelement, Goal #1, Policy 2.D reads as follows:

For parcels located in Tyrolian Village Units #1-5, for which complete applications were filed and accepted pursuant to the "Agreement Between the Tyrolian Village Association, Inc. And The Tahoe Regional Planning Agency Regarding Erosion control Improvements, And Reclassifications of Upper Tyrolian Village" dated May 26, 1983, an interim system shall be developed and implemented by ordinance.
Chapter 33, [§33.2.D.(1)(f)] provides:

No more than 33 unused case-by-case allocations may be reissued to parcels in Tyrolian Village Units #1 through 5, inclusive, for which complete applications were filed with TRPA prior to May 28, 1983, pursuant to a memorandum of understanding entitled "Agreement Between The Tyrolian Village Association, Inc. And The Tahoe Regional Planning Agency Regarding Erosion Control Improvements And Reclassification of Upper Tyrolian Village," dated May 26, 1983. Parcels receiving unused case-by-case allocations may be reviewed and approved for construction of an additional residential unit in accordance with Section 20.3 and pursuant to an ordinance developed by TRPA for such projects. The unused case-by-case allocations shall be eligible for re-issuance as provided above until December 31, 1991.

The proposed settlement is designed to be consistent with and implement the above policies. The settlement addresses the 32 pending applications but does not compromise any claims relating to other vacant parcels in Upper Tyrolian Village.

PROPOSED ORDINANCE AMENDMENTS: The proposed ordinance language is attached as Exhibit A. A summary of the proposed settlement and ordinance amendments is as follows:

1. TRPA will consider all 32 parcels with pending applications immediately eligible for residential construction, regardless of IPES scores, and provide them a 1990 or 1991 residential allocation out of the unused Nevada case-by-case allocations.

2. After submittal of an application within the allocation deadlines, TRPA will review and, if appropriate, approve the application provided certain criteria are met:

   a. The building site does not exceed 30 percent slope;

   b. Allowable base coverage shall be determined using the PUD formula [§20.3.A(3)] and maximum coverage (base and transferred) shall be 2500 sq. ft. or 100 percent of the building envelope, whichever is less [§20.3.B(1)(b)];

   c. Transfer of coverage shall comply with §20.3.C and may be accomplished by payment of an in-lieu fee per square foot to TRPA (the projected cost per square foot is $5.00-$6.50 -- this issue is unresolved); and

   d. The project complies with the TRPA Code, including height.
3. Tyrolian Village will obtain waivers from the 32 affected property owners of any claims under the 1983 MOU and will dismiss the complaint.

DISCUSSION: The settlement proposal has impacts in three areas: allocations, eligibility for construction, and land coverage.

Allocations: Due to the expiration of case-by-case approvals and purchase of properties by the USFS, there are sufficient unused case-by-case allocations to serve the 32 parcels. Unused case-by-case allocations are not transferred into the general allocation pool and are otherwise usable only in Tyrolian Village.

Eligibility for Construction: Of the 32 pending applications: 13 parcels have IPES scores above the line, 11 parcels have scores within 10 percent of the line (i.e., they can buy points and become eligible), and 8 parcels have scores below the initial line and are not within 10 percent of the line. The lowest score is 525. The highest score is 945.

Land Coverage: Under the case-by-case system, the building envelopes were permitted to use their existing coverage. Water quality mitigation fees were set by a table which assigned a cost per square foot based on the land capability of the envelope. Water quality mitigation fees averaged about $5,000 - $6,000 under the table. Under today's ordinances, the water quality mitigation fees would average $600.

However, because Tyrolian Village is a PUD, has private roads and is located on low capability lands, the allowable base coverage under today's ordinances is less than 50 square feet. (A precise calculation has not been made.) Therefore, the in-lieu transfer fee proposed could range from $9,000 to $13,000.

Because there is no designated land bank in Nevada, TRPA would put all coverage transfer funds collected into a trust account and solicit proposals by appropriate agencies to purchase and retire coverage in the Incline area.

In addition to the above impact areas, the projects will also be subject to the current TRPA ordinances relating to such things as height, excavation, and air quality fees.

Recommendation: Agency Counsel and the Executive Director recommended settlement to the Governing Board Legal Committee on the terms outlined above.
Implementation of the settlement would, by necessity, be through the adoption of ordinance amendments after public hearings, specifically Chapters 20 and 36 would be amended to implement the settlement.

