TRPA
APC
PACKETS

MARCH
1994
TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION
NOTICE OF MEETING

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 Wednesday, March 9, 1994, at the Tahoe Sands Inn Convention Center, 3600 U.S. 50, South Lake Tahoe, California, Beach California. The agenda for said meeting is attached hereto and made a part of this notice.

February 28, 1994

By: [Signature]
David S. Ziegler
Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office, and the North Lake Tahoe Chamber of Commerce.
TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

Tahoe Sands Inn Convention Center
3600 U.S. 50, South Lake Tahoe, California

Wednesday, March 9, 1994
9:30 a.m.

All items on this agenda are action items unless otherwise noted.

AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Advisory Planning Commission on an agenda item not listed as a Public Hearing or a Planning Matter item, or on any other issue, may do so at this time. However, public comment on Public Hearing items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. DISPOSITION OF MINUTES

V. PUBLIC HEARING AND RECOMMENDATIONS

A. Amendment of Chapter 22, Height Standards, Subsection 22.4.C, Additional Height for Redevelopment Projects Within the City of South Lake Tahoe, to Create Special Height Districts Which Would be Permitted Additional Building Height and Related Amendments to Section 22.2 Definitions, to Define View Corridors of Lake Tahoe and Other Scenic Resources, and Subsection 22.4.B, Additional Height for Tourist Accommodation Buildings Within Community Plan Areas, Relative to the Provision of View Corridors

B. Amendment of Chapter 91, Regarding Oxy-Fuels

C. Amendment of Chapter 4, Project Review and Exempt Activities, to Adopt MOU Between TRPA and the Kingsbury General Improvement District to Exempt Certain Activities from TRPA Review

D. Draft EIS for the U.S. Forest Service East Shore Timber Harvest, Washoe and Douglas Counties and Carson City, TRPA File #580-103-94 (No Action)

E. Amendment of Plan Area Statement Boundary Between Plan Areas 045, Incline Village Commercial, and 046, Incline Village Residential, to Move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046

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F. Amendment of Plan Area III, Tahoe Island, Special Area #2, to Allow as a Special Use Health Care Services, Nursery, and Outdoor Retail Sales

G. Amendment of Chapter 11 Relating to Commercial Foundations

VI. REPORTS

A. Executive Director

B. Legal Counsel

C. APC Members

VII. PENDING MATTERS

VIII. RESOLUTIONS

IX. ADJOURNMENT
MEMORANDUM

March 1, 1994

To: TRPA Advisory Planning Commission
From: TRPA Staff
Subject: Amendment of Chapter 22, Height Standards, Subsection 22.4.C, Additional Height for Redevelopment Projects Within the City of South Lake Tahoe, to Create Special Height Districts Which Would be Permitted Additional Building Height and Related Amendments to Section 22.2 Definitions, to Define View Corridors of Lake Tahoe and Other Scenic Resources, and Subsection 22.4.B, Additional Height for Tourist Accommodation Buildings Within Community Plan Areas, Relative to the Provision of View Corridors

Proposed Action: The City of South Lake Tahoe Redevelopment Agency proposes to amend TRPA Code of Ordinances Chapter 22, Height Standards, to allow additional building height for buildings within the City’s Redevelopment Plan Area. Related amendments are proposed to the City’s adopted Redevelopment Demonstration Plan for consistency purposes (noticed for Governing Board action). Refer to Attachment A, Proposed Chapter 22 Code amendment; Attachment B, Proposed Redevelopment Demonstration Plan Special Height District Map; and Attachment C, Proposed Redevelopment Demonstration Plan Development Standards amendment. Please note that the proposed Chapter 22 amendments are identified in Attachment A by a vertical line in the left margin.

Staff Recommendation: Staff recommends that the APC conduct a public hearing on the matter and, based on its outcome, recommend approval of the amendments shown in Attachments A, B, and C to the TRPA Governing Board.

Discussion: The City’s Redevelopment Agency together with developers of the proposed Park Avenue redevelopment project believe the amendments are necessary to make the redevelopment project financially feasible. Building heights allowed under the existing TRPA Code of Ordinances permit tourist accommodation buildings within adopted community plan areas to be up to 48 feet in height. The amendments would permit building heights ranging from 56 feet to 73 feet, and would be available to a wider range of use types including, tourist accommodation uses, mixed tourist/commercial uses and
parking garages (TRPA classified use of vehicle storage and parking). The proposed amendments would be available only to redevelopment projects in areas which had both a TRPA adopted Redevelopment Plan and Community Plan.

The proposed amendments would create a process to establish special height districts in the areas identified above (i.e., located within both Redevelopment and Community Plan areas). Based on the location/eligibility criteria in the proposed ordinance, however, the only eligible area is in the Stateline area of the City's Redevelopment Plan Area. Refer to Attachment B, which shows the eligible area. Generally, the districts must be located within portions of TRPA-adopted Redevelopment Plan and Community Plan areas which contain transit-oriented development and an intermodal transit center. Presently, the City of South Lake Tahoe has the only TRPA adopted Redevelopment Plan in the Region. The Stateline/Ski Run Community Plan is the applicable community plan for the same geographic area. It is expected to be considered for adoption in March 1994, by the TRPA Governing Board.

Eligible redevelopment projects within a designated special height district would earn additional building heights greater than the existing Code based on providing a series of environmental and public benefits. The benefits include reduced land coverage, increased building setbacks, landscaped public pedestrian areas, view enhancements to existing mapped scenic resources, lake access, dedicated pedestrian/bicycle trail and preservation of mature, specimen-sized trees. Generally, each benefit is provided in exchange for a predetermined amount of additional building height. As proposed, the additional building height which is earned may be utilized on buildings containing the eligible uses (identified above) within the same project area. This approach is consistent with the approach contained in TRPA Code Chapter 15, Redevelopment Plans, which was used for Redevelopment Project Number One.

Environmental Documentation: Following preparation of an Initial Environmental Checklist, TRPA staff determined that additional environmental documentation was needed to make a Finding of No Significant effect (FONSE). The proponent prepared an Environmental Assessment (EA) to evaluate potential impacts associated with the proposed amendments. The EA is included in the APC packet mailing. For a summary of relevant issues, anticipated environmental impacts and required mitigation measures, refer to the Executive Summary located at the beginning of the EA.

Potential impacts were identified in the areas of Scenic Resource Threshold protection; consistency of the proposed action with; the Community Design threshold, adopted Scenic Quality Improvement Program (TRPA's threshold attainment program), and adopted Redevelopment Plan; light and glare; and protection of existing vegetation (which would be required to screen the large buildings).
Based on applying all mitigation measures identified in the EA, staff recommends a Finding of No Significant Effect be made for the proposed action. Some of the mitigation measures have been incorporated into the ordinance (Attachment A), while some will be applied at the project review level. The South Tahoe Demonstration Redevelopment Plan amendment is necessary, in part, to ensure the project review level mitigation measures are applied.

**Required Findings:** The following findings must be made prior to adopting the proposed amendments:

A. Chapter 6 Findings:

1. **Finding:** 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:** The project is consistent with Goals #1 and #2 of the Land Use Element, Community Design Subelement of the Regional Plan (provided below) by providing limited opportunities for additional height for redevelopment projects consistent with preservation of scenic resources. The maximum heights for special height districts have been established such that buildings will not project above the forest canopy. Mitigation measures identified in the project’s Environmental Assessment must be implemented to ensure that buildings do not project above ridge lines or otherwise detract from the viewsshed.

**GOAL #1**

INSURE PRESERVATION AND ENHANCEMENT OF THE NATURAL FEATURES AND QUALITIES OF THE REGION, PROVIDE PUBLIC ACCESS TO SCENIC VIEWS, AND ENHANCE THE QUALITY OF THE BUILT ENVIRONMENT.

**GOAL #2**

REGIONAL BUILDING AND COMMUNITY DESIGN CRITERIA SHALL BE ESTABLISHED TO ENSURE ATTAINMENT OF THE SCENIC THRESHOLD, MAINTENANCE OF DESIRED COMMUNITY CHARACTER, COMPATIBILITY OF LAND USES, AND COORDINATED PROJECT REVIEW.

**POLICIES**

1. REGIONAL DESIGN REVIEW SHALL INCLUDE THE FOLLOWING TO BE USED IN EVALUATING PROJECTS THROUGHOUT THE REGION. THIS REVIEW MAY ENTAIL ADDITIONAL REQUIREMENTS OR SPECIAL REQUIREMENTS NOT LISTED BELOW.
B. BUILDING HEIGHT, BULK AND SCALE: STANDARDS SHALL BE
ADOPTED TO ENSURE ATTRACTIVE AND COMPATIBLE DEVELOPMENT.
THE FOLLOWING SHALL BE CONSIDERED:

1) BUILDING HEIGHT SHALL BE LIMITED TO TWO STORIES EX-
CEPT THAT PROVISIONS FOR ADDITIONAL HEIGHT REQUIRE-
MENTS SHALL BE PROVIDED FOR UNIQUE SITUATIONS SUCH AS
LIGHTING TOWERS, SKI TOWERS, STEEP SITES, REDEVELOP-
MENT PROJECTS AND TOURIST ACCOMMODATION FACILITIES.

2) BUILDING HEIGHT LIMITS SHALL BE ESTABLISHED TO ENSURE
THAT BUILDING DO NOT PROJECT ABOVE THE FOREST CANOPY,
RIDGE LINES, OR OTHERWISE DETRACT FROM THE VIEWSHED.

3) BUFFER REQUIREMENTS SHALL BE ESTABLISHED FOR NOISE,
SNOW REMOVAL, AESTHETIC, AND ENVIRONMENTAL PURPOSES.

4) THE SCALE OF STRUCTURES SHOULD BE CONSISTENT WITH
SURROUNDING USES.

5) VIEWSHED SHOULD BE CONSIDERED IN ALL NEW CONSTRU-
CTION. EMPHASIS SHOULD BE PLACED ON LAKE VIEWS FROM
MAJOR TRANSPORTATION CORRIDORS.

2. Finding: That the project will not cause the environmental
thresholds to be exceeded.

Rationale: The Community Design and Scenic Resources thresholds
would be maintained by requiring projects to meet Section 22.7 findings (1) and (9) which require preservation of views to existing scenic resources. They would further be maintained by establishing maximum district heights based on the visual absorption capability of the surrounding landscape.

3. Finding: 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: Not applicable. Project applicants must, utilizing
the Code amendment, continue to implement the Regional Plan package, including maintenance of applicable air and water standards.

4. Finding: 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.
Memorandum to Advisory Planning Commission
Amendment of Chapter 22, Height Standards,
Additional Height for Redevelopment Projects
Within the City of South Lake Tahoe
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Rationale: For the reasons stated in Findings 1 and 2 above the Regional Plan will continue to achieve and maintain the threshold.

B. Ordinance 87-8 Findings: Section 2.40 of Ordinance 87-8 requires the following findings prior to Code amendments. The proposed amendment provides for an equal or better means of attainment or maintenance of the thresholds. The required findings and their rationales are:

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

Rationale: For the reasons stated in Findings 1 and 2 above, the amendment provides an equal means of attainment and maintenance of the thresholds.

2. The amendments are consistent with the Compact and with attainment or maintenance of the thresholds.

Rationale: For the reasons stated in Findings 1 and 2 above, the proposed amendment is consistent with attainment or maintenance of the thresholds. Further, the Compact requires TRPA to develop regulations pertaining to building height and protection of scenic resources. The amendments are consistent with the Compact because they regulate both pursuant to direction in the Compact.

3. One of the following findings:

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

b. 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; or

c. Legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code; or

d. Technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code; or

e. 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; or
f. 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.

Staff proposes to make Finding b for the following reasons:

Rationale and Evidence: The provision to be amended is considered by some to be ineffective in terms of encouraging large scale redevelopment projects because it does not offer enough development incentives (i.e., additional building height) to make such a project financially attractive. The amendment will correct that situation by offering additional development incentives in exchange for environmental and land use improvements anticipated in the Regional Plan Package.

Staff will begin this item with a brief presentation. Please contact Andrew Strain at (702) 588-4547 if you have any questions or comments regarding this matter.
CHAPTER 22

HEIGHT STANDARDS

Chapter Contents

22.0 Purpose
22.1 Applicability
22.2 Definitions
22.3 Height Standards For Building
22.4 Additional Height For Buildings
22.5 Height Standards For Structures Other Than Buildings
22.6 Additional Height For Certain Structures
22.7 List of Findings
22.8 Existing Buildings And Structures

22.0 Purpose: This chapter establishes height standards to ensure attractive and compatible development as required under Goal #2, Policy 1.B. of the Community Design Subelement, Land Use Element of the Goals and Policies.

22.1 Applicability: Except for structures located lakeward of high-water, which are regulated under Chapters 50 through 56, inclusive, and signs, which are regulated under Chapter 26, all buildings and other structures shall comply with the standards set forth in this chapter.

22.2 Definitions: The following terms are defined as set forth:

22.2.A Maximum Height: The maximum height of a building is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and the elevation of the coping of the highest flat roof, the deck line of the highest mansard roof or the ridge of the highest hip, gable, gambrel, shed or other pitched roof, whichever is highest. The maximum height of a structure other than a building is the difference between the point of lowest natural ground elevation along the exterior foundation of the structure and the elevation of the highest point of the structure.

22.2.B Natural Ground Elevation: The natural ground elevation is the elevation of the existing ground surface prior to any disturbance of the site resulting from construction of the proposed improvements.

22.2.C View Enhancement: View enhancement is the creation of a new view, or the addition to an existing view, of a view of the natural landscape, a view of Lake Tahoe, or a view of a major visual feature which is visible
from a scenic threshold roadway travel route as identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. To qualify as a view enhancement for the purposes of gaining additional building height under subsection 22.4.D, TRPA shall find that the view enhancement is of a mapped resource of one of the types identified above, that the view enhancement is provided in the same threshold roadway travel route as the project in which the building using the additional height is located, and, for views of the natural landscape and views of major visual features, that no building or structure greater than five feet in height is closer than one hundred feet from the viewpoint to the resource. For view enhancements of views of Lake Tahoe, no building or structure shall exist between the viewpoint and Lake Tahoe.

