TRPA
GOVERNING BOARD
PACKETS

SEPTEMBER
2000
TAHOE REGIONAL PLANNING AGENCY

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TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Tuesday, September 26, 2000, commencing at 5:30 p.m., in the conference room of the Tahoe Regional Planning Agency, 308 Doria Court, Zephyr Cove, Nevada, the Environmental Improvement Program Implementation Committee (EIPIC) will meet. The agenda will be as follows: 1) public interest comments (no action); 2) discussion of Regional Revenue Feasibility report; 3) discussion on Environmental improvement Program update products; 4) member comments (Committee: Waldie, Cole, Perdock, Minor, DeLaney)

NOTICE IS FURTHER GIVEN that on Wednesday, September 27, 2000, 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 Wednesday, September 27, 2000, commencing at 9:00 a.m., at the same location, the TRPA Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Finance Division update (Committee: Neft, Heller, Galloway, Sotaro, Bennett)

NOTICE IS FURTHER GIVEN that on Wednesday, September 27, 2000, commencing at Noon, at the same location, the TRPA Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Rubicon Tahoe Owners, Inc. show cause hearing for alleged buoy placement violation; 3) update on compliance issues at Tahoe Keys Marina. (Committee: Drake, Waldie, Medina, Miner, Sandoval)

September 18, 2000

John L. Marshall
Acting Executive Director

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

Granlibakken Conference Center
625 Granlibakken Road
Tahoe City, California

September 27, 2000
9:30 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

AGENDA

I. PLEDGE OF ALLEGIANCE (5 minutes)

II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)

III. PUBLIC INTEREST COMMENTS - All comments are to be limited to no more than five minutes per person.

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, 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 (5 minutes)

V. APPROVAL OF MINUTES (5 minutes)

VI. CONSENT CALENDAR (see agenda pg. 2 for specific items) (5 minutes)

VII. PUBLIC HEARINGS

A. Amendment of Chapter 4, Project Review and Exempt Activities, to Amend the MOU with Nevada State Parks to Increase Vegetative Management Exempt Activity Area Limits From 30 Acres to 100 Acres (10 minutes) Pg. 57

B. Certification of 64 Acre Tract Intermodal Transit Center EIR/EIS/EIS (90 minutes)

C. Amendment of Code Section 54.4. A(3) to Allow for a Pier in Prime Fish Habitat, When Done in Conjunction With Removal of a Boat Ramp (30 minutes) Pg. 73
VIII. PROJECT REVIEW

A. Lowe, New Single Use Pier/Conversion of an Existing Accessory Shorezone Structure, 77 Shoreline Circle, Incline Village, Washoe County APN 122-169-09, TRPA File No. 990882 (30 minutes)

IX. PLANNING MATTERS

A. Discussion of Conditions of Approval, Sierra Nevada College Prim-Schultz Hall (TRPA Permit No. 980950), Washoe County, Regarding College Park Mobile Home Park (45 minutes)

B. Discussion of Potential TRPA Office Relocation Sites, (45 minutes) - 2:30 p.m.

C. Amendment of the 2000 Regional Transportation Improvement Program, Acting as the Regional Transportation Planning Agency, Approval of Resolution (20 minutes)

X. SHOW CAUSE HEARING

A. Rubicon Tahoe Owners' Alleged Buoy Placement Violation (30 minutes)

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee (5 minutes)

B. EIPIC (5 minutes)

C. Legal Committee (5 minutes)

XII. REPORTS

A. Executive Director Monthly Status Report (10 minutes)
   1. Status Report on Project Applications
   2. Status Report on Projects That Could Be Transferred to Local Governments under MOU process
   3. Report on the TTD September 8, Meeting

B. Legal Division Monthly Status Report (5 minutes)

C. Governing Board Members (5 minutes)

XIII. ADJOURNMENT
## CONSENT CALENDAR

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>1. Pierce (formerly Walchek), New single-use Pier and two buoys, 915 Lakeshore Drive, Incline Village, Washoe County APN 122-251-05, TRPA File No. 990786</td>
<td>Approval of Findings and Conditions Pg.1</td>
</tr>
<tr>
<td>2. Urban, Appeal of Land Capability Challenge, 185 Yellow Jacket Rd., Douglas County APN 001-080-21</td>
<td>Approval Pg.17</td>
</tr>
<tr>
<td>4. Riddel, IPES Appeal, 726 Foothill Dr., Douglas County APN 005-083-20</td>
<td>Approval Pg.27</td>
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<tr>
<td>5. DeGrazia, Appeal of Land Capability Challenge, 736 &amp; 738 Emerald St., Douglas County APN 005-083-15</td>
<td>Approval Pg.31</td>
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<td>7. Allured, Appeal of Land Capability Challenge, 1064 Sawmill Rd., Washoe County APN 130-163-11</td>
<td>Approval Pg.39</td>
</tr>
<tr>
<td>8. Incline Village GID, New Water Tank, Washoe County APN 130-010-08</td>
<td>Approval of Findings and Conditions Pg.43</td>
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The 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

Tahoe Regional Planning Agency Governing Board Members:

Chairman Larry Sevison, Placer County
Vice Chairman Don Miner, Douglas County
Kay Bennett, Carson City
Jim Galloway, Washoe County
Hal Cole, South Lake Tahoe
Dave Solaro, El Dorado County
Brian Sandoval, Nevada At-Large Member
Dean Heller, Nevada Secretary of State

Wayne Perock, Nev. Dept. of Conservation Appointee
Drake DeLanoy, Nevada Gov. Appointee
Jerry Waldie, Calif. Senate Rules Com. Appointee
Leslie Medina, Calif. Assembly Spkr. Appointee
Joanne Neft, Calif. Gov. Appointee
(Position Vacant), Calif. Gov. Appointee

Peter Chiase Neumann, Presidential Appointee
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Seasons Resort
South Lake Tahoe, California

August 23, 2000

REGULAR MEETING MINUTES

I. ROLL CALL AND DETERMINATION OF QUORUM

Chairman Larry Sevison called the August 23, 2000, Tahoe Regional Planning Agency (TRPA) Governing Board meeting to order at 9:35 a.m.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

Vice Chairman Don Miner led the Board in the Pledge of Allegiance to the Flag.

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Mr. Heller, Mr. Davis (for the morning session; Mr. Hal Cole sat in for afternoon session), Ms. Bennett, Mr. Giles (at 10:45 a.m.), Mr. Perock, Ms. Neft, Ms. Medina, Mr. Sandoval, Mr. Galloway, Mr. Sevison

Member Absent: Mr. Neumann

III. PUBLIC INTEREST COMMENTS — There were no comments from the public.

IV. APPROVAL OF AGENDA

Acting Executive Director John Marshall advised that staff would be proposing a schedule for discussion and action on the Glenbrook matters (agenda items IX.A. and X.A). Mr. Marshall noted that the Hooks Landing Outdoor Recreation Concession (Item X.C.) was continued. The Walchek pier (consent item 3) was also continued. Recommencement of the regular meeting agenda following Executive Director interviews would take place at 1:30 p.m.

Ms. Neft asked that the Finance and Rules Committee recommendations be presented prior to the 1:30 agenda item.

MOTION by Ms. Neft to approve the agenda as discussed. The motion carried unanimously.

V. APPROVAL OF MINUTES

Mr. Perock asked that page 27 of the July 26 regular meeting minutes be corrected to show that his comments related to the revitalization of the "State Park Land and Water Conservation Fund."
TRPA REGULAR MEETING MINUTES AUGUST 23, 2000

MOTION by Ms. Neft to approve the June 28 and July 26, 2000, meeting minutes, with the July minutes amended as noted. The motion carried on the following vote:

Ayes: Mr. Perock, Dr. Miner, Mr. Galloway, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Solaro, Mr. DeLanoy, Mr. Sevion

Nays: None

Abstain: Mr. Davis, Ms. Medina, Mr. Heller, Mr. Sandoval

Absent: Mr. Giles

VI. CONSENT CALENDAR

MOTION by Dr. Miner to approve items 1 and 2 on the consent calendar, with item 3 being continued.

Finance Committee Chairman Bennett noted that the Finance Committee had met earlier in the day and recommended approval of items 1 and 2.

The motion carried unanimously.

(The following items were approved:
1. Placer County Request for Air Quality Mitigation Funds ($300,000) to Provide Local Match for Purchase of Seven TART Replacement Buses
2. Resolution Regarding the Programming of $540,000 to Purchase 3 Transit Vehicles for Placer County (TRPA Resolution No. 2000-13)

The following item was continued:
3. Walchek, New Single-Use Pier, 915 Lakeshore Drive, Incline Village, Washoe County APN 122-251-05, RPA File No. 990786)

VII. ADMINISTRATIVE MATTERS

A. Executive Director Selection

1. Interviews of Finalists
2. Selection of Executive Director
3. Related Administrative Items

Executive Director Search Committee Chairman Dave Solaro introduced Ms. Diane Miller, President of Wilcox Miller & George, the search firm hired to assist with the Executive Director search process.

Ms. Diane Miller noted the process was on schedule and on budget. Throughout the process, the Search Committee had utilized "best practices in corporate governance." Her firm had been in Sacramento for 21 years, and she had worked with the Committee in TRPA's process to follow a good, straightforward, very professional approach to the hiring of a new Executive Director, so that there would be no surprises for the Search Committee or the candidates. The Committee had put in a lot of time and effort. The search started at the end of June, with the Committee having gotten together on three occasions for the organizational phase, the resume review, and August 21 interviews. Her firm had initially screened down the 62 candidates to ten, which were forwarded to the Search Committee. The Committee then selected the five candidates which it wished to interview. Four of those candidates were coming to the Board
today. During the process, the Committee was in constant contact with her firm, and everyone was well informed along the way. Each candidate had been extensively screened by her firm based on a candidate profile provided by the Search Committee, and her firm had also done extensive reference checks, including six professional references (two supervisors, two peers, two subordinates), as well as criminal, credit, DMV, education, and professional certification verification.

Executive Director Search Committee Chairman Solaro recognized the efforts of TRPA Human Resources Director Michele Chouinard, Agency Counsel John Marshall, Public Affairs Director Pam Drum, and Acting Deputy Director Gordon Barrett. He also thanked members of the Search Committee for the many hours they had spent in the two search efforts. These included Board members Kay Bennett, Brian Sandoval, Jerry Waldie, Joanne Neft, and Larry Sevison. Reference check information, sample questions, a time schedule, and grading sheets had been provided to the Board member for the day’s interviews. On August 21, the Committee conducted 55-minute interviews of each of the five candidates. Time was allotted for the candidates to ask the Committee members questions about the Agency. Panel interviews with community members and staff members were conducted on August 22. The report from these two panels would be coming later in the meeting. Each of the Board interviews would be approximately 30 minutes, beginning with a brief opening statement by the candidate, followed by questions of the candidates and closing comments from the candidate.

Dr. Miner asked if each candidate knew of the salary range and had agreed to it if selected. If offered, the position would the final candidate accept the position?

Ms. Miller responded that they all had; the final person selected for the position would accept the position, unless the Board did something today to change the process.

Mr. Solaro explained that the candidates knew about the Agency's retirement system, and the candidates had all agreed to move into the Tahoe Basin.

Ms. Miller explained that all candidates were aware of the compensation, benefits, climate conditions, and all were aware that they would need to move into the Tahoe Basin. Not all candidates could say at this point that they would accept the position if offered. This was a question the Board may wish to ask. The families were not interviewed; the applicant interviews were focused strictly on work-related issues.

Mr. Sandoval suggested that, in the unlikely event that the final candidate did not accept the position, the Board could decide whether the second finalist would be offered the position.

Committee Chairman Solaro noted that this would be the Committee’s recommendation.

Chairman Sevison explained that an affirmative vote of any eight Board members was needed for the selection.

At this point the Board conducted interviews of the four final candidates for the Executive Director position. Each interview took approximately one-half hour and began with introduction of the candidate by Ms. Miller, a brief statement by the candidate, questions of the candidates by the Board members, and a follow-up statement by the candidates. Following is a list of the candidates in the order in which they were interviewed:
Peter Coppelman, from Alexandria, VA - with the U.S. Department of Justice since 1994, Principal Deputy Assistant Attorney General; undergraduate degree from Harvard University and J.D. from Cornell.

Juan Palma, from Ontario, OR - Vale District Manager with the Bureau of Land Management; undergraduate degree in Business Administration from Oregon State University and a Master of Natural Resource Management from the University of Nevada.

John Singlaub, from Reno, NV - Manager, Carson City Field Office with the U.S. Bureau of Land Management; undergraduate degree in Geography from the University of California at Los Angeles with a Master of Environmental and Land Use Planning from the University of Virginia.

John Marshall, from Reno, NV - TRPA Legal Counsel, currently TRPA Acting Executive Director, Bachelor of Arts from Oberlin and J.D. from University of California at Davis.

Following the interviews, Mr. Rick Angelocci, TRPA Special Programs Administrator, thanked the Board and Committee for allowing staff to participate in the process. Seven staff representatives had met with the individual candidates on August 22 and specifically focused their discussions with the candidates on their management style, their position or perspective on the role of science in policy-making decisions, and on what each candidate hoped to accomplish in the first six months if offered the position. Mr. Angelocci presented a summary of the staff discussions with each of the four candidates.

Ms. Neft suggested it would be helpful for the new director to have Mr. Angelocci’s comments in writing. Whoever the Board chose should have a recap of those staff comments.

Mr. Steve Teshara and Ms. Rochelle Nason reported to the Board on the results of the community panel discussions held on August 22 with each of the candidates. Mr. Teshara noted the community panel’s hope that the person chosen for the position could move into the job quickly, that the finalist would be someone with new ideas and approaches and someone who knew the Region and the players. Ms. Nason advised the Board that it was the community panel’s unanimous and strong feeling that Juan Palma was the best qualified of the candidates. The panel was impressed with all four candidates; however, from her personal standpoint, Mr. Palma was the only one candidate who would have the ability to restore TRPA to a full partnership in the protection and restoration of Lake Tahoe. TRPA’s position had decayed over the last year because of lack of strong leadership at the staff level and because there was not strong participation by TRPA in the work being done to secure the funds necessary for the EIP. Mr. Palma had the ability to bring TRPA back to the table in a strong way.

Committee Chairman Solaro described more of the Committee’s process in reviewing the candidate resumes and in meeting with the applicants. The Committee’s number one recommendation for the position was Juan Palma. The number two candidate was John Singlaub.

Board Chairman Sevison suggested that one option for the selection was to tally written votes of Board member choices. Another option was for a Board member to make a motion and for the Board to vote.
Mr. Solaro asked that he be permitted to make a motion, rather than go through the paper vote process.

**MOTION** by Mr. Solaro, as a member of the TRPA Governing Board and as one involved in the Executive Director process, to accept Juan Palma as TRPA’s Executive Director and commence into discussions regarding an offer of employment.

Mr. Galloway asked if the motion included an offer to be made to Mr. John Singlaub if Mr. Palma would not accept the position.

Mr. Solaro agreed this was part of the motion, should Mr. Palma not accept the position. The motion carried unanimously.

The Board members thanked Ms. Miller for her participation in the process and Mr. Solaro for his work as Committee Chairman.

Acting Deputy Director Gordon Barrett commented that the process had moved along quickly and the Committee had done a good job in bringing forward good candidates. The staff involvement in the hiring process was at the highest level, and Mr. Solaro’s and Mr. Severson’s strong leadership were very helpful and appreciated by the staff.

Ms. Miller noted she would be contacting all four candidates immediately.

The Board recessed for a lunch break from 12:20 p.m. to 1:05 p.m.

**XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION**

**A. Finance and Rules Committee**

1. **Amendment of Article 3.0, Compensation and Benefits, of the Personnel Procedures Manual**

Acting Deputy Director Gordon Barrett explained that the $148,000 provided by the two states in TRPA’s budget last year was used in part to give staff a COLA. This allowed staff to come closer to comparability with the two states. The remaining monies were put towards those positions that were most out of whack, and currently no staff positions were more than 12 percent below the two states’ salaries. The table in the packet materials reflected those salaries, as well as the addition of the Information Systems Manager and the Data Programmer positions in the computer area. This item was on the agenda for Board action because of the addition of two positions. Both the Finance and Rules Committees recommended approval of the staff positions and salary schedule being inserted into TRPA’s Procedures Manual.

**MOTION** by Ms. Bennett to adopt Resolution No. 2000-14 amending the Personnel Procedures Manual, Article 3, and approving the salary table. The motion carried unanimously.

Finance Committee Chairman Bennett noted her Committee also discussed the potential long-term TRPA office location and treatment of fines in TRPA’s budget.

Mr. Barrett noted that TRPA’s building lease was up in the spring of 2003. TRPA presently was at capacity in its current location, and up to 15 additional staff would be hired under current budget requests. The sites being looked at included a site at Kingsbury Grade and Highway 50.
near the Douglas County government center, the Lake Tahoe Community College site, a site at
the Sierra Nevada College in Incline, and a possible site near the current TRPA location. Staff
would be bringing the Board a list of options with pros and cons at a future meeting. The
Finance Committee had recommended that Board members Neft and DeLaney work with staff
to bring this process into focus and present it to the Board.

With regard to the treatment of fines in TRPA’s budget, Mr. Barrett noted that this issue came
up in the Nevada Oversight discussions and concern with how TRPA was using its fines to
support Agency programs. There was a perception that TRPA was collecting fines to assist in
its budget. While that was not the case, TRPA did need to address the concern. Working with
both the financial analyst for both the legislature and the Governor’s office, staff would be
setting out a process that would create a special revenue fund to pay for Lake Tahoe EIP
research, with money going to institutions like the Desert Research Institute or the Tahoe
Research Group. The intent was that the funds not directly benefit TRPA. This would be
addressed in TRPA’s budget submittal to the State of Nevada. The goal was to keep the
money for use in the Tahoe Basin and not have it go to the State for use elsewhere. There also
was a question of the two-thirds California, one-third Nevada split on TRPA funding and
programming. The concern with perception of TRPA’s collection of fines for its own programs
was not an issue in California. The hope was that the fines could be put into a special fund that
would benefit the research programs in Basin as a whole. The Committee favored this
approach and reports would be provided as the budget process proceeded.

(Mr. Cole replaced Mr. Davis at the dais at 1:15 p.m.)

Ms. Bennett noted that TRPA would make a point of sitting down with the Nevada Oversight
Committee and particularly Senator O’Donnell, who had expressed the concern initially, to
discuss this approach further. She hoped this would not become an issue when the Nevada
Legislature next met. This was not before the Board for action at this point; it was only a status
report.

Ms. Bennett noted that the Executive Director interview process did raise the issue of salary.
The process did not identify a source of funding to reimburse for relocation expenses. The
Committee directed the staff to identify funding that would be available. Staff had done that and
there were resources available. Those who were participating in the negotiations were to treat
those funds very judiciously. When negotiations were completed, the Committee would ask the
Board to amend the budget.

XII. RESOLUTION

A. For Outgoing Board Member Terry Giles

Chairman Severson read Resolution No. 2000-12, commending Mr. Giles for his service to the
Board since March 1999.

MOTION by Dr. Miner to adopt Resolution No. 2000-12 for Mr. Giles.

Mr. Giles noted he had enjoyed serving on the Board. As a part-time resident at the Lake, his
original perspective of the issues surrounding the Lake was simple. Having served on the
Board, he was awed by the complexity of the issues that the Board and staff had to deal with.
He had been honored to be a part of the team. He hoped when his time conflicts were resolved
in the next year he could convince Governor Davis to put him back on the Board.
The motion carried unanimously.

Chairman Sevison presented Terry with the framed resolution and an engraved plaque.

C. Local Government Committee

Committee member Jim Galloway advised that the Committee discussed the boundary within which an adjoining entity may be providing affordable housing. While there was no formal decision on this matter, there was some openness to the idea that a community ten miles away and out of the Basin would not be dismissed outright as being capable of providing affordable housing for the Basin. The Committee also discussed putting emphasis on employee housing. The next meeting agenda would take up some of the barriers to affordable housing. The Committee was scheduled to meet the first Friday of every month.

B. EIP Committee

Dr. Miner explained that the Committee had met August 22 from 5 to 8 p.m. Staff did an excellent job presenting a progress report on development of a prioritized EIP. The Committee would meet in workshops monthly getting familiar with the various threshold priorities and various projects and watersheds.

Acting Executive Director John Marshall noted it would be useful for the full Board to get a condensed version of what was presented to the Committee yesterday.

XIII. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications

Mr. Marshall reminded the Board that in July the staff reported on a number of projects that exceeded the 120-day time frame within which staff was to provide action on complete application submittals. In an effort to get these permits out the door, the Project Review Division staff and other staff as well had been closed off temporarily from the public for a number of days in an effort to get projects back under the 120 days. There was no written report available for the Board members this month.

Ms. Bennett noted that the Agency’s telephone system was not working properly, and the public was not able to get into the system.

Mr. Marshall explained that staff would be looking into this to correct the problem.

Mr. Barrett advised the Board that approximately 1,000 projects were being reviewed and acted on by staff in the last year. This was a dramatic increase over previous years, and Project Review, as well as other division staff members, were working weekends and overtime trying to make the 120-day requirement.

Chairman Sevison suggested that Public Affairs Coordinator Pam Drum prepare an article for the local newspapers so the public would know what efforts TRPA was going to to better the situation. Board members were seeing angry public unhappy that they could not get their
permits. It would be helpful to have something available for the public that would explain what TRPA was trying to do to accommodate those who were trying to get permits.

Mr. Cole asked that Mr. Angelocci, the staff person responsible for streamlining, look at the 1000 projects to see how many of them could under existing MOUs be turned over to local governments for processing. Years ago the process was being streamlined to turn over more and more projects to the local jurisdictions, so TRPA staff could focus on EIP. There still was a long way to go if TRPA was still looking at a 1,000 applications a year. He would like a report next month on how many could be given to local jurisdictions, given the current parameters.

Mr. Solaro noted that an expanded MOU with El Dorado County would be presented in the near future.


Mr. Barrett distributed a summary of the FY 1999-2000 Milestones and explained that staff internally looked at these targets on a monthly basis. Many of the tasks were ongoing; those that were not completed were rolled over. Some projects, like the Shorezone EIS, contained several milestones and had been deferred because of other Board-directed assignments. The Board and staff had earlier asked that the EIP be the highest priority program. The Board needed to realize that in asking staff to spend time on issues not in the work program, like affordable housing and the two-step subdivision process, the work program and staff hours needed to be modified. Each staff member had 1,700 work hours per year. Staff was always very aggressive in designing the work programs and generally did not have a lot of slack. Taking on new tasks necessarily changed the work program and resulted in deferral of certain tasks. Last year 37 milestones were dropped and 100 were rolled over to next year. Additionally, because of the fact TRPA's salaries were not comparable with other agencies, TRPA had lost approximately five or six staff members; this had an effect on completing work programs. From his perspective, the staff effort over the last fiscal year was outstanding. A new set of milestones for this fiscal year had been set out, and staff would work with its new Executive Director towards successful accomplishment of the work program.