Based on the utilization of case-by-case allocations and the complete mitigation of land coverage through transfer, we would propose a finding of no significant environmental effect for the proposal.

The Tyrolian Village Homeowner's Association will be holding its next scheduled meeting on September 9, 1989. In order for their membership to evaluate the proposal, they have requested a response from TRPA's Legal Committee. It is understood that TRPA cannot commit to ordinance amendments in advance of public hearings and Board action. The Legal Committee voted unanimously to generally support the proposal but cautioned about the need for more work on the amount of the in-lieu coverage transfer fee. TRPA counsel is continuing to work on a mutually acceptable in-lieu fee.

Counsel will report any progress to the APC at the meeting. The matter has been scheduled for a public hearing on the proposed ordinance amendments. APC comments and, if appropriate, a recommendation would be in order.

If you have any questions, please contact me.
AMEND CHAPTER 20.

New subparagraph 20.4.A(5):

(5) Tyrolian Village: Land coverage and disturbance for single family houses may be permitted in Land Capability Districts 1a, 1c, 2 and 3, when reviewed and approved in accordance with Chapter 36, on parcels in Tyrolian Village, Units #1 through 5, inclusive, for which complete applications were filed and accepted by TRPA pursuant to the "Agreement Between The Tyrolian Village, Inc. and The Tahoe Regional Planning Agency Regarding Erosion Control Improvements And Reclassification Of Upper Tyrolian Village" dated May 26, 1983.

AMEND CHAPTER 36.

Modify section 36.1:

Through December 31, 1988, until the IPES is implemented, or until December 31, 1991 in the case of certain residential parcels in Tyrolian Village, Units #1 through 5, inclusive, . . . .

Add new section 36.4:

36.4 Tyrolian Village: Parcels in Tyrolian Village, Units #1 through 5, inclusive, for which complete applications were filed and accepted by TRPA pursuant to the "Agreement Between The Tyrolian Village, Inc. And The Tahoe Regional Planning Agency Regarding Erosion Control Improvements And Reclassification Of Upper Tyrolian Village" dated May 26, 1983, shall be eligible to receive a permit for the construction of a new residential unit provided an allocation is obtained pursuant to 33.2.D(1)(f) and the project complies with the standards set forth below.

36.4.A Coverage: Allowable base land coverage shall be calculated pursuant to subparagraph 20.3.A(3) and transferred coverage may be permitted up to the limits set forth in subparagraph 20.3.B(1)(b).

36.4.B Transfer: Transfer of coverage shall comply with subsection 20.3.C and may be accomplished by payment of a land coverage transfer fee to TRPA in the amount of $ per square foot, to be used for coverage retirement by a designated land bank or other TRPA-approved coverage retirement program.

36.4.C Slope: The slope of the building site shall not exceed 30 percent.

36.4.D General: Except as otherwise provided in this Section, the project shall comply with the TRPA Regional Plan and Code.
August 31, 1989

To: Advisory Planning Commission

From: Agency Staff

Subject: Staff Report on the Regional/Urban Design Assistance Team Study

In January, 1989, a group of interested residents and representatives of local government agencies joined together to find solutions to transportation problems in the resort triangle area of North Lake Tahoe and Truckee. The group formed the North Tahoe/Truckee R/UDAT Steering Committee, and decided to enlist the aid of the American Institute of Architects (AIA) in this effort. The Steering Committee completed an application to the AIA, asking them to conduct a study of the area and its transportation problems by using their Regional/Urban Design Assistance Team (R/UDAT) study process.

R/UDAT is a program made available by the AIA to communities throughout the United States. Once an application is accepted by the AIA, a team is selected to conduct a study and make recommendations for solutions for the problems being addressed. The Steering Committee requested a R/UDAT study to address the issues of traffic congestion and circulation within the resort triangle area.

Following an evaluation of the application and a visit to the area by a representative of AIA, the resort triangle was selected for a R/UDAT study. A nine member team was selected for the study, and a four-day workshop was scheduled for July 14-17, 1989.