For the purposes of creating a view enhancement, TRPA shall find, in addition to the criteria set forth above, that the created view is available for a continuous distance of at least two hundred feet as seen from the threshold roadway travel route. For the purposes of enhancing an existing view, TRPA shall find in addition to the criteria set forth above, that the enhanced view is provided in the same general location as the existing view, is of the same resource as the existing view, and adds at least thirty percent to the existing view. TRPA shall specify the method used to evaluate view enhancements.

22.2.D **Percent Cross Slope Retained Across Building Site:**
The percent cross slope shall be the gradient, in percent, of the terrain measured perpendicular to the contours through the middle of the building site. The building site shall include all that area counted as land coverage associated with each detached building. The cross slope shall be considered retained across the building site only if TRPA finds that the building complies with the limitations on excavation set forth in Section 64.7. Percentages of cross slope shall be rounded to the nearest even percentage.

22.3 **Height Standards For Buildings:** Except as provided for in Section 22.4, no building shall have a maximum height greater than set forth in Table A. Chimneys, flues, vents, antennas, and similar appurtenances, may be erected to a height ten percent greater than the otherwise permissible maximum height of a building, or a height of six feet, whichever is less. One flagpole per building may be permitted as an appurtenant structure, not to exceed 15 percent of the otherwise permissible maximum height, or 30 feet, whichever is less, provided that: (1) the flagpole shall be constructed of dark colors and shall not have a shiny reflective finish, and (2) the flagpole shall
be used for non-commercial displays only. For purposes of this section, structures referenced in Article VI(e) of the Compact shall be deemed to comply with site development provisions related to height.

Example:

Percent slope retained across building site = 16%
Proposed roof pitch = 10:12
Maximum height = 40' 0"

22.3.A Required Findings: Building heights, up to the maximum set forth in Table A, may be approved in accordance with Table A if the project is in compliance with the standards in Section 30.12 and TRPA makes the following findings as required for additional height:

(1) Additional Height: Maximum building heights greater than 26 feet shall be considered additional height. Additional height, up to the maximum set forth in Table A for a roof pitch of 5:12, may be approved in accordance with Table A if TRPA makes finding (1) as set forth in Section 22.7. Maximum building heights greater than set forth in Table A for a roof pitch of 5:12 may be approved in accordance with Table A for residential buildings if TRPA makes findings (1), (2), and (8) as set forth in Section 22.7 and for other buildings if TRPA makes findings (1), (2), (3), and (8) as set forth in Section 22.7. If, in any case, the TRPA is unable to make the required findings, maximum building height shall be limited to that height for which the required findings can be made.

22.4 Additional Height For Certain Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 in accordance with the following provisions and if TRPA makes the specified findings.

22.4.A Additional Height For Public Service, Tourist Accommodation, and Certain Recreation Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 for buildings whose primary use is public service, tourist accommodation, or whose primary recreation use is participant sports facilities, recreation centers, or sport assembly as follows:

(1) Additional Height With Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the following findings in Section 22.7: findings (1), (2), and (3) for tourist accommodation
buildings; findings (1), (3), and (2) or (4) for public service buildings; and findings (1), (2), (3), (4), and (7) for the recreation uses identified in 22.4.A.

(2) Additional Height For Reduced Land Coverage: The maximum heights specified in Table A may be increased for reductions in the amount of land coverage otherwise permitted within a project area pursuant to Chapter 20. The maximum heights may be increased by one foot for each onsite reduction in land coverage equal to five percent of the base allowable coverage, or existing land coverage, whichever is greater, up to a limit of four additional feet, but not to exceed a maximum height of 42 feet, if TRPA makes findings (1), (2), (3) and (5) as set forth in Section 22.7.

(3) Additional Height For Public Service Buildings Which Are Not Visible From Lake Tahoe and Which Are Not Located Within Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased by up to eight feet, but not to exceed a maximum of 42 feet, if the building will not be visible from Lake Tahoe and the building is not located within a TRPA designated Scenic Highway Corridor pursuant to Chapter 30, provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7.

22.4.B Additional Height For Tourist Accommodation Buildings Within Community Plan Areas: In addition to the provisions set forth in Subsection 22.4.A, TRPA may approve building heights greater than those set forth in Section 22.3 for buildings whose primary use is tourist accommodation, and which are located within an approved community plan as set forth in Chapter 14. The maximum heights specified in Table A may be increased up to a maximum height of 48 feet in accordance with the following provisions, if TRPA makes the findings required in Subparagraph (4) of this subsection.

(1) Additional Height For View Corridor: Nine additional feet, up to a 12 foot increase in the maximum heights set forth in Table A, may be approved by TRPA for each 100 foot wide view corridor, or increments thereof in excess of 100 feet, provided as part of a tourist accommodation project. A view corridor, for purposes of this chapter, is defined as a view of Lake Tahoe from a major arterial which is unimpeded by buildings or other structures.
(2) **Additional Height For Increased Setback:** Nine additional feet, up to a 12 foot increase in the maximum heights set forth in Table A, may be approved by TRPA for each 100 feet, or increments thereof in excess of 100 feet, of permanent setback from the high water line of Lake Tahoe, provided as part of a project in addition to the otherwise required setback.

(3) **Additional Height For Public Access:** Nine additional feet, up to a 12 foot increase in maximum heights set forth in Table A, may be approved by TRPA for each 50 foot wide by 200 foot long area, or increments thereof in excess of 50 feet by 200 feet, of public access provided along the shoreline of Lake Tahoe as part of a tourist accommodation project.

(4) **Required Findings:** Additional height may be approved under the provisions of Subparagraphs (1), (2), or (3) of this subsection, if TRPA makes findings (1), (2), (3), and (6) as set forth in Section 22.7.

22.4.C **Additional Height For Redevelopment Projects Within The City Of South Lake Tahoe:** Additional height for redevelopment projects within the City of South Lake Tahoe is set forth in Chapter 15.

22.4.D **Additional Height for Special Height Districts:** TRPA may designate special height districts within TRPA adopted redevelopment plan areas as specified below. The boundaries of the special height districts and special standards for the district shall be included in the applicable redevelopment plan.

(1) **Findings for Special Height Districts:** Special height districts may be specified in adopted redevelopment plans if TRPA makes the following findings:

(a) The area is within 2300 feet of the center point of three or more buildings exceeding the height of 150 feet.

(b) The special height district provides a transition of height from the high-rise area to the surrounding area of lower permissible heights.

(c) The projects within the special height district utilize transit/pedestrian oriented development principles including, but not limited to, major transit facilities, side-
walks, limited parking, mixed uses, high
densities, use of alleys and pedestrian
oriented commercial opportunities.

(d) The special height district is consistent
with the Policy 1.8, Goal 2, Community De-
sign Subelement, Land Use Element, of the
TRPA Goals and Policies Plan and the TRPA
Scenic Quality Improvement Program.

(2) Findings for Establishing Maximum Allowable
Heights Within Special Height Districts: In
order to establish maximum allowable heights
within special height districts, TRPA shall make
the following findings:

(a) The maximum height within a special height
district is limited to 73 feet or
three-fourths of the maximum height of the
tallest trees within the special height
district, whichever is lower. TRPA shall
determine the height of the tallest trees
within a special height district.

(b) Prior to approving additional height for a
project within a special height district
TRPA shall make Findings (1), (3), (5) (6)
and (9) of Section 22.7.

(3) Limitations on Height within the South Lake Tahoe
Re development Demonstration Plan Special Height
District: In addition to the standards and
limitations established above, the following
additional limitations apply to the Special
Height District as set forth in Section 1.11 of
the South Lake Tahoe Re development Plan Area
Development Standards.

(a) Projects approved as part of the South Tahoe
Re development Demonstration Project No. 1
are subject to Chapter 15 and shall not be
eligible for additional height under the
provisions of this subsection.

(b) Maximum heights for buildings which are
eligible to gain the additional height are
established in Figure 1.1 of the South Lake
Tahoe Re development Demonstration Plan Re-
development Plan Area Development Standards.
Additional height for buildings located
adjacent to U.S. 50 may not be used for a
total linear distance of more than five
hundred feet on each side of the street.
(c) The additional height is limited to buildings in which the primary use is tourist accommodation, transit stations and terminals, and vehicle storage and parking. These buildings may also contain primary commercial uses. Vehicle storage and parking buildings which use additional building height and which are located on the Lake Tahoe side of U.S. 50 must be set back a minimum of one hundred feet from the edge of the U.S. 50 right of way and must not provide vehicle access directly off of U.S. 50.

(4) Qualification for Additional Height: Eligible buildings in special height districts may earn additional height greater than that permitted in Table A pursuant to the criteria listed below. The additional heights permissible below are additive within the limitations of this subsection. Additional height which is earned under this subsection may be applied to eligible uses throughout the project area. The additional height may be permissible if TRPA makes findings (1), (3), (5), (6) and (9) of Section 22.7.

(a) Additional Height with Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the additional finding (7) in Section 22.7.

(b) Additional Height for Reduced Land Coverage: The maximum heights specified in Table A may be increased for reductions in the amount of land coverage otherwise permitted within a project area pursuant to Chapter 20. The maximum heights shall be increased by one foot for each onsite reduction in land coverage equal to five percent of the base allowable coverage, or existing land coverage, whichever is greater, up to eight additional feet, but not to exceed a maximum height of 46 feet.

(c) Additional Height for View Enhancement: The maximum heights specified in Table A may be increased three additional feet for each view enhancement provided, up to a maximum increase of nine additional feet. View enhancement for purposes of this subsection is defined in Section 22.2.
(d) **Additional Height for Increased Setback:**
The maximum heights specified in Table A may be increased a maximum of ten additional feet when a 50 foot deep by 200 foot long area of open setback is provided for the portion the building receiving the additional height, in excess of the legally required setback from the edge of the right-of-way of a major arterial.

(e) **Additional Height for Landscaped Public Pedestrian Area:** The maximum heights specified in Table A may be increased for provision of landscaped public pedestrian areas, including all required amenities established in the applicable community plan, as follows:

(i) An additional increase in maximum heights specified in Table A, not to exceed a maximum of fifteen additional feet may be permitted as follows. A maximum of ten additional feet for provision of a landscaped public pedestrian area along or through the special height district located on the mountain side of U.S. 50 which is at least thirty feet wide by 1800 feet long. A maximum of five additional feet may be permitted at the rate of one foot of additional height for each additional thirty foot wide by 180 foot long landscaped public pedestrian area provided.

(ii) An additional increase in maximum heights specified in Table A, not to exceed a maximum of fifteen additional feet may be permitted as follows. A maximum of ten additional feet for provision of a landscaped public pedestrian area along U.S. 50 in or adjacent to the special height district located on the Lake Tahoe side of U.S. 50 which is at least ten feet wide by 1200 feet long. A maximum of five additional feet may be permitted at the rate of one foot of additional height for each additional ten foot wide by 120 foot long landscaped public pedestrian area provided.

(iii) An additional increase in maximum heights specified in Table A, not to exceed a maximum of five additional feet, for each 10,000 square feet of
public plaza or outdoor space provided in the project area within which the additional building height is used.

(f) Additional Height for Public Access to Lake Tahoe: Additional height for public access to Lake Tahoe may be permitted as follows:

(i) The maximum heights specified in Table A may be increased a maximum of ten additional feet, for each one acre of public beach provided. The beach must contain at least 200 feet of continuous lake frontage on Lake Tahoe, and shall be located within one half mile from the height district. The beach shall be open to the public and contain restrooms, picnic tables, and other amenities. TRPA shall ensure, through deed restrictions, conveyance to a public agency, or other appropriate means, that the beach remains open to the public.

(ii) The maximum heights specified in Table A may be increased a maximum of four additional feet for providing a lake access trail described in a community plan.

(g) Additional Height for Tree Preservation: The maximum heights specified in Table A may be increased a maximum of ten additional feet for the preservation and protection of 30 existing trees or 90 percent of the existing trees, whichever is greater, within the project area. To qualify, the trees to be preserved must be twelve inches diameter at breast height (dbh) or greater, and must be found by TRPA to provide screening benefits to the building or buildings using the additional height.

(5) Security for Improvements: Projects which utilize any of the additional height provisions provided in subsection 22.4.D shall ensure the public benefit(s) for which the additional height was earned is implemented consistent with the following provisions.

(a) Project Approval: TRPA shall require, as a condition of approval, of any project which relies on the use of an additional height
provision provided in subsection 22.4.D, that all necessary permits for development of the associated public benefit be issued prior to commencement of construction of the project utilizing the additional height.

(b) **Project Funding:** Prior to the commencement of construction of any project which relies on the use of an additional height provision provided in subsection 22.4.D, the project applicant shall demonstrate, and TRPA shall find, for each project, that irrevocable commitments to fund the public benefit for which the additional height was earned, have been obtained or secured.

(c) **Project Completion:** For each irrevocable commitment, the project applicant shall demonstrate, and TRPA shall find, sufficient evidence of intent and ability to complete development of the public benefit for which the additional height was earned.

22.5 **Height Standards For Structures Other Than Buildings:** Except as provided for in Section 22.6, no structure, other than a building, shall have a maximum height greater than 26 feet.

22.6 **Additional Height For Certain Structures:** The maximum height specified in Section 22.5 may be increased for communication towers, antennas, utility poles, special features of public safety facilities, ski lift towers, and other similar projects, excluding buildings and signs, up to the minimum height necessary to feasibly implement such projects. Additional height may be approved under the provisions of this section if TRPA makes findings (4) and (7) as set forth in Section 22.7.

22.7 **List Of Findings:** The findings required in this chapter are as follows:

1. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, but not from a distance of less than 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

2. When outside a community plan, the additional height is consistent with the surrounding uses.

3. With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.
(4) The function of the structure requires a greater maximum height than otherwise provided for in this chapter.

(5) That portion of the building which is permitted the additional height, is adequately screened, as seen from major arterials, the waters of lakes, and other public areas from which the building is frequently viewed. In determining the adequacy of screening, consideration shall be given to the degree to which a combination of the following features causes the building to blend or merge with the background:

(a) The horizontal distance from which the building is viewed;
(b) The extent of screening; and
(c) Proposed exterior colors and building materials.

(6) The building is located within an approved community plan, which identifies the project area as being suitable for the additional height being proposed.

(7) The additional height is the minimum necessary to feasibly implement the project and there are no feasible alternatives requiring less additional height.

(8) The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.

(9) When viewed from a TRPA scenic threshold travel route, the additional height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.