Chairman Sevison noted that the Board was truly anxious to resolve as quickly as possible any staff deficiencies. Some Board members had taken on personal commitments to help that situation out. The Board accepted the report.

Chairman Sevison recessed the TRPA and convened the Tahoe Metropolitan Planning Organization (TMPO)

Forest Service Representative Maribeth Gustafson took her place at the dais.

VIII. Tahoe Metropolitan Planning Organization

A. Public Interest Comments – there were no public comments

B. Consent Calendar – Report on the TTD Aug. 11 Meeting

Transportation Division Chief Richard Wiggins noted that the information in the packet materials provided an update of the TTD's latest meeting.
C. Public Hearing on Adoption of FY 2000 TMPO Federal Transportation Plan (FTP), Adoption of Resolution

Mr. Wiggins distributed a document outlining various aspects of the Plan and advised that the FTP mailing had been sent separately from the regular Board packet. In July the TMPO adopted the Federal Transportation Improvement Program; the document now under consideration for adoption was the Federal Transportation Plan that accompanied that program. Adoption was a TMPO requirement, not a TRPA requirement, and was being requested to meet the federal and state requirements for federal transportation planning as an MPO. The Plan was mailed separately because of time needed to incorporate comments received from the League, Caltrans, NDOT, the Tahoe Transportation District, the TRPA Advisory Planning Commission, and the Transportation Technical Advisory Committee. The Plan had been reviewed extensively over the last several months by various entities.

Using the handout, Mr. Brian Porter, project manager with Parsons Brinckerhoff, the firm that assisted in the Plan’s preparation, described how the plan was prepared, its purpose to assess current and anticipated (20 years out) transportation problems and needs, background, policies, action elements, and financial elements. The next step was to submit the final FTP/RTP to the Federal Highway Administration by September 1.

TTD member Kay Bennett reported on the TTD’s discussion on the Track 1 projects (those that could be fully funded) and Track 2 projects (those that could only be funded with new funds) and on the Action Element. The TTD wanted to ensure that the EIP projects were included on the list. She asked if TRPA staff had incorporated the requested changes into the plan, as staff had promised. This plan was laying the foundation for years to come, and it was important that the document be as complete as possible. She congratulated the staff and consultant for the rapid turn-around on getting the document before the TMPO.

Mr. Porter explained the TTD’s requested changes related to revising some of the cost estimates and prioritizing which projects fell into Track 1 and which into Track 2. These comments were incorporated.

Mr. Wiggins asked that the adopting resolution distributed to Board members be amended to show the capital costs at $502 million, not $375 million.

Ms. Heidi Hill Drum, communications director for the League to Save Lake Tahoe, urged the Board to support the plan. The League had reviewed pertinent documents and favored the plan.

No one else wished to comment in the public hearing.

MOTION by Ms. Bennett to adopt TMPO Resolution No. 2000-7, as amended. The motion carried unanimously.

Ms. Gustafson left the dais.

Mr. Wiggins introduced new transportation planners: Senior Transportation Planner Kathleen Wanda, from Salem, Oregon, and Principal Transportation Planner Rod Robinson.

Chairman Severson adjourned the TMPO and reconvened the TRPA. He noted that the following two items would be taken up concurrently.
IX. PUBLIC HEARINGS

A. Amendment of Plan Area Statement (PAS) 058, Glenbrook, to Add Special Area #1 Where the Construction of New Piers Will be Prohibited

X. PROJECT REVIEW

A. Ruvo/Whittemore/Carano, New Pier, 1960 Glenbrook Inn Road, Douglas County APN 01-190-13 et al., TRPA File No. 990108

Acting Executive Director John Marshall outlined the order of the presentations, with staff's presentation on the PAS to be followed by the applicant (Glenbrook Homeowner Association) presentation, the opponent's presentation, and then a Homeowner rebuttal. Staff would then make its presentation on the pier project and related issues, followed by the pier applicant presentation, opposition comments, and rebuttal by the pier applicants. Public comment on both proposals would follow. Mr. Marshall asked that these public comments be limited to those persons who were not represented by either of the two parties, and individual comments be limited to five minutes and additional group comments to ten minutes. Following this, the Board would discuss the issues and address the two applications in sequence, first the PAS and then the pier proposal. The applicant's proposed Plan Area Statement amendment included the parcel on which the pier application was located. However, that proposal was a Code amendment which would not take effect for 60 days. That, in itself, would not preclude action on the pier.

Mr. Giles commented that the whole matter had been carefully presented to the Board, with both sides and the staff having presented many materials to the members. Most Board members, recognizing these matters were on the agenda, had likely reviewed all the materials and probably had a feeling for where they were on the issues. The Board could take the next two hours going through the suggested format, but unless something would be said that had not already been presented, he doubted it would have much bearing on what the final outcome might be. Before wasting two valuable hours, there was an excellent chance this would end up with a decision that neither side would be happy with. He was not speaking for the whole Board, but he personally could envision the second pier happening and it being nowhere close to the pier envisioned by the parties. In essence, neither party would be happy with the final solution. It may be more valuable to have him and Chairman Sevison use the next few hours to meet with the affected parties to attempt to reach a solution or to open up the possibility for a solution that might be more workable for everyone.

Mr. DeLanoy suggested there was no debate about the existence of an easement. That appeared to be one of the pivotal points raised by staff. It had been in existence for a long time. On the other hand, there was a rather clear presentation of the facts in the pier application. With all the counsel present, there should be a way for each side to agree to a set of stipulated facts that could be submitted for declaratory relief action by a court, before TRPA proceeded further. Unless there was a variation in the facts, he would like counsel to get together to talk about this before the Board spent a long time in presentations.

Chairman Sevison asked Mr. Marshall to respond to these two proposals.

Mr. Marshall suggested that the representatives from the Homeowners Association and the Ruvo/Whittemore/Carano group could take this opportunity to work with Mr. Giles and Chairman
Sevison to look at a solution that would avoid something that they both would rather not have. Other than that, the process could move forward as set forth.

Chairman Sevison asked for the parties involved to comment. He agreed this could be a lose-lose situation, and if there was any way to work it out, this was one way to go. Even if the matter went to court to resolve the point raised by Mr. DeLanoy, the other issues remained. He preferred to find a way to bring some agreement between the parties.

Mr. Larry Hoffman, attorney for the pier applicants, acknowledged Mr. Giles’ approach but suggested the Board not take two hours to determine whether it could work. If the Board could take a break for a half an hour and meet with each side for ten to 15 minutes, an assessment could be done to see if something productive could be accomplished. In his view, his clients were entitled to a hearing on the merits. There were many reasons why it was not prudent to plunge off to the courthouse without having the Board hear all the facts and make a determination. He would agree to a brief time out, so that the Chairman and Mr. Giles could meet separately with the parties to assess the situation and report back to the Board.

Mr. Mark Gunderson, attorney for the Glenbrook Homeowners Association, noted that the issue of settlement had come up time and time again. Perhaps seven to ten days had been spent in various discussions with the applicants over a long period of time. He was not optimistic at this eleventh hour. To spend 30 minutes to explore some new ideas or new thoughts was fine, but he was ready to have the matter heard if it was going on beyond that. He would give it one good faith shot.

Mr. Heller suggested if there was a discussion on a compromise he would like to be a part of it. He had a proposal to offer that he would like to address to both sides.

Chairman Sevison asked Mr. Giles if he would like Mr. Heller’s participation in the discussion.

Mr. Giles responded this would be fine with him.

Ms. Neft spoke in favor of Mr. Heller, as a Nevada Board member, participating. Both Mr. Sevison and Mr. Giles were from California.

Mr. Heller asked that Mr. Sandoval sit in as well.

Mr. Cole asked if Mr. Gunderson had sufficient authority from the Homeowners Association to make dramatic concessions or changes to the Association’s position.

Mr. Gunderson responded that the entire Association board was not present at this meeting. Those present did not have the immediate authority to speak for the entire board. The members had not come today with this plan afoot, so it was not anticipated. Those who were present had a sense of where the Homeowners Association was. The next board meeting was September 3.

Mr. Galloway questioned the point of TRPA making a decision if it was blocked in court on the easement issue. There still was a decision to be made about whether TRPA wanted to proceed without that court decision, if there was no agreement between the parties.

On the question of the status of the easement, Mr. Marshall explained that the easement was a cloud on the title of the underlying fee title.
Dr. Miner noted that staff's recommendation for denial was based on certain legal considerations, the key one being the easement. He questioned whether the easement could be lifted by consent of the property owners or if it was a permanent easement.

Mr. Marshall responded it could only be lifted by the person who held the easement, the Glenbrook Homeowners Association. He did not think that at this point it was a part of the discussions.

Mr. Hoffman suggested that getting into the easement question would not help the direction the Board was attempting to go. He asked the Board to hold back on that.

At this point, Chairman Sevison and Board members Sandoval, Heller, and Giles left the meeting room to discuss options with the affected parties. The remaining Board members continued to meet in regular session. Vice Chairman Miner took the gavel. (Members present: Medina, Galloway, Neft, Bennett, Waldie, Solaro, DeLanoy, Perock, Cole, Miner)


Senior Planner Kathy Canfield presented the summary of the joint Merhten/Prim family and Douglas County proposal for four commercial buildings with a three-level parking garage. The project, located at Kingsbury Grade and Highway 50, was significant because it was part of the special projects commercial floor area allocation and included EIP components. The applicants had selected as their EIP project the construction of a transit facility. It was staff's understanding that confusion by the applicant on those costs had been cleared up. The project was before the Board because of the special projects allocation and because the project was required to prepare a traffic analysis.

Mr. Paul Kaleta, with Basin Strategies, representing the Prim/Merhten family and Douglas County, discussed the expense of the installation of a Coordinated Transit System (CTS) facility. He and staff had agreed on an identified financial commitment by the project proponents. There also was discussion of the option of allowing a plan revision if a future tenant in the building had a lower parking demand than what was originally identified in the traffic/parking analysis. With regard to the proposed drainage system, he was told recently about a new technology that may assist in pulling dissolved phosphorous out of stormwater. He was looking into that, and it would be prudent for him to try to design the system to incorporate the technology in the event it may be necessary to improve the wastewater stream. He was in complete agreement with conditions recommended by staff. If the conditions were amended, he would like to comment further. He responded to member questions regarding the requirement for the transit center, noting that the applicant had agreed to build the transit building and to take into consideration the design that TRPA would like to see. He was not aware until recently how much the hardware for the CTS terminal could cost. After talking with staff, the applicant had agreed to an amount and agreed to put the CTS kiosk in the building.

Ms. Canfield explained that the requirement to construct a CTS facility was a part of the project. It was being built because it was an applicant-selected project required because of the project's use of special projects commercial floor area allocation. Condition 5, on the other hand, related to active participation in the CTS, the system for which Douglas County was a permittee.
Mr. Kaleta noted that the applicant had agreed to construction of the CTS facility and to comply with the conditions.

Mr. Dave Roberts, for the League to Save Lake Tahoe, expressed concern with effectiveness of BMPs in general and in the adequacy of the proposed stormwater management system as a mitigation measure. He urged that the Board consider requiring installation of Stormwater Management’s Storm Filter System to remove fine sediments and dissolved phosphorous. This was the only known and effective technology able to remove certain constituents. He urged that the applicant look at this system and the Board require its implementation.

Ms. Bennett urged the applicants to examine this approach with the caveat that there be demonstrated proof that the system worked. There was a need to establish an on-going maintenance program in the Basin for EIP projects everywhere. She was pleased this had been brought forward and she urged the League and others to join with TRPA to craft a solution to this issue. She suggested that Mr. Roberts bring his concern to the attention of the Nevada Tahoe Conservation District.

Mr. Waldie suggested the existing Code would not allow TRPA to require a specific product for installation into the project.

Mr. Percock suggested that one way to address Mr. Roberts’ concern was to require that the project use the latest technology without naming a specific brand name.

Dr. Miner noted that requiring the specific technology at this point would suggest that the manufacturer was capable of installing the equipment, had a distribution system, had a backup provision, and parts.

Acting Deputy Director Gordon Barrett advised the Board that it was within its discretion, because it required BMPs by ordinance to meet the discharge standards, to evaluate the testimony and evidence to determine whether the proposal by the applicant or by the League was what the Board felt met the standard. The Board could require the applicant to install a specific technology.

Mr. Waldie commented he had no problem with using generic language but did not wish to require use of a particular product.

Mr. Roberts noted that if Stormwater Management, Inc. was the only manufacturer who treated the constituents of concern there should not be hesitation to name it specifically in the conditions.

Dr. Miner noted that as time went on more and more manufacturers were capable of providing necessary technology.

Ms. Bennett disagreed and asked that the conditions strongly address TRPA’s commitment to BMPs and to treatment of the runoff from the project onsite. She wanted the applicant to look at this technology.

(Mr. Giles, Mr. Heller, Mr. Sandoval, and Mr. Sevison returned to the dais.)
Mr. Solaro expressed concern with listing a specific trademark name. He had no problem requiring the applicant to use any known product that accomplished the goal; he did not favor TRPA's endorsement of a specific product or a specific manufacturer.

Mr. Roberts concurred.

Mr. Kaleta, for the applicant, noted he was advised of this new technology two days ago. The project had been in the design stages for almost two years. It would be prudent for the applicant to look at the technology to see if it could be implemented in the event the project failed to met discharge standards. The applicant was required to take corrective measures based on best available technology, in the event the water quality discharge system as designed failed to work. The applicant should look into trying to implement this system as well, but without having data on whether the system was available, whether it would handle the amount of water coming through the system, or the cost to the developer and County, there were too many unknowns to agree up front to installation of a specific technology.

Dr. Miner noted there would be an opportunity to follow up on this if the standards were not met.

Mr. Kaleta concurred, noting that for that reason it was prudent to try to design the system to potentially accommodate the filters.

Mr. Barrett asked if Mr. Kaleta was willing at this point to look into the technology and not dismiss it outright.

Mr. Kaleta concurred.

Based on the discussion, Mr. Barrett suggested the technology would be looked into in more detail. If the system was an improved and more complete system and the applicant was willing to work with staff, staff would commit to trying to implement the new technology.

**MOTION** by Mr. Galloway to make the necessary findings for the Merhtens/Douglas County new commercial development and transit facility and parking garage. The motion carried unanimously.

**MOTION** by Mr. Galloway to approve the project. The motion carried unanimously.

**IX. PUBLIC HEARINGS** – continued from earlier discussion

A. Amendment of Plan Area Statement (PAS) 058, Glenbrook, to Add Special Area #1 Where the Construction of New Piers Will be Prohibited

**X. PROJECT REVIEW** – continued from earlier discussion

A. Ruvo/Whittemore/Carano, New Pier, 1960 Glenbrook Inn Road, Douglas County APN 01-190-13 et al., TRPA File No. 990108

Chairman Sevison asked Board member Terry Giles to explain the discussions that had occurred with the affected parties on these two agenda items.

Mr. Giles used a display board at the front of the room to draw the pier proposal discussed during his meetings with the affected parties. The reason he had not started the process off by
talking with each side separately was that he was not so sure there were that many viable options or alternatives. This was the eleventh hour, and the Board would be making a decision unless there was some kind of agreement. Based on conversations that had occurred previously, on everything he knew about these matters, and on the input he could get from fellow Board members, what he was proposing was the only realistically and potentially viable alternative to this crisis. While he had not taken a poll of the Board members and he did not know for sure how the Board would vote, he doubted in the presentations that anyone would be saying anything that had not already been heard or read. On the basis that something completely new and persuasive was not heard, he would bet that the Board today would take action by voting in the second pier. This would not make the Glenbrook Homeowners very happy. He also felt the Board would probably come up with a conclusion that it was a single use and not a multiple-use pier. As a result the structure would have the restrictions of a single use pier. He believed that that was what was going to happen if there was not a solution between the parties today. Or, if the parties thought it was potentially viable, a different option could occur.

(At this point, Mr. Giles drew and described a new proposal on a display board at the front of the room.)

Mr. Giles suggested that, from a rational standpoint, having two piers 100 yards from each other was stupid. Because the Ruvo/Whittemore/Carano group owned the land up to the low water line on one side of the pier, it was in a different position than anyone in the Homeowners Association. He understood the difficulty on the part of the Association in doing anything special for one member of the Association and not being able to do that same thing for other members. What potentially could occur on one side of the existing dock on the Ruvo/Whittemore/Carrano property was for the Ruvo/Whittemore/Carano group to erect a facility that would give them the boatlifts they were looking for. He did not think that there was an argument that the other homeowners had the same situation. If this were done, they would need a catwalk connecting their facility to the pier and then access, whether by easement or some other means, so they could use the pier to walk down to use the catwalk to get to their facility. This was not a separate catwalk down the side. In his opinion, something like this could be worked out that would allow the three homeowners to have the boatlifts they were looking for built on their property; for the homeowners - while there was a catwalk and they had to allow access - there was no separate pier, which was one of the homeowner concerns. From an environmental standpoint, this option was much preferred to two piers. There still would be a requirement for creek renovation, so TRPA would be happy. If the parties could see that this would be better than what ultimately would happen in the next few hours if this were not done - probably a second pier with single family use aspects - then he urged the parties to give strong consideration to this new option. At this point, Mr. Giles urged each of the groups to meet and talk about whether they wished to consider this option. He would be willing as a third party to facilitate agreements. He was sure others would be willing to assist as well. If the parties liked this option better than what the Board otherwise would do in a few hours, he suggested the parties get together to resolve the differences in an amicable manner and avoid future lawsuits.

Chairman Sevson asked the two affected parties to meet and confer and come back to the Board. If this option were acceptable, the Board would move in that direction. If not, the Board would move in a swift fashion to resolve the matter some other way. He recessed the meeting at 2:45 p.m. The meeting reconvened at 3:45 p.m.

Mr. Giles advised the Board that he would speak as specifically as he could to the areas of agreement between the parties at this point. This had been done in a negotiated fashion, and
documents needed to be prepared. This would take some time. The attorney for the Homeowners Association was in trial the first weeks in September, so the 60 days would likely be needed. He was hopeful that the agreement could be reduced to writing. Doing that would not need to take the entire 60 days.

Mr. Larry Hoffman, for the Ruvo/Whittemore/Carano group, suggested that a reading be provided back to Mr. Giles after the September 3 Homeowners Association meeting.

Mr. Giles concurred. Although he had a trial starting on September 22, he would make himself as available to the parties as he could. There was no rule that said the parties had to wait the 60 days to get an agreement resolved. The sooner the better, especially in view of the fact the Homeowners meeting was September 3. Pending a written agreement between the parties, the list of agreements between the parties included the following: 1) the Ruvo/Whittemore/Carano group would complete the mitigation on the stream pursuant to TRPA approval; 2) it was agreed by the parties that a platform and two lifts off that platform – and a platform of appropriate size for the two lifts – would be built off the pier to the left side on the property owned by the Ruvo/Whittemore/Carano group, as he had described earlier in his drawing, with a catwalk connecting to the existing pier. 3) The Ruvo/Whittemore/Carano group would be given 24-hour access to the pier, but it would comply with the following three rules: no diving, no commercial use, and no overnight tie-ups. The lifts were not considered tie-ups. 4) There were two buoys in a buoy field a half a mile away that Whittemore would like to move to the buoy field that was there now being used by Ruvo - and Whittemore had a right to two others - that would not be opposed by the Homeowners group. Those buoys would not in any way interfere with the current Homeowners' buoy field. 5) The Ruvo/Whittemore/Carano group would make full disclosure on all of their plans for the future regarding their properties, and Larry Ruvo was committing that there would be no commercial component as a part of development of his property. 6) Both sides had agreed that should they need assistance getting the documents together they would use him as a mediator, even though he would no longer officially be a member of the TRPA after September 1. 7) The Ruvo/Whittemore/Carano group would not oppose Plan Area Statement 058. 8) This matter would be deferred and placed back on the agenda for a vote in 60 days. 9) There would be a freeze of the status quo between now and then, meaning no additional permits would be requested by the Ruvo/Whittemore/Carano group concerning their project until this was resolved. Assuming it was resolved, they would withdraw their current application before the TRPA for a swim platform. Mr. Giles concluded by stating he felt this correctly stated the agreements between the parties. He expressed appreciation to all parties for all their efforts. He believed both sides would like to resolve the matter and were in good faith working to get the agreement finalized.

Mr. Marshall asked if it was implicit in the description that there would be a withdrawal by the parties of the pending pier application. The parties would then have to jointly submit a subsequent application for the proposed modifications to the community pier. The Board would then consider those amendments at a subsequent meeting.

Mr. Giles responded that he did not think they were intending to withdraw anything at this point. If there were an agreement, then, of course, TRPA would vote to approve what was agreed to. He could not imagine that that approval would not happen. Once there was a written agreement and because of the uniqueness of the situation, TRPA had to commit to doing whatever it could to move quickly and diligently and with as little aggravation of the parties as possible to set up the applications for that approach and then to get it approved.

Mr. Severson asked if the application could be amended to accomplish the agreement.
Mr. Marshall responded that TRPA could find the most efficient way to get an application in but could not commit to approving it. It must be an independent judgment based on staff analysis and Governing Board consideration of the merits of the application. Certainly, there were benefits from doing this that would present to the Board, but in no way could the agreement be understood to bind the discretion of the Governing Board until that application came to the Governing Board itself.

Mr. Giles concurred but suggested, in light of the mitigation and what would be done to improve the creek and in light of the fact that a second pier would be avoided, there were many things that would speak in favor of this agreement and project.

Mr. Heller thanked Mr. Giles for his efforts. This was not an easy process and he was pleased that both sides had come to the table to work this out. Subject to staff review and Board action, he was in support of this particular negotiation.

Mr. Waldie questioned the appropriate size of the platform and how far from the Glenbrook pier it would be located. His concern was whether it visually would appear to be a second pier.

Mr. Giles responded that he thought it probably would be about 75 feet for the two lifts. It would be completely disconnected and parallel to the Glenbrook pier with a catwalk over to it. He guessed four or five feet away from the pier.

Mr. Sevison suggested that this was not the place to design the structure.

Mr. Waldie asked about the status of the swim platform.

Mr. Giles explained that a current application was made yesterday for a swim platform. The Board did not need to deal with that because that would be withdrawn as soon as this went down.

Mr. Gunderson, for the Homeowners Association, noted that Mr. Giles proposal was an outline for negotiations. His board had not met and had not acted on it. That was a requirement. There was an innumerable number of details that had to be worked out. But the framework was there. The devil was always in the details. The Homeowners Association hadn't committed, and couldn't. It was committed to the resolution process, and that was the only commitment the Association could make at this point with the outlined guidelines. He did not have the ability now to design the pier, the use, the rules, or the regulations. What the Association had agreed to was to negotiate in good faith within a framework, and the Homeowners would do their best to get this thing completed. He asked for clarification on a few items. It was his understanding there would be a stand-down and no more activities, works, or submittals by Mr. Ruvo while the parties worked through this period. The withdrawal of the opposition to the Plan Area Statement was to the amendment proposed by the Homeowners.

