TAHOE REGIONAL PLANNING AGENCY (TRPA)  
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)  
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, May 26, 1999, commencing at 9:30 a.m., the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the Granlibakken Conference Center, 625 Granlibakken Road, Tahoe City, California. The agenda is attached hereto and made a part of this notice.

Governing Board Committee items are action items unless otherwise noted.

NOTICE IS FURTHER GIVEN that on May 26, 1999, commencing at 8:30 a.m., in the same location, the TRPA Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) receipt of the April 1999 financial statement and check register; 3) allocation of excess fines and forfeitures account; 4) release of water quality mitigation funds ($300,000) to Washoe County for Incline Village Commercial and for Lower Wood Creek water quality improvement projects; 5) release of FY 98-99 water quality mitigation funds ($109,000) and SEZ mitigation funds ($74,000) to South Lake Tahoe for water quality and SEZ projects; 6) discussion of changes to current building lease; and 7) member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS ALSO GIVEN that on May 26, 1999, in the same location, following action by TRPA on the Consent Calendar, the Governing Board of the Tahoe Metropolitan Planning Organization (TMPO) will meet. The TMPO agenda is attached hereto and made a part of this notice.

NOTICE IS ALSO GIVEN that on Tuesday, May 25, 1999, at 8:15 a.m., at the Zephyr Point Presbyterian Conference Center, 660 Highway 50, Zephyr Cove, Nevada, the Governing Board of the Tahoe Regional Planning Agency will conduct a planning retreat on the TRPA Strategic Plan and FY 1999-00 Work Program.

May 17, 1999

[Signature]

Jerry Wells  
Deputy Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Stateline 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 GOVERNING BOARD AND
TAHOE METROPOLITAN PLANNING ORGANIZATION GOVERNING BOARD

Granlibakken Conference Center
625 Granlibakken Road
Tahoe City, California

May 26, 1999
9:30 a.m.

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

Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.

At the conclusion of action on the consent calendar, the TRPA Governing Board will recess its meeting and convene as the TMPO Board. Upon completion of the TMPO agenda, the TMPO Board will adjourn and the TRPA Governing Board will reconvene.

AGENDA

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND DETERMINATION OF QUORUM

III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, RTPA, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, RTPA, TMPO Appeal, and Planning Matter items will be taken at the time those agenda items are heard.

THE GOVERNING BOARD IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES

VI. CONSENT CALENDAR (see agenda page 3)

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

A. Public Interest Comments

B. Prioritization of Nevada Transportation Enhancement Act Project Applications
VIII. PROJECT REVIEW

A. Sierra Nevada College, New College Dormitory for 126 Students, Special Use Determination, 291 Country Club Drive, Incline Village, Washoe County APN 127-040-08

B. Ruvo, Existing Residence Relocation from Douglas County APN 01-190-09 to APN 01-070-26

C. Rosemeyer, Existing Pier Relocation and Expansion, Placer County APN 117-020-09, File #980224

IX. PUBLIC HEARINGS

A. Amendment of Chapter 4, Project Review and Exempt Activities, by Adoption of New Delegation MOU With the City of South Lake Tahoe

B. Amendment of Plan Area Statement 93, Bijou, to Create a Special Area #1

C. Amendment of the Stateline/Ski Run Community Plan

1. Amendment to the Permissible Uses Matrix

2. Amendment to Redistribute Commercial Square Footage

3. Amendment to Objective 2, Policy B, Regarding Construction of the Required Infrastructure Within the “Ski Run Village” District (3b)

D. Amendment of Plan Area Statement 58, Glenbrook, to Prohibit the Construction of New Piers Per the Glenbrook Shorezone Plan

X. PLANNING MATTERS

A. Discussion on Movement of the Individual Parcel Evaluation System (IPES) Line in El Dorado and Placer Counties

B. Discussion on Code Chapter 28, Natural Hazard Standards, Relative to Floodplain Maps

C. Discussion on Issues Relating to the Urban Boundary

D. Discussion on Request for Qualifications for Phase II of the Regional Revenue Source Analysis

E. Resolution Supporting Restricting Parking Along Highway 28

XI. ADMINISTRATIVE MATTERS

A. Authorization for Executive Director to Enter Into MOU With Douglas County to Establish a Land Coverage Bank
B. Resolutions for Board Members – 11:45 a.m.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee
   1. Discussion on Changes to Current Building Lease

B. Legal Committee

XIII. REPORTS

A. Executive Director Monthly Status Report
   1. Status Report on Project Applications

B. Legal Division Monthly Status Report

C. Governing Board Members

XIV. ADJOURNMENT

CONSENT CALENDAR

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. April Financial Statement and Check Register</td>
<td>Receipt</td>
</tr>
<tr>
<td>2. RTPA Resolution Accepting TRPA's Transportation Development Act Triennial Performance Audit for FYs 95-96, 96-97, and 97-98</td>
<td>Approve</td>
</tr>
<tr>
<td>3. Request for Water Quality Mitigation Funds ($300,000) to Washoe County for the Incline Village Commercial and the Lower Wood Creek Water Quality Improvement Projects</td>
<td>Approve</td>
</tr>
<tr>
<td>4. Request for Water Quality Mitigation Funds ($109,000) and SEZ Mitigation Funds ($74,000) to South Lake Tahoe for Water Quality and SEZ Projects</td>
<td>Approve</td>
</tr>
<tr>
<td>5. Allocation of Excess Fines and Forfeitures Account</td>
<td>Approve</td>
</tr>
<tr>
<td>6. Wilson, New Commercial Building and Residential Unit, 3100 N. Lake Boulevard, Dollar Hill, Placer County APN 93-130-31 and –26, File #970599</td>
<td>Approve Findings and Conditions</td>
</tr>
</tbody>
</table>
7. Lake Tahoe Community College, Two Modular Classrooms Addition, One College Drive, South Lake Tahoe, El Dorado County APN 25-010-54 File #990117 Approve Findings and Conditions P. 33


These consent calendar items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that an item be removed from the calendar, it will be taken up separately in the appropriate agenda category.

Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency’s staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Article III(g) Public Law 96-551

During the May 26 noon lunch break, the North Lake Tahoe Historical Society will provide the Board with a tour of the Gatekeepers Museum and the Marion Steinbach Indian Basket Museum, 130 West Lake Boulevard in the William B. Layton Park, Tahoe City, California.
TAHOE REGIONAL PLANNING AGENCY

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NOTICE OF AMENDED AGENDA
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

NOTICE IS HEREBY GIVEN that the regular May 26, 1999, Governing Board meeting agenda for the Tahoe Regional Planning Agency is hereby amended by adding the following item as Planning Matter item X. F.:

Special Projects Allocation, Commercial Floor Area, Request for Time Extension

May 18, 1999

By: ____________________________
    Jerry Wells
    Deputy 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.
REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Seasons Resort
South Lake Tahoe, California

April 28, 1999

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Larry Sevison called the regular April 28, 1999, meeting of the Governing Board of the Tahoe Regional Planning Agency to order and asked Vice Chairman Don Miner to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Mr. Cole, Ms. Bennett, Mr. Gile (present at 9:55 during discussion on Item VII.B.), Mr. Perock, Ms. Neft, Mr. Galloway, Mr. Sandoval, Mr. Heller, Ms. Medina, Mr. Sevison

Members Absent: Mr. Neumann

Chairman Sevison welcomed Leslie Medina to the Board as the new California Assembly Speaker appointee.

III. PUBLIC INTEREST COMMENTS

Mr. Don Kornreich, Incline Village resident, addressed the Board on a Basin impact fee, a memo to TRPA Executive Director Jim Baetge from the Incline Village/Crystal Bay Chamber of Commerce, the importance of raising $20 million for the EIP, and his current summary of average daily trips in Nevada.

Mr. Galloway noted that the Chamber’s letter to Mr. Baetge discussed things other than just the user fee as a source of revenue.

IV. APPROVAL OF AGENDA

Executive Director Jim Baetge noted there were no agenda changes.

MOTION by Dr. Miner to approve the agenda as presented. The motion carried unanimously.

V. APPROVAL OF MINUTES

MOTION by Dr. Miner to approve the March 24, 1999, minutes with spelling corrections (Dr. Miner’s name). The motion carried unanimously.

VI. CONSENT CALENDAR

Legal Committee member Drake DeLanoy asked that item 3 (Duffield resolution of enforcement) be taken off the calendar for discussion and separate action.
Finance Committee Chairman Kay Bennett noted her committee had met earlier in the day and recommended approval of items 1, 2, 8, 9, and 11.

Legal Committee Chairman Waldie explained that his committee had met earlier in the day and had voted two to approve and one to abstain on the Duffield matter.

MOTION by Mr. Galloway to approve all items other than item 3 on the consent calendar.

Associate Planner Kathy Canfield advised the Board that an April 22 memo to the Board contained additional conditions of approval for item 4 (Pet Network). A copy of an added condition to item 6 (Lake Tahoe Christian Fellowship) was distributed to members prior to the meeting. Applicants in both cases were agreeable to the changes.

Mr. Galloway's motion to approve items 1, 2, and 4 through 11 on the calendar carried unanimously.

(Following are items approved on the consent calendar:
1. March Financial Statement and Check Register
2. Resolution Amending Filing Fees (TRPA Resolution No. 99-5)
4. Pet Network of North Lake Tahoe, New Public Service Building, Animal Care Facility, 401 Village Drive, Incline Village, Washoe County APN 124-071-47, File No. 980770
5. Nixon, Resolution of Enforcement, Placer County APN 92-180-45
6. Lake Tahoe Christian Fellowship, New Church, 3580 Blackwood, City of South Lake Tahoe, El Dorado County APN 25-250-06, File #980953
7. South Tahoe Public Utility District, Flagpole Water Tank, New Public Service Facility, Access Road at the End of Chiapa Drive, Meyers, El Dorado County APN 035-010-11, File #980827
8. Authorization to Switch Banking Institutions From Bank of America and Nevada Banking Company to Norwest Bank
9. Resolution Amending FY 98/99 TRPA/Caltrans Overall Work Program (RTPA Resolution No. 99-7)
10. Round Hill Vacation Resort, Minor Modification to an Approved Mitigation Measure in the Project Environmental Assessment (EA) Affecting Project Phasing, Douglas County APN 005-230-11 (near intersection of Elks Point Road and Highway 50)
11. Placer County Request for Additional $200,000 in Water Quality Mitigation Funds for the Tahoe City Water Quality Improvement Project)

Duffield, Resolution of enforcement, 703 Champagne Road, Washoe County APN 126-243-03 (Consent Calendar Item 3)

Mr. DeLanoy explained that he had asked for discussion on this item because the public should know what the Legal Committee looked at in its review of enforcement activities. Applicants granted permits to build signed a pledge taking the responsibility for any violation of TRPA ordinances. In its capacity as representative of residents and visitors to the Basin, the Board took seriously any violations of that agreement. Although the Duffield matter had been settled, in the future he and others would look differently at violations based on compact language allowing the courts to impose additional penalties if violations were grossly negligent or intentional. For that reason, he asked the Board in
the future to determine whether a violation was willful and, if so, urge the courts to seek punitive damages based on the financial status of the violator.

Mr. Galloway explained the conditions of the settlement appeared to go in a minor degree to correction of the violations. Although the fine was hefty, the Board should give serious thought to those who violated conditions of development but who did not have to take something that mattered out of the project. They had only to pay a fine. This was not a good message to send to other developers. He was not sure that what the Duffields were being required to do was sufficient. He would, however, support the motion.

MOTION by Dr. Miner to approve item 3 on the consent calendar (Duffield, Resolution of Enforcement, 703 Champagne Road, Washoe County APN 126-243-03). The motion carried with Mr. DeLancy abstaining.

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION

Chairman Sevison recessed the TRPA Governing Board and called the Governing Board of the Tahoe Metropolitan Planning Organization (TMPO) to order. He welcomed Juan Palma to the TMPO Board as the representative of the U.S.D.A. Forest Service.

A. Public Interest Comments

TRPA Executive Director Jim Baetge commented on this first meeting of the TMPO Board and welcomed Juan Palma as a voting member. One task to be accomplished today was setting the rules for future operations and procedures. The TMPO Board consisted of the TRPA Board plus the Forest Service. Mr. Richard Wiggins was acting as the Transportation Manager for the TMPO, the TRPA, and the Tahoe Transportation District (TTD). The Board would see many changes in the coming months; this was the first step.

B. Resolution Adopting Rules of Procedure of the TMPO

Mr. Richard Wiggins explained that the TMPO had been two years in the making, and the proposed rules addressed the new body's voting and other procedures. These rules were based on TRPA's rules but deleted sections related to review of projects. The intent was that the TMPO Board meet on the same day as the TRPA Board and use the same agenda. The vote required for action was a simple eight vote, and the TRPA Chairman and Vice Chairman would serve as the TMPO Board officers. A right was reserved at a later time for the TMPO to elect its own officers if it wished.

Dr. Miner asked for the following rule changes: 1) Article II, Section 2.2(a)(i) regarding calling of special meetings – should be amended to comply with the Nevada Open Meeting Law and not as set forth ("publication of the date and place for such special meeting at least five calendar days prior to the meeting in a newspaper or combination of newspapers whose circulation is general throughout the Region..."). The Nevada Open Meeting Law required that notice be given based on business days (not calendar days) with a minimum of three days' notice. 2) Article II, Section 2.4 – In compliance with the Nevada Open Meeting Law, the third sentence should be amended to read, "No action shall be taken in the absence of a quorum, except that a lesser number of members may continue a meeting until a quorum is present."
Agency Counsel John Marshall responded that, because of the uncertainty regarding which set of laws the TMPO would operate under, staff had presumed it would be the Nevada Open Meeting Law, the same as for TRPA. Although not necessarily required, to be consistent the TMPO should use the Nevada Open Meeting Law.

Dr. Miner asked that use of the Nevada Open Meeting law be specifically set forth in the TMPO rules.

**MOTION** by Dr. Miner to approve TMPO Resolution No. 99-1 with the changes as requested.

(Mr. Giles came into the meeting.)

Mr. Steve Teshara, a member of the TTD Board of Directors, addressed issues discussed by the TTD and the desire to participate in key TMPO personnel hiring decisions.

Mr. Baetge concurred. He thanked Steve Teshara for the many years and tremendous effort he had put into the TMPO designation.

TTD Board members Bennett and Solaro spoke in favor of Mr. Teshara's recommendation on participation by the TTD in personnel selection.

Mr. Wiggins addressed further items, including the formation of a Tahoe Transportation Commission and determining its duties.

The motion to approve TMPO Resolution 99-1 as amended carried unanimously.

C. **Authorization for Executive Director to Enter Into MOU Regarding Implementation of the Federal Metropolitan Planning Process in the Tahoe Basin**

Mr. Wiggins noted that only certain items of the 30-page MOU had been highlighted in the Board members' meeting materials. The MOU was required between the TMPO, Caltrans and NDOT because of federal funding coming to the MPO, the relationship of TRPA as the administrative arm of this new body, and required identification of responsibilities. Mr. Wiggins presented more information on the MOU contents.

**MOTION** by Ms. Neft to authorize the Executive Director to enter into an MOU for the implementation of the federal metropolitan planning process at Tahoe. The motion carried unanimously.

D. **Status Report on Implementation of Home Mail Delivery in the Tahoe Basin**

Mr. Wiggins explained this matter was first brought to the TTD along with the question of whether funds should be programmed to conduct a survey of postal patrons to determine status of home delivery in the Basin for future implementation efforts. An existing postal service action plan on the books dated back to the early 1980s. Unfortunately it only addressed the South Shore. The intent today was to have a dialog between TRPA and the TMPO so that the Postal Service could understand the
relationship between the various agencies and provide feedback from the TMPO on how to proceed with the master planning process.

Ms. Rebecca Bernard, Operations Manager with the Post Office in Reno, introduced the working group who would be developing the mail delivery plan. These included postmasters from Tahoe City/Tahoe Valley, Incline Village/Crystal Bay, Carneal Bay, and Homewood, consultant Sue Rae Irelan and postal representatives from Denver and Las Vegas. The goal for the Postal Service was to provide mail service to the Tahoe Basin that encouraged residents to drive fewer miles. This would be done by offering rural home delivery of mail. Carriers on wheels could offer most services provided at the post office. Goals included encouraging the public to fill out the form requesting establishment of rural delivery, expanding current postal services to accommodate the carriers, and establishment of rural delivery in as many communities as possible. Currently, South Lake Tahoe had individual home delivery and Incline had predominantly mail delivery to neighborhood units. Ms. Bernard provided more information on rules for mail carriers regarding home delivery, formation of the working group to include community members and a TRPA staff member, and the hiring of Sue Rae Irelan to assist with the plan. The next step was to present a work plan to TRPA for approval, an ad campaign for the survey, and drafting and adoption of the master plan. The schedule called for completion of the action plan proposal by February 2000. Previously the Postal Service had focused more on the negative aspects of mail delivery rather than looking at what it could actually do. The focus and approach had shifted. Ms. Bernard responded to Board member questions.

The Board members and staff complimented the Postal Service and Ms. Irelan for stepping forward in such a positive manner to complete the action plan.

Ms. Irelan explained the survey was intended to address service needs and to determine travel patterns.

Ms. Bennett urged that the Postal Service and the participants in the master plan process keep the Tahoe Transportation District updated on the process.

Ms. Patricia Ronald, for the League to Save Lake Tahoe, spoke in favor of this process as a mechanism to reduce vehicle miles traveled. She would prefer to have it implemented throughout the Basin and not just on a voluntary basis. She urged the use of vehicles with alternate forms of fuel.

The Forest Service representative Juan. Palma commented on the historic importance of the moment. The Forest Service, on behalf of the public, managed 80 percent of the land in Lake Tahoe and was looking forward to the possibilities in being able to participate with this board on transportation issues. This was an exciting time, and much work remained to be done.

XIV. REPORTS

A. Governing Board Members

1. Request of Board Member Waldie for Reconsideration of the Following: Robinson, The Dunes, New Multi-Family Dwelling, Subdivision, and Modification to Shoreline Protective Structures,
Board member Jerry Waldie explained he had asked this be put back on the agenda at the request of Deputy Executive Director Jerry Wells, who had concerns with notice provided to affected property owners prior to the March Board meeting. The project was approved on the consent calendar at that time. In his opinion, the opponents to the project were not legally entitled to present the deficient notice as a reason for their confusion. There was sufficient legal response to the requirements of notice. During the review process, the Feeleys, the neighboring property owners, had raised issues, and staff was under the impression that with some changes in the application their problems had been accommodated. Mr. Wells became aware subsequent to approval of the consent calendar that the applicant’s representative, Mr. Basile, was in the hallway during the Board’s action on the calendar. In Mr. Waldie’s opinion, Mr. Basile had erred and should have been present when the calendar was called and should have consulted staff as to his confusion on the notice. He should have asked the matter be taken off the consent calendar. He did neither. Mr. Lien, attorney for the applicant, correctly argued there was no duty on his part to inform his opponent the case was being called. In Mr. Waldie’s opinion, however, there was a courtesy demanded of counsel that counsel be informed the matter was about to be called. This was not done. By the time Mr. Wells became aware that the opponents were out of the room when the calendar was approved, the project proponents had left. It would have been a great imposition to reconsider the matter at the March meeting with the proponents having left the site. It was a situation fraught with unanticipated dilemmas that were not dealt with very comfortably by all parties concerned. He had acquiesced to Mr. Wells’ request to place reconsideration back on the agenda. As to the consent calendar, it was a unique procedure, and only issues without an iota of disagreement or opposition should be placed on it. On this Robinson matter there was a big question as to opposition. It was handled by the opposition and by other parties poorly. The fact was not altered in the slightest that this project had opposition and not altered in his view that the duty of the Board was to provide a forum for that opposition to be expressed.

**MOTION** by Mr. Waldie to reconsider the Robinson new multi-family dwelling, subdivision, and modification to shoreline protective structures.

Agency Counsel John Marshall advised that a five-nine vote was required. Should the motion carry, the matter was on the agenda for action at this meeting.

Mr. Baetge explained that only affected and noticed property owners or Board members could request that an item be taken off the consent calendar. In practice, however, if a member of the public who was not noticed wanted an item to be pulled staff would direct that person to a Board member for a request.

Chairman Severson inquired if Mr. Basile or Mr. Feeley were present in the audience. Neither was present.

Mr. Marshall advised that he had contacted Mr. Basile on April 27 to let him know the project was on the agenda for reconsideration and formal action.
During the roll call vote for reconsideration, Mr. Gregg Lien, attorney for the Robinsons, inquired about his ability to comment on the matter.

Mr. Marshall explained that the Rules of Procedure did not address whether there should be public comment on a motion for reconsideration. To be in a more defensible position, the Board may choose to take public comment; it was not a necessity.

Mr. Lien withdrew his request.

Mr. Waldie's motion for reconsideration failed on the following vote:

Ayes: Mr. Perock, Mr. Cole, Ms. Medina, Ms. Bennett, Mr. Waldie, Mr. Giles
Nays: Dr. Miner, Mr. Galloway, Ms. Neft, Mr. Heller, Mr. Sandoval, Mr. Solaro, Mr. DeLanoy, Mr. Sevison
Abstain: None
Absent: None

The Board members discussed the rules affecting the consent calendar and procedures for requests for reconsideration.

Chairman Sevison explained that with the Board's action on the request for reconsideration, item VIII C. (the Robinson project) was deleted from the agenda.

VIII. PROJECT REVIEW

A. Stateline Casino Core, Areawide Stormwater Drainage Project Douglas County

Project Review Planner Kara Russell distributed a revised condition of approval on the project and presented a summary of the project for which the Board had certified an Environmental Assessment in February 1998. She presented information on affected properties, on the plan and proposed facilities, and on the revised condition requiring implementation of an approved monitoring plan for a minimum of five years. Construction would commence in June this year and be completed in June of 2000. Ms. Russell responded to Board member questions about maintenance of the facilities and the quality of runoff from Golf Course Creek.

Consultant Gary Midkiff, project coordinator for the affected properties, presented a history of the project dating back to 1978 and placement of a condition of approval on the Sahara Tahoe Hotel tower and the Park Tahoe Casino Hotel for installation of stormwater facilities on their sites. Over the years, he had negotiated with all parties a more detailed agreement for each property to collect and pretreat everything on their sites prior to discharge to a common facility. The participants shared the cost proportionally based on percentage of surface area. The adoption of the Community Plan for the Stateline area in 1993 required an irrevocable commitment of funds to implement the stormwater package prior to release of any additional commercial floor area. Mr. Midkiff presented more information on the specific details of the proposal and the likely participation of the nearby Wells Fargo Bank. Issues of note in the staff report related to the project security and the monitoring security. The conditions would require a project security. The project contract would be let and managed by NDOT. NDOT's
contract required the posting of a 100 percent performance bond for completion of the total project. The project by definition was a stormwater BMP project, and he was working with staff on what the security needed to be. The applicant would post a reasonable security to maintain the temporary BMPs through the construction period, since there would be a performance bond in place for the actual implementation of the vaults and facilities. Staff also required a $5,000 fee to cover inspection costs, and he would work with staff to track so that if the costs were substantially less there could be a refund. There was a requirement for a security for the monitoring program for all points of monitoring. Staff had agreed that it was a reasonable adjustment that the applicant would monitor and provide a security for monitoring the final point of discharge from the entire system. The security for monitoring would be for the monitoring cost associated with the point of discharge.

Dr. Miner asked that the approval of the project include a condition requiring that the monitoring costs be shown at actual costs and staff is directed to maintain records of personnel and bill the Stateline stormwater project for actual cost of monitoring.

Mr. Phil Herbeck, Operations Manager for Harvey’s and president of the Association, addressed the cooperative effort of public and private entities over the years to get the project to this point. It would be a great system. This was miles beyond the water quality treatment facilities in the casino core now. He complimented all participants. With regard to the special project security provisions, he urged the Board to continue to work with the Association. All private participants had budgeted for this year to get the job done and hoped the mitigation costs could be kept within reason so that the focus of the resources could go onto the ground.

No one else wished to comment.

Ms. Russell explained that the permittee would have to submit a maintenance schedule for the individual systems and the common facilities. (She noted that the required findings at the top of page six of the staff summary should refer to Governing Board approval, not Hearings Officer approval.)

MOTION by Dr. Miner to make the findings to approve the Stateline Areawide Stormwater Drainage Project. The motion carried unanimously.

MOTION by Dr. Miner to approve the project with conditions as amended and including a requirement that oversight costs be actual costs. The motion carried unanimously.

XI. PLANNING MATTERS

B. Report by Caltrans and NDOT on Salt and Abrasives Use on Tahoe Basin Highways

Senior Planner Mike Solt advised that this annual report to the Board was a Code requirement. The use of salt and abrasives on Basin highways was a recognized necessity as a public safety precaution in the winter months, and it was also recognized that their use had an impact on several thresholds of concern, including water quality, soil, air quality, and vegetation. The Highway Departments had set a standard of a 30 percent reduction in salt use dating back to 1989; that goal had been met by both highway departments during the past ten years, and both continued with practices to
further reduce reliance on salt. Recently an interagency winter operations and maintenance committee was formed to exchange information on effectiveness of new methods used on a trial basis.

Mr. Dale Ten Brock, on behalf of Irene Itamura, the District Director for Caltrans District 3, and Mr. Thor Dyson, Assistant District Engineer for NDOT, distributed handouts to the Board and discussed both state programs, snow days per winter, amounts of snow removed, salt use in the Basin, experiments in other areas with liquid deicers, cooperative programs, monitoring and personnel training.

The meeting recessed for a lunch break from 12:15 to 1:25 p.m.

VIII. APPEAL

A. Chase, Appeal of Executive Director Decision Denying Relocation and Expansion of Existing Single-Use Pier, Douglas County APN 03-080-27, TRPA File #990043

Associate Planner Charles Donaldson presented a summary of the denial of a request to relocate and expand an existing single use pier. The denial was based on the fact staff could not verify an existing pier on the property to relocate and expand and could not recommend a finding that the existing structure had been serviceable in the past five years. In staff’s opinion, the structure the applicant was calling a pier was part of a marine railway system. The applicant had appealed this decision. Mr. Donaldson distributed photographs of the site and responded to Board member questions regarding the littoral parcel and the identification of the site as a fish habitat.

Mr. Gary Midkiff, consultant for Shari Chase, noted that the Code defined a pier as a platform extending beyond the high water line. The structures in question included a platform and a boathouse that extended beyond the high water line of Lake. The definitions in the Code supported his appeal and entitled the littoral property owner to a pier and two mooring buoys. An existing pier could be repaired and, in most cases, extended. This was clear in the Code, and staff was attempting to modify the interpretation of the Code without changing the Code. Mr. Midkiff presented more information and affidavits on past use of the house and shoreline structures and the applicant’s position that the structures met the Code definition of a pier and a boathouse. He responded to Board member questions about the condition of the structures, the serviceability of the railway, the separate nature of the railway and pier and boathouse, the property owner’s understanding of what shorezone uses were permitted when the property was purchased, and past uses.

Mr. John Gianotti, co-owner of the property with the appellant, described his desire over the years to own and live on shoreline property, verification given earlier in a backshore boundary clarification of the existence of a pier and a boathouse, and his wish to fish on the Lake. He urged the Board to grant the appeal and to concur with Mr. Midkiff’s points.

The Board members, the staff and the appellant discussed the configuration and relationship of the structures, the appellant’s effort to treat the separate components of the structure, definitions, staff’s evaluation of the structures, how the structures were used over time, the proximity of the structures to the high water line, the need for clarification in the upcoming shoreline ordinance amendments, and the affidavits.
MOTION by Dr. Miner to approve the Chase appeal. The motion failed on the following vote:

Ayes: Mr. Cole, Dr. Miner, Mr. Galloway, Mr. Solaro,
Nays: Ms. Medina, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Heller, Mr. Giles, Mr. Sandoval, Mr. DeLancy, Mr. Perock, Mr. Sevison
Abstain: None
Absent: None

Executive Director Jim Baetge explained that the Shorezone Ordinance Amendments EIS was currently out in circulation for comment. The whole package was designed to address issues in the shorezone, including clarification and clean up of all shorezone regulations.

IX. PROJECT REVIEW (continued)

B. Incline Village General Improvement District, New Skate park, 949 Southwood Boulevard, Washoe County APNs 127-030-15, 016 and –02, and APN 127-040-07, TRPA File #980910

Associate Planner Kathy Canfield presented the staff summary for approval of the District's proposed skate park and the 14,400 square feet of new land coverage. She distributed letters received by staff on the project. The project would not be visible from the roadway, and no lighting was proposed. Any proposal to add lighting over 26 feet would have to come back through TRPA.

Mr. Doug Doolittle, Incline Village GID director of Parks and Recreation, explained planning for this project by independent groups in Incline started back in 1992. The latest group was the Incline Skateboard Foundation, and this group would help finance part of the project in the amount of $25,000 of in-kind services or cash from fund-raising events. Many meetings had been held locally and at the Commission level on this project, the goal being to provide a safer alternative for skateboarding than streets, sidewalks, and parking lots and to provide an opportunity for skateboarders to improve their skills. There would be no charge for use of the park, and the business leaders in the community would see a great benefit in getting the skaters out of the parking lots.

Mr. Galloway explained the community impacts of the project were extensively discussed at the Washoe Commission level, and it was determined to be a positive activity for the community. It was approved at that level. The question before TRPA should focus on the environmental impacts.

Mr. Perock spoke on the very positive impacts of a similar facility in Carson City.

No one from the audience wished to speak on the project.

MOTION by Mr. Heller to make the findings for approval of the IVGID skateboard park. The motion carried unanimously.

MOTION by Dr. Miner to approve the project with conditions.
PUBLIC HEARINGS

A. Amendment of Chapter 4, Project Review and Exempt Activities, by Adoption of New Delegation MOU With El Dorado County

Mr. Rick Angelocci, Chief of Project Review, presented a summary of the delegation MOU with El Dorado County and the goal of the MOU to expand the Permit Integration Program. This was one of several MOUs coming to the Board. Currently the County reviewed all residential projects. Some of the activities this MOU would delegate to the County were review and approval of multi-person dwellings, nursing facilities, residential care facilities, minor additions/modifications to tourist accommodation uses, and coverage transfers. The APC voted unanimously to approve it. In other actions, the City Council adopted the TRPA Plan Area Statements as a part of the City’s General Plan. This would be brought to the Board next month. Additionally, Douglas County had voted to put a planner in TRPA’s office to work on Douglas County projects. Staff would be working with Placer and Washoe Counties to expand their MOUs.

No one wished to speak during the public hearing.

MOTION by Mr. Solaro to approve the MOU between TRPA and El Dorado County as proposed. The motion carried unanimously.

Chairman Sevison noted this was a very positive step. He read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, By Amending Chapter 4 of the Code of Ordinances of the Tahoe Regional Planning Agency Relating to the Exempt Activities; Providing for a Memorandum of Understanding Between the Tahoe Regional Planning Agency and El Dorado County to Exempt Certain Activities From TRPA Review; and Other Matters Properly Related Thereto.

MOTION by Mr. Solaro to adopt Ordinance No. 99-13. The motion carried unanimously.

B. Lake Tahoe Source Water Assessment and Protection Program – continued to a later meeting

C. Amendment of the Boundary Line Between Special Areas #1 and #2 of the Tahoe Vista Community Plan to Include Placer County APN 117-072-012 in Special Area #1

Associate Planner John Hitchcock presented the history of the uses on the parcel dating back to July 1992, when the residence on the parcel burned down. The parcel was located in Special Area #2, where residential uses were not a permissible use. Residential uses were, however, permitted in the tourist Special Area #1. When the boundary line was drawn in 1996 the parcel was put in Special Area #2 because it was vacant. Staff assumed, because there was no residence, that the property should go into the commercial Special Area #2. This was a Community Plan area and Special Area #1 was a tourist accommodation area; the policy encouraged tourist uses and beach access. To that end, staff recommended and the applicant had agreed to provide a ten foot easement above high water as a part of the amendment. Mr. Hitchcock responded to questions regarding the delineation of the easement.
Agency Counsel John Marshall explained that in this case there would be an irrevocable offer to dedicate the easement to an entity that would accept the offer. The easement was defined in the offer as ten feet landward of the mean high water mark. The applicant had agreed not to block public access or to put up a private property sign.

Mr. Sevison advised that in the early 1960s he had built the cabin on the site. It had been a long time since he had had any involvement with the property. He questioned if he had a conflict.

Mr. Marshall responded that he did not.

No one wished to comment in the public hearing.

**MOTION** by Dr. Miner to make the findings to approve the amendment. The motion carried unanimously.

Chairman Sevison read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, By Amending the Regional Plan of the Tahoe Regional Planning Agency, Amending the Tahoe Vista Community Plan to Amend the Boundary Line Between Special Area #1 and Special Area #2 to Include Placer County APN 117-072-01 Into Special Area #1, and Providing for Other Matters Properly Relating Thereto

**MOTION** by Ms. Neft to adopt Ordinance No. 99-14. The motion carried unanimously.

**D. Amendment of Chapter 20, Land Coverage, Relative to Maximum Land Coverage in Adopted community Plans**

Associate Planner John Hitchcock explained the amendment was intended to clean up and add consistency between Code sections. The proposed language would allow parcels that had been subdivided or newly recorded due to boundary line adjustments to be eligible to transfer in up to a total of 50 percent coverage for multi-residential, recreation, tourist accommodation, or public service projects when located within an existing adopted Community Plan. Although there was a concern on the part of one APC member regarding the definition of a new parcel in the Basin, this was a point not related to the boundary line issue. The Advisory Planning Commission voted to approve the amendment.

No one wished to comment in the public hearing.

**MOTION** by Ms. Neft to make the findings to amend Chapter 20 as proposed. The motion carried unanimously.

Chairman Sevison read the ordinance by title:

An Ordinance Amending Ordinance No. 87-9, as Amended, By Amending the Code of Ordinances of the Tahoe Regional Planning Agency, Amending Chapter 20, Land Coverage, Subsection 20.3.B(3), and Providing for Other Matters Properly Relating Thereto
MOTION by Dr. Miner to approve Ordinance No. 99-15. The motion carried unanimously.

E. Performance Review Committee Recommendations on Distribution of 50,000 Square Feet of Commercial Floor Area Allocations to Local Jurisdictions

Senior Planner Paul Nielsen presented the recommendation of the Performance Review Committee for distribution of 50,000 square feet of commercial floor area to local jurisdictions based on completion of capital improvement projects. The item was continued from December at the Board's request so that the Committee could consider additional information on criteria for establishing the ratings. The Committee had met two times since then and had agreed to clarify the criteria used. Based on that criteria, some changes were made. Significant capital investment had been made by local jurisdictions towards achievement of environmental goals. He responded to Board member questions.

No one wished to speak during the public hearing.

MOTION by Dr. Miner to make the finding of No Significant Effect for apportionment of the 50,000 square feet of commercial to local governments. The motion carried unanimously.

MOTION by Dr. Miner to adopt Resolution No. 99-6. The motion carried unanimously.

X. PLANNING MATTERS

A. Discussion on Movement of the Individual Parcel Evaluation system (IPES) Line in El Dorado and Placer Counties

Senior Planner Joe Pepi explained the criteria to be met for movement of the IPES line in the two California counties. The vacant lot equation required that the number of parcels with IPES scores below the line divided by the number of parcels deemed sensitive could not exceed 20 percent in California. At this time, Placer County was at 49 percent, and El Dorado County was at 28 percent. El Dorado was 349 parcels away from the 20 percent figure, and Placer was 485 parcels away. At the Board's earlier recommendation, a workshop meeting was held on April 6 to discuss ways to achieve the 20 percent threshold. Options discussed by the group for achieving this included looking at consolidation of parcels, possible removal from the inventory of 38 parcels owned by local government agencies, clean-up of vacant properties not now eligible for buy-out by acquisition agencies because of their fire hazard, scoring the 212 unscored sensitive lots for a more complete picture of the scoring distribution of vacant parcels above and below the line, and addressing the small sliver parcels now in the inventory which had limited suitability for development. At best the acquisition agencies in attendance at the workshop determined they could acquire and thereby reduce the inventory by 80 additional parcels per year. This would mean two to three years in El Dorado County to reach the 20 percent and four to five years in Placer County. While these options did not provide a quick fix for the immediate future, they were potential avenues to address the line's movement, given the criteria in the Code and the 208
Plan. Any consolidation of lots, particularly high scoring lots, should be deed restricted to prevent future splitting.