The R/UDAT members were assigned to review, evaluate, and propose feasible alternatives for transportation and parking problems, both locally and regionally, in the immediate, short and long term. Additionally, the team was expected to identify appropriate mechanisms for coordinating and implementing solutions that would cut across multi-jurisdictional boundaries.

The team toured the area by air and ground, and met with the residents of the resort triangle communities to listen to their comments. Following these public meetings, the team met with the representatives of local agencies and both public and private organizations. The team was given a tremendous amount of information to review and study, and then was given the assignment to develop a report which would present the team's findings and recommendations. The report was completed and presented to the Steering Committee and the public at a final meeting held in Kings Beach.

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/la
Memorandum to Advisory Planning Commission
Rural/Urban Design Assistance Team
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The R/UDAT Report presented recommendations for actions to be taken which would resolve the transportation problems in the resort triangle communities. These recommendations ranged from creating a vision of what the area should be, to specific plans of what to do to achieve that vision. The report recommended a Transportation Management Association be formed to implement the recommendations contained in the report. The report recommended working within the framework established in the area to implement the needed improvements. The report also recommended means for paying for the necessary improvements. Finally, the report recommended the effort begun by the R/UDAT study continue, with the R/UDAT Steering Committee taking over from the study team.

Since the completion of the R/UDAT Study, a Resort Triangle/Transportation Management Association has been formed. Several small committees have been established to discuss the recommendations of the report, and to develop ways to implement these recommendations.

A copy of the R/UDAT Study report is attached for your review. If you have any questions, please contact Leif Anderson at (702) 588-4547.
MEMORANDUM

August 29, 1989

TO:      TRPA Advisory Planning Commission

FROM:    Susan E. Scholley, Agency Counsel

RE:      Amendment of Article VII, Rules of Procedure, for the Advisory Planning Commission

BACKGROUND: After the amendment of the Compact in 1980, TRPA adopted Rules of Procedure implementing the Compact amendments. Article VII, entitled "Advisory Planning Commission", was adopted at that time and, except for some minor amendments, has not been substantially amended since that time. With the adoption of the 1987 Regional Plan, the Governing Board indicated a desire to revisit the Rules of Procedure and update them as necessary. At this time, the Rules Committee of the Governing Board is prepared to turn its attention to Article VII and consider amendments.

Attached you will find a copy of the existing Rules of Procedure relating to the Advisory Planning Commission.

ISSUES FOR DISCUSSION: At its August Rules Committee meeting, the Rules Committee discussed its thoughts on the potential issues regarding the Advisory Planning Commission. The members of the Rules Committee are Joseph Houghteling, Mike Fluty, Kay Bennett, Dianne Cornwall, and Jim Reed.

The primary focus of the Rules Committee discussion was APC involvement in the project review process. The Committee's comments ranged from: a willingness to permit APC involvement in the project review process so long as no delays result, to an opinion that APC should not be involved in the project review process unless the Executive Director desires to take a specific project to the APC. Within that range, concerns of the Committee were: a fear that APC would become involved in minutia, the difficulty of involving APC without causing delays, and concern over APC continuing projects and causing additional delays.
Also discussed was the possibility that some projects could be delegated to APC rather than be reviewed by the Board or staff. Another suggestion was that the APC is underutilized in connecting with communities in the planning arena, especially in the area of major projects, transportation planning and funding.

RECOMMENDATION: The Rules Committee desires APC recommendations on amendments to Article VII for its review and consideration at its September 27 meeting. Additionally, the Rules Committee encouraged any and all APC members to attend its lunch meeting at the September 27 Governing Board meeting.

Any comments, thoughts, suggestions, gripes, complaints, or discussion the APC has on this subject would be helpful to the Rules Committee in formulating amendments.

If you have questions regarding this matter, please contact Susan Scholley.
ARTICLE VII - ADVISORY PLANNING COMMISSION

7.1 General: The Compact provides for the appointment of an Advisory Planning Commission (APC) by the Agency and establishes and sets forth certain functions and duties of the APC relating to the Regional Plan and amendments thereto. In addition, it is contemplated that the APC make recommendations to the Agency respecting matters over which the Agency has jurisdiction and exercises powers.

7.2 APC Review: Matters regarding Agency plans and ordinances and other matters the Governing Body determines appropriate for APC consideration shall first be submitted to the APC for review and recommendation. The Governing Body may determine that a particular matter is of such urgency that the public interest requires it to act without delay and without review and recommendation of the APC.