Mr. Giles concurred that this was his understanding.

Mr. Gunderson advised the Homeowners would do their best to get this done and within the next 60 days.
Ms. Bennett suggested that if the parties could not come to agreement within 60 days she would want to see something back before the Board so the Plan Area Statement and pier questions could be resolved.

Chairman Sevison concurred and asked if it was Mr. Giles' intent that there was an understanding that there was a stay on all applications for 60 days.

Mr. Giles suggested there was no question about that. All parties wanted to make sure, and it was reasonable, that they would not have to go through a whole new application process. He urged that the Board assist staff, once there was an agreement, to work hard to get an amended application to come back on calendar as the new plan. He would not want the parties to have to go through a whole new application process; requiring a new process would really be a form of penalizing the parties for negotiating. He believed that the motivating factor of the parties to come together today was an attempt in good faith to resolve the differences in a way that they could live with it. He believed that a significant aspect of that was concern with the Board voting for a second pier with a single-use application. That was a point that had assisted in getting the situation resolved.

**MOTION** by Mr. Giles to continue items IX.A. and X.A. for 60 days.

Mr. Hoffman asked for the attorneys for both sides to state on the record their intent to accept the proposal and make it work. From his client's standpoint, he was accepting Mr. Giles' proposal with the understanding there was full support of the Board of all its components. He asked that the Association representative make his intent clear and push for approval of the recommendation.

Mr. Gunderson advised he could not say much more than what he had said earlier. There was no firm proposal on the table. The Homeowners' board would have to consider the proposal. The details were not available. What the Homeowners had agreed to was to work in good faith within the available framework.

Mr. Giles indicated he understood Mr. Gunderson's position. He suggested that it would be fair to say that Mr. Gunderson would not be agreeing to the continuance if he did not think, based upon the points that had been discussed openly today, that there was the strong potential of resolving this matter. He asked if this was an accurate statement.

Mr. Gunderson explained that if he had a feel for his board he believed the elements were available to put a deal together within the frame of the outline, as previously stated. He could not say more than that and could not bind his board. Those who were present at the meeting could not bind the board.

Mr. Sevison asked Mr. Gunderson, as the Homeowner representative, whether he would be advising the Homeowners' board that the proposal was a worthwhile project or not a worthwhile project.

Mr. Gunderson suggested that, as stated to Mr. Giles earlier, he felt there were the makings of a deal that he could recommend.

Dr. Miner asked for clarification on whether the motion contemplated directing staff to work with the parties via an amended application process.
Mr. Giles suggested that once there was a written agreement between the parties he would hope staff would work diligently with them to amend their application so that the vote could go forward in 60 days. Anything the Board could do to help support staff in that direction would be very helpful. Both parties had shown an enormous amount of good faith today, and he hoped this would get pushed and that the parties would be given some real consideration in light of the major, giant steps each had taken in the direction of settlement.

Mr. Hoffman noted that there was quite a discussion with the mediator about trying to get a feel for the Board on whether it fully supported the solution. He asked if there could be a straw vote, since Mr. Giles would no longer be on the Board after August.

Mr. Giles commented that he had been advised by Agency Counsel John Marshall that there could not officially be a straw vote on this issue.

Chairman Sevison noted it also was not on the agenda.

Mr. Giles explained that all the Board members had heard his presentation, and he hadn't seen too many members that were not nodding affirmatively. He hoped the parties would work in good faith for a solution. While he would not be present in 60 days, he may report back to the Board any bad faith that may pop up on any side if he thought it existed when the matter came back to the Board in 60 days.

Mr. Marshall explained that staff would get to the applicants what the internal deadlines were going to be. The parties would have to negotiate and come up with a proposal for staff to analyze within sufficient time. Staff would work as hard as it could to make things happen, but if the deadlines were not met, then an additional 30 days may be necessary. Staff would work diligently to bring this forward if that was the Board's direction.

The motion carried unanimously.

Chairman thanked all the participants for their efforts.

XIII. REPORTS

A. Executive Director Monthly Status Report (continued)

3. Status of On-Site Revegetation at Bitterbrush

Erosion Control Team Leader Matt Graham distributed an August 8 memo to the Board on revegetation and BMP retrofit for Bitterbrush (II) Condominiums. He noted that in the settlement agreement between TRPA and the original Bitterbrush developer (Lercy Land Development) $40,000 was designated for on-site revegetation and water treatment. Washoe County in addition held a $500,000 performance bond for maintenance and restoration of the site. The three components to look at included maintenance of an existing stormwater infiltration system, revegetation, and stormwater treatment. He would be working with Washoe County to identify funds necessary for restoration. Engineering cost estimates were in progress. He could report back if the Board wished more information on how much funding was available for the different components. Washoe County Public Works had asked him to look at what was necessary on-site in terms of revegetation and stormwater treatment. This would not happen this year but rather in spring of next year.
Mr. Galloway explained that this had come up because some Bitterbrush money was being used for another project. There was a concern by some Board members whether there was still adequate money to do the revegetation. Although there was not a schedule to accomplish that this season, the Board could be reassured there were resources available to do it.

Mr. Graham suggested that he could come back to the Board once all the cost estimates were in for the various consultants and engineers. He could itemize what would be necessary to treat the cut slopes.

B. Legal Division Monthly Status Report

Agency Legal Counsel John Marshall reminded the Board that he had sent a status memo several weeks ago detailing the status of the various cases. The only outstanding litigation was Hooks Landing, which had been continued from this month’s agenda while work continued on a project that the staff and Board could support. He thanked Mr. Giles for his efforts on the Glenbrook matters today. At some point he would like to have outside counsel Clem Shute and his team (from Shute, Mihaly and Weinberger) come up to meet with the Board so the Board could thank them for the recent significant court decisions. Hopefully the successes in these cases would move TRPA beyond the continuing battles over the 1987 plan.

Chairman Sevison thanked Mr. Marshall for the job he was doing.

C. Governing Board Members

Mr. Perock advised that a few months ago he had brought up the issue of Tahoe Yellow Cress and the fact it was now being fast-tracked for placement on the endangered species list. He knew Mr. Marshall had been involved in negotiations on this and he asked for a status report.

Mr. Marshall explained that the Fish and Wildlife Service would likely propose the Tahoe Yellow Cress listing towards the end of the year. The agencies inside the Basin had met in order to find affirmative ways to protect the continued existence of the species so that it need not be listed. That only would work if, in fact, there were on-the-ground protections for the species to ensure its survival. A group of key biologists was trying to put together measures that they felt would do the trick. This had to be worked up through the executives of the Forest Service, the California Tahoe Conservancy, the counties, and TRPA to put together a conservation agreement. If that agreement could be put together between the parties of concern in the Basin and it was accepted by the Fish and Wildlife Service, then it would stop the rule-making process to list the species. The major issues with the species were public access and, to a certain degree, lake level. There were many political interest groups involved in this. There was the public access question, the effects to some degree on the Truckee River Operating Agreement in Nevada. This would not work unless everyone was satisfied with the plan for protection of the species.

Chairman Sevison explained that part of the plan was for the California Tahoe Conservancy in acquisition of the barrier beach at Barton Meadow to dedicate a large portion of the beach for the Tahoe Yellow Cress habitat.

Mr. Waldee expressed appreciation for the work Mr. Marshall and Mr. Barrett had done in taking over the leadership of the Agency during this uncomfortable transition. He also thanked Executive Director Search Committee Chairman Dave Solaro for his work on filling the
Executive Director vacancy and to Board member Terry Giles for his work on the Glenbrook issues.

Chairman Sevison advised the Board that he had called Juan Palma to tell him of the news on his selection as TRPA's new Executive Director. He was thrilled with the offer. Mr. Sevison asked Mr. Solaro, Mr. Barrett, and Mr. Marshall to participate in the finalizing of the salary offer. He suspected Mr. Palma would want the upper end of the salary range. He did not have a firm start date yet.

Mr. Sevison thanked Mr. Giles for serving on the Board. He had been a real asset. He hoped that the Governor would see his way clear to putting him back on the Board when Mr. Giles' other commitments were taken care of. Perhaps the Governor could appoint an interim person to serve until Mr. Giles could be put back on the Board. If there was anything he could do to encourage the Governor to do that on Mr. Giles behalf, he would be happy to consider it.

XIV. ADJOURNMENT – The meeting adjourned at 4:25 p.m.

Respectfully submitted,

Julie D. Frame
Clerk to the 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, written materials submitted at the meeting may be reviewed at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Pierce (formerly Walchek), New Pier Single-Use Pier and Two Buoys

Application Type: Shorezone, New Accessory Structures

Applicant: Dick Pierce

Agency Planner: Jon-Paul Harries, Associate Planner

Location: 915 Lakeshore Drive, Incline Village, Washoe County

Assessor's Parcel Number/File Number: 122-251-05/990786

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 single-use pier. The pier is proposed to be 110 feet in length. The first 80 feet will be six feet wide and supported by single pilings. The last 30 feet will form the pierhead, which will measure ten feet wide and be supported by double pilings. The pierhead will also contain a 3' x 30' adjustable catwalk. The applicants are also proposing two mooring buoys to be located approximately 185 feet and 210 feet offshore. In addition to the proposed development, the applicants are proposing to remove a boathouse located in the backshore.

Site Description: The upland project area is approximately 21,047 square feet (0.48 acres) in size and is developed with one single-family dwelling. The parcel gently slopes towards the lake, and is comprised of Land Capability Districts 6 and 1b (backshore). The parcel is situated in a residential neighborhood and is visible from Scenic Shoreline Unit #23 (Crystal Bay). The pier and buoys are proposed in a sandy beach area that has been mapped and verified as marginal fish habitat. Adjacent land uses are residential.

Issues: This project involves the construction of a new single-use pier and two new mooring buoys. Therefore, this project requires Governing Board review in accordance with Chapter 4 of the TRPA Code of Ordinances. The primary issue associated with this project is scenic quality.

The proposed project is visible from Scenic Shoreline Unit Number 23, Crystal Bay. The 1991 Threshold Evaluation found the shoreline unit’s scenic quality rating dropped due to the addition of structures along the Crystal Bay hillside, which highly contrast with the natural setting. To approve a project visible from a scenic unit, which has dropped in scenic quality, TRPA must document that the proposed development shows an improvement in the scenic quality for the shoreline travel route.

The proposed pier is a minimal design and will not contain any pilings, boatlifts or railings that extend above the pier deck except for low-level lighting. The pilings and decking are proposed to be a color that was selected to blend with the sandy beach. Although the pier is minimally designed, it and the buoys’ placement on a sandy beach have the potential to create an adverse impact to the scenic quality of the shoreline. The applicants are proposing to mitigate any adverse scenic impact and improve the appearance of the project area as viewed from Lake
Tahoe by removing an existing boathouse located in the backshore, and installing landscaping that will add screening to the highly-visible residence and soften the linear and unnatural appearance of the existing yard terraces. These mitigating project elements are consistent with the recommendations for improving the scenic quality identified in the Scenic Quality Improvement Program (SQIP) and are expected to result in an incremental improvement in the scenic quality of the project area after pier and buoy construction.

Staff Analysis:

A. **Environmental Documentation:** The applicant has completed an Initial Environmental Checklist (IEC), a fish habitat impact determination, and visual simulation to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project, as conditioned, will not have a significant effect on the environment. A copy of the completed IEC, fish habitat impact determination, and visual simulation will be made available at the Governing Board hearing and at TRPA.

B. **Plan Area Statement:** The project is located within Plan Area Statement Number 037 (Lakeview). The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed structures (pier and buoys) are listed as allowable accessory structures in the plan area statement and single-family dwellings are an allowed use. TRPA staff have reviewed the plan area statement and have determined that the project, as conditioned, 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 6 and Class 1b (backshore). The total project area is 21,047 square feet.

2. **Total Allowable Land Coverage:** 4,047 square feet

3. **Total Existing Land Coverage:** 8,122 square feet

4. **Proposed Land Coverage:** 7,835 square feet

5. **Excess Land Coverage:** 4,075 square feet

6. **Banked Land Coverage (Class 1b):** 242 square feet

7. **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 7. 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, 20, and 50 of the TRPA Code of Ordinances. Following each finding, agency staff have briefly summarized the evidence on which the finding can be made.

1. Chapter 6 Findings:

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

   (1) Land Use: The single family dwelling on the subject parcel is listed as an allowed use within the applicable plan area statement. The proposed project involves the construction of allowed accessory structures (pier and buoys) and is consistent with the Land Use Element of the Regional Plan. Surrounding land uses consist of residential properties. The proposed project will not alter any land use patterns.

   (2) Transportation: The proposed pier and buoys will serve the homeowners of the affected parcel and, as such, will not result in an increase of daily vehicle trip ends (dVTE) to the subject parcel or Vehicle Miles Traveled (VMT).

   (3) Conservation: The project, as conditioned, is consistent with the Conservation Element of the Regional Plan. The proposed colors and design are consistent with the TRPA Design Review Guidelines. This project will not result in the obstruction or degradation of any scenic vista or view open to the public. Previous surveys have not identified this parcel as containing the plant Tahoe Yellow Cress (Rorippa subumbellata), however, the site does provide good Tahoe Yellow Cress habitat. A recommended condition of approval specifically prohibits beach raking and storage of recreational and other equipment on the beach. As part of the project the applicant will 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 species or cultural or historical resources within the project area.

   (4) Recreation: This project does not involve any public 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 and buoys will not adversely affect recreational boating or top-line angling.

   (5) Public Service Facilities: This project does not require any additions to public services or facilities.
(6) Implementation: The proposed project does not require any allocations of development.

b. 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.

c. 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 1.b, above.)

2. Chapter 20 - Land Coverage Relocation Findings:

a. The relocation is to an equal or superior portion of the parcel or project area.

All relocated land coverage is being relocated with Class 1b (backshore). There is no relocation of land coverage from a higher class to a lower class. In accordance with Subsection 55.4.D of the TRPA Code of Ordinances, the applicant will be required to restore an area of land in the backshore in the amount of 1.5 times the amount of land in the backshore to be covered.

b. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.5.

The area where the boathouse is proposed to be removed shall be re-graded to the original natural condition, and pursuant to Subsection 55.6 of the TRPA Code of Ordinances, restored using species listed on the TRPA-approved plant list as species appropriate for the backshore type and site conditions.

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

No land coverage is proposed to be relocated from a high land capability district to a lower capability district. All relocation will occur within land class 1b (backshore).
3. **Chapter 50 - Shorezone Findings:**

   a. **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 marginal fish habitat. The existing backshore is in stable condition and the area where the boathouse is proposed to be removed will be revegetated and stabilized. The proposed project is not located within an area that is mapped as on-shore wildlife habitat nor has the site been shown to be a waterfowl nesting area.

   b. **There are sufficient accessory facilities to accommodate the project.**

   The project is located in the shorezone of a property occupied by a single-family residence. The buoys and pier will only be used by the property owners and their guests. There is sufficient parking and shorezone access to accommodate the project.

   c. **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 & buoys) in the vicinity. The proposed pier will not extend beyond the TRPA pierhead line.

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

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

   e. **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). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal. No containers of fuel, paint, or other hazardous materials may be stored on the pier.
f. **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. The construction of the pier will be accomplished from the lake by barge.

g. **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.

h. **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 and at the Shorezone Review Committee meeting. None of the agencies indicated that they had concerns regarding the proposed project.

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 project.

II. A motion to approve the project based on this staff summary subject to the conditions contained in the attached draft permit:
DRAFT PERMIT

PROJECT DESCRIPTION: New Single-Use Pier and Two Buoys

APN: 122-251-05

PERMITTEE: Dick Pierce

FILE NO. 990786

COUNTY/LOCATION: 915 Lakeshore Drive, Indine Village, Washoe County

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on September 27, 2003, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on September 27, 2003, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of driving the pier pilings and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action, which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. THE COUNCIL PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEES HAVE ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

TRPA Executive Director/Designee ______________________ ______________________

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittees: ________________________________ ______________________

PERMIT CONTINUED ON NEXT PAGE

09/14/00 CONSENT CALENDAR ITEM NO. 1

JPH
Required plans determined to be in conformance with approval: Date: ____________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

__________________________________________________________________________
TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit allows the construction of a new single-use pier and two buoys. The pier shall not exceed 110 feet in length (as measured from the high water line). The pier shall be six feet wide to the pierhead, which shall be 10 feet wide (total pierhead length = 30 feet). This permit also authorizes low-level pier lighting and the construction of a 30-foot by 3-foot catwalk at the pierhead. No railings, pilings, boatlifts, or other structures other than pier lighting and the adjustable catwalk lift housing are authorized above the pier deck by this permit.

2. Prior to permit acknowledgement, the following conditions of approval must be satisfied.

   A. The site plan shall be revised to include:

      (1) Delineation of the TRPA verified backshore boundary.

      (2) Buoy #2 shall be relocated to a location no less than 20 feet away from the project area's TRPA shorezone projection lines.
(3) The following revised land coverage calculations:

(a) The following allowable land coverage calculations:

<table>
<thead>
<tr>
<th>Parcel Area</th>
<th>Land Class</th>
<th>Allowable Land Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,230 sq. ft.</td>
<td>6</td>
<td>3,969 sq. ft.</td>
</tr>
<tr>
<td>7,871 sq. ft.</td>
<td>1b</td>
<td>78 sq. ft.</td>
</tr>
</tbody>
</table>

(b) Existing land coverage for each land capability district, including backshore areas. Please note that the dirt path (18 sq. ft.) and flagstone path (62 sq. ft.) could not be verified as legally existing land coverage and shall not be included in the existing land coverage calculations. The total existing land coverage shall not exceed 8,122 square feet.

(c) Proposed land coverage for each land capability district, including backshore area. TRPA has calculated 30 feet of land coverage will be created by the pier. Pursuant to Subsection 55.4.D of the TRPA Code of Ordinances, the applicant shall restore an area of land in the backshore in the amount of 1.5 times the amount of land in the backshore to be covered.

(d) Proposed banked Class 1b(backshore) land coverage equals 242 square feet.

(4) Slotted drain or valley gutter, and appropriate sized drywell to infiltrate driveway runoff.

(5) A note indicating: "All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices. Application of a mulch may enhance vegetative establishment."

(6) Dripline infiltration trenches, sized 18" wide x 8" deep, constructed beneath all roof driplines.

(7) Temporary erosion control structures located downslope of the proposed demolition areas.

(8) Vegetation protective fencing around the 8" pine tree located near the southwest corner of the boathouse.

B. The landscape plan shall be revised to include the following:

(1) As shown in the submitted visual simulation, trees and shrubs shall be planted below the lower terrace wall.

(2) The addition of four deciduous trees intended to screen the residence as viewed from Lake Tahoe. The trees shall be planted on the upper terrace near the residence and shall be at least six feet tall.
A revegetation plan of the area where the boathouse is being removed. Pursuant to Subsection 55.6 of the TRPA Code of Ordinances, the area shall be restored using species listed on the TRPA-approved plant list as species appropriate for the backshore type and site conditions.

C. The security required under Standard Condition A.3 of Attachment S shall be determined upon the permittee's submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures.

D. The permittee shall mitigate 4,075 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 1, Incline (see attached map).

The excess coverage mitigation fee shall be calculated as follows:

1. Estimated Project Construction Cost x 0.015.
   
   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.

E. The permittee shall submit a pier mitigation fee of $3,300 for the construction of 110 feet of new pier (assessed at $30/linear foot).

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

3. 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. Spray painting and the use of tributyl tin is prohibited.

4. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction.

5. Best practical control technology shall be employed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. At the TRPA inspector's discretion, the permittee shall install a turbidity screen around the entire construction site (in the water) prior to construction. This screen may be removed upon project completion only upon a satisfactory inspection by TRPA to insure that all suspended materials have settled.
6. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin is prohibited. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal.

7. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

8. Prior to return of the posted security, the permittee shall submit post-construction photos 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. All existing trees on this parcel between the lake and the residence shall be considered as scenic mitigation and shall not be removed or trimmed without prior written TRPA approval. Any such removal or trimming shall constitute a violation of project approval.

10. All pier construction access shall be from the lake. Vehicular access to the shoreline is prohibited.

11. This approval specifically prohibits beach raking and other forms of beach grooming. In addition, no recreational equipment or other material shall be stored on the beach.
NOTES:
1) TRPA SHOREZONE DISTRICT: 7
   TRPA LAND CAPABILITY DISTRICTS: 6.1b
2) ALL SURVEY INFORMATION WAS PROVIDED
   BY KEN ARNETT P.L.S. TOPOGRAPHIC SURVEY

RECEIVED
SEP 11 2000
TAHOE REGIONAL
PLANNING AGENCY

PIER PLAN
FOR
WALCHECK RESIDENTIAL USE PIER
915 LAKESHORE BLVD. A.P.N. 122-251-05

Leah Kaufman

PLANNING & CONSULTING SERVICES
Post Office Box 253 Cornell, CA 96140
(530) 546 - 1448

SCALE: 1" = 50'
COAST GUARD APPROVED DOWNSLARE LIGHTING
SPACED 7.5' APART, STAGGERED

DECK ELEV. = 6232.0

NATURAL GROUND

ADJUSTABLE CATWALK
WEST SIDE OF PIER

PROPOSED PIER
ELEVATION

PIER PLAN
FOR
WALCHECK RESIDENTIAL USE PIER
915 LAKESHORE BLVD. A.P.N. 122-251-05

Leah Kaufman
PLANNING & CONSULTING SERVICES
Post Office Box 253, Oxnard, CA 93030
(915) 540-8022
SCALE: 1" = 20'
COAST GUARD APPROVED DOWNSLARE LIGHTING
SPACED 7.5' APART, STAGGERED

2X6 CEDAR DECKING

DECK ELEV. = 6232

10 3/4" DIA. PILING

ADJUSTABLE CATWALK

LAKE BOTTOM

SECTION A-A

PIER PLAN
FOR
WALCHECK RESIDENTIAL USE PIER
915 LAKESHORE BLVD. A.P.N. 122-251-05

Leah Kaufman
PLANNING & CONSULTING SERVICES
Post Office Box 283 Oceano Bay, California 96140
(916) 549 - 4402

SCALE: 1" = 3/8"
MEMORANDUM

September 19, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: Urban, Appeal of Land Capability Challenge, 185 Yellow Jacket Rd., Douglas County APN 01-080-21

Proposed Action: The applicant, Ted Urban, requests that the Governing Board review the proposed Appeal to the Land Capability Challenge on the parcel and approve it.