22.8 Existing Buildings And Structures: When a building or structure is being reconstructed or, whenever feasible when being modified, the building or structure shall comply with the height standards set forth in this chapter. Provisions of Chapter 4 regarding structures destroyed by calamity set forth exceptions to this section.
Note: Underlined language is to be added
Lined out language is to be deleted

1.0 REDEVELOPMENT PLAN AREA DEVELOPMENT STANDARDS (Demonstration Plan, page 36, dated May 2, 1989)

1.11 Maximum Height: All new buildings within the Redevelopment Plan area with the exception of those project sites identified for additional height in Chapter 15, shall conform to TRPA's height requirement in Chapter 22. Pursuant to Subsection 22.4.D, the following Special Height District Map establishes maximum height limitations for eligible uses within the special height district. All projects utilizing additional height shall conform to the standards set forth in Subsection 22.4.D and the mitigation measures set forth in the "Proposed Amendment to TRPA Code of Ordinances Chapter 22 Final Environmental Assessment" dated February 25, 1994.
MEMORANDUM

February 24, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Amendment to Chapter 91 of the Code of Ordinances, relating to Oxygenated Fuel Requirements

Proposed Action: The proposed action is to recommend Governing Board approval of an amendment to Chapter 91 of the Code of Ordinances, relating to the use of oxygenated fuels in the Region. The amendment will be implementing an element of the 1992 Regional Transportation Plan - Air Quality Plan (RTP-AQP), and a requirement of the 1991 TRPA Threshold Evaluation.

Staff Recommendation: Staff recommends that the APC hold a public hearing on the proposed amendment to the Code of Ordinances and recommend adoption to the Governing Board.

Background: The 1992 Regional Transportation Plan - Air Quality Plan includes an air quality control measure that addresses the use of alternative fuels in the Region, particularly oxygenated fuels. Pursuant to the 1991 TRPA Threshold Evaluation, TRPA is also required to amend Chapter 91 of the Code to require the use of oxygenated motor vehicle fuels Region-wide, during winter months, provided NOx emissions can be adequately controlled.

Oxygenated fuels are gasolines that are blended with additives that contain oxygen. The increased oxygen in the fuel enables the fuel to burn more completely, reducing the amount of carbon monoxide produced by the vehicle. A Region-wide oxygenated fuel program is estimated to reduce CO emissions by 11.0 percent.

The federal Clean Air Act Amendments of 1991 required oxygenated fuels to be sold in all moderate CO non-attainment areas by 1992. The areas regulated under the federal act must use 2.7% oxygen. The California portion of the Tahoe Region is currently required by the California Clean Air Act to utilize oxygenated fuels (2%) in the winter months. Washoe County also requires the use of oxygenated fuels in the winter months, pursuant to the FCAA. Service stations in Douglas County are not currently required to utilize oxygenated fuels under the FCAA because the area is in attainment of CO standards.

TRPA proposes that a requirement be enacted Region-wide to require the use of oxygenated fuels in all local jurisdictions during the winter months, between November 1 and January 31.

/bm

Planning for the Protection of our Lake and Land

AGENDA ITEM V B.
The following language should be added to Chapter 91 of the Code Ordinances (Attachment A):

91.8 Oxygenated Fuels: Only oxygenated fuels shall be sold in the Tahoe Region during the winter months, between November 1 and January 31.

91.89 Coordination: TRPA shall seek appropriate revisions to state and local regulations, or memoranda of understanding with state or local jurisdictions, to provide for compliance with this chapter. TRPA shall work with other appropriate agencies to develop a public information program to inform the residents of the Region of the requirements of this chapter.

If there are any questions regarding this agenda item, feel free to contact Bridget Mahern at (702) 588-4547.
CHAPTER 91
AIR QUALITY CONTROL

Chapter Contents
91.0 Purpose
91.1 Applicability
91.2 Vehicle Inspection and Maintenance Program
91.3 Combustion Appliances
91.4 Open Burning
91.5 New Stationary Source Review
91.6 Modified Stationary Source Review
91.7 Idling Restrictions
91.8 Coordination

91.0 Purpose: This chapter aids the implementation of the Air Quality Subelement, Land Use Element, of the Goals and Policies, and the 1982 Air Quality Plan, for the purpose of attaining and maintaining applicable state and federal air quality standards and TRPA thresholds.

91.1 Applicability: The provisions of this chapter apply to direct sources of air pollution in the Tahoe Region, including certain motor vehicles registered in the Region, combustion heaters installed in the Region, open burning, stationary sources of air pollution, and idling combustion engines.

91.2 Vehicle Inspection And Maintenance Program: TRPA adopted an inspection/maintenance program for certain vehicles registered in the carbon-monoxide (CO) non-attainment area as a CO control measure in the 1982 Air Quality Plan. The California Air Resources Board included this provision in its official State Implementation Plan (SIP). To avoid duplication of effort in implementation of an inspection/maintenance program, TRPA shall work with the affected state agencies to plan for the application of state inspection/maintenance programs to the Tahoe Region. Before TRPA requests the states to implement an inspection/maintenance program in the Tahoe Region, TRPA will determine what the expected benefits from such a program are, based on the latest available scientific information.

91.3 Combustion Appliances: The following air quality standards shall be met by combustion appliances.

91.3.A Gas Heaters: The following standards apply to natural gas or propane-fired water heaters or central furnaces to be installed in the Region.
(1) **Emission Standards:** Natural gas or propane-fired water heaters or central furnaces installed in the Region shall meet the following emission standards:

(a) Water heaters shall not emit greater than 40 nanograms of nitrogen oxide (as NO\textsubscript{2}) per joule of heat output. Water heaters installed in mobile homes shall not emit greater than 50 nanograms of nitrogen oxide (as NO\textsubscript{2}) per joule (80 lb per billion Btu) of heat output.

(b) Central furnaces shall not emit greater than 40 nanograms of nitrogen oxide (as NO\textsubscript{2}) per joule of useful heat delivered to the heated space.

(c) Central furnaces with rated input of 175,000 Btu or greater, combination units with a cooling rate of greater than 65,000 Btu per hour, and water heaters with a rated heat input of 75,000 Btu or greater, shall be reviewed under the standards contained in Section 91.5.

(2) **List of Approved Heaters:** TRPA shall maintain a list of gas heaters that are in compliance with the air quality standards in Subparagraph 91.3.A(1). The list shall include the names and model numbers of the heaters. A heater certified by the South Coast Air Quality Management District of California under SCAQMD Rules 1111 and 1121 shall be considered in compliance with Subparagraph 91.3.A(1).

(3) **Exemptions:** The requirements of Subsection 91.3.A shall not apply to the following:

(a) Decorative gas appliances certified under ANSI Standard Z21.50.

(b) Gas central furnaces installed in mobile homes or gas heaters installed in recreational vehicles.

(c) Wall mounted gas heaters, other than water heaters, that are not central furnaces as defined in Section 2.2.

91.3.B **Wood Heaters:** The sale of wood heaters which do not meet the emission standards of this subsection is prohibited in the Tahoe Region. Wood heaters to be installed, in the Region, either as new or replacement units, shall meet the requirements of this subsection. Coal shall not be used as a fuel source.
(1) **Emission Standards:** Wood heaters installed in the Region shall meet the following emission standards for total suspended particulates of smoke emissions:

(a) Catalytic wood heaters shall not cause emissions of greater than 5.5 grams per hour. Following July 1, 1990, catalytic wood heaters shall not cause emissions of more than 4.1 grams per hour.

(b) Non-catalytic wood heaters shall not cause emissions of greater than 9.0 grams per hour. Following July 1, 1990, non-catalytic wood heaters shall not cause emissions of more than 7.5 grams per hour.

(c) Wood heaters certified to meet the above standards by the U.S. EPA under 40 CFR Part 60 or the Oregon Woodstove Certification Program, shall be deemed in compliance with the above standards. Pellet fueled wood heaters labeled as exempt from 40 CFR Part 60 shall be deemed in compliance with the above standards.

(2) **Limitations:** Wood heaters shall be sized appropriately for the space they are designed to serve. Multi-residential projects of five or more units, tourist accommodations, commercial, recreation and public service projects shall be limited to one wood heater per project area.

(3) **List Of Approved Heaters:** TRPA shall maintain a list of wood heaters which may be installed in the Region. The list shall include the brand names, model number, description of the model and the name and address of the manufacturer.

(4) **Fireplaces:** TRPA shall evaluate the performance of fireplaces with regard to the air quality and visibility provisions of the Goals and Policies and this Code, and amend this Chapter as appropriate.

(5) **Wood Heater Retrofit Program:** Effective January 1, 1993, prior to any sale, transfer or conveyance of any building, all existing wood heaters in the building, excluding legally existing open fireplaces which are not primary heat sources, shall be in conformance with the emission standards contained in subsection 91.3.B.
(a) Compliance with this section shall be evidenced by a notarized statement of the seller made under penalty of perjury, on a form provided by TRPA, that all existing wood heaters in the building, excluding legally existing open fireplaces which are not primary heat sources, either conform to the emission standards in subsection 91.3.B or have been replaced with conforming units, or that the structure does not contain any existing wood heaters. The statement shall be submitted to TRPA prior to the sale, transfer or conveyance.

(b) A statement of wood heater conformance shall be required for any subsequent sales, transfers or conveyances.

91.3.C Other Combustion Appliances: Combustion appliances not specifically limited by Subsections 91.3.A or 91.3.B shall be reviewed under the standards contained in Section 91.5.

91.4 Open Burning: The regulations set forth in this Section shall supplement applicable federal, state, county, and local regulations. Open burning, for the purposes of this Code, shall not include recreational fires.

91.4.A Performance Standards: Open burning activities shall meet all standards and time requirements specified by local governmental agencies and applicable fire protection and air pollution control agencies.

91.4.B Specific Standards: Notwithstanding the provisions of 91.4.A, the following specific standards shall apply to open burning in the Tahoe Region:

1. Prescribed Burning: Prescribed burning may be permitted pursuant to the provisions of Chapter 72.

2. Disposal: Open burning for any purpose related to the disposal of petroleum wastes, tires, garbage, tar, wood waste, residential rubbish and any other similar materials, including burning of automobile wreckage, is prohibited.

3. Hazard Reduction And Pest Control: Open burning of cleared vegetation is prohibited except where otherwise authorized by a permit from a fire protection agency for purposes of hazard reduction or pest control. Permits issued shall be based on criteria established by TRPA and the Region's fire protection agencies.
Wood Wastes: The burning of cleared vegetation and other wood waste associated with construction activities shall be prohibited. Such wastes shall be removed to a place specified by TRPA.

Practice Burns: Practice burns conducted by fire control agencies or other entities shall comply with all applicable local, state, and federal laws.

91.5 New Stationary Source Review: Emissions from new stationary sources in the Region shall be limited as follows:

91.5.A Environmental Assessment: If the projected emissions from new stationary sources for the peak 24-hour period exceed any of the limits in Table I, below, the applicant shall prepare an environmental assessment. Projected emissions for the peak 24-hour period shall be based on the design capacity. At a minimum, the environmental assessment shall determine the net emissions for the peak 24-hour period, the net emissions for a period not less than 90 days, and shall determine any impacts resulting from the net emissions. If the source exceeds the limits for carbon monoxide in Table I, below, and the source is located in a TRPA, federal, or state designated non-attainment area for carbon monoxide, the environmental assessment shall also include ambient modeling.

TABLE I

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Kilograms</th>
<th>Pounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrogen Oxides</td>
<td>3.0</td>
<td>6.6</td>
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<tr>
<td>Particulate Matter Less Than 10 Microns</td>
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<td>4.4</td>
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<tr>
<td>Volatile Organic Compounds</td>
<td>8.0</td>
<td>17.6</td>
</tr>
<tr>
<td>Sulfur Dioxide</td>
<td>3.0</td>
<td>6.6</td>
</tr>
<tr>
<td>Carbon Monoxide</td>
<td>10.0</td>
<td>22.0</td>
</tr>
</tbody>
</table>

91.5.B Significant Environmental Impacts: Any new stationary source of air pollution that produces emissions for the peak 24-hour period beyond any of the limits in Table II below, shall be considered to have a significant adverse environmental impact.
TABLE II

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Kilograms</th>
<th>Pounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrogen Oxides</td>
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<td>24.2</td>
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<tr>
<td>Particulate Matter</td>
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<tr>
<td>Less Than 10 Microns</td>
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<td>Volatile Organic Compounds</td>
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<tr>
<td>Sulfur Dioxide</td>
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<tr>
<td>Carbon Monoxide</td>
<td>100.0</td>
<td>220.5</td>
</tr>
</tbody>
</table>

Determination that a new stationary source has a significant adverse environmental impact may also be based on the environmental assessment prepared pursuant to Subsection 91.5.A. New stationary sources that have a significant adverse environmental impact shall be prohibited.

91.5.C Offsets Permitted: TRPA may require emission offsets as a condition of project approval to bring emissions within acceptable limits if TRPA finds that the proposed source, with offset, meets the criteria specified in Subsection 91.5.B. To accomplish an emissions offset, existing emissions shall be permanently retired to offset the unacceptable emissions from the proposed source.

91.5.D Best Available Control Technology: Best Available Control Technology shall be required for all new stationary sources that are required to prepare an Environmental Assessment pursuant to Subsection 91.5.A, above. At a minimum, required BACT measures shall meet or exceed applicable state or federal requirements.

91.5.E Exemptions: The following activities are exempt from the prohibitions of Subsection 91.5.B.

1. Emergency power generators.

2. Temporary Uses and Activities approved under Chapter 7 of this Code unless they would have a significant adverse impact as determined by an environmental assessment.

91.6 Modified Stationary Source Review: Emissions from modified stationary sources in the Region shall be limited as follows:
91.6.A Environmental Assessment: If the projected emissions from modified stationary sources for the peak 24-hour period exceed any of the limits in Table I, above, the applicant shall prepare an environmental assessment. Projected emissions for the peak 24-hour period shall be based on the design capacity, or the allowed emissions if specified by a permit issued by the TRPA or other jurisdiction. At a minimum, the environmental assessment shall meet the criteria established in Subsection 91.5.A.

91.6.B Significant Environmental Impacts: Modified stationary sources that would produce emissions for the peak 24-hour period beyond any of the limits in Table II, above, and which would result in a net increase in emissions for that pollutant shall be considered to have a significant adverse environmental impact. Determination that a modified stationary source has a significant adverse environmental impact may also be based on the environmental assessment prepared pursuant to Subsection 91.6.A. Modified stationary sources that have a significant adverse environmental impact shall be prohibited.