Mr. Larry Hoffman, on behalf of the Tahoe Sierra Preservation Council, a property rights organization in the Basin, commented on the number of times discussion on movement of the IPES line had come before the Board. The issue was one relating to approximately 2,000 single family parcels in approved, established subdivisions in California with non-pass IPES scores. As long as the IPES program stayed in place, it constituted a taking. Mr. Hoffman presented a history of the process dating back to litigation on the 1984 Regional Plan. His summary addressed the consensus process; the ranking of vacant residential lots jurisdiction by jurisdiction based on criteria relating, in part, to lot sensitivity; and the intended movement of the line through the inventory of lots based on public agency lot acquisition and capital improvements by local governments. The lion’s share of the acquisition programs was completed and considerable dollars had been invested by local jurisdictions on capital improvements. The reason for the rule was no longer a justification. The line in California had not moved, and the math did not work. The Board’s earlier direction for staff to look at what other options were available had been done, and he was still being told it would be years before the line came down in California. In Nevada the line was near the bottom of the bucket, with the exception of stream environment zone lots which had zero scores. There was a disparate system between the States; people were being treated differently. There also was the benefit of substantial litigation and case law which found that a taking existed if a lot owner could not make use of a lot. The current regulatory system in the Basin exposed TRPA to defensible legal challenges. He urged the Board to take a second look and change the system by amending the ordinances and plan. The reason for the rule in the first place had been met, and there no longer was a need for the regulation; it was not achieving anything. Movement of the line as anticipated by staff was just the beginning of the line’s movement. For eleven years, the line had not moved in California. He would like TRPA to get rid of the line altogether, as there was a cap on building already in place because of the fixed number of allocations issued per year.

Mr. Hoffman and staff discussed with the Board the impact of treating all lots in the Basin as a unit and not by state, problems encountered in shifting from the Bailey Land Capability System to the IPES program in 1989, reasons the anticipated line movement had not occurred as estimated, what could be done to achieve purchase of sensitive lots, setting guidelines and a deadline (such as 24 months) for California’s achievement of the same status as the Nevada counties, allowing lots to come into the system that were capability 4-7 (higher capability) under Bailey but which under IPES were below the line, and the potential for litigation.

Executive Director Jim Baetge explained that the working group that met in early April was trying to administratively fix the IPES line situation. Mr. Hoffman felt those administrative fixes would not work. The Board should be aware that another process was underway geared towards amending the 208 Plan to address this issue. However this evolved, there would be legal issues. One qualification with Mr. Hoffman’s summary of the process to date was that rates of capital improvements at the local level had not occurred at the rate that was needed. The acquisition program did take a dip in the 1990s, but it was on an upswing now in both states. The question was how quickly the agencies could move to acquire the properties. He suggested that the 208 amendment
process proceed, even though TRPA may be at risk during that time period. The three-year time frame was probably how long that amendment process would take.

Mr. Giles questioned whether TRPA had the legal authority to set a goal of resolving the issue in 24 months. At that time TRPA would treat California lots the same as it did Nevada's.

Mr. Marshall responded that TRPA had that authority so long as it took the necessary steps to get there. If the Board were looking at substantial structural changes to the 1987 Plan, an amendment of the 208 Plan would be required. The amendment process had certain timelines. If the problems could be solved with non-208 Plan fixes, that could be done relatively expeditiously. Structural changes to the 1987 Plan would take longer to accomplish. The 1984 Plan which resulted in TRPA being sued by the California AG and the League to Save Lake Tahoe contained the provision now suggested by Mr. Hoffman to allow a certain number of sensitive lots to be built on every year. That plan was declared by a court to be invalid. The goal was to protect the Lake, and the Agency had to figure out how to accomplish that with a minimum of exposure.

The Board members discussed further the legal implications of the status of the California line. Mr. Marshall recommended the Board continue to pursue all available strategies – to defend the 1987 plan in court, to look at correcting any known fairness issues, to consider ways to bring the IPES line down – with a realistic view that if significant fixes needed to happen, they would take a number of years to come on line.

Mr. Hoffman suggested that whatever the Board chose to do should be on a fast track under Board control, and it had to be a high priority. He would not want it to be one of those issues that was visited once a year. He wanted a course of action that would get to resolution.

Mr. Dan Siegel, with the California Attorney General's office, advised that the major reason his office had brought the lawsuit against TRPA's 1984 plan was that it allowed limited development of environmentally sensitive lots and unimproved lots. The injunction was upheld in the courts. The idea of the IPES system with a lowering of a line was extremely controversial because it was a system which allowed development of environmentally sensitive lands. The resulting formula agreed to by all allowed a number of parcels that potentially could be environmentally sensitive to be developed, but that number would be sufficiently small that everyone could live with it. That formula was very important to his office and to the League to Save Lake Tahoe. TRPA now operated under the 208 Water Quality Plan, a plan certified by California and Nevada and approved by EPA. The formula was explicitly stated in that plan. Any amendment would require an analysis showing whether the new approach was at least equal in terms of protecting Lake Tahoe as the current plan. The AG was not closed to amending the 208 Plan, but there would be strict environmental standards applied to amending it. Staff was looking for ways to legitimately lower the IPES line in California, while being faithful to the 208 Plan. Mr. Siegel presented more information on these options, noting that the Sutlum issues had nothing to do with the IPES line. SEZ lots were unaffected by the IPES line.

Mr. Severson commented on the decreasing number of willing sellers in California and the impact on lowering the line. He did not think the line would move in three to four years; it would be more like dozens years if acquisitions were a prerequisite. In spite of
significant efforts to encourage the buy-out programs, they were not proceeding as hoped and as anticipated.

Mr. Cole suggested there was an assumption the IPES line would move; that was in response to concerns of a takings. The idea of having a system which allowed movement of the line allayed the legal concerns with a takings. There were problems if the line had not moved and it would not move in anyone’s lifetime.

Ms. Bennett commented on the hard work in the last five to six years to attract a high level of attention to the Tahoe Basin, resulting in large amounts of dollars from the states and federal government to protect Tahoe’s water quality. Nevada was considering another $57 million. She was concerned with the message being sent to those who had invested public dollars on the EIP program if TRPA were going to make it possible for there to be more private development. It was reasonable to look at opportunities, but not to eliminate IPES and allow development on all properties.

Dr. Miner suggested there were no provisions for unlimited buildout of all parcels, since there was a fixed limit of 300 permits per year in the Basin. If the line were lowered, there still would be 300 permits distributed equitably throughout the Basin. There was no carry-over from one year to the next, and allocation was conditioned on certain capital improvement projects being factored in. He favored a first come-first served allocation system up to the number of residential units allowed in any one year. His concern was whether there was sufficient time to make amendments; 208 amendments would be a major effort, as would amendment of the 1987 plan. He questioned what could be done to work toward more parity – without giving up any existing controls.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, explained that if Mr. Hoffman had been at the April 6 workshop, he might feel differently about the issue. Those who had participated, including real estate agents, left the meeting quite confident that with the measures being looked at the necessary lots could be retired faster than the 208 Plan amendments could be processed. Ms. Nason commented on the possible increase in funds for the California Tahoe Conservancy from $5 to $7 million to $23.5 million, and the more active management of the Forest Service and its commitment to the Burton-Santini program. There was a vastly greater amount of money coming into the acquisition agencies than there had been for the last few years. Ms. Nason commented further on the April 6 discussions and reasons for people being unwilling to sell their lots, including clean-up requirements and tax reasons. The League was looking at volunteer cleanup programs and at developing a land trust for trades, homeowner association arrangements, and other programs. The acquisition concern could be addressed expeditiously if the League, the Preservation Council, and the realtors associations cooperated in the effort. Her understanding of the reason Nevada’s programs were different from California’s was that it was a recognition of the fact that Nevada had a different land use pattern and not the enormous numbers of subdivision lots. The League could support 208 Plan amendments if Lake Tahoe could be better protected with the amendments as a package.

(Mr. Cole left at 4:05 p.m. during the following discussion.)

The Board members discussed setting fair market value of properties in an effort to get people to sell lots, the reasons people were unwilling to sell, condemnation and lawsuit potential, the problem that current fair market value for an unbuildable lot was below that
of a buildable lot, land costs over time in the Basin compared with other areas, return on investment,

Mr. Galloway suggested that if the ultimate goal was to retire a certain number of low scoring lots and the Board knew that amount then only an equivalent mechanism could replace that system - otherwise the Agency would be backing off its objective and getting into a vulnerable position. He did not favor condemning properties in an effort to advance the program. It appeared the Board was handicapped by some of the technicalities of the IPES program and how it worked.

Mr. Baetge explained that the April 6 meeting did provide some options. The reason everyone was optimistic about what was going on in the Tahoe Basin was that many of the battles were in the past. The hope was to get to solutions. The threat of costly legal battles would kill where everyone was hoping to go. The Lake would be lost. There were solutions available, including amendment of the 208 Plan, if everyone could buy into it. He would prefer to have everyone, including Larry Hoffman, sit around the table and amend the 208 Plan in a cooperative effort. This was not beyond doing.

Chairman Sevison asked staff to provide a list of things that could happen to accomplish this once and for all at the May meeting.

Mr. Giles suggested that the Board had a responsibility to people around the Lake to let them know at least what was going on. This included Mr. Hoffman's clients. He would like to see as much time as possible reserved in May to handle this issue and to make a decision. The Board was better making a decision and was even better off in litigation if it had a well thought out decision to act on. He would like to see the issues narrowed down. Handle it sooner than later, and reduce the agenda of other matters.

Mr. Baetge responded that much of the Agency's success had not come from the Board giving directions but from the community and many players coming together on solutions everyone could agree on. This did not and would not happen over night. He really felt this effort to reach a community consensus for presentation to the Board was a successful approach.

Ms. Bennett suggested it would be very helpful in May to spend substantive time clarifying the issue and providing direction for the staff on what questions to ask and how to proceed. This had to be done in the context of the EIP.

Mr. Sevison also inquired about the number of parcels per county and per year that were below the line. The Board should know how significant those numbers were. To spend days and hours trying to come up with solutions for just a few parcels was not an efficient way to deal with the problem. In view of the remaining items on the agenda he asked that this issue be continued to May.

Mr. Dwight Steele, a participant in the 1980s' consensus process, noted that he and others were pressing at that time for the ability to raise the line as well as lower the line should the conditions warrant it and the Lake's clarity be getting worse. He was not urging that issue to be revisited but he suggested the anticipated progress had not been made in slowing the loss of clarity. To now consider loosening up controls would be a grave mistake.
Chairman Sevion reiterated that the matter be placed on the May Board agenda. In the meantime, he would get some numbers from the California Tahoe Conservancy on its acquisition program and how it was progressing. He also would like Juan Palma to speak on the number of substandard lots not eligible for the Forest Service’s acquisition program because of their fire hazard. He would like to see what options were possible with these properties and if there was a different way to treat these properties. The Conservancy had given the Forest Service millions of dollars to keeps its programs going.

Ms. Bennett asked that there also be more information for the Board on the earlier consensus work.

Ms. Medina and other Board members asked that the Board be provided some information on the 208 Plan.

Mr. Marshall offered for next month to prepare a briefing packet on the issue as it related to litigation risk.

Mr. Hoffman noted that if a decision would be part of the May package he would concur with the continuance. If it was just more dialog, he was not in favor.

Chairman Sevion directed that the matter be continued to the May meeting. There was concurrence from other Board members.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

B. Legal Committee

1. Consideration of Proposed Settlement in Suitum v. TRPA

Legal Committee Chairman Jerry Waldie advised the committee that the settlement and unanimously recommended its approval by the Board.

MOTION by Ms. Neft to approve the settlement in Suitum v. TRPA. The motion carried unanimously. (Members present: Medina, Galloway, Neft, Bennett, Waldie, Heller, Giles, Sandoval, Solaro, DeLany, Perock, Miner. Sevion Member absent: Cole)

(Mr. Giles left the meeting at the conclusion of this vote.)

XII. ADMINISTRATIVE MATTERS

A. Filling Vacancies on Governing Board Committees

Chairman Sevion asked for Board approval appointing Leslie Medina and Terry Giles to the Legal Committee and Leslie Medina to the Rules Committee.

MOTION by Dr. Miner to approve the appointments. The motion carried unanimously.

Mr. Waldie commented on previous comments during the IPES discussion regarding the money poured into the infrastructure when IPES was first brought forward. Mr. Steele had suggested that the Lake was continuing to erode despite all the positive investment...
that had been put into this and other programs. He asked that staff's briefing papers also touch on this aspect of the puzzle.

Mr. Baetge concurred that staff would address this.

XI. PLANNING MATTERS

B. Discussion on Code Chapter 28, Natural Hazard Standards, Relative to Floodplain Maps

Mr. Galloway asked for Board members to stay for the discussion on this matter with the hope that at a future meeting the Board would be taking some action.

Ms. Bennett explained this subject would have an effect on future erosion control and other potential projects coming forward to the Board.

Chairman Sevison suggested that staff provide an overview at this meeting and that the Board schedule possible action for the May meeting.

Senior Planner Joe Pepi explained that the Agency's Code prohibited the development, grading or filling of lands within the 100 year flood plain. (He distributed a copy of Chapter 28.) The flood plains were established by the U.S. Army Corps of Engineers and the 100 year flood plain maps used by the Federal Emergency Management Agency (FEMA). TRPA was not an expert in this area and relied on the maps produced by the Corps and FEMA, the agency responsible for implementation of the flood insurance program. Areas within the flood plains as shown on the maps were subject to the provisions of the Goals and Policies and the Code with regard to disturbance. The issue of concern related to overlap or differences in delineation between the FEMA and Corps maps. The maps were used by these entities for different purposes. The FEMA maps were designed for the flood insurance program and were used to determine what the hazard was for developing flood insurance rates. The FEMA maps did not represent all areas subject to flooding and were recognized to be drawn at a minimum standard. Staff's position was that if there was a question regarding the accuracy of the maps, an applicant should go to the entity which produced them and follow its procedures for getting the maps reviewed.

(Mr. Sandoval left the meeting at 4:25 p.m.)

Mr. Galloway explained that several Washoe County applicants had expressed concern to him about projects that might or might not be in a 100 year flood plain. The Corps and FEMA maps differed on the delineation of these areas. According to the Washoe County Engineer, some of the areas were actually identified as 500 year flood plain designations. Applicants whose projects were being held up had tried without success to work with the Corps to review the accuracy of the maps. Some applicants had hired their own consultants to prepare calculations; the Corps was inconsistent in whether to review or not review the newer calculations. The Agency's ordinances did not give the Corps' maps a priority over the FEMA maps. The ordinance only directed an applicant to look first at the Corps and FEMA maps. Where they both agreed, there was no problem. The ordinance contained no conflict resolution should the maps disagree. There currently were four or five projects being held up because of problems in this area. If this issue was not resolved, there would be a de facto moratorium on these projects for
a year, because it would take that long for the Corps to update its hydrologic study and conduct the field checks. The Corps had advised him that the backup used for the maps now in use was informal and unofficial. What was available for applicants was a book of maps with no calculations, no hydrologic data to back up the boundaries. He was asking that the Board make a policy determination regarding a course of action for applicants until the Corps could update its maps. He suggested that the Agency delegate to an outside expert or group of experts the determination on the accuracy of the boundaries.

Mr. Gary Midkiff, a project consultant, explained problems with an Incline property that was extremely built out but which according to the Corps maps was in a 100 year flood plain. The proposed project on the site would reduce coverage by 22,000 square feet and provide scenic and water quality improvements. The property was shown in the flood plain, however, and could not be reconstructed because of its location. He had worked with staff to have a consultant prepare a scope of study. The study was completed, but the Corps said it would not take the time to review it because of its ongoing analysis. In the applicant’s attempt to find out what had backed up the 1991 maps, the Corps indicated there was little backup and there was no detailed work on topography, potential depth of water, backwater studies or flow volumes. Because of Chapter 28, projects with substantial environmental improvements were prohibited from proceeding. He urged the Board to consider a policy that would allow an expert qualified in the field to look at the flood plain information and come up with a reasonable solution – short of waiting a year or two on these projects.

Mr. DeLanoy suggested that the Desert Research Institute (DRI), associated with the University of Nevada in Reno, may be able to assist with providing this information.

Executive Director Jim Baetge advised the Board he had a very different reading from the Corps on this issue. He would have the Corps represented at the May Board meeting for more discussion.

Mr. Galloway asked that the Board direct staff to come back with several options – from restricting building until the Corps’ work was completed to delegating the delineations to another expert or to DRI. The County had liability for flood damage should it allow a person to build and put a structure in harm’s way.

(Mr. DeLanoy left the meeting during the discussion.)

Mr. Kimble Corbridge, flood plain manager for Washoe County, explained his management of FEMA flood maps and development in the flood plains. The Corps maps were at a larger scale than the FEMA maps, a point that was particularly important in the Incline area. To add on TRPA’s Chapter 28 regulations prohibiting development, grading and improvements in these areas was designating properties into what the County and FEMA defined as floodway. The County did not allow development, fill, or movement of materials in a floodway without substantial engineering backup. To take a property on a Corps map and designate it into a floodway was very restrictive. The County’s maps showed areas in Incline with a 500 year storm delineation; the Corps maps showed approximate 100 year boundaries. He did not, however, see the supporting calculations.

Agency Counsel John Marshall explained that the Goals and Policies and Code prohibited grading or filling within the 100 year flood plain. If the Board wished to allow
development in these areas, that was a different question from determining how TRPA defined the 100 year flood plain. The next question was to look at how the Code defined the 100 year flood plain. It did so disjunctively and offered four different options. Staff had interpreted the Code to treat a property as a flood plain property if it showed on either the Corps or FEMA maps as being within the flood plain boundary. He did not see that there necessarily was, within the current definition, the flexibility for staff to pick and choose.

The Board members discussed the semantics and grammatical construction of the Code language and variations in interpretation, options in view of the Corps position, and use of analyses provided by an applicant’s expert.

Mr. Midkiff described inconsistencies in past application of the flood plain provisions for projects at Incline and in the City of South Lake Tahoe.

Mr. Baetge advised that he was an engineer and had previously run the California Engineers’ Board. Calculations could be made on a piece of property without looking at the whole watershed. This was not a rational or appropriate way to approach the 100 year flood plain issue. This was one of the problems with this discussion. Applicants tended to look at their properties alone and not at the whole watershed. The Agency had a good tool with the Corps maps, and the Corps should have an opportunity to share how it reached its determinations.

(Ms. Neft left the meeting at 4:50 p.m.)

Mr. Ed Ghandour, owner of property in Incline, expressed concern with changes in regulations in the middle of a review process. His consultant, Gary Davis, had prepared a flood plain study of his 1.7 acres. Mr. Tom Christianson, of the Corps, had met with him in Sacramento and had indicated the 1991 study was merely a boundary study, more an observation than a study; the 1999 study was the same. The Corps was anticipating spending $25,000 on the study for all of Incline Village. His study cost $5,000 and was site specific. Mr. Christianson had characterized the 1999 study as sending two people to kick some dirt up in streams in Incline. In early April he had asked Dale Hatch, civil engineer with the Corps in Sacramento, to provide additional analytical backup or calculations supporting the 100 year flood plain study for Third and Incline Creek. The problem was a discrepancy between the Corps and the FEMA maps. Mr. Hatch indicated nothing beyond what was discussed in March 1999 was available. It was merely an approximate study. Mr. Christianson, the regional branch manager, concurred there was no detailed listing of the step-by-step hydrology analysis of the streams. The boundary was approximately determined through field observation. Mr. Ghandour presented more information on his conversations with the Corps in Sacramento.

Mr. Galloway commented on the liability the counties already had in making flood plain determinations. He would have no objection delegating to Washoe County review of Mr. Davis’ calculations prepared for Mr. Ghandour. TRPA could be removed from the responsibility in any liability questions in the interim.

Chairman Sevison spoke in favor of having the Army Corps representative be present for discussion on this at the May Board meeting. The Corps should be advised that its presence at the May meeting was important so that the Board could get a better handle
on the situations that were occurring in the Basin and what the process was for review of the maps to ensure their accuracy.

XIII. REPORTS

A. Executive Director Monthly Status Report

Jim Baetge reminded the Board of the retreat scheduled for Tuesday, May 25 at the Zephyr Point Presbyterian Conference Center and of the location at Granlibakken for the May 26 Board meeting. He also advised of Douglas County's proposal with regard to an MOU with TRPA creating a land bank. If all the details could be worked out, this would be on the agenda in May.

B. Legal Division Monthly Status Report – none

XV ADJOURNMENT – The meeting adjourned at 5:05 p.m.

Respectfully submitted,

[Signature]

Julie D. Frame
Clerk to the Governing Board

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (775) 588-4547. In addition, the documents submitted at the meeting are on file and available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.
MEMORANDUM

May 17, 1999

To: TRPA Governing Board
From: TRPA Staff
Subject: April Financial Statement and Check Register

Requested Action: Staff will be discussing these two items with the Finance Committee prior to the full Board meeting on Wednesday, May 26. Requested action, should the Finance Committee concur, is receipt and/or approval.
MEMORANDUM

May 13, 1999

To: TRPA Governing Board Sitting as the Regional Transportation Planning Agency

From: TRPA Staff

Subject: RTPA Resolution Accepting TRPA’s Transportation Development Act (TDA) Triennial Performance Audit for the FYs 95-96, 96-97, and 97-98

Proposed Action: To adopt the attached resolution accepting the Performance Audit completed of the Tahoe Regional Planning Agency as required by Section 99246 of the Transportation Development Act (TDA).

Staff Recommendation: Staff recommends the TRPA Governing Board, sitting as the Regional Transportation Planning Agency (RTPA), review the enclosed Performance Audit and adopt the attached resolution accepting the performance audit of the Tahoe Regional Planning as required by the TDA.

Background: TRPA was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Lake Tahoe Region. Under this designation, TRPA is responsible for the administration of the Transportation Development Act.

TRPA’s responsibilities through the TDA include allocating two sources of funds (State Transit Assistance and Local Transportation Funds) to the local jurisdictions on the California side, assuring that the claimants are meeting the requirements of the TDA, and facilitating participation of local groups in identifying unmet transit needs and implementing those that are deemed reasonable to meet.

Every three years, the transportation planning agencies and the claimants are required to undergo a performance audit. The audit process evaluates how the entity is doing at implementing the requirements of the TDA, and determines compliance with the TDA statutes.

Kafoury, Armstrong, & Co, has recently conducted a performance audit of TRPA for the three fiscal years ending with FY 1997-98. The audit includes the required findings, as well as recommendations for improvement. These recommendations are summarized within the Audit Memorandum that can be found immediately before the Audit in the packet. In addition, TRPA’s responses to these recommendations are identified in the memo. This above mentioned attachment is hereby submitted under separate cover to the Board Members.

If there are any questions regarding this agenda item, please contact Bridget Cornell at (775) 588-4547.

BKC/jrwb

CONSENT CALENDAR ITEM 2
TAHOE REGIONAL PLANNING AGENCY
SITTING AS THE REGIONAL TRANSPORTATION PLANNING AGENCY
RESOLUTION NO. 99--

A RESOLUTION ACCEPTING TRPA'S TRANSPORTATION DEVELOPMENT ACT (TDA) TRIENNIAL PERFORMANCE AUDIT

WHEREAS, the Tahoe Regional Planning Agency (TRPA) was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the Tahoe Region; and

WHEREAS, as the RTPA, TRPA has the responsibility for administering the Transportation Development Act (TDA); and

WHEREAS, the statutes of the TDA require that each transportation planning agency and claimant undergo a performance audit every three years evaluating the entity's performance for the preceding three fiscal years; and

WHEREAS, TRPA's triennial performance audit is due to the Director of Transportation by the end of FY 1998-99, and shall include an evaluation of TRPA's performance audit for the three fiscal years ending with FY 1997-98; and

WHEREAS, a performance audit has been completed for TRPA evaluating its performance implementing the requirements of the TDA program during FY 1995-96, FY 1996-97 and FY 1997-98.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, the TDA performance audit conducted of the Tahoe Regional Planning Agency for FY 1995-96 through FY 1997-98 has hereby been reviewed and accepted.

PASSED AND ADOPTED this _____ day of May, 1999 by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
Sitting as the Regional
Transportation Planning Agency

BKC/jrwb

CONSENT CALENDAR ITEM 2
MEMORANDUM

May 11, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of Water Quality Mitigation Funds in the amount of $300,000 to Washoe County for the Incline Village Commercial and Lower Wood Creek Water Quality Improvement Projects.

---

Proposed Action: Authorize the release of $300,000 in water quality mitigation funds to Washoe County for the above mentioned projects.

Staff Recommendation: Staff recommends granting the release of all funds subject to the conditions cited below.

Summary: Washoe County will be contracting for the development of these two projects this year, for construction in the year 2000. The Incline Village Commercial project is #669 in the Environmental Improvement Program, and the Lower Wood Creek project is one of the remaining portions of project #671 (formerly listed as Incline Village #4, ponderosa). See maps A and B, respectively. These project areas were refined using the CIP Needs Inventory, and are on the Washoe County five year list of CIP Projects. These projects may include source control and revegetation, runoff control and treatment. The preliminary cost estimate for these two projects is $1,500,000.

Staff recommends approval of release subject to the conditions cited below.

Conditions:

1. The County shall only use the funds for the Incline Village Commercial and the Lower Wood Creek Projects approved by TRPA.

2. The County shall keep complete records of all funds expended on the projects and how they were used. Such records shall be made available for review and audit by TRPA upon written request.

3. Any unused mitigation funds shall be returned to TRPA, or TRPA approval shall be acquired before their re-allocation to another project is made.
4. Signage used to identify the project(s) during construction shall include all funding sources.

If you have any questions regarding this item please contact Larry Benoit, Associate Planner, at (775) 588-4547.
April 12, 1999

Tahoe Regional Planning Agency
PO Box 1038
Zephyr Cove, Nevada 89448

ATTN: Kevin Hill

RE: WATER QUALITY MITIGATION FUNDS
I.V. COMMERCIAL & LOWER WOOD CREEK
WATER QUALITY IMPROVEMENT PROJECT

Dear Mr. Hill:

Washoe County will soon enter into a contract with Lumos & Associates for the design and construction management of the referenced erosion control project in Incline Village. The project is #669 in the TRPA Environmental Improvement Program (see attached map of the proposed boundaries). The proposed schedule for construction is Summer 2000.

The County hereby requests $300,000 from our Water Quality Mitigation fund for the project. The project may include pipe, catch basins, curb and gutter, retaining walls, detention basins and vegetation. The preliminary project cost estimate is $1,500,000.

Thank you for your support. If you have any questions or require additional information, please call me.

Very truly yours,

DAVID T. PRICE, P.E.
County Engineer

KIMBLE O CORBRIDGE, P.E.
Registered Engineer

Attachments

WASHOE COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER
TYPICAL VALLEY CROSS SECTION
MEMORANDUM

May 11, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of Water Quality Mitigation Funds in the amount of $109,000 and SEZ Mitigation Funds in the amount of $74,000 to the City of South Lake Tahoe (CSLT) for the Beecher/Lodi Erosion Control, Ski Run Village Improvement, and the Trout Creek Watershed Enhancement Projects, respectively for FY 1998/99.

Proposed Action: Authorize the release of $109,000 in water quality mitigation funds and of $74,000 in SEZ mitigation funds to CSLT for the above mentioned projects.

Staff Recommendation: Staff recommends granting the release of all funds subject to the conditions cited below.

Summary: This request involves two water quality projects completed last fall, and one SEZ restoration project scheduled to start construction this fiscal year. The Beecher/Lodi Avenues Erosion Control Project was previously approved for $102,000 in water quality mitigation funds. An additional $30,000 in water quality mitigation funds is requested at this time for the Beecher/Lodi Project. The Ski Run Village Improvements project was previously approved for $70,000 in water quality mitigation funds, and an additional $75,000 is being requested for the curb and gutter portion of this project at this time. The Trout Creek Watershed Enhancement Project was previously approved for $80,000 in SEZ mitigation funds, and $70,000 in additional SEZ mitigation funds is requested at this time. CSLT is requesting $4,000 each in water quality and SEZ mitigation funds as part of a hardware/software purchase to be used in the design and administration of such projects. This latter request is in conjunction with the CIP Needs Inventory and Database completed by TRPA staff, and electronic access to that database for use in project planning and preliminary design by CSLT staff.

Staff recommends approval of release subject to the conditions cited below.

Conditions:

1. The City shall only use the funds for the Beecher/Lodi, Ski Run Village Improvements, and the Trout Creek Watershed Enhancement Projects, and the computer design and administration hardware/software approved by TRPA.

2. The City shall keep complete records of all funds expended on the projects and how they were used. Such records shall be made available for review and audit by TRPA upon written request.

3. Any unused mitigation funds shall be returned to TRPA, or TRPA approval shall be acquired before their re-allocation to another project is made.

LFB/ CONSENT CALENDAR ITEM 4
4. Signage used to identify the project(s) during construction shall include all funding sources.

If you have any questions regarding this item please contact Larry Benoit, Associate Planner, at (775) 588-4547.
Mr. Larry Benoit  
Tahoe Regional Planning Agency  
P.O. Box 1038  
Zephyr Cove, NV 89448

Dear Larry:

Subject: Water and Air Quality Mitigation Funds

The status of projects approved by the TRPA in prior fiscal years is as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Quality Funds</td>
<td></td>
</tr>
<tr>
<td>Ski Run Water Quality Improvement Facilities Project</td>
<td>$110,000</td>
</tr>
<tr>
<td>The $110,000 for this project has been expended and reimbursement has been received.</td>
<td></td>
</tr>
<tr>
<td>Beecher/Lodi Avenues Erosion Control Project</td>
<td>$102,000</td>
</tr>
<tr>
<td>The $102,000 for this project has been expended and reimbursement has been requested. This project needs additional funds.</td>
<td></td>
</tr>
<tr>
<td>Ski Run Water Quality Improvement Facilities Project</td>
<td>$70,000</td>
</tr>
<tr>
<td>The $70,000 for this project has been expended and reimbursement has been requested.</td>
<td></td>
</tr>
<tr>
<td>Al Tahoe-Pioneer Trail/Bijou Creek ECP Extensions</td>
<td>$45,000</td>
</tr>
<tr>
<td>This funding was not needed for the project as constructed, but may be used for connecting El Dorado County's Pioneer III ECP to the intersection with Al Tahoe Boulevard.</td>
<td></td>
</tr>
<tr>
<td>Stream Environment Zone Funds</td>
<td></td>
</tr>
<tr>
<td>Trout Creek Watershed Enhancement Project</td>
<td>$80,000</td>
</tr>
<tr>
<td>$37,266 was approved in 1997 and $42,734 in 1998. This project is proposed for construction in 1999. This project needs additional funds.</td>
<td></td>
</tr>
</tbody>
</table>
TRPA Mitigation Funds
Page Two
May 7, 1999

Purchase of Triplex at 3724 Osgood Avenue for stream environment zone restoration project. The $30,000 this project has been expended and reimbursement has been received.

The City is requesting mitigation funds for the FY 1998/99 projects as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Quality Funds</td>
<td></td>
</tr>
<tr>
<td>Beecher/Lodi Avenues Erosion Control Project</td>
<td>$30,000</td>
</tr>
<tr>
<td>Additional funding of $30,000 is needed.</td>
<td></td>
</tr>
<tr>
<td>Ski Run Village Improvements</td>
<td>$75,000</td>
</tr>
<tr>
<td>Funding is needed for the curb and gutter portion of these improvements.</td>
<td></td>
</tr>
<tr>
<td>Design and Administration</td>
<td>$4,000</td>
</tr>
</tbody>
</table>

| Stream Environment Zone Funds                |                  |
| Trout Creek Watershed Enhancement Project    | $70,000          |
| Additional funding of $70,000 is needed.    |                  |
| Design and Administration                    | $4,000           |

| Air Quality Funds                            |                  |
| Sierra Boulevard Double Left Turn Lane       | $50,000          |
| Design and Administration                    | $4,000           |

Please schedule this request for mitigation funds on the next available board meeting agenda.

If you have any questions, feel free to contact the undersigned.

Sincerely,

Brad Vidro
City Engineer
TAHOE REGIONAL PLANNING AGENCY

308 Doris Court
Elks Point, Nevada
www.ceres.ca.gov/trpa

MEMORANDUM

May 18, 1999

TO: The TRPA Governing Board Finance Committee

FROM: TRPA Staff

SUBJ: Allocation of Excess Fines and Forfeitures Account

The current total of settlements approved by the Governing Board is $674,170. All of this amount will be received by TRPA by June 30, 1999. This includes the following approved settlements:

<table>
<thead>
<tr>
<th>Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fuller</td>
<td>$15,000</td>
</tr>
<tr>
<td>Chinquapin HOA</td>
<td>$215,000</td>
</tr>
<tr>
<td>Matt Daniels</td>
<td>$20,000</td>
</tr>
<tr>
<td>Bergeron</td>
<td>$7,500</td>
</tr>
<tr>
<td>Nixon</td>
<td>$13,500</td>
</tr>
<tr>
<td>Duffield</td>
<td>$400,000</td>
</tr>
<tr>
<td>Miscellaneous Double</td>
<td>$3,170</td>
</tr>
<tr>
<td>Filing Fees</td>
<td></td>
</tr>
</tbody>
</table>

Total $674,170

The Finance Committee and the Governing Board must approve allocations from the Fines and Forfeitures Account beyond the base amount budgeted for Agency operations, which is $80,000 for FY 1998-1999.

Staff Recommendations:

TRPA staff recommends the following allocations from the Fines and Forfeitures Account:

1. Settlement of Suitum v. TRPA: Up to $500,000

At the April 28, 1999, meeting, the Governing Board approved settlement of the Suitum lawsuit. The settlement agreement obligates TRPA to pay Mrs. Suitum and her attorneys $600,000 ($150,000 by May 31, 1999; $450,000 by July 15, 1999). Staff recommends funding the settlement obligation from three sources. First, Nevada Division of State Lands will purchase Mrs. Suitum's lot for $50,000. These dollars will pass through TRPA to Mrs. Suitum. Second, TRPA can reprogram a portion of its supplemental appropriation for outside counsel costs. As a result of settling the Watercraft lawsuit, TRPA can redirect approximately $90,000 +/- towards satisfying the
settlement for partial payment of Suitum’s attorneys’ fees claims. Third, staff recommends funding the remaining balance, approximately $460,000, from the FY 1998-1999 fines and forfeitures account. Because of the uncertainty associated with the ending fiscal year balance of the supplemental appropriation for outside counsel costs (and consequently the amount available for reprogramming), staff recommends the Governing Board allocate expenditure of up to $500,000 from the fines and forfeitures account to fund the Suitum settlement.

2. Washoe County Sheriff’s Department: $18,000

The Washoe County Sheriff’s Department recently replaced its Lake Tahoe patrol boat; partially to bring their operation into conformance with the TRPA motorized watercraft regulations. They have an $18,000 shortfall between the cost of the boat and the funds they have raised. Senate Bill 510, which is currently on the Governor of Nevada’s desk enables law enforcement agencies to provide information and warnings to the public regarding TRPA watercraft regulations.

3. Douglas County Sheriff’s Department: $17,000

The Douglas County Sheriff’s Department recently replaced the engines on its Lake Tahoe patrol boat to conform to the 2-stroke ordinance. Under SB 510, the Sheriff’s Department would have authority to provide public information and warnings on TRPA’s watercraft ordinances. Staff recommends allocating $17,000 to Douglas County to help defray the conversion cost.

4. Nevada Division of State Parks: $6,000

The Nevada Division of State Parks at Sand Harbor must replace its boat motor to comply with the TRPA motorized watercraft regulations. Nevada State Parks will also aid in the public education and enforcement of the regulations.

5. TRPA Motorized Watercraft Enforcement Program: $7,580

The TRPA Enforcement Program recently purchased a boat to be used for public education and enforcement of the motorized watercraft regulations and is currently recruiting for crew positions. Additional funding is needed to properly outfit the boat with safety and operational equipment and to train new staff in the safe and proper operation of vessels and public contact techniques.

6. Past action of the Governing Board:

At the March 1999, meeting the Board allocated $30,000 from the fines and forfeitures account to reimburse the Shorezone Mitigation Fund for monies used to purchase a boat.
Summary of recommended allocations and past Governing Board actions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suitum</td>
<td>$500,000</td>
</tr>
<tr>
<td>Washoe County</td>
<td>$18,000</td>
</tr>
<tr>
<td>Douglas County</td>
<td>$17,000</td>
</tr>
<tr>
<td>Nevada State Parks</td>
<td>$6,000</td>
</tr>
<tr>
<td>TRPA Watercraft Enforcement</td>
<td>$7,580</td>
</tr>
<tr>
<td>TRPA Boat Purchase</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

Total Recommended Allocations: $578,580

Total Available: $674,170

Total Allocated: $578,580

Total Remaining: $95,590

(This action leaves more than the budgeted amount of $80,000 in the Fines and Forfeitures Account.)