Staff Recommendation: The staff recommends that the Governing Board approve appeal to the land capability challenge for the parcel, changing the land capability class from 1a and 2 to 1a and 4.

Background: The subject parcel is shown as land capability class 1a and 2 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the CaE (Cagwin-Rock outcrop complex, 15 to 30 percent slopes) and RtF (Rock outcrop-Toem complex, 30 to 50 percent slopes) soil map units. The CaE and RtF soil map units are consistent with the C-1 (Granitic foothills, moderate hazard lands) geomorphic unit classification. The Cagwin and Toem soils are formed in residuum derived from granitic sources.

A land capability verification was never conducted on this parcel. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is 108,464 square feet in size and is located at 185 Yellow Jacket Rd., Glenbrook, Douglas County, Nevada. The parcel is mapped within geomorphic unit C-1 (Granitic foothills, moderate hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. TRPA staff conducted the soils investigation and this report was prepared. Based on three soil pits, a representative soil profile was described (see Attachment A). After a visit to the parcel on August 25, 2000, the soils on APN 01-080-20 were determined to be consistent with land capability classes 1a and 4, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).

Attachments

TH/dmc

CONSENT CALENDAR ITEM 2
INTRODUCTION
A soil investigation was conducted on APN 01-080-21, Douglas County, on August 25, 2000. This parcel is approximately 108,464 square feet in size and is located at 185 Yellow Jacket Rd., in Douglas County, Nevada. A land capability verification was never conducted by TRPA staff on this particular parcel.

A land capability challenge was filed with TRPA on June 5, 2000 to determine the appropriate land capability class for this parcel based on a soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability class 1a and 2 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the CaE (Cagwin-Rock outcrop complex, 15-30 percent slopes) and RTF (Rock Outcrop-Toem complex 30-50 percent slopes) soil map units. The CaE and RTF soil map units are consistent with the C-1 (Granitic foothills, moderate hazard lands) geomorphic unit classification. The Cagwin and Toem soils formed in residual deposits derived from granitic (granodiorite) sources. This parcel is on a steep west to northwest facing slope. The natural slope is 16 to 54 percent. The overstory vegetation is Jeffrey pine and White fir, with an understory of manzanita, bitterbrush and ceanothus.

PROCEDURES
Four soil pits were dug on this parcel, using hand excavation. After examination of the pits, two soils were described in detail as representative of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
Two soil series were identified on this parcel. These soils are quite different as to their genesis. One is derived from ancient lacustrine deposits while the other was formed from granitic residuum. They are moderately deep to deep and both are excessively well drained. The unknown soil is characterized as having a thin (approx. 1") surface mantle of organic matter over a very dark grayish brown loamy coarse sand surface layer. The subsoil is comprised of gravelly loamy coarse sand over a dark yellowish brown loamy coarse sand subsoil to a depth of greater than 50 inches. This soil is most similar to, but different from, the central concept of the Gefo series listed in the Soil Survey for the Lake Tahoe Basin. This portion of the parcel could be accurately described as a Gefo variant-rock complex. Consequently, this unnamed excessively well drained to well-drained soil is appropriately placed within the Hydrologic Group B (moderately low runoff). Therefore, based on these physical characteristics and a slope of between 16 and 30 percent this soil is assigned Land Capability Class 4, per reference to table 4 of the Bailey Land Capability Classification System.

The second soil series and corresponding soil map unit found on this parcel is the RTF (Rock outcrop-Toem complex). The Toem soil was found on the remaining portion that was dominated by rock outcrop and slopes greater than 30 percent. It is characterized as being shallow and excessively well drained to well drained with a moderately high to high runoff potential. This soil also has a thin surface mantle of organic matter over a dark brown loamy coarse sand surface horizon. The subsoil is comprised of a yellowish
brown loamy coarse sand to a depth of 19 inches. The RtF soil map unit receives land capability class 1a. There is also an area along the lake frontage placed in the backshore.

CONCLUSION
Based on the results of the site visit, the soil on APN 01-060-21 was determined in part to be an unknown soil most closely resembling the Gefo soil series. Based on slope and previously cited characteristics, this soil would be associated with land capability class 4, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 20% allowable coverage. The remaining portion of the parcel is determined to be the Toem soil associated with the RtF soil map unit. It receives a land capability class 1a and is therefore assigned 1 percent allowable coverage. The area of the backshore is also assigned 1 percent allowable coverage.

Tim Hagan, Associate Planner/Soil Scientist
Representative Soil Profile: Pit 1

Soil Classification: (1998) Sandy, mixed, frigid Typic Haploxerept
Soil Series: Gefo variant
Drainage class: Excessively well drained

Oi 1 to 0 inches; Jeffrey and White fir litter
A1 0 to 6 inches; dark grayish brown (10YR 4/2) loamy coarse sand, very dark brown (10YR 2/2) moist; moderate fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.
AC 6 to 26 inches; brown (10YR 4/2), loamy coarse sand, dark brown (10YR 3/3) moist; single grain; soft, loose, nonsticky and nonplastic; few coarse roots; common very fine and fine roots, many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.
C1 26 to 42 inches; yellowish brown (10YR 5/4) loamy coarse sand, dark yellowish brown (10YR 3/4) moist; single grain structure; soft, friable, nonsticky and nonplastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 20 percent gravel.
2C 42 to 50+ inches; light yellowish brown (2.5Y 6/4) loamy coarse sand, olive brown (2.5Y 4/4) moist; single grain structure; soft, loose, nonsticky and nonplastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 10 percent gravel.
Representative Soil Profile: Pit 2

Soil Classification: (1998) Mixed, shallow, Dystric xeropsamment
Soil Series: Toem
Drainage class: Excessively well drained

Oi  1 to 0 inches; Jeffrey and White fir litter

A1  0 to 4 inches; dark brown (10YR 3/3) loamy coarse sand, very dark grayish brown (10YR 3/2) moist; weak fine granular structure; soft, friable, nonsticky and nonplastic; common very fine and fine roots, few coarse roots; common very fine and fine interstitial pores; 10 percent gravel; clear wavy boundary.

A2  4 to 12 inches; dark brown (10YR 4/3), loamy coarse sand, dark brown (10YR 3/3) moist; single grain structure; soft, friable, nonsticky and nonplastic; common very fine and fine roots, many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.

C   12 to 19 inches; yellowish brown (10YR 5/4) loamy coarse sand, dark brown (10YR 3/3) moist; single grain structure; soft, friable, nonsticky and nonplastic; common fine, medium roots; many very fine and fine interstitial pores; 10 percent gravel; abrupt smooth boundary.

R   19 inches; Hard granodioritic bedrock
MEMORANDUM

September 19, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Dohman, Appeal to Land Capability Challenge, 723 Golfer’s Pass Rd., Washoe County APN 128-243-13

Proposed Action: The applicant, Bert Dohman, requests that the Governing Board review the Appeal to the Land Capability Challenge on the parcel and approve it.

Staff Recommendation: The staff recommends that the Governing Board approve the appeal to the land capability challenge for the parcel, changing the land capability class from 4 to 6.

Background: The subject parcel is shown as land capability class 4 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the IsD (Inville-stony coarse sandy loam, 5-15 percent slopes) soil map unit. The IsD soil map unit is consistent with the E-1 (Moraine land, undifferentiated) geomorphic unit classification. The IsD soil formed in deposits derived from glacially modified volcanic (andesite) sources.

A land capability verification was completed on this parcel on October 12, 1999, and the parcel was verified as land capability class 4. A land capability challenge was filed to confirm the soil series and land capability for the parcel on December 16, 1999. An appeal to the challenge was filed on March 7, 2000.

Findings: This parcel is 9,800 square feet in size and is located at 723 Golfer’s Pass Rd., Incline Village, Nevada. The parcel is mapped within geomorphic unit (Moraine land, undifferentiated) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. TRPA staff conducted the soils investigation and this report was prepared. Based on two soil pits, a representative soil profile was described (see Attachment A). After a visit to the parcel on August 30, 2000, the soils on APN 128-243-13 were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).

Attachments

TH/dmo

23 CONSENT CALENDAR ITEM 3
INTRODUCTION
A soil investigation was conducted on APN 128-243-13, Washoe County, on August 30, 2000. This parcel is approximately 9,800 square feet in size and is located on 723 Golfer’s Pass Rd. in Washoe County, Nevada. A land capability verification was conducted by TRPA staff on this particular parcel.

An appeal to the land capability challenge was filed with TRPA on March 13, 2000 to determine the appropriate land capability class for this parcel based on a soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability class 4 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the IsD (Inville-stony coarse sandy loam, 5-15 percent slopes) soil map unit. The IsD soil map unit is consistent with the E-1 (Moraine land, undifferentiated) geomorphic unit classification. The Inville soil formed in deposits derived from glacially modified volcanic (andesite) sources. This parcel is on a gentle southwest-facing slope. The natural slope is 8 to 14 percent. The overstory vegetation is Jeffrey pine and White fir, with an understory of bitterbrush, manzanita and turf grass.

PROCEDURES
Two soil pits were dug on this parcel, using hand excavation. After examination of the pits, the soil was described in detail as representative of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One unknown soil series was identified on this parcel. The soils on this parcel are deep and well drained. The soil is characterized as having a thin (< 2") surface mantle of grass and thatch over a brown gravelly coarse sandy loam surface layer. The subsoil is comprised and a brown gravelly coarse sandy loam to a depth of greater than 55 inches. This soil is similar to the Inville series listed in the Soil Survey for the Lake Tahoe Basin, and would be most accurately described as an Inville variant because of the lower volume of coarse fragments in the control section. As a consequence this unnamed well-drained soil is appropriately placed in the hydrologic group B (moderately low runoff). Therefore, based on these physical characteristics and a slope of less than 16 percent, this soil is assigned land capability class 6, per reference to Table 4 under the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil on APN 128-243-13 was determined to be an unknown soil series. Based on slope range and previously cited physical characteristics, this soil would be associated with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 30% allowable coverage.

Tim Hagan, Associate Planner/Soil Scientist
Representative Soil Profile: Pit 1

Soil Classification (1993) Fine-loamy, mixed, frigid Ultic Haploxeralf
Soil Series: Unknown (Inville variant)
Drainage Class: Well Drained
Hydrologic Group: B

Oi  1 to 0 inches; Turf grass and thatch

A1  0 to 4 inches; brown (10YR 4/3) gravelly coarse sandy loam, very dark brown (10YR 2/2) moist; weak fine granular structure; loose, friable, nonsticky and nonplastic; common very fine and fine roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

Bw  4 to 10 inches; brown (10YR 5/3), gravelly coarse sandy loam, dark brown (10YR 3/3) moist; weak fine and medium subangular structure; slightly hard, friable, slightly sticky and slightly plastic; few coarse roots; few medium and common very fine and fine roots, many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

Bt1 10 to 19 inches; brown (7.5 YR 5/4) gravelly coarse sandy loam, dark yellowish brown (7.5 YR 4/3) moist; moderate medium subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine interstitial and tubular pores; few thin clay skins on ped faces and pore linings; 15 percent gravel; clear wavy boundary.

Bt2 19 to 33 inches; brown (7.5 YR 4/4) gravelly coarse sandy loam, dark yellowish brown (7.5 YR 4/3) moist; moderate medium subangular structure; soft, friable, slightly sticky and slightly plastic; few very fine, fine and medium roots; many very fine and fine interstitial and tubular pores; common thin clay skins on ped faces and pore linings; 15 percent gravel and 10 percent cobble; clear wavy boundary.

C  33 to 55 inches; pale brown (10 YR 6/3) gravelly loamy coarse sand, brown (10 YR 4/3) moist; massive; soft, friable, nonsticky and nonplastic; common interstitial pores; 15 percent gravel and 10 percent cobble.
MEMORANDUM

September 19, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Riddel, IPES Appeal, 726 Foothill Dr., Douglas County APN 05-063-20

Proposed Action: The applicant, William Riddel, requests that the Governing Board review his appeal of his original IPES score to increase the score from 620 to 645.

Location of Parcel: 726 Foothill Dr., Douglas County, Nevada

Original IPES Score: 688

Final IPES Score: 865

IPES Score Appealed to GB: 865

Staff Recommendation: The staff recommends that the Governing Board grant the appeal.

Disputed Scoring Elements: Runoff Potential Score, Difficulty to Access Building Site. See Exhibit 1 for revised scores.

Results of Appeal Field Work: Appeal field work was completed by the second field team, and it was determined that the soil hydrologic condition was good, rather than the fair rating that was found by the original IPES team. As a result, the Runoff Potential score increased from 34 to 167. Access was reevaluated to increase the score from 120 to 170 and, therefore, the total IPES score increased from 688 to 865.

As a result of these changes the total IPES score increased from 688 to 865, and the allowable land coverage increased from 4% to 24% percent.
RIDDELL DOUG
939 Main Street
Morrow Bay, CA  93442

A letter after the Assessor’s Parcel Number denotes an alternate building site, parcel consolidation, or a proposed alternate parcel configuration, or information only score, as noted below:

<table>
<thead>
<tr>
<th>Parcel Number</th>
<th>Description</th>
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<tbody>
<tr>
<td>123-456-78a</td>
<td>Alternate Building Site</td>
</tr>
<tr>
<td>123-456-78(b,m,n)</td>
<td>Subsequent Alternate Building Site</td>
</tr>
<tr>
<td>123-456-00p</td>
<td>Parcel Consolidation</td>
</tr>
<tr>
<td>123-456-78x</td>
<td>Proposed Alternate Parcel Config / Information Only</td>
</tr>
<tr>
<td>123-456-78(y,z)</td>
<td>2nd Proposed Alternate Parcel Config / Information Only</td>
</tr>
</tbody>
</table>

IPES SCORE for parcel (APN) 005 - 083 - 20 865 Douglas County

SCORING FOR EACH IPES SCORING ELEMENT - See details on attached page

<table>
<thead>
<tr>
<th>Scoring Element</th>
<th>MAXIMUM POINTS</th>
<th>IPES POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relative Erosion Hazard</td>
<td>450</td>
<td>285</td>
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<tr>
<td>Runoff Potential</td>
<td>200</td>
<td>167</td>
</tr>
<tr>
<td>Degree of Difficulty to Access Building Site</td>
<td>170</td>
<td>170</td>
</tr>
<tr>
<td>Disturbance in SEZ for Utility Connection</td>
<td>110</td>
<td>110</td>
</tr>
<tr>
<td>Condition of Watershed</td>
<td>70</td>
<td>61</td>
</tr>
<tr>
<td>Ability to Revegetate</td>
<td>50</td>
<td>21</td>
</tr>
<tr>
<td>Water Quality Improvements in Vicinity of Parcel</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Proximity to Lake</td>
<td>50</td>
<td>10</td>
</tr>
</tbody>
</table>

Raw IPES Score 1150 874

Size factor for parcels less than 5,000 sq. ft. outside SEZ 1.00
Size factor for parcels less than 10,000 sq. ft. outside SEZ 0.99

IPES SCORE (MAXIMUM 1150 POINTS)*

* The IPES score is calculated by multiplying the Raw IPES score by both size factors.

PARCEL SIZE, STREAM ENVIRONMENT ZONE (SEZ) AREA AND COVERAGE COEFFICIENTS

| Parcel Size: | 8300 Sq. Ft. |
| SEZ Area:     | 0 Sq. Ft.    |
| SEZ Setback Area: | 0 Sq. Ft.  |
| Area of Parcel outside of SEZ: | 8300 Sq. Ft. |

IPES Coverage Score: 452 corresponds to 24 % Allowable Base Land Coverage
RELATIVE EROSION HAZARD

Soil Erodibility Factor 0.01
Rainfall Factor 35

<table>
<thead>
<tr>
<th>Length</th>
<th>Slope</th>
<th>Up/Down</th>
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</thead>
<tbody>
<tr>
<td>22 ft.</td>
<td>18%</td>
<td>Down</td>
</tr>
<tr>
<td>16 ft.</td>
<td>10%</td>
<td>Down</td>
</tr>
<tr>
<td>16 ft.</td>
<td>8%</td>
<td>Down</td>
</tr>
<tr>
<td>10 ft.</td>
<td>45%</td>
<td>Down</td>
</tr>
<tr>
<td>31 ft.</td>
<td>23%</td>
<td>Down</td>
</tr>
<tr>
<td>26 ft.</td>
<td>7%</td>
<td>Down</td>
</tr>
</tbody>
</table>

LS Factor 3.77

120 ft. of slope segments measured through the most likely building site are used to calculate the Length-Slope (LS) Factor.

RUNOFF POTENTIAL

Soil Hydrologic Group: A
Hydrologic Condition (Vegetative Cover): Fair

DEGREE OF DIFFICULTY TO ACCESS BUILDING SITE

Disturbance in SEZ for access: No
New Access--Through SEZ: No
Excavation Difficulty: Slight
Z Sloping access with 0 ft. Fill
Gradient beyond cut/fill slope: 0 % = Slope Factor 0
OR
Existing Access--Parking or access through SEZ: No
Extent of additional grading required at street: No
Additional excavation required for parking or garage: 0

DISTURBANCE IN SEZ FOR UTILITY CONNECTION

Utility connection through SEZ: No

CONDITION OF WATERSHED

South Zephyr Creek

ABILITY TO REVEGETATE

Soil limitation on revegetation group B = Dryness
Elevation < 7000 Slope 15 - 30% Compass W

NEED FOR WATER QUALITY IMPROVEMENTS IN VICINITY OF PARCEL

PROXIMITY TO LAKE

LIMITED INCENTIVE POINTS
MEMORANDUM

September 19, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: DeGrazia, Appeal of Land Capability Challenge, 736 and 738 Emerald St., Douglas County APN 005-083-15

Proposed Action: The applicant, Peter DeGrazia, requests that the Governing Board review the proposed appeal to the Land Capability Challenge on the parcel and approve it.

Staff Recommendation: The staff recommends that the Governing Board approve the Appeal to the land capability challenge for the parcel changing the land capability class from 4 to 6.

Background: The subject parcel is shown as land capability class 4 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the CaD (Cagwin-Rock outcrop complex, 5-15 percent slopes) soil map unit. The CaD soil map unit is consistent with the C-2 (Strongly dissected lands) geomorphic unit classification. The Cagwin soil formed in deposits derived from granitic sources.

A land capability verification was completed on this parcel in November 7, 1995, and the parcel was verified as land capability class 4. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is 29,000 square feet in size and is located at 736 and 738 Emerald St., Douglas County, Nevada. The parcel is mapped within geomorphic unit C-2 (Strongly dissected lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA staff and this report was prepared. Based on two soil pits, a representative soil profile was described (see Attachment A). After the visit to the parcel on August 4, 2000 the soils on APN 05-083-15 were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).

Attachments

TH/dmc
INTRODUCTION
A soil investigation was conducted on APN 05-083-15 in Douglas County, on August 4, 2000. This parcel is approximately 29,000 square feet in size and is located on 736 and 738 Emerald St. in Douglas County. A land capability verification was conducted by TRPA staff on this particular parcel.

An appeal to the land capability challenge was filed with TRPA on March 13, 2000 to determine the appropriate land capability class for this parcel based on a soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability class 4 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the CaD (Cagwin-Rock outcrop complex, 5-15% slopes) soil map unit. The CaD soil map unit is consistent with the C-2 (Strongly dissected lands) geomorphic unit classification. The Cagwin-Rock outcrop soil formed in colluvial and residual deposits derived from granitic (granodiorite) sources. This parcel is on a gentle north-northeast facing slope. The natural slope is 6 to 11 percent. The overstory vegetation is Jeffrey pine and Sugar pine, with a sparse herbaceous ground cover of bluegrass.

PROCEDURES
Two soil pits were dug on this parcel, using hand excavation. After examination of the pits, the soil was described in detail as representative of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
An unnamed soil series was identified on this parcel. The soil on this parcel is generally deep and well drained. This soil is characterized as having a very thin (< 1") sparse surface mantle of organic matter over a dark grayish brown loamy coarse sand surface layer. The subsoil is comprised of a pale brown gravelly loamy coarse sand over a light brown gravelly coarse sandy loam to a depth of greater than 45 inches. This soil is dissimilar to the Cagwin series listed in the Soil Survey for the Lake Tahoe Basin, and would be most accurately described as unknown series formed from alluvium of ancient lakeshore deposits. Consequently, this well drained unnamed soil is appropriately placed within Hydrologic group B (moderately low runoff). Therefore, based on these characteristics and a slope of less than 15 percent, this soil is assigned land capability class 6, per reference to Table 4 of the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil on APN 05-083-15 was determined to be an unknown soil series. Based on slope and previously cited characteristics, this soil would be associated with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 30% allowable coverage.

Tim Hagan, Associate Planner/ Soil Scientist
Representative Soil Profile:

Soil Series: Unknown
Soil Classification: Coarse-loamy, mixed, frigid Ultic Haploxeralf
Drainage Class: Well Drained, Deep
Hydrologic Group: B

Oi  1 to 0 inches; Jeffrey and Sugar pine litter

A1  0 to 6 inches; dark grayish brown (10YR 4/2) loamy coarse sand, very dark grayish brown (10YR 3/2) moist; moderate fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots; few coarse roots; many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.

AB  6 to 15 inches; brown (10YR 5/3), loamy coarse sand, very dark grayish brown (10YR 3/2) moist; weak fine granular structure; slightly hard, very friable, nonsticky and nonplastic; few coarse roots, many very fine and fine roots; many very fine and fine interstitial pores; 10 percent gravel; gradual smooth boundary.

Bw  15 to 30 inches; pale brown (10YR 6/3) loamy coarse sand, dark yellowish brown (10YR 4/4) moist; weak fine subangular blocky structure; slightly hard, friable, nonsticky and nonplastic; common fine and medium roots; many very fine and fine interstitial pores; 10 percent gravel; gradual smooth boundary.

Bt1 30 to 40 inches; brown (7.5YR 5/2) gravelly coarse sandy loam, dark brown (7.5YR 4/4) moist; moderate medium subangular blocky structure; slightly hard, friable, nonsticky and nonplastic; common fine and medium roots; many very fine and fine interstitial pores; common thin clay films bridging sand grains 20 percent gravel; gradual wavy boundary.

Bt2 40 to 50 inches; light brown (7.5YR 6/4) gravelly coarse sandy loam, dark brown (7.5YR 4/4) moist; moderate medium subangular blocky structure; slightly hard, friable, nonsticky and nonplastic; common fine and medium roots; many very fine and fine interstitial pores; common thin clay films bridging sand grains 20 percent gravel; gradual wavy boundary.
MEMORANDUM

September 19, 2000

To: TRPA Governing Board
From: TRPA Staff

Subject: Scialabba, Appeal to Land Capability Challenge, 3835 Azure Lane, El Dorado County APN 029-103-17

Proposed Action: The applicants, Steven and Carol Scialabba, request that the Governing Board review the proposed Appeal to the Land Capability Challenge on a portion of the parcel and approve it.