91.6.C Modifications Allowed: Modification of existing stationary sources which have been previously permitted to produce emissions beyond any of the limits in Table II, above, may be allowed if: there is no net increase in actual emissions for the peak 24-hour period; Best Available Retrofit Control Technology is applied; and TRPA finds that the modified stationary source would not have a significant adverse environmental impact determined pursuant to Subsection 91.6.A or B.

91.6.D Offsets Permitted: TRPA may require emission offsets as a condition of project approval to bring emissions within acceptable limits if TRPA finds that the proposed source, with offset, meets the criteria specified in Subsections 91.6.B or C. To accomplish an emissions offset, existing emissions shall be permanently retired to offset the unacceptable emissions from the proposed source.

91.6.E Best Available Retrofit Control Technology: Best Available Retrofit Control Technology shall be required for all modified stationary sources that are required to prepare an Environmental Assessment pursuant to Subsection 91.6.A, above. At a minimum, required BARCT measures shall meet or exceed applicable state or federal requirements.
91.6.F Exemptions: The following activities are exempt from the prohibitions of Subsection 91.6.B.

1. Emergency power generators.

2. Temporary Uses and Activities approved under Chapter 7 of this Code unless they would have a significant adverse impact as determined by an environmental assessment.

91.7 Idling Restrictions: A program to control extended vehicle idling is a Reasonably Available Control Technology in the Clean Air Act Amendments of 1977, and is a contingency measure in the 1982 Air Quality Plan for the Lake Tahoe Basin.

91.7.A Duration: No person shall cause a combustion engine in a parked auto, truck, bus, or boat to idle for more than 30 consecutive minutes in the following Plan Areas: 070A, 080, 089A, 089B, 090, 091, and 092. The following projects and activities are not subject to this limitation:

1. Activities specifically permitted, after environmental impact analysis, to idle longer than 30 minutes.

2. Emergency vehicles, snow plows, or combustion engines required in the case of emergencies or repairs.


91.7.B Drive-Up Windows: New drive-up windows are prohibited.

91.7.C Compliance Program: TRPA shall implement the provisions of Subsection 91.7.A primarily through educational programs, notification programs, and cooperative arrangements with charter operators, property owners in the affected plan areas, and local government. As appropriate, TRPA may take direct action to obtain compliance with this section, including, but not limited to, actions under Chapters 8 and 9 of this Code.

91.8 Coordination: TRPA shall seek appropriate revisions to state and local regulations, or memoranda of understanding with state or local jurisdictions, to provide for compliance with this chapter. TRPA shall work with other appropriate agencies to develop a public information program to inform the residents of the Region of the requirements of this chapter.
MEMORANDUM

February 25, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Amendment of Chapter 4, Project Review and Exempt Activities, to Adopt a Memorandum of Understanding Between TRPA and Kingsbury General Improvement District (KGID)

Staff proposes an amendment to Chapter 4 of the Code of Ordinances to exempt certain activities of the Kingsbury General Improvement District (KGID) from TRPA review.

Description and Discussion

Pursuant to Section 4.8 of the TRPA Code of Ordinances, TRPA may amend Chapter 4 to exempt those activities of public and quasi-public entities as set forth in memoranda of understanding (MOUs) between TRPA and such entities. The format of the MOU is similar to that found in Sections 4.2 and 4.3 of the Code. Activities are separated into categories of exempt and qualified exempt. Those activities are described in the attached MOU. KGID may undertake exempt activities without contacting TRPA and may commence activity on qualified exempt activities provided they give written notice five business days prior to the activity commencing. All activities, whether exempt or not, must comply with the TRPA Regional Plan, including the Code of Ordinances and Handbook of Best Management Practices.

KGID has reviewed the proposed MOU and is in agreement with the provisions contained therein.

Environmental Documentation

Staff has completed the Environmental Checklist for the initial determination of no significant effect on the environment.
Chapter 6 Findings

Section 6.5 of the TRPA Code of Ordinances requires the following four findings be made prior to Code amendments:

A. 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;

Section 4.8 of the Code allows for the development and implementation of MOUs to exempt certain activities not otherwise considered exempt or qualified exempt under Chapter 4. The activities described in the proposed MOU are minor in nature and are subject to all the provisions of the Regional Plan. The proposed MOU is consistent with, and will not adversely affect implementation of the Regional Plan.

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

Activities undertaken pursuant to this MOU are subject to the provisions of the Regional Plan. The activities are minor in nature, are subject to restrictions, and are geared toward essential activities and maintenance of existing facilities. Therefore, the activities will not cause the environmental thresholds to be exceeded. This finding is also based on the Article V(g) checklist completed for the proposed amendment.

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

Activities undertaken pursuant to this MOU are subject to the standards of the Regional Plan and Code. This finding is also based on the Article V(g) checklist completed for the proposed amendment.

D. 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.

As explained under findings A, B, and C, above, the Regional Plan will continue to attain and maintain the thresholds.
Memorandum to the Advisory Planning Commission
KGID MOU
February 25, 1994
Page 3

Article VI(a) Findings

Article VI(a) states,

The Agency shall prescribe by ordinance these activities which it has
determined will not have a substantial effect on the land, water, air, space,
or any other natural resources in the region and therefore will be exempt from
its review and approval.

Section 4.8 of the Code allows for the implementation of MOUs with public
entities to exempt activities from TRPA review. The proposed MOU with KGID
exempts minor activities undertaken by public utility districts charged with
providing essential public services. Under the MOU, KGID will be able to more
effectively and efficiently provide these services. The MOU has no impact on
the regulatory structure and does not result in an increase in development.
The minor nature of the activities, and the limitations elsewhere in the Code,
assure the MOU will not have a substantial effect on the land, water, air,
space, or other natural resources in the Region.

Ordinance 87-8 Findings

Section 2.5 of Ordinance 87-8 provides that findings under Section 2.40 are
not needed to add policies or ordinances designed to make existing policies
and ordinances more effective. The proposed MOU with KGID will implement
Section 4.8 of the Code which allows amendments to exempt certain activities
of public and quasi-public entities.

Staff Recommendation

Staff recommends that the APC recommend to the Governing Board approval of the
proposed MOU (attached) and adopting ordinance.

Please contact Jerry Wells, Deputy Director, at (702) 588-4547 if you have any
comments or questions on this agenda item.
MEMORANDUM OF UNDERSTANDING BETWEEN
TAHOE REGIONAL PLANNING AGENCY AND
KINGSBURY GENERAL IMPROVEMENT DISTRICT

MARCH 1994

This Memorandum of Understanding is entered into this ____ day of March 1994, by and between the TAHOE REGIONAL PLANNING AGENCY (TRPA), through its Executive Director as authorized by the Governing Board, and the KINGSBURY GENERAL IMPROVEMENT DISTRICT (KGID), by and through its Board Chairman.

All activities described in this Memorandum of Understanding (MOU) shall be in accordance with the Regional Plan package of TRPA as adopted by Ordinance No. 87-9, as amended from time to time. Activities exempt under this MOU shall not result in the creation of additional land coverage, relocation of existing coverage, or an increase in vehicle trips in excess of that otherwise exempt pursuant to Subsection 4.3.B of the TRPA Code. All activities undertaken by KGID pursuant to this MOU shall comply with applicable Best Management Practices (BMPs), and all provisions of the TRPA Code of Ordinances (Code), as it may be amended from time to time, except for the procedural provisions replaced by this MOU, and such guidelines as may be adopted by TRPA.

I. EXEMPT ACTIVITIES

The following activities of KGID, in addition to those exempt pursuant to Section 4.2. of the TRPA Code, are not subject to review and approval by TRPA provided any related excavation or backfilling work does not exceed 10 cubic yards (unless modified below), occurs during the grading season (May 1 to October 15) in land capability districts 4 through 7 and/or within an existing paved area or compacted road shoulder, and the site is stabilized and/or revegetated within 72 hours to prevent erosion.

A. WATER SUPPLY ACTIVITIES

1. Repair and replacement of existing waterworks equipment such as pumps, valves, motors, compressors, generators, electrical systems, control systems, alarm systems, fire hydrants, pipes, screens, wells, water meters, service connections, service boxes, water tanks, and treatment facilities provided there is no increase in size or capacity and the replacement facilities are similar in type and function.

2. Install new service connections for TRPA-approved projects, and for existing improved properties which have abandoned their existing well provided there is no increase in development potential.

3. Prune vegetation around water facilities and within easement areas provided no material damage to the vegetation occurs.

4. Install new valves, fire hydrants and sampling hydrants (for water quality testing) along existing water lines within existing roadways and easements provided there is no increase in capacity.
5. Locate existing underground lines and appurtenances.

6. Install observation wells for groundwater monitoring, soil investigation, or pilot hole investigation.

7. Repair emergency leaks at any time during the year provided all repair work is conducted within land capability districts 4 through 7 and/or within an existing paved roadway or compacted road shoulder.

8. Flush wells and main lines to improve or maintain water quality conformance, provided all discharge is piped directly to the existing sanitary sewer system and all required temporary BMPs are in place.

B. WASTEWATER COLLECTION ACTIVITIES

1. Repair and replace wastewater collection system related equipment such as pumps, valves, motors, compressors, generators, electrical systems, control systems, alarm systems, pipes, service connections, odor control facilities, pumping stations, meters, and wet wells provided there is no increase in size or capacity and replacement facilities are similar in type and function.

2. Grout, seal and pressure test sewer lines, service laterals, and appurtenances.

3. Prune vegetation around existing sewer facilities and within easement areas provided no material damage to the vegetation occurs.

4. Locate underground lines and manholes.

5. Repair emergency leaks at any time provided all repair work is conducted within land capability districts 4 through 7 and/or within an existing paved roadway or compacted road shoulder.

6. Smoke and dye test sewer lines to locate sources of surface and sub-surface water intrusion.

7. Install new service connections for TRPA-approved projects.

C. SEWER AND WATER PUMP STATIONS AND OTHER DISTRICT FACILITY SITES

1. Maintain existing roads, trails and related drainage facilities, including patching, sealing, overlaying of existing paved areas, and striping.

2. Landscape and revegetate with TRPA-approved species, including installation, repair and replacement of irrigation systems.

3. Prune vegetation to maintain adequate site distance and removal of hazardous limbs on roads and trails.
D. STREETS AND ROADS

1. Pavement striping and marking, slick pavement correction, and paved shoulder grooving.

2. Repair and replace existing safety or protective devices, including: fencing, guardrails, barriers, energy attenuators, guide posts, markers, safety cables, ladders, and light standards; provide replacement devices/materials are similar in size to the existing protective devices, and are consistent with the design standards in Chapter 30 of the TRPA Code.

3. Asphalt/concrete blankets, crack seals and patches on existing paved surfaces.

4. Repaint road appurtenances consistent with the design standards in Chapter 30 of the TRPA Code.

E. SNOW REMOVAL ACTIVITIES

1. Remove snow from paved roadway surfaces either by use of a rotary snow blower or plow, plowing snow to the edge of the paved surface or plowing to the center of the roadway for removal to TRPA-approved disposal sites.

F. SIGNS

1. Install roadside warning signs related to construction and maintenance activities or needed for safety purposes, provided signs are removed within 10 business days following completion of the activities, or within 10 business days of the removal of the safety hazard.

2. Repair/replace existing street signs and other regulatory or directional signs provided the area and height of the replacement sign does not exceed that of the existing sign, and/or the sign conforms to the applicable standards of the Manual On Uniform Traffic Devices, 1978.

G. STRUCTURES

1. Demolition of structures, improvements or facilities provided the structure, improvement or facility is not designated, or pending designation on the TRPA Historic Resource Map, as amended from time to time.

2. Structural repair or remodeling pursuant to Section 4.2.A. of the TRPA Code.

H. EROSION CONTROL AND RESTORATION ACTIVITIES

1. Installation and maintenance of erosion control devices such as:
   a. Sediment basins not exceeding 150 square feet in size.
   b. Swales
c. Rock slope protection not visible from any TRPA-designated scenic roadway or shoreszone unit, class I bike paths, or recreation area.

d. Rock-lined ditches.

e. Willow wattling.

f. Access barriers, i.e., bollards and split-rail fencing.

g. Installation of temporary erosion control devices.

2. Restoration of disturbed areas of one acre or less provided scarification does not exceed 6" in depth and excavation and filling does not exceed 20 cubic yards.

I. MISCELLANEOUS ACTIVITIES

1. Land surveys, corner recovery, remonumentation and land-line posting.

2. Use of portable instruments for research and monitoring of sewer and water systems.

II. QUALIFIED EXEMPT ACTIVITIES

The following activities of KGRID are not subject to review and approval by TRPA, provided KGRID certifies, on a form provided by TRPA, that the activity does not result in the creation of additional land coverage or relocation of land coverage, excavation and backfilling does not exceed 25 cubic yards (unless modified below), occurs during the grading season (May 1 to October 15) in land capability districts 4-7 and/or within an existing paved area or compacted road shoulder, and the site is stabilized and/or revegetated within 72 hours to prevent erosion, and the activity is in conformance with the applicable provisions of the TRPA Code. The form shall be filed with TRPA at least five working days before the activity commences. For those activities involving in excess of 25 cubic yards of excavation (as provided below), KGRID shall submit the form to TRPA at least 30 days before the activity commences. The following activities are in addition to those activities deemed "Qualified Exempt" pursuant to Section 4.3 of the TRPA Code.

A. WATER SUPPLY ACTIVITIES

1. Replace existing water lines and service connections for a distance of not more than 2,000 lineal feet, provided all excavation is within an existing road right-of-way, there is no increase in capacity (except when required to meet minimum fire safety standards and documentation from the applicable fire district is provided), relocation of main lines is within existing paved areas or compacted road shoulders, the amount of excavation is the minimum necessary, and all stockpiling of spoil material is accomplished in accordance with TRPA BMPs.

2. Repair or replace existing water intake lines, vertical wells, horizontal wells, and infiltration galleries with facilities of similar type and function, and no increase in size or capacity.
3. Install new water lines and service connections for a distance of not more than 750 lineal feet to intertie existing facilities or extend service to TRPA-approved projects, provided all excavation is within an existing road right-of-way, there is no increase in capacity (except when required to meet minimum fire safety standards and documentation from the applicable fire district is provided), the main line is within an existing paved area or compacted road shoulder, the amount of excavation is the minimum necessary, and all stockpiling of spoil material is accomplished in accordance with TRPA BMPs.