Recommended Action: That the Finance Committee recommends to the Governing Board approval of the proposed action.
The TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Wilson Commercial Building

Application Type: New Commercial Building

Applicant: Thomas Wilson

Applicant's Representative: Dennis Dodds, Dennis Dodds & Associates

Agency Planner: Kathy Canfield

Location: 3100 N. Lake Boulevard (Highway 28), Dollar Hill, Placer County

Assessor's Parcel Number/File Number: APN 93-130-31 & 28/970599

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to construct a new commercial building on an existing vacant parcel. The proposed building will contain 4,500 square feet of commercial floor area on the first two floors and a residential unit on the third floor. The building will be set back 20 feet from the property line along North Lake Boulevard and an 18 space parking lot will be located behind the building, screened from the street. The applicant is proposing to construct a shared driveway with the adjacent property (APN 93-130-31) to the east to limit the amount of new ingress/egress points onto North Lake Boulevard.

Site Description: The existing parcel is heavily vegetated with trees, shrubs and groundcover. The parcel is downslope from North Lake Boulevard. An existing eight foot wide bicycle path is located between the property line and North Lake Boulevard. Surrounding land uses include commercial buildings to the west, residential land uses to the north and south and vacant and commercial uses to the east.

Issues: The proposed project involves an allocation of commercial floor area (4,500 square feet) which therefore requires Governing Board review in accordance with Chapter 4, Appendix A of the TRPA Code of Ordinances.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

/KC
5/13/99

CONSENT CALENDAR ITEM NO. 6
B. **Plan Area Statement:** The project is located within Plan Area 007, Lake Forest Glen, Special Area #1. The Land Use Classification is Residential and the Management Strategy is Mitigation. Agency staff has reviewed the subject plan area and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed uses (professional offices and single family dwelling) are allowed uses for the plan area.

C. **Land Coverage:**

1. **Land Capability District:**
   
The verified land capability district for the 29,250 square foot (s.f.) project area is Class 6.

2. **Allowable Land Coverage:**
   
   29,250 s.f. x 30% = 8,775 s.f.

3. **Existing Land Coverage:**
   
   This parcel does not contain any existing land coverage.

4. **Proposed Land Coverage:**
   
   - Building: 2,350 s.f.
   - Decks/Stairs: 56 s.f.
   - AC Walk/Stoops: 72 s.f.
   - Dumpster: 70 s.f.
   - Sign Footings: 12 s.f.
   - Parking: 5,179 s.f.
   - Onsite Driveway: 1,020 s.f.
   
   Total Onsite: 8,759 s.f.

5. **Land Coverage Associated with Adjacent Parcel (APN 93-130-28):**
   
   Allowable Land Coverage: 24,250 s.f. (approximate parcel size) x 25% (verified Class 5) = 6,063 s.f.
   
   Proposed Onsite Driveway: 1,659 s.f.

6. **Offsite Land Coverage:**
   
   - APN 93-130-31: 707 s.f.
   - APN 93-130-28: 707 s.f.
Land Coverage Mitigation:

The applicant will be required to mitigate all new land coverage mitigated as a result of this project. Onsite land coverage shall be mitigated at a rate of $1.34 per square foot and offsite land coverage shall be mitigated at a rate of $5.00 per square foot. The land coverage for both parcels shall be mitigated prior to final acknowledgement of the permit to construct the proposed building.

D. Building Height: The building site has a cross slope of 12% and a proposed roof pitch of 10:12. The maximum permitted height per Chapter 22, Table A is 39 feet, 0 inches. The applicant has proposed a building height of 38 feet, 9 inches which is consistent with this requirement.

E. Required Findings: The following is a list of the required findings as set forth in Chapters 6 and 22 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

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

   a. Land Use: All new land coverage shall be mitigated. The proposed use (professional offices and single family dwelling) are allowed uses for the plan area.

   b. Transportation: The proposed project is estimated to generate 77 additional daily vehicle trip ends (dvte) which is defined by the TRPA Code of Ordinances as an insignificant increase. The applicant has proposed a shared driveway with the adjacent property to minimize ingress/egress impacts on North Lake Boulevard. The applicant will be required to mitigate all additional dvte generated as a result of this project.

   c. Conservation: This project is visible from Scenic Roadway Unit 16 and a bicycle path (Tahoe City to Dollar Point segment). These areas in need of additional landscaping to help screen development from the bicycle path and roadway and to keep views to Lake Tahoe open. The proposed building will be located approximately 57 feet to the edge of pavement of N. Lake Boulevard and approximately 23 feet from the bicycle path in an area with a forested backdrop. No views to Lake Tahoe are present in this location. The topography of the parcel slopes downward from the roadway/pathway. Existing trees and vegetation located between the proposed building and the roadway/pathway will remain. In addition, the applicant has

/KC
5/13/99

CONSENT CALENDAR ITEM NO. 6
submitted a landscape plan proposing the placement of additional trees and shrubs between the building and roadway/pathway. The applicant has proposed the parking area to be located behind the building to screen the parking area from public view. The building color and materials proposed will blend with the natural surroundings. All utilities within the project area will be placed underground.

The applicant will be required to apply temporary and permanent Best Management Practices (BMPs) to the entire project area. There are no known special interest species, sensitive or uncommon plants, or historic or cultural resources within the project area.

d. **Recreation:** This project does not involve any recreation facilities or uses. There is an existing bike path adjacent to the property.

e. **Public Service and Facilities:** This project does not require any additions to public service facilities.

f. **Implementation:** This project proposes a commercial floor area allocation of 4,500 square feet from the Placer County "Outside Community Plan" Commercial Floor Area Pool. This project has been assigned residential allocation PL-99-O-03.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

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

(Refer to paragraph 2, above.)

4. **When viewed from major arterials, scenic turnouts, public recreation areas or waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.**
The applicant has submitted a wire-frame simulation of the proposed building demonstrating that the building will not extend above the forest canopy. A ridgeline is not visible in this location.

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

The lowest floor of the proposed building is below the grade of the roadway, giving the appearance of a two-story building when viewed from the roadway. Surrounding land uses include a mix of two-story residential structures and 2 to 3 story commercial buildings.

6. 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.

The applicant has submitted a wire-frame simulation demonstrating that the proposed building will not extend above the forest canopy. The property does not provide any views to Lake Tahoe, vista points or ridgelines.

7. The maximum height at any corner of two exterior walls of the building is not greater than 90% of the maximum building height.

The applicant has proposed a roof pitch of 10:12 and a height of 38 feet, 9 inches which meets this requirement.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary for the findings contained in Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

A. The Standard Conditions of Approval listed in Attachment Q.

B. Prior to final acknowledgement of the permit, the following special conditions of approval must be satisfied:

1. The permittee shall provide a detail of the proposed light fixtures demonstrating all lighting shall be directed downward.

2. The permittee shall submit a $4,075 air quality mitigation fee. This fee is based on the generation of 67 additional

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daily vehicle trip ends (dvte) associated with the commercial use assessed at $25 per dvte and 10 additional dvte associated with the residential use assessed at $240 per dvte.

3. The permittee shall submit a $13,960 water quality mitigation fee. This fee is based on the creation of 8,759 square feet of land coverage on APN 93-130-31 and 1,659 square feet of land coverage on APN 93-130-28 assessed at $1.34 per square foot.

4. An offsite land coverage mitigation fee of $7,070 shall be submitted to TRPA. This fee is based on the creation of 1,414 square feet of new land coverage within the public right-of-way.

5. The permittee shall submit a cost estimate for all required Best Management Practices (BMPs) within the project area. The security required under Standard Condition 2 of Attachment O shall be equal to 110 percent of the estimated BMP costs. The Security Administrative fee shall be determined based upon the type of security posted. Please see Attachment J, Security Procedures.

6. The permittee shall submit engineered calculations demonstrating that the proposed parking/driveway infiltration/treatment systems are designed for a 20 year/1 hour storm event. A maintenance plan for the system, in addition to all other Best Management Practices proposed within the project area, shall be submitted for TRPA review and approval.

7. The permittee shall submit a sign plan for TRPA review and approval. All signs shall be consistent with Chapter 26 of the TRPA Code of Ordinances.

8. The permittee shall provide TRPA with a copy of a recorded driveway access easement for the shared driveway between APN 90-130-31 and 28.

9. The permittee shall record a TRPA “approved as to form” deed restriction on APN 90-130-31 documenting the TRPA approved uses (areas of commercial versus residential) within the proposed building. TRPA approval of the deed restriction is required prior to recordation. Evidence of document recording shall be provided to TRPA prior to final acknowledgement of the permit.
10. The permittee shall provide evidence that all basic service requirements, including waste water treatment service, water service and that the requirements for minimum fire flow will be met or exceeded in accordance with Subsection 27.3.B, Table 27-1 of the TRPA Code of Ordinances.

11. The permittee shall provide three sets of final construction drawings and site plans to TRPA.

C. No trees, other than those indicated on the site, shall be removed or trimmed without prior TRPA written approval.

D. All utilities within the project area shall be placed underground.

E. This permit allocates 4,500 square feet of commercial floor area from the Placer County "Outside Community Plan" commercial floor area pool.

F. This project is assigned Placer County residential allocation PL-99-O-03. The project area contains one residential development right pursuant to Chapter 21 of the TRPA Code of Ordinances.

G. This permit acknowledges the proposed building having a professional office commercial use and one residential unit. Any modifications to the proposed commercial use shall require the permittee to submit a TRPA Change in Operation form.

H. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground.

I. All trees not designated to be removed shall be protected during construction. Additional tree/vegetation protection may be required as determined at the TRPA pre-grade inspection.

J. No commercial uses (either primary or accessory) shall occur within the third floor residential unit.

K. This permit does not authorize any excavation beyond five feet from natural grade.

L. The decks associated with the proposed building do not constitute commercial floor area in accordance with Chapter 33 of the TRPA Code of Ordinances.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Lake Tahoe Community College Classroom Additions

Application Type: Public Service Addition

Applicant: Lake Tahoe Community College

Applicant's Representative: Jon Stephens, Lake Tahoe Community College

Agency Planner: Kathy Canfield

Location: One College Drive, City of South Lake Tahoe

Assessor's Parcel Number/File Number: APN 25-010-54/990117

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The project proposes to install two modular classroom buildings and associated walkways on the existing Lake Tahoe Community College (LTCC) campus. The classroom buildings total 2,400 square feet of floor area and are one story. A total of 4,350 square feet of new land coverage within the Class 7 land capability district will be created. No additions to parking are proposed. The classroom buildings are being proposed as permanent structures although LTCC may elect to remove them some time in the future.

Site Description: The project area encompasses the Lake Tahoe Community College campus which includes classroom and administrative buildings, a child care center and associated parking, driveway and walkway areas. The site contains Class 1b, 4 and 7 land capability districts. No land coverage exists or is proposed within the Class 1b.

Issues: The proposed project involves the creation of over 2,000 square feet of floor area which therefore requires Governing Board review in accordance with Chapter 4, Appendix A of the TRPA Code of Ordinances.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

B. Community Plan: The project is located within the Bijou/Al Tahoe Community Plan, District #4. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. Agency staff has reviewed the subject
community plan and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed project (schools-college) is an allowed use for the community plan.

C. Land Coverage:

1. Land Capability Districts:

The verified land capability districts for the 164 acre project area are Classes 1b, 4 and 7.

2. Allowable Land Coverage:

   Class 1b: 2,552,600 s.f. x 1% = 25,526 s.f.
   Class 4: 1,102,100 s.f. x 20% = 220,420 s.f.
   Class 7: 3,489,200 s.f. x 30% = 1,046,760 s.f.

3. Existing Land Coverage:

   Class 1b: 0 s.f.
   Class 4: 46,759 s.f.
   Class 7: 470,774 s.f.

4. Proposed Land Coverage:

   Class 1b: 0 s.f.
   Class 4: 50,689 s.f.
   Class 7: 471,194 s.f.

5. Land Coverage Mitigation:

   The applicant will be required to mitigate all additional land coverage created as a result of the project by paying a water quality mitigation fee of $1.34 per square foot of newly created land coverage.

D. Building Height: The building sites have a cross slope of approximately 4% and a roof pitch of 0:12. The maximum building height allowed by Chapter 22, Table A is 25 feet, 0 inches. The applicant has a proposed height of approximate 14 feet which is consistent with TRPA requirements.

E. Required Findings: The following is a list of the required findings as set forth in Chapter 6 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.
Lake Tahoe Community College Classroom Additions
Page 3

a. **Land Use:** The proposed use (schools-college) is an allowed use for the community plan.

b. **Transportation:** The proposed project is estimated to generate 80 additional daily vehicle trip ends (dvte) which is defined by the TRPA Code of Ordinances as an insignificant increase. The applicant will be required to mitigate all additional dvte.

c. **Conservation:** The applicant will be required to apply temporary and permanent Best Management Practices (BMPs) associated with the proposed project. The proposed project is not visible from a designated TRPA scenic corridor or recreation area. There are no special interest species, sensitive or uncommon plants or historic or cultural resources in the location of the proposed classroom buildings.

d. **Recreation:** This project does not involve any recreation facilities or uses.

e. **Public Service and Facilities:** This project does not require any other additions to public services or facilities.

f. **Implementation:** This project does not require any allocations of development.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

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

(Refer to paragraph 2, above.)

F. **Required Actions:** Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and the evidence contained in the record:

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CONSENT CALENDAR ITEM NO. 7

35
I. A motion based on this staff summary, for the findings contained in the Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

A. The Standard Conditions of Approval listed in Attachment Q.

B. Prior to final acknowledgement of the permit, the following special conditions of approval must be satisfied:

1. The site plan shall be revised to include:
   a. The following revised land coverage calculations:
      
      **Allowable Land Coverage:**
      
      Class 1b: 2,552,600 s.f. x 1% = 25,526 s.f.
      Class 4: 1,102,100 s.f. x 20% = 220,420 s.f.
      Class 7: 3,489,200 s.f. x 30% = 1,046,760 s.f.

      **Existing Land Coverage:**
      
      Class 1b: 0 s.f.
      Class 4: 46,759 s.f.
      Class 7: 470,774 s.f.

      **Proposed Land Coverage:**
      
      Class 1b: 0 s.f.
      Class 4: 50,689 s.f.
      Class 7: 471,194 s.f.

   b. A note indicating: "All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices.

   c. All previous TRPA approved projects shall be shown on the overall site plan.

2. The permittee shall submit a water quality mitigation fee of $5,829 based on the creation of 4,350 square feet of additional land coverage assessed at $1.34 per square foot.
3. The permittee shall submit an air quality mitigation fee of $2,000 based on the generation of 80 additional daily vehicle trip ends (dvte) assessed at $25 per dvte.

4. The permittee shall submit a $1,000 project security and appropriate security administrative fee. Please see Attachment J, Security Procedures.

5. The permittee shall revise the elevation drawings to include height calculations in accordance with Chapter 22 of the TRPA Code of Ordinances.

6. The permittee shall revise all plans with the correct Assessor's Parcel Number (APN 25-010-54). All incorrect APNs shall be removed.

7. The permittee shall submit three sets of final construction drawings and site plans to TRPA.

C. Any excavated material not used within the footprint of the proposed construction shall be disposed at a site approved by TRPA.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Zephyr Cove Elementary Classroom Addition

Application Type: Public Service

Applicant: Douglas County School District

Applicant's Representatives: R.O. Anderson Engineering

Agency Planner: Kara Russell, Project Review Division

Location: Warrior Way, Zephyr Cove, Douglas County, Nevada

TRPA Project Number/File Number: 05-070-01/990165

Staff Recommendation: Staff recommends approval of the project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing a classroom addition at the Zephyr Cove Elementary School, necessary to accommodate increased school enrollment and smaller class sizes. The project will result in the creation of 3,894 square feet of new land coverage and includes a fire access lane and installation of additional Best Management Practices (BMPs).

Issues: The proposed project involves 2,130 square feet of additional land coverage in verified Class 3 land, and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) to assess the potential environmental impacts of the proposed project. The IEC concluded that, provided the mitigation measures identified in the document were included as conditions of project approval, the project will not result in a significant effect on the environment. Staff has included the mitigation measures as recommended conditions of approval. A copy of the completed IEC will be made available at the Governing Board hearing and at the TRPA.

B. Plan Area Statement: The project is located within Plan Area 66, Zephyr Cove. The Land Use Classification is Recreation and the Management Strategy is Mitigation. The proposed activity, schools – kindergarten through secondary, is listed as a special use in the subject plan area. Agency Staff has reviewed the subject plan area and has determined that project is consistent with the applicable planning statement, planning considerations and special policies.

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CONSENT CALENDAR ITEM 8
C. Land Coverage:

1. Land Capability Districts:

   The verified Land Capability Districts for the 189,470 square foot project area are class 5, 4, 3 and 1a.

2. Base Allowable Land Coverage:

   Class 5:  45,987 s. f. x 25% = 11,497 s. f.
   Class 4:  12,806 s. f. x 20% = 2,561 s. f.
   Class 3:  86,871 s. f. x 15% = 4,344 s. f.
   Class 1a: 43,806 s. f. x 1% = 438 s. f.
   Total:  18,840 s. f.

3. Existing Land Coverage:

   Class 5:  38,269 s. f.
   Class 4:  5,686 s. f.
   Class 3:  61,882 s. f.
   Class 1a: 0 s. f.
   Total:  105,837 s. f.

4. Proposed Land Coverage:

   Class 5:  40,033 s. f.
   Class 4:  5,686 s. f.
   Class 3:  64,012 s. f.
   Class 1a: 0 s. f.
   Total:  109,731 s. f.

5. Excess Land Coverage:

   Class 5:  28,536 s. f.
   Class 4:  2,687 s. f.
   Class 3:  59,668 s. f.
   Class 1a: 0 s. f.
   Total:  90,891 s. f.

6. Land Coverage Mitigation:

   As a condition of project approval, the applicant will be required to mitigate the existing excess land coverage based upon the difference between the existing land coverage and the allowable land coverage for the project area.
Subsection 20.4.A (3) of the TRPA Code of Ordinances allows for land coverage in land capability district 3, subject to findings. These findings are outlined in Section E of the staff summary. The additional land coverage within land capability district 3 must be restored in Land Capability District 1a, 1b, 1c, 2 or 3 in the amount of 1.5 times the area (2,130 square feet) of land covered for this project.

Subsection 20.3.B (4) of the Code allows for public health and safety facilities to transfer the minimum amount of coverage needed over the base allowable land coverage, subject to findings. These findings are also located in Section E of the staff summary. All transferred land coverage shall be placed within Land Capability Class 5. Transferred land coverage is not subject to mitigation requirements.

D. **Building Height:** Based upon an 8% cross slope retained across the building site, and a 3:12 roof pitch, the maximum allowed height for the building is 29 feet, 7 inches. The proposed building has a maximum building height of 30 feet, 0 inches. Subsection 22.4.A(3) of the TRPA Code of Ordinances allows for additional height for public service buildings subject to findings. These findings are located in Section E of the staff summary.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18, 20 and 22 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

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

   (a) **Land Use:** The proposed project is considered a special use in the plan area in which the project will be constructed. In order to approve the project, the Governing Board must make Findings 4, 5, and 6 below.

   (b) **Transportation:** The proposed project is estimated to generate 82 additional daily vehicle trips, an insignificant increase as defined in Subsection 93.2.C of the TRPA Code. The applicant will be required to mitigate all additional daily vehicle trips generated as a result of this project.

   (c) **Conservation:** The IEC for the project concludes that the project will not adversely affect existing wildlife, vegetation, scenic, water quality or cultural conditions.

   (d) **Recreation:** The proposed project does not alter any existing recreational facilities.
(e) **Public Service and Facilities:** The project will not result in the requirement for any additional public services or facilities.

(f) **Implementation:** The project is consistent with the Implementation Element of the Regional Plan.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board meeting at TRPA.

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

(Refer to paragraph 2, above.)

4. **The project, to which the use pertains, is of such a nature, scale, density, intensity and type to an appropriate use for the parcel on which, and surrounding area in which, it will be located.**

The project proposes a classroom addition to an existing elementary school to accommodate increased school enrollment and smaller class sizes.

5. **The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant’s property and that of surrounding property owners.**

This project will not directly affect adjacent properties, and the applicant will be required to mitigate all new land coverage created by this project, install BMPs and mitigate the impacts to air quality created by this project.

6. **The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.**

The proposed project involves the addition of a classroom to an existing elementary school. There is no evidence that the project will alter or affect the purpose of the applicable plan area statements or community plan.
7. Public health and safety facilities may be permitted to transfer the minimum amount of land coverage needed to achieve their public purpose if there is no feasible alternative that would reduce land coverage.

The additional classroom space is required to accommodate both the increased enrollment and legislated mandated smaller class sizes. The Douglas County School District owns and operates only one elementary school in the Tahoe Basin and, therefore, does not have the option of building the additional classroom space at another location.

The amount of impervious pavement on-site cannot be reasonably reduced. Fire access is required around the proposed addition, and therefore, the new paved access road adjacent to the building addition cannot be eliminated. Also, the school currently has minimal paved parking and playground facilities, and any reduction in these paved areas would compromise the utilization and functionality of the school.

8. Public health and safety facilities may be permitted to transfer the minimum amount of land coverage needed to achieve their public purpose if the project, because of its unusual configuration or service requirement, requires special consideration.

The proposed project, because of its public education requirement, requires special consideration.

9. Public health and safety facilities may be permitted to transfer the minimum amount of land coverage needed to achieve their public purpose if the facility primarily serves the needs of persons other than those who are, or will be, residents of the lands in question, or the owners of the lands in question.

The proposed project primarily benefits and serves the students attending the school. The students are neither residents of the land in question nor the owners of the land.

10. The project is necessary for public health, safety or environmental protection.

The proposed project is necessary for public health, as adequate school facilities are necessary in order for children to fully develop their mental capabilities and become healthy and productive adults.

11. There is no feasible alternative, including relocation, which avoids or reduces the extent of encroachment in Land Capability District 3.

(See response 7, above.)
12. The impacts of the coverage and disturbance are fully mitigated in the manner described by Subparagraph 20.4.A(2)(e).

The applicant will be required to submit a restoration plan which includes restoration of land in Land Capability Districts 1a, 1c, 2 or 3 in the amount of 1.5 times the area of land in such districts covered for this project. The applicant will also be required to install both temporary and permanent Best Management Practices.

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

The applicant has submitted photographs of the project area demonstrating that the proposed building addition will not extend above the forest canopy when viewed from U.S. Highway 50.

14. 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.

The area surrounding the proposed project is mostly wooded. The applicant has submitted photographs demonstrating that the proposed addition will not interfere with existing views or extend above the forest canopy.

15. The function of the structure requires a greater maximum height than otherwise provided for in this chapter.

The proposed building height exceeds the maximum allowable height specified in Table A of Chapter 22 by 3 inches. The proposed height is necessary to conform to classroom size standards and to allow adequate space for associated mechanical equipment between the ceiling of the new addition and the roof. The height of the proposed addition is consistent with the existing buildings on-site.

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

The additional height is necessary to meet classroom size standards and to allow adequate space for associated mechanical equipment between the ceiling of the addition and the roof. There are no feasible alternative sites for the addition.

17. The maximum height at any corner of two exterior walls of the building is not greater than 90% of the maximum building height as defined in Subsection 22.7(8) of the TRPA Code.

The applicant has submitted elevation drawings that demonstrate that the proposed building addition meets this requirement.
F. **Required Actions:** Agency staff recommends that the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in this staff summary, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

1. The Standard Conditions of Approval listed in Attachment Q.

2. This permit is for a classroom addition at the Zephyr Cove Elementary School, necessary to accommodate increased school enrollment and smaller class sizes. The project will result in the creation of 3,894 square feet of new land coverage and includes a fire access lane and installation of additional Best Management Practices (BMPs).

3. Prior to permit acknowledgement, the following special conditions of approval must be satisfied:

   a. The site plan shall be revised to include:

      **Excess Land Coverage:**

      | Class  | Amount       |
      |--------|--------------|
      | 5      | 28,536 s. f. |
      | 4      | 2,687 s. f.  |
      | 3      | 59,668 s. f. |
      | 1a     | 0 s. f.      |
      | Total  | 90,891 s. f. |

   b. The permittee shall transfer 1,764 square feet of coverage to this parcel. All transferred coverage shall be located within Hydrologic Area 3 and from land capability class 5, or lower, or an IPES parcel. (Please note that all coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances.)

   c. The permittee shall submit a restoration plan to mitigate the new land coverage associated with this project in accordance with Subparagraph 20.4.A(2)(e) of the TRPA Code. All land coverage to be restored must be verified by TRPA prior to restoration and must be restored prior to security return.

   d. The security required under Standard Condition 1.2 of Attachment Q shall be determined upon the permittee's submittal of a cost estimate for BMP installation for the entire project area, plus the cost of restoring land coverage in accordance with Subparagraph 20.4.A(2)(e) of the TRPA Code. Please see Attachment J, Security Procedures.
e. The permittee shall mitigate excess land coverage on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area Number 3 (see attached map).

The excess coverage mitigation fee shall be calculated as follows:

(i) Estimated Project Construction Cost x 0.0125.

Please provide a construction cost estimate by your contractor, architect, or engineer. In no case shall the mitigation fee be less than $100.00.

Excess land coverage may be removed in lieu of an excess coverage mitigation fee. To calculate the amount of excess coverage to be removed use the following formula:

(ii) Excess coverage mitigation fee (per formula (1), above) divided by $5.00 per square foot. If you choose this option, please revise your final site plan and land coverage calculations to account for the coverage removal.

f. The permittee shall submit an Air Quality Mitigation fee in accordance with Subsection 93.3.D (5) of the TRPA Code in the amount of $2,050. (This fee is based on an increase of 82 daily vehicle trips at $25/ daily vehicle trip.)

g. The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.
MEMORANDUM

May 17, 1999

To: TRPA Governing Board
From: TRPA Staff
Subject: Resolution In Support of Committees to Lay Groundwork for 2000 Federal Census

Background: The Agency has received a request from the United States Department of Commerce, Census Bureau, to approve a resolution supporting the upcoming census in 2000.

Staff Recommendation: Although the extent of TRPA's participation is not known at this time, TRPA is supportive of the census process and recommends approval of the attached resolutions.

CONSENT CALENDAR ITEM 9
TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 99-
SUPPORTING CENSUS 2000

WHEREAS, THE United States Government will be undertaking the Decennial Census in the year 2000; and

WHEREAS, the Census is vital to governments throughout the Tahoe Basin in that it determines the apportionment of seats in the United States House of Representatives, Nevada and California State Legislatures, and is the basis for the allocation of millions of dollars in Federal, State, and County funds for environmental, transportation, social, and other programs; and

WHEREAS, the Census is also used to help determine where to locate public services and facilities such as schools, day care centers, senior citizen centers, hospitals, fire and police stations, and is used by the private sector in making decisions concerning business growth and jobs; and

WHEREAS, the unique challenges faced by the residents of Lake Tahoe communities makes the Census an unusually important activity here, to help refine and understand the demands placed on the ecology, air, and water resources of the region, reinforcing the need for Lake Tahoe citizens to stand up and be counted; and

WHEREAS, the TRPA joins with the U.S. Census Bureau in recognizing the need for local partnerships to help spread the word about the importance of the Census and the confidentiality of the information collected;

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Tahoe Regional Planning Agency hereby proclaims full support in Census 2000 and will cooperate in regional efforts for developing a local Complete Count Committee of community, civic, and political leaders.

PASSED and ADOPTED this 26th day of May, 1999, by the Governing Board of the Tahoe Regional Planning Agency

Larry Sevison, Chairman
Governing Board
MEMORANDUM

May 13, 1999

To: Tahoe Metropolitan Planning Organization Board of Directors

From: Richard Wiggins, Transportation Programs Manager

Subject: Prioritization of Nevada Transportation Enhancement Act (TEA) Project Applications

Proposed Action: Approve the TEA project priorities for the Nevada portion of the Lake Tahoe Region as recommended by the Tahoe Transportation District (TTD).

Staff Recommendation: Staff recommends that the priorities recommended by the TTD be adopted and forwarded to the Nevada Statewide Transportation Technical Advisory Committee (STTAC) for funding consideration.

Background: The Nevada Department of Transportation (NDOT) have advised staff that the Federal Highway Administration will expect the Tahoe Metropolitan Planning Organization (TMPO) to provide a priority listing of the TEA project applications being submitted by Washoe and Douglas Counties. For Washoe County, these rankings were previously done by the Regional Transportation Commission of Washoe County (RTC) For Douglas County, their projects were included by NDOT in a grouping of other rural areas and prioritized by the Nevada Statewide Transportation Technical Advisory Committee (STTAC). NDOT received twenty-five applications totaling $37,538,248. Funds available for this program for FY 1998-2000 projects totals $7,285,669.

Discussion: A total of four project applications that are located in the Nevada portion of the Lake Tahoe Region were submitted to NDOT and are the subject of this task. On May 5, 1999 the TTD, acting informally as the Tahoe Transportation Commission, approved the following project priorities as presented by the Transportation Technical Advisory Committee.

PRIORITY # ONE
Name of Project: US 50/Nevada Beach Road Sidewalk Improvements
Project Proponent: Douglas County
Project Description: Construct new sidewalk along the west side of US 50 immediately south of SR 870, Nevada Beach Road, and construct pedestrian ramps at the NW and SW corners of the intersection. Replace the existing sidewalk along the south side of SR 760.
PRIORITY # TWO
Name of Project: Class II Bike Lanes and Sidewalk Extension
Project Proponent: Washoe County
Project Description: Construct Class II bike lanes along Village Blvd. and College Drive, and extend 0.3 miles of sidewalk along SR 28, and provide landscaping.
Component | FY or Season | Amount | Source
--- | --- | --- | ---
TEA Portion | 2000 | $40,612 | TEA

PRIORITY # THREE
Name of Project: Sidewalk Extension
Project Proponent: Washoe County
Project Description: Construct 0.7 miles of sidewalk along SR 28 and provide landscaping.
Component | FY or Season | Amount | Source
--- | --- | --- | ---
TEA Portion | Summer 2001 | $494,000 | TEA

PRIORITY # FOUR
Name of Project: Lighting and Amenities for Sidewalks
Project Proponent: Washoe County
Project Description: Install lights, signs, tables, benches, pavers, water fountain, kiosks and landscaping along 1.2 miles of sidewalks in Incline Village.
Component | FY or Season | Amount | Source
--- | --- | --- | ---
Tea Portion | Summer 2000 | $439,400 | TEA

If you have any questions on this matter, please contact Richard Wiggins at (775) 588-4547.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Sierra Nevada College - New Residence Hall

Application Type: Public Service, Special Use Determination and Allocation of Residential Bonus Units

Applicant: Sierra Nevada College

Applicant's Representative: Phillip Gilanfarr, Architect

Agency Planner: Lyn Barnett, Project Review Division

Location: 291 Country Club Drive, Incline Village, Washoe County, Nevada

Assessor's Parcel Number/Project Number: 127-040-08/980950

Staff Recommendation: Staff recommends that the Governing Board approve the project. The recommended conditions of approval are listed in Section F of this staff summary.

Project Description: The applicant proposes to construct a new three-story, 63 room student resident hall. All rooms are designed for double occupancy for a total resident population of 126 students. Four different room designs are proposed, including one room for a resident student advisor. The proposed building will also include a locker room, lounge areas, office, laundry, vending area, elevators, stairs, mechanical rooms, and other ancillary areas. The project also includes the construction of a 92 space parking area located south of the proposed residence hall. This parking area will replace some parking spaces lost as a result of new building construction, but will increase overall parking on the affected property. The project also includes new landscaping, water quality improvements, driveways, and walkways.

The applicant is requesting that TRPA allocate residential bonus units from the Incline Tourist Community Plan for the new residence hall. To qualify for the bonus units, the hall must be dedicated as an affordable housing project.

Site Description: The proposed residence hall and parking area will be constructed on Sierra Nevada College's lower, "Lake Campus" property, located at the southwest corner of the intersection of Country Club Drive and Highway 28 in Incline Village. (The college's "Mountain Campus" properties are located on College Drive and are not part of the affected project area.) The proposed building will be located between an existing college residence hall and Highway 28 near the western property line. The proposed building will be partially located on an existing temporary parking area and will be visible from Highway 28. The property has a slight southerly aspect and is well vegetated with pine and low shrubs. Construction of the new parking area will result in the removal of approximately 48 trees of various size.

/LB
05/18/99

AGENDA ITEM VIII A.
Issues: The proposed project involves an affordable housing project with more than four units, is a special use, will result in new land coverage in excess of 3,000 square feet, and is a project for which an Environmental Impact Statement (EIS) was prepared and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. Consistency with Approved College Environmental Impact Statement: In 1994, TRPA certified an Environmental Impact Statement (EIS) for construction of a new campus on the affected property. The approved alternative in the EIS was based on a master plan developed by Sierra Nevada College. The new “Lake Campus” was to include residence halls, classrooms, parking and other college related facilities. TRPA has the option of approving master plans in accordance with Chapter 16 of the TRPA Code and, although TRPA certified an EIS for the new campus, the Agency did not adopt the College’s master plan. Furthermore, changes to the existing “Mountain” campus on College Drive were not studied in the EIS because no major changes in use or design were proposed at that time.

In February 1999, the TRPA Advisory Planning Commission and Governing Board reviewed and commented on the scope of a proposed new EIS for Sierra Nevada College. The new EIS would replace the one certified in 1994 and would encompass both of the college’s campuses. The college proposes to significantly change their master plan to increase student enrollment, redesign the Lake Campus, redevelop the Mountain Campus (including the Incline Village Demonstration Garden and college library properties), and dispose of College Park. College Park is a mobile home development which adjoins the Mountain Campus and contains a mix of student and non-student housing, and includes a college dining hall.

At the APC and Governing Board meetings, staff disclosed that the College planned to move forward with construction of the subject residence halls in reliance on the existing EIS because its location and size are in substantial conformance with the certified EIS in terms of impacts to the environment and surrounding community. In general, the APC and Governing Board supported this planning approach. Please see Exhibit “A” for additional discussion of this issue by the applicant’s legal counsel.

TRPA has received a letter objecting to the current project from James Seymour, a resident of College Park. In his letter, Mr. Seymour claims to represent the homeowners of College Park who also object to the current project. Among the homeowners’ objections is that the project, if approved, will facilitate early demolition of College Park and thus bypass the EIS process for disposition of this property. College Park may have residents who qualify for affordable housing (page 4-3, 1994 College EIS). This information will be researched and disclosed in the new EIS. The loss of affordable housing, if present, has been determined by TRPA in the past to be an impact requiring mitigation. (For reference, see the Round Hill Vacation Resort project approved by the Governing Board in March, 1999). Although staff does not recommend that the current proposal be placed “on-hold” due to College Park Homeowner’s objections, staff does recommend that a condition be placed on the proposed project preventing demolition of College Park prior to certification of the new EIS. A copy of Mr. Seymour’s letter will be made available for the at the Governing Board hearing.
2. Parking: The proposed project will result in a significant increase in on-site parking. This increase is not in conformance with the requirements of the certified EIS. Specifically, page 2-2 in the Final EIS specifies that, "...[T]he student will not be able to have an automobile. In addition, students residing in dorms will not be permitted to obtain parking passes or a parking sticker (which is required for all campus facilities)." Please see Exhibit "B" for complete EIS language.

The proposed parking area expansion is primarily intended to accommodate unauthorized student parking. Staff has learned from the applicant that the college does not currently enforce the EIS required parking ban and students are permitted to have vehicles on campus. This is also a violation of the TRPA permit for construction of the first college residence hall (Special Condition C, Phase I Construction, approved by the Governing Board on March 23, 1994). Although the college has expressed a desire to relax parking requirements in the new EIS, they are obligated to follow the requirements of the 1994 EIS as they pertain to the current proposal. For this reason, staff cannot support any expansion of parking at the Lake Campus at this time, but will support one-for-one replacement of parking spaces lost due to construction of the new building. Approximately 48 trees would be removed for the new proposed parking area if it is authorized in its entirety.

In addition to the EIS and 1994 TRPA permit parking restrictions, the Incline Village Tourist Community Plan contains several planning considerations and special policies that limit or discourage parking for new projects. The community plan also encourages employer-based trip reduction programs and alternative modes of transportation to projects in the neighborhood.