Staff Recommendation: The staff recommends that the Governing Board approve the appeal to the land capability challenge for a portion of the parcel changing the land capability classes from 1b and 7 to 5 and 7.

Background: The subject parcel is shown as land capability class 1b and 7 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the EfB (Elmira-Gefo loamy coarse sand, 9 to 30 percent slopes) and Ev (Elmira loamy coarse sand, wet variant) soil map units. The EfB and Ev soil map units are consistent with the E-2 (Outwash, Till and Lake Deposits) geomorphic unit classification. The Elmira and Gefo soils formed in alluvial deposits derived from granodioritic sources.

A land capability verification was completed on this parcel on March 10, 2000, and the parcel was verified as land capability class 1b and 7. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is 16,117 square feet in size and is located at 3835 Azure Lane of the Tahoe Meadows subdivision in the city of South Lake Tahoe, El Dorado County. The parcel is mapped within the E-2 (Outwash, Till and Lake Deposits) geomorphic unit on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. TRPA staff conducted the soils investigation and this report was prepared. Based on two soil pits, a representative soil profile was described (see Attachment A). After a visit to the parcel on August 4, 2000, the soils on APN 029-103-17 were determined to be consistent with land capability classes 5 and 7, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).

Attachments

TH/dmc
SOIL INVESTIGATION FOR
EL DORADO COUNTY APN 029-103-17, 3835 Azure Ave.

INTRODUCTION
A soil investigation was conducted on APN 029-103-17, El Dorado County, on August 4, 2000. This parcel is 16,117 square feet in size and is located on Azure Ave. in the city of South Lake Tahoe, El Dorado County. A land capability verification was conducted by TRPA staff on this particular parcel.

A land capability challenge was filed with TRPA on April 21, 2000 to determine the appropriate land capability class for this parcel based on a soil investigation.

ENVIRONMENTAL SETTING
The land capability classes on this parcel are shown as 1b and 7 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the E1B (Elmira-Gefo loamy coarse sand, 9 to 30 percent slopes) and Ev (Elmira loamy coarse sand, wet variant) soil map units. The E1B and Ev soil map units are consistent with the E-2 (Outwash, Till and Lake Deposits) geomorphic unit classification. The Elmira and Gefo soils formed in alluvial deposits derived from granodioritic sources. This parcel is on a gentle north-facing slope. The natural slope is between 0 and 3 percent. The vegetation consists of an overstory of Jeffrey pine and Lodgepole pine, with an understory of bitterbrush, sagebrush and sedge.

PROCEDURES
Two soil pits were dug on this parcel, using hand excavation. After the profile was examined, the soil was described as representative of a portion of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
Two soil series were identified on this parcel. The soils on this parcel are generally deep and moderately well drained. The soil under challenge can be characterized as having a 1” thatch of organic matter over a brown loamy coarse sand surface layer. The subsoil is comprised of a brown to reddish yellow loamy coarse sand to a depth 44 inches underlain by a light gray coarse sand to a depth of greater than 60 inches. This soil is similar to but slightly different from the Gefo series listed in the Soil Survey for the Lake Tahoe Basin, and may be most accurately described as a Gefo phase. However, this moderately well drained unnamed soil is appropriately placed within Hydrologic group C (moderately high runoff). Therefore based on these characteristics and a slope of less than 16 percent, this soil is assigned land capability class 5, per reference to Table 4 of the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil under challenge on the northern portion of APN 029-103-17 was determined to be an unnamed series most closely resembling the Gefo loamy coarse sand. Based on slope and previously cited characteristics, this soil would be associated with land capability class 5, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 25% allowable coverage.

Tim Hagan, Associate Planner/ Soil Scientist
Representative Soil Profile:

Soil Classification (1998) Sandy, mixed, frigid Humic Haploxerept
Soil Drainage Class: Moderately Well Drained
Soil Hydrologic Group: C
Soil Series: Unknown

A1 0 to 5 inches; brown (10YR 5/3) loamy coarse sand, dark brown (10YR 3/3) moist; moderate fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots; many very fine and fine interstitial pores; clear smooth boundary.

A3 5 to 16 inches; brown (7.5YR 6/4), loamy coarse sand, dark brown (7.5YR 3/4) moist; weak fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots, many very fine and fine interstitial pores; clear smooth boundary.

Bw1 16 to 34 inches; brown (7.5YR 5/4) loamy coarse sand, dark brown (7.5YR 3/4) moist; single grain structure; soft, loose, nonsticky and nonplastic; common fine and medium roots; many very fine and fine interstitial pores; gradual wavy boundary.

Bw2 34 to 43 inches; reddish yellow (7.5YR 6/5; 6/8) coarse sand, strong brown (7.5YR 5/6) with many distinct redoximorphic concentrations of reddish yellow (7.5YR 6/8) moist; single grain; soft, loose, nonsticky and nonplastic; common fine and medium roots; many very fine and fine interstitial pores; gradual wavy boundary.

Bg 43 to 60+ inches; reddish yellow and light bluish gray (7.5YR 7/8; 5PB 8/1) coarse sand; many large prominent redoximorphic depletions of grayish brown (10YR 5/2) moist; single grain; soft, loose, nonsticky and nonplastic; common fine roots; many very fine and fine interstitial pores.
MEMORANDUM

September 19, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: Allured, Appeal to Land Capability Challenge, 1064 Sawmill Rd., Washoe County, APN 130-163-11

Proposed Action: The applicant, Charles Allured, requests that the Governing Board review the proposed Appeal to the Land Capability Challenge on a portion of the parcel and approve it.

Staff Recommendation: The staff recommends that the Governing Board approve the appeal to the land capability challenge for a portion of the parcel changing the land capability class from Class 5 and 6 to Class 6.

Background: The subject parcel is shown as land capability classes 5 and 6 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the UmD, (Umpa very stony sandy loam, 2-9 percent slopes) and IsC (Inville stony coarse sandy loam, 2-9 percent slopes) soil map units. The IsC and UmD soil map units are consistent with the E-2 (Outwash, Till and Lake Deposits) geomorphic unit classification. The soils of the Inville and Umpa series formed primarily from deposits derived from extrusive igneous sources (Andesitic latite).

A land capability verification was conducted on this parcel. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is approximately 17,884 square feet in size and is located at 1064 Sawmill Rd., Washoe County, Nevada. The parcel is mapped within geomorphic unit E-2 (Outwash, Till and Lake Deposits) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. TRPA staff conducted the soils investigation and this report was prepared. Based on two soil pits, a representative soil profile was described (see Attachment A). After a visit to the parcel on August 30, 2000 the soils on APN 130-163-11 were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).

Attachments

TH/dmc

CONSENT CALENDAR ITEM 7
ATTACHMENT A
August 30, 2000

SOIL INVESTIGATION FOR
WASHOE COUNTY APN 130-163-11, 1064 Sawmill Rd., Incline Village, Nevada

INTRODUCTION
A soil investigation was conducted on APN 130-163-11, Washoe County, Nevada, on August 30, 2000. This parcel is approximately 17,884 square feet in size and is located at 1064 Sawmill Rd. in Incline Village Nevada. A land capability verification was conducted by TRPA staff on this parcel.

A land capability challenge was filed with TRPA in June 1, 2000 to determine the appropriate land capability classes for this parcel based on an on-site soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability classes 5 and 6 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the UmD (Umpa very stony sand loam, 2-9 percent slopes) and lSc (Inville stony coarse sandy loam, 2-9 percent slopes) soil map units. The Umpa and Inville soil map units are consistent with the E-2 (Outwash, Till and Lake Deposits) geomorphic unit classification. The soils of the Umpa and Inville series formed in alluvial deposits derived primarily from extrusive igneous (laticic andesite) sources. This parcel is on a West to South West facing slope. The natural slope is between 6 and 7 percent. The natural vegetation consists of an over-story of Jeffrey Pine.

PROCEDURES
Two soil pits were dug on this parcel, using hand excavation. After examination of the pits, the soil was described in detail as representative of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One soil series was identified on this parcel. The soils on this parcel are generally deep and are well drained. The soil is characterized as having a thin (< 1") surface mantle of sparse organic matter over a brown to dark brown gravelly coarse sandy loam surface horizon. A brown to reddish brown cobbly and gravelly sandy clay loam subsoil is present to a depth of greater than 45 inches. This soil is most similar to the Inville series listed in the Soil Survey for the Lake Tahoe Basin, and would be most accurately described as a member of the Inville soil map unit (Inville, stony coarse sandy loam, 2 to 9 percent slopes). The lSc soil map unit is land capability class 6 under the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil on APN 130-163-11 is determined to be most closely resembling the lSc soil map unit (Inville, stony coarse sandy loam, 2 to 9 percent slopes) This map unit is associated with land capability class 6 in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 30 percent allowable coverage.

Tim Hagan, Associate Planner/Soil Scientist
Representative Soil Profile:

Soil Classification (1998) Loamy Skeletal mixed frigid Ultic Haploxeralf
Soil Series: Inville
Drainage: Well drained
Hydrologic Group: B

Oi  1 to 0 inches; Jeffrey pine and White fir needles.

A1  0 to 8 inches; brown (10YR 4/3) gravelly coarse sandy loam, very dark brown (10YR 2/2) moist; moderate fine to medium granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots, few medium coarse roots; many very fine and fine interstitial pores; 20 percent gravel, 5 percent cobbles; clear smooth boundary.

AB  8 to 12 inches; brown (10YR 4/4), gravelly loamy coarse sand, dark brown (10YR 4/3) moist; moderate granular structure trending to weak, fine subangular blocky structure; soft, very friable, nonsticky and slightly plastic; many very fine and fine, few medium and coarse roots, many very fine and fine interstitial pores; 20 percent gravel, 10 percent cobbles; gradual wavy boundary.

Bt1 12 to 24 inches; yellowish brown (7.5 YR 5/4) gravelly sandy clay loam, dark brown (7.5 YR 4/4) moist; moderate, medium subangular blocky structure; hard, friable, slightly sticky and plastic; common fine and few medium and coarse roots; many very fine and fine interstitial pores; 25 percent gravel, 20 percent cobbles; clear wavy boundary.

Bt2 24 to 45 inches; strong brown (7.5 YR 5/4) coarse sandy clay loam, dark brown (7.5 YR 4/4) moist; moderate, medium subangular blocky; hard, friable, slightly sticky and plastic; few fine, medium and coarse roots; many very fine and fine interstitial pores; 30 percent gravel, 25 percent cobbles; clear wavy boundary.

C 45 inches plus: fractured latite.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Incline Village General Improvement District Water Tank

Application Type: Public Service, Special Use Determination

Applicant: Incline Village General Improvement District (IVGID)

Applicant's Representative: Sue Duerkson, Associate Engineer, IVGID

Agency Planner: Michael Rhoades, Project Review Division

Location: 1250 Sweetwater Road, Incline Village, Washoe County

Assessor's Parcel Number/Project Number: 131-010-08 / 200044

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 water tank to achieve State of Nevada Administrative Code minimum requirements for domestic and fire protection flows. The project will not result in increased water service capacity. The proposed 8,660 square foot water tank will be constructed over existing land coverage. The proposed tank will have a height of 38 feet, 6 inches. A gravel access road to the tank site will be paved as part of the project. The project includes the construction of a 770 square foot storage building and 150 square feet of paving adjacent to the IVGID wastewater treatment plant. This project does not propose new land coverage. All proposed structures will be constructed utilizing relocated land coverage from within the project area.

Site Description: The proposed tank site is located next to IVGID's wastewater treatment plant at the end of Sweetwater Road in Incline Village. The site is located within the Ponderosa Ranch Community Plan. The total project area is 22.6 acres and is comprised of 467,371 square feet of Class 1a land, 171,935 square feet of class 1b land and 346,805 square feet of Class 2 land. The site of the proposed water tank is a flat area at the base of a slope, above the wastewater treatment plant. Several large pine trees are next to the tank site and provide partial screening of the site from State Route 28 and Lake Tahoe. The Ponderosa Ranch Amusement Park is located south of the site. The site is partially screened from Ponderosa Ranch by trees and mixed vegetation on the slopes below the project site.

Issues: The proposed project involves a special use determination (local public health and safety facilities). Due to the size and scale of the proposed water tank, staff determined that the project should be scheduled for Governing Board review.
Staff Analysis:

A. **Environmental Documentation:** The applicant has completed an Initial Environmental Checklist (IEC) and a soils/hydrologic report 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 Ponderosa Ranch Community Plan. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. 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. The proposed activity (local health and safety facility) is listed as a special use.

C. **Land Coverage:**

1. **Land Capability District:**

   The verified land capability districts of the project area are Class 1a, 1b and 2. The total project area is approximately 22.6 acres.

2. **Existing Coverage:**

<table>
<thead>
<tr>
<th>Class</th>
<th>Area</th>
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<tbody>
<tr>
<td>1a</td>
<td>139,181</td>
</tr>
<tr>
<td>1b</td>
<td>1,570</td>
</tr>
<tr>
<td>2</td>
<td>28,906</td>
</tr>
<tr>
<td>Total</td>
<td>169,657</td>
</tr>
</tbody>
</table>

3. **Proposed Coverage:**

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<thead>
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<th>Class</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>137,726</td>
</tr>
<tr>
<td>1b</td>
<td>1,570</td>
</tr>
<tr>
<td>2</td>
<td>30,361</td>
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<tr>
<td>Total</td>
<td>169,657</td>
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</tbody>
</table>

4. **Allowed Coverage:**

<table>
<thead>
<tr>
<th>Class</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a Area</td>
<td>467,371 s.f. x 1% = 4,674 square feet</td>
</tr>
<tr>
<td>1b Area</td>
<td>171,935 s.f. x 1% = 1,720 square feet</td>
</tr>
<tr>
<td>2 Area</td>
<td>346,805 s.f. x 1% = 3,470 square feet</td>
</tr>
<tr>
<td>Total Allowed</td>
<td>9,864 square feet</td>
</tr>
</tbody>
</table>

5. **Coverage Mitigation:**

   The permittee shall be required to mitigate 159,943 square feet of excess coverage within the project area in accordance with the requirements of Chapter 20 of the TRPA Code of Ordinances. The proposed tank and access road will be constructed over existing coverage. The proposed storage building and the
widening of Sweetwater Road will utilize relocated existing coverage within the project area.

D. **Building Height:**

Based on a 8% cross-slope retained across the building site, and a 1:12 roof pitch, the allowed height for the proposed building is 27 feet, 2 inches, pursuant to Chapter 22, Table A. The proposed building has a maximum building height of 35 feet, 6 inches which is consistent with the additional height findings. See Section E.13, below. This project is permitted additional height in accordance with subsection 22.7 of the TRPA Code of Ordinances, subject to specific findings made by the Governing Board. See Section E.13 below.

The proposed storage building has a height of 24 feet, 1 inch. Based on a 0% cross slope and a 6:12 roof pitch, the allowed height for the proposed storage building is 31 feet, 2 inches, pursuant to Chapter 22, Table A.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapter 6, 18, 20, 22 and 33 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 applicant is proposing to build a new water tank, pave the existing road to the tank site and construct a new storage building. The applicant additionally proposes to widen Sweetwater Road adjacent to the wastewater treatment plant. The applicant will install temporary and permanent Best Management Practices (BMPs). The proposed use (local public health and safety facility) is a special use for the community plan area.

   (b) **Transportation:** The project will generate one new daily vehicle trip per month. The applicant will be required to mitigate all trips generated by the project.

   (c) **Conservation:** The project will be visible from a TRPA designated scenic corridor. The proposed building site is at an elevation that is partially screened from State Route 28 by trees growing below the project site. The applicant has proposed landscaping improvements to further minimize the visibility of the structure from the roadway. There are no known special interest species, sensitive or uncommon plants, or cultural or historical resources impacted by the project.

   (d) **Recreation:** The project is not located within a recreation plan area and will not create additional recreation demand.
(e) **Public Service and Facilities:** This public health and safety facility is necessary to improve the IGVID water system and to bring it into compliance with the Nevada Administrative Code section 445A, which establishes minimum requirements for domestic and fire protection flows. No increase in capacity, other than for fire flow, is proposed.

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 project is a public service facility that will be located adjacent to an existing wastewater treatment plant. The site is currently used for materials storage. Storage will be moved to the proposed storage building adjacent to the wastewater treatment plant. The water tank will sit on a flat landing that is partially surrounded by trees. Monthly inspection of the tank will generate two vehicle trips. The proposed storage building will move existing material storage to another portion of the project site and will not generate any additional vehicle trips.

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 project is being constructed to meet legally established minimum fire protection and domestic flow requirements. The project will benefit the operation of the IGVID water delivery system by ensuring adequate system pressure. The project is not considered to be growth-inducing as regulation of the timing and extent of the growth in the IGVID water service area is regulated through the permit processes of both TRPA and Washoe County. The project will also include the installation of permanent Best Management Practices (BMPs) and the paving of a disturbed area currently used for material storage.
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 is a special use in the plan area. The project is located within an approved community plan area. The project area is located adjacent to a public service facility.

7. There is a need for the project.

See paragraph 5 above.

8. The project complies with the Goals and Policies, applicable plan area statements, and the Code.

The project complies with the Code through the utilization of temporary and permanent Best Management Practices (BMPs). Permanent BMPs in the form of landscaping, pavement installation where appropriate and revegetation of disturbed areas are incorporated into the proposed project. The proposed water tank will be located to retain several mature trees on site. The water tank will be painted a dark gray-green to blend with its surroundings.

9. The project is consistent with the TRPA Environmental Improvement Program.

The project is required for public health and safety in order to ensure adequate water flows for fire protection and domestic use. The project proposes to install permanent BMPs in an area of disturbed soil, resulting in an environmental improvement. The project is therefore consistent with the TRPA Environmental Improvement Program, however, the proposed project is not an EIP project.

10. The project meets the findings adopted pursuant to Article V(g) of the Compact as set forth in Chapter 6 as they are applicable to the project’s service capacity.

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 6.3B 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.

11. If the proposed project is to be located within the boundaries of the community plan area, then, to the extent possible consistent with public health and safety, the project is compatible with the applicable community plan.

The proposed project will be located within the Ponderosa Community Plan. Public Utility Centers are listed as a special use within the Ponderosa Ranch Community Plan. The project will ensure that required minimum flows for fire protection and domestic supply are met.
12. Where a public service project is proposed for construction in a community plan area before the community plan has been adopted by TRPA, the sponsoring entity shall demonstrate that the need for such a construction schedule outweighs the need for prior completion of the community plan process.

The proposed project will be located within an approved community plan.

13. The function of the structure requires a greater maximum height than otherwise provided for in Chapter 22.

The height of the tank will be 38 feet, six inches, greater than the 27 feet, two inches maximum allowed in Chapter 22 of the Code. The function of the structure requires a height of 38 feet.

The additional height is the minimum necessary to feasibly implement the project. The proposed tank must be located at a specific elevation. Due to the large size of the structure, there are no other undeveloped, relatively flat sites within the I VGID service area that are located at the required elevation.

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 contained in the attached Draft TRPA Permit:
DRAFT PERMIT

PROJECT DESCRIPTION: New Water Tank

PERMITTEE(S): Incline Village General Improvement District

COUNTY/LOCATION: Washoe County / 1250 Sweetwater Road

Having made the findings required by Agency ordinances and rules, TRPA approved the project on September 27, 2000, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on September 27, 2003 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

_________________________________________ Date

TRPA Executive Director/Designee

_________________________________________ Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) Date

/ MR

PERMIT CONTINUED ON NEXT PAGE

/ MR
7/27/00

49 CONSENT CALENDAR ITEM NO. 8
Excess Coverage Mitigation Fee: Amount $ * Paid _______ Receipt No. ____________

Security Posted: Amount $ 6,000 Posted _______ Receipt No. _______ Type ______________

Security Administrative Fee: Amount $ ** Paid _______ Receipt No. ____________

* To be determined.
** $130 if cash security posted or $65 if non-cash security posted.

Required plans determined to be in conformance with approval: Date: ________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

__________________________________________
TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

1. This permit authorizes the construction of a new 2 million gallon water storage tank for increased storage for adequate fire protection flow and service pressure. This permit additionally authorizes the paving of the tank access road, the construction of a new storage building and the widening of a portion of Sweetwater Road. This permit also authorizes the construction of one pipeline, approximately 1800 feet in length, to be located under Sweetwater Road and connecting with the existing water delivery system. Construction of the 8,660 square foot water tank will be over existing coverage. No new coverage is authorized by this permit. The height of the tank shall not exceed 38 feet, 6 inches above natural grade. The tank access road shall be paved and fitted with water quality improvements. Existing land coverage beyond the footprint of the tank shall be relocated to the storage building site. Areas of existing coverage shall be restored.

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

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

   B. The site plan shall be revised to include:

      (1) The following revised land coverage calculations:

/MR
7/27/00

50 CONSENT CALENDAR ITEM NO. 8
Class 1a:
Compacted Dirt Areas: 13,700 square feet
Total Existing Coverage: 169,657 square feet

(2) A minimum of six (6) trees, no less than fifteen feet in height measured from the top of the root ball, planted along the southwest portion of the proposed water tank. Acceptable species include Jeffery pine and/or Ponderosa pine.

(3) All trees within the construction area will be individually protected with vegetation protection fencing.

(4) All permanent BMPs including: infiltration trenches along the drip line of the tank roof, infiltration trenches along the edge of the access road and a slotted drain or valley gutter draining to appropriate sized drywell to infiltrate runoff from the access road.

(5) All areas of construction equipment and material storage.

C. The permittee shall acknowledge TRPA Permit No. 200108.

D. The permittee shall submit a paint sample of the proposed tank color for TRPA final approval. The tank shall be painted within twenty-one (21) days of tank construction.

E. The permittee shall submit a stormwater treatment plan that explains how runoff from the roof of the proposed tank will be infiltrated on site. The design of all conveyance and infiltration facilities shall be based on the potential runoff from the 20-year, one-hour design storm.

F. The permittee shall mitigate 159,943 square feet of excess land coverage on this property by submitting an excess coverage mitigation fee, or by removing land coverage within Hydrologic Transfer Area Number 1 (see attached map).

The excess coverage mitigation fee shall be calculated as follows:

(1) Estimated Project Construction Cost x .0475.

Please provide a construction cost estimate prepared a qualified professional. 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:
IVGID Water Tank
Page 10

(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.

G. The permittee shall post a project security of $6,000 to insure the installation of all required BMPs and all proposed landscaping. Please see attachment J, Security Procedures.

H. The final construction drawings shall have notes indicating conformance to the following design standards for color, roofs and fences:

(1) Color: The color of the water tank shall be flat, dark green. The permittee shall submit a color sample for TRPA final approval. The color of the proposed storage building shall be within the range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish brown, brown, tan, ochre, umber and sand.

(2) Roofs: Roofs shall be composed of non-glare earthen ton or woodtone materials that minimize reflectivity.