7.3 Recommendations: The APC shall consider each matter submitted concerning conformity with the Tahoe Regional Planning Compact, as amended, the Regional Plan and the ordinances, rules, regulations and policies of the Agency. Based upon such consideration, the APC shall submit a report and recommendation of the pertinent matters to the Governing Body. The report shall show the vote of the members of the APC and may include the position of the minority, if any.

7.4 Procedures: The APC shall be governed by these Rules and Regulations of Practice and Procedure. To the extent practicable, the rules provided herein for the Governing Body shall also govern the APC, but the APC may provide a different time and place of meeting from that set forth herein for the Governing Body and may also adopt different rules in those cases where these rules and regulations are not applicable or would be impracticable for the APC to follow. The APC shall notify the Governing Body in writing of any such rule or regulation which the APC has determined to be inapplicable or impracticable when applied to it and the change or substitute for such rule or regulation adopted by the APC.

7.5 Transmittal of Reports: Copies of reports and recommendations made by the APC shall be mailed or delivered to the Governing Body and to every interested party, including the local governments affected by the matter reported upon.

7.6 Consideration by Governing Body: At the next regular meeting of the Governing Body, or at any special meeting that may be scheduled, the Governing Body shall consider the report and recommendations of the APC. The Governing Body may hear additional testimony and argument concerning any matter or proposal submitted before acting thereon.

7.7 Participation by Governing Body Members: Members of the Governing Body may attend and participate in APC meetings, but their presence shall not be counted in determining whether a quorum is present nor shall Governing Body members be entitled to vote.

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7.8 Continuances: The APC may continue to a specific date any matter which it determines lacks sufficient information for proper consideration.

7.9 Meeting Date: Regular meetings of the APC shall be held on the second Wednesday of the month. Should any meeting day fall on a holiday, the meeting shall be held on the next business day thereafter which is not a holiday.
MEMORANDUM

August 29, 1989

TO: TRPA Advisory Planning Commission

FROM: Susan E. Scholley, Agency Counsel

RE: September 1989 Legal Report

Attached is an updated list of all pending litigation involving TRPA. Cases resolved since last summer's report are listed at the end.

In Kelly v. TRPA, Case No. 18325, Ninth Judicial District, Douglas County, Nevada, the District Court recently ruled on TRPA's and California and Nevada's motions for summary judgment. In order to put those motions and the court's order in context, I will briefly summarize the status of the case to date.

The Kelly complaint was filed in Douglas County on July 24, 1987 and alleged that TRPA, in concert with California and Nevada, had acted improperly in adopting the 1987 Regional Plan and limiting the uses of Kelly's property in Douglas County. The lawsuit specifically alleged inverse condemnation of seven vacant lots in the hilltop portion of Uppaway. California and Nevada are alleged to be responsible for TRPA's Plan because they funded TRPA and participated in the Consensus Building Workshop and the settlement of California/League to Save Lake Tahoe v. TRPA in the Eastern District of California (1984 Regional Plan Litigation).

TRPA and the states removed the action to federal District Court, but Judge Thompson remanded Kelly v. TRPA to state court so long as the states remained parties in the case. Douglas County Judge Gamble recused himself and Judge Robison was peremptorily challenged by TRPA. The Nevada Supreme Court then appointed Judge Charles McGee from Reno, Nevada to hear the case.

After the remand, TRPA and the states filed motions for summary judgment seeking dismissal of the case. The case was set for a three-week bench trial in late September (i.e., no jury) on the issue of whether a taking has occurred and the states' liability. If TRPA or the states were found to have "taken" private property, then a second trial would be held on the amount of damages.
The parties have been involved in discovery and numerous experts have been retained by both sides. Several discovery disputes and motions have been heard and resolved by the Washoe County Discovery Commissioner, John Petty.

On August 3, 1989, TRPA, California and Nevada orally argued their motions for summary judgment. The hearing took over six hours. The next day TRPA and the states moved for a continuance of the September 11 trial citing Kelly's delay in responding to discovery and the scope and complexity of the trial as necessitating additional time to adequately prepare.

