TRPA
GOVERNING BOARD
PACKETS

AUGUST
2002
TAHOE REGIONAL PLANNING AGENCY (TRPA)
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, August 28, 2002, the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The August 28, 2002, session will commence at 9:30 a.m. at the Horizon Casino Resort, U.S. Highway 50, Stateline, Nevada. 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, August 28, 2002, commencing at 8:30 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) monthly statement; 3) Second Quarter Investment Report; 4) July Budget Status Report; 5) Golf Course BMP Funding Discussion; 6) Proposed Security Funding and Inspection Discussion; and 7) member comments. (Committee: Slaven, Heller, Galloway, Solaro, Flank, Quinn)

NOTICE IS FURTHER GIVEN that on Wednesday, August 28, 2002, commencing at 8:30 a.m., at the same location, the TRPA Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Discussion of Lira's Market; 3) Closed Session Regarding Agency Counsel Annual Performance Evaluation; and, 4) member comments. (Committee: DeLanoy, Waldie, Miner, Derringer, Swobe)

NOTICE IS FURTHER GIVEN that on Wednesday, August 28, 2002, commencing at 12:00 Noon, at the same location, the TRPA Rules Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Concurrent Scheduling of items on APC & Governing Board Agendas; 3) Policy Discussion Concerning Effective Dates and Retroactivity of New Ordinances and Regulations; and, 4) member comments. (Committee: Derringer, Galloway, Peroch, Slaven, Swobe)

August 19, 2002

Juan Palma
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

Horizon Casino Resort
U.S. Highway 50
Stateline, Nevada

August 28, 2002
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. 3 for specific items) (15 minutes)

VII. REPORTS

A. Executive Director Status Report (10 minutes)

1. Monthly Status Report on Project Activities Pg. 105

2. Tahoe Transportation District/Commission Agenda and Report from the August 9, 2002 Meeting Pg. 111

3. Resolution for Dennis Harmon

B. Legal Division Monthly Status Report

VIII. PROJECT REVIEW

A. College Park Mobile Home Park, Closing of Park, 800 College Drive, Washoe County, Assessor's Parcel Number's 128-280-20 & 21, TRPA File No. STD-20021255 Pg. 115
IX. PUBLIC HEARINGS
A. Amendment of the Ponderosa Ranch Community Plan to Designate It a Preferred Industrial Area Pg. 123
B. Amend PAS 145 Fallen Leaf Lake to Eliminate Hotel, Motel and Other Transient Dwelling Units as a Permissible Use Pg. 133
C. Amend the Tahoe City Community Plan, Special Area 5, to Allow Single Family Dwellings as a Special Use Pg. 145

X. ADMINISTRATIVE MATTERS
A. Appointment of Tahoe Transportation District Representative On the Advisory Planning Commission Pg. 155
B. Closed Session with Executive Director Regarding Personnel Matters
C. Closed Session with Agency Counsel Regarding Annual Performance Evaluation

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION
A. Finance Committee (5 minutes)
B. EIPIC (5 minutes)
C. Legal Committee (5 minutes)
   1. Lira's Market Discussion Pg. 157
D. Rules Committee
   1. Policy Concerning Effective Dates and Retroactivity of New Ordinances and Regulations Pg. 169
E. Shorezone Committee

XII. REPORTS
A. Governing Board Members (5 minutes)

XIII. ADJOURNMENT

CONSENT CALENDAR

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<th>Item</th>
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<tr>
<td>1. July Budget Status Report</td>
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<td>2. Second Quarter Investment Report</td>
<td>Approval Pg. 1</td>
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3. Tahoe Regional Planning Agency (TRPA) Office Relocation, 128 Market Street, Douglas County, Assessor's Parcel Number 07-180-90
   Approval With Conditions Pg. 7

4. Lake Salmon LLC, Construction of a New 6,140 Square Feet Office Building, 178 Highway 50, Douglas County, Assessor's Parcel Number 005-350-06, TRPA File No. 20020696
   Approval With Conditions Pg. 13

5. Rob Chaplinsky, Boat Ramp Conversion to Pier, with Buoy Application, 93 Shoreline Circle, Washoe County, Assessor's Parcel Number 122-162-26, TRPA File No. 20010765
   Approval With Conditions Pg. 27

6. El Dorado County, South Lake Tahoe Juvenile Hall, Assessor's Parcel Number 25-010-52, TRPA File No. 20020714
   Approval With Conditions Pg. 47

7. Lake Tahoe Airport, Placement of a One-Story Manufactured Modular Office Building, El Dorado County, Assessor's Parcel Number 033-050-011, TRPA File No. STD-20021276
   Approval With Conditions Pg. 67

Land Capability Challenges

8. Edward Fein Land Capability Challenge, 1950 Glenbrook Road, Glenbrook, Nevada, Douglas County, Assessor's Parcel Number 001-051-008
   Approval Pg. 85

   Approval Pg. 91

10. Judy Swanson Land Capability Challenge, 221 Paradise Flat Lane, Rubicon Bay, California, El Dorado County, Assessor's Parcel Number 017-121-006
    Approval Pg. 95

11. Momentum Investments Land Capability Challenge, 727 Champagne Road, Incline Village, Nevada, Washoe County, Assessor's Parcel Number 126-262-005
    Approval Pg. 101

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

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Tahoe Regional Planning Agency Governing Board Members:

Chairman Dean Heller, Nevada Secretary of State
Wayne Perock, Nev. Dept. of Conservation Appointee
Vice-Chairman Dave Solaro, El Dorado County
Drake DeLanoy, Nevada Gov. Appointee
Jon Plank, Carson City
Jerry Waldie, Calif. Senate Rules Com. Appointee
Jim Galloway, Washoe County
Ryan Rauzon, Calif. Assembly Spkr. Appointee
Hal Cole, South Lake Tahoe
Tom Quinn, Calif. Gov. Appointee
Larry Sevison, Placer County
Ronald Slaven, Calif. Gov. Appointee
Coe Swobe, Nevada At-Large Member
Vacant, Presidential Appointee
Don Miner, Douglas County
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
8318 North Lake Boulevard
Kings Beach, California

July 24, 2002

REGULAR MEETING MINUTES

I. ROLL CALL AND DETERMINATION OF QUORUM

Vice-Chairperson Dave Solaro called the July 27, 2002, Tahoe Regional Planning Agency (TRPA) Governing Board meeting to order at 9:20 a.m.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

Mr. Slaven led the Board in the Pledge of Allegiance to the Flag.

Members Present: Mr. Lane, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Mr. Heller, Mr. Cole, Mr. Plank, Mr. Slaven, Mr. Perock, Mr. Quinn, Mr. Galloway, Ms. Derringer, Mr. Swobe, Mr. Sevison

Members Absent: Presidential Appointee Vacant

(Chairperson Heller arrived at 9:24 a.m.)

III. PUBLIC INTEREST COMMENTS - None

Ms. Elizabeth Hale, from Tahoe City, stated that the cumulative impact of neighboring development makes it difficult to attain our TRPA thresholds. Bike trails over the mountains affects our wildlife habitat; and, traffic over Fanny Bridge is already grid locked without Squaw Valley having completed their units and bringing in 15 more cars per hour across the bridge. Our communities are being pushed towards urbanization as resorts outside of the Basin want to bring in their visitors to have a Lake experience. TRPA doesn't have any influence as to what goes on outside of the Basin. Perhaps this is the time to think about extending our Compact to include the areas outside the Basin so we can have more say on the development, and its affect on our thresholds.