B. WASTE WATER COLLECTION ACTIVITIES

1. Replace existing sewer lines and service connections for a distance of not more than 750 lineal feet, provided all excavation is within an existing road right-of-way, there is no increase in capacity, relocation of main lines is within existing paved areas or compacted road shoulders, the amount of excavation is the minimum necessary, and all stockpiling of spoil material is accomplished in accordance with TRPA BMPs.

2. Install new sewer lines for a distance of not more than 750 lineal feet to intertie existing facilities or extend service to TRPA-approved projects, provided all excavation is within an existing road right-of-way, there is no increase in capacity, the main line is within an existing paved area or compacted road shoulder, the amount of excavation is the minimum necessary, and all stockpiling of spoil material is accomplished in accordance with TRPA BMPs.

C. SEWER AND WATER PUMP STATIONS AND OTHER DISTRICT FACILITY SITES

1. Replacement of existing fences, provided there is no increase in height, and the fence is consistent with the TRPA Design Review Guidelines.

2. Tree removal for public health and safety pursuant to Section 71.4.A or 71.4.B(2) of the TRPA Code.

3. Install directional and informational signs in KGID's boundaries, provided the signs are consistent with Section 26.6.A(2)(a), (b), and (c) of the TRPA Code, and an inventory of existing signage for each individual site where additional signage is proposed is completed prior to the installation of any new signs.

4. Regrading and graveling of existing roads and parking lots, provided that BMPs are in place, including dust control measures.

D. STREETS AND ROADS

1. Chip seal of existing pavement provided that proper BMPs are in place, dust control measures are used to effectively reduce the amount of entrained dust to insignificant levels, and all residual material (sand) is removed within 72 hours.
2. Removal of hazards within road rights-of-way.

3. Embankment repair, provided the amount of excavation is the minimum amount necessary and any spoil material is removed to a TRPA-approved disposal site.

4. Reconstruction, resurfacing or overlaying of existing pavement, including repair of pavement substructure.

E. Erosion Control and Restoration Activities

1. Installation of retaining walls not exceeding 200 feet in length and 3 feet in height, provided that if located within a TRPA-designated scenic roadway or shoreline unit, the wall design is consistent with the TRPA Design Review Guidelines (Chapter 1, Section C(7) and Section 30.13.C(2) of the TRPA Code, and an inventory of existing retaining walls is completed prior to the installation of any new walls.

2. Restoration of disturbed areas not exceeding 2 acres, provided scarification does not exceed 6” in depth.

III. Lane Closures

Lane closures for exempt or qualified exempt activities shall be limited to the minimum amount of time needed to complete the activity and, with the exception of emergencies, shall not occur during holidays or holiday weekends.

IV. Treatment and Accounting of Coverage

It is understood by KGID and TRPA that the activities set forth herein may result in a requirement to mitigate existing excess coverage. Further, many of the activities involve removal of existing land coverage or restoration of disturbed lands.

Chapter 38 of the Code provides for the accounting, tracking, and banking of coverage in conjunction with Chapter 20. KGID shall report to the Executive Director of TRPA annually on the status of compliance with all excess coverage mitigation, coverage removal and restoration requirements as related to all activities undertaken pursuant to this MOU.

V. Loss of Exemption

Any exempt activity set forth herein shall be considered a project requiring TRPA review if the Executive Director determines that, because of unusual circumstances, the activity may have a substantial effect on the land, air, water, space, or any other natural resource in the Region.

VI. Termination

This MOU may be terminated by either party upon sixty (60) days notice in writing.
KINGSBURY GENERAL IMPROVEMENT DISTRICT

DATED: ______________________

Robert Cook, Chairman
Board of Trustees

TAHOE REGIONAL PLANNING AGENCY

DATED: ______________________

David S. Ziegler
Executive Director
MEMORANDUM

February 24, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Draft Environmental Impact Statement, U.S. Forest Service, Proposed East Shore Timber Harvest

Staff Recommendation: There is no action requested on this item at this time. Agency staff is requesting input and comments on the technical adequacy of the Draft Environmental Impact Statement (EIS).

Background: On February 16, 1994, copies of the Draft EIS were mailed to members of the Advisory Planning Commission. The public comment period began on February 17, 1994, and is scheduled to conclude on April 18, 1994. The document examines the environmental impacts of the following activities within the 10,000 acre project area:

* Salvaging (removing) dead trees, and trees expected to die within six months of the time of harvest, to reduce fuel loads and risk of fire.

* Removal of live Jeffrey pine infested with Jeffrey pine beetle for the purpose of reducing subsequent Jeffrey pine mortality.

* Removal of trees that have defects that may cause failure resulting in property damage, personal injury or death.

* Removal of live trees from forest stands for the purpose of regulating stocking levels and species composition to improve stand health and vigor.

* Watershed restoration work and road closures.

This project has been in the planning stages since 1993, when large areas of drought related tree mortality was observed in the study area. The Forest Service has held two public meetings to discuss the project (one in November 1993, and another in January 1994). The Draft EIS examines four alternatives, including a "no project" alternative. These alternatives are described on pages 2-8 through 2-15 in the document.

Officials from the U.S. Forest Service (who prepared the Draft EIS), will be present at the APC meeting and will give a brief summary of the document, including the identified environmental impacts of the proposed project. If you have any questions concerning this item, please contact Lyn Barnett in the TRPA Project Review Division at (702) 588-4547.

/1b
2/24/94

AGENDA ITEM V.D.

Planning for the Protection of our Lake and Land

40
MEMORANDUM

February 24, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Amendment of Plan Area Statement Boundary Between Plan Areas 045, Incline Village Commercial, and 046, Incline Village Residential to Move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046

Proposed Action: The owners of one vacant parcel, approximately 1.3 acres in size, located in Plan Area 045, Incline Village Commercial (a community plan area), propose to amend the adjacent plan area boundary between 045 and Plan Area 046, Incline Village Residential, to move their parcel into Plan Area 046. Refer to Attachment A, Vicinity Map.

Staff Recommendation: Staff recommends that the APC conduct the public hearing and, based on its outcome, recommend approval of the Plan Area amendment to the Governing Board.

Discussion: The applicants desire to relocate into Plan Area 046 to develop a four-unit condominium complex. They have received four residential allocations from Washoe County and propose to transfer the necessary number of development rights to match the allocations and develop the project.

Condominiums are classified by TRPA as single family dwellings. Single family dwellings are not a permissible use in Plan Area 045, however, they are permitted as a Special Use in Plan Area 046. As shown in Attachment B, Existing Land Use Map, the existing Plan Area boundary is located along the east edge of the site. Moving the boundary to the western edge of the site would only affect the subject parcel and would not affect any other parcels.

The applicant has indicated a preference to proceed with the proposed boundary adjustment in advance of adoption of the Washoe County Community Plan. The Community Plan is expected to be adopted later this year.

Existing Washoe County zoning is C-2, General Commercial. C-2 zoning permits multi-residential units and condominiums, therefore, no amendment to the County zoning appears necessary.
Memorandum to Advisory Planning Commission
Amendment of Plan Area Statement Boundary Between
Plan Areas 045 and 046 -- Page 2

Required Findings: The following findings must be made prior to adopting the proposed amendment:

A. Chapter 6 Findings:

1. Finding: 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: The amendment will not adversely affect implementation of the Regional Plan because the site could be developed with the same number of residential units under either Plan Area. The proposed amendment will allow a change in the form of ownership of individual residential units developed on the parcel affected by the amendment. The amendment will permit single family dwellings in the form of condominiums to be developed rather than multiple family dwellings (apartments).

2. Finding: That the project will not cause the environmental thresholds to be exceeded.

Rationale: Development of the existing residential units must comply with applicable provisions of the Regional Plan. No additional development in excess of that established in the Regional Plan is permitted by the amendments.

3. Finding: 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: Not applicable. Project applicants will continue to be subject to the Regional Plan package, including maintenance of applicable air and water quality standards.

4. Finding: 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: For the reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the threshold.

AGENDA ITEM V E.
Environmental Documentation: Staff has completed an Initial Environmental Checklist (IEC) for the proposed action and recommends a Finding of No Significant Effect (FONSE) because the amendment creates no additional units of use outside of the adopted Regional Plan. As discussed above, developing a four-unit residential project on the site requires issuance of four residential allocations and related transfer of three development rights. Under Section 21.6 of the Code, legally existing parcels which are vacant as of the effective date of the Regional Plan are assigned one development right, except for certain exceptions. Alternatively, the same project could be developed by transferring four existing residential units onto the site. In either case, the units of use are within the limits prescribed by the Regional Plan.

Further, residential use of the site is consistent with surrounding land uses and is not expected to adversely affect the neighborhood. Refer to Attachment B.

Staff will begin this item with a brief presentation. Please contact Andrew Strain at (702) 588-4547 if you have any questions or comments regarding this matter.
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
PROPOSED
RELOCATION OF
PLAN AREA BOUNDARY

SUBJECT PARCEL, 127-023-05

ATTACHMENT A, VICINITY MAP
MEMORANDUM

February 25, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Amendment of Plan Area Statement 111, Tahoe Island, to Modify Special Area #2 to allow Health Care Services, Nursery and Outdoor Retail Sales as a special use, City of South Lake Tahoe

Proposed Action: The applicant-initiated proposed amendment is a modification to Plan Area Statement 111, Tahoe Island. This proposed amendment would modify Special Area #2 in this plan area by adding commercial uses to the list of permissible uses. The amendment would add nursery and outdoor retail sales to the list as special uses on only those parcels within Special Area #2, fronting Highway 89.

In addition, a staff-initiated amendment is also proposed to rectify an oversight made when an amendment to Plan Area Statement 111 came before the board in April, 1993. The proposed Plan Area Statement amendment would modify Special Area #2 in Plan Area 111, Tahoe Island, by adding health care services, limited to parcels fronting the east side of Tahoe Keys Blvd. The purpose of the April, 1993 applicant-initiated plan area amendment was to enable the applicant to build a dentist office, the action taken added only professional offices to the list of permissible uses. This action did make the existing nonconforming use, a legal office, a conforming use in Special Area #2, but professional offices does not include health care.

Recommendation: Staff recommends the Advisory Planning Commission review the proposed amendment and recommend to the Governing Board the staff-initiated amendment to add health care services to the permissible use list. The staff does not recommend the addition of nursery and outdoor retail sales as permissible uses in Plan Area #111, Special Area #2.

Background: The applicant proposes to amend PAS 111, Tahoe Island, to allow nursery and outdoor retail sales as a permissible use in Special Area #2 on parcels fronting Highway 89 only. Currently, Special Area #2 along the
Highway 89 corridor allows no commercial and only professional offices as a permissible use in Special Area #2 that fronts the east side of Tahoe Keys Blvd. The applicant owns parcel 23-111-30 located at 541 Emerald Bay Road, which is made up of the five lots (1, 2, 43, 44, & 45) between 15th Street and Lukins Way in South Lake Tahoe.

The applicant's purpose for the amendment is to have the ability to create a unique experience for tourists and locals that presents the works of local artists and craftsmen in a cottage/garden setting. The TRPA scenic thresholds require the restoration of scenic quality along the Highway 89 corridor. The applicant believes that the commercial uses being proposed to be added to the permissible use list in Special Area #2 provided a better opportunity to attain and maintain scenic quality thresholds than the uses that are currently allowed to front Highway 89 (care centers, multiple family dwellings, or public service buildings).

TRPA staff is not able to make the necessary findings to support the applicants proposal. The main issues that need to be addressed are the Plan Area Statement special policies pertaining to uses and compatibility, VMT, and scenic quality.

The land use classification for Plan Area Statement 111 is residential and the management strategy is mitigation. The subject plan area statement also targets this area as in need of scenic restoration. Special Policy 3 states that redevelopment is encouraged along Highway 89 consistent with the City of South Lake Tahoe Redevelopment Plan and that noncommercial and tourist accommodation uses should be located on Highway 89. Special policy 6, states that extension of commercial development should be limited to Special Area #1 along Highway 89 to help facilitate concentration of commercial development.

This amendment affects 10 parcels in addition to the applicants parcel. The existing uses on these parcels today consist of 3 tourist accommodation, 1 single family dwelling, and 6 undeveloped properties (two are owned by the State of California). The past land uses on the applicants parcel include: sales office for the Dillingham Corporation, commercial sales of block ice, bicycle rentals, and construction equipment storage. Currently there are no acknowledged uses on the applicants parcel. The last use, permitted through a "short-term" conditional use permit, was the storage of equipment for road repairs on Highway 89. The conditional use permit expired in 1986.

The affected parcels of the proposed plan area amendment are located within Roadway Unit #1, Tahoe Valley, which is not in attainment with the scenic quality threshold. In addition, the eleven affected parcels are within an area of concern identified in the Roadway Unit. TRPA's Scenic Quality Improvement Program states that within .10 miles of the National Forest Boundary, signing is obstructive and distracts from the view of the forest landscape in the near distance, although development is small scale and limited to a few tourist serving uses, such as motels. From this point to a distance of about .40 miles north of the intersection of Highway 89 and Highway 50, commercial uses are less dominant, usually single story buildings scattered amongst areas of forest cover. The travel route rating for this Roadway Unit is 11.
Adding the two commercial uses (nursery and outdoor retail sales) to the list of permissible uses in Special Area #2 increases the potential of creating scenic impacts. Although the project the applicant may propose could improve scenic quality on his parcel, outdoor retail sales is defined very broadly and would allow anything from the sale of art to roadside stands to flea markets. Staff is required to evaluate the Plan Area as a whole, plus any potential impacts additional activities in the use category may have. Analysis of this plan area amendment must consider the cumulative effects of the amendment on all eleven parcels.

Chapter 18 defines commercial use nurseries as "commercial retail and wholesale establishments where plants are grown or stored for transplanting at other sites. Outside storage or display is included as part of the use." Outdoor retail sales is defined as "retail trade establishments operating outside of buildings on a daily or weekly basis, such as roadside stands; flea markets; swap meets; seasonal sales involving Christmas trees, fireworks, pumpkins or other season items; regular sales of art or handcrafted items in conjunction with community festivals or art shows; and retail sales of various products from individual motor vehicles with locations outside the public rights-of-way, not including bakery, ice cream and similar vending vehicles that conduct all sales within the right-of-way and do not stop in any location except on customer demand. Outside storage or display is included as part of the use."