On August 23, the Court issued an order partially granting and partially denying TRPA's and the states' motions for summary judgment. In the order, the Court dismissed the states from the case. The Court held that neither California nor Nevada was responsible for the actions of TRPA, nor responsible for paying any judgment rendered against TRPA. With respect to TRPA, the Court dismissed all of Kelly's claims against TRPA except for the claims based on inverse condemnation and the due process clause of the U.S. Constitution. The Court found that there were questions of fact for trial on that issue. The remaining claims against TRPA (vested rights, estoppel, civil rights, equal protection, Nevada constitutional claims and punitive damages) were dismissed.

Subsequent to the order, Mr. Kelly agreed to a continuance of the trial and the trial has been rescheduled for February 5, 1990.

If you are interested in a copy of the August 23 order, please let me know.

In a related matter, the Ninth Circuit, U.S. Court of Appeals, denied Kelly's request for $130,000 in attorney's fees.
1. Anderson, et al. v. TRPA, U.S. District Court, District of Nevada, Case No. CV-R-83-408-BRT, filed October 17, 1981. Originally filed in the Ninth Judicial District in Nevada, the case was removed by TRPA to federal court on November 9, 1983. Plaintiffs seek declaratory and injunctive relief in addition to damages for inverse condemnation which allegedly resulted from TRPA's refusal to allow completion of a single family dwelling for which a foundation exists. The parties have negotiated a settlement, which calls for dismissal when the settlement has been fully implemented.

2. Carpenter v. TRPA, et al., Second Judicial District, Washoe County, Nevada, Case No. 87-5481, filed October 2, 1987. Plaintiff seeks issuance of a permit for a single family residence and damages in excess of $10,000 for inverse condemnation of her property. The case was removed by defendants to federal court but was remanded, sua sponte, to state court. TRPA has a motion to dismiss on file.

3. City of South Lake Tahoe v. TRPA, U.S. District Court, Eastern District of California, Case No. CV-R-84-819-EJC, filed May 29, 1984. Originally filed in Superior Court of El Dorado County, TRPA removed the case to federal court on June 26, 1984. Plaintiff seeks declaratory and injunctive relief regarding TRPA's jurisdiction over, and review of, the Lake Tahoe Airport. TRPA has answered and TRPA's motion for partial summary judgment as to jurisdiction was granted on February 8, 1985. Air California's and the United States' motions to intervene have been granted. The case is inactive pending the outcome of the airport consensus workshops.

4. CTRPA v. TRPA, et al., (Harrah's), U.S. District Court, District of Nevada, Case No. 79-119 ECR, filed April 26, 1979. Originally filed in San Francisco, venue was changed to Reno upon the motion of other defendants. The suit seeks declaratory and injunctive relief to vacate TRPA's approval of Harrah's parking structure. TRPA has answered, and motions for summary judgment and judgment on the pleadings have resulted in dismissal of all but two claims against TRPA: (a) The claim alleging that TRPA failed to comply with the California Environmental Quality Act ("CEQA") in approving the California portion of the project; and (b) That TRPA should not have approved the project absent prior receipt of an air registration certificate. Some discovery has been taken, and the Court has permanently enjoined construction of the structure. TRPA's motion to reconsider the portion of the order granting the injunction relating to the sixth claim for relief, which alleges Harrah's improperly received permits for the structure prior to receipt of the air registration certificate has been granted. The case is currently inactive.

6. Kelly v. TRPA, et al., Ninth Judicial District, Douglas County, Nevada, Case No. 18325, filed July 24, 1987. Plaintiff seeks specific performance, declaratory, injunctive, and monetary relief, and punitive damages, in excess of $15,000,000.00 based on the alleged inverse condemnation of plaintiff's property. Defendants removed the case to federal court but it was remanded to state court in March 1988. All defendants have answered and discovery ends July 28, 1989. Defendants have filed motions for summary judgment and a hearing is set for August 3, 1989. A three-week trial on the issue of liability is set to commence September 11, 1989. Plaintiff has appealed, to the Ninth Circuit, the federal district court's denial of attorney's fees and sanctions on the removal.

7. Lakeview Development Corp. v. TRPA, et al., U.S. District Court, Eastern District of California, Case No. 85-0975 RAR, filed July 12, 1985. Plaintiffs seek declaratory and injunctive relief with regard to a 28 unit townhouse development. Plaintiffs allege they have a vested right to complete the project. Plaintiffs also seek damages in excess of $20,000. The State of California was permitted to intervene. The court has granted defendants' (TRPA and California) motions for summary judgment. Plaintiff appealed the decision to the Ninth Circuit and briefing is complete.