Ms. Sue Abrams, a resident from the South Shore, stated she was with Shirley Lira, who is one of the owners of Lira's Supermarket. The issue they are bringing forward today is that Liar's Market, which is in the Meyer's Community Plan, has been trying to address three different issues since summer of last year. One, is some compliance issues; another, deposit refund, and also some addition modifications. We have been unable to get through the Agency or make any progress since last summer. Consequently, Ms. Abrams made a folder for each one of the Board members. She is asking the Board to intervene because TRPA has some problems within their office on the South Shore. She didn't know whether the problem is a shortage of manpower; whether it is a lack of skill or a knowledge problem within the staffers;
she doesn’t know whether it is a problem of communication from one staff person to another, but if they are experiencing this problem, she has to assume that there are many problems with other projects within the Agency. Lira’s Supermarket has always been an active and cooperating client that is very involved in the community; involved with the environment; and, very focused on making things better for not only themselves but also everything that they work with on a regular basis. She divided the binder into two different categories; one has to do with compliance and security deposit; the second category has to do with a new application for modification and addition to the store. Because we are only given five minutes to speak and we are not on the agenda, Ms. Abrams had the books made. All the data that you need is not here, but enough is here to give you a picture of what we have been doing since last summer and have gotten nowhere. She had a meeting with Steve Chilton a couple of weeks ago, and he was courteous enough to give her an hour. After leaving Mr. Chilton’s office, he said that a staff person would get back to us and he would straighten it out and try to let us go forward. It was another two weeks, and she received a call from Katie Guthrie who said she would get back to us, and never did. Ms. Abrams received a phone call late yesterday, at approximately 4:30, stating that Ms. Guthrie said she would get back to us and maybe there would be the possibility of a meeting next week. She is asking the Board to take an interest in the office. Ms. Abrams didn’t know whether it was organizational problems; she doesn’t know whether it is staffing problems; she doesn’t know if they are on overload over there because they don’t have enough help; she doesn’t know what it is. This is pretty basic. It is all everyday activity. There shouldn’t be any reason why this package has not proceeded, and why we are, once again, almost at the end of summer, and at a standstill with no release of deposits; no acknowledgements of improvements that have been made at the property; it is just an ignored package. If it is happening to them, it must be happening to other people.

Mr. Galloway stated that had received some distressed calls about people who are concerned that between bureaucratic overload and just the complexity of the system, that it is not possible sometimes, in a reasonable time, to remove fire hazards. He doesn’t know if that is the case, but he was committed to look into that. He will be talking to staff members to see if he could get some insight into this.

Mr. Paul Vatistas, the Executive Director of the North Tahoe Conservation Coalition, stated that the Martis Valley project would add up to 6800 new homes in the Martis Valley area. It will take the commercial space available up to about 1.2 million square feet, and will add about 17,000 people. This is more than four times the population of Kings Beach; it is more than the entire population of the North Shore from Tahoma around to Kings Beach, and possibly including Incline Village. This will have an impact on the North Shore. When people purchase these homes, they are not going sightseeing in Truckee; they will come down to the Lake in the summer, and, in fact, East West has bought sunsets in Tahoe Vista, and is encouraging people to come down to the Lake. This will have a huge impact on traffic; air quality; and, on a lot of the recreation issues and infrastructure such as parking. While the actual project is not within the TRPA’s jurisdiction, the impact on the North Shore, which will be huge, is within the TRPA’s jurisdiction. Given that we are already out of compliance on the air quality, wood smoke, and VMT threshold, he believed that staff should look into this and test out some of the numbers. He asked that staff look into this, and he recommended that the Board consult the League and understand some of their concerns on this issue. He also recommended that the Transportation Department start looking into this today, if possible. Also, he hoped that the Board would look at the thresholds and consider 100% performance the baseline on BMPs and other issues.

Chairperson Heller asked staff to follow-up on these issues and bring them back to the Board.
IV. APPROVAL OF AGENDA

Deputy Director Jerry Wells recommended that due to the fact that Agenda Items IX, B. 4, and IX.B.5 were not acted upon by the APC, and were continued, that Agenda Item IX.C. be heard before Agenda Item IX.B.

MOTION by Perock to recommend approval of the agenda as amended. The motion carried unanimously.

V. APPROVAL OF MINUTES

Mr. DeLanoy stated that after the unanimous vote on the swap of the Forest Service land to the Washoe County School District, he had an opportunity to discuss the matter with former Senator Richard Bryan, and he advised him, when Mr. DeLanoy told him about the decimation of the 500 plus trees, stated that he was rather shocked. It was Mr. Bryan’s impression that the TRPA had been available and present throughout this entire matter. Mr. DeLanoy stated that when this item was presented, he assumed that a paid person had gone back and lobbied the Nevada delegation. He commented that had he known these other facts, he would have voted the other way, based upon this newly discovered evidence.

MOTION by Mr. Perock to approve the June 25, 2002, Governing Board minutes as amended. The motion carried unanimously.

VI. CONSENT CALENDAR

MOTION by Mr. Solaro to approve Consent Calendar items 1 through 9.

(The following are items approved on the Consent Calendar

1. June 2002 Financial Statement
2. Approval of FY 2001/2002 Rental Car Mitigation Fee Fund Program of Projects and Supporting Resolution (Resolution No. 2002-16)
3. Park Avenue Redevelopment Project Drainage Improvement Revisions and EIS Addendum
4. Incline Village General Improvement District (IVGID) Tennis Courts MOU
5. New Round Hill GID MOU
6. Applebee’s New Commercial Restaurant, 3987 Lake Tahoe Boulevard, City of South Lake Tahoe, California, Conditions, APN 029-083-19, (TRPA File Number 20020814)

Land Capability Challenges
7. Edward Fein Land Capability Challenge, 1951 Glenbrook Road, Glenbrook, Nevada, Douglas County, Assessor’s Parcel Number 001-070-017
9. Cherry Baumgartner Land Capability Challenge, 806 Donna Drive, Incline Village, Nevada, Washoe County, Assessor’s Parcel Number 124-082-001)
TRPA REGULAR MEETING MINUTES JULY 24, 2002

VII. REPORTS

A. Executive Director Status Report

Executive Director Juan Palma presented Chairperson Heller with a TRPA t-shirt, as well as a photo of Governing Board members who took a ride up on the Heavenly gondola.

1. Resolution for Dwight Steele

Mr. Palma stated that we have a Resolution for Mr. Dwight Steele, who passed away about a week or so ago. He stated that Mr. Coe Swobe has been instrumental in visiting both Alberta and Dwight when he was in the hospital. Many of the people on this Board remember Dwight from a long time ago, and this Resolution perhaps does not do justice to Dwight and all of his dedication to Lake Tahoe and to the TRPA. Mr. Palma stated that sometimes people come into our lives and they quickly pass through; sometimes people come into our lives and they stay awhile; and, sometimes people come into our lives and make a tremendous imprint on our lives. Dwight was one of those individuals that came in to a lot of our lives and left an imprint in our hearts. He read the resolution into the record. He presented the Resolution to Ms. Rochelle Nason, with the League to Save Lake Tahoe, as well as a copy to Mr. Swobe, so that he can take it to the memorial service on behalf of TRPA.

Ms. Rochelle Nason, with the League to Save Lake Tahoe, stated that she would not try to comment about Dwight today. It is still too hard to do. She invited everyone to memorial services in Dwight's honor that will be held on Sunday, August 25th, 2002, at 3:00 p.m. at the Granlibakken Conference Center. If anyone would like more information about that, please feel free to call her. Thank you very much. Mr. Swobe will present this to Alberta at the service.