In addition, TRPA has been provided insufficient information regarding the impacts on traffic and Vehicle Miles Traveled (VMT). Considering there are 8 privately owned parcels in addition to the applicant's that could potentially have outdoor retail sales, this could represent a significant impact on traffic and an increase in VMT's.

Findings: Prior to amending the plan area statement, TRPA must make certain findings.

Chapter 6 Findings

1. Finding:

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

Rationale:

The staff-initiated Plan Area Statement amendment would modify Special Area #2 in Plan Area 111, Tahoe Island, by adding health care services, limited to parcels fronting the east side of Tahoe Keys Blvd., and is a clarification of a plan area amendment approved by the Governing Board at the April, 1993 board meeting.

The proposed addition of outdoor retail sales and nurseries to the permissible use list for Special Area #2 cannot be supported by staff. Adding the two commercial uses could have an impact on attaining and maintaining
scenic quality thresholds. In addition, outdoor retail sales and nurseries are not compatible with the existing residential and tourist accommodation uses.

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

Rationale: The staff-initiated amendment to add health care offices to the list of permissible uses in Plan Area 111, Special Area #2, complies with both air and water quality standards as outlined in the April, 1993 staff summary to the Governing Board.

However, there is no evidence in the record in reference to the addition of outdoor retail sales and nursery uses in Special Area #2 fronting Highway 89, that support this finding. In fact, additional commercial uses in this area may increase VMT and impact traffic.

3. Finding: That the Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See Findings 1 and 2 above.

Environmental Documentation: Based on the above analysis and the completion of the initial environmental checklist (IEC), staff finds the applicant-initiated amendment may have a significant environmental effect. However, staff is recommending approval of the clarification amendment (adding health care services) and recommend a finding of no significant environmental effect based on the IEC.

If you have any questions or comments regarding this agenda item, please contact Coleen Shade at (702) 586-4547.
111 -- TAHOE ISLAND

PLAN DESIGNATION:

Land Use Classification          RESIDENTIAL
Management Strategy               MITIGATION
Special Designation               TDR RECEIVING AREA FOR:

1.  Existing Development (Special Area #2 Only)

SCENIC RESTORATION
PREFERRED AFFORDABLE HOUSING AREA
MULTI-RESIDENTIAL INCENTIVE PROGRAM

DESCRIPTION:

Location: This Plan Area is located north of the South Tahoe “Y” and south of the Tahoe Keys and is depicted on TRPA maps G18 and F-18.

Existing Uses: The predominant use of this area is residential although non residential development includes motels, restaurants, and heavy equipment and storage area. The area is approximately 70 percent built out. Residential density is primarily one single family dwelling per parcel although some high densities are associated with duplexes, apartment buildings, and a planned unit development. Three Tahoe Keys Property Owners Association (TKPOA) single family dwelling subdivisions and TKPOA’s water treatment facility are located within this area.

Existing Environment: Nearly half of this area (250 acres) is classified as SEZ. Substantial portions of the area classified as SEZ have been disturbed by existing development. Undeveloped lots within the SEZ total 322. The balance of the area is low hazard land with 238 undeveloped lots remaining. Over half of the planning area is disturbed with hard and soft coverage. Vegetation consists of fir, lodgepole pine, willow, and marsh grasses. Two TKPOA subdivisions in this area have been reclassified as man-modified.

PLANNING STATEMENT: This area should continue to be residential, maintaining the exiting character of the neighborhood.

PLANNING CONSIDERATIONS:

1.  There is an excess of land coverage and disturbance within the SEZ.
2.  Portions of the area are subject to flooding.
3.  This area contains a site reserved for possible affordable housing.
4.  Additional fire hydrants and water system improvements are needed in this area.
5.  This area is the location of Tahoe Valley ball field and Tallac Park (20 acres).
6. Thresholds require the scenic restoration of the Highway 89 corridor.

**SPECIAL POLICIES:**

1. Drainage problems on developed parcels should be remedied.
2. Restoration of disturbed SEZ and reduction of soft coverage have high priority.
3. Redevelopment is encouraged along Highway 89 consistent with a City of South Lake Tahoe redevelopment plan. Noncommercial and tourist accommodation uses permitted in this area should be located on Highway 89.
4. Expansion of the Tahoe Valley ball field and Tallac Park may be permitted, consistent with a TRPA- approved master plan, which specifies the PAOT capacity of the improvements.
5. A senior citizen affordable housing project of up to 80 units may be permitted to be developed on a six-acre parcel optioned to the City in this area. The option must be exercised by the City prior to 1987 or the land reverts to Dillingham for any use authorized by law.
6. Extensions of commercial development should be limited to Special Area #1 along Highway 89 to help facilitate concentration of commercial development.
7. Special Area #2 in the Eloise area should be primarily a multi-residential area and Health Care Services and professional offices shall be limited to parcels fronting the east side of Tahoe Keys Blvd.

**PERMISSIBLE USES:** Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

**General List:** The following list of permissible uses is applicable throughout the Plan Area (except as noted in Special Areas #1 and #2):

- **Residential**
  - Single family dwelling (A).

- **Public Service**
  - Local public health and safety facilities (S), transit stations and terminals (S), pipelines and power transmission (S), transportation routes (S), public utility centers (S), churches (S), schools-kindergarten through secondary (A), and day care centers/pre-schools (S).

- **Recreation**
  - Participant sports facilities (S), day use areas (A), and riding and hiking trails (A).

- **Resource Management**
  - Reforestation (A), sanitation salvage cut (A), Management special cut (A), thinning (A), early successional Stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A), and runoff control (A).
Special Area #1: The following list of permissible uses is applicable in Special Area #1

All the uses listed on the General List plus the following additions:

Residential

Multiple family dwellings (A).

Tourist Accommodation

Hotel, motel and other transient dwelling units accommodations (S) and bed and breakfast facilities (S).

Commercial

Eating and drinking places (A), food and beverage retail sales (S), nursery (S), and outdoor retail sales (S).

Recreation

Outdoor recreation concessions (S).

Special Area #2: The following list of permissible uses is applicable in Special Area #2.

All the uses listed on the General List plus the following additions:

Residential

Multiple family dwellings (A), nursing and personal care (S), and residential care (S).

Commercial

Professional offices (S), health care services (S).

Tourist Accommodation

Bed and breakfast facilities (S).

Maximum Densities: Pursuant to Chapter 21 DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan Area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive program, special use determinations, allocation limitations and general site development standards.

**Use**

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwellings</td>
<td>1 unit per parcel</td>
</tr>
<tr>
<td>Multiple Family Dwellings</td>
<td>8 units per acre</td>
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<tr>
<td>Nursing and Personal Care</td>
<td>25 persons per acre</td>
</tr>
<tr>
<td>Residential Care</td>
<td>25 persons per acre</td>
</tr>
<tr>
<td>Tourist Accommodation</td>
<td></td>
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<tr>
<td>Hotel, Motel and Other</td>
<td></td>
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<tr>
<td>with less than 10% of units with kitchens</td>
<td>40 units per acre</td>
</tr>
<tr>
<td>with 10% or more units with kitchens</td>
<td>15 units per acre</td>
</tr>
<tr>
<td>Bed and Breakfast Facilities</td>
<td>10 units per acre</td>
</tr>
</tbody>
</table>

PAS 111--Tahoe Island
Page 3
RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 80 units.

MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan Area, including the Highway 89 corridor is 55 CNEL.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time.

SUMMER DAY USES 0 PAOT WINTER DAY USES 0 PAOT OVERNIGHT USES 0 PAOT

IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:

1. Improvements required by Volume IV of the Water Management Plan.

2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.


4. The scenic restoration and landscaping improvements indicated in the Scenic Quality Implementation Program for the Highway 50 and 89 corridors. (To be completed.)
PAS 111
SPECIAL AREA #2
TAHOE KEYS BLVD.

SUBJECT PARCEL
23-221-17

AFFECTED PARCELS
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
(702) 588-4547
Fax (702) 588-4527

MEMORANDUM

March 1, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Amendment of Chapter 11, Foundations, Relating to Commercial Foundations

PROPOSED ACTION: The proposed action is to amend Chapter 11 to extend the deadline for transferring banked commercial floor area from qualifying commercial foundations from July 27, 1994 to July 27, 1996.

STAFF RECOMMENDATION: Staff recommends approval of a one-year extension of the deadline.

BACKGROUND: In April 1988, the Governing Board adopted amendments to Chapter 11 exempting certain old (pre-1983) commercial foundations from complete compliance with the 1987 Regional Plan. The relevant portion of Chapter 11 is attached as Exhibit A. The amendments were designed to avoid multiple litigation of vested rights claims and represented, in effect, a settlement of potential litigation.

The Chapter 11 amendments provided that qualifying foundations could be completed except for commercial foundations on low capability lands. Commercial foundations on low capability lands were limited to transfer of the commercial floor area and associated land coverage. The initial version of Chapter 11 set a two-year deadline for a complete transfer application.

The only qualifying foundation on low capability land was the Kjer foundation on Kingsbury Grade. The Board has recognized 42,000 sq.ft. of commercial floor area and 52,000 sq.ft. land coverage for the Kjer commercial foundation. The initial deadline for a complete transfer application was July 1991. A 1990 Code amendment extended the deadline to one year from the adoption of South Shore community plans or July 27, 1994, whichever occurs first.

The land coverage was transferred to the California Conservancy land bank in conjunction with resolution of the South Tahoe Refuse project and a portion of the commercial floor area (approximately 10,000 sq.ft.) was transferred to miscellaneous projects.

SES/
3/1/94

AGENDA ITEM NO. V.G.
Planning for the Protection of our Lake and Land

56
Amendment of Chapter 11 Relating to Commercial Foundations
March 1, 1994
Page Two

DISCUSSION: The remaining commercial floor area (approx. 32,000 sq.ft.) is earmarked for the Park Avenue project in South Lake Tahoe. Although an application is being prepared for the Park Avenue project and will be submitted in advance of the July 1994 deadline, the application will not be complete under TRPA rules until the EIS for the project is certified. Thus, while the application will be made before the deadline, the application will not be complete before the deadline due to the time needed to prepare, circulate and certify an EIS.

Attached as Exhibit B is the applicant's statement in support of the Code amendment.

Staff is recommending a final extension of the deadline for a one-year period for the following reasons: 1) the application is substantially complete as evidenced by the amount of design work and the commencement of the EIS process; 2) the sending site has been restored and revegetated and retired from future development; 3) the receiving site is in a community plan/ redevelopment area which is the preferred option; 4) the land coverage will be transferred in advance of the current deadline; and 5) it is the only commercial foundation subject to the transfer limitation in Chapter 11. The staff feels that the one-year extension is adequate to allow for the completion of the Park Avenue project application.

As with the previous requested extension of the Chapter 11 deadline, legal counsel does not recommend the amendment on the grounds that Chapter 11 was a compromise of disputed claims to vested rights and renegotiation is a dangerous precedent. As with the previous requested amendment, legal counsel suggests that, if the APC believes a further extension is appropriate, the commercial floor area should be subject to additional conditions or restrictions to offset the impacts of perpetuating the exemptions from the allocation system and other provisions of the Regional Plan.

REQUESTED ACTION: Staff recommends that the APC conduct a public hearing and make a recommendation for a one-year extension to the Governing Board.
(3) **Civil Remedies:** Pursuit of civil remedies as appropriate under the laws of the state in which the foundation is located or Article VI(1) of the Tahoe Regional Planning Compact;

(4) **Other Ordinances:** Application of appropriate city or county ordinance provisions and the civil or criminal penalties provided therein.

### 11.9 Appeals:

Appeals shall be subject to the following provisions:

#### 11.9.A Approvals:

Approvals of notices of exemptions or permits may be appealed by filing a written notice or request for appeal with TRPA no later than fifteen (15) working days after the issuance of the notice or permit. An appeal shall not automatically stay the notice or permit appealed. The appellant may request, as part of the written notice of appeal, a stay of the notice or permit and any such request shall be by affidavit or under penalty of perjury, pending a hearing on the appeal before the Governing Board at its next regular meeting. The Chairman of the Governing Board shall review any request for a stay of a notice or permit and the evidence submitted therewith, and shall balance the equities and shall determine whether or not a stay of the notice or permit shall be issued. Appeals shall be scheduled for the next Governing Board meeting for which the Agency is able to give proper notice of the appeal.

#### 11.9.B Denials:

A staff denial of a notice of exemption, permit or request for extension pursuant to Subsection 11.6.H, may be appealed to the Governing Board by filing a written notice of appeal with TRPA no later than fifteen (15) working days after the effective date of the notice of denial. Appeals shall be limited to determining compliance with the terms of this ordinance. Appeals shall be scheduled for the next Governing Board meeting for which the Agency is able to give proper notice of the appeal.

#### 11.9.C Advisory Planning Commission:

Appeals shall not be considered by the Advisory Planning Commission under Section 7.10 of the TRPA Rules and Regulations of Practice and Procedure.

### 11.10 Provision For Duplexes, Triplices And Fourplexes:

Beginning October 26, 1987, the effective date of this section, and ending one year from that date, on October 26, 1988, owners of foundations for residential duplexes, triplices, and fourplexes, without current TRPA approval, built on or after January 1, 1976, may apply to TRPA to continue and complete construction on the duplex, triplex or fourplex without new residential allocations. All the provisions of this chapter shall apply to such applications and permits, except as set forth above in this section.
11.11 Provision for Commercial and Multi-residential Foundations:
Beginning on the effective date of this section, which date is
June 28, 1988, and ending one year from that date, owners of
commercial or multi-residential foundations without current TRPA
approval, which foundations were built on or after January 1,
1979, may apply to TRPA to continue and complete construction on
the project without new allocations, subject to the conditions set
forth below.

11.11.A Exemptions: This section shall not apply to:

(1) Commercial or multi-residential foundations
approved on or after the effective date of this
section; or

(2) Commercial or multi-residential foundations whose
TRPA approval had not expired as of the effective
date of this section; or

(3) Commercial or multi-residential foundations whose
owners were advised by TRPA, prior to the expira-
tion of the permit, that diligent pursuit requires
substantial construction each building season once
construction has commenced.