3. The permittee shall be responsible for the successful establishment of all planted trees required by this permit. It is the responsibility of the permittee to replace planted trees in the event that said trees die within five years of the completion of the project. See Special Condition B (2), above.

4. Excavation for the proposed water tank shall not exceed the 6' excavation depth approved by TRPA Permit # 200128. The permittee shall not construct any finished floor on the proposed storage building which is five feet or more below natural grade, measured at the location where the floor meets the foundation wall. Additionally, excavation for the installation of the 12 inch supply pipe shall not exceed 5 feet without prior approval from TRPA.

5. Excavation equipment shall be limited to the foundation footprint and areas to be paved to minimize site disturbance. Construction equipment shall be sized so as to not damage existing vegetation along the access road and within the tank site.

6. The permittee shall submit a project construction schedule for TRPA approval.

7. Please note that straw bales are no longer preferred for temporary erosion control and that straw is no longer a recommended mulch material in the Lake Tahoe Basin. The use of alternatives to straw bales, such as pine needle bales, filter fabric, coir logs and pine needle or wood mulches for erosion control purposes is strongly encouraged.

8. The permittee shall submit three sets of final construction drawings.

End of Permit

/MR
7/27/00
MEMORANDUM

September 14, 2000

To: Governing Board Members

From: The Staff

Subject: Amendment of Chapter 4, Project Review and Exempt Activities, to Amend the existing Memorandum of Understanding Between TRPA and the Nevada Division of State Parks

Proposed Action: As provided for in the Permit Integration Program Action Plan, TRPA staff is 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. The Governing Board is requested to approve an amended MOU with the Nevada Division of State Parks (Attachment A) increasing qualified exempt vegetation management activities from 30 acres to 100 acres. On September 12, 2000, the Advisory Planning Commission voted unanimously to recommend to the Governing Board approval of the amended MOU, as drafted.

Description and Discussion: Attachment A proposes a minor amendment to the existing MOU between the Nevada Division of State Parks and TRPA. The amendment is intended to expand the area limits for qualified exempt vegetation management activities from 30 acres to 100 acres.

Chapter 4, Section 4.5.B, Appendix C of the Code would be replaced with the new Appendix C.

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 present and proposed MOU with the Nevada Division of State Parks are minor in nature and are subject to all the provisions of the Regional Plan. The MOU will allow for better utilization of Nevada Division of State Parks and TRPA staff time. The proposed MOU is consistent with, and will not adversely affect implementation of the Regional Plan. The MOU will have no impact on the regulatory structure and does not result in an increase in development. The minor nature of the activities, coupled with limitations elsewhere in the Code, assures the MOU will not have a substantial effect on the land, water, air, space, or other natural resources in the Region.

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

Activities undertaken pursuant to the proposed amended MOU are subject to the provisions of the Regional Plan. 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 quality standards applicable to the region, whichever are stricter, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards, and

Activities undertaken pursuant to 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 those 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 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 or ordinances designed to make existing policies and ordinances more effective. The revised MOU will implement Section 4.8 of the Code, which allows amendments to exempt certain activities of public and quasi-public entities.

For amendments to the existing MOU, deleted language is strikethrough and new language is bold.

If you have any questions regarding this staff summary, please call Rick Angelosci at (775) 588-4547 or e-mail to Rangelosci@trpa.org.
APPENDIX C
MEMORANDUM OF UNDERSTANDING BETWEEN
TAHOE REGIONAL PLANNING AGENCY AND
NEVADA DIVISION OF STATE PARKS

SEPTEMBER 2000

This Memorandum of Understanding is entered into this ___ day of __________, 2000, by and between the TAHOE REGIONAL PLANNING AGENCY (TRPA), through its Executive Director as authorized by the Governing Board, and NEVADA DIVISION OF STATE PARKS (NDSP).

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. It is understood that activities exempt under this MOU shall not result in the creation of additional land coverage, relocation of existing land coverage, or an increase in vehicle trips in excess of that otherwise exempt pursuant to Subsection 4.3.B of the TRPA Code. It is also understood that all activities undertaken by the Nevada Division of State Parks (NDSP) pursuant to this MOU shall comply with applicable Best Management Practices (BMPs), and all provisions of the TRPA Code of Ordinances (Code), as replaced by this MOU, and such guidelines as may be adopted by TRPA.

1. EXEMPT ACTIVITIES

The following activities on NDSP land, in addition to those exempt pursuant to Section 4.2 Chapter 4 of the TRPA Code, are not subject to review and approval of TRPA.

A. RECREATION ACTIVITIES

1. Operation of recreation sites and facilities.
2. Operation of visitor information and interpretive services.
3. Landscaping and revegetation.

B. SIGNING


C. HISTORIC RESOURCES

1. Inventory, protection, maintenance, and disposition of historic resources.

D. ROADS AND TRAILS

1. Maintenance of existing roads, trails, bridges, and related structures provided the activity does not occur in the shorezone.

AGENDA ITEM VII.A
E. STRUCTURES

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

2. Structural repair or remodeling less than $5,000 per structure per year which does not result in excavation or backfilling in excess of that described in TRPA Code, subparagraphs 4.2.A (6) and 4.3.A (6) Chapter 4, additional land coverage, an increase in the dimensions of a structure (including height), a change of use, an increase in commercial floor area, or an increase in density.

F. FISH AND WILDLIFE

1. Protection of wildlife habitat and fisheries, provided there is no modification of streams. Stream modification shall include any alteration of a stream profile which requires the use of motorized equipment or the placement of any structure within an active stream channel.

G. FIRE PROTECTION

1. Vegetation management for fire prevention purposes.

H. SCIENTIFIC RESEARCH AND MONITORING

1. Installation of instruments for scientific research and monitoring.

I. EROSION CONTROL AND RESTORATION ACTIVITIES

1. Installation of erosion control measures such as:
   a. Retaining walls not exceeding 60 feet in length
   b. Sediment basins not exceeding 150 square feet in size
   c. Swales
   d. Rock slope protection
   e. Rock-lined ditches
   f. Fences
   g. Willow wattling
   h. Barriers

J. MISCELLANEOUS

1. Temporary activities, in accordance with Sections 7.5 and 7.6 Chapter 7 of the Code, provided that the temporary activity shall not create noise in excess of the noise limitations of Chapter 23 of the Code.

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

61 AGENDA ITEM VII A
3. Maintenance of existing dams provided there is no change in holding capacity.

4. Excavation and backfilling for an area not in excess of seven cubic yards, provided the activity occurs during the grading season (May 1 to October 15) in Land Capability Districts 4, 5, 6, and 7, and the excavation site is stabilized and revegetated within 72 hours to prevent erosion.

II. QUALIFIED EXEMPT ACTIVITIES

The following activities on NDSP land are not subject to review and approval by TRPA, provided NDSP certifies, on a form provided by TRPA, that the activity does not result in the creation of additional land coverage or relocation of land coverage, and is in conformance with the applicable provisions of the TRPA Code. The statement shall be filed with TRPA at least one working day before the activity commences. The following activities are subject to the BMP retrofit requirements of Chapter 25 and are subject to the land coverage mitigation program in Section 20.5 Chapter 20 of the Code. The following activities are in addition to those activities deemed “Qualified Exempt” pursuant to Section 4.3 Chapter 4 of the TRPA Code.

A. RECREATION ACTIVITIES

1. Replacement of fences, roads, and utilities in recreation sites provided the use is a permissible use pursuant to Chapter 18 of the Code, and the Code.

B. ROADS AND TRAILS

1. Reconstruction of roads, parking lots, trails, and bridges, as necessary to protect the environment or eliminate a safety hazard.

C. FISH AND WILDLIFE

1. Fish and wildlife habitat enhancement activities provided they do not result in modification of a stream or lake. Modifications shall include any alteration of a stream or lake profile which requires the use of motorized equipment or the placement of any structure within an active stream channel.

D. FIRE PROTECTION

1. Prescribed burning

E. EROSION CONTROL AND RESTORATION ACTIVITIES

1. Installation of erosion control measures such as: retaining walls exceeding 60 feet in length, or sediment basis exceeding 150 square feet, provided the erosion control measure is not visible from the shore of any lake, from any roadway for which a scenic threshold rating has been established, from Class I bike paths, or from a developed recreation site.
2. Restoration of stream environment zones (SEZ).

3. Restoration of disturbed areas exceeding one acre in size.

F. **VEGETATION MANAGEMENT**

1. The following activities are qualified exempt provided they are performed under the supervision of a forester, do not exceed 30 100 acres, and meet the standards and practices of Chapter 71:
   
   a. Timber stand improvement projects, pruning, thinning, removal of hazardous, dying, or diseased trees, and disposal of wastes through the issuance of wood permits, chipping, slash burning, and scattering.
   
   b. Protection and enhancement of rare, endangered, threatened, sensitive and special interest plant associations.
   
   c. Protection and enhancement of wildlife habitat.
   
   d. Fuelwood sales and wood permits.
   
   e. Commercial timber sales.

G. **MISCELLANEOUS**

1. Excavation and backfilling for an area not in excess of 50 cubic yards providing the activity occurs during the grading season (May 1 to October 15) in Land Capability Districts 4, 5, 6, or 7, and the excavation site is stabilized and revegetated within 72 hours to prevent erosion.

2. Installation of undergrounding of utilities for a distance of not more that 500 lineal feet providing the undergrounding does not occur in a SEZ.

3. Installation of overhead telephone lines, power lines under 10 kv, and service connection is located entirely on NDSP land and is at least 100 feet from privately owned land.

4. Installation of water lines for a distance of not more than 500 lineal feet, provided the water line is not located in a SEZ.

III. **TREATMENT AND ACCOUNTING OF COVERAGE FOR ACTIVITIES COVERED BY THIS MOU**

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

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

V  TERMINATION

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

NEVADA DIVISION OF STATE PARKS

Dated: ______________________________

Wayne Perock
Administrator

TAHOE REGIONAL PLANNING AGENCY

Dated: ______________________________

Juan Palma
Executive Director
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 00-

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE TAHOE REGIONAL PLANNING AGENCY PROVIDING FOR A MEMORANDUM OF UNDERSTANDING BETWEEN THE TAHOE REGIONAL PLANNING AGENCY AND THE NEVADA DIVISION OF STATE PARKS TO AMEND CHAPTER 4, SECTION 4.5.B, APPENDIX C 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.

AGENDA ITEM VII.A

65
Section 2.00 Amendment of Chapter 4 of the Code of Ordinances

Chapter 4 is hereby amended to replace Appendix C of Chapter 4, Section 4.5.B with a new Appendix C dated September, 2000.

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 the Nevada Division of State Parks, whichever is later.

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held September 27, 2000, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
MEMORANDUM

September 19, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Certification of 64-Acre Tract Intermodal Transit Center EIR/EIS/EIS

Proposed Action: TRPA staff request that the TRPA Governing Board certify the Final TRPA Environmental Impact Statement for the 64-Acre Tract Intermodal Transit Center (which has been sent under separate cover). The document is a combined Final Environmental Impact Report for Placer County under the California Environmental Quality Act (CEQA), Final Environmental Impact Statement for the U.S. Forest Service under the National Environmental Policy Act (NEPA), and Final Environmental Impact Statement for TRPA. The Governing Board’s action today will not approve the Intermodal Transit Center. Rather, the Governing Board will act to approve permits for the project in the future based on final project design.

Staff Recommendation: Staff recommends that the TRPA Governing Board conduct the public hearing as noticed, and then issue a Final Certification of the 64-Acre Tract Intermodal Transit Center EIS.

APC Recommendation: The TRPA Advisory Planning Commission discussed this item at their September 13, 2000, meeting and voted to recommend that the TRPA Governing Board certify the Final EIS as being in compliance with TRPA’s requirements, with the clarification that the parking mitigation measure be implemented in part prior to the project obtaining permit approvals. In conjunction with this recommendation, the APC, with the exception of two members present, recommended that the Governing Board adopt, out of an abundance of caution, a statement of overriding considerations to acknowledge uncertainty over the effectiveness of the revised mitigation for parking-related impacts in the Final EIR/EIS/EIS. The revised parking mitigation measure involves Placer County passing an ordinance to prohibit parking by rafters in the Intermodal Transit Center parking area, with the ordinance enforced by the Placer County Sheriff. APC members noted the possibility that some individuals may not obey the future ordinance, resulting in at least some potential to have residual impacts to the Truckee River from an increase in rafting use. TRPA staff researched the matter of overriding considerations and determined that the mitigation monitoring and reporting program that Placer County will adopt pursuant to CEQA will address the APC members’ concerns regarding the effectiveness of the mitigation for parking-related impacts.

Background: TRPA staff has been working since March 1998 with staff of the U.S. Forest Service Lake Tahoe Basin Management Unit (USFS, LTBMU), Placer County, the North Lake Tahoe Resort Association, and the Truckee North Tahoe Transportation Management Association to develop environmental documentation for the 64-Acre Tract Intermodal Transit Center project. Previously, an Environmental Analysis (EA) was

JA/dmc

AGENDA ITEM VII B.
Memorandum to TRPA Governing Board
Certification of 64-Acre Tract Intermodal Transit Center Final EIR/EIS/EIS
Page 2

prepared to assess the impacts of the project. During the process of reviewing and circulating the EA, Placer County determined that an EIR would be required for CEQA compliance. TRPA and the U.S. Forest Service followed that recommendation and the agencies commenced preparation of a combined Draft EIR/EIS/EIS.

At this time, a Final EIR/EIS/EIS has been prepared for final TRPA Governing Board certification. The document contains the comment letters and public hearing comments on the Draft EIR/EIS/EIS, the responses to those comments, and final text changes and clarifications to the Draft. The Forest Service is responsible for final certification of the document as adequate under NEPA; Placer County is responsible for certification of the document as adequate under CEQA; and TRPA is responsible for certification of the document as adequate pursuant to the Code of Ordinances and Rules of Procedure.

The proposed project addressed in the EIR/EIS/EIS is the construction and operation of an Intermodal Transit Center on a parcel of land known as the 64-Acre Tract. The Intermodal Transit Center would include an enclosed heated area suitable for providing visitor information services; a covered waiting area; six transit bus bays; and a 130-space parking area for transit patrons, trail users, and pedestrians. The funding to complete this Environmental Improvement Program (EIP) project is mainly provided by two federal grants from the Federal Transit Administration (FTA), totaling $1.5 million. Placer County committed $150,000 from air quality mitigation funds and the North Lake Tahoe Resort Association provided $150,000. In order to complete the environmental documentation process, TRPA has committed transportation planning monies to fulfill the planning commitments.

Balloffet and Associates, Inc., prepared the EA, Draft EIR/EIS/EIS, and Final EIR/EIS/EIS under contract with TRPA. After preparation and review of an administrative draft, the Draft EIR/EIS/EIS was prepared and sent out for official circulation according to CEQA, NEPA, and TRPA regulations on May 19, 2000. The circulation period ended 60 days after the initial circulation date on July 21, 2000. The comments from the June APC and Governing Board meetings on the Draft EIR/EIS/EIS, along with the written comment letters, were categorized and responses developed. In addition, text changes for the Final EIR/EIS/EIS were prepared.

Discussion: A Final EIR/EIS/EIS was prepared that identifies the Proposed Project as the preferred alternative. Two on-site configuration alternatives were selected for analysis in the environmental document in addition to the "no-project" alternative. During the scoping process, no other feasible suggested alternatives fit the purpose and need for the proposed project. As a matter of clarification, the purpose and need for this project has been documented through a variety of planning documents, including the Tahoe City Community Plan and Regional Transportation Plan, both the subjects of EIRs/EISs.

For the Final EIR/EIS/EIS, the comments and final agency responses focused on several main issues; the loss of recreational land for passive uses, the cumulative impacts of the Intermodal Transit Center with the Forest Service planned Interpretive Center, traffic impacts, water quality impacts, and the applicability of Section 4(F). The responses focus on the fact that a transit center has been a planned use for the 64-Acre Tract along with the other recreational uses on the parcel. The loss of a small amount of recreational land for passive recreational purposes was acknowledged, but deemed not a significant impact. The project's incremental contribution to cumulative impacts was

JA/dmc

AGENDA ITEM VII.B.
clarified. The fact that the proposed project, as mitigated, results in a net improvement of the traffic situation was clarified. Concerns over the design of water quality mitigation were addressed. Finally, the responses to comments explained that the Federal Transit Administration determined that section 4(F), also referred to as 49 USC section 303, does not apply to the 64-Acre Tract.

The most notable change in the Final EIR/EIS/EIS deals with mitigation to address a potential increase in rafter parking at the Intermodal Transit Center. The mitigation described in Chapters 8, 14, and 16 of the Draft EIR/EIS/EIS, was modified in the Final EIR/EIS/EIS pursuant to Placer County’s request. Rather than having a staffed parking management program, Placer County suggested a mitigation measure that involves the County passing and enforcing an ordinance prohibiting rafter parking at the Intermodal Transit Center parking area. Staff have determined that this modified mitigation measure will reduce the potential parking-related impacts to the Truckee River to a less-than-significant level.

Some APC members remained concerned, however, that the revised parking mitigation measure may not be fully effective in protecting the Truckee River from increased rafting use at the 64-Acre Tract. Accordingly, with two members dissenting, the APC recommended that the Governing Board certify the Final EIR/EIS/EIS, but also consider issuing a statement of overriding considerations to acknowledge the uncertainty over the effectiveness of the revised parking mitigation measure. Upon further review of this topic, TRPA staff have determined that the potential uncertainty regarding the effectiveness of the revised parking mitigation measure will be addressed by the mitigation monitoring and reporting program (MMRP) that Placer County must adopt to comply with CEQA. The MMRP will specify the agency responsible for each mitigation measure in the Final EIR/EIS/EIS, the expected timing for implementation of each measure, and the necessary approach to be taken if a measure is not fully effective. Accordingly, TRPA staff recommend that the Governing Board consider the MMRP that Placer County will adopt as sufficient to address the APC’s concerns regarding the timing and effectiveness of the mitigation measure for potential parking-related impacts.

The Final EIR/EIS/EIS does not have a project application associated with it at this time. When the project is submitted, the Governing Board will rely on the Final EIR/EIS/EIS as the environmental documentation. At that time, the findings of Subsection 5.8.D as well as those in Chapter 6 and 18 that pertain to the project will be required. Staff has attached a draft set of findings demonstrating that, when the project is submitted, the impacts have been reduced to a less than significant level (Attachment A).

Staff will begin this item with a brief presentation. Please contact Jim Allison at (702) 588-4547, extension 229 or via email at jallison@trpa.org if you have any questions regarding this matter.
DRAFT - FINDINGS
ARTICLE VII(d)

The following findings with respect to an Environmental Impact Statement must be made prior to approving the Transit Center Project:

1. **Finding:** With respect to the possibly significant effects on EARTH AND SOILS identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

   **Rationale:** Compliance with the TRPA Regional Plan and Code requirements relating to land coverage and soils disturbance will provide mitigation for soils impacts.

2. **Finding:** With respect to the possibly significant effects on HYDROLOGY AND WATER QUALITY identified in the EIS, changes or alteration have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

   **Rationale:** Compliance with the TRPA Regional Plan and Code requirements, as well as the Lahontan Regional Water Quality Control Board requirements, relating to water quality will provide mitigation for water quality impacts. A final design of the water quality improvements that complies with the applicable water quality requirements for the Truckee River Hydrologic Area will be developed when the construction documents are prepared. In the Final EIR/EIS/EIS the types of treatment, method of infiltration, and standards to be met were identified.

3. **Finding:** With respect to the significant and possibly significant effects on AIR QUALITY identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

   **Rationale:** The identified air quality impacts associated with the project are either not significant to begin with or are mitigated to a less than significant level as demonstrated in the Final EIR/EIS/EIS. The project itself is consistent with the 1992 Regional Transportation Plan and the 2000 Federal Transportation Plan for the Tahoe Region. It is also an Environmental Improvement Program project (#856) in the air quality section.
4. **Finding:** With respect to the significant and possibly significant effect on TRANSPORTATION identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** The Final EIR/EIS/EIS includes mitigations that reduce the significant impacts to transportation to a less than significant level. The analysis in the Final EIR/EIS/EIS is for the peak hour and the mitigations address the peaking situations. In general, this project is expected to result in a net improvement in transportation. It is consistent with the TRPA Compact to reduce dependency on the private automobile.

5. **Finding:** With respect to the possibly significant effects on VEGETATION, WILDLIFE, AND FISHERIES identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** There are no significant impacts with respect to vegetation, wildlife, and fisheries once mitigation is applied as identified in the Final EIR/EIS/EIS.

6. **Finding:** With respect to the possibly significant effects on NOISE identified in the EIS, changes or alteration have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** Compliance with the TRPA Regional Plan and Code requirements relating to noise as well as the mitigations to potential noise impacts identified in the Final EIR/EIS/EIS will provide mitigation for noise impacts.

7. **Finding:** With respect to the possibly significant effects on RECREATION identified in the EIS, changes or alteration have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** The impacts to recreation are mitigated to a less than significant level or are beneficial as presented in the Final EIR/EIS/EIS. There is a loss of open space as a result of project development; however, the loss is planned consistently with the recreational uses at the site. Greater access to recreation trails will be provided as a result of the Intermodal Transit Center.
8. **Finding:** With respect to the significant and possibly significant effects on SCENIC QUALITY identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** There are no significant scenic impacts to the project once the mitigations identified in the Final EIR/EIS/EIS are applied. The project development includes landscaping as screening, will minimize the number of mature trees removed, and will utilize earth-tone colors.

9. **Finding:** With respect to the significant and possibly significant effect on LIGHT AND GLARE identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** No significant impacts to light and glare will occur after mitigation and the development requirements of the project are followed as identified in the Final EIR/EIS/EIS. All light fixtures will direct light downward as identified in the Final EIR/EIS/EIS.

10. **Finding:** With respect to the possibly significant effects on SAFETY AND RISK OF UPSET identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

**Rationale:** There are no significant impacts with respect to safety and risk of upset identified in the Final EIR/EIS/EIS. The development requirements requiring a Placer County Building permit will address any potential impacts and reduce them to a level that they are not significant.
MEMORANDUM

September 19, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Code Section 54.4.A(3) to Allow for a Pier in Prime Fish Habitat When Done in Conjunction with Removal of a Boat Ramp

Proposed Action: TRPA staff requests the Governing Board consider an amendment to the TRPA Code of Ordinances Subparagraph 54.4.A(3), Pier Location Standards. See below for proposed amended language.

Staff and APC Recommendation: Staff and the Advisory Planning Commission recommend the Governing Board hold a public hearing on this item and adopt the proposed amendment to Code Subparagraph 54.4.A(3) with the following language:

54.4.A(3) The placement of piers shall be prohibited in areas identified as “Feeding And/Or Escape Cover Habitat,” “Spawning Habitat,” or “Areas Targeted for Habitat Restoration” on TRPA's Prime Fish Habitat map adopted April 26, 1984 or as amended, except when a boat ramp is removed in conjunction with a new pier application within the same project area and there is a net reduction in habitat disturbance to the areas identified above.