3. Residential Bonus Units/Affordable Housing: For multi-person residences such as college dormitories, TRPA counts every 2.5 persons as an equivalent residential unit (Subsection 21.3.A, Code). The proposed development, therefore, equates to 51 residential units if each of the 63 units is rented at double occupancy as described in the project application. Staff has determined that there is an adequate number of bonus units available for allocation to the project from the Incline Tourist Community Plan. Residential bonus units are available to bona fide affordable housing developments in accordance with Chapter 35 of the TRPA Code. Residential bonus units are intended to substitute for TRPA development rights which are usually acquired from off-site locations. Affordable housing is exempt from the TRPA residential allocation requirements found in Chapter 33 of the TRPA Code.

In 1994, the Governing Board approved Phase I of the new college campus. This phase included four student residence halls containing 26 double occupancy rooms in each hall. The latter of these was a mixed-use building which included food preparation areas, a dining area, four class rooms, and office space. Only the mixed-use building was constructed, however, and no TRPA permits are active on the remaining three buildings. A proposed non-residential parking garage located approximately on the same site as the current project was rejected by TRPA staff, and withdrawn by the applicant, because it never passed TRPA scenic review. This garage could also not be approved because no (non-residential) applications were submitted to TRPA to justify the garage use.
Although TRPA allocated 84 residential bonus to Phase I of the college's development plan, three of the four approved residence halls were not constructed and the bonus unit reservation for these units has expired. Allocation of residential bonus units may be reserved as credits for a period of five years pursuant to Subsection 35.2.C of the TRPA Code. The unused allocation credits from 1994, therefore, expired in March 1999 and are not available for re-distribution (as banked units) to the current project. By staff's calculations, only 21 residential bonus units were finally used for past approvals once returned bonus units are accounted for in the non-constructed buildings. This assumes that the existing building is rented at double occupancy.

Special Condition A.19 of the 1994 TRPA permit required the college to record a deed restriction limiting the function of the approved dormitories, in perpetuity, to affordable housing units. This deed restriction was drafted by TRPA and recorded by Sierra Nevada College on May 25, 1994. In addition to the deed restriction, the permittee was required to submit annual rental unit price reports to the TRPA Executive Director by January 1 of each year. To date, no rental reports have been submitted and TRPA cannot verify that any of the existing units have been rented within the required limits. In addition, staff has been notified that the top floor of the existing three-story residence hall is currently rented as single occupancy suites, even though the rooms were designed for double occupancy and residential bonus units were allocated to them with this occupancy rate in mind. Based on this information staff believes that, at minimum, the third floor rooms may be in violation of TRPA affordable housing unit rental limits.

Affordable housing bonus units are intended as a special incentive to promote affordable housing for qualified residents in accordance with Goal No.1, Policy No. 1 of the Housing Sub-Element, Land Use Element of the TRPA Goals and Policies Plan. If the existing student housing is indeed rented above the affordable housing rental limits, then the college should be required to correct the violation starting no later than the next school quarter. Residential allocations and transfer of residential development rights to the existing dormitory is a possible long-term solution, but is not consistent with the certified EIS.

4. Scenic Quality: The proposed building will be visible from Highway 28, a TRPA designated scenic roadway. Staff has reviewed a scenic quality analysis prepared by the applicant and has determined that no scenic quality impact will occur provided the mitigation measures listed in the report, including additional landscape plantings to help screen the structure from the highway, are incorporated into the project design. The locations of the view points analyzed in the applicant's report are consistent with the locations required in the 1994 EIS certified for Sierra Nevada College.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC), scenic quality analysis, and groundwater hydrology report to assess the potential environmental impacts of the project. The proposed residence hall is also within the scope of an environmental impact statement (EIS) certified by TRPA in 1994.
The proposed project will not have a significant effect on the environment. A copy of the completed IEC, scenic quality analysis, groundwater hydrology report, and 1994 EIS will be made available at the Governing Board hearing and at TRPA.

B. Community Plan Statement: The project is located within The Incline Village Tourist Community Plan. The Land Use Classification is Tourist and the Management Strategy is Mitigation. The community plan is designated as a preferred affordable housing area and is eligible for the TRPA multi-residential incentive program (bonus units). Staff has reviewed the subject community plan area and has determined that project is consistent with the applicable planning statement, planning considerations and special policies provided parking is reduced and all existing and proposed housing units are rented as affordable housing as discussed in the issues section of this staff summary. The proposed activity (multiple person dwelling) is listed as a special use. This use supports the primary college use of the property (public service).

C. Land Coverage:

1. Land Capability District:

   The land capability districts of the project area are classes 4 and 6. The total project area is approximately 18.44 acres (803,246 square feet).

2. Previously Approved Land Coverage: 111,473 square feet. (Note: Not all approved land coverage was constructed and the affected property likely contains less coverage.)

3. Proposed Land Coverage: To be determined upon final project submittal as revised in the proposed permit conditions, but well below total land coverage permissible for the project area.

4. Allowable Land Coverage:

   Class 4 Area: 19,932 square feet
   Class 6 Area: 211,075 square feet
   Total: 231,007 square feet

5. Land Coverage Mitigation:

   The applicant shall be required to submit a water quality mitigation fee in accordance with the TRPA Code for any new land coverage approved for the project.

D. Building Height: Based on a 6% cross-slope retained across the building site, and a 6:12 roof pitch, the maximum allowed height for the proposed building is 36 feet, 8 inches. The proposed building has a maximum building height of 36 feet, 5 inches. This includes an additional 4 feet allowed for public service buildings in the TRPA Code. Although the proposed building is a residential hall, the hall is accessory to Sierra Nevada College, a public service facility and the primary use on the affected property.
E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18, 20, 22, and 64 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

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

   (a) Land Use: The proposed project is a permissible use in the applicable community plan area. There is an existing residence hall on the affected property and single family residences located east of the project area.

   (b) Transportation: The proposed project, as conditioned, will not result in any significant impacts to traffic or transportation systems. Future student residents shall not be permitted to have automobiles on campus.

   (c) Conservation: The proposed project will include all TRPA required water quality improvements and landscaping. No special interest species or historic or prehistoric resources are known to exist on the subject property. No significant impacts to scenic quality will result from this project.

   (d) Recreation: The proposed project does not include any recreation facilities. There are existing recreational facilities in the adjacent neighborhood. Potential impacts to these facilities were analyzed in the 1994 EIS prepared for Sierra Nevada College.

   (e) Public Service and Facilities: There is adequate water rights and service, sewer, and electrical facilities to serve the proposed project. The project is also served by a paved road.

   (f) Implementation: Residential bonus units shall be allocated to the project in accordance with the requirements of the TRPA Code.

2. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

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

   (Refer to paragraph 2, above.)
4. The project, to which the use pertains, is of such a nature, scale, density, intensity and type to an appropriate use for the parcel on which, and surrounding area in which, it will be located.

The proposed project is well within the scope and size of residential development anticipated on the affected property as studied in the 1994 EIS certified for the project. The Incline Village Tourist Community Plan encourages development of dormitories for Sierra Nevada College.

5. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant’s property and that of surrounding property owners.

The proposed residence hall will be located more than 1,000 feet from the nearest residence. The project includes TRPA required water quality improvements and landscaping and will not result in any air quality or other impacts as determined in the EIS for Sierra Nevada College certified by TRPA in 1994.

6. The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

The proposed residential structure will be located near an existing college building which contains residential units. The Incline Village Tourist Community Plan anticipates construction of residential structures on the subject property.

7. When viewed from major arterials, scenic turn-outs, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridge line.

A scenic quality analysis prepared for the project demonstrates that the proposed building will not extend above the forest canopy or any ridgeline as viewed from the scenic corridor (State Route 28).

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

The proposed residence hall will be located within an adopted community plan. There is a similar building on the affected property and other multistory buildings in the adjacent neighborhood.
9. 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.

According to the scenic analysis prepared for the project, no significant views from Highway 28 will be lost due to the construction of the residence hall.

10. A soils/hydrologic report prepared by a qualified professional, whose proposed content and methodology has been reviewed and approved in advance by TRPA, demonstrates that no interference or interception of groundwater will occur as a result of the [proposed] excavation.

A soils/hydrologic report has been reviewed and approved by TRPA for the proposed project. This report estimates that groundwater is 10 – 1/2 feet below existing grade. For this reason, the TRPA conditions of approval limit excavation for the new building to a 10 foot cut. This includes a 6 inch buffer zone between the estimated groundwater table and the bottom of the excavation needed for building footings, etc. Preliminary calculations for the new building indicate that no design changes are necessary to satisfy this requirement.

11. The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to Subsection 65.2 E [of the TRPA Code], including root systems, and hydrologic conditions of the soil. To ensure the protection of vegetation necessary for screening, a special vegetation protection report shall be prepared by a qualified professional identifying measures necessary to ensure damage will not occur as a result of the excavation.

No mature trees are located within the limits of excavation for the proposed building.

12. Excavated material is disposed of pursuant to Section 64.5 [of the TRPA Code] and the project area’s natural topography is maintained pursuant to Subparagraph 30.5.A(1) [of the TRPA Code]; or if groundwater interception or interference will occur as demonstrated by a soils/hydrologic report prepared by a qualified professional, the excavation can be made as an exception pursuant to Subparagraph 64.7.A(2) [of the TRPA Code] and measures are included in the project to maintain groundwater flows to avoid adverse impacts to SEZ vegetation, if any would be affected, and to prevent any groundwater or subsurface water flow from leaving the project area as surface flow.

No groundwater interception or interference will occur from the proposed project. All excavated material will be transported off-site to an approved location. Except for the area excavated for the proposed building, natural grade of the surrounding site will be maintained in accordance with Subsection 30.5.A(1) of the TRPA Code.
13. The relocation of land coverage is to an equal or superior portion of the parcel or project area, as determined by reference to the factors in Subsection 20.5.C(1) of the TRPA Code.

The proposed project will involve a minor relocation of land coverage from an adjacent paved parking area. All relocated land coverage is from high capability land with similar site characteristics. No encroachment into a stream environment zone is proposed.

14. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.5 of the TRPA Code.

All areas with removed land coverage will be re-vegetated in accordance with TRPA Code requirements.

15. The relocation of land coverage is not to Land Capability Districts 1a, 1b, 1c, 2 or 3 from any higher numbered land capability district.

All relocated land coverage will be from high capability land to similar high capability land.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

NOTE: DUE TO TECHNICAL PROBLEMS WITH THE NEW TRPA COMPUTER SYSTEM AT THE TIME THIS REPORT WAS PREPARED, PROPOSED CONDITIONS OF APPROVAL WILL FOLLOW UNDER SEPARATE COVER.
LIONEL SAWYER & COLLINS
ATTORNEYS AT LAW

May 10, 1999

Lyn Barnett, Senior Planner
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 1038
308 Dorla Court
Zephyr Cove, Nevada 89448

Re: Sierra Nevada College/New Dormitory 1994 EIS and TRPA Approvals

Dear Mr. Barnett:

This letter is respectfully submitted on behalf of Sierra Nevada College (the "College") in response to the request of the Tahoe Regional Planning Agency ("TRPA") that the College provide an explanation as to why it should not be required to amend an environmental impact study ("EIS"), finalized in 1994 (the "1994 FEIS"), prior to commencing with a residence hall project which was part of the master plan proposal contemplated in the 1994 FEIS.

I. OVERVIEW OF STATUTORY AND REGULATORY SCHEME


The TRPA Code, along with the TRPA Rules describe a 4-step EIS process which must be completed prior to the commencement of certain projects. The first step in this process is triggered when a property owner makes a land use proposal that may call for action by the TRPA. At that
point, the TRPA must determine whether the proposed project requires the preparation of an EIS document. Article VII(c)(2) of the 1980 Compact directs TRPA to "prepare and consider" an EIS "when acting upon matters that have a significant effect on the environment." NRS 277.200 (1997).

Consequently, if the TRPA finds that a project will have a significant impact, then it will require the preparation of an EIS in accordance with the TRPA Rules, the TRPA Code, and the 1980 Compact. See TRPA Code 5.8. On the other hand, an EIS will not be required if TRPA finds that the project will not have a significant effect on the environment. See TRPA Code 5.6. Once TRPA determines that an EIS is required, it may determine the scope of the EIS to be prepared and may focus the EIS on only the effects it determines to be significant. See TRPA Rule 6.11. While an EIS may be prepared by an independent party, TRPA is ultimately responsible for the scope, adequacy and objectivity of the EIS. See TRPA Rule 6.10.

The second step involves the preparation of a draft EIS. The draft EIS must contain (a) a description of project, (b) the significant environmental impacts of the proposed project, (c) any significant adverse environmental effects which cannot be avoided should the project be implemented, (d) alternatives to the proposed project, (e) mitigation measures which must be implemented to assure meeting standards of the region, (f) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, (g) any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented, and (h) the growth-inducing impact of the proposed project. See TRPA Code 5.8.B. After the draft EIS is prepared, it must be circulated for a period of not less than 60-days, during which time public and agency comments will be solicited. See TRPA Code 5.8.A(4).

The third step involves incorporating any public and agency comments received during the 60-day public comment period. The preparation of the final EIS incorporates the comments to the draft made necessary by new information received in comments to the draft or developed by the agencies involved. See TRPA Rules 6.14. Once the final EIS is approved, that document serves as the document on which TRPA's decision whether to permit the project is based.

The fourth step is the commencement of the project. Once a project contemplated in the EIS is to be commenced, TRPA must find that for each significant effect identified in the EIS, mitigation measures have reduced the significant effect to a less than significant level or that such mitigation measures are not feasible in light of economic, social, technical or other such considerations. See TRPA Code 5.8.D. Alternatively, "tiering" is proper and encouraged in the TRPA Regulations. "Tiering" refers to a practice that allows and encourages use by later planners of prior planning documents. When some or most of the aspects of a proposed action have already been discussed in an earlier EIS, it is permissible to tier off that earlier document with a more succinct environmental analysis to avoid repetitive discussions of the same issues.
II. STATEMENT OF FACTS

A. The College's 1991 Master Plan.

Since 1995, the College has operated two separate campuses in Incline Village: the Lake Campus located on Country Club Drive; and, the Mountain Campus located on College Drive. The College purchased the 18.5-acre Lake Campus in 1991 as part of its plan to expand its facilities. The Mountain Campus supported only limited facilities and the College intended to expand its campus at the Lake Campus site. Consequently, in that same year the College prepared a master plan for the development of Lake Campus (the "1991 Master Plan").

The 1991 Master Plan proposed a relocation of the College's facilities to the Lake Campus while maintaining the Mountain Campus for adult and community education. The 1991 Master Plan included the build-out of the Lake Campus with dormitory buildings, academic buildings, a performing arts center, student union building, and two parking structures. The project was proposed to be constructed in phases with the full build-out scheduled for the year 2000. The 1991 Master Plan arranged the Lake Campus into the following six areas: (1) parking areas; (2) residential areas; (3) academic areas; (4) classroom and laboratory buildings; (5) student union/administrative; and, (6) performing arts center.

In 1993, the College conducted an EIS to determine the potential environmental and social impacts associated with the construction and operation of the Lake Campus. In accordance with TRPA guidelines, a draft EIS was prepared in October of 1992 and submitted to the public and agency comments (the "Draft EIS"). The comment period was 60-days. The Draft EIS identified significant impacts and necessary mitigation measures, the relationship between short-term uses and long-term productivity, and irreversible commitment of resources. See Draft EIS at 1-3. After receiving comments, a final EIS was published in January of 1994 (the "1994 FEIS"). The 1994 FEIS consisted of the Draft EIS, along with comments received during the circulation period, responses to comments and any corrections to the draft.

B. Description of the Project.

The 1994 EIS describes the proposed 1991 Master Plan development of the Lake Campus to be completed in phases with the full build-out to be completed in 2000. Under the 1991 Master Plan, the site is divided into six areas. The north end of the site is designated as the "residential area."

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1 In 1995, the College purchased property adjacent to the Lake Campus increasing the size of the site to 19.5 acres.

2 One alternative was the non-development of the Lake Campus. The other alternative considered a slightly different development pattern on the Lake Campus, utilizing slightly more land coverage. See Draft EIS at 5-6.
The residential area includes 100 dormitory rooms, a campus services building, and a 140-space parking structure. The 1991 Master Plan contemplates the "informal" arrangement of multiple dormitory buildings with a central kitchen to provide food service. See Draft EIS at 3-4.

In connection with the development of the Lake campus in general, and the development of the residential area in particular, the 1994 FEIS describes and analyzes significant environmental impacts in the following areas:

**Land Use.** This section considers the impacts and effects associated with the development of a college campus at Lake Campus, including the construction of 80 student dormitory units to accommodate 200 students.3 See Draft EIS at 6-9, 6-10. This section concludes that no further mitigation is necessary to change land use designations, other than mitigation imposed as part of the project approvals prior to construction of the student dormitories. See Draft EIS at 6-10.

**Soils and Geology.** This section assesses the site suitability from a geologic and geotechnical standpoint and recommends mitigation measures in three areas: excavations and foundations, seismic hazards, and soil erosion. See Draft EIS at 6-19, 6-20.

**Hydrology and Water Quality.** This section analyzes the 1991 Master Plan's scheme to deal with storm water runoff from proposed covered surfaces, short-term and long-term soil stabilization, and provisions for development requirements such as grading and snow storage. See Draft EIS at 6-29. This section concludes that provided mitigation measures are implemented, there will be no significant impacts on water quality as a result of the 1991 Master Plan proposal. See Draft EIS at 6-34. These mitigation measures include small on-site drainage systems, infiltration basins, designated areas for snow storage, location of infiltration devices, along with other mitigation measures to be determined by the TRPA prior to construction. See Draft EIS at 6-34, 6-35.

**Scenic Analysis and Community Design.** This section analyzes the 1991 Master Plan proposal under four different criteria: unity, vividness, variety, and intactness. See Draft EIS at 6-36. This section concludes that the 1991 Master Plan proposal will, with reasonably final design plans and limited alterations to the site plans, meet basic design and scenic requirements. See Draft EIS at 6-58. In order to avoid any significant impact, this section suggests that design solutions include building for solar access, as well as landscaping screening for the proposed parking facilities in the residential area at the northern part of the site. See Draft EIS at 6-59. In this regard, this section suggests reducing the number of floors in the proposed parking structure to assist in the screening effort.

**Biotic Resources.** This section considers the impact to vegetation at the site associated with the proposed development alternatives. See Draft EIS at 6-64. This section imposes

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3 This figure is based on a student occupancy of 2.5 per dormitory room.
certain mitigation measures, including a comprehensive landscaping and revegetation plan. See Draft EIS at 6-65. This section finds that the project will cause no significant impact to existing wildlife resources. See Draft EIS at 6-74.

Traffic and Circulation. This section analyzes a variety of traffic-related impacts resulting from the proposed 1991 Master Plan. See Draft EIS at 6-85. Mitigation measures are suggested in the areas of parking, transit, and vehicle miles traveled ("VMT"). See Draft EIS at 6-102, 6-103.

Air Quality. This section analyzes the 1991 Master Plan's impact on specific emissions, as well as overall emissions from future growth in the area. See Draft EIS at 6-110. Mitigation measures are suggested in such areas as transit facility construction, transportation systems management, and compliance with TRPA emissions standards. See Draft EIS at 6-115. In addition, this section suggests certain measures that may be implemented during construction to mitigate effects on air quality during the construction process. See Draft EIS at 6-115.

Noise. This section evaluates the potential noise impacts of the future facilities and associated activities of the 1991 Master Plan. See Draft EIS at 6-129. Traffic noise is the only effect potentially significant effect identified. See Draft EIS at 6-129. This effect may be mitigated by employing the measures recommended in the Traffic and Circulation section. In addition, measures are suggested to mitigate the temporary noise generated during construction. See Draft EIS at 6-129.

Cultural Resources. This section summarizes the results of an archeological survey of the site, during which no archeological remains were encountered. See Draft EIS at 6-133.

Recreation. This section reviews the effect on area recreation of the 1991 Master Plan and concludes that the effect would be insignificant. See Draft EIS at 6-138.

Housing and Population. This section studies the effect of the 1991 Master Plan of regional population and affordable housing. See Draft EIS at 6-148. This section concludes that, with respect to these effects, no additional mitigation measure are necessary. See Draft EIS at 6-149.

Public Services and Energy. This section analyzes the impact related to the public services of water, sewer energy, and police and fire. See Draft EIS at 6-154. This section identifies no significant impacts in these areas. See Draft EIS at 6-155.

C. Construction of the Approved Project.

Following the approval of the 1994 FEIS, the College proceeded with the build-out of the Lake Campus envisioned by the 1991 Master Plan. First, the College constructed the Patterson Hall

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which provides classroom and administrative space. Second, the College constructed the Campbell/Friedman Hall which is a dining facility and residence housing structure for 52 students.

The next step in the build-out process is the current dormitory project (the "New Dormitory"). The New Dormitory will be located in the part of the site designated in the 1994 FEIS as the residential area. This area also includes a 140-space parking structure (the "Parking Structure") which the 1991 Master Plan had placed along the northern boundary of the site. As noted in the 1994 FEIS, the placement of the Parking Structure in this location raised scenic concerns. See Draft EIS at 6-59. The College has subsequently modified certain details of the 1991 Master Plan, resulting in a creative solution which addresses these scenic concerns and allows the College to combine what would have been two dormitory buildings under the 1991 Master Plan into a single dormitory building.

This solution involves two minor modifications to the general provisions of the 1991 Master Plan. First, the locations of the Parking Structure and the New Dormitory have been switched. Thus, while both structures will be located in the residential area, the New Dormitory will now be placed roughly in the location where the 1991 Master Plan depicts the Parking Structure and the Parking Structure will be placed in the location where the 1991 Master Plan depicts the four dormitory buildings. This deviation from the 1991 Master Plan is consistent with the mitigation measures discussed in the 1994 FEIS to mitigate scenic view impacts. See Draft EIS at 6-59.

The 1994 FEIS recommended reducing the size and mass of the parking structure to preserve the scenic view in this area. Moving the New Dormitory to this site maintains the scenic view in the northern corridor; parking will be accomplished in a surface lot. Second, the 1991 Master Plan had described the residential area as including "multiple buildings" which were to be "informally arranged among the trees in a natural setting." See Draft EIS at 3-4. The 1991 Master Plan had envisioned a total of four dormitory buildings; the Campbell/Friedman Hall represents one of these four buildings. The New Dormitory represents what would have been the next two dormitory buildings under the 1991 Master Plan.

The New Dormitory represents the continuing fulfillment of the 1991 Master Plan. However, in order to accommodate its continued growth and success, the College developed a new master plan in 1998 (the "1998 Master Plan"). The College determined that the future of the college required

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4 An urban scenic corridor has been established by TRPA along the northern end of the site parallel to Highway 289 and extending a distance of 300 feet from the right of way.

5 Under the 1994 FEIS, the four dormitory buildings had a combined footprint of 19,932 square feet. See Draft EIS at 3-6. The first dormitory built under that plan has a footprint of 4,666 square feet. The New Dormitory will have a footprint of approximately 10,000 square feet, leaving over 5,000 square feet for the construction of the fourth and final dormitory in the series.
increasing the anticipated full time enrollment from the 500 envisioned in the 1991 Master Plan to approximately 750. In contrast, the 1994 FEIS had anticipated a student population of 500 full-time equivalent students. See Draft EIS at 1-2. Consequently, as part of the College’s plans to intensify the use of Lake Campus, a supplemental EIS process has been initiated. This supplemental EIS should be completed in early 2000 and will involve a tiering analysis based on the 1994 FEIS.

III. LEGAL ARGUMENT

A. Because The New Dormitory Will Have No Significant Effects Aside From Those Considered In The Existing 1994 FEIS, No New Or Supplemental EIS is Required.

The EIS concept was born when Congress passed the National Environmental Policy Act (the "NEPA") in response to a growing public concern over environmental degradation during the late 1960s. See 42 U.S.C.S. § 4321, et seq. (Law Co-op 1989 & Supp. 1998). In the wake of the NEPA, many states passed similar environmental policy acts which were patterned extensively on the federal legislation. See Edward H. Ziegler, Jr., Rathkopf’s The Law of Zoning & Planning § 7B.02 (4th ed. 1999). Because of the similarity between state and federal schemes, courts often look to case law interpreting the nearly identical provisions of sister state and federal statutes and ordinances. Id.

Under the NEPA, every major federal action "significantly effecting the human environment" requires the preparation of an EIS. See 42 U.S.C.S. § 4332. Similarly, the TRPA may require an EIS where it first finds that a project may have a "significant effect" on the environment. See TRPA Code 5.8. The TRPA may only require a supplemental EIS where it first finds that "substantial changes" in the project or other circumstances may result in "significant effects" not previously considered in the earlier EIS. The requirement of this threshold finding makes clear that an EIS is not intended to be

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TRPA may require a supplemental EIS under the following conditions:

1. Subsequent changes are proposed in the project which involve new significant adverse effects not considered in the prior EIS; or

2. Substantial changes occur with respect to circumstances under which the project is undertaken, which involve new significant adverse effects not considered in the prior EIS; or

3. New information of substantial importance becomes available that shows any of the following:
   i. The project may have a significant adverse effect not considered in the prior EIS;
   ii. Significant adverse effects would be substantially more severe than previously discussed in the prior EIS; or
   iii. Mitigation measures or alternatives, previously not found to be feasible or not previously discussed, would substantially reduce a significant adverse effect of the project or matter which has not already been reduced to a less than significant level.

TRPA Rules 6.15.
a straight-jacket for all future development. Rather, an EIS is intended to allow a developer some flexibility in the determining the precise parameters of its project. Consequently, "[a]n action which does not have an environmental impact substantially different from an earlier proposed action does not require either a new threshold determination or a new or supplemental draft or final environmental impact statement." \textit{SEAPC v. Commack II Orchards}, 744 P.2d 1101, 1104 (Wash. Ct. App. 1987).

In College's case, the environmental impacts of the project are not substantially different from the proposals approved in the 1994 FEIS. As discussed above, there are only three changes to the dormitories as originally conceived in the 1991 Master Plan. First, the locations of the New Dormitory. Second, the New Dormitory will combine what would have been two buildings under the 1991 Master Plan. Third, the multi-story Parking Structure is eliminated pending EIS review of the 1998 Master Plan, and will be constructed as a surface parking facility in the interim. Under the 1994 FEIS, the Parking Structure was to have a footprint of 24,742 square feet. \textit{See} Draft EIS at 3-6. The interim surface parking facility will have a footprint of approximately 24,000. These changes are not significant for a number of reasons.

A minor siting change does not constitute a substantial change sufficient to warrant a new or supplemental EIS. \textit{Citizens For Clean Air v. Spokane}, 785 P.2d 447, 455 (Wash. 1990). In that case, a city prepared an EIS in order to evaluate the environmental impacts associated with the construction of a mass burn incinerator. \textit{Id.} at 450. The city proposed building the incinerator at one of three sites and the EIS evaluated each alternative. \textit{Id.} After the EIS was approved, the city went ahead with its plans, but selected a location not considered in the EIS. A citizens group filed suit on grounds the change in location triggered the need for a new or supplemental EIS. \textit{Id.} The court disagreed. The court reasoned that since the EIS had considered the effects of the incinerator, a mere change in location could not result in significant effects other than those already considered in the EIS. \textit{Id.} Similarly, in this case the change in location of the New Dormitory by itself will not trigger effects not already contemplated in the 1994 FEIS. Clearly, mere change in location of the proposed dormitory cannot "fairly be considered" a new proposal requiring a new or supplemental EIS. \textit{See} Nisqually Delta Ass'n v. City of Dupont, 696 P.2d 1222, 1227 (Wash. 1985).

Moreover, a change in the square footage, number of units, and height of a building does not necessarily constitute a substantial change--especially when the changes serve to mitigate certain adverse effects of the project. \textit{Save A Neighborhood Environment v. City of Seattle}, 676 P.2d 1006, 1009 (Wash. 1984). In this case the College has admittedly changed the size, number, and location of dormitory buildings anticipated in the 1991 Master Plan. However, increasing the size and reducing the number of buildings enables the College to move the New Dormitory into an area identified for the Parking Structure which, under the 1991 Master Plan, raised concerns with respect to the Scenic Analysis and Community Design. In that section, the 1994 FEIS identifies concerns regarding the scenic impact of the location of a large, uninteresting parking structure in the scenic corridor located at the northern section of the Lake Campus. \textit{See} Draft EIS at 6-59. These impacts
are mitigated by the relocation of the New Dormitory and the parking facility. In this regard, the New Dormitory will aid in "screening" the parking facility from the scenic corridor. TRPA itself will verify this as it is conducting a scenic analysis which will be complete prior to construction of the New Dormitory.

Therefore, because the minor changes to the location and configuration of the location and configuration of the New Dormitory and Parking Structure will not result in any significant effects not already contemplated in the 1994 FEIS and will enhance the mitigation measures identified by TRPA, no new or revised EIS document should be required as a condition to the construction of the New Dormitory.

B. Because The Construction Of The New Dormitory Is Independent Of The 1998 Master Plan It Need Not Be Considered By Any Future EIS.

The New Dormitory is being constructed within the context of the 1991 Master Plan and the 1994 FEIS. The College's ultimate intention to increase the student population at the Lake Campus is the subject of a pending supplemental EIS process. Accordingly, the size and location of the New Dormitory is consistent with both the 1991 Master Plan and the 1998 Master Plan. However, this fact does not necessitate any further EIS process prior to the construction of the New Dormitory. "An EIS need not cover subsequent phases if the initial phase under construction is substantially independent of the subsequent phase or phases, and the project would be constructed without regard to future developments." SEAPC, 744 P.2d at 1105; see also Trout Unlimited v. Morton, 509 F.2d 1276 (9th Cir. 1974).

The case of Trout Unlimited is instructive. That case involved a two-phased congressionally authorized project. The first phase called for construction of a dam and reservoir. The second phase involved disposition of a specified amount of active reservoir capacity, but only after a finding of "feasibility" by the Secretary of Interior and appropriation of funds by Congress. Id. at 1279. Part of the attack on the EIS for phase one was grounded upon its failure to discuss the environmental impact of phase two. The court commented:

The appellants contend that the EIS is fatally inadequate because it does not discuss the environmental impact of the Second Phase. They rely upon cases which hold that a series of interrelated steps constituting an integrated plan must be covered in a single impact statement. We believe these authorities are inapposite and that the failure of the EIS to discuss the Second Phase does not render it inadequate. The distinction between those situations in which it has been held that the EIS must cover subsequent phases and that before us is that here the First Phase is substantially independent of the Second while in those in which the EIS must extend beyond the current project, that project was dependent on subsequent phases. The dependency
is such that it would be irrational, or at least unwise, to undertake the first phase if subsequent phases were not also undertaken. This is not the case here. Congress clearly intended that the First Phase of this project would be constructed without regard to whether the Secretary ever submits a finding of "feasibility" with regard to the Second Phase.

Id. at 1285.

Similarly, in this case the College has relocated the New Dormitory in a fashion that is consistent with both of its master plan proposals. Moreover, the College fully intends to construct the New Dormitory regardless of whether TRPA approves its 1998 Master Plan. Consequently, the fact that TRPA has not yet approved the latest master plan is irrelevant. The only relevant consideration at this juncture is whether the New Dormitory fits within the parameters of the 1991 Master Plan and the 1994 FEIS. Because it so clearly does, there is no need for any further EIS consideration at this time.

IV. CONCLUSION

The 1994 FEIS analysis of the development of Lake Campus considers the impacts and effects of the complete build-out of the Lake Campus -- including the construction of four dormitory buildings. The College subsequently constructed academic and administrative facilities, as well as one of the dormitories and now seeks to construct a building which represents the next two dormitories anticipated in the 1994 FEIS. In addition to combining two buildings into one, there has been a minor change in location to satisfy scenic view considerations. However, the change in size and location do not constitute substantial changes in the master plan of the campus. Because there have been no substantial changes under the 1991 Master Plan, the project will result in no significant effects other than those which are considered in the 1994 FEIS. In fact, switching the location of the New Dormitory and the Parking Structure will enhance mitigation measures identified relative to "screening" the Parking Structure. Thus, no new or supplemental EIS should be required prior to building the New Dormitory.

In addition, independent of this project, the College has determined that its future requires an increase in its future student population. Consequently, the College has developed a new master plan that increases the density at Lake Campus. The College is currently engaged in a supplemental EIS process to evaluate the effects of the new master plan. However, the New Dormitory is completely independent of that supplemental EIS process in that the College is constructing the New Dormitory within the context of the 1994 EIS and would build the New Dormitory regardless of whether TRPA approves the new master plan. Therefore, there is no need to delay the construction of the New Dormitory pending the completion of the new EIS process which is now underway.
Should you have any questions, or require additional information, please advise.

Dan R. Reaser, Esq.
William J. McKean, Esq.
Several issues were raised during the public comment period regarding:

- Water rights in Nevada and how the new campus will impact those rights
- Cumulative traffic impacts from proposed projects located in the vicinity of the new campus
- Assurances contained in the Draft EIS that students living on campus will not have automobiles
- The use of residential bonus units for student housing
- Impacts students will have on the community recreation facilities.

Water Rights
Please refer to the Response to Comments section of this document, Letter #1 from Lahontan dated November 4, 1993, response to Comment #5 located on page 3-3.

Traffic Impacts
Cumulative Environmental Impacts associated with other projects proposed in the vicinity of the new campus are addressed in the letter prepared by kd Anderson. This document which is located on page 2-4 concludes that the resultant traffic impacts will have a less than significant impact on the environment.

Automobiles
Page 6-86 of the Draft EIS states that students residing in the dormitories (200 student capacity) will not be permitted to keep an automobile on campus. During the public hearings the preparers of the EIS have been asked how this will be accomplished. First of all, a prerequisite for living in a dorm, stated in the college/student contract, will be that the student will not be able to have an automobile. In addition, students residing in dorms will not be permitted to obtain parking passes or a parking sticker (which is required for all campus parking facilities). All short term parking is limited to one hour and will be patrolled by campus staff. Further, no parking is permitted on the streets of Incline Village as per Washoe County Code sec 70.420. There are no public parking facilities in Incline Village and any unauthorized vehicle parked in a private area will be towed at the owner's expense. The preparers of the document believe that these restrictions will deter any student residing in the dorms from having an automobile.

Bonus Units
TRPA Plan Area Statement 048, Special Area 1, is allocated ninety bonus residential units. The student dorms will house 200 students. At 2.5 students per dorm room, 80 residential units are required. The dorms qualify as affordable housing and the proponents of the project planned on utilizing 80 of the 90 bonus units available. However, since the Draft EIS for the new campus was prepared, a 58 unit condominium project, proposed to be located in the same Plan Area, Special Area 1,
Project Name: Ruvo, Existing Residence Relocation

Application Type: Residential, Special Use Determination

Applicant: Larry Ruvo

Applicant's Representative: Basin Strategies / Paul Kaleta

Agency Planner: Charles Donaldson, Associate Planner

Location: 1960 Glenbrook Road to the Rodeo Grounds, Glenbrook, NV

Assessor's Parcel Number / File Number: 01-190-09 to 01-070-26 / 980570

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The proposed project consists of relocating the existing white beach house from APN 01-190-09 to the rodeo grounds parcel at APN 01-070-26. TRPA previously approved a residential rebuild on the beach house parcel (01-190-09). Pursuant to the TRPA rebuild permit, the existing structure must either be relocated or demolished. The applicant proposes to relocate the existing structure from APN 01-190-09 to APN 01-070-26 (see attached site plan). As a condition of approval the applicant will be required to remove a residential structure so there is no increase in density on the parcel.

Site Description: The existing residence is located on the shores of Lake Tahoe in Glenbrook, Nevada. The beach house parcel has slopes ranging from 5 to 15 percent. The land capability for the parcel has been identified as Class 1b, Stream Environment Zone (SEZ). The existing residence will be relocated to a site on the rodeo grounds parcel.

The proposed residence will be relocated to high capability land, Class 5. The rodeo grounds parcel (APN is 01-070-26) is approximately 8.5 acres in size. The rodeo grounds parcel has most recently been used as for seasonal housing and a maintenance yard. The site contains numerous outbuildings including a barn, stables, and some small cabins. The rodeo grounds parcel contains land capability classes 5, 3, and 1b SEZ.

Issues: The issues surrounding this project have been detailed below.

1. Nonconforming Use: The existing use on the rodeo grounds parcel is (multi-family dwellings) is not a permissible use in the Plan Area Statement and is considered a nonconforming use pursuant to Chapter 18 of the TRPA Code. The TRPA Code does not allow the expansion of structures containing a nonconforming use. As a condition of approval the applicant will be required to show there will be no increase in living area associated with the residential units.
2. **Property Restriction on the Rodeo Grounds Parcel:** It has been brought to the agency's attention that there are certain restrictions concerning the development of the rodeo grounds parcel. Information submitted to the TRPA file indicates that due to a court ruling, Parcel 3 of Parcel C (Rodeo grounds parcel) shall maintain its existing essential character and design. The beach house is a white two-story residence with approximately 2,300 square feet of living area. The original residence was originally built around 1938. Relocating the small residential structure to a site comprised of other small residential and maintenance structures will not alter the parcel's existing essential character or design.