Mr. Waldie stated that at the conclusion of any comments from the Board, it would be his intention if everyone concurs, to request a moment of silence for Dwight. He shared Rochelle's inability to say much about Dwight, but he wants to say something about Mr. Coe Swobe. Coe, acting for all of us in a unique way, spent a lot of time in the hospital down in Washoe County where Dwight went after his accident, and where he died. Mr. Waldie stated that he is personally very appreciative of all the nice things that Coe did. The only adjective he would apply to Dwight is an adjective you don't usually apply to males. He was a sweet and lovely man, and he will miss him terribly. Thank you, Mr. Chairman.

Mr. Swobe remarked that he thought the Resolution said it all; however, he wanted to give a little background of Dwight. As you know, he was 88 years old when he died, and he had been born prior to World War I in 1914, and he was always a Californian. In 1939, he graduated from law school; Boalt Hall Law School at the University of California at Berkeley. During the 1940's and 1950's, he was a very able lawyer. He represented management, and during that period of time, he represented the west coast shipping giants, and the Hawaiian plantation owners in labor negotiations with the International Longshoremen's Union, and went head on with people like Harry Bridges and Gus Hall, which are fantastic stories. In conservation matters, he was just as diligent and championed the causes of the San Francisco Bay as he did here. He first met Dwight in the 1960's when they were negotiating the enactment of the Compact, which created the TRPA. His presence was always felt, and Dwight seemed to always be at the right time at the right place. Sometimes I was with him; and sometimes he was against him, but when I really needed him, he was there. He was just a great negotiator. We had a whole bunch of different people, just like now – either they wanted to have more regulation or less regulation or no regulation. Dwight was just great at that time. Then, again, in

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the 1980’s – I wasn’t around – when the Compact was amended and saved, he was there. Mr. Swobe talked to Senator Spike Wilson yesterday, who was one of the chief negotiators on the Nevada side, who, with then Jerry Brown, was the Governor of California, and Spike said the same damn thing; he was always there when you needed him; his presence was always felt. He was just a great negotiator, and his humor just, you know, wove through everything just like it does at these meetings. What I am trying to bring out – there weren’t many individuals who were here in the 1960’s and are here now or were here then like Dwight. They weren’t here in the 1960’s and 1970’s and now. There are very few. We have people like Roland Westergard, who is still around; North Nevada Senator Lawrence Jacobson, and, Norman (“Ike”) Livermore, who is Governor Reagan’s Director of Conservation, and who are all still around. These guys were just fantastic in molding this organization.

Mr. Swobe stated that he had kind of lost touch with Dwight, and then when he came back on the Board, he was – you know, he is always here on his monstrous buildings, and his humor. We exchanged historical stuff back and forth from time-to-time. Several weeks ago, Dwight was digging through his file of papers, and he found something that he sent to me. Mr. Swobe didn’t know if it was – it is kind of a combination of Teddy Roosevelt and Dwight Steele, but Mr. Swobe remembered it being around in the 1960’s. It is kind of apropos now. It says, “In dealing with matters concerning protection and restoration of Lake Tahoe, public officials should primarily consider the affect upon future generations, and not future elections.” Mr. Swobe thought that was great. Thank you.

Mr. Sevison stated that before he came on the Board in 1980, Dwight was one of the few people in the community that would step forward and support him for election for the County Supervisor. Mr. Sevison stated that he was flattered because Dwight brought along with him a lot of respect and gratitude for Mr. Sevison; he helped me. He used to tease with Dwight quit a bit over the months and months of agony in creating the thresholds. We were not always headed in the same direction, but Dwight was always a gentleman, and we always agreed on things. We got a lot done one night on the thresholds at his brother’s house in Incline Village. Mr. Sevison commented that he could remember an almost all night session. Dwight’s is going to be missed a lot. He and Dwight, in recent years, agreed on almost everything they did, and one of them being transportation issues. Dwight was always chartering some new areas that the League and his other colleagues didn’t necessarily agree with him on. Mr. Sevison stated Dwight tried hard on the parking and bus facility in Tahoe City, along with Juan and others, and we were kind of disappointed. But Dwight didn’t lose his enthusiasm. He was still going to march forward with the issue, and we need to do that. We all owe Dwight a lot of thanks.

Chairperson Heller thanked Coe, Jerry and Larry for their comments. Upon becoming Chairman of the Governing Board, Mr. Heller received a phone call from Dwight, and he told him how pleased he was that he was Chairing the Board for the next two years, and Dwight said “I trust you will do the right thing for the Lake.” Mr. Heller stated that met a lot to him, and he hasn’t forgotten it. He asked the audience to please join him in a moment of silence.


Mr. Palma commented that he is pleased that the number of applications coming in has declined. He hopes that this continues and allows us to catch up and process all the applications that are on deck right not.
TRPA REGULAR MEETING MINUTES JULY 24, 2002

3. Tahoe Transportation District/Commission
   Agenda and Report from the July 12, 2002, Meeting

Mr. Palma stated that there were some issues that were discussed by the Tahoe Transportation District/Commission at the July 12, 2002, meeting. There will be a hearing on August 8, 2002, in Reno, regarding Senator Reid's Field Hearing on TEA Reauthorization.

4. Notice of Preparation of Lake Tahoe Shorezone Ordinance
   Amendments Environmental Impact Statement

Mr. Palma stated that the Notice of Preparation of the Lake Tahoe Shorezone Ordinance Amendments Environmental Impact Statement is being circulated as a new document and includes a new scoping process. A public scoping meeting was held on Tuesday, July 9, 2002, at the Fairway Community Center in Tahoe City. The subcommittee of the Governing Board Shorezone Committee will be meeting today at noon.

5. Revised Guidance for Large Tree Retention in the Urban Areas

Mr. Jerry Dion, Vegetation Program Manager with the Long Range Planning Division, presented the revised guidance for large tree retention in the urban areas. The three main changes are: 1) remodels and expansions will be treated differently than new development; 2) for small or medium remodels and expansions, it is assumed that there is no reasonable and feasible alternatives to retaining large trees within the proposed building footprint; and, 3) additional coverage for driveways that may be transferred under Subsection 20.3.B(1) to save a large tree.

Mr. Galloway asked that additional language be added on the bottom of page 128, and on the top of page 129, to state, “as a result, the architect is not required to eliminate allowed floor coverage in doing these different configurations”. Mr. Dion agreed to add this language to the Memorandum.

B. Legal

Agency Counsel John Marshall stated TRPA received the opening brief in the College Park 9th Circuit appeal. This is the mobile home park above the Sierra Nevada College. We got that case dismissed for failure to enforce certain alleged conditions precluding the closure of the park. We are in the mist of briefing this case. The Board affirmed an Executive Director’s determination in an IPES appeal for a zero scored lot in El Dorado County. The Bartlett Trust parcel filed a takings lawsuit against the Agency over that parcel. We just received a copy of the complaint yesterday. There is potential for settlement in this case before we proceed to litigation. Finally, Mr. Laub has counter claimed the Agency for emotional distress and loss of profits. Mr. Quinn stated he believed that Mr. Laub was the attorney who didn’t know the law, and Mr. Marshall responded that was correct. Mr. Quinn commented that he found an article in the Los Angeles Times on Monday about a woman in Ventura County who was fined $10,000 for cutting a branch off a tree because she violated a tree protection ordinance. If the tree ultimately dies, the fine would increase to $40,000. This is common in many areas of California. It seemed to Mr. Quinn that perhaps TRPA is being too lenient and our fines are too low. This may require some rethinking of what we charge for fines. This woman was a new resident of the area and claimed she didn’t know about the ordinance.
Chairperson Heller asked if Mr. Palma had a status report on the new building site, and Mr. Palma responded not at this time.