(4) Commercial or multi-residential projects which were
the subject of litigation to which TRPA was a
party.

(5) Commercial or multi-residential projects located in
the South Tahoe Public Utility District service
area.

11.11.B Hearing and Findings: Prior to approval of permits for
commercial and multi-residential foundations under this
section, the Governing Board shall hold a hearing with
notice to affected property owners in accordance with
TRPA's Rules of Procedure. TRPA shall not approve a
permit unless TRPA finds that:

(1) The original project, plans for which are produced
and included in the record, had received all
required discretionary approvals; and

(2) The county or city permits for the original project
were valid or renewed through at least May 1, 1984; and
(3) The proposed project substantially complies with Chapters 22, 24, 27, 30, 64 and 78; and

(4) The proposed project substantially complies with the interim standards of Section 4.20 or Ordinance 87-8; and

(5) The proposed uses are in compliance with Chapter 18 and the applicable plan area statement; and

(6) In the case of commercial projects, the proposed project area coverage complies with the Bailey coefficients or, if the project was previously approved in excess of the Bailey coefficients, that excess coverage shall be mitigated by a transfer of coverage in conformance with Chapter 20 and that in no event shall coverage exceed 70 percent; and

(7) In the case of multi-residential projects, the proposed project area coverage complies with the Bailey coefficients or, if the project was previously approved in excess of the Bailey coefficients, that excess coverage shall be mitigated by a transfer of coverage in conformance with Chapter 20 and that in no event will coverage exceed 50 percent; and

(8) The proposed project is located in land capability district 4, 5, 6 or 7 or that, if the project is not located in land capability district 4, 5, 6 or 7, the project shall be deemed existing development pursuant to Chapter 34 and shall be transferred to a project area in land capability district 4, 5, 6 or 7 and that the transfer shall be in compliance with Chapter 34 and the application for the transferred project shall be in compliance with the Regional Plan and ordinances; and

(9) The proposed project complies with the applicable provisions of Subsection 11.11.C; and

(10) The proposed project complies with Chapters 1 through 13, inclusive, 23, 25, 27, 62, 65, 75, 77, 81, 82, 91 and 93.
There is a reasonable possibility, based on a factual summary prepared by the Executive Director with the assistance of Agency Counsel, that the applicant would prevail on a claim of vested rights. For purposes of this finding only, evidence of construction in each building season shall not be a prerequisite to making this finding. In making this finding the Board shall consider the following factors:

(a) Extent of construction;
(b) Expenditures in connection with the project;
(c) Extent of reliance on governmental communications; and
(d) Other relevant considerations as defined by applicable case law.

11.11.C Notice and Procedure: Notice of the provisions of this section shall be given as set forth below. The procedure for application and permit issuance, and related matters, shall be as set forth below:

(1) Notice: Notice shall be given to owners of property that may be affected by this section pursuant to Section 11.4.

(2) Procedure: The applicant shall file a complete application with TRPA no later than 5:00 p.m. on June 28, 1989, the date one year from the effective date of this section. A complete application shall include a completed TRPA commercial/multi-residential exemption form as devised by the Executive Director, proof of a construction date of the foundation, a filing fee consistent with the adopted filing fee schedule, and original plans or, if modifications to the project are necessary to comply with Subsection 11.11.B, preliminary plans in conformance with the requirements for new multi-residential and commercial projects, as applicable.

(a) The provisions of Subsections 11.5.B, 11.5.C, 11.5.D, 11.5.E, 11.5.F and 11.5.G shall apply except that the date for filing a complete application in Subsection 11.5.C shall be June 28, 1989, the date one year from the effective date of this section.
(b) The provisions of Section 11.6 shall apply except as set forth below:

(i) Construction shall be complete, as defined by Subsection 11.2.C, within three years from the date of issuance of the permit.

(ii) One extension, of up to one year, to the three-year construction period may be granted provided the request is made in writing prior to the expiration of the three-year period and the Executive Director makes either of the two findings set forth in Subsection 4.12.E.

(c) Modification to original plans may be permitted as set forth in Section 11.7 if the project, as modified, will not result in an increase in the amount of commercial floor area or number of residential units over the original project unless the appropriate allocation is obtained pursuant to Chapter 33 and further provided that:

(i) TRPA makes the findings set forth in subparagraphs (3) through (10), inclusive, in Subsection 11.11.B and finds that the component of the project to be modified results in a net improvement in the environment with respect to that component; or

(ii) Except for the allocation requirements of Chapter 33, TRPA finds that the modified project complies with all provisions of the Regional Plan Package, including the Code.

(d) A complete application for transfer of existing development pursuant to Subparagraph 11.11.B(8) shall be filed within one year of the adoption of community plans in Douglas and El Dorado Counties and the City of South Lake Tahoe, or by July 27, 1994, whichever occurs first. After July 27, 1991, transfers of commercial floor area shall be restricted to receiving parcels within a community plan area identified in the plan area statements.
(e) For purposes of Chapter 34, projects approved for construction shall be considered existing development and eligible for transfer in accordance with Chapter 34.

(3) Abatement of Foundations: Abatement of foundations shall be pursuant to Section 11.8.

(4) Appeals: Appeals shall be pursuant to Section 11.9.

(5) Applications: Applications may be lodged with TRPA 30 days prior to the effective date of this section. Lodging an application shall be at the risk of the applicant and shall not be construed to estop TRPA from amendment or revocation of this section prior to the effective date.

(6) In accepting and acknowledging the conditions of a permit issued pursuant to this section, the permittee shall waive, in writing, any claim of vested rights which may then exist such that any future claims with respect to the permitted project shall be limited to claims arising solely out of the permit issued pursuant to this section.
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
March 1, 1994

Ms. Susan Scholley
Special Projects Attorney
P.O. Box 1038
Zephyr Cove, NV 89448

Subject: Proposed Amendment to Chapter 11 to extend the deadline for submittal of applications for use of commercial floor area.

Dear Susan:

Per our recent discussions, please find attached an application for Amendment of Chapter 11 to extend the July, 1994, deadline for submittal of an application to use the commercial floor area recognized by TRPA on APN 07-292-19/20. It is important that Dave Ziegler be there during consideration of this urgent planning matter, and therefore, you have agreed to place the matter on the March APC and Governing Board agendas.

The proposal is to amend the TRPA Code of Ordinances, Subsection 11.11.C.(2)(d). This amendment would extend until July 24, 1996, the time period within which an application must be filed to transfer commercial floor area and coverage recognized under Chapter 11 of the Code.

It is important to note that the need to extend the deadline is not the result of the proponent and others involuntarily hands waiting for someone else to solve the problem. Someone has sold the land coverage to the South Tahoe coverage has being exchanged through the Conservancy, in order to mitigate excess Station/Multiple Recovery site. The Conservancy is processing the necessary paperwork for this to ensure it is complete in time for construction to commence Recovery Facility this year.

Also, approximately 9,000 sq. ft. of the cric commercial floor area banked on the Kjer site, two separate projects in the City of South Lake of the floor area is slated for use in the Park is part of the South Tahoe Redevelopment program.
Scholley  
March 1, 1994  
Page 2.

for over three years, and great progress is being made. Unfortunately, a project as complex as this requires substantial preparation and planning to reach the point where a project application can be submitted. First, the Stateline Community Plan has to be adopted, and several Code related issues resolved. Also, while an application may be submitted within the next couple of months, an environmental impact statement will be required for the application to be deemed complete. While a contractor has been selected to prepare the environmental document, that process will not be complete for almost a year.

While I understand that you, and perhaps some of your Board members, may be concerned over another modification to an existing settlement agreement, I believe that the circumstances in this situation clearly justify a positive action to further extend the time period for use of this floor area.

Many of the obstacles to use of the floor area, which existed the last time we discussed this issue, are now being resolved. The South Tahoe Stateline Community Plan, where the remaining floor area is proposed to be built, is expected to be approved by the Governing Board this month. Also, extensive planning has been completed on the Park Ave. Project Plan, and the project appears to be moving forward. Use of the subject floor area in this proposed project, along with the inclusion of a gondola to Heavenly Ski Area and a multi-modal transit terminal, seems to make a great deal of sense.

Mr. Casteel purchased the floor area in 1990, and immediately began work with the City on plans for the Park Ave. project. He remains committed to the design, and completion of a landmark project, which will make possible substantial improvements to the strip development currently existing in the South Stateline, California area.

Background

By way of background for members of the APC and Governing Board not around when the matter was previously discussed, I offer the following discussion. Up until adoption of any community plans, there were extremely limited circumstances under which this floor area could realistically be transferred.

It is important to understand that current Code requires that this floor area, recognized under Chapter 11, cannot now be built on its former site, but must be transferred to an eligible receiving area. Also, the Code requires that an application to transfer these resources of floor area be submitted prior to July 24, 1994.
Had the project been originally located entirely on high capability lands, the applicant would have had up to four (4) years to complete construction of the project. In addition, the applicant was required to restore the previously disturbed site and deed restrict the parcel against any future development (restoration was completed in 1990). The justification for this was that at least a portion of the project was on low capability lands.

As you know, until the past few months, none of the anticipated community plans had been adopted. This greatly limited the possibilities for a transfer. The primary goal of the proposed amendment is to provide adequate time for project proponents to plan projects consistent with sound community and regional planning. Obviously, all of us would prefer that planning for the future of commercial development in the Tahoe Basin be based on good economic and environmental principles and planning.

It would be particularly ironic if Chapter 11, designed to deal with foundations being built to preserve development rights, ended up forcing bad commercial development in order to preserve rights recognized under the chapter. This could well be the result, if those holding commercial floor area from the Kjer site are forced to submit applications under the current deadline, rather than waiting for completion of the Park Ave. Project EIS.

Current Situation

As noted above, Mr. Casteel, along with the South Tahoe Redevelopment Agency, and other project proponents, have spent two years, and several hundred thousand dollars in project planning. Having completed preliminary design work, the proponents have been working with staff on specific details such as the amendments to Chapter 22, which are being considered by the Agency this month. A project application will likely be submitted within the next two months, and the environmental document will then be prepared.

Barring unforeseen circumstances, the Park Ave. Project Proponents expect to obtain final permits by mid-1995, and begin construction during the 1995 building season.

Proposed Action

Due to the potential for complications affecting any project including as many components as the Park Ave. project, the applicant desires to provide a reasonable margin for error. Therefore, the proposed amendment would extend the deadline for two additional years, until July 24, 1996. This additional time would permit preparation of a reasonable alternative plan, if for some reason the Park Ave. project is not approved in 1995.
As discussed earlier, this extension is due, in part, to the requirement in the TRPA Code that an application is not complete until the project environmental document is approved.

In this case, the EIS requirement will delay by over a year, completion of the project application. Also, if for any reason, the Park Ave. project were delayed or denied approval, additional time would be required for a subsequent project to be designed and the permitting process completed.

Alternatives to the Proposed Action

The applicant approached staff in August of 1993, and requested a determination as to the options for fulfilling the requirement for an application to use the floor area by July 24, 1994. Although the applicant is committed to the Park Ave. project, he fears the possibility that the project could be delayed, and his sizable investment endangered, due to factors beyond his control.

In my letter of August 30, 1993, (copy attached) I requested a determination as to whether a complete application, or possibly a transfer to a land bank, would fulfill the deadline requirement. The reason for an early request for an interpretation, was to ensure that adequate time would be available to pursue alternatives in the event it became necessary. Staff has recently indicated that the only realistic alternatives available are to seek the proposed amendment, or obtain an interpretation from the Board that transfer of the floor area to a land bank would satisfy the deadline, as was earlier determined to be the case for the hard coverage.

Failing Board approval of the requested extension, or a determination that the transfer of the floor area to a land bank would be acceptable, the applicant would be forced to break up the floor area, and move it quickly to a number of small commercial projects scattered around South Lake Tahoe. While such a move would likely result in a sizable economic return, it is not in the best interest of the Region or Community.

The applicant prefers to proceed in an orderly fashion to complete the planning for the Park Ave. project. This would permit implementation of a project which includes wise land use planning elements such as transit, recreation, and scenic improvements, provision of open space and pedestrian improvements, and the many other results foreseen from the Park Ave. project. Mr. Castaell has invested a substantial amount in the purchase and holding of the 32,000 sq. ft. of floor area, which remains banked on the restored site on lower Kingsbury Grade. He has invested further sums in the planning for Park Ave., along with the other proponents.
Conclusion

We urge your support of the proposed amendment. We feel that it is clearly in the public interest. I have also attached a copy of my letter which was submitted in support for the previous extension of the deadline. These same arguments remain as valid today as before. The adoption of several community plans in recent months, including the Stateline/Ski Run Community Plan before you this month, further support those arguments. I have also enclosed copies of correspondence related to previous extensions of the deadline to provide additional background for those not familiar with the history of this issue.

If, after reviewing the above referenced documents you have any questions, please give me a call. Thanks for your assistance in getting this matter to the Board for consideration before Dave’s departure.

Sincerely,

Gary D. Midkiff

cc: Gary B. Casteel
    Ken Kjer
    Scott Brooke
    Dennis Crabb
September 24, 1990

Ms. Susan E. Scholley
Special Projects Attorney
TRPA
P.O.Box 1038
Zephyr Cove, NV 89448

Dear Susan:

Thank you for your time in relation to the proposed amendment of Chapter 11 of the TRPA Code of Ordinances. The meeting with Roland and yourself on Friday was most illustrative. While we do not necessarily agree on some of the issues raised, we do appreciate the opportunity to discuss the matter. We will attempt to respond to your concerns with this submittal.

Please find attached the completed application form and environmental checklist. I have also attached some revised language (Exhibit A) which narrows greatly the scope of the proposed Code amendment.

Chapter 11, as you know, was intended to resolve the issue of the hundreds of foundations sitting around the Basin. It was perceived that these foundations, residential and commercial, were contributing to visual, environmental, and economic degradation of the basin. The parties participating in the drafting of the chapter agreed that the projects which the foundations represented should either be completed, or the foundations removed.