3. **Historic Resources:** The existing residence (Beach House) was originally built about 1938. Subsection 29.3 of the TRPA Code states "Upon discovery of a site, object, district, structure or other resource, potentially meeting the criteria of Subsection 29.5, TRPA shall consider the resource for designation as a historic resource and shall consult with the applicable state historic preservation officer (SHPO)." The applicant has submitted a report prepared by JRP Historical Consulting Services that concludes the existing residence, "Beach House", does not qualify for listing in the National Register of Historic Places. A copy of the report, and a project description was sent to the Nevada State Historic Preservation Office for review. Comments were received from the Nevada State Historic Preservation Office stating they accepted the recommendation of non-eligibility for the building. Although the residence may not be eligible for listing as a historic resource, it does have historical character and is a part of Glenbrook history. This proposal will relocate the building and prevent it from being demolished.

**Staff Analysis:**

A. **Environmental Documentation:** TRPA staff has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

B. **Plan Area Statement:** The project is located in Plan Area Statement 058, Glenbrook. The land use classification is Residential and the Management Strategy is Mitigation. Multi-family dwellings are listed as a Special (S) use in the plan area statement, only on parcels designated as multi-density. The subject parcel is not one of those designated as multi-density, therefore the existing use is considered nonconforming. Agency staff has reviewed the subject Plan Area and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies.

C. **Land Coverage:**

1. **Land Capability District:** The land capability districts of the project area are Classes 5, 3, and 1b SEZ. The total project area is 460,130 square feet in size.

2. **Coverage Calculations:** As a condition of approval the applicant will be required to provide revised coverage calculations that reflect the entire project area.
3. **Excess Land Coverage Mitigation:** The applicant will be required to mitigate any excess land coverage within the project area in accordance with Chapter 20 of the TRPA Code of Ordinances.

D. **Building Height:** Based on a 1% cross-slope retained across the building site, and a proposed roof pitch of 12:14, the maximum allowed height for the residence is 36 feet, 6 inches. The total height of the proposed residence is 29 feet, 9 inches. The height complies with Chapter 22 of the TRPA Code of Ordinances.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18, and 22 of the TRPA Code of Ordinances. Following each finding, agency staff has briefly summarized the evidence on which the finding can be made.

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

   (a) **Land Use:** The existing and proposed use of the property is multi-family dwellings. The surrounding parcels consist of developed single-family dwellings and open space. Multi-family dwellings are a special use in the plan area statement, only on parcels designated as multi-density. The subject parcel is not one of those designated as multi-density, therefore the existing use is considered nonconforming. The proposed project will relocate an existing residence from the beach house parcel to the rodeo grounds parcel and will not alter the overall land use pattern of the parcel.

   (b) **Transportation:** The project involves the relocation of an existing residence and as such, does not involve an increase in daily vehicle trip ends (dvt) or vehicle miles traveled. There is no evidence that the proposed project will adversely affect implementation of the Transportation Element of the Regional Plan.

   (c) **Conservation:** The applicant will be required to apply Best Management Practices (BMPs) to the project area. This project is not visible from any TRPA scenic corridors or public recreation areas. There are no known special interest species, sensitive or uncommon plants or cultural resources within the project area.

   (d) **Recreation:** This project does not involve any recreation facilities or uses.

   (e) **Public Service Facilities:** This project does not require any additions to public services or facilities.

   (f) **Implementation:** The proposed project does not require any allocations of development.

2. The project will not cause the environmental threshold carrying capacities to be exceeded.

   The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6,
Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on
said checklist indicate compliance with the environmental threshold carrying
capacities. A copy of the completed checklist will be made available at the
Governing Board hearing and at the TRPA.

3. Wherever federal, state or local air and water quality standards applicable for the
region, whichever are strictest, must be attained and maintained pursuant to
Article V(g) of the TRPA Compact, the project meets or exceeds such standards.
(Refer to paragraph 2, above.)

4. The project, to which the use pertains, is of such a nature, scale, density,
intensity and type to be an appropriate use for the parcel on which, and
surrounding area in which, it will be located.

The proposed project involves the relocation of an existing residence. As a
condition of approval the applicant will be required to remove one of the existing
residential structures because the project does not propose to increase the
density on the parcel. The beach house is an old style, two-story, single-family
dwelling of approximately 2,300 square feet of living area. The beach house is
being relocated to the adjacent rodeo grounds parcel. The rodeo grounds parcel
contains five residences and various outbuildings and maintenance facilities.
The beach house is to be relocated on the rodeo grounds parcel next to similar
residences. The project is of such a nature, scale, density, intensity, and type to
be an appropriate use on the parcel.

5. The project, to which the use pertains, will not be injurious or disturbing to the
health, safety, enjoyment of property, or general welfare of persons or property in
the neighborhood, or general welfare of the region, and the applicant has taken
reasonable steps to protect against any such injury and to protect the land, water
and air resources of both the applicant's property and that of surrounding
property owners.

The applicant shall be required to install temporary and permanent Best
Management Practices (BMPs) on the subject parcel to protect the land, water,
and air resources of both the applicant's property and the surrounding area.
There is no evidence that the proposed project will be injurious or disturbing to
the health, safety, enjoyment of property, or general welfare of persons or
property in the neighborhood, or general welfare of the region.

6. The project, to which the use pertains, will not change the character of the
neighborhood, detrimentally affect or alter the purpose of the applicable planning
area statement, community plan and specific or master plan, as the case may be.

There are currently five existing residences and several outbuildings on the
rodeo grounds parcel. This project will not increase density on the parcel. The
existing use on the parcel (multi-family) is nonconforming. Chapter 18 of the
Code allows the continuation of existing uses, but not the expansion. The
proposed project does not propose to expand the use but to relocate a residential
structure.
7. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The proposed residence is being relocated to a location that is not visible from any major arterials, scenic turnouts, public recreation areas, or the waters of Lake Tahoe.

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

The surrounding land uses for this parcel are residential and open space. The adjacent structures include a mixture of one story and two-story residences and maintenance buildings. The proposed structure is a two-story residence and is consistent with the surrounding land uses.

9. 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.

There are no existing public views within the area that would be interfered with as a result of the additional height.

10. 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 the 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.

The maximum height at the corner of the two exterior walls, for the residence, is 17 feet. This height is not greater than 90 percent of the maximum building height, which is 38 feet 10 inches.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect for the construction of the project.

II. A motion to approve the residential rebuild project based on this staff summary subject to the conditions listed below.

(1) This permit is for the relocation of an existing single family dwelling from the beach house parcel (APN 01-190-09) to the rodeo grounds parcel (APN 01-070-26).
(2) The Standard Conditions of Approval listed in Attachment R where applicable.

(3) Prior to permit acknowledgement the following special conditions of approval must be satisfied:

(a) The site plan shall and elevations shall be revised to include the following:

(1) The coverage calculations shall be revised to reflect the recognized project area.

(2) Existing and proposed BMPs.

(b) The permittee shall mitigate any excess land coverage on this project area by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area Number 3 (if necessary).

The excess coverage mitigation fee shall be calculated as follows:

(1) Estimated Project Construction Cost \times Factor from table

Please provide a construction cost estimate by your contractor, architect or engineer. **In no case shall the mitigation fee be less than $100.00.**

**Excess land coverage may be removed in lieu of an excess coverage mitigation fee. To calculate the amount of excess coverage to be removed use the following formula:**

(2) Excess coverage mitigation fee (per formula (1), above) divided by $5.00 per square foot. If you choose this option, please revise your final site plan and land coverage calculations to account for the coverage removal.

(c) The security required under Standard Condition A.3 of Attachment R shall be $5,000. Please see Attachment J, Security Procedures.

(d) A water quality mitigation fee shall be paid to TRPA at the rate of $1.34 per square foot for any additional land coverage being created as a result of the project.

(4) As a condition of approval the applicant is required to permanently remove at least one of the existing residential structures on the parcel. Pursuant to Section 18.5.B(3) of the TRPA Code, expansions of structures containing a nonconforming use shall not be permitted. Therefore, the permittee shall submit documentation there will be no increase in living area associated with this project. By acceptance of this
permit, the permittee agrees to remove any additional living area square footage or buildings. By acceptance of this permit, the permittee agrees to comply with this condition by October 1, 1999, or demolish the beach house structure.

(5) The permittee shall provide a revegetation plan and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances for TRPA review and approval.

(6) Excavation equipment shall be limited to the foundation footprint to minimize site disturbance.

(7) The permittee shall not construct any finished floor, which is five feet or more below natural grade measured at the location where the bottom of the excavation meets the foundation wall. Any modification of this structure shall conform to TRPA's height standard.

(8) The areas where land coverage is removed shall be restored in accordance with Section 20.4.C of the TRPA Code of Ordinances.

(9) No trees are permitted for removal. The existing trees may not be removed or trimmed for the purposes of view enhancement.
Rodeo Grounds Parcel

APN 01-070-26

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Existing Beach House Residence to be
Relocated to the Rodeo Grounds
Existing Beach House Residence to be Relocated to the Rodeo Grounds
Existing Beach House Residence to be Relocated to the Rodeo Grounds
Project Name: Rosemeyer Existing Pier Expansion

Application Type: Shorezone / Existing Pier Expansion

Applicant: Kendall Rosemeyer

Applicant's Representative: Kevin Agan, Land and Shorezone Consultant

Agency Planner: Charles Donaldson, Associate Planner

Location: 6103 N. Lake Blvd., Placer County, CA

Assessor's Parcel Number / File Number: 117-020-09 / 980224

Staff Recommendation: Staff recommends denial of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The proposed project consists of relocating and expanding an existing single-use pier structure. The existing structure is between five to ten feet wide and about fifty feet long. The existing structure extends approximately five feet lakeward of the highwater line. The proposed project would expand the pier to a total of 78 feet in length, as measured from the highwater line. The proposed pier width would be 6 feet wide for 48 feet to the pierhead, which would be 30 feet long and 10 feet wide (See Exhibit "A"). Also proposed as a part of the pier will be a 3 foot wide and 28 foot long catwalk and one low-level boatlift. This project would also include the stabilization of the eroding shoreline and some additional landscaping.

Site Description: The project area contains one single family dwelling and the property is approximately 14,109 square feet in size. The parcel is a littoral parcel that is divided by State Highway 28 (N. Lake Blvd.). The residence is located on the upland or north side of the highway and the parking area, deck, and stairs are located on the lakeside or south side of the highway. The project area is located in an area mapped and verified as prime fish habitat (feed and escape cover). The land capability for the site has been verified as Classes 1c and 1b Stream Environment Zone (SEZ). Adjacent land uses are residential. The shoreline is characterized as a Shorezone Tolerance District 2. These are typically volcanic and moranic debris shorezones with slopes 30% and over and alluvial soils between 9 – 30% slopes. Potential for disturbance in the nearshore is high as is potential for erosion and cliff collapse in the backshore.

Issues: This project involves the expansion of an existing nonconforming structure (based on fish habitat). Therefore the project requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary issues associated with this project are:

1. Verification of the structure as legally existing: The existing parcel is located in an area mapped and verified as Feed and Escape Cover habitat. Therefore at this time no new shorezone structures are permitted pursuant to Chapter 54 of the TRPA Code. To approve an expansion of an existing shorezone structure TRPA must first find that the
structure is legally existing. Chapter 2 of the TRPA Code defines existing as "Legally present or approved on the effective date of the Regional Plan or subsequently legally constructed, commenced or approved pursuant to necessary permits.

Based on records obtained from Placer County Assessor’s Office and Building Department records the existing residence was originally constructed around 1978. The existing pier structure was not built with the original residence but was added at a later date. A review of old records did recover an application originally submitted to TRPA in 1979 for a recreational pier and parking deck. TRPA approved the project but the U.S. Army Corps of Engineers denied the project based on fish habitat (See Exhibit "C").

Because approval is required from all agencies with jurisdiction on Lake Tahoe, the proposed pier project was never built. At this time it is unclear when the existing pier structure was built on the property. Based on a review of photographs of the project area in 1979, it is staff’s determination that the structure was built after 1979 (See Exhibit "B").

TRPA staff has not been able to verify the existing pier structure as “existing”. Based on the submitted information and a review of old files, TRPA could not verify the structure was built with permits. At the time when the structure was most likely built (after 1979) the TRPA Shorezone Ordinance was in effect, having been adopted on July 26, 1976. Any project in the shorezone would have required a permit from TRPA. After extensive file research was conducted, no permits were found for the existing structure.

Recovering the old permits for this structure has become important to the review of the project. A review of the pier application submitted in 1979 to TRPA showed a proposal for a pier and parking deck structure with steps to a proposed pier. A review of the plans submitted with the application show the deck structure was not intended to extend beyond the highwater line (See Exhibit "B"). Based on the available information it is staff’s determination that the existing structure was never intended to extend beyond the highwater line and therefore was never intended to be a shorezone structure.

This determination is based on the following reasons. It is staff’s opinion that because the pier portion of the project was denied by the U.S. Army Corps of Engineers, the applicant continued with the other half of the project to construct the deck and steps to the shoreline. The plans for the deck and stairs clearly show that it was not intended to extend beyond the highwater line (See Exhibit "B"). Today, only a very small portion of the existing structure extends beyond the highwater line at this time. During the time period when the existing structure was most likely constructed Lake Tahoe was experiencing low water conditions. Also, please see the attached photos of the site conditions in 1979 when the application was submitted (See Exhibit "B"). It is staff’s opinion that either the deck structure was mistakenly constructed beyond the highwater line or the existing shoreline has eroded and the highwater line has moved. In either case the existing structure that was constructed during the time TRPA Ordinances were in effect was not intended to extend beyond the highwater line and therefore is not pier.

2. **Scenic Quality:** The proposed project is visible from scenic shoreline unit number 20 (Flick Point) and scenic roadway unit number 19 (Flick Point). Scenic shoreline unit number 20 (Flick Point) has a score 8 and is in attainment with TRPA scenic thresholds. The proposed project is located in Scenic Resource 20.5, as found in the Lake Tahoe Basin Scenic Resource Inventory. This resource is characterized as a "Rocky area comprising steep open slope of rock and disturbed ground is very prominent and pale in
color. Housing and road scars are conspicuous." Scenic resource 20.5 has a scenic quality score of low and a rating of 1. Scenic roadway unit number 19 (Flick Point) has a score of 14 and is not in attainment with TRPA scenic thresholds. The 1996 Threshold Evaluation stated about the unit "Additional shoreline development could contribute to a very cluttered and overbuilt appearance for this foreground area, thus affecting all views of the lake."

The impacts from the roadway and shoreline scenic unit can be mitigated on site. The proposed project includes removal of a non-conforming structure and replacing it with a pier that meets the current design standards. By replacing the existing structure with a straight pier that is perpendicular to the shoreline, the project will reduce the amount of mass visible from Lake Tahoe. As a condition of approval the applicant will submit a scenic mitigation plan to TRPA for review and approval to mitigate the impacts of the proposed development. The proposed mitigation includes; residing and reroofing the existing residence a darker more natural color, planting additional landscaping along the shoreline of the property to screen existing development from Lake Tahoe, and stabilizing the eroding shoreline. The proposed project, as conditioned, is consistent with the scenic quality standards and will not contribute to the decline of the scenic quality ratings. In addition, the proposed slope stabilization and residential residing will provide an improvement to the scenic unit as a whole.

Staff Analysis:

A. Environmental Documentation: TRPA staff has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement: The project is located within Plan Area Statement 021 (Tahoe Estates). The land use classification is Residential, and the management strategy is Mitigation. The proposed use (piers) is an allowable accessory use in the Plan Area Statement. TRPA staff has reviewed the Plan Area Statement and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies.

C. Land Coverage:

1. Land Capability District: The land capability districts of the project area are classes 1c, and 1b, SEZ. The total project area is 14,109 square feet in size.

2. Total Allowable Land Coverage: 141 square feet

3. Total Existing Land Coverage: 3,641 square feet

4. Proposed Land Coverage: 3,641 square feet

5. Excess Land Coverage: 3,500 square feet
6. **Excess Land Coverage Mitigation:** The applicant will be required to mitigate the excess land coverage within the project area in accordance with Chapter 20 of the TRPA Code of Ordinances.

D. **Shorezone Tolerance District:** The subject parcel is located within Shorezone Tolerance District 2. The project, as conditioned, complies with the shorezone tolerance district standards.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 50, and 52 of the TRPA Code of Ordinances. Following each finding, agency staff has briefly summarized the evidence on which the finding can be made.

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

   (a) **Land Use:** The single-family dwelling on the subject parcel is an allowed use within the applicable plan area statement. The proposed project involves the relocation of an allowed accessory structure (pier). Surrounding land uses are residential.

   (b) **Transportation:** The existing structure serves the homeowners and guests of the affected parcel and, as such, will not result in an increase of daily vehicle trip ends (dvtie) to the subject parcel. There is no evidence that the proposed project will adversely affect implementation of the Transportation Element of the Regional Plan.

   (c) **Conservation:** The project, as conditioned, is consistent with the fisheries, shorezone, and scenic subelements of the Conservation Element of the Regional Plan. The project involves replacing and relocating the existing structure to meet the current design standards. As a condition of approval the applicant will be required to stabilize the existing eroding shoreline. As part of the project the applicant will also install the required Best Management Practices (BMPs) on the parcel in accordance with Chapter 25 of the TRPA Code. There are no known special interest animal or plant species or cultural resources within the project area.

   (d) **Recreation:** This project does not involve any recreation facilities or uses. The proposed pier will be similar in length to adjacent existing piers and will not extend beyond the TRPA pierhead line. By remaining consistent with existing development, the proposed pier will not adversely affect recreational boating or top-line angling.

   (e) **Public Service Facilities:** This project does not require any additions to public services or facilities.

   (f) **Implementation:** The proposed project does not require any allocations of development.

2. The project will not cause the environmental threshold carrying capacities to be exceeded.
The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at the TRPA.

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

(Refer to paragraph 2, above.)

4. The proposed project will not adversely impact: (1) littoral processes; (2) fish spawning; (3) backshore stability; and (4) on-shore wildlife habitat, including wildfowl nesting areas.

The proposed project will not have an impact on littoral processes because the project does not involve a structure that is less than 90 percent open. The proposed project is located in an area mapped and verified as feed and escape cover habitat. The proposed project is not located in and will not affect fish spawning habitat. The proposed project is not located within an area that is mapped as on-shore wildlife habitat. The existing backshore is in an unstable condition. If the proposed project is approved, a condition of approval will require the applicant to stabilize the eroding shoreline.

5. There are sufficient accessory facilities to accommodate the project.

This proposed project involves the relocation and expansion of an existing pier structure. The project is located on a property occupied by a single-family dwelling. The pier will be used by the owners of the property and their guests. There is sufficient parking and shorezone access to accommodate the project.

6. The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modification of such existing uses or structures will be undertaken to assure compatibility.

The project is compatible with existing shorezone accessory uses (piers) in the vicinity. The proposed pier will not extend beyond the TRPA pierhead line.

7. The use proposed in the foreshore or nearshore is water-dependent.

The pier is located in the foreshore and nearshore of Lake Tahoe and is water-dependent.

8. Measures will be taken to prevent spills or discharges of hazardous materials.

This approval prohibits the use of spray painting and the use of tributyltin (TBT).
9. Construction and access techniques will be used to minimize disturbance to ground and vegetation.

The applicant shall not be permitted to store construction materials on the beach. Permanent disturbance to ground and vegetation is prohibited. Caissons shall be utilized if lakebottom sediment is resuspended during pile driving operations associated with this project.

10. The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake’s navigable waters.

The proposed pier will not extend beyond the TRPA pierhead line. The U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers have completed a preliminary review of the project and commented that no safety or navigation impacts have been identified.

11. TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on this project.

This project must receive approval from the California Division of State Lands, and the U.S. Army Corps of Engineers. Comments from these agencies, as well as the California Department of Fish & Game, were solicited as part of the review of this project. None of the agencies indicated that they had concerns regarding the proposed project.

12. The expansion decreases the extent to which the structure does not comply with the development standards and/or improves the ability to attain or maintain the environmental thresholds.

The project will not create a degradation of any of the environmental thresholds. This project is located in an area mapped and verified as feed and escape cover habitat. TRPA staff has inspected the subject parcel and determined that the proposed project will not adversely impact fisheries. The proposed project is visible from scenic shoreline unit number 20 (Flick Point) and scenic roadway unit number 19 (Flick Point). Scenic shoreline unit number 20 (Flick Point) has a score 8 and is in attainment with TRPA scenic thresholds. Scenic roadway unit number 19 (Flick Point) has a score of 14 and is not in attainment with TRPA scenic thresholds. Staff has determined that the project, as conditioned, is consistent with the scenic quality standards due to the mitigation proposed. The proposed mitigation includes; residing and reroofing the existing residence a darker more natural color, planting additional landscaping along the shoreline of the property to screen existing development from Lake Tahoe, and stabilizing the eroding shoreline. The proposed project is consistent with the scenic quality standards and will not contribute to the decline of the scenic quality ratings. In addition, the proposed slope stabilization and residential residing will provide an improvement to the scenic unit as a whole. The required mitigation to stabilize the eroding shoreline will also be a benefit to water quality.

13. The project complies with the requirements to install Best Management Practices (BMPs) as set forth in Chapter 25.
If the project is approved the applicant will be required to install BMPs as a condition of approval.

14. The project complies with the design standards in Section 53.10.

Consistent with TRPA Code Section 53.10, the color of the new pier will be compatible with the surroundings. Conditions of approval will ensure that earthtone colors are used on the new pier and the specific colors must be reviewed and approved by TRPA prior to acknowledgement of the permit.

15. The structure has not been unserviceable for more than five years.

Unserviceable is defined in Chapter 52 of the TRPA Code as "a structure that can no longer serve the function for which it was designed". TRPA staff is unable to make the finding that the existing structure has not been unserviceable for more than five years as a pier. It is the determination of staff that the existing structure was never designed or built as a pier or shorezone structure that was meant to extend beyond the highwater line. Based on the available information it is staff's determination the existing structure was built as a deck with stairs that lead down to the shoreline.

F. Required Actions: Agency staff recommends that the Governing Board deny the project by making the following motions based on this staff summary and evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect for the project.

II. A motion to approve the project (which motion should fail) based on this staff summary subject to the conditions listed below:

(1) This permit authorizes the relocation and expansion of an existing single-use pier. The approved pier shall not exceed a total of 78 feet in length. The proposed width will be 6 feet wide for 48 feet to the pierhead, which shall be 30 feet long and 10 feet wide. Also proposed as a part of the pier will be a 3 foot wide and 28 foot long catwalk and one low-level boatlift. This project will also include the stabilization of the eroding shoreline and some landscaping.

(2) The Standard Conditions of Approval listed in Attachment S where applicable.

(3) Prior to permit acknowledgement the following special conditions of approval must be satisfied:

(a) The permittee shall submit a scenic mitigation plan that shall include a landscape plan and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances, for TRPA review and approval.
(b) The permittee shall mitigate 3,500 square feet of excess land coverage on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area Number 9.

The excess coverage mitigation fee shall be calculated as follows:

(1) Estimated Project Construction Cost x 0.0125.

Please provide a construction cost estimate by your contractor, architect or engineer. In no case shall the mitigation fee be less than $100.00.

Excess land coverage may be removed in lieu of an excess coverage mitigation fee. To calculate the amount of excess coverage to be removed use the following formula:

(2) Excess coverage mitigation fee (per formula (1), above) divided by $5.00 per square foot. If you choose this option, please revise your final site plan and land coverage calculations to account for the coverage removal.

(c) The security required under Standard Condition A.3 of Attachment S shall be 5,000. Please see Attachment J, Security Procedures.

(d) The permittee shall submit a Shorezone Mitigation Fee of $2,690 for 73 feet of additional length to an existing pier and the addition of one low-level boatlift.

(e) The permittee shall use the colors and materials reviewed and approved by the TRPA (see file for details). TRPA shall review and approve any changes to the proposed colors and/or materials.

(f) The permittee shall submit a slope stabilization plan for the eroding shoreline to TRPA for review and approval. If a shoreline protective structure is required a separate application shall be submitted to TRPA for review and approval.

(4) Spray painting and the use of tributyltin (TBT) is prohibited.

(5) The use of wood preservatives on wood in contact with the water is prohibited and extreme care shall be taken to insure that wood preservatives are not introduced into Lake Tahoe.

(6) No containers of fuel, paint, or other hazardous materials may be stored on the pier.
(7) Gravel, cobble, or small boulders shall not be disturbed or removed to leave exposed sandy areas, before, during, or after construction.

(8) The applicant shall submit post-construction photos within 30 days of the project completion date, and prior to security return, demonstrating any resultant impacts to scenic quality as viewed from 300 feet from shore looking landward and to lake bottom conditions as viewed from the subject parcel.

(9) No buoys are verified or proposed by this permit.

(10) Caissons shall be utilized if lakebottom sediment is resuspended during pile driving operations associated with this project.
NOTES

THIS PROJECT INVOLVES MODIFYING AN EXISTING PIER TOWARDS CONFORMANCE WITH CURRENT AGENCY STANDARDS.
Application Type: Shorezone - New Pier, Two Existing Buoys, and Parking Deck

Applicant: Mr. John Preckwinkle
P. O. Box 268
Kings Beach, California 95719

Owner: Same

Assessor's Parcel: Placer County #89-071-19

Project Location: 6103 North Lake Boulevard, Agate Bay

Review Per Section: 4.11(1) & (9), Shorezone Ordinance

Shorezone: Tolerance District 2

Land Use Classification: General Forest

Land Capability District: IC

Project Area: 16,700 square feet

Land Coverage:
- Existing Coverage - 2,124 square feet
- Proposed Coverage - 780 square feet
- Permitted Coverage - 3,200 square feet

Project Description: The applicant is proposing two separate projects - 1) a new single-use pier; and 2) a parking deck at highway level incorporating steps to the proposed pier and also slope protection for a badly eroding slope.

The proposed pier is to be 70 feet long measured from the high water line, 6 feet in width for the first 50 feet and 10 feet in width for the remaining 20 feet. There is to be a 3 foot wide by 13 foot long stepped catwalk located at the lakeward end of the pier. There are two existing buoys located 120 feet from the highwater line at an approximate lake bottom elevation of 6214 feet. These buoys are 50 feet from the end of the pier and are spaced 50 feet apart (see attached plan).

8/21/79

113
The proposed 780 square foot deck is to be located on the lake side of Highway 28 across from the existing residence. The proposed deck will be cantilevered approximately 12 feet over the bank to provide for a parking-boat storage area. There will also be a stairway constructed from the deck to the proposed pier.

Analysis: The applicant contends the one-car garage and two-car parking area is not adequate for his parking needs and he therefore proposes the parking deck across the road from the residence as a solution. Staff can not support such a solution for the following reasons:

1. It will cause an unnecessary safety hazard by requiring an additional encroachment on Highway 28 across from the existing residence.

2. It will cause unnecessary visual impacts by locating a structure for parking and boat storage adjacent to the high water line of Lake Tahoe, thus impairing views from the highway and the lake.

3. It will cause unnecessary environmental impacts by shading the existing bank with the deck overhang, thus impeding vegetative growth.

It would be staff's suggestion that the applicant construct additional parking landward of Highway 28 and adjacent to the existing residence.

Finding: If the proposed construction is accomplished according to the approved plans and following conditions, Agency staff can find that this project is in conformance with Section 5.00 of the Shorezone Ordinance.

Recommendation: Agency staff recommends that a permit be conditionally approved under Section 5.00 of the Shorezone Ordinance for this application. The recommended conditions of approval are:

1. The approval will not become effective and the project may not commence, unless and until the applicant acknowledges and accepts the preceding findings and the following conditions by placing his signature on a form which is furnished by the Agency after approval is granted.

2. All construction shall be accomplished as per the approved plans.
3. No construction methods shall be utilized that will degrade the waters of Lake Tahoe.

4. No rock or other natural material shall be relocated without staff approval.

5. The applicant shall properly mark the mooring buoys approved under this application upon the Agency initiating a buoy marking and identification program.

6. Agency staff shall be notified at least 48 hours prior to the commencement of construction. This notification shall include (a) who will be doing the work; (b) when the work will commence; and (c) when the completion of work is expected.

7. If substantial work has not been performed pursuant to this permit within 18 months from the date of approval, and if the applicant has not obtained an extension permit, this permit shall expire.

9/21/79
Application for Permit for a Stairway and Shoreline Protection at Gate Bay on Lake Tahoe.

PROPOSED PIER (SEE SHEET 1/2)
Dear Mr. Preckwinkle:

This concerns your application for a Department of the Army permit to construct a pier and retain two unauthorized mooring buoys in Lake Tahoe at Placer County Assessor's Parcel No. 89-071-19.

Comments received as a result of our public notice indicate that the proposed pier is located in an area designated as prime fish habitat. The cumulative impact of pier and buoy development degrades and sometimes destroys valuable fish habitat and creates obstacles which make it impossible for boat fishermen to navigate while trolling for trout in the lake's limited littoral zone. Therefore, based on the above evaluation of all available information pertaining to this project, we find that it is in the best public interest to deny your permit. The two unauthorized mooring buoys must be removed by 14 July 1980.

We are returning your original permit drawings for your records. Denial of this application does not preclude your filing a new permit application if measures can be incorporated to avoid or mitigate the adverse impacts on the public interest associated with your application.

Sincerely,

PAUL F. KAVANAUGH
Colonel, CE
District Engineer

Copy furnished:
William A. Service & Associates, Olympic Valley, CA 95730
MEMORANDUM

May 12, 1999

To: Governing Board Members

From: The Staff

Subject: Amendment of Chapter 4, Project Review and Exempt Activities, to Adopt A New Memorandum of Understanding Between TRPA and the City of South Lake Tahoe

Proposed Action: As provided for in the Permit Integration Program Action Plan, TRPA staff is currently pursuing both the development of new MOUs as well as amendment of existing MOUs to improve coordination between certain governmental agencies and to provide clarification and expansion of certain exempt and qualified exempt activities and to increase delegation responsibilities where appropriate. At the May 12, 1999 Advisory Planning Commission (APC) meeting, the APC voted unanimously to recommend to the Governing Board approval of the new MOU with the City of South Lake Tahoe (Attachment A) exempting certain activities reviewed by the City from TRPA review.

Description and Discussion: As provided in both the Permit Integration Program Action Plan and the California State Performance Audit (1997) it was recommended that TRPA pursue the delegation of small commercial and other activities to the local jurisdictions so that TRPA could focus on implementation of the Environmental Improvement Program (EIP).

The proposed new MOU would allow the City of South Lake Tahoe to review, permit and enforce applications for:

- Small Commercial (new, additions/modifications) where the amount of new commercial floor area does not exceed 2,500 square feet
- Multi-family Dwellings (new, additions/modifications)
- Minor Additions/Modifications to Tourist Accommodation Uses
- Existing Use/Structure Verifications
- Temporary Uses
- Temporary Structures
- Commercial Changes in Operations
Review by the City would be limited to only those projects identified in Chapter 4, Appendix A of the TRPA Code as staff or Hearings Officer level review. Any of the activities listed in Chapter 4, Appendix A as Governing Board level would be retained by the TRPA.

Chapter 4, Section 4 of the Code would be amended to add a new Section 4.4.1, Small Commercial and Related Activities by the City of South Lake Tahoe; As set forth in Appendix KK, dated April, 1999, of this Chapter.

Environmental Documentation: Staff has completed the initial Environmental Checklist for the initial determination of environmental impact for each of the proposed MOUs. Based on the checklist, staff recommends a finding of no significant effect on the environment for the proposed MOU.

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 (ordinance) 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 with the City of South Lake Tahoe are minor in nature and are subject to all the provisions of the Regional Plan. The activities will be reviewed, approved and inspected by the City of South Lake Tahoe consistent with the provisions of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and the Code. The MOU will allow for better utilization of City of South Lake Tahoe and TRPA staff time as well as avoid the duplicative review process currently experienced by the City, TRPA and the public. 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 the proposed new MOU are subject to the provisions of the Regional Plan. The activities reviewed by the City of South Lake Tahoe will be in accordance with all applicable TRPA regulations. Therefore, the activities listed in the new MOU will not cause the environmental thresholds to be exceeded. This finding is also based on the Article V(g) checklists completed for the proposed amendments.

C. Wherever federal, state, and local air and water qualify 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 the proposed MOU are subject to the standards of the Regional Plan and Code. This finding is also based on the Article V(g) checklists completed for the proposed amendments.

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.

**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.

As discussed above, all activities undertaken pursuant to this MOU will be reviewed under the provisions of the Regional Plan package, including the TRPA Code, Plan Area Statements and applicable Community Plan. Based on the fact that these activities will be consistent with the Regional Plan and the limitations set forth in the MOU, coupled with limitations elsewhere in the Code, the proposed Code amendment 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 of ordinances designed to make existing policies and ordinances more effective. The proposed MOU will implement Section 4.4 of the Code which allows certain activities to be reviewed by local governments pursuant to a memorandum of understanding.

**Required Actions:** To approve the proposed MOU, the Governing Board must take the following actions.

1. Make the following findings:
   a. Chapter 6 findings contained herein.
   b. A Finding of No Significant Effect (FONSE) based upon the evidence in the record and the staff summary.

2. Adopt the accompanying ordinance.

If you have any questions regarding this staff summary, please call Rick Angelocci at (775) 588-4547.
APPENDIX KK

MEMORANDUM OF UNDERSTANDING BETWEEN
TAHOE REGIONAL PLANNING AGENCY AND
THE CITY OF SOUTH LAKE TAHOE

This Memorandum of Understanding is entered into this _____ day of ___________ 1999, by and between the TAHOE REGIONAL PLANNING AGENCY (TRPA), through its Executive Director as authorized by the Governing Board, and the City of South Lake Tahoe (CITY), by and through its Mayor, as authorized by the City Council.

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. All activities undertaken by CITY pursuant to the 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.

RECITALS

A. TRPA is required by the Tahoe Regional Planning Compact (P.L. 96-551, 94 Stat. 3233, Cal Govt. Code 66801; NRS 277.200) to regulate activities within the Tahoe Basin which may have a substantial effect on the natural resources of the Basin. The bistate Compact, Article VI(a) requires TRPA to define which activities are exempt from TRPA review and approval.

B. Given the existing comprehensive regulatory structure of CITY as it pertains to review of projects, within the City of South Lake Tahoe and consistent with the mandate of the Compact to defer land use regulation to local government wherever feasible, CITY and TRPA agree that CITY shall review those activities listed under 14 of this MOU to be undertaken within the CITY limits of the City of South Lake Tahoe. Such review by the CITY shall include application of all applicable TRPA regulations to such activities otherwise subject to TRPA review. As long as the applicable TRPA regulations are being complied with and enforced, such activities shall be deemed a qualified exempt activity under TRPA regulations.

IT IS NOW THEREFORE UNDERSTOOD AND AGREED BY THE PARTIES:

1. With the exception of those applications requiring TRPA Governing Board approval (Chapter 4, Appendix A), all applications for those activities listed under 14 of this MOU located within the City of South Lake Tahoe limits are hereby exempt under Chapter 4 of the TRPA Code and shall be reviewed by CITY.

2. CITY shall administer, in accordance with the provisions of this agreement, all standards of the TRPA Code as applicable to the activities as authorized by this MOU.

CITY shall utilize the TRPA Project Review Conformance Checklist and Procedural Guidelines in its review of projects, as authorized by this MOU.
CITY shall coordinate with TRPA to determine whether there have been any previous TRPA actions with regard to the subject parcels and the effect of any such action on the pending applications.

3. CITY shall be authorized to collect application and mitigation fees, security deposits, and other designated fees on behalf of TRPA in accordance with fee schedules to be provided to CITY by TRPA. Such fee schedules shall be sufficient in detail to provide specific information concerning fee calculations to assist CITY in performing fee collection activities. Furthermore, CITY shall be authorized to retain a percentage of all application fees collected to offset CITY’s costs of administering the provisions of this MOU. Such percentage shall be mutually agreed upon in writing by TRPA and CITY, and may be amended from time to time by mutual agreement of the Executive Director and the Chairperson of the Council.

All mitigation fees collected by CITY on behalf of TRPA pursuant to this MOU shall be paid to TRPA on a monthly basis under procedures mutually agreed upon by the finance officers of the parties hereto.

4. All existing MOUs between the CITY and TRPA shall remain in full force and effect.

5. Nothing in this MOU shall be construed to limit the authority of CITY to administer state or local regulations or to impose reasonable conditions of approval on any application. Further, nothing in this MOU shall be deemed to limit the land use regulatory powers of either CITY or TRPA.