8. Newton v. TRPA, et al., Ninth Judicial District, Douglas County, Nevada, Case No. 18435, filed August 28, 1987. Plaintiff seeks specific performance, declaratory, injunctive and monetary relief, and punitive damages in excess of $7,230,000 for alleged inverse condemnation of plaintiff's property. Defendants removed the action to federal court but it was remanded to state court. Defendants have filed motions to dismiss. The parties are discussing settlement and plaintiff is preparing a settlement proposal.

9. S & M Investments Co. v. TRPA, U. S. District Court, Eastern District of California, Case No. 86-1215-EJE, filed May 27, 1986. Originally filed in Superior Court for El Dorado County, TRPA removed the case to federal court on October 14, 1986. Plaintiff seeks injunctive and declaratory relief. Plaintiff alleges that a 1980 TRPA permit for a commercial project is still valid. Plaintiff amended the complaint to seek damages according to proof for inverse condemnation of the property. The Court granted TRPA's motion for summary judgment on the original complaint. The parties stipulated to a dismissal of the remaining amended claims. Plaintiff has appealed the decision to the Ninth Circuit and briefing is underway.

10. Schultz, et al. v. TRPA, et al., U.S. District Court, Nevada, Case No. CVR-R-81-259 ECR, filed October 27, 1981. Plaintiff seeks a writ of mandamus, injunctive and declaratory relief and inverse condemnation resulting from unauthorized grading and a related enforcement action taken by the TRPA Governing Body. The inverse condemnation claim was voluntarily dismissed after TRPA counsel moved to dismiss same. Relief is presently confined to mandamus, declaratory and injunctive claims. TRPA has answered and counter-claimed for enforcement against plaintiff, as well as cross-claimed against Douglas County.
for issuance of improper grading permits. Responsive pleadings have been filed. After a hiatus of several years due to plaintiff's bankruptcy, TRPA has filed a motion to dismiss and briefing is complete. Plaintiff is also pursuing purchase of the property by the Nevada State Lands Commission.

11. TRPA v. Beals, Ninth Judicial District, Douglas County, Nevada, Case No. 15970, filed June 24, 1985. This action was filed to enforce TRPA ordinances relating to unauthorized structures. Plaintiff seeks declaratory and injunctive relief as well as civil penalties. Defendant has answered. TRPA has filed a motion for summary judgment. Plaintiff has lost both the parcels in a foreclosure action. The parcels are for sale and TRPA has been in contact with the realtor regarding resolution of the violations.

12. TRPA v. Biggs, Superior Court, Placer County, California, Case No. 66126, filed July 22, 1983. This action was filed to enforce TRPA ordinances relating to unauthorized construction of piers. Plaintiff seeks injunctive and declaratory relief as well as civil penalties. A default judgment was obtained, and defendant appealed to the Third District Court of Appeals in California. Defendant has prevailed on the appeal and the default has been set aside.

13. TRPA v. Bruce King Outdoor Advertising Company, et al., Superior Court, El Dorado County, California, Case No. SLT-1587, filed August 16, 1983. This action was filed to enforce TRPA's sign ordinance. Plaintiff seeks injunctive and declaratory relief as well as civil penalties. The defendant's motion for summary judgment was granted and TRPA has appealed to the Third District Court of Appeals. Briefing is complete but no date for oral argument has been set.

14. TRPA v. Terrace Land, et al., U.S. District Court, District of Nevada, Case No. CV-N-87-502-ECR, filed October 23, 1987. TRPA filed an action for declaratory and injunctive relief, in addition to civil penalties, relating to the unauthorized grading of a road. Defendant has cross-claimed for damages in excess of $10,000 for alleged inverse condemnation. Discovery is complete. TRPA has filed a motion for summary judgment and briefing is complete.

15. TRPA v. Wassner, et al., Ninth Judicial District, Douglas County, Nevada, Case No. 21347, filed May 5, 1989. This action was filed to enforce TRPA ordinances relating to the illegal construction of a road. Plaintiff seeks declaratory and injunctive relief, as well as civil penalties.