(adjourn the TRPA, convene the TMPO)

VIII. MEETING OF THE THAEOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

A. Public Interest Comments – All comments are to be limited to no more than five minutes per person.

B. Approval of the Tahoe Metropolitan Planning Organization’s FY 2002/03 Federal Transportation Improvement Program for the Lake Tahoe Basin and Supporting Resolution

Chief of Transportation Richard Wiggins presented the staff summary for approval of the Tahoe Metropolitan Planning Organization’s FY 2002/03 Federal Transportation Improvement Program for the Lake Tahoe Basin and Supporting Resolution.

Chairperson Heller opened the meeting up for a public hearing. Since no one wished to comment, Chairperson Heller closed the public hearing.

MOTION by Mr. Severson to recommend approval of the Tahoe Metropolitan Planning Organization’s FY 2002/03 Federal Transportation Improvement Program for the Lake Tahoe Basin and Supporting Resolution. The motion carried unanimously.

(adjourn the TMPO, convene the TRPA)

IX. PUBLIC HEARINGS

A. Amendment of Incline Village Tourist Community Plan to Add “Schools-Kindergarten to Secondary” as a Special Use to the General List of Permissible Uses

Mr. Peter Eichar, with the Long Range Planning Division, presented the amendment of Incline Village Tourist Community Plan to Add “Schools-Kindergarten to Secondary” as a Special Use to the General List of Permissible Uses.

Chairperson Heller opened the meeting up for a public hearing. Since no one wished to comment, Chairperson Heller closed the public hearing.

MOTION by Mr. Slaven to recommend approval of the findings, and a Finding of No Significant Environmental Effect. The motion carried unanimously.

MOTION by Mr. Galloway to recommend approval of the Amendment of Incline Village Tourist Community Plan to Add “Schools-Kindergarten to Secondary” as a Special Use to the General List of Permissible Uses. The motion carried unanimously.

Mr. Galloway thanked the Board for passing this amendment because this property had been a flood plain issue, and we finally resolved the flood plain ordinance, and he was glad that it wasn’t getting in the way of a school.
Break taken at 10:25 a.m.

Reconvened at 10:35 a.m.

Chairperson Heller introduced Ms. Alice Baldrica, Chairperson for the Advisory Planning Commission, who was in the audience.

C. Resolution Issuing the 2002 Threshold Evaluation Report and Adopting The Amended Compliance Forms (Targets, Indicators, Factors, Compliance Measures, Attainment Schedules, and Related Items) Pursuant to Chapter 32 of the Code

Chief of Long Range Planning Gordon Barrett presented the Resolution Issuing the 2002 Threshold Evaluation Report and Adopting the Amended Compliance Forms Targets, Indicators, Factors, Compliance Measures, Attainment Schedules, and Related Items) pursuant to Chapter 32 of the Code.

Chairperson Heller opened the meeting up for a public hearing.

Mr. John Falk, with the Tahoe Sierra Board of Realtors, believed that the APC had tabled this item, and had hoped that the Governing Board would hear testimony on this item and not make a decision now, but let the APC discuss this item further. In addition, Mr. Falk believed that the linkage of residential allocations to the EIP is problematic. There is no nexus, and it is inappropriate, and the Governing Board should reconsider this recommendation.

Mr. Gary Midkiff, representing the South Tahoe Chamber of Commerce as Vice-President for Government Relations, as well as numerous clients around the Basin, believed that it was not clear as to what the relationship is between this report and the specifics of the implementation report. Mr. Midkiff had specific concerns about this report and was of the opinion that significant work needed to be done before this report is adopted; specifically, the Shorezone Scenic Review and the Residential Allocations.

Mr. Dan Siegel, with the California Attorney General’s Office, suggested that TRPA modify the Resolution to state “in partial satisfaction of and pursuant to Chapter 32 of the TRPA Code of Ordinances”, which moves you forward that addresses the concern that a policy statement be made now rather than delaying; and on the other hand, it acknowledges that there is more work to be done; that this isn’t the end all, and be all of what TRPA is doing. Mr. Siegel also commented that this gives the Attorney General’s Office an opportunity to address the various items that they believe need to be added to this report.

Ms. Laurie Kemper, with the Lahontan Regional Water Quality Control Board and a member of the Advisory Planning Commission, commented staff on the work they have done on the thresholds. She supported staff’s recommendation in Appendix B as it relates to water quality, and specifically, those items staff has committed to be completed by the end of the year; in particular, the adoption and implementation of a new improved fertilizer reduction program and the adoption and implementation of an improved, comprehensive BMP retrofit strategy, and a plan for the Agency to move BMP retrofit moved forward. Ms. Kemper stated that there doesn’t appear to be an increase in resources in place now for expansion of an enforcement program, as well as capital improvement programs. She would like to see an increase in resources for enforcement; in particular, the need to improve the amount of compliance assurance activities;
increase the number of inspections; the audits performed on government partners; and, enforcement actions. She is particularly interested to make sure that temporary and permanent BMPs are being installed during construction, as well as on existing properties that are being retrofitted. Finally, Ms. Kemper stated that as it relates to the allocation process, she recommended that the Board not take action specifically related to the allocation process right now. Ms. Kemper suggested that we try a one-year's allocation process and then evaluate the progress that has been made after that time.

Ms. Sharon Croom, a property owner in Incline Village, was concerned about the property values being decreased if TRPA adopts the scenic guidelines. She believed that there would be a loss of property, a hardship placed on property owners, and asked the Board to table this item and give it due consideration.

Ms. Ann Harper, an attorney for Earth Justice representing the League to Save Lake Tahoe, gave a brief history of TRPA and the thresholds, and believed that the thresholds are willfully inadequate, and the compliance measures are lacking and should be reinstated.

Mr. Michael Donahoe, with the Tahoe Area Sierra Club Group, stressed the importance of looking at this document with a fine toothcomb and taking the time to review what is going on. It is critical for saving the Lake. He joined in the statements made by the League to Save Lake Tahoe and the Attorney General's office. Mr. Donahoe objected to TRPA taking a middle ground; he believed that the Compact, as well as the 208 Plan, does not allow TRPA to do that. These documents call for TRPA to do some things that are not "business as usual" and not to "take a middle ground". In addition, Mr. Donahoe stated that more work needs to be done on the thresholds.

Ms. Jan Brisco, representing the Tahoe Lake Front Property Owners, believed that we are looking for a balance in the threshold evaluation that the Compact provides, and believed that this report was inadequate, the methodology for scenic evaluation is in question, and it lacked proper analysis.

Since no one else wished to comment, Chairperson Heller closed the public hearing.

MOTION by Mr. Quinn to recommend adoption of the resolution issuing the 2002 Threshold Evaluation Report and Adopting the Amended Compliance Forms (Targets, Indicators, Factors, Compliance Measures, Attainment Schedules, and Related Items) pursuant to Chapter 32 of the Code.