6. The CITY and TRPA staff shall review quarterly the implementation of this MOU and shall report to their respective board/council following such reviews.

7. In carrying out the intent of this MOU, CITY and TRPA shall adhere to all provisions contained within TRPA Code Chapter 38 relating to accounting and tracking of coverage, allocations, and any other applicable procedures. All project accounting and tracking shall be completed by CITY and transmitted to TRPA to be included in its permanent accounting and tracking records. In carrying out the provisions of this MOU, CITY shall utilize tracking forms provided by TRPA to record all inspections, verifications, and other project review activities. CITY shall submit completed tracking forms to TRPA on a monthly basis.

8. CITY shall perform compliance inspections to ensure that the projects and activities permitted under this MOU are constructed in accordance with the plans previously submitted and approved.

CITY shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. Settlements of violations involving civil penalties must be approved by TRPA. If a violation cannot be resolved at the staff level, CITY shall contact TRPA to institute the formal notice of violation procedure.
9. Any activity set forth herein shall be considered a project requiring TRPA review if the Executive Director determines that, because of unusual circumstances or failure to comply with this MOU, the activity may have a substantial effect on the land, air, water, space, or any other natural resource of the region.

10. This MOU shall continue until sixty (60) days' written notice of termination is given by either party. Both parties hereby agree to cooperate in good faith to carry out the provisions of this MOU to achieve the objectives set forth in the Recitals herein.

11. None of the duties set forth in this MOU shall be assigned, transferred, or subcontracted by CITY without the prior written approval of TRPA.

12. Review of projects identified in 14, below, shall be limited to those projects identified in Chapter 4, Appendix A of the TRPA Code, as amended, as staff or Hearings Officer level. Where the review level is identified as Hearings Officer, all procedures identified in the Hearings Officer Procedural Guidelines shall be used. When feasible, joint TRPA Hearings Officer/City Zoning Administrator public hearings shall be held.

13. When required, TRPA staff shall serve as support staff to the CITY in review of the project applications listed in 14, below. Support shall include, but not be limited to, traffic analysis, scenic, and soil/hydro report reviews. All land capability verifications shall be retained by the TRPA.

14. Activities to be reviewed, permitted and enforced by the CITY:
   
a. Small Commercial (new, additions/modifications) where the amount of new commercial floor area does not exceed 2,500 square feet
b. Multi-family Dwellings (new, additions/modifications)
c. Minor Additions/Modifications to Tourist Accommodation Uses
d. Existing Use/Structure Verifications
e. Temporary Uses
e. Temporary Structures
f. Commercial Changes in Operation

Note: Any project listed in the categories above requiring a higher level of environmental documentation than Categorical Exempt as defined under the California Environmental Quality Act (CEQA) shall automatically require TRPA review and approval.

CITY OF SOUTH LAKE TAHOE

Dated: ____________________ 

Mayor

TAHOE REGIONAL PLANNING AGENCY

Dated: ____________________ 

James Baetge
Executive Director
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 99-

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY
AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE TAHOE
REGIONAL PLANNING AGENCY RELATING TO THE EXEMPT ACTIVITIES;
PROVIDING FOR A MEMORANDUM OF UNDERSTANDING BETWEEN THE
TAHOE REGIONAL PLANNING AGENCY AND THE CITY OF SOUTH LAKE
TAHOE TO EXEMPT CERTAIN ACTIVITIES FROM TRPA REVIEW; AND
OTHER MATTERS PROPERLY RELATED THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend Ordinance No. 87-9 by amending
Chapter 4 in accordance with Section 4.8 in order to implement the
Regional Plan of the Agency, as amended, pursuant to Article VI(a) and
other applicable provisions of the Tahoe Regional Planning Compact, as
amended (Compact).

1.20 The Advisory Planning Commission (APC) has conducted a public
hearing on the amendments to be adopted by this ordinance. The APC
recommended adoption of the amendments. The Governing Board has
also conducted a noticed public hearing on these amendments to the
Code. At said hearings, oral testimony and documentary evidence were
received and considered.

1.30 The provisions of this ordinance are intended to further implement
Chapter 4 of the Code, and not substantially affect the regulatory
provisions of the Code and have been determined not to have a
significant effect on the environment, and thus are exempt from the
requirement of an environmental impact statement pursuant to Article VII
of the Compact.

1.40 The Governing Board finds that, prior to the adoption of this ordinance,
the Board made the findings required by Section 6.5 of the Code and
Articles V(g) and VI(a) of the Compact. The Governing Board further
finds that such findings are supported by substantial evidence in the
record.

1.50 The amendments to the Code adopted by this ordinance continue to
implement the Regional Plan, as amended, in a manner that achieves
and maintains the adopted environmental threshold carrying capacities as
required by Article V(c) of the Compact.
1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of Chapter 4 of the Code of Ordinances

Chapter 4, Section 4 of the Code would be amended to add a new Section 4.4.1, Small Commercial and Related Activities by the City of South Lake Tahoe: As set forth in Appendix KK, dated April, 1999, of this Chapter.

Section 3.00 Interpretation and Severability

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

Section 4.00 Effective Date

This ordinance shall become effective 60 days after the date of its adoption or the execution of the MOU by City of South Lake Tahoe, whichever is later.

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held _____________, 1999, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
May 12, 1999

To:      Governing Board Members

From:    TRPA Staff

Subject: Amendment of Plan Area Statement 093, Bijou, Residential, to Add Two Areas Designated as Special Area #1 to Limit Residential Density to One Single Family Dwelling per Legal Lot of Record

Proposed Action: To amend Plan Area Statement Amendment 093, Bijou, Residential, to add two areas designated as Special Area #1. The purpose of the amendment is to reduce allowable density in the designated Special Area #1 areas by deletion of multi-family dwellings and multi-person dwellings as permissible uses. The action is necessary to make the Plan Area Statement consistent with the historical City zoning allowing residential densities of one single family dwelling per legal lot of record in the subject areas (formally Low Density Residential). This Plan Area Statement amendment is being processed at the request of the City of South Lake Tahoe. The Advisory Planning Commission (APC) held a public hearing May 12, 1999 on the proposed amendment and voted unanimously to recommend to the Governing Board approval of the amendment.

Staff Recommendation: Staff recommends the Governing Board adopt the ordinance amending the Bijou Plan Area Statement.

Background: On April 13, 1999 the City of South Lake Tahoe City Council adopted a new General Plan. The new General Plan contains a Land Use Element incorporating the TRPA Plan Area Statements as the new City land use zoning. During the public hearing process, testimony was given to the council identifying an inconsistency between the TRPA Plan Area Statement 093 permissible uses and the then existing traditional City zoning. There were two areas within Plan Area Statement 093 which were designated under City zoning as Low Density Residential (LDR), allowing a density of one single family dwelling per legal lot of record. This conflicted with the permissible uses in the TRPA Plan Area Statement which allowed a higher density, multi-family dwellings and multi-person dwellings, throughout the Plan Area. Upon adoption of the new General Plan the City requested that TRPA amend Plan Area Statement 093 to match the traditional zoning by creating two areas designated Special Area #1 which would limit residential densities to one single family dwelling per legal lot of record. The proposed Plan Area Statement amendment would accomplish this.

5/12/99
RA

AGENDA ITEM IX.B.
Findings: Prior to amending the TRPA Code of Ordinances, TRPA must make the following Findings.

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 proposed amendment to the Bijou Plan Area Statement is consistent with and will not adversely affect implementation of the Regional Plan Package and is consistent with the current residential density pattern in the two areas designated Special Area #1.

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

Rationale: The amendment will not cause environmental thresholds to be exceeded. Reducing the allowable residential density in the two areas designated as Special Area #1 will result in consistent zoning with the local jurisdiction.

3. 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: See findings 1 and 2 above.

Chapter 13 Findings

1. Finding: The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C.

Rationale: See findings 1 and 2 above. The proposed amendment is consistent with and will not change the current Plan Area Statement designation as Residential and is consistent with the current density pattern of the areas in question.

Environmental Documentation: Staff has prepared an Initial Environmental Checklist (IEC) for the proposed amendment. Staff proposes a Finding of No Significant Effect (FONSE) based on the Chapter 6 findings shown above.
**Required Actions:** To approve the proposed amendment, the Governing Board must take the following actions.

1. Make the following findings:
   a. Chapter 6 findings contained herein.
   b. A Finding of No Significant Effect (FONSE) based upon the evidence in the record and the staff summary.

2. Adopt the accompanying ordinance.

Staff will begin this item with a brief presentation. Please contact Rick Angelocci at 702-686-4547, or via email at trpa@sierra.net, if you have any comments regarding this item.
PLAN DESIGNATION:

Land Use Classification: RESIDENTIAL
Management Strategy: MITIGATION
Special Designation: TDR RECEIVING AREA FOR:
   1. Existing Development
   PREFERRED AFFORDABLE HOUSING AREA
   MULTI-RESIDENTIAL INCENTIVE PROGRAM
   ELIGIBLE FOR REDEVELOPMENT PLANS

DESCRIPTION:

Location: This area is located south of Highway 50 between Ski Run Boulevard and Bijou Meadow and is located on TRPA maps G-17 and H-17.

Existing Uses: This is an older residential area of mixed residential uses and includes the Bijou Elementary School. The area is 90 percent built out.

Existing Environment: The lands in this area are classified as 70 percent low hazard and 30 percent SEZ. The area has 30 percent hard coverage with an additional 20 percent disturbed. PLANNING STATEMENT: This area should continue as residential, maintaining the existing character of the neighborhood.

PLANNING STATEMENT: This area should continue as residential, maintaining the existing character.

PLANNING CONSIDERATIONS:

1. The SEZ has been altered due to single family unit development.
2. This area has deteriorating housing.
3. There is a major drainage problem in this area.
4. The existing Caltrans right-of-way passes through this area.
5. The South Lake Tahoe Demonstration Redevelopment Plan is in this plan area.

SPECIAL POLICIES:

1. Encourage stream restoration in this area in conjunction with the improvement of existing drainage problems.
2. Encourage the improvement of multiple housing units.
3. Encourage the consolidation of small parcels through the redevelopment process.
4. Retain Bijou School and the mini-park as recreation areas. Provide opportunities for expansion.
5. Senior citizen housing should be encouraged in this area.
6. All activities within the South Lake Tahoe Demonstration Redevelopment Plan Area shall be subject to the special provisions of the adopted redevelopment plan.
7. Commercial, tourist accommodation or residential uses on parcels abutting the Montreal Road Extension right-of-way shall not be permitted access to the Montreal Road Extension, except for new single family residences which have no alternative access. New commercial and tourist accommodation uses or signage, abutting the Montreal Road Extension, shall be restricted consistent with the limited access design of the Montreal Road Extension.

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:

Residential
- Single family dwelling (A), employee housing (S), multiple family dwellings (A), and multi-person dwellings (S).

Public Service
- Local public health and safety facilities (S), transit stations and terminals (S), pipelines and...
power transmission (S), transmission and receiving facilities (S), transportation routes (S).
public utility centers (S), churches (S), schools - kindergarten through secondary (A),
local assembly and entertainment (S), cultural
cfacilities (S), 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),
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 those areas
identified as Special Area #1.

All those uses listed on the General List with the following modification:

Residential: Single family dwelling (A).

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.

<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
</tr>
<tr>
<td>Multiple Family Dwellings</td>
<td>15 units per acre</td>
</tr>
<tr>
<td>Multi-person Dwellings</td>
<td>25 persons per acre</td>
</tr>
</tbody>
</table>

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of
residential bonus units which may be permitted for this Plan Area is 30 units.
**MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL:** The maximum community noise equivalent level for this Plan Area 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 Quality Management Plan.
2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.
TAHOE REGIONAL PLANNING AGENCY

ORDINANCE NO. 99 -

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING THE BIJOU PLAN AREA STATEMENT 093 TO DESIGNATE SPECIAL AREA #1, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00  Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Bijou Plan Area Statement 093 to designate Special Area #1 limiting residential use densities to one single family dwelling per legal lot of record in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirement of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

1.40 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.

1.50 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 and 14 of the Code and Article V(g) of the Compact.

5/12/99
RA

AGENDA ITEM IX.B.
1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of Bijou Plan Area Statement 093

Plan Area Statement 093, Bijou Residential, is hereby amended adding the following language:

**Special Area #1:** The following list of permissible uses is applicable in those areas identified as Special Area #1.

All those uses listed on the General List with the following modification:

Residential: Single family dwelling (A).

Section 3.00 Amendment of Bijou Plan Area Statement 093 Map Overlay

Subsection 6.10(1) of Ordinance No. 87-9, as amended, is hereby further amended to add subparagraph ( ) as follows:

6.20 Plan Overlay Maps

(a) Plan Area Overlays at scales of 1"=400' and 1"=2000'

(b) (January 1987), including the amendments to the Plan Area overlays as set forth in Exhibit A entitled Plan Area Statement Amendments 2/25/87, which amendments shall be reflected in the Plan Area Overlays, dated January 1987, and the following amendments:

Added: ( ) Add two areas designated as Special Area #1, shown in Attachment A, which amendment shall be incorporated into the Plan Area Overlays, dated January 1987.

Section 4.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Regional Plan Package adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Regional Plan Package shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Regional Plan Package are hereby declared respectively severable.
Section 5.00 Effective Date

The provisions of this ordinance amending Special Designations shall be effective immediately.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held May 26, 1999, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
MEMORANDUM

May 3, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendments to the Stateline/Ski Run Community Plan To Amend the Permissible Use Matrix, Amendment of Ski Run Boulevard Commercial Floor Area Allocation, and Amend Ski Run Village "Infrastructure Policy"

Proposed Action: At the request of the City of South Lake Tahoe, staff proposes to amend the Stateline/Ski Run Community Plan to amend the permissible use matrix, amend the Ski Run Boulevard Floor Area Allocation, and amend the Ski Run Village "Infrastructure Policy" (See Attachment A for proposed language amendments to the community plan).

Staff Recommendation: Staff recommends approval of the amendment.

Advisory Planning Commission Recommendation: The Advisory Planning Commission held a public hearing on this matter and voted unanimously to recommend adoption of the proposed amendments to the Governing Board.

City of South Lake Tahoe Action: The proposed amendments was adopted by the City Council on March 2, 1999.

Discussion: As background, the Stateline/Ski Run Community Plan was adopted by the City of South Lake Tahoe in May, 1994, and by the TRPA Governing Board in March, 1994. Subsequently, staff has brought a number of amendments of the Stateline/Ski Run Community Plan before the APC and Governing Board for adoption. The amendments generally are clean-up amendments, redirection of commercial floor area, and amendments to the special policies to achieve the goals of the plan.

Permissible Use Matrix Amendment
Since the plan's adoption, TRPA staff and the City have discovered omissions in the matrix and proposes this clean-up amendment. The proposed amendment is, for the most part, inadvertent omissions that should be corrected. The amendments are as follows:

JH/dmc
Amendment of the Stateline/Ski Run Community Plan
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Add Time Sharing (Hotel/Motel Design) no Kitchens (S) to District 1e. Hotels/motels are an allowed use in this district. A timeshare use, designed as a hotel/motel (no kitchens), is consistent in this district and is limited to 40 units per acres. It appears this is an error in preparing the original matrix.

Add Local Assembly and Entertainment (S) to Districts 1a, 1b and 2a. These districts currently allow Publicly Owned Assembly and Entertainment. The amendment will add Local Assembly and Entertainment. This difference between the uses is the maximum capacity allowed. Local Assembly has a maximum capacity of 300, while Public Assembly allows capacity greater than 300 persons.

Add Cross Country Ski Courses (S) to District 6a. District 6a is an undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Group Facilities (S) to District 6a. District 6a is an undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Participant Sports Facilities (S) to Districts 1b, 2a, 6a. District 1b and 2a is within the Park Avenue Redevelopment project where such recreation use is appropriate. District 6a is the undeveloped parcel south of Montreal Road where such recreation uses are appropriate. It appears to be a Community Plan Team oversight.

Add Recreation Centers (S) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Riding and Hiking Trails (S) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Rural Sports (S) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Snowmobile Courses (S) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a recreation use is appropriate. It appears to be a Community Plan Team oversight.

Add Farm/Ranch Structures (A) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a Farm/Ranch use is appropriate. This use is allowed in District 4a which is adjacent and undeveloped. Since these two districts are in the same location and undeveloped, the amendment provides consistency to allowed uses in this area. It appears to be a Community Plan Team oversight.
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q Add Grazing (A) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a use is appropriate. This use is allowed in District 4a which is adjacent and undeveloped. The amendment will provide consistency between the two undeveloped parcels.

q Add Range Pasture Management (A) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a use is appropriate. This use is allowed in District 4a which is adjacent and undeveloped. The amendment will provide consistency between the two undeveloped parcels.

q Add Range Improvement (A) to District 6a. District 6a is the undeveloped area south of Montreal Road where such a use is appropriate. This use is allowed in District 4a which is adjacent and undeveloped. The amendment will provide consistency between the two undeveloped parcels.

q Add Footnote 14 to read “allowed only within existing buildings”. This district was originally created to restrict new construction of buildings that would affect the construction of the Loop Road/State Route 50 intersection. This amendment continues the intent but allows existing buildings within District 7a to continue to lease to certain specific uses noted below:

Add the following uses to District 7a:
General Merchandise Store (A);
Eating and Drinking Places (A);
Food and Beverage Retail Sales (A);
Personal Services (A);
Professional Offices (A).

The proposed additions are consistent with the Redevelopment Plan and all the proposed uses currently exist in District 7a. The amendment will bring the existing uses into conformity with the Community and Redevelopment Plan.

Ski Run Boulevard Commercial Floor Area Allocation
The proposed amendment will redistribute 7,000 s.f. of commercial floor area allocation from the southeast corner of Ski Run Boulevard and State Route 50 (District 2b) to the Ski Run Corridor within the Community Plan, on the basis that the property owner did not proceed with a project within the Community Plan timelines.

The 7,000 s.f. were viewed as an economic incentive to redesign the southeast corner of Ski Run/U.S. 50 consistent with the Community and Redevelopment Plans design standard. Due to the expiration of the plan timeline, staff proposes to amend the plan to redistribute the square footage to other areas of the community plan that require commercial floor area. Although, the commercial floor area is being redistributed, that portion of District 2b (southeast corner) is still eligible for the 7,000 s.f.

The receiving areas for the redistributed commercial floor area are within the Ski Run Corridor. They are:
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<table>
<thead>
<tr>
<th>No.</th>
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<th>Land Use Theme</th>
</tr>
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<tbody>
<tr>
<td>3b</td>
<td>Ski Run Village</td>
<td>Local Serving Retail</td>
</tr>
<tr>
<td>5a</td>
<td>Upper Ski Run North</td>
<td>B/B and Professional Offices</td>
</tr>
<tr>
<td>5b</td>
<td>Upper Ski Run South</td>
<td>B/B and Professional Offices</td>
</tr>
<tr>
<td>6c</td>
<td>Upper Ski Run</td>
<td>Affordable Housing</td>
</tr>
</tbody>
</table>

The original policy allocating all of the 7,000 s.f. to the southeast corner will be deleted and replaced with the following language:

**Ski Run Boulevard within the Stateline/Ski Run Community Plan Area**

The four Districts on Ski Run Boulevard (3b, 5a, 5b and 6c) and only that portion of District 2b which includes the southeast corner shopping center and the adjacent car wash parcel if it is added to the shopping center design, be eligible for the 7,000 s.f. of commercial floor area, subject to:

1. A first come, first serve distribution system, based on a project application.

2. A limitation of 2,000 s.f. per parcel, and

3. Compliance with the applicable Community Design Standards. NOTE: this would still require the shopping center to comply with the Stateline/Ski Run Community Plan Standards for Lower Ski Run-South District (2b).

The proposed amendment is consistent with the goals and policies of the Community Plan and will continue to provide incentives to concentrate commercial and tourist servings uses within the Ski Run Corridor.

**Ski Run Village Infrastructure**

The intent of the Stateline/Ski Run Community Plan is that along the length of Ski Run Boulevard, within the boundaries of the Plan, one area should be the focus and concentration of retail and restaurants uses. District 3b, Ski Run Village is designated as the location. To distinguish this district from the other districts on Ski Run, the adopted Concept Plan included street parking, street trees and street lights. To implement the Concept Plan, Objective 2, Policy B required the formation of an assessment district (or other such entity) to construct the improvements at one time.

Since the adoption of the Plan in 1994, the property owners have not been able to form an assessment district for the following reasons:

1. Approximately 50% of the lineal frontage (Ski Run and the intersecting side streets within the Village) have curb, gutter and sidewalk constructed by the developer. The owners of the improvements were of the opinion that they were being required to pay again.

2. The Village is a very small area (approximately 100 feet deep and 500 feet long on both sides of Ski Run Boulevard) and the up front costs to set up a district would exceed the cost of the improvements with no guarantee that it would pass.

JH/dmc
3. Over the years some of the leaders of the Village have sold their property leaving a very small group (two property owners) to implement the vision. The non-conforming uses, e.g., the owners of the two cabins and vacant lot, are content with the status quo and have no incentive to pay or construct their frontage improvements.

Given these reasons, City staff explored the possibility of including this district with another assessment district, such as Harrison Avenue. However, this did not garner support from the other districts, as a negative vote from Ski Run property owners could defeat their district formation.

Another alternative was to fund the improvements through the Community Block Grant (CDBG) program. The program is an over-the-counter grant that relies on job creation. Although the program could be used for infrastructure improvements, it does require a commitment by the Village property owners to create those jobs within a two-year period. If not, the City would be responsible for the payback. The property owners were uncomfortable with this commitment given the time to work through financing, regulatory approval and the uncertain economic outlook.

Another alternative was for the Village property owners to pool their resources to construct all the improvements in exchange for the free floor area with reimbursement by future developers. This was not supported as it required the Village property owners to pay up front and that would be a significant impact on their financial resources.

They did support the idea, however, that once they had a project, they could include the infrastructure within their financing. This leads to a scenario that would require the infrastructure improvements to be installed when the property is developed.

This piecemeal approach is not preferred by the City, TRPA staff, or the property owners as it delays the creation of a unique Village District. This approach could potentially have the effect of different designs for the District and not creating that unique consistent theme throughout. Without public assistance, however, the piecemeal approach may be the only economical way to fund the improvements.

The City will contribute funds from the C.I.P. to construct the 5-foot asphalt sidewalk and the retrofit of the curb returns for handicap access, and is pursuing funds from TRPA Water Quality Mitigation funds to install the curb and gutter. The request is on this month's consent calendar.

The developer will be responsible for installing the rest of the Village infrastructure improvements when they develop, including the additional 5-foot decorative sidewalk, street trees and street lights.

Staff recommends that both an area-wide and incremental approach to the frontage improvements be incorporated in this amendment. The proposed language amendments to Objective 2, Policy B is as follows:
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Policy B: Projects within the Laurel-Avenue sub-area (portion of 2a) and (rev. 10/6/88). The Ski Run Pedestrian District (3b) shall be eligible for the commercial floor area allocation described in Policy A above based on the following conditions provided:

(1) That all projects receiving a commercial floor area allocation from the Ski Run Pedestrian District or projects subject to the Design Review or Special Use Permit Process, shall either have in place (previously constructed) or shall construct all of the infrastructure improvements along the subject property frontage including:

(a) curb, gutter and 5-foot asphalt sidewalk and associated improvements including handicap access required by the City Engineering Division (Public improvements), and

(b) 5-foot additional decorative sidewalk, street trees, and street lights (Village required improvements).

The amendment will continue to achieve the goals and policies established in the plan to create a unique Village “District and concentrate retail and restaurant uses in this area.

Findings: Prior to amending the Stateline/Ski Run Community Plan, TRPA must make the following Findings.

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 proposed amendments to the Stateline/Ski Run Community Plan will not adversely affect implementation of the Regional Plan. The adopted Stateline/Ski Run Community Plan is consistent with the Regional Plan. The adopted plan is meant to supersede the Plan Area Statements and Maps for guiding land use decision in the Stateline/Ski Run area.

The plan encourages that the land use pattern in the proposed project area continues as a major tourist center that provides visitor accommodation and services. Emphasis should be placed on redirection through redevelopment, which will provide scenic, economic, and environmental improvements. The plans establish goals and policies that encourage concentrated commercial uses and intensification of tourist accommodation units in the proposed project area.
The proposed amendment to the Permissible Use List will add uses that were omitted by mistake and amendments to the goals and policies will continue to provide incentives to encourage developing environmental improvements projects established in the Community Plan. The Plan will continue to encourage the concentration of commercial uses within the adopted Community Plan area.

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

Rationale: Amending the Stateline/Ski Run Community Plan will not cause the environmental thresholds to be exceeded. The Stateline/Ski Run Community Plan Conservation Element establishes the goals and policies that will ensure that physical development is consistent with environment and ecology of the area. The amendments to the plan do not change the required improvements required by the plan to meet environmental thresholds. The amendments modify existing goals and policies to ensure that improvements are built in order to meet the environmental thresholds.

3. 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: See findings 1 and 2 above. The adopted documents have adopted goals and policies to achieve and maintain water and air 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: See above findings. The amendment will apply to projects that are located in the Stateline/Ski Run Community Plan and it Land Use Districts and must comply with all aspects of the Regional Plan, Code and the adopted Stateline/Ski Run Community and Redevelopment Plan. Any project proposed will be required to meet all standards of the Code and implement environmental projects to achieve and maintain the thresholds.

Environmental Documentation: Based on the Chapter 6 findings and because of the nature of this amendment will continue to implement the goals and policies of the Community Plan, staff recommends a Finding of No Significant Effect (FONSE).
Amendment of the Stateline/Ski Run Community Plan
May 18, 1999
Page 8

Request Action: Staff recommends the Governing Board take the following actions:

1. Motion to make the required findings:
   a) Make a Finding of No Significant Effect (FONSE); and
   b) Make the Chapter 6 Findings.

2. Motion to adopt the attached Ordinance.

Staff will begin this item with a brief presentation. Please contact John Hitchcock at 702-688-4547, or via email at TRP@johnH@aol.com (please reference the Stateline/Ski Run Community Plan in the subject box), if you have any comments regarding this item.

Attachments
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 98 – 26

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING THE STATELINE/SKI RUN COMMUNITY PLAN TO AMEND THE PERMISSIBLE USE MATRIX, AMEND THE SKI RUN BOULEVARD COMMERCIAL FLOOR AREA ALLOCATION, AND AMEND THE SKI RUN VILLAGE INFRASTRUCTURE POLICY, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Stateline/Ski Run Community Plan, in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

1.40 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact.

1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the record.
Section 2.00 Amendment of the Stateline/Ski Run Community Plan

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Attachment A, dated October 5, 1999, which attachments are attached hereto and incorporated herein.

Section 3.00 Interpretation and Severability

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

Section 4.00 Effective Date

The provisions of this ordinance amending the Stateline/Ski Run Community Plan shall be effective 60 days after its adoption pursuant to Subsection 13.7.B.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held May 26, 1999, by the following vote:

Ayes:
Nays:
Abstentions:
Absent

Larry Sevison, Chairman
Tahoe Regional Planning Agency
Objective 2:
Define receiving areas within the Community Plan boundaries and institute a system for distribution of commercial allocation and bonus TAU's.

Policy A: Within the 45,000 square foot limitation, allocations of commercial floor area shall be issued by TRPA upon approval pursuant to Chapter 33. However, TRPA shall only consider for approval, projects recommended by the City of South Lake Tahoe. On a first come first serve basis, the City shall review proposed projects based on the following criteria and make an appropriate recommendation. The City's recommendation shall expire two years after its action. Consistent with the findings of the "Economic Analysis and Opportunities Study", (as provided by Rosall Remmen Cares, 1989) distribute the 45,000 sq. ft. of commercial allocation within the Stateline/Ski Run Community Plan area as follows:

S.E. Corner Ski Run Blvd./US 50 sub-area within the Lower Ski Run-South District 2b:
Total Allocation: 7,000 square feet
Maximum per project: none

Ski Run Blvd. within the Stateline/Ski Run Community Plan Area:
The four Districts on Ski Run Blvd. (3b, 5a, 5b and 6c) and only that portion of District 2b which includes the southeast corner shopping center and the adjacent car wash parcel if it is added to the shopping center redesign, be eligible for the 7,000 s.f. of commercial floor area, subject to:

1. A first come, first serve distribution system, based on a project application.
2. A limitation of 2,000 s.f. per parcel, and
3. Compliance with the applicable Community Design Standards.

Policy B: The Ski Run Pedestrian District (3b) shall be eligible for the commercial floor area allocation described in Policy A, above, based on the following conditions provided:

(1) A property owners association, an assessment district or other such implementing entity is formed by at least 75% of those owners whose properties front Ski Run Boulevard.

(2) Each entity shall fund a study/plan to establish parking and street improvements for portions of 3b substantially consistent with the conceptual plan in Exhibits 3, 4, 5 and 6.
(3) Upon approval of the plan by the City of South Lake Tahoe and TRPA, the allocation may be reserved for projects based on an approved implementation program administered by the City.

(4) If either of the entities are not formed and the plans not approved within two years from the adoption of this community plan, the City and TRPA shall reconsider the distribution of allocation reserved for that specific district which does not meet this requirement.

(1) That all projects receiving a commercial floor area allocation from the Ski Run Pedestrian District or projects subject to the Design Review or Special use Permit Process, shall either have in place (previously constructed) or shall construct all of the infrastructure improvements along the subject property frontage including:

a. curb, gutter and 5-foot asphalt sidewalk and associated improvements including handicapped access required by the City Engineering Division (Public improvements), and

b. 5-foot additional decorative sidewalk, street tree, and street lights (Village required improvements).
MEMORANDUM

May 17, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Plan Area Statement, Glenbrook, to Prohibit the Construction of New Piers Per the Glenbrook Shorezone Plan

Proposed Action: The applicant, Robert Daiss, proposes to amend Plan Area Statement (PAS) 058, Glenbrook, by adding Special Policy #7 (see Exhibit A) that would prohibit new piers within the boundaries of a new Special Area #1 (see Exhibit B). Special Area #1 would include all littoral parcels beginning with 01-080-28 on the south end of the bay through the parcel containing the outlet of Slaughterhouse Creek on the north end. The purpose of this amendment is to advance the protection and preservation of the natural, historic, and scenic values of Glenbrook Bay.

Staff Recommendation: Staff recommends approval based on: 1) homeowner support; 2) consistency with State Lands Plan; and 3) streamlining.

APC Recommendation: The APC held a public hearing on May 12, 1999 and recommended approval of the amendment to PAS 058, Glenbrook. The vote was 9 in support and 5 against. Four of the members voting no expressed their overall support for the amendment, but wanted to see the Special Area #1 southern boundary drawn at the Community Pier.

Background: In 1983, Nevada State Lands facilitated the drafting of the Glenbrook Bay Shorezone Plan, bringing together all interested parties to develop a document that would be useful to permitting agencies, meet the concerns of the people in Glenbrook, provide direction for resource management and planning in Glenbrook Bay, and provide direction for future decisions affecting Glenbrook Bay. The Glenbrook Bay Shorezone Plan was completed and presented to the Tahoe Regional Planning Agency Governing Board. The TRPA Governing Board did not adopt or certify the plan; however, in 1987 when the TRPA adopted the Plan Area Statements, the content for PAS 058, Special Policy #4 stated that the Glenbrook Shorezone Plan should serve as a planning guide for development in the shorezone.

The Glenbrook Plan makes recommendations for the following: pilings, buoys, swim areas, piers, breakwaters, and watercraft. Pertinent to this proposed PAS amendment are the five recommendations listed for piers. The recommendations are listed below in their entirety:
1. A landing may be added to the south side of the existing community pier as space allows between preserved pilings and the pump house, similar in size and construction to the present landing on the north side of the pier, providing the pilings mentioned in item 1.C, under Pilings, are removed and appropriate permits obtained.

2. For the present, no additional modifications or extensions should be allowed to the community pier, including boat hoists, except the landing discussed above. A future review of this pier may be made by a representative committee of the various interests and property owner groups in the Glenbrook community to evaluate the adequacy of the pier and landing space. However, extensions and/or additions which may be approved in the future, if any are to be designed to preserve the remaining historic pilings.

3. No additional piers should be constructed on the community beaches, including the China Garden beach area.

4. Individual private piers should be kept to a minimum and allowed only where there is a special need (i.e., where littoral properties are inaccessible to the lake for boating purposes due to the terrain). Multiple ownership piers serving as many littoral property owners as possible are preferable to individual private piers. Pier applications may be reviewed by a representative committee of the various interests and property owner groups in the Glenbrook community for appropriateness and need.

5. All pier owners shall be entitled to repair or replace their piers when necessary in accordance with existing regulations.

The adoption of the amendment to PAS 058, Glenbrook, would ensure that the direction of the Glenbrook Homeowners Association (GHOA) and the Glenbrook Property Owners Association (GPOA) members is implemented. The majority of members from both groups went on record during last summer's associations' meetings to show their support for prohibiting new piers on parcels within the heart of Glenbrook Bay. This application is an attempt to further codify language that was developed in the Glenbrook Bay Shorezone Plan (April, 1984) and provide more direction for Special Policy #4 than exists in PAS 058 today.

By restricting the development of new piers in Special Area #1 in Glenbrook Bay, the proposed amendment would preserve unimpeded lateral beach access from the community pier north to Slaughterhouse Creek. The amendment assists in maintaining scenic quality within the Bay. Glenbrook Bay falls within the Shoreline Unit 26, Cave Rock. The overall unit scenic quality composite rating is moderate (2); however, Shoreline View 26.2 is of the low shore with long sandy beaches of Glenbrook where the scenic quality is rated as high (3). TRPA has identified thirty-three (33) shoreline units around the entire shoreline of Lake Tahoe. Only 7 shoreline units have a high rated view of a sandy beach. Of the 7 units, Rubicon Point (Paradise Flat view), Edgewood (Edgewood Golf Course view), and Cave Rock (Glenbrook Bay view) are privately owned. The other 26 shoreline units' view ratings of a sandy beach are rated either moderate or low. New piers can quickly degrade the scenic quality of sandy beaches. The PAS amendment will maintain the high scenic rating of Glenbrook Bay.
Recommendation #4 above provides for the situation where an individual pier could be built due to a special need when the littoral property is inaccessible because of the terrain. The Special Area #1 northern and southern boundary lines were drafted to reflect the topography within the area. On the south end the transition is from a gently sloping, sandy beach in the middle to a heavily vegetated terrace which grades into a fine sediment beach. At both the north and south boundaries of the Special Area, the transition of the topography is abrupt and steep, making the Lake inaccessible without structures. The area known as Yellow Jacket Point on the south end and Deadman's Point (or Lands End) on the north end of the bay are not included in the Special Area #1 designation because of the steep and rocky condition of the backshore.

Glenbrook has a rich and varied history. During the Comstock the bay was full of lumbering and milling activity. Logs were floated from the West Shore across the Lake to Glenbrook where they were milled at any one of a number of mills located around or over the bay and then shipped by rail and flume to the mines in Virginia City. The historic piles that dot the waters of Glenbrook bay are the only structures left as reminders of that time in the region’s history and the mills that operated over the waters of Glenbrook Bay. The historic piles have been recognized by the Nevada State Historic Preservation Officer as important historic resources. By prohibiting the construction of new piers in Special Area #1, we can also protect these historic resources. There is a potential conflict between safe navigation to new piers built in the bay and preserving the historic piles if they pose a threat to public safety.

Special Policy #7 language will prohibit new piers from being constructed in Special Area #1 and recognizes the Glenbrook community pier as an existing permissible use. In the TRPA Code of Ordinances, Section 54.8.A(3) states that no single use facility (shorezone structures) shall be approved where individual lots fronting the shoreline are within a residential land development served by multiple-use facilities.” Based on this code section, single-use piers could not be built in Glenbrook Bay if the property was served by a community pier. However, a multiple-use facility may be permissible. The other Code restrictions that would be pertinent to the placement of piers in Glenbrook Bay are:

- 54.4.A(3) – The placement of piers in prime fish habitat is prohibited.
- 54.4.A(4) – Piers shall not extend beyond lake bottom elevation 6219.0 feet, or the pierhead line, whichever is more limiting. (There are exceptions to this for multiple-use piers.)
- 54.4.A(5)-The setback for new piers shall be 20 feet. Piers shall be placed within the setback lines established by TRPA. (There are exceptions to this for multiple-use piers.)
Required Findings: The following findings must be made prior to adopting the proposed amendments:

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 proposed amendments to PAS 058, Glenbrook, will not adversely affect implementation of the Regional Plan. The amendment supports Special Policy #4 that is currently found in PAS 058, assists in maintaining scenic quality, is consistent with the Glenbrook Bay Shorezone Plan and maintains the historic character of the long sandy beach.