16. Tahoe Sierra Preservation Council, et al. v. TRPA, et al., U.S. District Court, Eastern District of California, Case No. CV-S-84-0816-EGG, filed June 25, 1984. Plaintiffs seek declaratory and injunctive relief as well as damages for inverse condemnation in the amount of $9,263,000. A jury trial has been demanded. Motions to dismiss, filed by all defendants, were granted in part and all claims for monetary relief were dismissed. Defendants' motion for summary judgment was granted and the remaining issues were dismissed. Plaintiff has appealed to the Ninth Circuit. The case has been stayed on appeal, pending the outcome of the Nevada TSPC case below. A motion to dismiss the case as moot was filed July 31, 1987.
17. Tahoe Sierra Preservation Council, et al. v TRPA, et al., U.S. District Court, District of Nevada, Case No. CV-R-84-257-ECR, filed June 25, 1984. Plaintiffs seek declaratory and injunctive relief as well as damages for inverse condemnation in the amount of $17,370,000. A jury trial has been demanded. Motions to dismiss, filed by all defendants, were granted in part and all claims for monetary relief were dismissed. Defendants' motion for summary judgment was granted and the remaining issues were dismissed. Plaintiff appealed to the Ninth Circuit. On July 16, 1987 the Ninth Circuit removed the appeal from the calendar and requested the parties to "explore the possibilities of settlement." Several meetings were held but settlement efforts were discontinued and the matter resubmitted to the Ninth Circuit for decision. The parties filed the final briefs January 10, 1988 and are awaiting a decision.

18. Talland Corp. v. TRPA, et al., U.S. District Court, Eastern District of California, Case No. 89-567-RAR, amended complaint filed March 24, 1989. Plaintiff seeks declaratory and injunctive relief as well as damages for inverse condemnation in excess of $2,000,000. Originally filed in Placer County, TRPA and the State of California removed the case to U.S. District Court, Eastern District. Plaintiffs filed a motion to remand. The Court granted the motion as to the State of California and retained jurisdiction as to TRPA. TRPA has answered the amended complaint.

DISPOSITION OF CASES RESOLVED SINCE LAST REPORT


6. Rabe v. TRPA, et al., U.S. District Court, District of Nevada, Case No. CV-N-87-509-ECR, filed August 21, 1987. The Court granted TRPA's motion to dismiss and no appeal was taken.


12. TRPA v. Beebe, Superior Court, Placer County, California, Case No. 84261, filed February 2, 1989. TRPA filed an action to enforce the conditions of approval on a single family dwelling. Case settled and dismissed.


MEMORANDUM

September 1, 1989

To: The TRPA Advisory Planning Commission

From: The Staff

Subject: Status Report on the Scenic Resources Management Package

Background: Staff will seek Governing Board adoption of the Scenic Resources Management Package at the September Governing Board meeting. Following APC action on the scenic package in July, the Governing Board certified the EIS and continued action on the remainder of the package until September in order to refine certain provisions of proposed Chapter 26, Signs.

Discussion: The elements of Chapter 26 which have been addressed during that time include: clarifying the conditions under which substitute standards may be prepared and adopted; and adding provisions to permit, under certain conditions, certain existing signs which do not conform to Chapter 26.

Attached to this staff report is a preliminary draft of a model Memorandum of Understanding (MOU) between TRPA and local jurisdictions. The purpose of the MOU is to permit the implementation of sign standards by local jurisdictions and to establish the general parameters under which substitute sign standards would be adopted by TRPA for use in a local jurisdiction. In order to initiate the process of drafting substitute standards in a timely manner, TRPA intends to ask local jurisdictions who wish to prepare substitute standards to sign an MOU prior to the effective date of Chapter 26 (60 days following). The MOU would also identify the standards which the local jurisdiction would implement during preparation of the substitute ordinance. Local jurisdictions may elect to use either the existing TRPA interim standards, which have been in effect region-wide since 1987, or the adopted Chapter 26.