The motion carried on the following votes

Ayes: Mr. Perock, Ms. Derringer, Mr. Quinn, Mr. Plank, Mr. Waldie, Mr. DeLanoy, Mr. Slaven, Mr. Swobe, Mr. Solaro, Mr. Heller

Nays: Mr. Cole, Mr. Lane, Mr. Galloway, Mr. Sevison

Abstenions: None

Absent: None

(Mr. Solaro left the meeting at 12:55 p.m. Mr. Montgomery sat in the dais for him.)

(Break taken for lunch at 12:55 p.m.)

(Reconvened at 2:10 p.m.)
B. Amendments to the Code of Ordinances, the Goals and Policies Plan and Other Related Amendments Recommended by the 2001 Threshold Evaluation Report as follows:

1. Code Chapters 30 and 65 Amendments to Increase Vegetation/Soils Protection During Construction

Mr. Jerry Dion, Vegetation Program Manager in the Long Range Planning Division, presented the Code Chapters 30 and 65 Amendments to Increase Vegetation/Soils Protection during Construction.

Chairperson Heller opened the meeting up for a public hearing.

Mr. Tom Turino, who has been a contractor up here for 20 years, stated that he sees the ordinance flawed in a situation where you have to locate it on a set of plans. If it is on the plans, the County or City expects it to be exactly on the plans. The other problem is fire protection; defensible space; there has been no talk about defensible space. They basically want you to put the fence up, bring the equipment in; do not go out of that area during site work, and once the foundation is done, a fence could be put up which would be very effective. But up until that point, the site work is done; the utilities are in; it is just not feasible. It is going to go up and just have to come down; trees are going to have to come down if they put it up prior to; the County said that they would work with him and have a double inspection for a pregrade inspection to allow the trees to come down. The solution to this problem would be that at the onsite pregrade inspection, the fence be located around the trees, upgrade your fence to a metal fence; go around the trees, basically the way it is now, and enforce your existing ordinances. Don’t give us an ordinance we can’t work with.

Since no one else wished to comment, Chairperson Heller closed the public hearing.

Mr. Slaven expressed his concern that people will not know what the metal fence is for because the industry standard is orange fencing.

MOTION by Mr. Quinn to recommend approval of the findings, and a Finding of No Significant Environmental Effect. The motion carried unanimously.

MOTION by Mr. Severson to recommend approval of the Code Chapters 30 and 65 Amendments to Increase Vegetation/Soils Protection During Construction, with the amendment to strike “metal wire mesh” and add “industry standard fencing” to Section 65.2.1(3) and Section 65.2.J(4), and where it refers to “approval by TRPA”, the word “prior” should be inserted. The motion carried unanimously.

MOTION by Mr. Quinn to postpone Agenda Items IX.A.B.4 and IX.A.B.5 for sixty (60) days. The motion carried unanimously.

Mr. Galloway was of the opinion that the people who came to testify on the above-postponed items should be allowed to speak.
XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Legal Committee

Mr. Waldie commented that the Legal Committee met to consider the request of Agency Counsel to take two cases; the Gonzales case, and the Michael Murphy and William Davison case; to trial to file a legal proceeding for enforcement of violations of our rules, rather than to go through an Order to Show Cause Hearing. Mr. Waldie commented that Mr. Galloway raised a point that there might be members of the Board that would have some other reasons that they would prefer an Order to Show Cause. To accommodate Mr. Galloway's concerns, the Board would receive copies of all the materials that the Legal Committee received in the Executive Session. All members of the Board were extended an invitation to attend the Legal Committee hearing. None of them took advantage of that opportunity, and the matter was non-controversial. The members of the Committee came to the conclusion that these were precisely the kind of issues that we should avoid the expense to the litigants, to the public representing themselves with counsel in an Order to Show Cause Hearing that ultimately would probably go to court anyway, as well as expenditures of the Agency’s resources. It was a unanimous recommendation of the Legal Committee to the Governing Board that in both instances, the request of the Agency Counsel to file litigation and avoid an Order to Show Cause Hearing before the Board, be approved.

MOTION by Mr. Quinn to recommend approval of Agenda Item Nos. XI.B.1 and XI.B.2. The motion carried unanimously.

Mr. Galloway appreciated the consideration given to his concerns by the Legal Committee.

IX. PUBLIC HEARINGS

B. Amendments to the Code of Ordinances, the Goals and Policies Plan and Other Related Amendments Recommended by the 2001 Threshold Evaluation Report as follows:

2. Code Chapters 33, 35 and 41 Increase Cost Factors
   For Monitoring, Bonus Units and Affordable Housing

Mr. Peter Eichar, with the Long Range Planning Division, presented the Code Chapters 33, 35 and 41 Increase Cost Factors for Monitoring, Bonus Units and Affordable Housing. Mr. Eichar stated that there was an error on page 195, 35.3.D(2); $15,000 should be $24,000.

Chairperson Heller opened the meeting up for a public hearing. Since no one wished to comment, Chairperson Heller closed the public hearing.

MOTION by Mr. Galloway to recommend approval of the findings, and a Finding of No Significant Environmental Effect. The motion carried unanimously.

MOTION by Mr. Galloway to recommend approval of the Code Chapters 33, 35 and 41 Increase Cost Factors for Monitoring, Bonus Units and Affordable Housing. The motion carried unanimously.
3. Code Chapter 25 and Related Chapters Amendments to Implement BMP Disclosure Requirements

Mr. Larry Benoit, Water Quality Program Manager in the Long Range Planning Division, presented the Code Chapter 25 and Related Chapters Amendments to Implement BMP Disclosure Requirements.

Chairperson Heller opened the meeting up for a public hearing.

Mr. John Faulk, representing the Tahoe-Sierra Board of Realtors, stated that he participated in many of the discussions, and this was a situation where everyone came together and mutually decided on a solution. He favored this amendment because the goal of the realtors is to get BMPs done and on the ground. In addition, he supported the date certain requirement. The Board of Realtors are 100% behind this item.

Mr. Dan Siegel, with the California Attorney General's Office, stated that BMPs are one of the most critical items in addressing water quality impacts to Lake Tahoe. That is why when the Goals and Policies were adopted in 1987, it mandated that all property owners shall install and maintain BMPs on their properties. The proposal presented today, the sales disclosure, is one component of a way of trying to enhance the program that TRPA has to get more properties on board with BMP installation. This is a very good idea. In addition, there are other ways TRPA can act to accelerate the implementation of BMP installation and retrofitting. One way would be to move up the priority dates for priority areas two and three. Staff is working on moving those priority dates. There is also a need to increase the security deposits for BMPs. Mr. Siegel stated that he was told during one of the workshops he attended that there is about a half a million dollars in security deposits for BMPs that haven't been returned to property owners because they haven't submitted their compliance forms, which implies that there are property owners who are deciding it is cheaper just to forget about getting back their security deposits then to put in BMPs. We would much rather see them putting in BMPs so the security deposit should be high enough so that there is an incentive to put in BMPs and get back the money. We also think that it is very important to tie in new residential allocations to meeting BMP retrofitting targets.

Ms. Sara Ellis, representing Nevada Realtors in the Tahoe Basin, stated that this has been a great productive collaborative experience. She hopes that it is one that we can replicate in some of the other contentious issues that are facing the TRPA. Ms. Ellis also thanked staff for all of the hard work they had done.

Mr. Mike Burgwin, from the Tahoe Area Sierra Club, applauded the realtors for being so proactive in approaching this proposal. The Sierra Club believes that this is one critical part of educating the Lake Tahoe public to be sensitive to the environment.

Since no one else wished to comment, Chairperson Heller closed the public hearing.