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

Rationale: The amendment will support environmental threshold maintenance and attainment. As discussed in the background section of the staff summary, the view of Glenbrook Bay's long sandy beach is one of only 3 privately owned beaches at the Lake that has a rating of high (3) for its shoreline view. In addition, Tahoe yellow cress (Rorippa subumbellata), a sensitive plant species listed as endangered in California and critically threatened in Nevada, and a potential listing candidate under the Endangered Species Act by the U.S. Fish and Wildlife Service, is found along Glenbrook's sandy beaches. Piers tend to concentrate activity rather than disperse it and, therefore, create areas where Tahoe yellow cress can not tolerate the level of disturbance. The amendment provides for the same level of dispersed beach recreation as is currently being experienced. Glenbrook is currently served by a community pier. This structure is still permissible and provides recreational access to Lake Tahoe for the Glenbrook Community.

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: No new pier structures would be allowed in Special Area #1, therefore, there will be no new impacts on federal, state, and local air and water quality standards due to this amendment.
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 reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the threshold.

5. **Finding:** The Regional Plan, as amended, achieves and maintains the thresholds.

   **Rationale:** See findings 1 and 2 above.

**Chapter 13 Finding:**

   **Finding:** Prior to adopting any plan area amendment, TRPA must find the amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C.

   **Rationale:** The amendment is consistent with the residential designation of PAS 058 and the Special Policy #4 referring to the use of the Glenbrook Shorezone Plan as a planning guide.

**Environmental Documentation:** Based on the above analysis and completion of an IEC, no significant environmental impacts were identified that cannot be mitigated to a less than significant level.

**Requested Action:** Staff recommends that the Governing Board take the following actions:

1. **Motion to make the Required Findings:**
   
   (a) Make a Finding of No Significant Effect (FONSE); and
   
   (b) Make the Chapter 6 and Chapter 13 Findings.

2. **Motion to adopt the implementing ordinance (Exhibit C).**

Staff will begin this item with a brief presentation. Please contact Coleen Shade at (702) 588-4547 if you have any questions regarding this matter.
PLAN DESIGNATION:

Land Use Classification       RESIDENTIAL
Management Strategy          MITIGATION
Special Designation          NONE

DESCRIPTION:

Location: This area around Glenbrook Bay is located on TRPA maps H-10 and H-11.

Existing Uses: This area is a mixture of older low density residential development and a new planned unit development that includes condominiums, single family dwellings, and restored resort structures. The beaches are private, but the golf course is open to the public. The area is 65 percent built out.

Existing Environment: The area is 40 percent SEZ, 25 percent low hazard, 20 percent high hazard and 15 percent moderate hazard. The planned unit development area is developed in accordance with the land capability system although there are some SEZ conflicts. The older areas at both ends of the Bay are high hazard. The shoreline contains tolerance districts 3, 4, 5 and 7. The land coverage is 10 percent plus an additional 20 percent disturbed.

PLANNING STATEMENT: This area should continue as residential, maintaining the existing character of the neighborhood.

PLANNING CONSIDERATIONS:

1. Public access to beaches and historical structures is limited.

2. Subdivision improvements are not up to minimal BMP standards in the Deadman's Point area.

3. This beach is identified as a habitat for an endangered plant species.

4. The meadow area adjacent to Glenbrook Creek could be managed as a waterfowl habitat.

5. Scenic Roadway Unit 29 and Scenic Shoreline Unit 26 are within this Plan Area.

SPECIAL POLICIES:

1. The Glenbrook Master Plan should be used as a planning guide for the area subject to such a plan.
2. Designated beach areas should be set aside and protected for Rorippa subumbellata.

3. Enhancement of wildlife habitats along Glenbrook Creek should be encouraged.

4. The Glenbrook Shorezone Plan should serve as a planning guide for development in the shorezone.

5. The lots in the Glenbrook Subdivisions designated as eligible for multi-density under the approved subdivision map shall be eligible for such density with TDR.

6. New or additional commercial development shall be limited to parcels with commercial development on the effective date of this Plan or conversion to a commercial use of accessory recreation uses.

7. No additional piers are permissible in Special Area #1.

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:

**Residential**
- Single family dwelling (A), employee housing (S), and multiple family dwellings (S) only on the lots in the Glenbrook Subdivision that are designated as eligible for multi-density on the approved subdivision maps.

**Commercial**
- Eating and drinking places (S) and professional offices (S).

**Public Service**
- Cemeteries (A), public health and safety facilities (S), transit stations (S), pipelines and power transmission (S), transmission and receiving facilities (S), transportation routes (S), public utility centers (S), and local post offices (S).

**Recreation**
- Participant sports facilities (S), temporary events (A), day use areas (A), outdoor recreation concessions (S), riding and hiking trails (A), cross country ski courses (A), beach recreation (A), and golf courses (A).

**Resource Management**
- Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), farm/ranch accessory structures (A), grazing (A), range pasture
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).

**Shorezone:** Within the specified shorezone tolerance district, the following primary uses may be permitted in the backshore, nearshore, and foreshore. Accessory structures shall be regulated pursuant to the regulations applicable to the primary use upon which they are dependent in accordance with Chapter 18. The following structures may be permitted in the shorezone as an allowed (A) or special (S) use only if they are accessory to an existing, allowed use located on the same or adjoining littoral parcel.

**Tolerance Districts 4, 5 and 7**

<table>
<thead>
<tr>
<th>Primary Use</th>
<th>Accessory Structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beach recreation (A), safety and navigational</td>
<td>Buoys (A), piers (A), fences (S), boat ramps (S), breakwaters or jetties (S),</td>
</tr>
<tr>
<td>devices (A), outdoor recreation concessions (S),</td>
<td>shoreline protective structures (S), floating docks and platforms (A), and</td>
</tr>
<tr>
<td>and salvage operation (A).</td>
<td>water intake lines (S).</td>
</tr>
</tbody>
</table>

**Tolerance District 3**

<table>
<thead>
<tr>
<th>Primary Use</th>
<th>Accessory Structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety and navigational devices (A), and</td>
<td>Buoys (A), piers (A), fences (S), boat ramps (S), breakwaters or jetties (S),</td>
</tr>
<tr>
<td>salvage operations (A).</td>
<td>shoreline protective structures (S), floating docks and platforms (A), and</td>
</tr>
<tr>
<td></td>
<td>water intake lines (S).</td>
</tr>
</tbody>
</table>

**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.

<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
</tr>
<tr>
<td>Multiple Family Dwellings</td>
<td>In accordance with Special Policy #5 for this</td>
</tr>
<tr>
<td></td>
<td>Plan Area</td>
</tr>
</tbody>
</table>

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 0 units.
MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan Area is 50 CNEL. The maximum community noise equivalent level for the Highway 50 corridor is 65 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 the Surface Water Management Plan as shown on Figure VIII-1 through 18 of Volume I of the 208 Water Quality Plan.

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

3. Stream zone restoration as indicated in the Stream Environment Zone Restoration Program. (To be completed.)
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 99 —

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING PLAN AREA STATEMENT 058, GLENBROOK, BY ADDING SPECIAL POLICY #7 TO PROHIBIT THE CONSTRUCTION OF NEW PIERS IN SPECIAL AREA #1 AND BY AMENDING OVERLAY MAP TO ADD SPECIAL AREA #1, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending Plan Area Statement 058, Glenbrook, in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

1.40 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact.

1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the record.
Section 2.00 Amendment of Plan Area Statement 058, Glenbrook of the TRPA Regional Plan

Subsection 6.10(2) of Ordinance No. 87-9, as amended, is hereby further amended to add subparagraph ( ) as follows:

6.10 Plan Document
(2) Plan Area Statement for Plan Area 058, Glenbrook, which statements are set forth in the document entitled, Regional Plan for the Lake Tahoe Basin, Plan Area Statements: Carson City, City of South Lake, Douglas County, Placer County, Washoe County, Tahoe Regional Planning Agency, January 7, 1987, including the amendments to the Plan Area Statement as set forth in:

Added: ( ) For Plan Area Statement 058, Glenbrook, add Special Policy #7 as follows: No additional piers are permissible in Special Area #1.

Section 3.00 Amendment of Plan Area Overlay Maps

Subsection 6.20(1) of Ordinance No. 87-9, as amended, is hereby further amended to add subparagraph ( ) as follows:

6.20 Plan Overlay Maps
(a) Plan Area Overlays at scales of 1\(\frac{1}{400}\) and 1\(\frac{1}{2000}\) (January 1987), including amendments to the Plan Area overlays as set forth in Exhibit A"entitled Plan Area Statement Amendments, 2/25/87, which amendments shall be reflected in the Plan Area Overlays, dated January 1987, and the following amendments:

Added: ( ) Add Special Area #1 to PAS 058, Glenbrook, as shown in Exhibit B, May 17, 1999, which amendment shall be incorporated into the Plan Area Overlays, dated January 1987.

Section 4.00 Interpretation and Severability

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

Section 4.00 Effective Date

The provisions of this ordinance amending Plan Area Statement 058, Glenbrook, of the TRPA Regional Plan shall be effective upon the date of its adoption.
PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held May 26, 1999, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Larry Sevison, Chairman
Tahoe Regional Planning Agency
MEMORANDUM

May 17, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Discussion on Movement of the Individual Parcel Evaluation System (IPES) Line in El Dorado and Placer Counties

Proposed Action: Staff requests the Governing Board review this report for informational purposes and provide direction to the staff. A presentation will be made at the Governing Board to give additional details on this proposed work program.

Staff Recommendation: Staff recommends the Governing Board review the following work plan based on the discussions at the April Governing Board meeting and the Residential/208 Workshop Group recommendations.

This work program includes three main components, which include:

1. TRPA Administrative Activities with regard to the low scoring vacant lot inventory.
2. Enhance Coordination with Land Acquisition Agencies to attempt to increase the rate of parcel retirement.
3. Studies and Data Analysis to Evaluate the Potential Impact of Possible Changes to the 208 Water Quality Management Plan and Chapter 37 (IPES) of the TRPA Code.

Work Program Description:

1. TRPA Administrative Activities with regard to the low scoring vacant lot inventory.

TRPA will be looking at various categories of vacant low scoring parcels to evaluate the potential for their removal from the inventory begin closing the gap and moving toward achieving the 20 % IPES vacant lot Threshold. At this point in time, El Dorado County is about 349 parcels away from meeting the 20 percent Vacant Lot Equation threshold, and Placer is 485 away. These categories include:

- Consolidated IPES vacant parcels
- Parcels Owned by local government agencies
- Unscored Below the Line Parcels
- Small Sliver parcels
- Coordination with the Tahoe Regreen Program

JP/dmc

AGENDA ITEM X.A.
The potential the number of parcels that could be removed from the inventory is significant, as shown on the table below.

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Parcels El Dorado County</th>
<th>Number of Parcels Placer County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inactive Parcels -(Not receiving a tax bill)</td>
<td>38</td>
<td>--</td>
</tr>
<tr>
<td>Parcel Consolidations</td>
<td>36</td>
<td>40</td>
</tr>
<tr>
<td>Local Agency Owned Parcels</td>
<td>6</td>
<td>--</td>
</tr>
<tr>
<td>Parcel Doesn't Exist</td>
<td>--</td>
<td>25</td>
</tr>
<tr>
<td>Unscored Parcels</td>
<td>112</td>
<td>96</td>
</tr>
<tr>
<td>Silver Parcels</td>
<td>10</td>
<td>66</td>
</tr>
<tr>
<td>Small Common Ownership</td>
<td>--</td>
<td>20</td>
</tr>
<tr>
<td><strong>Total Possible Parcels</strong></td>
<td><strong>202</strong></td>
<td><strong>202</strong></td>
</tr>
</tbody>
</table>

2. Enhanced Coordination with Public and Private Land Acquisition Agencies to attempt to increase the rate of parcel retirement.

The two acquisition agencies, the California Tahoe Conservancy and the U.S. Forest Service estimated that under the most favorable circumstances that their acquisition programs would remove 80 parcels a year from the vacant lot inventory on the California side of the basin.

Based on recommendations from the April 6, 1999 Residential Workshop meeting TRPA staff will work the private groups such as the Tahoe-Sierra Preservation Council and the League to Save Lake Tahoe to contact private landowners with adjacent low scoring parcels to see if they would be interested in the parcel acquisition program combining low scoring parcels and recording a deed restriction.

In addition to the public acquisition programs, the League to Save Lake Tahoe is in the process of setting up a land trust which will act as an additional land acquisition organization in the Tahoe Basin. The schedule for implementation of this land trust includes the hiring of a development director in the summer of 1999, who will be responsible for identifying funding sources to pay for the hiring of a land trust director and for actual land acquisitions. Funding for this position is already available. The hiring of the land trust director is planned for fall 1999 or winter 2000.

A likely target for acquisition under the proposed League land trust will be vacant IPES these parcels for as short a period as possible before turning them over to a public agency for long term management. The exact number of acquisitions that the trust would be making per year has not been determined at this time.
3. Studies and Data Analysis to Evaluate the Potential Impact of Possible Changes to the 208 Water Quality Management Plan and Chapter 37 (IPES) of the TRPA Code.

There are a number of studies and proposed data analysis work which could assist in the evaluation of impacts of possible changes in the IPES related portions of the 208 Water Quality Management Plan and Chapter 37 (IPES), with regard to the vacant lot equation percentage for the two California jurisdictions, land coverage, as well as other issues. These studies could also help address the IPES Program evaluation requirements contained in the TRPA Goals and Policies. These studies and analysis are being performed by the Tahoe Research Group at UC Davis, the U.S. Geological Survey, and Desert Research Institute. Some of them are already underway and others are in the planning stages.

These studies include:

- USGS/TRG/ TRPA Water Quality Data Analysis and Interpretation Work Program
- Tributary and Groundwater Data Interpretation Work
- USGS/DRI Land Use Decision Model Linking Economic and Environmental Values
- USGS Land Use/Sediment Load Correlation

If there are any questions regarding this staff summary, please contact Joe Pepi at (775) 588-4547.
MEMORANDUM

May 17, 1999

To: TRPA Governing Board
From: TRPA Staff
Subject: Discussion on Code Chapter 28, Natural Hazard Standards, Relative to Flood Plain Maps

The Governing Board discussed this matter at the April meeting and continued it to the May meeting, in order that the U.S. Army Corps of Engineers could be present to respond to questions and to present more information on the Corps flood plain maps. Unfortunately, a representative from the Corps is not available until the June meeting. Therefore, staff recommends that this discussion be continued to the June Board meeting.

If there are any questions, please contact Joe Pepi at 775-588-4547.
MEMORANDUM

May 16, 1999

To: Governing Board

From: TRPA Staff

Subject: Discussion on Issues Relating to the Urban Boundary

Proposed Action: At the March Governing Board meeting, the Board requested that staff present a report on the TRPA urban boundary concept and the regulations that relate to it. This discussion is in response to a Douglas County developer's proposal to reclassify some lands which are classified for recreation uses to allow affordable housing residential uses. This proposal would result in an expansion of the urban boundary. TRPA has a stringent test for such expansions.

Staff will present an overview of this issue at the meeting. This is an informational item and requires no Governing Board action.

Background: The concept of an urban boundary in planning is a commonly used tool to limit sprawl development. In general, an urban boundary is drawn by a town or county to delineate the area that is developed or should be developed. The purpose of the urban boundary is to protect agriculture, natural areas, and recreation areas from urban type development. The goal of an urban boundary is to encourage the concentration of new development in the urban area.

TRPA adopted this concept in the Land Use Element of the Goals and Policies Plan. The Plan Area Statement Maps delineate the TRPA urban boundary for the Tahoe Region. There are five major land use classifications in the TRPA plan area system. Of these, Commercial/Public Service areas, Tourist Accommodation areas, and Residential areas are considered urban areas. Recreation areas and Conservation areas are considered non-urban areas. The attached map (Attachment A) shows the locations of these areas. Attachment B presents the criteria for delineating these areas.

TRPA limits the amendment or expansion of the urban boundaries by applying certain findings to plan area amendments. The findings for the boundary amendments are found in Subsection 13.7.D of the TRPA Code of Ordinances (Attachment C).

The expansion of the urban boundary is a controversial issue for TRPA. The Subsection 13.7.D findings were placed in the Code in the early 1990s in response to a lawsuit filed against TRPA by the League to Save Lake Tahoe. The League was concerned that TRPA was expanding the urban boundaries to accommodate community plan projects and subdivisions instead of in filling the existing urban areas. As part of the settlement, TRPA agreed to document its criteria for approving plan area amendments.

GWB/dmc

AGENDA ITEM X.C.

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A second issue with the urban boundary is the TRPA prohibition of post 1987 subdivisions in non-urban areas (see Attachment D). TRPA only permits a limited use of new subdivisions in urban areas to encourage TDR programs and concentration of development. The litigants were also concerned that the approval of single family style subdivisions in urban areas was not consistent with the Regional Plan's intent and that developers would come back later and ask for rezoning of non-urban lands for development of affordable housing projects.

It is difficult to discuss a proposed plan area amendment for affordable housing in Round Hill, Douglas County because it has not been submitted to TRPA. The Subsection 13.7.D findings do not preclude such an application. If it is submitted, staff will evaluate it and recommend appropriate actions.

If you have any questions please contact Gordon Barrett at 775-588-4547.
TRPA GOAL AND POLICIES
LAND USE SUBELEMENT

GOAL #2
DIRECT THE AMOUNT AND LOCATION OF NEW LAND USES IN CONFORMANCE WITH THE ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES AND THE OTHER GOALS OF THE TAHOE REGIONAL PLANNING COMPACT.

Based on the findings of the Compact, evidence included in the environmental impact statement prepared for this Plan, and public testimony, the Tahoe Region is experiencing resource use problems and deficient environmental controls.

POLICIES

1. THE TOTAL POPULATION PERMITTED IN THE REGION AT ONE TIME SHALL BE A FUNCTION OF THE CONSTRAINTS OF THE REGIONAL PLAN AND THE ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES.

Population growth in the Region will be guided by the limitations on land use set forth in the Plan. This Plan identifies land use, densities, traffic volumes, urban boundaries, and other factors that indirectly determine the population at any given time. All of these factors have been set to ensure compliance with the environmental thresholds.

2. SPECIFIC LAND USE POLICIES SHALL BE IMPLEMENTED THROUGH THE USE OF PLANNING AREA STATEMENTS FOR EACH OF THE PLANNING AREAS IDENTIFIED IN THE MAP INCLUDED IN THIS PLAN (LOCATED INSIDE BACK COVER). AREAS OF SIMILAR USE AND CHARACTER HAVE BEEN MAPPED AND CATEGORIZED WITHIN ONE OR MORE OF THE FOLLOWING FIVE LAND USE CLASSIFICATIONS: CONSERVATION, RECREATION, RESIDENTIAL, COMMERCIAL AND PUBLIC SERVICE, AND TOURIST. THESE LAND USE CLASSIFICATIONS SHALL Dictate ALLOWABLE LAND USES. MORE DETAILED PLANS, CALLED COMMUNITY PLANS, MAY BE DEVELOPED FOR DESIGNATED COMMERCIAL AREAS. OTHER DETAILED PLANS, SUCH AS THE AIRPORT MASTER PLAN, SKI AREA MASTER PLANS, AND REDEVELOPMENT PLANS, MAY ALSO BE DEVELOPED. THESE DETAILED PLANS MAY COMBINE TWO OR MORE OF THE FIVE LAND USE CLASSIFICATIONS.

Since the development permitted under this Plan is generally limited to the existing urban boundaries in which uses have already been established, the concept of this land use plan is directed toward regulating in fill and redirection. The intent of this system is to provide flexibility when dealing with existing uses, continuation of acceptable land use patterns, and redirection of unacceptable land use patterns. Implementation ordinances set forth the detailed management criteria and allowed uses for each land use classification.

Conservation areas are non-urban areas with value as primitive or natural areas, with strong environmental limitations on use, and with a potential for dispersed recreation or low intensity resource management. Conservation areas include (1) public lands already set aside for this purpose, (2) high-hazard lands, stream environment zones, and other fragile areas, without substantial existing improvements, (3) isolated areas which do not contain the necessary infrastructure for development, (4) areas capable of sustaining only passive recreation or non-intensive agriculture, and (5) areas suitable for low-to-moderate resource management.
Recreation areas are non-urban areas with good potential for developed outdoor recreation, park use, or concentrated recreation. Lands which this Plan identifies as recreation areas include (1) areas of existing private and public recreation use, (2) designated local, state, and federal recreation areas, (3) areas without overriding environmental constraints on resource management or recreational purposes, and (4) areas with unique recreational resources which may service public needs, such as beaches and ski areas.

Residential areas are urban areas having potential to provide housing for the residents of the Region. In addition, the purpose of this classification is to identify density patterns related to both the physical and manmade characteristics of the land and to allow accessory and non-residential uses that complement the residential neighborhood. These lands include: (1) Areas now developed for residential purposes; (2) areas of moderate-to-good land capability; (3) areas within urban boundaries and serviced by utilities; and (4) areas of centralized location in close proximity to commercial services and public facilities.

Commercial and Public Service areas are urban areas that have been designated to provide commercial and public services to the Region or have the potential to provide future commercial and public services. The purpose of this classification is to concentrate such services for public convenience, separate incompatible uses, and allow other noncommercial uses if they are compatible with the purpose of this classification and other goals of this Plan. These lands include: (1) areas now developed for commercial or public service uses; (2) in the case of public services, lands designated for, or in, public ownership; (3) areas suitable to encourage the concentration of compatible services; (4) areas of good-to-moderate land capability; and (5) areas with adequate public services and transportation linkages.

Tourist areas are urban areas that have the potential to provide intensive tourist accommodations and services or intensive recreation. This land use classification also includes areas recognized by the Compact as suitable for gaming. These lands include: (1) areas now developed with high concentrations of visitor accommodations and related uses; (2) lands on which gaming is a permitted and recognized use; (3) lands of good-to-moderate land capability; and (4) areas with adequate public services and transportation linkages.
TRPA CODE OF ORDINANCES

CHAPTER 13, PLAN AREA STATEMENTS AND MAPS

13.7 Plan Area Statement And Plan Area Map Amendment: The amendment of a plan area statement or plan area map shall be in accordance with the following procedures:


13.7.B Amendment By Ordinance: Modification of Permissible Uses, Maximum Densities, and assigned Maximum Community Noise Equivalent Levels shall be by ordinance.

13.7.C Amendment By Resolution: Modification of Description, Planning Considerations, and Improvement Programs shall be by resolution.

13.7.D Findings For Plan Area Amendments: Prior to adopting any plan area amendment, TRPA must find:

(1) The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C; and

(2) If the amendment is to expand an existing urban plan area boundary or to add residential, tourist accommodation, commercial, or public service as permissible uses to a non-urban plan area, it must be found that the amendment will make the plan area statement consistent with an adopted policy or standard of the Regional Plan, and that the amendment will satisfy one or more of the following criteria:

(a) The amendment is to correct an error which occurred at the time of adoption, including but not limited to a mapping error, an editing error, or an error based on erroneous information; or

(b) The amendment is to enable TRPA to make progress toward one or more environmental thresholds without degradation to other thresholds as measured by the Chapter 32 indicators, or

(a) The amendment is needed to protect public health and safety and there is no reasonable alternative.

(3) If the amendment is to add multiple-family as a permissible use to a plan area or for one or more parcels, the plan area or affected parcel must be found suitable for transit-oriented development (TOD). Factors in determining suitability for TOD may include but are not limited to areas that have transit and neighborhood services within 10 minute walks, good pedestrian and bike connections, opportunities for residential infill (at densities greater than 8 units per acre) or infill with mixed uses, and adequate public facilities.
TRPA CODE OF ORDINANCES

CHAPTER 43, SUBDIVISION STANDARDS

43.4 Subdivision of Post-1987 Projects: Subdivision of projects approved after July 1, 1987 pursuant to the 1987 Regional Plan, as it may be amended, may be permitted subject to the following requirements:

43.4.A Existing Urban Areas: Subdivisions may only be permitted in urban areas existing on December 31, 1994 or as amended pursuant to subsection 13.7.D.

43.4.B Permissible Use: Subdivisions which result in a change in use shall comply with the requirements of Chapter 18. Subdivision shall be deemed an intensification of use and, consistent with Subsection 18.5.B, shall not be permitted if the new use is prohibited in the applicable plan area statement.

43.4.C Multi-residential Bonus Units and Allocations: Multi-residential projects which received development rights ("bonus units") under Section 35.2 after January 1, 1993, or multi-residential allocations under Subsection 33.2.C, shall not be permitted to subdivide or convert the multi-residential units except as follows:

(1) Affordable housing projects using multi-residential bonus units may be permitted to subdivide subject to the restrictions in Subsection 43.4.F below. Multi-residential bonus units assigned to affordable housing projects shall be exempt from the limitations in subparagraph (2) below.

(2) For the period ending December 31, 1996, no more than 200 multi-residential bonus units shall be approved for subdivision. Bonus units shall be deemed used and counted against this limitation at the time of subdivision approval. The number of multi-residential bonus units eligible for subdivision after December 31, 1996, if any, shall be reviewed in conjunction with the proposed 1997-2001 residential allocations.

43.4.D Low Cost Housing: Subdivision of low cost housing projects, as defined in Subsection 41.2.F and subject to the limitation in subparagraph 43.4.C(2) above, may be permitted provided TRPA finds that the resultant use qualifies as low cost housing and appropriate deed restrictions or other covenants running with the land are recorded to document the restriction of units to low cost housing.

43.4.E Land Coverage: Projects which include transferred land coverage approved pursuant to subparagraph 20.3.B(3) shall not be permitted to subdivide if the resulting use is not eligible for transferred land coverage in the amount approved.
MEMORANDUM

May 17, 1999

To: The TRPA Governing Board

From: TRPA Staff

Subject: Discussion on Request for Qualifications for Phase II of the Regional Revenue Source Analysis

Staff will be updating the Board on this at the Board meeting.

jf

AGENDA ITEM X.D.
MEMORANDUM

May 17, 1999

To: TRPA Board of Directors

From: Richard Wiggins, Transportation Programs Manager

Subject: Resolution Supporting Restricting Parking Along Highway 28

Proposed Action: Approve the attached resolution supporting restricting parking along State Route 28.

Staff Recommendation: Staff recommends that the Governing Board approve the attached resolution.

Discussion: Staff will provide an oral presentation to the Board regarding this resolution.
A RESOLUTION SUPPORTING RESTRICTING PARKING ALONG STATE HIGHWAY 28

WHEREAS, in 1996 the United States Department of Transportation designated portions of State Route 28 and U.S. 50 between North Stateline and South Stateline as the East Shore Drive National Scenic Byway; and

WHEREAS, the Tahoe Regional Planning Agency has been working cooperatively for several years with the Nevada Department of Transportation, the United States Forest Service, the Tahoe Transportation District, the Nevada Division of State Parks, TEAM Tahoe and others on matters related to SR 28; and

WHEREAS, the existing practice of parking cars along the shoulder of SR 28 between Incline Village and Spooner Summit impacts scenic quality, causes slope erosion contributing to water quality deterioration, increases the risk of vehicle and pedestrian conflicts, does not provide for controlled beach access, nor is it an appropriate parking management technique; and

WHEREAS, transit services have been used in the past to reduce shoulder parking, but these demonstrations have shown that for transit to be successful, shoulder parking must be more effectively restricted; and

WHEREAS, the Nevada Department of Transportation has nearly completed an Erosion Control Master Plan for Nevada state highways in the Tahoe Basin, the design of which is based on the removal of shoulder parking along SR 28; and

WHEREAS, the USFS, in cooperation with NDOT, is coordinating an Environmental Assessment for the construction of additional off-highway parking facilities at certain locations along SR 28; and

WHEREAS, parking fees are an appropriate parking management tool that should be incorporated into the parking management program for SR 28, with proceeds from parking fees used to support parking lot improvements such as benches, sanitary facilities, visitor information, enforcement, maintenance and appropriate shuttle services; and

WHEREAS, the USFS has determined that in order to maintain desired social and resource conditions to meet visual quality goals, address water quality concerns and limited infrastructure (sanitation and off-highway parking facilities), a more appropriate peak persons-at-one-time level of visitation along the National Forest shoreline is necessary, resulting in a reduced number of parking spaces needed from those currently available.

WHEREAS, the USFS has suggested that a concept similar to that of 'campground full' "must also be applied to available beach space wherein some visitors will not be able to access certain east shore beaches when 'beaches full'".
NOW, THEREFORE BE IT RESOLVED, that the Governing Board of the Tahoe Regional Planning Agency supports restricting parking along SR 28 between Incline Village and Spooner Summit to designated parking facilities located off the shoulder of the roadway; and

BE IT FURTHER RESOLVED that the Governing Board of the Tahoe Regional Planning Agency supports restricted parking only in coordination with the USFS and NDOT construction activities over the next three years that provide for additional parking facilities sized to the carrying capacity of the beach resources; and

BE IT FURTHER RESOLVED that the Governing Board of the Tahoe Regional Planning Agency supports inclusion of other parking management tools as integral parts to this solution, including the establishment of parking fees, increased enforcement by the Nevada Highway Patrol; use of transit services, expanded visitor information regarding the availability of parking, and expanded visitor education programs regarding the need for parking management.

PASSED AND ADOPTED this 26th day of May 1999 by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
TAHOE REGIONAL PLANNING AGENCY

308 Dorla Court
Elks Point, Nevada
www.ceres.ca.gov/TRPA

P.O.B. 1038
Zephyr Cove, Nevada 89448-1038
(775) 588-4547
Fax (775) 588-4527
Email: trpa@sierra.net

MEMORANDUM

May 18, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Special Projects Allocation, Request for Time Extension for Commercial Floor Area Allocations

Proposed Action: Staff requests that the Governing Board extend the existing deadline for Special Projects Allocation of commercial floor area from May 31, 1999 to August 25, 1999.

Background: The Special Projects Allocation pool was created with the intent to help implement the Environmental Improvement Program (EIP). All projects considered for a special projects allocation must demonstrate contributions to EIP and be consistent with criteria developed by the Performance Review Committee and recognized by the Governing Board. The commercial floor area pool consisted of 150,000 square feet.

Staff solicited project applications and a competition for the commercial floor area was held. At the May 1998 hearing, the Governing Board distributed 150,000 square feet of commercial floor area from the Special Projects Allocation Pool. The distribution of commercial floor area was as follows:

- Park Avenue Project: 42,600 s.f.
- Project No. 3: 44,926 s.f.
- Meeks Relocation: 42,844 s.f.
- Prim Project: 19,630 s.f.

Each of the above projects had until May 31, 1999 to receive project approval from TRPA. The short time period to receive project approval was intended to ensure that the projects awarded the commercial floor area would be built in the near future and to facilitate the EIP.

Discussion: Staff has concluded that the above projects still meet the goals of the Special Projects allocation process. Two projects, Meeks Relocation and the Prim Project, have not yet submitted project applications to TRPA. Staff has had numerous discussions of the projects with the applicants, however, for various reasons, the project applications have not been submitted. A third project, the Park Avenue Project, has received TRPA approval, however, the project permit will expire in November 1999. When the permit expires, so does the allocation recommendation. All three project

/kc
5/18/99

AGENDA ITEM NO. X.F.

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applicants have submitted a request for an extension which are included as attachments to the memorandum.

Staff recommends that an extension of time to receive TRPA project approval be extended to August 25, 1999 (August Governing Board hearing). The merits of these projects have been discussed at length at previous Governing Board hearings. Staff feels that the additional time requested is reasonable given the scope of the projects proposed.

**Environmental Documentation:** Environmental documentation is not required for this portion of the allocation process. Environmental documentation was included with the establishment of the allocation system and will be required for each project approval.

**Governing Board Action:** Staff recommends that the Governing Board adopt the attached resolution modifying the expiration date of the allocation.

If you should have any questions related to the matter, please contact Kathy Canfield at (775) 588-4547.
TAHOE REGIONAL PLANNING AGENCY

RESOLUTION AMENDING RESOLUTION 98-7 AND 98-8 AND REVISING THE EXPIRATION DATE OF THE SPECIAL PROJECTS COMMERCIAL FLOOR AREA ALLOCATION TO ELIGIBLE PROJECT PURSUANT TO CHAPTER 33 OF THE TRPA CODE OF ORDINANCES

RESOLUTION NO. 99 - __

WHEREAS, Chapter 33 of the TRPA Code sets forth the methods and time schedules for assigning commercial floor area allocations to special projects; and

WHEREAS, Chapter 33 also was enacted pursuant to Article V(g) of the Compact to codify and implement the requirement to insure attainment and maintenance of the thresholds; and

WHEREAS, Chapter 33 is designed to implement and coordinate the growth management provisions of the Regional Plan Package and provide guidance to the Governing Board during the ongoing implementation process; and

WHEREAS, Chapter 33 called for completion and action on commercial projects that implement environmental improvement projects; and

WHEREAS, the Performance Review Committee completed the guidelines for the review of special project allocation requests; and

WHEREAS, the TRPA staff and Advisory Planning Commission have utilized the guidelines to review the applications and have made appropriate recommendations to the Governing Board; and

WHEREAS, if any commercial floor area is not utilized by the first three projects below, that the commercial floor area returned to the allocation pool would be assigned to the Kingsbury Community Plan, up to the amount the Kingsbury Community Plan contributed to the Prim Project that was reviewed by the Special Projects allocation application; and

WHEREAS, three project applications have requested a time extension from the original May 31, 1999, deadline to have TRPA project approval; and

NOW, THEREFORE, BE IT RESOLVED THAT the Governing Board of the Tahoe Regional Planning Agency hereby amends Resolutions 98-7 and 98-8 and initially assigns the following commercial floor area allocation:

<table>
<thead>
<tr>
<th>Project</th>
<th>Initial Commercial Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park Avenue</td>
<td>42,600 s.f.</td>
</tr>
<tr>
<td>Project No. 3</td>
<td>44,926 s.f.</td>
</tr>
<tr>
<td>Meeks Relocation</td>
<td>42,844 s.f.</td>
</tr>
<tr>
<td>Prim Project</td>
<td>19,630 s.f.</td>
</tr>
</tbody>
</table>
BE IT FURTHER RESOLVED THAT the Governing Board hereby declares that this assignment of initial allocation shall expire on August 25, 1999, unless extended by TRPA upon a showing of adequate progress toward project approval.

PASSES AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at its regular meeting held on May 26, 1999 by the following vote:

Ayes:

Nays:

Abstain:

Absent:

---------------------------------
Larry Sevison, Chairman
Tahoe Regional Planning Agency
May 10, 1999

KATHY CANFIELD, Project Review
Tahoe Regional Planning Agency
Box 1038
Zephyr Cove NV 89448

Re: MEEKS RELOCATION PROJECT, SPECIAL PROJECT COMMERCIAL ALLOCATION ASSIGNMENT, APN 23-231-01/FILE NO. 980049 REQUEST FOR EXTENSION

Dear Kathy:

While the private and governmental partners in this project have made significant headway in resolving many issues, funding issues remain unresolved at this point in time. While efforts are underway to address this, it is unlikely to be resolved before the end of this month.

Resolution 98-8 adopted by the TRPA Governing Board requires that we either obtain a permit for this project before May 31, 1999, or obtain an extension prior to that date.

We therefore hereby request an extension so that we may move forward in making this project happen.

Sincerely,

[Signature]

Keith Klein
Project Representative

c: Teri Jamin, City of South Lake Tahoe
   William C. Meek
   Jim Baetge, TRPA
   Lyn Barnett, TRPA
   Gabby Barrett, TRPA
Basin Strategies
Planning and Consulting Services

Kathy Canfield, Associate Planner
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448

May 18, 1999
HAND DELIVER

Re: MEHRTENS / PRIM Special Project CFA Allocation, Douglas County APN 07-120-08

Dear Kathy:

Consistent with your request this morning, we would ask that you please consider this letter our request to have our Special Project Commercial Floor Area Allocation for the above-referenced property extended until August of this year.

We have recently found that our project involves additional complexities which have prevented us from submitting our TRPA application until later this month. Although we have completed for this property the necessary Man-Modified Determination and the Hydrologic Scoping Report, there remain some project details to be worked out with Douglas County and Falcon Capital, our two partners in this project. Work has been continuing steadily and diligently since the receipt of the floor area. In the interim, Douglas County and the Mehrteens / Prim family have analyzed at least ten different plan alternatives and are very close to a final decision as to this project. The most recent plan revision we have been considering is a potential new location for Love's Wedding Chapel, somewhere within this project area. This revision was recently requested by Falcon Capital and DC staff.