Advisory Planning Commission Public Hearing: The APC held a public hearing on this item on September 13, 2000. One focus of the discussion centered on whether the pier would be considered a new structure or an existing structure. Jan Brisco, representing the Lowe Pier project, did not have any issues with the recommended wording. However Gregg Lien, representing the Lowe family, was of the opinion that the exemption to construct a pier in fish habitat should be located in Chapter 52 of the TRPA Code of Ordinances because the boat ramp is an existing structure. Chapter 52 is the chapter that outlines the regulations as they pertain to existing structures. One of Mr. Lien's concerns was the perceived attitude toward new piers vs. modification to existing piers. He felt that existing structures did not have to run the gauntlet of hoops the way new piers do. He was concerned there would be no credit given for the existing use and the environmental benefit of removing a boat ramp.

TRPA staff is of the opinion that the pier itself is a new structure and should meet all of the standards (except location) a new pier structure is required to meet; therefore, it would be more appropriate to amend Chapter 54, the chapter that addresses new structures. As a new pier structure within a project area, it should have to meet all design standards, as it will require dredging to remove the boat ramp to be replaced by the new pier, and require restoration of fish habitat.

CS/dmc

AGENDA ITEM VII.C
Memorandum to the Governing Board
Amendment of Code Section 54.4.A(3)
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The public hearing on this item took approximately two hours and also focused on the merits of the Code of Ordinance amendment. The final vote by the APC was 11 in favor of TRPA Staff’s recommended language and one no vote.

At the conclusion of the APC meeting, staff sat down with the representatives of the Lowe family and pier project to discuss if there was any way the ordinance could be written to satisfy both positions. The following changes were made to the staff recommendation.

54.4.A(3) The placement of piers shall be prohibited in areas identified as “Feeding And/Or Escape Cover Habitat,” “Spawning Habitat,” or “Areas Targeted for Habitat Restoration” on TRPA’s Prime Fish Habitat map adopted April 26, 1984 or as amended, except when a boat ramp is removed in conjunction with a new pier application within the same project area and there is a net reduction in habitat disturbance to the areas identified above. When an existing boat ramp is removed to construct a pier, the shorezone use should be considered existing; however, the proposed pier shall be considered a new structure.

Background: Earlier this year, the Project Review Division of the TRPA received a project application to “convert” a boat ramp to a pier in prime fish habitat. This project involved the demolition of one shorezone structure (boat ramp) and the construction of another (pier). Both structures are allowed according to the Plan Area Statements. However, piers and boat ramps are viewed as separate and distinct structures in the TRPA Code of Ordinances, and are listed separately as allowed or special use structures in the Plan Area Statements and Code of Ordinances. It was staff’s determination that as no pier exists on the property today, any proposed pier would have to be considered as a new pier. Pursuant to Subparagraph 54.4.A(3) of the Code, the proposed new pier on the property would be prohibited because of the location in prime fish habitat (feed and escape/cover), and because the area has been targeted for habitat restoration.

TRPA has permitted demolition, relocation, and rebuild of structures in areas identified as prime fish habitat; however, nearly all of these projects involved “in-kind” replacement. For example, piers were replaced with piers, buoys were replaced with buoys. However, this project would result in a change or conversion of an accessory shorezone structure. As stated above, piers and boat ramps are viewed as separate and distinct structures in the Code, and are listed separately as allowed or special use structures in the Plan Area Statements and Code. No mechanism in the Code exists to convert one shorezone structure to another. There was a concern that approval of this project without such a mechanism would be a precedent setting action that could lead to more applications for conversions of shorezone structures. For example, it would not be unlikely for an applicant to propose converting a buoy or a fence that extends below the high water line to a pier. At the July meeting, the Governing Board made clear its objection to setting policy through review and approval of projects.
The Governing Board and TRPA staff discussed this issue at length with the project applicant's representative and believe there is some merit to a Code amendment that would allow the conversion of certain shorezone structures located in prime fish habitat. For example, in the proposed new shorezone ordinances, boat ramps are discouraged on private property, but piers are not. It was the Governing Board's direction that the issue of converting structures be analyzed through a Code amendment process prior to approval of any such project. Such an amendment could analyze what types of conversions are appropriate under varying situations, and what findings may be required to be made prior to approval.

Based on testimony given by staff, the applicant, and the public, the TRPA Governing Board requested that a Code amendment be considered that would allow the replacement of a boat ramp in prime fish habitat when a net benefit to fish can be realized. The Governing Board directed that a proposed Code amendment be forwarded to them by the September 2000 Board meeting.

**Analysis:** TRPA staff looked at a range of options from a simple rule change to developing a conversion ordinance. Because of the time constraints, and the fact that the current Shorezone Code chapters are scheduled to be replaced soon, staff is recommending the simple change. The simple amendment allows for the proposed project and a limited number of other potential projects. It does not establish a conversion process.

Staff analysis relied upon the *Lake Tahoe Shorezone Ordinance Amendments Draft EIS* (April 1999). Based on the Shorezone structure inventory data compiled for the Draft EIS, 42 boat ramps exist within the Shorezone of Lake Tahoe (see Attachment A for inventory numbers). Of the 42 boat ramps, 32 occur in Prime Fish Habitat. Only 15 boat ramps that are found in prime fish habitat are privately owned. The 32 boat ramps found in Prime Fish Habitat are not found clustered in any one Shoreline Travel Route Units, but are found scattered among approximately 20 of the 33 Shoreline Travel Route Units. (See Attachment B for map of existing boat ramps.) Given the low level and scattered pattern of occurrence, staff concluded that few projects would result from the proposed amendment.

The proposed code language requires a significant reduction in disturbance to the areas of Prime Fish Habitat. Because boat ramps that exist in Prime Fish Habitat have literally encapsulated the substrate in concrete, the area of habitat available to fish in these areas has been reduced. This Code amendment facilitates an opportunity to restore fish habitat by removing the boat ramp, restoring the substrate that provides Prime Fish Habitat, and moving the boating activity further offshore to the end of a pier. Because the new code language allows the construction of a new pier within the same project area, this also allows for the construction of a multiple-use pier serving two or more parcels when replacing a boat ramp that was contained on only one of the those parcels. This could be an incentive for a few adjoining property owners in Prime Fish Habitat who currently cannot have their own pier.
Memorandum to the Governing Board
Amendment of Code Section 54.4.A(3)
Page 4

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

A. Chapter 6 Findings:

1. Finding: 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.

Rationale: The proposed Code amendment is very limited. It allows for the conversion of an existing boat ramp to a pier in Prime Fish Habitat within the same project area. All other current code standards pertaining to a new pier must be met. All projects approved under this new language must meet all Regional Plan standards.

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

Rationale: All projects that are approved under this new Code language must make the finding that no threshold will be exceeded. In addition, any project approved must demonstrate a significant net reduction in disturbance to the areas of Prime Fish Habitat. This would benefit the "in-lake" fish habitat threshold.

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: See Findings 1 and 2 above.

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 Findings 1 and 2 above.

B. Ordinance 87-8 Findings: Section 2.40 permits this amendment if TRPA finds that the amendment provides an equal or better means of threshold attainment and the following finding is made:

1. Finding: The provision to be amended has been shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan Package and complying with the Compact.
Memorandum to the Governing Board
Amendment of Code Section 54.4.A(3)
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Rationale: The proposed code amendment will facilitate the conversion of boat ramps to piers that will reduce the impacts on in-lake fish habitat and provide incentives to reduce the physical disturbances on areas of Prime Fish Habitat that will assist in achieving the Lake Habitat Restoration threshold.

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 requests the Governing Board take the following actions:

1. Motion to make the required findings:
   a) Make the Chapter 6 and Ordinance 87-8 findings; and
   b) Make a Finding of No Significant Effect (FONSE).

2. Motion to approve the amendment to the Code of Ordinances.

Staff will begin this item with a brief presentation. If there are any questions regarding this agenda item, please contact Coleen Shade at (702) 588-4547 ext. 228 or by E-mail at coleens@trpa.org.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 00 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CHAPTER 54 OF THE CODE OF ORDINANCES TO ALLOW FOR A PIER IN PRIME FISH HABITAT WHEN DONE IN CONJUNCTION WITH REMOVAL OF A BOAT RAMP, 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 Chapter 54 of the Code of Ordinances, 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  Prior to the adoption of this ordinance, the Governing 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 Chapter 54 of the Code of Ordinances

Subsection 6.10, subparagraph (___) of Ordinance No. 87-9, as amended, is hereby further amended with the following language:

54.4.A(3) The placement of piers shall be prohibited in areas identified as "Feeding And/Or Escape Cover Habitat," "Spawning Habitat," or "Areas Targeted for Habitat Restoration" on TRPA's Prime Fish Habitat map adopted April 26, 1984 or as amended, except when a boat ramp is removed in conjunction with a new pier application within the same project area and there is a net reduction in habitat disturbance to the areas identified above.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Plan Area Statements 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 Plan Area Statements are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending Chapter 54 of the Code of Ordinances 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 September 27, 2000, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

__________________________
Larry Severson, Chairman
Tahoe Regional Planning Agency
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September 18, 2000

To: TRPA Governing Board Members

From: Jon-Paul Harries, Associate Planner  
Project Review Division

Subject: Governing Board Agenda Item VIII.A – Lowe, New Single Use  
Pier/Conversion of an Existing Accessory Shorezone Structure, 77  
Shoreline Circle, Incline Village, Washoe County APN 122-169-09, TRPA  
File No. 990882

The above referenced project review agenda item was continued from the July  
Governing Board meeting while long range planning staff prepared a proposal for a code  
amendment (Agenda Item VII.C).

In July, TRPA staff recommended denial of the new pier because it did not conform to the TRPA Code of Ordinance’s prohibition of new shorezone structures in Prime Fish Habitat. The proposed code amendment, if approved, would allow construction of the pier in conjunction with removal of the boat ramp. Code amendments are enacted sixty (60) days after they are approved by the Governing Board. The Tahoe Regional Planning Compact, P.L. 96-55, 94 Stat. 3233 (1980) prohibits TRPA from approving projects that are inconsistent with the Code of Ordinances and Regional Plan as it exists at the time of approval.

Therefore, if the proposed code amendment is approved by the Governing Board, staff will recommend approval of the above referenced project at a public meeting (Governing Board or Hearings Officer) after sixty days have elapsed. If the Governing Board does not approve the code amendment, then the following staff summary recommending denial of the proposed new pier should be considered by the Governing Board at this (September) meeting.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Lowe New Single-Use Pier

Application Type: Shorezone/Conversion of an Existing Accessory Shorezone Structure
(Demolition of an Existing Boat Ramp and Replacement with Single-Use Pier)

Applicant: Todd A. and Janet H. Lowe

Agency Planner: Jon-Paul Harries, Associate Planner

Location: 77 Shoreline Circle, Incline Village, Washoe County

Assessor's Parcel Number (APN)/TRPA File Number: 122-162-09/990882

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

Project Description: The applicants are proposing to remove an existing concrete boat ramp and replace it with a single-use pier. The existing boat ramp extends from a boathouse (attached to the residence) to a distance approximately eight feet lakeward of the high-water line. The existing boat ramp is approximately 44 feet long and tapers from a maximum width of 13 feet at the residence to 9 feet at the lakeward terminus. The proposed pier will be an open piling design and located in the same area of the existing boat ramp. The pier is proposed to be 150 feet in length and six feet wide to the pierhead which will be ten feet wide. The pierhead is proposed to be 30 feet in length and contain a single three foot wide catwalk (total pier width equals 13 feet) and a single low-level boatlift.

Site Description: The subject parcel is located in the residential area of Lakeshore Drive in Incline Village, Nevada. The surrounding land uses consist of single family residences and accessory shorezone structures (primarily piers and buoys). The property is developed with a single residence and the applicants have recently received a TRPA permit for demolition and rebuild of the residence. The project area is located in an area mapped and verified as Prime Fish Habitat (Feed and Escape/Cover), and is also an area targeted for fish habitat restoration.

Issues: This project involves the proposed conversion of an existing shorezone structure which, because of unusual circumstances, requires Governing Board review in accordance with Subsection 4.7.C of the TRPA Code of Ordinances. The primary issue associated with this project is:

1. Prohibition of New Structures in Prime Fish Habitat: This project involves the demolition of one shorezone structure (a boat ramp) and the construction of another (a pier). Both structures are allowed according to the Plan Area Statements. However, piers and boat ramps are viewed as separate and distinct structures in the TRPA Code of Ordinances, and are listed separately as allowed or special use structures in the Plan Area Statements and Code of Ordinances. It is the staff's determination that since no pier exists on the property today, any proposed pier would have to be considered as a new pier. Pursuant to Subsection 54.4.A(3) of the TRPA Code of Ordinances, a new pier

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/JPH
would be prohibited on this property because of its location in prime fish habitat (feed and escape/cover), and also because the area has been targeted for habitat restoration.

2. **Conversion of Exiting Shorezone Structures:** The applicants are proposing to remove an existing concrete boat ramp and replace it with an open piling pier. TRPA has permitted demolition, relocation, and rebuild of structures in areas identified as prime fish habitat, however, nearly all of these projects (with the exception of one discussed below) involved “in-kind” replacement. For example, piers were replaced with piers, and buoys were replaced with buoys. This proposed action would result in a change or conversion of an accessory shorezone structure. As stated above, piers and boat ramps are viewed as separate and distinct structures in the TRPA Code of Ordinances, and are listed separately as allowed or special use structures in the Plan Area Statements and Code of Ordinances. There does not appear to be any mechanism in the Code of Ordinances to convert one shorezone structure to another.

Approval of this project would be a precedent setting action that could lead to more applications for conversions of shorezone structures. For instance, it would not be unlikely for an applicant to propose converting a buoy or a fence that extends below the high water line to a pier. TRPA staff have discussed this issue at length with the applicants’ representative and believe there may be some merit to a Code amendment that would allow the conversion of certain shorezone structures located in prime fish habitat. For example, in the proposed new shorezone ordinances, boat ramps are discouraged on private property, but piers are not. However, staff feels strongly that the issue of converting structures be analyzed through a Code amendment process prior to approval of any such project. Such an amendment could analyze what types of conversions are appropriate under varying situations, and also what findings may be required to be made prior to approval. Also, it should be noted that during the recent litigation (Leonardini vs. TRPA) over denial of a multiple-use pier, the Governing Board made clear its objection to setting policy through review and approval of projects.

3. **Past TRPA actions and Decisions:** TRPA staff are aware of two similar past applications which involved the proposed conversion of an accessory shorezone structure in areas identified as prime fish habitat.

1999, Chase, APN 03-080-27, TRPA File No. 980597
This application involved the removal of an existing marine railway (defined as a boat ramp in the TRPA Code of Ordinances) and replacement with a pier. The applicants argued that a portion of the railway actually was a pier and thus an expansion should be permissible. TRPA staff rejected the applicants argument and denied the application because it was clear that the claimed pier was actually a boat ramp and could not be expanded or converted into a pier because of the prohibition of new structures in prime fish habitat. It was also denied by staff because the structure had been unserviceable for more than five years.

The applicants appealed the staff action to the Governing Board. The Board discussed several aspects of the project including the structure’s configuration, Code definitions, how the structure had been used, affidavits that had been submitted, and the need for clarification in the upcoming shorezone ordinance amendments. The discussion focused on whether or not the structure could be determined to be a pier. It seemed
clear in the discussions that if the Board determined the structure to be a boat ramp, then it could not be expanded or converted into a pier. Ultimately, the Board determined that the structure was, indeed, a boat ramp and denied the appeal.

1988, Cutler, APN 122-181-59
This project involved the conversion of a permitted marine railway (defined as a boat ramp in the TRPA Code of Ordinances) to a pier. In July, 1982, TRPA did not have the same prohibition on new structures in fish habitat as today, and a three year approval was granted to the property owner (Ron Smith) to construct a double piling, dual track marine railway. The applicant failed to meet all the special conditions of his approval by 1984 when TRPA was enjoined from approving projects during the TSPC litigation, and thus the three year approval period was tolled. According to TRPA files, in 1986 the owners of the subject parcel (appears to be Don and Diane Cutler) obtained an exemption for the issuance of the permit, and a new approval expiration date was set for March 19, 1987. Also, in 1986, the Cutlers began discussions with TRPA to determine if the boat ramp approval could be converted to a pier approval. At the time, TRPA legal counsel rejected the idea. The Cutlers then proposed to remove a pier on a separate parcel and deed restrict the parcel against future piers as well as rescind the marine railway approval. A letter from TRPA legal counsel indicates that this mitigation proposal was viewed as favorable by TRPA, but no action was taken in this direction.

Prior to being issued the permit for the dual piling marine railway, the Cutlers revised the plans and proposed a monorail boat ramp that used single pilings. On March 6, 1987, the applicants finally met the conditions of their modified 1982 approval and received a permit for the revised marine monorail. Eleven pilings were driven for the railway, but the project was not completed. In 1988, the Cutlers applied to TRPA for conversion of their permitted railway into a pier. The same pilings that were driven for the marine railway could be used as the pier pilings or cut down to complete the marine railway construction. Finishing the project as a pier received support from a fisheries biologist and other reviewing agencies because it was viewed as less environmentally damaging than the boat ramp. TRPA approved the conversion in September 1988 to allow completion of the project as pier provided the proposed pier would utilize the existing pilings (with 4 additional pilings to be installed). No demolition or removal of an existing structure was proposed or completed as part of this application.

Staff Analysis:

A. **Environmental Documentation:** The applicants have completed an Initial Environmental Checklist (IEC) and visual simulation in order to assess the potential environmental impacts of the project. Potential significant unmitigated impacts were identified, but staff have determined that if a mechanism existed within the Code of Ordinances to allow conversions of existing shorezone structures, then the project would not have a significant effect on the environment if conditioned appropriately. However, staff feels the TRPA Code of Ordinances does not currently provide a mechanism to allow or control the conversion of one shorezone structure to another. A copy of the completed IEC and visual simulation will be made available at the Governing Board hearing and at TRPA.

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/JPH

AGENDA ITEM VIII.A

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B. **Plan Area Statement:** The project is located within Plan Area Statement Number 037 (Lakeview). The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed pier and existing boat ramp are allowed accessory structures in the plan area, and single family dwellings are an allowed use. TRPA staff have reviewed the plan area statement and have determined that the project, if conditioned appropriately, would be consistent with the applicable planning statement, planning considerations and special policies.

C. **Land Coverage:**

1. **Land Capability District:** The parcel is comprised of land capability classes 4, 1b Backshore, and 1b Stream Environment Zone (SEZ). The total project area is 13,002 square feet in size.

2. **Total Allowable Land Coverage:** 2,093 square feet

3. **Total Existing Land Coverage:** 5,436 square feet

4. **Proposed Land Coverage:** 5,436 square feet

5. **Proposed Permitted (TRPA File #990792) Land Coverage after residence rebuild:** 5,420 square feet

6. **Excess Land Coverage:** 3,343 square feet

7. **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 parcels are located within Shorezone Tolerance District 7. Projects within Shorezone Tolerance District 7 must ensure stabilization and the least environmental impact to the backshore. Vehicle access to the shoreline is not permitted and pedestrian access to the shoreline is limited to stabilized access ways. The project, if conditioned appropriately, would comply 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.**

   This finding cannot be made. Any proposed pier (or other shorezone structure other than a boat ramp) at this parcel would have to be viewed as a new structure as defined by the TRPA Code of Ordinances. The TRPA Code of Ordinances prohibits the placement of new structures in areas identified as prime fish habitat.

7/18/00

JPH

AGENDA ITEM VIII A
(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 a new structure which is listed as allowed accessory structure (pier). Surrounding land uses are residential with accessory shorezone structures (primarily piers and buoys).

(b) **Transportation:** The existing pier serves the homeowners of the affected parcel and, as such, will not result in an increase of daily vehicle trip ends (dveh) to the subject parcel.

(c) **Conservation:** The project is not consistent with the fisheries and shorezone subelements of the Conservation Element of the Regional Plan Regional Plan. Both subelements refer to the preservation and enhancement of the fish habitats in Lake Tahoe. The project area has been identified as Prime Fish Habitat and new structures are prohibited in these areas by the TRPA Code of Ordinances. The project, if conditioned appropriately, would be consistent with the scenic subelements of the Conservation Element of the Regional Plan. Approval of the pier would depend on approval and implementation of the final scenic mitigation package set forth in the permit to reconstruct the residence. Depending on the final approved landscape plan for the residence, some additional landscaping may be required. The proposed colors and design are consistent with the TRPA Design Review Guidelines. This project will not result in the obstruction or degradation of any scenic vista or view open to the public provided certain mitigation measures are implemented. The applicants will 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 species or cultural resources within the project area. No Tahoe Yellow Cress has been recorded on the site.

(d) **Recreation:** This project does not involve any public recreation facilities or uses. The proposed pier is proposed to be similar in length to adjacent existing piers and will not extend beyond the TRPA pierhead line. By remaining consistent with existing surrounding development the proposed pier would 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.

This finding cannot be made. The project proposes to place a new structure in an area identified as prime fish habitat and targeted for restoration. Currently, the Code of Ordinances prohibits the placement of piers in such areas and,
therefore, the project is not consistent with Chapter 54 of the TRPA Code of Ordinances. Also, an approved demolition plan, shoreline restoration plan, and fish habitat restoration plan would be required to conform to the subject Plan Area Statement and ensure there are no adverse impacts to the fisheries and water quality environmental threshold carrying capacities. As proposed, the project does not include a restoration plan except for the comment, “If approved, the boat ramp will be removed and the area between the boat garage and lakeward end of the ramp will be restored to its natural condition, in coordination with the Nevada Division of Fish & Wildlife.” The basis for this determination 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. 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.

This finding cannot be made. The proposed project will not have an impact on littoral processes because the project does not involve a proposed structure that is less than 90 percent open. The site has not been identified as spawning habitat, but a Fish Habitat Impact Determination (TRPA File #980516) identified the area as feed and escape/cover with spawning gravels present. The proposed project is inconsistent with the prohibition of new structures in prime fish habitat, and it has not been shown that this project would not negatively impact fish spawning. Any project approved in the shorezone of this parcel will require the restoration of the backshore to a near natural condition. The proposed project is not located within an area that is mapped as on-shore wildlife habitat nor has the site been shown to be a waterfowl nesting area.

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

The project is located offshore of properties occupied by single family residences. The proposed pier will only be used by the owners of the properties 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.

7/18/00
/JPH
The project, as proposed, is compatible with existing lake and shorezone uses and structures in the vicinity. The surrounding uses consist of piers, buoys, and other recreational facilities that will not be adversely affected by this pier.

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

The pier is proposed to be 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.