**MOTION** by Mr. Cole to recommend approval of the findings, and a Finding of No Significant Environmental Effect. The motion carried unanimously.

**MOTION** by Mr. Slaven to recommend approval of Code Chapter 25 and Related Amendments to Implement BMP Disclosure Requirements. The motion carried unanimously.
TRPA REGULAR MEETING MINUTES JULY 24, 2002

X. ADMINISTRATIVE MATTERS

A. Review of TRPA Work Program Related to Threshold Recommendations

Mr. Wells stated that this item was covered when Mr. Barrett was giving the threshold report.

B. Application Fee Schedule Amendment

Mr. Wells commented that the Board had been discussing increasing the filing fees to better reflect actual cost recovery. This is the first phase of some proposed filing fee increases. Staff will be coming back in future months with amendments for the rest of the schedule. We wanted to focus this summer on those items that we get the highest volume, which is primarily in the residential area.

Mr. Quinn believed that some of the fees were very low and questioned if they accurately reflected how much time the Board members have to particular items, as well as staff time. Mr. Wells stated that we try to calculate in all of those costs on an average basis, and we do have a separate fee for appeals. Over the next six months, we are going to monitor in detail the actual time spent on all of the applications to figure out whether or not we need to adjust these fees further in the future; either up or down.

MOTION by Mr. Galloway to recommend approval of the Application Fee Schedule Amendment, with the exclusion of the tree removal fee. The motion carried unanimously.

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

Mr. Galloway stated that all of the items on the Finance Committee were approved, except the Golf Course BMP Funding Discussion was postponed until next month.

B. Local Government Committee

Mr. Cole stated that the Local Government Committee is going to meet on Friday, August 2, 2002, to further fine-tune the conversion ordinance of motels to bonus units, as well as an informational presentation on vacation rentals issue.

C. EIPIC

Mr. Waldie commented that the EIPIC did not have a quorum. The City did a presentation on the Park Avenue project. Mr. Sevison suggested that the EIPIC committee have a field trip and invite the press, and the rest of the Board to come along so that there could be a chance for Board members to see what some of the key projects were in Nevada and California. It is a benefit to see and touch and have a thorough understanding of what's happening with the money that is being spent, and the regulations that are being brought forth. Mr. Sevison suggested that there be one North Shore; one South Shore; one California, and one Nevada field trip.
E. Rules Committee

Mr. Wells stated that the Rules Committee did not meet.

XII. REPORTS

A. Governing Board Members

Mr. Cole stated that the City of South Lake Tahoe passed an ordinance bringing in coverage to save a tree.

XIII. ADJOURNMENT – The meeting adjourned at 4:00 p.m.

Respectfully submitted,

Sue Mikanovich
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 Doria Court, Zephyr Cove, Nevada.
July 30, 2002

To: TRPA Governing Board

From: Bruce Adams, Budget Director

Via: Jerry Wells, Deputy Director
      Rick Angelocci, Operations Chief

Subject: Second Quarter 02 Investment Report

**Requested Action:** No action/information item

**Background:**

This report summarizes the investment status of the agency as managed by Wells Capital Management the past 10 quarters. Wells follows the agency’s conservative investment policy to perform this service. It maintains 5 separate portfolios one for each of the investment categories.\(^1\) Reporting of investment status meets one part of the Board’s fiduciary responsibility of overseeing the agency’s fiscal status.

<table>
<thead>
<tr>
<th>Portfolio</th>
<th>$ Invested</th>
<th>Market Value</th>
<th>Value Change</th>
<th>Average Yield</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>$3,590,319</td>
<td>$3,560,416</td>
<td>($29,903)</td>
<td>2.69%</td>
</tr>
<tr>
<td>CTS Trust</td>
<td>$1,111,014</td>
<td>$1,110,929</td>
<td>($85)</td>
<td>1.85%</td>
</tr>
<tr>
<td>CTRPA Trust</td>
<td>$1,981,307</td>
<td>$1,980,024</td>
<td>($1,283)</td>
<td>4.00%</td>
</tr>
<tr>
<td>Mitigation Trust</td>
<td>$8,735,545</td>
<td>$8,743,315</td>
<td>$7,770</td>
<td>2.82%</td>
</tr>
<tr>
<td>Security Deposit</td>
<td>$3,185,816</td>
<td>$3,197,132</td>
<td>$11,316</td>
<td>3.07%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$18,604,001</strong></td>
<td><strong>$18,591,816</strong></td>
<td><strong>($12,185)</strong></td>
<td></td>
</tr>
</tbody>
</table>

The preceding table shows that the agency has more than $18.6 million invested in the 5 funds managed by Wells Capital Management.\(^2\) The current market value of these investments is slightly less than $18.6 million, indicating that were the agency to liquidate these investments at current market prices, it would loose $12,185. This is a major improvement over the March 31, 2002 report. However, it simply reflects the fact

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\(^1\) As noted in our last report, the individual fund segregation makes it more difficult to manage as opposed to a pooled investment approach.

\(^2\) The agency also has a retirement trust fund valued at $3.5 million, July 1, 2001. This is now managed by Prudential Securities as the new retirement system administrator.
that the market has continued to drop making even our recent, low interest investments appear comparatively attractive.

Regardless as noted before, the agency’s strategy is one of passive management – purchasing investment instruments, and holding these to maturity. As indicated by the current market values, as the market becomes more robust, investments purchased in today’s low yield market will be less attractive in the market. Active trading or liquidating investments before they mature for cash-flow needs could result in loss of principal.

<table>
<thead>
<tr>
<th>Portfolio</th>
<th>6/60/01</th>
<th>9/31/01</th>
<th>12/31/01</th>
<th>3/31/02</th>
<th>6/30/02</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>5.29%</td>
<td>2.62%</td>
<td>2.55%</td>
<td>2.46%</td>
<td>2.69%</td>
<td>49.1%</td>
</tr>
<tr>
<td>CTS Trust</td>
<td>5.16%</td>
<td>4.83%</td>
<td>2.48%</td>
<td>1.85%</td>
<td>1.85%</td>
<td>64.1%</td>
</tr>
<tr>
<td>CTRPA Trust</td>
<td>4.71%</td>
<td>4.22%</td>
<td>4.07%</td>
<td>4.02%</td>
<td>4.00%</td>
<td>15.1%</td>
</tr>
<tr>
<td>Mitigation Trust</td>
<td>4.73%</td>
<td>4.43%</td>
<td>3.09%</td>
<td>2.95%</td>
<td>2.82%</td>
<td>40.4%</td>
</tr>
<tr>
<td>Security Deposit Trust</td>
<td>4.63%</td>
<td>4.20%</td>
<td>2.81%</td>
<td>2.86%</td>
<td>3.07%</td>
<td>33.7%</td>
</tr>
</tbody>
</table>

The preceding table and graph portray a continuing decline in interest rate yield compared to past reports. There is a slight bounce upwards for this report, and this is reflected in the higher market value of recent investments. Only the CTRPA Trust account has maintained its interest rate and this has declined 15.1% to a 4.0% yield over the period. This will not continue for long as the higher yielding instruments will start maturing in August and be totally out of the picture in March 2003. The Wells Capital Management “Money Market” yields have paralleled this decline dropping from 3.7% in June 2001 to 1.57% in June 2002.
Discussion of Wells Capital Management Report

Overview
The report is comprised of 7 sections. The first and last sections discuss the various fiscal indicators affecting investment strategies. These indicate that we continue to face financial uncertainty. The September 11 attack and the failures of Enron, Arthur Anderson, Global Crossing, K-mart and other corporate dynasties continue to worry investors.³

On the optimistic side of the equation several indicators continue to show contraction without the threat of inflation, as stated in the previous reports, separate forecasts indicate that inflation will be less than 1% for the immediate future.⁴ While the recent unemployment indicators remain at 5.0% holding wage inflation in check. There are several indicators signaling that the economic uncertainty is bottoming-out. These include:

- Some technical stocks are starting to regain some of their luster (though the NASDAD continues to flounder)
- The services sector is improving
- The Fed has activated its monetary, pump-priming process by deficit spending – both to sustain the “War on Terrorism” and domestic spending
- The dollar is weakening on the international market potentially enabling US goods to be exported
- The 10-year treasury yield has finally started to fall – a precursor to the reduction in long-term interest rates, which, in turn will make long-term purchases such as housing and capital investments more attractive

On the pessimistic side, there are many issues still arising.