We want you to know that there is work currently proceeding during this construction season. This work will include the relocation and/or installation of a new utility infrastructure under existing utility MOU's and it is anticipated that Douglas County will be constructing road improvements to their property this year in order to accommodate this special project.

Given the requested extension, it is our intent that this project utilizing the allocated CFA will be submitted this month and that construction will commence prior to October 15 of this year.

We thank you for your assistance and as always, we remain available should you have questions or the requirement of additional information

Kindest regards,

Paul Kaleta

Cc: Falcon Capital
    John Doughty
    Dave Fairbank

P.O. Box 11945 Zephyr Cove, NV 89448 (702) 588-9722 Fax 588-8689
May 18, 1999

Via Facsimile and U.S. Mail

James W. Baetge
Executive Director
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV  89448

Re: Allocation of Special Projects Commercial Floor Area
to the Park Avenue Project

Dear Mr. Baetge:

By this letter the Park Avenue Project proponents and the South Tahoe Redevelopment Agency respectfully request TRPA extend the award of Special Projects commercial floor area pursuant to Chapter 33.D(3) of the TRPA Code of Ordinances for one (1) year. This request is made in light of the following circumstances:

1. In accordance with the direction of the Governing Board, the South Tahoe Redevelopment Agency conducted an alternatives analysis concerning the location of storm water detention basins adjacent to Park Avenue and on February 2, 1999, the South Tahoe Redevelopment Agency and South Lake Tahoe City Council selected the preferred alternative and certified an addendum to the Park Avenue Environmental Impact Report/Environmental Statement.

2. On or about June 15, 1998, Heavenly Resort Properties, LLC, applied to the California Department of Real Estate (DRE) for a preliminary public report, authorizing the taking of deposits for real estate interests in the Grand Summit Resort Hotel. A preliminary report was approved by the DRE and reservations commenced on February 19, 1999. Reservations have far exceeded projections and Heavenly Resort Properties, LLC, has projected a May, 2000, construction start for the Park Avenue Project.
3. On March 24, 1999, the Governing Board certified the Environmental Assessment for the Heavenly Ski Resort gondola alignment and approved the gondola project. Approval of this element is a prerequisite to the construction of the Park Avenue Project and the challenge period for the approval will not run until June 24, 1999.

The foregoing is evidence of diligent pursuit of the Park Avenue Project elements and constitutes grounds to extend the Governing Board’s award of the Special Projects commercial floor area allocation. Please note, the preferred alternative for the detention basins will result in greater water quality improvements than originally forecast due to a greater depth to groundwater as well as enlarged treatment facilities.

Thank you for consideration of the foregoing request.

Sincerely,

[Signature]

By: Lewis S. Feldman

LSF/ac

cc: Kathy Canfield, Assoc. Planner, TRPA
    Jaye Von Klug, South Tahoe Redevelopment Agency
MEMORANDUM

May 17, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Authorization for Executive Director to Enter Into MOU With Douglas County to Establish a Land Coverage Bank

Staff will make a presentation on this item at the Board meeting.

AGENDA ITEM XIA
WHEREAS John Emory Upton was appointed by the El Dorado County Board of Supervisors to serve on the Governing Board of the Tahoe Regional Planning Agency effective January 1992, and served in that capacity through December 1998; and

WHEREAS John came to the regional board having already distinguished himself by many years of public service on behalf of the residents of the South Shore; as proof of his commitment to his fellow citizens, he has since his re-entrance to private life spearheaded an overwhelmingly successful bond election for the local schools; and

WHEREAS John has at all times faithfully and tirelessly represented the citizens of El Dorado County and the South Shore, never being shy in expressing his thoughts, and never abandoning his efforts to present the local perspective on the numerous issues coming before TRPA; and

WHEREAS, in recognition of John's consensus skills, his perceptive understanding of the issues, and his passion for solutions, the Board appointed him to serve as its chairman for 1995 and 1996, the first locally elected chairman in over a decade; and

WHEREAS, because of John's posture at Board meetings, the members were never sure if he was following the proceedings or using his unique ability to camouflage sleep by furiously writing notes. As we all caught on very quickly, this was John's way of paying attention. He wrote copious notes which, to this day, are stored somewhere in his house for easy and quick retrieval. If you ask him a question about the past, he can pull from those stacks of notes the exact yellow tablet containing the answer, and

WHEREAS John, in good times, in bad times, and in sad times, served his constituents and his family with unsurpassed dedication, care, and commitment; and

WHEREAS the Board wishes John every success in his future endeavors and thanks him for his steadfast and unselfish representation of the citizens of El Dorado County and of the Tahoe Region;

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency this twenty-sixth day of May, nineteen hundred and ninety-nine.

Larry Sevison, Chairman
TRPA Governing Board
MEMORANDUM

May 17, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Status Report on Project Applications

Project Review Applications: The following applications are currently under review by the Project Review Division and have been complete for more than 120 days:

<table>
<thead>
<tr>
<th>APN</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Date Submitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>003-191-03</td>
<td>Eugene White</td>
<td>Existing Land Coverage Verification</td>
<td>10/07/98</td>
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<tr>
<td>003-200-24</td>
<td>Jack Carmella</td>
<td>Existing Land Coverage Verification</td>
<td>11/12/98</td>
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<td>005-032-03</td>
<td>Tom Kennedy</td>
<td>Existing Coverage Verification</td>
<td>12/08/98</td>
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<td>005-301-01</td>
<td>Gary Midkiff</td>
<td>Existing Coverage Verification</td>
<td>12/11/98</td>
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<tr>
<td>021-410-11</td>
<td>Fallen Leaf</td>
<td>Tourist Accommodation Addition</td>
<td>12/11/98</td>
</tr>
<tr>
<td></td>
<td>Lodge HOA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>125-152-08</td>
<td>James Nowlin</td>
<td>Administrative Determination</td>
<td>01/07/99</td>
</tr>
</tbody>
</table>

Field review of these applications has been delayed due to snow conditions. Staff has begun to perform site visits now that ground conditions have improved and staff anticipates completion of these projects prior to the June Governing Board hearing. If you have any questions, contact Lyn Barnett in Project Review.
Land Capability and IPES Applications: The following applications exceed the 120 day limit due to the winter weather conditions or pending technical data. If you have any questions, please contact Joe Pepi in Long Range Planning.

<table>
<thead>
<tr>
<th>APN</th>
<th>Type</th>
<th>Project Name</th>
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<tbody>
<tr>
<td>32-050-40</td>
<td>RVAL</td>
<td>Nunez/Dill</td>
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<td>32-050-40</td>
<td>IPES</td>
<td>Nunez/Dill</td>
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<tr>
<td>85-141-01</td>
<td>IPES Appeal</td>
<td>Chamberlain</td>
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<td>85-431-05</td>
<td>DET Allow</td>
<td>Palffy</td>
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<td>34-434-03</td>
<td>LCC</td>
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<td>85-341-05</td>
<td>New IPES</td>
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<td>07-350-14</td>
<td>LCC</td>
<td>McCall/Kaleta</td>
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<td>90-320-01</td>
<td>LCC</td>
<td>McNeil/Kaufman</td>
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<tr>
<td>21-251-16</td>
<td>LCV</td>
<td>Callander</td>
</tr>
<tr>
<td>16-143-10</td>
<td>LCC</td>
<td>Taormino/Brisco</td>
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<td>122-181-64</td>
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<td>93-340-26</td>
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<td>MOU-Johnson</td>
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<td>15-212-19</td>
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<td>97-210-09</td>
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<td>LCV</td>
<td>Shumate/Davis</td>
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<td>83-390-01</td>
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<td>93-360-21</td>
<td>LCV</td>
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<td>132-221-06</td>
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<td>07-362-02</td>
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<td>LCV</td>
<td>MOU -Baruh</td>
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<td>112-190-08</td>
<td>LCV</td>
<td>MOU -Eggstaff/Horn</td>
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<tr>
<td>83-076-15</td>
<td>LCV</td>
<td>MOU - Gutshicj</td>
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<tr>
<td>83-281-03</td>
<td>LCV</td>
<td>MOU – Wells</td>
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<td>32-141-06</td>
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<td>125-171-12</td>
<td>LCV</td>
<td>Doug Seip</td>
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<tr>
<td>90-103-43</td>
<td>LCV</td>
<td>Hamilton</td>
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/dmc
To the Governing Board of the
Tahoe Regional Planning Agency

In planning and conducting our performance audit of the Regional Transportation Planning Entity (RTPE) function of the Tahoe Regional Planning Agency for the three years ended June 30, 1998, we considered the management controls in order to determine our auditing procedures and not to provide assurance on internal control.

However, during our audit, we became aware of matters that are opportunities for strengthening management controls and operating efficiency. The memorandum that accompanies this letter summarizes our comments and suggestions regarding those matters. This letter does not affect our report dated February 2, 1999 on the performance audit of the RTPE function of the Tahoe Regional Planning Agency.

We will review the status of these comments during our next audit engagement. We have already discussed many of these comments and suggestions with various Agency personnel, and we will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

Kafoury Armstrong & Co.

Carson City, Nevada
February 2, 1999
TAHOE REGIONAL PLANNING AGENCY
MEMORANDUM
FOR THE THREE YEARS ENDED JUNE 30, 1998

PROGRESS ON PRIOR YEAR RECOMMENDATIONS

There were no audit recommendations in the prior audit report.

CURRENT YEAR RECOMMENDATIONS

SOCIAL SERVICES TRANSPORTATION ADVISORY COUNCIL (SSTAC):

The Transportation Development Act (TDA) requires that the SSTAC be established; be comprised of specific members (PUC 99238); and participate in the identification of unmet transit needs annually. Although the SSTAC has been established, it does not appear to be meeting its responsibilities.

MANAGEMENT RESPONSE:

TRPA has recently reestablished a local Social Services Transportation Advisory Council. This group, however, has not met annually to participate in the unmet transit needs process. TRPA has met with local groups to solicit input regarding unmet transit needs. Various members of these groups make up the Social Services Transportation Advisory Council. While updating the Regional Transportation Plan - Air Quality Plan, TRPA has also been soliciting input on transportation programs, including transit. There are members of the Social Services Advisory Council who have been invited to participate in the RTP-AQP advisory committee process as well. Now that the committee has been reestablished, TRPA will plan meetings at least annually to discuss transit needs in the Region.

PERFORMANCE AUDIT SCHEDULES:

The TDA requires that a schedule of performance audits and a list of operators be submitted to the Director and Controller prior to September 1 each year. The reports for two of the three years under audit were submitted during September rather than prior to September 1.

MANAGEMENT RESPONSE:

As mentioned in management's response to the performance audit findings (page 15), TRPA has developed a scheduling procedure that will assure that all deadlines can be met in a timely manner. The schedule of performance audits will be submitted by September 1 of each year.
STA FUND ALLOCATIONS:

PUC 99314.3 states that STA funds should be allocated to each operator based on the ratio of its revenue during the prior fiscal year to the total revenue of all operators; however, both TART and STAGE received the same allocation. We recommend that TRPA research this requirement further to determine if it applies to these STA allocations.

MANAGEMENT RESPONSE:

In the past, TRPA has allocated State Transit Assistance (STA) funds to both the City of South Lake Tahoe and Placer County. The allocation to the Tahoe Region has been split evenly between the TART and STAGE transit services. PUC 99314.3 states that STA funds should be allocated to each operator based on the ratio of its revenue during the prior fiscal year to the total revenue of all operators. TRPA will research this requirement, and, if appropriate, will begin allocating STA funds according to this formula.

TIMELINESS OF CLAIMS PROCESSING:

During our interviews with the transit operators, concern was expressed regarding the timeliness of claims processing. It appears that in many instances, allocations are not approved by TRPA until well into the fiscal year. We recommend that TRPA establish a system of monitoring claims processing to ensure that monies are distributed timely.

MANAGEMENT RESPONSE:

On several occasions, TRPA has processed LTF claims fairly late in the fiscal year. This has occurred for various reasons. As mentioned above, TRPA deals with two different jurisdictions to allocate LTF. Each of these jurisdictions operates on different schedules. Because of this, each step in the process cannot be done at the same time. Rather than waiting for everything to happen concurrently, TRPA proceeds with the El Dorado County jurisdictions prior to Placer County. The El Dorado County Auditor Controller's office submits the LTF estimates in January of each year, and those are the numbers that we use. Placer County submits them in January, with the understanding that they will be updated in May and/or June, and have even been updated subsequent to those dates. Because of this, Placer County does get notified much later in the process than El Dorado County jurisdictions. TRPA believes they have corrected this problem almost entirely in El Dorado County, but the Placer County process has not operated as smoothly. TRPA will attempt to do the same with Placer County so that allocations can be made in a timely manner.
TAHOE REGIONAL PLANNING AGENCY
TRANSPORTATION DEVELOPMENT ACT
PERFORMANCE REPORT
FOR THE THREE YEARS ENDED JUNE 30, 1998
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<td>BASED SOLELY ON A STUDY AND EVALUATION MADE AS PART OF A PERFORMANCE AUDIT</td>
<td>17-19</td>
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INDEPENDENT AUDITOR'S REPORT

To the Governing Board of the
Tahoe Regional Planning Agency

We have conducted a performance audit of the Tahoe Regional Planning Agency (TRPA) for the three years ended June 30, 1998. Our audit was conducted in accordance with standards for performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

The California Public Utilities Code (PUC) requires that all regional transportation-planning entities have a triennial performance audit conducted on their activities. Therefore, the objective of the audit was to fulfill a legal requirement and was intended to provide an independent, objective, and comprehensive review of the effectiveness of TRPA's administration of transportation funds.

The audit was based on the guidelines established in the Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities and Government Auditing Standards for performance audits issued by the Comptroller General of the United States. The audit covered in detail the following areas:

- Review of compliance requirements.
- Follow-up review of prior performance audit recommendations.
- Detailed review of the following TRPA functions:
  - Regional Transportation Planning Entity (RTPE) administration and management.
  - Transportation planning and regional coordination.
  - Claimant relationships and oversight.
  - Marketing and transportation alternatives.
  - Grant applications and management.

Performance of TRPA was evaluated through interviews with planning personnel responsible for monitoring funding and developing the Regional Transportation Plan, along with analysis and examination of pertinent documents. We also interviewed personnel at the transit operators in TRPA's jurisdiction.
In accordance with Government Auditing Standards, we have also issued a report dated February 2, 1999 on our consideration of the Tahoe Regional Planning Agency's internal control and compliance with laws and regulations solely as they relate to this performance audit.

This report is intended solely for the use of management, the Governing Board, and the State Controller's Office of the State of California, and should not be used for any other purpose. This restriction is not intended to limit the distribution of this report, which, upon acceptance by the Governing Board, is a matter of public record.

Carson City, Nevada
February 2, 1999
EXECUTIVE SUMMARY

The performance audit of the Tahoe Regional Planning Agency (TRPA) covers the period from July 1, 1995 through June 30, 1998. Performance audits are prepared to fulfill the requirements of Section 99246 of the Transportation Development Act (TDA) which requires performance audits of Transportation Planning Agencies (TPA) every three years. The performance audit evaluates the efficiency, effectiveness and economy of the TPA; determines if the TPA meets other specific TDA requirements, and is conducted in accordance with the performance audit guidelines contained in Government Auditing Standards, issued by the Comptroller General of the United States.

This audit includes the basic compliance audit required by the TDA, a determination of TDA compliance, and a functional review of Regional Transportation Planning Entity (RTPE) functions.

Based on the review of the performance of TRPA, it appears that TRPA has taken steps to improve the overall performance of the agency in its regional transportation planning functions. We did however identify certain areas in which the agency can continue to improve performance and we have developed recommendations to improve performance in these areas. The following is a summary of our recommendations:

COMPLIANCE RECOMMENDATIONS

1. We recommend that TRPA develop a system of ensuring that the transit operators in the jurisdiction comply with report submission timetables. This system needs to be documented and the expectations need to be communicated to the transit operators. The timetable needs to be adhered to, and TDA requirements with regard to withholding funding need to be complied with if the operator fails to submit the reports on schedule.

2. We recommend that TRPA establish a system to ensure adherence to report submission requirements to the Director of the California Department of Transportation.

FUNCTIONAL AREA RECOMMENDATIONS

RTPE Administration and Management

1. We recommend that TRPA establish a timetable to supplement that provided in the TDA to ensure that the transit operators are aware of the deadlines for report submission and to ensure that the operators receive allocated monies in a timely manner. These expectations should be communicated to the operators.

2. We recommend that additional personnel be trained in TDA administration and management functions to ensure that if the primary personnel responsible for this function are unavailable, claims and reporting will still be administered in a timely manner.
Transportation Planning and Regional Coordination

No recommendations.

Claimant Relationships and Oversight

1. We recommend that TRPA ensure that transit operators are aware of the reports that are required to be submitted by the TDA and the deadline for submission. This communication should be documented, and TRPA should establish a system for monitoring progress.

2. We recommend that TRPA establish a system of monitoring claims to ensure that monies are distributed to the claimants in a timely manner.

Marketing and Transportation Alternatives

No recommendations.

Grant Applications and Management

No recommendations.
INTRODUCTION

PERFORMANCE AUDITING

Public transportation in the Tahoe region receives a significant portion of the funding necessary to operate through two programs, which make funds available through the Transportation Development Act (TDA). These two programs are the Local Transportation Fund (LTF) and State Transit Assistance Fund (STA). LTF revenues represent El Dorado and Placer County’s allocation of the retail sales tax collected statewide. The counties receive 0.25¢ in sales tax for each dollar of retail sales. The Tahoe Regional Planning Agency (TRPA) administers the LTF and STA monies.

The TDA requires TRPA to engage an outside consultant to conduct a triennial performance audit of all transit operators within its jurisdiction – these audits for the period from July 1, 1994 to June 30, 1997 were completed by South Tahoe Area Ground Express and El Dorado County’s South Lake Tahoe Transit Program; Tahoe Area Regional Transit has not completed the required performance audit to date for the period July 1, 1994 to June 30, 1997. This performance audit of TRPA covers the three years ended June 30, 1998.

TRPA has decided to have the performance audit conducted in accordance with the following documents:

- Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities published by the California Department of Transportation (Caltrans).
- TDA and California Code of Regulations (CCR).
- Standards for performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

OBJECTIVES:

The objectives of this performance audit are as follows:

- Meet the requirements of the TDA.
- Provide management with useful information regarding past activities and provides insight for future planning efforts.
- Provides management with a review of the agency’s organization and operations.
- Assures public accountability for the use of public funds.

A performance audit also provides an opportunity for an independent, objective and comprehensive review of the economy, efficiency, and effectiveness of the entity being audited.
**SCOPE:**

Local Transportation and State Transit Assistance Funds are a major source of funding for public transportation. Section 99246 of the California PUC requires a triennial performance audit to evaluate the TPAs', in this case TRPA's, efficiency and effectiveness in meeting the criteria set forth in the TDA. The performance audit does not encompass any functions performed by TRPA that do not relate to the TDA. In addition, this audit was not designed to, nor did it evaluate any of TRPA's computer systems for Year 2K compliance. This report summarizes the findings of the audit.

We conducted the performance audit in accordance with the following:

- Performance audit guidelines contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

- TDA and California Code of Regulations (CCR).

- *Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*.

**METHODOLOGY:**

Our review of TRPA's activities with regard to these funds included interviews with staff responsible for transportation planning activities, and personnel employed by the operators under TRPA's jurisdiction as well as a review of supporting documentation when practical.

**BACKGROUND:**

The 91st Congress consented to the creation of the Tahoe Regional Planning Agency (PL 91-148) during 1969 by the States of California and Nevada. The purpose, as outlined in the respective State legislation, is to maintain equilibrium between the region's natural endowment and its man-made environment, and to preserve the scenic beauty and recreational opportunities of the region. To this end, the agency has prepared a Regional Plan. This Plan includes elements of land use, transportation, conservation, and public services and facilities.

In July 1984, pursuant to Government Code 29532.1, the State of California as the Transportation Planning Agency (TPA) for the Tahoe Basin designated TRPA. The Transportation Development Act (TDA) is the governing document for such agencies and it mandates the preparation of a Regional Transportation Plan. In addition to TRPA's responsibility for drafting the Plan, TRPA is required to allocate and monitor the Local Transportation and State Transit Assistance Funds apportioned by the State of California to the Tahoe Basin under the TDA.

We recognize that TRPA is unique in that regional transportation planning is not the primary function of the agency and also that TRPA's jurisdiction is unlike other regional transportation planning entities in California as TRPA is responsible for activities within the entire Tahoe basin, an area which encompasses two states, five counties, and one city. As this is the case, we modified our procedures accordingly. This performance audit was limited to those operators governed by the TDA.
The transit operators in TRPA's jurisdiction are Tahoe Area Regional Transit (TART), El Dorado County's South Lake Tahoe Transit Program which encompasses Bus Plus, Trolley Tyme and Paratransit, and the City of South Lake Tahoe's South Tahoe Area Ground Express (STAGE). TART is operated by Placer County and El Dorado County's operators are operated under contract with Area Transit Management (ATM).
COMPLIANCE REVIEW

The following are the results of the compliance review performed as a portion of this audit. The purpose of this section is to determine TRPA's compliance with the applicable sections of the Transportation Development Act and the California Code of Regulations.

**SUMMARY TABLE OF RESULTS OF COMPLIANCE REVIEW**

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<tr>
<th>OPERATOR COMPLIANCE REQUIREMENTS</th>
<th>REFERENCE</th>
<th>STATUS</th>
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<tr>
<td>Operators claim no more than Local Transportation Fund (LTF) apportioned.</td>
<td>PUC Section 99231</td>
<td>In compliance¹</td>
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<tr>
<td>Adoption of rules and regulations for claims for pedestrians and bikes.</td>
<td>PUC Sections 99233.3 and 99234</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Social Service Advisory Council established, including citizen participation and annual public hearing.</td>
<td>PUC Sections 99238 and 99238.5</td>
<td>In compliance¹</td>
</tr>
<tr>
<td>Annual identification of productivity improvements.</td>
<td>PUC Section 99244</td>
<td>In compliance¹</td>
</tr>
<tr>
<td>Claimants' reports submitted to TRPA and State Controller within 180 days.</td>
<td>PUC Section 99245</td>
<td>Not in compliance</td>
</tr>
<tr>
<td>Triennial performance audits for TPAs and operators conducted and prescribed information included.</td>
<td>PUC Sections 99246 and 99248</td>
<td>Not in compliance</td>
</tr>
<tr>
<td>TRPA submit performance audit and written certification as to receipt of operator's performance audits.</td>
<td>PUC Section 99246(c)</td>
<td>Not in compliance</td>
</tr>
<tr>
<td>Operator triennial performance audits.</td>
<td>PUC Section 99246(d)</td>
<td>Not in compliance</td>
</tr>
<tr>
<td>Revenue ratios for TPAs with urban and nonurbanized areas.</td>
<td>PUC Sections 99270.01 and 99270.2</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Adoption of rules, etc. for claims under Article 4.5.</td>
<td>PUC Section 99275.5</td>
<td>In compliance¹</td>
</tr>
<tr>
<td>State Transit Assistance (STA) allocations only for planning and mass transit purposes.</td>
<td>PUC Sections 99310.5 and 99313.3; Proposition 116</td>
<td>In compliance¹</td>
</tr>
<tr>
<td>STA funds are allocated to operators within the jurisdiction and as allocated by the Controller.</td>
<td>PUC 99314.3</td>
<td>In compliance¹</td>
</tr>
<tr>
<td>TDA funds not allocated to transportation services.</td>
<td>PUC 99401.5</td>
<td>Not applicable</td>
</tr>
<tr>
<td>TRPA financial audit and related transmittal.</td>
<td>CCR 6662.</td>
<td>In compliance¹</td>
</tr>
</tbody>
</table>

¹ During the course of the testing, nothing came to our attention to indicate that TRPA was not in compliance with this requirement.
NARRATIVE ON COMPLIANCE REVIEW

PUC Section 99231. All operators, which have responsibility for serving a given area, in total, claim no more than those LTF monies apportioned to that area.

No claims in excess of apportionment occurred in any of the three years under audit.

PUC Section 99233.3 and 99234. Adoption of rules and regulations for bikes and pedestrians.

Not applicable. No claims were received in any of the three years for bikes and pedestrians.

PUC Section 99238 and 99238.5. Social Services Transportation Advisory Council established including citizen participation and annual public hearing.

Annual meetings to address unmet transit needs were held and citizen participation was encouraged by TRPA. However, the Social Services Transportation Advisory Council is not active.

PUC Section 99244. Annual identification of productivity improvements for operators within the jurisdiction.

TRPA is continuously engaged in monitoring current and potential improvements as evidenced by its annual overall work programs, which are reviewed by CALTRANS officials annually.

PUC Section 99245. Claimants' fiscal and compliance audit reports submitted to TRPA and State Controller within 180 days after the fiscal year end.

TRPA was in possession of financial statement audits of several of the entities' claimants as well as operators. However, financial statement audits of Tahoe Area Regional Transit (TART) were not located for the three years under audit, nor was there any evidence that the report had been transmitted to the California State Controller's Office as required. As a result, TRPA has not complied with Section 99245.

PUC Sections 99246 and 99248. Triennial performance audits for TPAs and operators conducted and prescribed information included, and a schedule of audits and a list of operators is provided to the Director and Controller each year.


As for operators, we noted the following:

1. South Tahoe Area Ground Express (STAGE) audit completed including all required information.
2. TART audit for three years ended June 30, 1997 has not been completed. As a result, TRPA has not complied with PUC 99246.
TRPA has submitted the list of audits and operators annually.

PUC Section 99246(c). TRPA submits performance audit and written certification of the receipt of operator’s performance audits to the Director of the California Department of Transportation.

The performance audits received were submitted, however, the required certifications were not met. Also, as the TART performance audit was not completed within the required timeframe, this requirement was not met.

PUC Section 99246(d). Operator triennial performance audits shall contain certain information required by the Transportation Development Act.

STAGE complied. TART has not complied to date.

PUC Sections 99270.01 and 99270.2. Revenue ratios for TPAs with urban and nonurbanized areas.

TRPA is classified as a nonurbanized area only; and, therefore, this section is not applicable.

PUC Section 99275.5. Adoption of rules, etc. for claims under Article 4.5.

TRPA’s claims procedures are intact.

PUC Sections 99310.5 and 99313.3; Proposition 116. STA allocations only for planning and mass transit purposes.

All allocations were for TART or STAGE (mass transit).

PUC Section 99314.3. STA funds are allocated to operators within the jurisdiction and as allocated by the Controller.

STA funds were allocated to operators in the jurisdiction as directed by the Controller.

PUC Section 99401.5. TDA funds not allocated to transportation issues.

All allocations were directly related to transportation issues; therefore, PUC Section 99401.5 is not applicable to TRPA.

CCR 6662. TRPA audit and related transmittal.

TRPA’s financial audit was completed and contained a statement to the effect that TRPA complied with all significant statutory constraints on financial reporting. A transaction report was also completed and was submitted to the State Controller appropriately.
Conclusion On Compliance Review

As a result of the compliance review conducted, the following instances of noncompliance were noted:

Finding 1

The fiscal and compliance audits of the operators are not consistently received within 180 days of the end of the fiscal year, and documentation of the required certification to the State Controller was unavailable.

Finding 2

TART has not yet complied with the requirement to complete a performance audit for the three years ended June 30, 1997 as per the schedule of performance audits submitted to the State Controller dated September 18, 1997. TART is receiving an allocation of funds even though it has not submitted the performance audit as required.

In addition, during our performance audit we noted certain instances of immaterial noncompliance with requirements of the Transportation Development Act, which we have reported to the management of TRPA in a separate letter, dated February 2, 1999.
ANALYSIS OF FUNCTIONAL PERFORMANCE

The following is an assessment of the functional effectiveness of TRPA with regard to TDA funds and their administration in accordance with our review of TRPA work programs and the related projects during the period. It should also be noted that a review of TRPA's progress is conducted by CALTRANS annually, at a minimum, and no findings related to that review were noted.

RTPE Administration and Management:

The claims management and TDA compliance functions of TRPA are the duties of one person in the transportation-planning department. Although this provides for consistency in claims processing, it does not provide for a second person to perform those duties should the person with primary responsibility be unavailable. We noted during our review that this sometimes could have a detrimental effect on the timeliness of claim processing. The timeliness of claims processing was the problem most commented on during our interviews with operator personnel.

The Regional Transportation Plan (RTP) was adopted in 1992, and was reaffirmed in a timely manner in 1994 and 1996. TRPA is currently working on a new RTP to address the changing demand for transportation in the Tahoe Basin.

Our interviews with operator personnel indicated that TRPA is constantly involved and actively participates in regional forums related to regional transportation and that overall TRPA has had an identifiable and positive impact on regional transportation.

Transportation Planning and Regional Transportation:

The RTP is a detailed document, which focuses on the transportation improvements needed to meet transportation-related goals in the Tahoe Region. The RTP addresses the requirements of the Tahoe Regional Planning Compact, which requires a transportation plan for the Region that provides for an integrated development of a regional system of transportation. All interested parties are given ample opportunity to provide input for the RTP.

Our interviews with operator personnel indicated that TRPA staff is very familiar with the unique concerns of the area, and that transportation improvement programs have been implemented to keep current with service levels.

Claimant Relationship and Oversight:

Technical and managerial assistance is provided to the operators when requested and the Tahoe Transportation District has a technical advisory committee which is available for transit related concerns. The operators are satisfied with the accuracy of claims processing; however, as noted earlier, timeliness is an issue.
The preliminary local transportation fund estimates are due to TRPA from the county auditors by February 1 of each year; however, during our review it was noted that allocation resolutions are sometimes not made until many months into the fiscal year. The county auditor cannot release funds until the allocation resolution has been received, which can leave the operators short of funding. In addition, El Dorado County bases claims for local transportation funding entirely on estimates, which has resulted in the development of a large fund balance. As the fund balance is not being utilized in subsequent years, these funds are not being allocated to the operators.

TRPA needs to take steps to ensure that TDA compliance requirements are adequately communicated to the operators, that progress on compliance issues is monitored, and that appropriate steps are taken if the operators fail to comply.

Grant Application and Management:

All transportation grants are required to pass through TRPA for approval prior to submission, and thus are subject to TRPA’s grant approval policies. Although TRPA only participates in grant writing if requested by the operator, this activity has recently resulted in the receipt of a $1 million grant for the entire lake region.
PROGRESS ON PRIOR AUDIT FINDINGS

In the performance audit completed for the three years ended June 30, 1995, it was noted that:

1. TRPA did not consistently document transmittal of fiscal or performance audits of claimants under its jurisdiction.

2. TRPA had not submitted a schedule of performance audits to the State of California prior to September 1 of each year, nor have they provided a list of operators.

During our audit procedures for the current performance audit, we noted that:

1. TRPA still does not consistently document transmittal of fiscal or performance audits of claimants under its jurisdiction.

2. TRPA has submitted a schedule of performance audits and a list of operators to the State of California each year; however, in two of the three years, these reports were not submitted prior to September 1.
MANAGEMENT'S RESPONSE

Over the years, TRPA Transportation Planning staff has varied in size, from one to five staff members. During those times of lower staffing levels, TRPA did not have the resources to devote a sufficient amount of time to administer the TDA program, while still maintaining ongoing planning activities.

Now that TRPA has increased its staffing level, and, through input received from the performance audit, we anticipate improvements in our performance of the TDA program. We have, over the past two years, improved our filing system, as well as our interaction with both the City of South Lake Tahoe and El Dorado County. TRPA has developed a more automated approach to submitting the requirements of the TDA in a timely fashion. TRPA is now using a spreadsheet of the TDA schedule for submittals during a fiscal year to assure that items are submitted on schedule and allocations are handled in a timely manner.

RESPONSE TO FINDINGS

1. **PUC 99245 - Audits not submitted in a timely manner, or without appropriate information**

   Audits have been received from both the City of South Lake Tahoe and El Dorado County, but TRPA did not notify the State Controller in a timely manner. TRPA's new procedures will ensure that each of these requirements is met in the future.

   **PUC 99246(c) - Documentation of certification to State Controller regarding operator's performance audits was not located.**

   Consistent with the above comments, this has resulted from not staying on top of the TDA scheduling requirements. TRPA anticipates that the new scheduling procedures will prevent this from happening in the future.

2. **PUC 99246 & 99248 - TART did not complete performance audit for the required triennia, but received the funding allocation for FY 1998-99.**

   A performance audit was not performed for the Tahoe Area Regional Transit (TART) system for the required triennia. TRPA has since talked with Placer County, and they are working at this time to complete the audit prior to the next fiscal year. We have corrected the problem, and our scheduling system will catch items like this in the future. It was not discovered that the audit was not completed until into the fiscal year, when notices had already been issued regarding LTF allocations for FY 1998-99. Because it was partially the fault of TRPA for not notifying Placer County of the required audit due date, TRPA did not feel that withholding funding was appropriate in this situation. We will, however, withhold the allocation of funds for the next fiscal year until the audit has been received by TRPA.
NOTEWORTHY ACCOMPLISHMENTS

TRPA has been participating in several items that are of significance to transportation planning and transit improvements in the Tahoe Region. Listed below are two programs that TRPA has been very involved in recently that should provide many improvements in the Tahoe Region.

Coordinated Transit System (CTS)

TRPA has been working with local entities on the South Shore to help develop the Coordinated Transit System (CTS). The CTS will take the existing transit services offered individually by four casinos, a ski resort, the trolley service and the publicly operated STAGE service and coordinate them all under one management structure. The system will then be run under one dispatch service, unified with a telephone and kiosk system, and controlled by automatic vehicle location technology. The CTS will provide economies of scale with regard to transit operations and administration, applying savings to a more centralized operation.

Metropolitan Planning Organization (MPO)

The most recent federal transportation authorizing legislation provided for the establishment of a Metropolitan Planning Organization (MPO) in the Lake Tahoe Region. The MPO will provide additional transportation project funding and planning funding for the Region, as well as strengthen the process used for transportation programming and planning by combining the various federal and state governmental processes currently in effect for the Region under a distinct planning process.
REPORT ON COMPLIANCE AND MANAGEMENT CONTROLS BASED SOLELY ON A STUDY AND EVALUATION MADE AS PART OF A PERFORMANCE AUDIT

To the Governing Board
Tahoe Regional Planning Agency

We have conducted a performance audit of the RTPE function of the Tahoe Regional Planning Agency (TRPA) as of and for the three years ended June 30, 1998, and have issued our report thereon dated February 2, 1999. We conducted our performance audit in accordance Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of our performance audit, we performed tests of compliance with certain provisions of the Transportation Development Act and the California Code of Regulations, noncompliance with which could have a direct and material effect on the functions of TRPA as a regional transportation planning entity. However, providing an opinion on compliance with these provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance, which are reported on, page 12 of the performance audit report. In addition, during our performance audit we noted certain instances of immaterial noncompliance with requirements of the Transportation Development Act, which we have reported to the management of TRPA in a separate letter, dated February 2, 1999.

Management Controls

In planning and conducting the performance audit of TRPA for the three years ended June 30, 1998, we considered management controls in order to determine our auditing procedures and not to provide assurance on management controls.

For the purpose of this report, we have classified the significant management control structure policies and procedures used in administering Transportation Development Act Funds in the following categories:

- Administration of transportation funding
- Development and implementation of Regional Transportation Plan
The study included only the control categories listed above. The purpose of the study and evaluation was to determine the nature, timing, and extent of the auditing procedures necessary for reporting on the entity's performance. Our study and evaluation was more limited than would be necessary to express an opinion on the system of management control taken as a whole. Accordingly, we do not express such an opinion.

We noted a certain matter involving the internal control structure and its operation that we consider to be a reportable condition under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the entity's ability to record, process, and summarize data and statistics for performance purposes.

Reportable Condition

Criteria:

TRPA should have a system in place for effectively monitoring compliance with the Transportation Development Act (TDA).

Effect:

TRPA and the claimants over which TRPA has oversight responsibility are substantially not in compliance with TDA requirements.

Condition:

Absence of appropriate reviews and approvals of compliance related materials. Failure to follow-up and correct previously identified internal control deficiencies.

Cause:

A lack of prescribed monitoring system structure.

Our consideration of management controls would not necessarily disclose all matters that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the specific management control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the data and statistics being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of management controls would not necessarily disclose all matters in management controls that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses.
We consider the reportable condition described above to be a material weakness under standards established by the American Institute of Certified Public Accountants.

This report is intended solely for the use of management, the Governing Board, and the State Controller's Office of the State of California, and should not be used for any other purpose. This restriction is not intended to limit the distribution of this report, which, upon acceptance by the Governing Board, is a matter of public record.

Carson City, Nevada
February 2, 1999