In limited instances, it was agreed that existing foundations should be removed, and that no option to complete the project should be offered. This was the case with commercial foundations located on parcels identified as being on low capability lands (Bailey land capability classes 1-3). Foundations in this category were given only the option to have the recognized coverage and commercial floor area transferred to a high capability (Bailey land capability classes 4-7) parcel. In addition, while commercial foundations on high capability parcels were given three years to complete construction, with the possibility of a one year extension, foundations on low capability lands were given only one year to submit an application to transfer to a buildable parcel (also with a one year extension available). It turned out that there was only one set of foundations on low capability lands which
were eligible for approval, and therefore required to transfer to high capability lands recognized as receiving areas. This project, the Kjer Commercial Project known as Kingsbury Palisades, was recognized as having 42,000 sq. ft. of commercial floor area and 52,090 sq. ft. of hard commercial coverage.

At the time Chapter 11 was adopted, it was generally believed that community plans would be complete and the transfer of the development could easily occur within the time allowed. This belief was important since the opportunity to transfer development rights is severely limited except in relation to community plan areas. Only in community plan areas are project proponents able to take advantage of the higher coverage limits and to achieve greater heights which would allow them to take advantage of transferring in additional development.

To argue that adoption of community plans was not an issue in the adoption of Chapter 11 overlooks a point vital to the planning for future commercial activities in the Tahoe Basin. A major issue of discussion during the completion of the Regional Plan and Code was the need to provide for sound future commercial planning. In fact, the argument for community plans, in addition to establishing a cooperative effort between TRPA, business communities and local governments, was that it would provide a market for transfer of development from poor locations and sensitive lands to more desirable locations. Such desirable locations were to be identified as a result of community plans directing growth to proper locations. This was thought to be appropriate since it would provide an incentive and mechanism to rehabilitate and redevelop old, poorly planned and/or maintained sites.

Unfortunately, this was not to be. There is, at this time, not a single adopted community plan. Further, while several preliminary plans have been approved for over a year, no final community plan appears to be close to approval. This was probably the primary reason for the TRPA Governing Board action in June, to approve a one year extension of the deadline for submittal of an application to transfer the floor area and coverage.

We are now requesting that the TRPA recognize the fact that adoption of community plans will take a great deal longer than originally intended. We also think TRPA must recognize its responsibility in fostering sound planning for future commercial development and extend the deadline provisions of the Code which would otherwise undercut the efforts of those who have worked so hard on the south shore community plans. There are several extremely valid reasons for such an extension.
1. Community plans should guide future growth rather than react to existing conditions which may not place development in desired locations. Even worse, development which occurs prior to adoption of community plans could seriously restrict the ability of the plans to place desired uses in appropriate locations. Forcing owners to transfer development and build prior to completion of community plans may result in development inconsistent with plans adopted later.

2. Community plans were conceived as a mechanism to encourage local businesses and governments to work with TRPA to plan for the future of their local areas. Community plans were also envisioned as a way to encourage rehabilitation of older properties and consolidation of development in such a way as to obtain air, water, and transportation benefits by making transit more workable, and reducing vehicle trips. The primary inducements to get local areas to participate in community plans were the provision of incentives such as higher coverage limits through transfer of existing hard coverage, higher height limits, etc. Because sources of hard commercial coverage are very limited, TRPA would be doing local governments and businesses a great disservice if they allowed such a valuable resource to expire.

3. TRPA, local governments, and the business community have established a good working relationship in the process of preparing community plans. The participants have invested a great deal of time, energy, and resources in this process based on the promise of future benefits to the environment, economy, and overall public good. The availability of hard coverage and commercial floor area, as pointed out above, is very important to the implementation of the community plans with their environmental, economic, visual, and other benefits. Given the limited availability of such coverage and floor area, the TRPA should support the work of these volunteers by acting to preserve this resource until completion of the City of South Lake Tahoe, Douglas and El Dorado County community plans.

4. As intended when the Consensus Group agreed on the concept of transfers of development as a planning tool, a market has begun to develop based on transfers to facilitate development consistent with the goals of the Regional Plan. The land bank in California, and private transactions involving the transfer of existing and potential coverage, the transfer of commercial floor area and the transfer of both residential and commercial allocations have become a reality.
The person who purchased this floor area hopes to participate in the community plans and to use this resource within the community plan rules to provide economic and environmental benefits in the community. Loss of this resource resulting from TRPA's failure to act could undermine public confidence in the TRPA and its willingness to support and implement the community plans. Private transactions which are beginning to establish a market for transfer of development from poor capability areas to good land capability areas will cease if public trust is undermined. The environmental benefits from retirement and transfer of uneconomic and undesirable existing development could also be lost.

Conclusion

The justification for limiting the options available to owners of commercial foundations on sensitive lands was that they would have other economic options through sale and transfer of the coverage and floor area. It was believed owners would be able to transfer the recognized coverage and floor area into community plan areas. This solution seemed to make sense at the time, when we thought community plans would be complete by 1990. Since this has not happened, it is reasonable now to extend the deadline. As only one project is affected by this code section, there is no potential for major environmental impacts. In fact, the potential impacts, had the owner chosen to pursue construction on the site of the recognized foundations, would have been much greater. Under the provisions of Chapter 11, any development which results from a transfer will be on high capability lands in areas much more suitable for development.

The community plans included in the proposed language, but not specifically listed by name, are listed below:

- Douglas County
  - Stateline
  - Lower Kingsbury
  - Roundhill

- El Dorado/City of South Lake Tahoe
  - Stateline/Ski Run
  - Bijou/Al Tahoe
  - South Tahoe "Y"
  - South Tahoe Industrial Area
  - Meyers
Susan Scholley
September 24, 1990
Page 5.

At our meeting of Sept. 21, you suggested the need for some outside limit on the life of the recognized development rather than an open ended period tied to the completion of community plans. In response to your request, as indicated above, we propose that the language of the amendment be modified to extend the deadline for submittal of an application to transfer the coverage and floor area for a period of one year after the adoption of the above described community plans, or by July 27, 1994, whichever occurs first. We feel that the added benefit of the above this modified language is to provide an incentive to local governments to complete community plans in order to get access to this additional floor area and hard commercial coverage.

Thank you for your assistance in processing this proposed amendment. I feel that the proposed change will be of great benefit to all concerned. If you require any further information in preparation of the staff report please feel free to give me a call.

Sincerely,

Gary P. Midkiff

cc: Ken Kjer
    Gary Casteel
    Scott Brook
TRPA CODE AMENDMENT PROPOSED LANGUAGE
COMMERCIAL FOUNDATION, SUBSECTION 11.11.C(2)(d)

11.11.C(2)(d) A complete application for transfer of existing
development pursuant to Subparagraph 11.11.B(8) shall be filed
within one year from the date of Governing Board approval
pursuant to said subsection of the Community Plans
contemplated for Douglas, and El Dorado Counties and the City
of South Lake Tahoe, or by July 27, 1994, whichever occurs
first. The Board may extend the filing deadline for a period
not to exceed one year if the applicant shows good cause for
the extension.
October 22, 1991

Mr. Rick Cronk, Chairman
TRPA Governing Board
P.O. Box 1038
Zephyr Cove, NV 89448

Dear Rick:

I am writing to urge Governing Board approval of the Staff Recommended determination regarding Kjer Transfer of Coverage to the California Tahoe Conservancy, Agenda item VIII A.

As Staff indicated in the packet summary materials, normal implementation of the TRPA Code would permit transfer of the coverage to a land bank, and such a transfer would be construed as a completed transfer of coverage for purposes of the deadline in Chapter 11.

The Governing Board has previously determined that it is most appropriate to foster sound land use planning, and not force development to meet an arbitrary date set under earlier circumstances. The hard coverage, recognized under Chapter 11, is attractive to the California Tahoe Conservancy so that it will have coverage in the land bank for use in support of future South Tahoe Redevelopment projects. Pending completion of Community Plans, and further redevelopment, there is only minimal potential use of the hard coverage. By placing the coverage in the land bank, the coverage can be most appropriately used in implementation of projects which have been the subject of sound planning designed to meet the requirements of TRPA, State, and local agencies.

I urge your support of the Staff recommendation to permit transfer of the coverage to the California Tahoe Conservancy Land Bank, and to recognize the transfer as fulfilling the requirements of an application under Chapter 11.

I will be available to answer any questions you may have when considering the matter.

Sincerely,

Gary D. Midkiff
October 18, 1990

Mr. Roland Westergard  
Chairman  
TRPA Governing Board  
P.O. Box 1038  
Zephyr Cove, NV 89448

Dear Roland:

I am writing in regard to Agenda item VII E. for the October Governing Board meeting. This item would amend the TRPA Code of Ordinances, Subsection 11.11.C.(2)(d). The amendment would extend the time period within which an application must be filed to transfer commercial floor area and coverage recognized under Chapter 11 of the Code.

I am attaching a copy of my letter to Susan Scholley, which explains in great detail the circumstances regarding the problems with Chapter 11 and lack of adopted community plans to which this floor area and hard coverage could be transferred. Briefly, current Code requires that the recognized floor area and coverage cannot be built, but must be transferred to an eligible receiving area. Also, the Code requires that an application to transfer these resources of floor area and hard coverage be submitted within 2 years from the date it is recognized under chapter 11. Had the project been entirely on high capability lands the applicant would have had up to four (4) years to complete construction of the project. In addition, the applicant was required to restore the previously disturbed site and deed restrict the parcel against any future development. The justification for this was that at least a portion of the project was on low capability lands.

Ms. Scholley, in her staff report, and before the Advisory Planning Commission (APC) argued that there was significant doubt as to the standing of this project and the likelihood that it could have been built. This position is strangely inconsistent with the presentation Ms. Scholley made to the Governing Board on April 28, 1988, when the Chapter was about to be adopted. At that time, Ms. Scholley said," the basis of the Chapter and the exemption of these projects from the requirement for new commercial allocations is the reasonable possibility that the applicant would prevail in a claim of rights in court".
In her presentation to the Board in 1988, Ms. Scholley further discussed the ability of the applicants to transfer floor area and coverage to another site consistent with the Code. Ms. Scholley said applicants, "may avail themselves of Chapter 34". She further commented that it would be a good idea, to transfer," to a better location, into a community plan area, we would certainly be happy to have them do that".

Had community plans been adopted within the period originally anticipated, by December 1990, we would not be requesting this amendment. However, as you know, none of the anticipated community plans have been adopted, greatly limiting the possibilities for a transfer, which would be consistent with the original intent of the chapter. The primary goal of the proposed amendment is to provide adequate time for project proponents to plan projects consistent with sound community and regional planning. Obviously all of us would prefer that planning for the future of commercial development in the Tahoe Basin be based on good economic and environmental principles and planning.

It would be particularly ironic if Chapter 11, designed to deal with foundations being built to preserve development rights, ended up forcing bad commercial development in order to preserve rights recognized under the chapter. This could well be the result if those holding commercial floor area from the Kjer project are forced to submit applications under the current deadline rather than waiting for completion of at least some of the community plans.

Staff has suggested that, if the Agency decides to extend the deadline as proposed by the amendment, a condition of the extension should be to reduce dramatically the amount of hard coverage available for transfer. We do not feel that this proposal has merit, but feel that we must respond so you know our position. The floor area and hard coverage were recognized by staff in a manner consistent with the adopted Code for all foundations recognized under Chapter 11. As indicated above, Mr. Kjer has done everything within his power to conform with the requirements of Chapter 11. It is not within Mr. Kjer's power to complete and adopt the community plans. To reduce the amount of coverage available for transfer, as suggested by staff would unfairly penalize Mr. Kjer for failure to do something outside his control. Ms. Scholley has indicated her desire to stick with the old deal made by the adoption of Chapter 11. While the original provisions of Chapter 11 may have seemed reasonable when adopted, time has shown that the original time periods were insufficient. We should have the flexibility to adjust to circumstances and make sound decisions in the interest of good planning.
Roland Westergard
October 18, 1990
Page 3.

The Advisory Planning Commission, on October 10, unanimously recommended approval of the proposed amendment. We urge the Governing Board to concur with the action of the APC and adopt the proposed amendment as drafted.

If you, or any other Governing Board members, have any questions, please feel free to contact me prior to the Board meeting.

Sincerely,

Gary D. Midkiff

Attachment

cc:  Governing Board Members
     Ken Kjer
     Susan Scholley
     David Ziegler
October 9, 1990

Mr. Roland Westergard  
Chairman  
Tahoe Regional Planning Agency  
P.O. Box 1038  
Zephyr Cove, NV  89448

Dear Roland:

I am writing as Chairman of the Douglas County Community Plan Steering Committee. The Steering Committee has directed me to express our support for the proposed amendment to Chapter 11 being considered by TRPA this month. The proposed amendment would extend the deadline for submittal of an application to transfer commercial floor area and coverage from recognized foundations.

The Douglas County Community Plan Steering Committee has invested extensive amounts of time and energy in the development of the Community Plans for Stateline, Kingsbury Grade, and Roundhill in order to plan for the future of our area. Because of the extremely limited amount of new floor area allocations available to the Douglas County area, we have developed the proposed community plans on the expectation that there would be an adequate supply of existing transferrable commercial floor area and hard coverage to enable the plans to be implemented. We have trusted the TRPA to support our efforts and implementation of the community plans.

We are concerned that failure to extend the deadline will result in commercial development which may be inconsistent with subsequent community plans which may be adopted.

We urge your approval of the proposed amendment to extend the time within which this valuable resource may be transferred. The Committee would prefer that the time period for transfer be extended for a period of at least one year after the adoption of the Douglas County and City of South Lake Tahoe Community Plans. However, we understand why the applicants have agreed to further limit the amount of time available by establishing an outside date of July 27, 1994. We are, reluctantly, willing to accept that deadline.
We are also disturbed by the suggestion by staff, that TRPA extract a price for the approval of any extension of the deadline for use of the previously approved coverage. Staff's argument, that the coverage which could be permitted today would be far less than was originally approved, is irrelevant. The subject coverage was legally created and has subsequently been recognized by the TRPA under its own ordinances. There is such a limited supply of floor area and commercial coverage, that it would seem to be unreasonable, and an insult to the efforts of those working on Community Plans, to unreasonably limit the time for transfer, or to further restrict the amount of coverage as proposed by staff.

We urge the Governing Board to uphold the agency's previous commitment to work with the communities in planning for the future in a responsible way. Your approval of the proposed amendment will give us a chance to make all the community plans work.

We urge your support for the proposed amendment. Thanks for your understanding of how valuable these assets are to the community plan process.

Very truly yours,

Curtis Patrick

cc: Douglas County Community Plan Steering Committee Members
TRPA Governing Board Members
David Ziegler