- The sale of durable goods continue to be supported by deep discounts and low interest loans - depressing corporate profits, stock prices, and new job creation
- Deflation is rearing its ugly head with companies eager to cut back and reluctant to expand
- The last quarter of 2001 and the first quarter of 2002 have been reclassified as negative indicating that a recessionary trend was in place, and the past quarter only showed a 0.1% gain which may bode a second recessionary dip in the near future if things do not improve
- The stock market is looking at a possible “three-peat” of consecutive negative calendar year returns – the first time since the 1930’s
- Nearly all countries have substantial excess capacity which will depress capital investments
- Questionable accounting practices turn up almost daily continuing to spook Wall Street investors

³ The market seemed to have hit bottom in the July 15 to 19 period and substantial gains were seen in the subsequent week. Obviously it is still too uncertain to call, but if this trend continues, it may make future fixed income investments less attractive driving up interest rates. Of course, the market value of the low-yield instruments recently purchased by TRPA will sink.
As noted last quarter, governmental investments will continue to be strong, but the TRPA and its fund manager will need caution regarding the placement of corporate bonds. Many of the companies now caught up in audit disclosure issues had investment rated bonds. The focus must be on quality – and full disclosure. As more dollars pursue the fixed income market segment, it drives interest rates down – as illustrated in this and the last quarterly reports.

Agency Portfolio Status
Agency General Portfolio. Section 2 portrays the status of the agency’s “General” funds. This portfolio has ranged from $1.2 million to $7.0 million and now stands at $3.6 million. This fund underwrites general agency operations, and the Nevada and California contributions account for most of the dramatic periodic increase. The agency cash fund has remained robust allowing the General Portfolio to remain invested. Investments instruments have ranged from 5 to 16 and now stand at 8. These include a cash/money market fund and government agency bonds and notes. The average yield for the period increased a bit from 2.46% to 2.69%.

CTRPA Trust Portfolio. Section 3 portrays the status of the CTRPA trust fund. This old fund has been fairly stable ranging from $1.9 to $2.4 million across the investment reporting period. It is invested in a money market fund, and 6 government agency notes (only $255 in new money has been added to this fund in the past 2-years). The average yield dropped from a high of 4.22% and now stands at 4.00% (the best of our portfolios). This fund is fairly well protected in that the instruments shown here will start to be called in August 2002 and will be spread out to May 2003. By this time, the fixed income markets should be back to more normal levels.

CTS Trust Portfolio. Section 4 portrays the CTS Trust status. This fund was established to fund transportation mitigation projects. It has built up from $550,000 in January 2000 to more than $1.1 million today. It has had no deposits in the past 5-quarters. All of the investments in this fund matured in the first quarter and have been reinvested at the current low yield levels resulting in the low average yield of 1.85% shown. Five investments are noted including a money market fund, government agency notes, and a short-term corporate note.

TRPA Mitigation Trust Fund Portfolio. Section 5 portrays the Mitigation Trust fund, and is the largest of the agency’s portfolios. This has been a relatively stable fund ranging from last quarter’s $7.1 to the current $8.8 million ($2.5 million was deposited in the past quarter). Seventeen investment instruments are listed here including 5 short-term corporate notes, 11 government agency bonds and notes, and a money market account. The average yield was 2.82% compared to 2.95% at the end of the previous quarter.

Security Deposit Trust Fund Portfolio. Section 6 completes the status reports on the investments. This accounts for the invested security deposits. This fund has oscillated in the $2.6 to the current $3.2 million range. These are invested in 11 instruments ranging from government bonds and notes, a money market fund, and a short-term corporate note. The average yield actually increased basis points from 2.86% to 3.07% for the second straight quarter.

Fixed Income Outlook and Strategy.
Section 7 completes the focus started in Section 1 of the report. It provides a narrative summary for the investment outlook for the July-September quarter 2002. It also
summarizes the investment strategy Wells will use for the upcoming quarter. This will be a cautious approach. As predicted by Alan Greenspan last quarter, the investment curve has steepened in the one to five year range. So for the new quarter, Wells will invest in quality instruments (triple AAA or equivalent) in the 2-year range without jeopardizing liquidity to maximize the Agency’s return.

Bullet yield investments will continue (one call date as opposed to variable call dates). In this strategy, once an instrument is purchased, both the interest to be earned and the date of maturity are absolutely known (unless an investment is redeemed prior to its maturity). The focus will be on credit quality.

Conclusions

The contract with Wells has been satisfactory to date. While current yields are declining, the agency has reaped substantial earnings from its idle cash. As noted in the past, TRPA continues to have no investment in US Treasury instruments; these simply do not have the yield that the similarly “rated” Government Agency securities have. In part this can be attributed to the low interest rates assigned to this sector, but they are also the most secure of investment instruments. Caution must be exercised in purchasing corporate bonds in this audit/financial disclosure transitional period.

Enclosure:


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5 TRPA’s policy limits us to investments of 2-years duration or less.
6 While neither US Treasury or US Agency notes are actually rated, they are seen has the highest quality benchmark – equivalent to a AAA rating or better.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: TRPA Office Relocation/Change in Use

Application Type: Change in Use

Applicant: Falcon Capital/Tahoe Regional Planning Agency

Location: 128 Market Street, Douglas County

Assessor’s Parcel Number: 07-180-90

Staff Recommendation: Staff recommends approval of the subject project. The required actions are outlined in Section D of this staff summary and the recommended conditions of approval are included in the attached Draft Permit.

Project Description: The Tahoe Regional Planning Agency (TRPA) is proposing to relocate it’s offices to an approximately 50,000 square foot existing building off of Kingsbury Grade. The TRPA would occupy approximately 20,000 square feet of the building. The existing building is being utilized for various industrial and warehouse uses. Tenant Improvements and exterior cosmetic improvements would need to be completed for the proposed TRPA portion. These interior and exterior improvements would not require a TRPA permit, but will require a Douglas County building permit.

Site Description: The existing site is currently developed with a commercial warehouse building and associated parking.

Issues: The proposed project involves a significant increase of traffic and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issue is traffic/air quality.