The project, as proposed, includes elements to prevent spills and discharges of hazardous materials. Permit conditions typically require these measures be employed.

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.

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 have not identified any safety or navigation impacts.

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

I. A motion to approve the project, which motion should fail. (To approve the project, a 5/9 vote is required – five in the affirmative from Nevada.)
MEMORANDUM

September 19, 2000

To: The TRPA Governing Board
From: TRPA Staff
Subject: Discussion of Conditions of Approval, Sierra Nevada College Prim-Schultz Hall (TRPA Permit No. 980950), Washoe County, Regarding College Park Mobile Home Park

Staff will present this item for discussion at the Governing Board Meeting.
MEMORANDUM

September 19, 2000

To: The TRPA Governing Board

From: TRPA Staff

Subject: Discussion of Potential TRPA Office Relocation Sites

Staff will present this item for discussion at the Governing Board Meeting.
MEMORANDUM

September 18, 2000

To: TRPA Governing Board, Acting as the Regional Transportation Planning Agency

From: Transportation Staff

Subject: Amendment to the 2000 Regional Transportation Improvement Program, Acting as the Regional Transportation Planning Agency, Approval of Resolution

Proposed Action: To approve an amended Regional Transportation Improvement Program (RTIP) and resolution to address $2.071 million in additional funds from the California Transportation Commission’s (CTC) Proposed 2000 STIP Fund Estimate Revision. (Please see Attachments A and B)

Staff Recommendation: Staffs recommends approval of the amendment and placement of the additional funds in the unprogrammed balance for future programming for large transportation projects in California, foremost the U.S. 50 Highway project.

Background: In July, 2000 the CTC revised their 2000 STIP Fund Estimate which resulted in $2.071 million in additional funding for the Lake Tahoe Region. The Fund Estimate is used to determine the amount of money available for project programming documents, including RTIPs. The CTC established a deadline of September 31, 2000 for Regional Transportation Planning Agencies (RTPA) to amend their RTIPs to incorporate the revised Fund Estimate.

Discussion: The Tahoe Transportation District (TTD)/Tahoe Transportation Commission (TTC) reviewed the amendment and recommended approval to the TRPA Governing Board for placing the additional $2.071 million in the unprogrammed balance for future programming needs in California, primarily the U.S. 50 Highway project.

The TTD/TTC rejected a recommendation from the Tahoe Transportation Advisory Committee (TTAC) to program up to $500,000 of the additional funds for smaller projects such as local street rehabilitation, transit vehicles/shelters or Congestion Mitigation Air Quality (CMAQ) matching funds in California. The TTD/TTC decided instead to hold the additional funds in reserve and referred the issue of funding smaller projects back to the TTAC to research other sources of funding such as Transportation Enhancement Activities, CMAQ, and Federal Transit Administration.
Tahoe Regional Planning Agency,  
Sitting as the Regional Transportation Planning Agency  
TRPA Resolution No. 2000-__

Adoption of Amendment #1 of the  
2000 Regional Transportation Improvement Program

WHEREAS the Tahoe Regional Planning Agency (TRPA) has been designated a Regional Transportation Planning Agency for the California portion of the Tahoe Region; and

WHEREAS the California Transportation Commission has adopted guidelines that require each RTPA to adopt a Regional Transportation Improvement Program (RTIP) by December 15 of each odd-numbered year; and

WHEREAS the CTC has adopted guidelines that provide for the amendment of the RTIP should additional projects and/or funding be proposed prior to the next RTIP adoption in 2001; and

WHEREAS the TRPA adopted the 2000 RTIP in December 1999; and

WHEREAS the Tahoe Transportation District (TTD), the Tahoe Transportation Commission (TTC) and the Transportation Technical Advisory Committee (TTAC) have provided direction in the development of both the 2000 RTIP and the current proposed Amendment #1; and

WHEREAS the California Transportation Commission’s Proposed 2000 STIP Fund Estimate Revision (July 19, 2000): County and interregional Shares necessitates that the 2000 RTIP be amended and the TTD, TTC, and the TTAC all recommended that TRPA’s additional County Share of $2.017 million be placed in the unprogrammed balance in order to support projects in the future; and

WHEREAS additional funding will be needed to complete phase I of the U.S. Highway 50 Improvement Project, the region’s #1 priority project.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, amends the 2000 RTIP by placing the $2.017 million in the unprogrammed balance to bring the total unprogrammed balance to $5.207 million.

PASSED AND ADOPTED this ______ day of September 2000 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 Concurrently as the Regional Transportation Planning Agency

100
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| Statewide Regional  | 355,821             | 73,396           | 1,133,250        | 1,439,011     | 23,336                               | 357,000            |
| Intergional         | 0                   | 71,260           | 377,750          | 306,490       | 0                                    | 119,000            |
| Statewide Total     | 355,821             | 144,656          | 1,511,000        | 1,745,501     | 23,336                               | 475,000            |
Responding Party: Rubicon Tahoe Owners, Inc. ("RTO").

Date: September 27, 2000, at 12:00 noon before the TRPA Legal Committee and, if necessary, later that afternoon before the entire TRPA Governing Board.

Location: Granlibakken Conference Center, 625 Granlibakken Road, Tahoe City, Placer County, California.

Recommendation: The TRPA Executive Director recommends that the Governing Board find that RTO is in violation of Section 54.6.A(4) of the TRPA Code of Ordinances ("TRPA Code") by refusing to remove eight buoys outside of the authorized set back projection line. The Executive Director further recommends that the Governing Board assess a penalty of $16,000, $2,000 for each buoy in violation.

I. Introduction

Section 54.6.A(4) of the TRPA Code requires that buoys be located within certain boundaries. Specifically, buoys must be placed within a 20 foot set back of site projection lines that are drawn from the littoral property borders towards Lake Tahoe at right angles from the high water line. The site projection lines confine buoys offshore of the buoy owner's property. The Executive Director brings this show cause because RTO has refused to remove eight buoys it has placed outside of the applicable site projection line.

In the Fall of 1998, RTO reconfigured its north and south buoy fields on the west shore of Lake Tahoe in response to direction from the U.S. Army Corps of Engineers ("ACE"). In the process, RTO moved buoys in its north field so as to violate TRPA Code Section 54.6.A(4). See maps attached as Exhibits 1 (before) and 2 (after). RTO does not deny that eight buoys in its north field extend over TRPA's site projection line nor that it has refused to remove them. Rather, RTO in its Opposition (attached as Exhibit 6) sets forth a number of arguments that TRPA lacks the authority to permit the buoy field or jurisdiction to correct this Code violation. Through this Hearing Summary, the Executive Director demonstrates that the bulk of RTO's contentions are irrelevant to the violation before the Governing Board and that TRPA possesses the authority to enforce Section 54.6.A(4) against RTO.

1 TRPA Code Section 54.6.A(4) states: "Mooring buoys shall be placed within the setback lines established by TRPA. TRPA shall establish the setback lines by measuring 20 feet inward from each property line along the highwater line. From this point, a setback line shall be projected lakeward and perpendicular to the tangent of the shoreline. TRPA may adjust the angle of projection to compensate for unique circumstances such as a small cove" (emphasis added). While on-site, TRPA staff determined that "unique circumstances" are not present in this instance.
Rubicon Tahoe Owners' Alleged Buoy Placement Violation
Page 2

II. Statement of Undisputed Facts

Since 1969, RTO has maintained north and south buoy fields along the west shore of Lake Tahoe pursuant to a lease with the California State Lands Commission ("CSLC"). These buoys have never been permitted by TRPA. In the Fall of 1998, at the behest of ACE, RTO reconfigured its buoys into a grid pattern for safety and navigational purposes. After the reconfiguration, TRPA received complaints from Gordon Hooper, the owner of lakefront property adjacent to RTO's north buoy field. Mr. Hooper alleged that as a result of the reconfiguration, RTO buoys extended in front of his property in violation of the TRPA Code. In response, TRPA and ACE staff conducted a site inspection at which time it was determined that the RTO buoys extended beyond the site projection line used by TRPA and ACE. On November 24, 1999, TRPA issued a Correction Notice to RTO. A copy of the Correction Notice is attached as Exhibit 3. This Correction Notice directed RTO to move its buoys within the site projection line and setback as required by the TRPA Code.

ACE supports TRPA's direction to RTO. On January 28, 2000, ACE sent a letter to RTO requesting that RTO remove those buoys that TRPA identified as unlawfully extending beyond the appropriate projection line and requiring that RTO submit "documentation verifying Mr. Hooper's acceptance." A copy of the ACE's January 28 letter is attached as Exhibit 4. After several unsuccessful attempts to settle the matter, TRPA elevated the infraction with a Notice of Violation ("NOV") on May 9, 2000. A copy of the NOV is attached as Exhibit 5. At the request of RTO, the Show Cause hearing originally scheduled for June 2000, was continued for three months. To date, RTO has not complied with the TRPA and ACE's requests to remove the eight buoys.

III. Factual and Legal Contentions of the Executive Director and RTO

1. The Executive Director contends that RTO is violating TRPA Code Section 54.6.A(4) by having eight buoys over the site projection line and setback.

The Executive Director contends that RTO is in violation of Section 54.6.A(4) by refusing to remove eight buoys that extend beyond the TRPA ACE site projection line and setback. TRPA and ACE staff conducted a site inspection at which time it was determined that approximately eight buoys in RTO's north buoy field encroach in front of neighboring property in violation of the TRPA Code. RTO does not challenge this determination.

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2 Because approximately 115 buoys were moved without TRPA approval, TRPA sent RTO a Correction Notice on December 28, 1998, directing RTO to submit to TRPA applications for the reconfiguration. TRPA subsequently determined that RTO need not apply for the reconfigurations due to the uncertain status of Shorezone Ordinance. Because TRPA would be unable to process RTO's buoy field reconfiguration applications until after the Shorezone Ordinance was adopted, TRPA determined that such would not be required until that time.
2. RTO contends that its buoy fields are "grandfathered" and therefore not subject to TRPA regulation.

RTO contends that its buoy fields are exempt from TRPA regulation because RTO has maintained buoy fields since before TRPA came into existence. In certain instances, the TRPA Code allows for "non-conforming" structures if they pre-date the TRPA. However, there is no specific authorization for the "grandfathering" of buoys. TRPA interprets Section 52.3.J of the Code as requiring each buoy on Lake Tahoe to be permitted by TRPA, regardless of how long the buoys have been on the Lake. Consequently, RTO’s buoys are not exempt from TRPA regulation.

Even assuming that the RTO buoys are "grandfathered," the Executive Director contends that the 1998 reconfiguration triggered compliance with the TRPA Code. When non-conforming structures in the Tahoe Region are re-built, such must be done consistently with the TRPA Code. RTO reconfigured approximately one-hundred and fifteen buoys in its north and south buoy fields, adding at least ten in the process and expanding the dimensions of both fields. The Executive Director maintains that irrespective of any "grandfather" status of the RTO buoys, the 1998 reconfiguration must comply with the requirement that buoys be located within TRPA/ACE site projection lines and setbacks.

3. RTO contends that TRPA tacitly approved the buoy reconfiguration.

RTO maintains that TRPA has surrendered its right to pursue this enforcement action because TRPA has acquiesced or otherwise implicitly agreed to the dimensions of the reconfigured buoy fields. Beginning in March 1998, ACE requested that RTO reconfigure its buoys from a random pattern to that of a grid for safety and navigation purposes. This request was made at the Shorezone Review Committee (SRC), which consisted of representatives from several governmental entities, including TRPA staff (Charles Donaldson). At SRC meetings in 1998, RTO made clear its intent to comply with the ACE mandate and circulated maps depicting the proposed reconfigurations. Because TRPA staff was present, RTO claims that TRPA is now prevented from enforcing the site projection violation.

The Executive Director disputes RTO’s allegation that TRPA cannot pursue this enforcement action because the site projection issue was not raised at SRC and, moreover, RTO was made aware that its action required a TRPA permit. Charles Donaldson repeatedly advised RTO that its reconfiguration required TRPA approval and any movement without such approval would be taken at RTO’s own risk. In particular, Mr. Donaldson recalls informing Gustav Johnson of RTO immediately prior to the buoy fields being reconfigured that if RTO proceeded with the reconfiguration without TRPA approval, the matter would be referred to the TRPA Compliance Division as a potential violation.

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3 TRPA Code Section 52.3.J states: "Mooring buoys and their anchoring devices, that have not received a permit from TRPA, shall be removed or modified and have a permit issued by TRPA within two years from the date of notice to the owners of such mooring buoys of the requirement to obtain said permit" (emphasis added).

4 Charles Donaldson no longer works at TRPA.
The Executive Director understands that ACE's direction to reconfigure placed RTO in an awkward position because TRPA was not able to permit the relocation of buoys given the presence of fish habitat and the current Code prohibitions. Consequently, this enforcement action is limited to the specific issue of buoys placed over the site projection line rather than the reconfiguration of all the buoys without a TRPA permit. However, TRPA has not therefore waived its ability to ensure compliance with those Code provisions with which RTO could easily comply.

4. RTO contends that the buoys were moved at the direction of the Army Corps of Engineers.

RTO claims that it merely complied with ACE's mandate and that, as the lead agency on navigation and safety issues, ACE should preempt TRPA in this instance. Although ACE did request a grid pattern and did approve the original plans, ACE agrees with TRPA that RTO is violating the site projection line. On January 28, 2000, ACE ordered RTO to move its buoys within the site projection and setback pursuant to the TRPA Code. RTO has not yet complied.

5. RTO contends that TRPA is taking sides in a private dispute.

RTO is currently in litigation with Mr. Hooper for allegedly removing buoys from RTO's north buoy field. RTO obtained a temporary restraining order and the buoys have been replaced. RTO alleges that TRPA is pursuing this enforcement action to provide support for Mr. Hooper in the litigation, referencing his status as a former CTRPA board member as indicative of bias. RTO claims TRPA is "unlawfully taking sides in a private dispute" so as to deprive it of equal protection under the law. RTO questions why TRPA has not punished those who have committed "self-help."

TRPA responds, evaluates, and, where necessary, takes action on complaints, such as those made by Mr. Hooper. Neither RTO nor TRPA staff has identified a TRPA regulation violated by the "self-help." TRPA is not bringing this action to appease Mr. Hooper and does not advocate self-help.

6. RTO contends that TRPA has "taken" RTO's property in violation of the Constitution.

RTO alleges that TRPA's enforcement of the site projection and setback requirement constitutes a taking for which just compensation is required pursuant to the Fifth Amendment. This argument is flawed because through this enforcement action TRPA is not, inter alia, requiring a reduction in the number of RTO buoys. Rather, the mandate set forth by TRPA and ACE is for RTO to re-submit a grid pattern to ACE that complies with the TRPA/ACE site projection and setback that does not necessarily result in the loss of buoys.

7. RTO contends that its buoys are within the site projection lines if determined using the low water mark as opposed to the high water line.

TRPA and ACE determine the appropriate site projection line using the high water line. RTO asserts that its reconfigured north buoy field is not in violation of the site projection line if it is determined using the low water line. Although the low water mark is used by CSLC, the entities with regulatory authority over the lake (TRPA and ACE)
employ the high water mark. RTO asserts that TRPA's use of the high water line constitutes a taking for which just compensation is required. However, such a challenge is not timely because TRPA's use of the high water line was contained in the 1987 Regional Plan.

8. Miscellaneous buoy arguments made by RTO.

RTO sets forth several arguments that TRPA staff misinterprets its own regulations with respect to buoys. First, RTO claims that its buoy placement activity is exempt as ordinary maintenance, citing Section 52.3.B of the TRPA Code. However, that section specifically excludes movement of anchoring devices and over one hundred anchoring devices were moved in the reconfiguration. Next, RTO claims that because the buoys pre-date the Regional Plan and the reconfiguration was not an expansion or intensification of an existing use, they are exempt from regulation pursuant to TRPA Code Section 51.5.A. The Executive Director disagrees, as the buoys cannot be "grandfathered" and the reconfiguration was a substantial undertaking. Finally, RTO contends that each buoy field should be considered a single structure. While its relevance to the site projection violation is unknown, TRPA has consistently required that each individual buoy be permitted separately.

IV. Issues to be Determined by the Board

1. Is RTO in violation of TRPA Code Section 54.6.A(4) by maintaining buoys beyond the TRPA/ACE site projection line and setback?

2. Are the RTO buoys exempt from TRPA regulation despite the consistent interpretation by TRPA that buoys cannot be "grandfathered" under Code Section 52.3.J?

3. Did TRPA surrender its right to pursue this enforcement action because a staff member had advance knowledge of the reconfiguration, even though that staff member explained to RTO the risks associated with proceeding without TRPA approval?

4. If RTO is in violation of TRPA Code Section 54.6.A(4), what is an appropriate penalty?

V. Conclusion and Penalty Calculation

The issue before the Governing Board is straightforward: is RTO in violation of the TRPA Code by maintaining buoys beyond the TRPA/ACE site projection line? Corollary

5 TRPA Code Section 52.3.B reads: "List of Exempt Activities The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or an increase in the dimensions of the structure, including height, width and length. (1) Ordinary maintenance and repair, which is the replacement of, or modification to parts of a structure that do not affect the weight bearing or strength capacity of the structure, including replacement and repair of windows, doors, and electrical and mechanical equipment. (2) The replacement and repair of mooring buoys, excluding replacement of anchoring devices. (3) Parcels consolidations in accordance with Subparagraph 4.2.A(11)." (emphasis added)
issues that should be considered are whether TRPA may regulate the buoy fields and whether TRPA is estopped from this enforcement action. RTO has set forth many additional arguments that tend to distract and confuse the violation that TRPA is attempting to remedy. The saga of RTO’s buoys is complicated, involving numerous governmental entities and litigation between wealthy lakefront property owners. However, RTO’s attempts to portray TRPA as taking sides in a private dispute and providing conflicting directives from those of ACE are false.

RTO was formally requested to move its buoys within the TRPA/ACE projection line on November 24, 1999. Despite repeated requests, RTO has refused to comply with the TRPA Code. Article VI(l) of the Tahoe Regional Planning Compact ("Compact") authorizes penalties of up to $5,000 per violation per day. The Executive Director contends that RTO has committed eight violations of TRPA Code Section 54.6.A(4), one for each buoy over the TRPA/ACE site projection line and setback. Because the buoys were moved at the request of ACE for safety and navigation purposes, the Executive Director does not believe that RTO should be penalized to the full extent provided for in the Compact. However, given RTO’s willful refusal to move the buoys, the Executive Director recommends that the Governing Board assess a penalty of $2,000 per buoy, for a total penalty of $16,000.

VI. Exhibits

The following Exhibits are not included in the Governing Board packet but will be mailed separately to each Governing Board member. If any member of the public wishes to obtain copies of these Exhibits, they should contact Sue Mikanovich at (775) 588-4547.

1. Map depicting the RTO north buoy field before reconfiguration.
2. Map depicting the RTO north buoy field after reconfiguration.
3. TRPA’s November 24, 1999 Correction Notice to RTO.
4. ACE’s January 28, 2000, letter to RTO.
5. TRPA’s May 9, 2000, Notice of Violation to RTO (without enclosures).
6. RTO’s August 24, 2000, Opposition to TRPA’s Notice of Violation (with enclosures).
MEMORANDUM

September 18, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Status Report on Project Applications

Staff will present a brief summary at the Governing Board meeting on the status of agency applications which have been complete for more than 120 days.
MEMORANDUM

September 19, 2000

To: The TRPA Governing Board
From: TRPA Staff
Subject: Status Reports on Projects That Could Be Transferred to Local Governments Under MOU Process

Staff will present this item for discussion at the Governing Board Meeting.
MEMORANDUM

September 20, 2000

TO: Tahoe Metropolitan Planning Organization
   Tahoe Regional Planning Agency

FROM: TRPA Staff

SUBJECT: Executive Director Report on the Tahoe Transportation District/Tahoe Transportation Commission September 8, 2000 Meeting

Proposed Action: Review of the attached TTD/TTC Agenda and Action Sheet from the September 8, 2000 meeting, and review of items presented.

Staff Recommendation: Seek clarification as necessary.

If there are any questions regarding this agenda item, please contact Richard Wiggins at (775) 588-4547.
I. TAHOE TRANSPORTATION DISTRICT AND TAHOE TRANSPORTATION COMMISSION CALL TO ORDER AND GENERAL MATTERS

A. Roll Call and Determination of Quorum
B. Approval of Agenda for September 8, 2000
C. Approval of Minutes from July 14, 2000
D. Approval of Minutes from August 11, 2000

II. PUBLIC INTEREST COMMENTS (No Action)

III. CONSENT CALENDAR

IV. PLANNING AND PROGRAMMING MATTERS

A. Presentation Regarding Level of Service (LOS) Policy Interpretation for TRPA.
B. Discussion of 2000 Federal Transportation Plan/Regional Transportation Plan the Lake Tahoe Basin and Subsequent Planning Activities
C. Discussion and Recommendation to TRPA of Proposed Regional Transportation Improvement Program (RTIP) Amendments
D. Discussion and Review of Road Marker Agreement

V. OPERATIONS AND PROJECT MATTERS

A. Presentation Regarding Electrified, Heavy Rail from Sacramento to Tahoe (No Action)

VI. POLICY MATTERS
VII. REPORTS AND INFORMATIONAL ITEMS
A. Finance Committee
B. Transportation Technical Advisory Committee
C. Board and Commission Members
D. Tahoe Regional Planning Agency and Staff
   1. Staff Activity Report
   2. Review of Agenda Items for October 13, 2000 meeting of the TTD/C
   3. Review of Agenda Item for September 28, 2000 meeting of the TTAC
   4. November Meeting Date

VIII. ADJOURNMENT OF THE TAHOE TRANSPORTATION DISTRICT AND THE TAHOE TRANSPORTATION COMMISSION

IX. ATTACHMENTS

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, October 13, 2000, beginning at 9:00 a.m., at the Offices of the Tahoe Regional Planning Agency, Zephyr Cove, NV. (Regular TTD and TTC Board meetings are held on the second Friday of each month).
## TAHOE TRANSPORTATION DISTRICT
### TAHOE TRANSPORTATION COMMISSION
#### Board of Directors Meeting
#### September 8, 2000

### ACTION SHEET

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### TTD/TTC PLANNING AND PLANNING MATTERS

A. Presentation Regarding LOS Policy Interpretation for TRPA

B. Discussion of 2000 Federal Transportation Plan/Regional Transportation Plan of the Lake Tahoe Basin and Subsequent Planning Activities

C. Discussion and Recommendation to TRPA of Proposed Regional Transportation Improvement Program (RTIP) Amendments

D. Discussion and Review of Road Marker Agreement


### TTD/TTC OPERATIONS AND PROJECT MATTERS

A. Presentation Regarding Electrified, Heavy Rail from Sacramento to Tahoe

### TTD/TTC REPORTS AND INFORMATIONAL ITEMS

Received