No action is being requested of APC by staff. Please contact Andrew Strain at (702) 588-4547 if you have any questions or comments regarding this item.
MEMORANDUM OF UNDERSTANDING
BETWEEN TAHOE REGIONAL PLANNING AGENCY AND
(NAME OF LOCAL JURISDICTION)

This Memorandum of Understanding is entered into this ___ day of
___________, 1989, by and between the TAHOE REGIONAL PLANNING AGENCY
(TRPA), through its Executive Director as authorized by the Governing Board, and
NAME OF LOCAL JURISDICTION (Local), by and through its Chief Executive Officer
as authorized by the (elected body of local jurisdiction).

This Memorandum of Understanding (MOU) sets forth the responsibilities of
the parties and has been prepared for purposes of exempting certain sign
activities from TRPA review in accordance with Subsection 4.2.D of the TRPA Code
of Ordinances (Code), and administering Chapter 26 provisions or substitute sign
ordinance provisions adopted by TRPA. A copy of the local substitute sign
ordinance is attached and incorporated into this agreement.

RECITALS

A. TRPA is required by an interstate compact (P.L. 96-551, 94 Stat 3233);
to regulate activities within the Tahoe Basin which may have a
substantial impact on the environment. TRPA is also required to
define which activities will not have a substantial effect and
therefore are exempt from TRPA review.
B. Certain sign activities are exempt from TRPA review provided a local
government through an MOU reviews and approves such activities
pursuant to Chapter 26, or pursuant to a substitute sign ordinance,
which is adopted by TRPA and adopted and implemented by (local).

C. Given the regulatory structure of (local) and its function in the
community, (local) and TRPA agree that exemption of sign activities
may be accomplished through utilization of (local) planning staff for
purposes of reviewing sign activity applications and implementing
§4.2.D of the Code.

D. (Local) and TRPA also agree that review by (local) of applications for
sign activities is the most efficient means of implementing the
provisions of Chapter 26 of the TRPA Code of Ordinances, or provisions
of the substitute sign ordinance.

It is therefore understood and agreed by the parties that:

1. All applications for sign activities will be reviewed by (local)
through its sign review process. (Local) will determine which appli-
cations are exempt from TRPA review pursuant to this MOU and
§4.2.D of the Code and which applications are variance requests
pursuant to paragraph 3. below and require joint review by (local) and
TRPA.

2. (Local) will determine which sign activity applications are exempt
from TRPA based on §4.2.D of the Code or the exempt section in the
adopted substitute sign ordinance.

3. Sign activities which meet the standards of substitute sign ordinance
may be reviewed and approved by (local) without review by TRPA. For
those sign activity applications for which a variance from the provisions of the substitute ordinance is requested, (and such deviation was not considered in the scenic analysis). (local) and TRPA will conduct a joint review of the project.

4. Nothing in this MOU shall be construed to limit the authority of (local) to impose state or local ordinances and regulations, or to impose reasonable conditions of approval. Further, nothing in this MOU shall be construed to limit the enforcement powers of (local) or TRPA.

5. (Local) shall provide TRPA with quarterly reports of sign activities approved by (local) pursuant to paragraph 2 above.

6. Until October 1, 1990, or until such time as a local substitute sign ordinance is adopted by TRPA, whichever occurs first, (local) shall use as interim sign standards (choose one of the following): (1) the TRPA Chapter 26 provisions as adopted by TRPA, or (2) the interim sign rules in TRPA Ordinance 87-8.

7. TRPA may adopt a local substitute sign ordinance for use in the local jurisdiction pursuant to Section 26.3 of the Code. In making the finding that the local substitute standards are equal or superior to TRPA standards, TRPA shall consider the following:

(a) A scenic quality analysis using appropriate methods of visual simulation has been provided and indicates the substitute standards do not result in adverse impacts on applicable scenic resources and community design thresholds.
(b) The substitute ordinance, in combination with the applicable elements of TRPA's Scenic Resource Management Plan and adopted community plans, redevelopment plans or other TRPA-approved master plans, results in a threshold travel route rating for applicable threshold travel routes of at least 16 for roadway travel routes, or a shoreline travel route rating of at least 8, by July 1, 2007, and does not result in a decline of applicable roadway or shoreline scenic quality ratings.

8. Either party may terminate this Memorandum of Understanding upon thirty (30) days' written notice to the other party.

(LOCAL GOVERNMENT)

DATED: ____________________________

Chief Executive Officer

TAHOE REGIONAL PLANNING AGENCY

DATED: ____________________________

William A. Morgan
Executive Director