A traffic analysis has been prepared by LSC Transportation Consultants, Inc. to assess the potential traffic and air quality impacts of the proposed change in use. The conclusions of the traffic analysis state that although a significant amount (as defined by the TRPA Code of Ordinances) of additional daily vehicle trip ends (dvte) is estimated to be generated as a result of the change in use (376 dvte), no significant impacts to air quality were identified. An Air Quality Mitigation fee of $11,280 is required as part of this approval. The analysis further concludes that Vehicle Miles Traveled (VMT) will increase by 51 VMT. This is considered insignificant. The analysis also evaluated the impacts on the Level Of Service (LOS) at the intersection of Kingsbury Grade and Market Street. The analysis concludes that at peak hour the intersection is operating at a LOS C. With the occupancy of the TRPA, the LOS would remain at a level C. With regards to parking, there are currently approximately 135 parking stalls on site. An analysis of the TRPA parking requirements shows that 91 spaces would be required based on occupying 20,000 square feet. This would leave approximately 45 spaces available for the remaining uses. The requirement of 91 spaces includes 10 spaces for the TRPA vehicle fleet. The Community Plan standards would only require 80 spaces.
TRPA Change in Use
Page 2

(1 per 250 square feet of floor area) and not require the inclusion of additional parking for the vehicle fleet.

Staff Analysis:

A. **Environmental Documentation:** The applicant has completed an Initial Environmental Checklist (IEC) and a traffic analysis 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 and traffic analysis will be made available at the Governing Board hearing and at TRPA.

B. **Community Plan:** The project is located within the Kingsbury Community Plan. The Land Use Classification is Commercial/Public Service and the Management Strategy is Mitigation. Agency Staff has reviewed the subject community plan and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (government offices) is listed as an allowed use.

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

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

   (a) **Land Use:** The proposed use for the site is a government office which the Kingsbury Community Plan identifies as an allowed use.

   (b) **Transportation:** A traffic analysis has been prepared to evaluate the potential impacts of the proposed project. A discussion of the traffic analysis conclusions is included in the Issues Section of this staff summary. An estimated 376 additional daily vehicle trip ends (dvte) will be generated as a result of the project. An Air Quality Mitigation fee of $11,280 is required as part of this approval.

   (c) **Conservation:** The site improvements include landscaping, façade modifications and sign retrofit, along with Best Management Practices. There are no known special interest species, sensitive or uncommon plants, or cultural or historical resources impacted by the project.

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

   (e) **Public Service and Facilities:** No additions to public services or facilities are required for this project.
TRPA Change in Use
Page 3

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

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

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

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

(Refer to paragraph 2, above.)

D. **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 found in the attached draft permit.
DRAFT PERMIT

PROJECT DESCRIPTION: Tahoe Regional Planning Agency Change in Use

APN 07-180-90

PERMITTEE(S): Falcon Capital

COUNTY/LOCATION: 128 Market Street, Douglas County

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 28, 2002, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on August 28, 2005, without further notice unless the change in use has commenced prior to this date and is diligently pursued thereafter. 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 SATISFACTORY 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 PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

_________________________________________ Date

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 Permittee(s) ___________________________ Date ______________________

PERMIT CONTINUED ON NEXT PAGE

CONSENT CALENDAR NO. 3

10
DRAFT
APN 07-180-90

Air Quality Mitigation Fee: Amount $11,280  Paid ______  Receipt No. ______

TRPA ACKNOWLEDGEMENT: The permittee has complied with all conditions of approval as of this date.

TRPA Executive Director/Designee                        Date

SPECIAL CONDITIONS

1. This permit is for a change in use for approximately 20,000 square feet of warehouse to government offices (TRPA).

2. No signage is authorized as a part of this approval. Any new signage would require the review and approval of Douglas County.

3. Prior to acknowledgement of the permit, the permittee shall submit an air quality mitigation fee of $11,280. This fee is based on the generation of 376 additional daily vehicle trip ends (dvte) assessed at $30 per dvte.
Project Name: Round Hill Professional Offices

Application Type: New Commercial Building

Applicant: Lake Salmon, LLC.

Applicant's Representative: Jeffery Lundahl, Lundahl and Associates

Agency Planner: Michael Rhoades, TRPA Contract Planner

Location: 178 US Highway 50, Round Hill, Douglas County

Assessor's Parcel Numbers: 05-350-05, 06

TRPA Project Number: 20020696

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

Project Description: The proposed project is the construction of a new 6,140 square foot, two story office building in Round Hill, Douglas County, Nevada. Proposed development includes the construction of the new building, the expansion of an existing parking lot, grading, tree removal, landscaping and the construction of retaining walls. The maximum height of the new building is 32 feet. The proposed building will be located adjacent to existing commercial buildings. The project involves the allocation and transfer of over 2,500 square feet of Commercial Floor Area and therefore requires Governing Board approval.

Site Description: The project area is comprised of two parcels (Douglas County Assessor's Parcel Numbers 05-350-05 and 06). The project area is located on US Highway 50, south of Elks Point Road. Adjacent land uses include commercial office buildings and a fire station. There is one commercial building existing on the subject property, along with a parking lot that serves that building. The new building will be located across the parking lot from the existing building, perpendicular to US Highway 50. A portion of the subject parcel was previously filled and graded approximately level with US Highway 50. The new building will be situated in an area that was not filled, so that the second story floor will be approximately level with the existing parking lot and US Highway 50.

The project area is located in the Round Hill Community Plan. The total project area is 1.2 acres (53,617 square feet) in size and is comprised of Land Capability Classes 3, 4 and 5 land. The project area is visible from US Highway 50.

/MR
8/28/02
Issues: The proposed project is a new commercial building that requires an allocation or transfer of over 2,500 square feet of new commercial floor area. The proposed use (Commercial: Professional Offices) is an allowed use in the Round Hill Community Plan area.

Staff Analysis:

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

B. Community Plan: The project is located within the Round Hill Community Plan (RHCP). The Land Use Classification is Commercial/Public Service and the Management Strategy is Mitigation. Commercial Services (Professional Offices) are an allowed use in the Community Plan.

The project will include measures required by the RHCP, including landscaping, signs, shared parking and design standards. Agency staff has reviewed the subject Community Plan and has determined that the project is consistent with the applicable planning statements, planning considerations and special policies.

C. Land Coverage:

1. Land Capability District:

The verified land capability districts of the project area are Class 3, 4 and 5. The total project area is approximately 1.23 acres (53,617 square feet).

2. Existing Coverage:

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<tr>
<th>Class</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Class 3</td>
<td>176</td>
</tr>
<tr>
<td>Class 4</td>
<td>0</td>
</tr>
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<td>Class 5</td>
<td>10,304</td>
</tr>
<tr>
<td>Total Onsite</td>
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</tbody>
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3. Proposed Coverage:

<table>
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<th>Class</th>
<th>Square Feet</th>
</tr>
</thead>
<tbody>
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<tr>
<td>Class 4</td>
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</tr>
<tr>
<td>Class 5</td>
<td>19,004</td>
</tr>
<tr>
<td>Total Proposed</td>
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</table>

4. Allowed Coverage:

<table>
<thead>
<tr>
<th>Class</th>
<th>Area</th>
<th>Coverage</th>
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</thead>
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<tr>
<td>Class 3 Area:</td>
<td>(11,517 s.f. x 5%)</td>
<td>576 square feet</td>
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<tr>
<td>Class 4 Area:</td>
<td>(5,496 s.f. x 20%)</td>
<td>1,099 square feet</td>
</tr>
<tr>
<td>Class 5 Area:</td>
<td>(36,604 s.f. x 25%)</td>
<td>9,151 square feet</td>
</tr>
<tr>
<td>Total Allowed</td>
<td>10,828 square feet</td>
<td></td>
</tr>
<tr>
<td>Total Allowed with Transfer</td>
<td>21,050 square feet</td>
<td></td>
</tr>
</tbody>
</table>
(Note: Total Allowed Coverage for Commercial Projects located within Community Plans, with transfer, is 50% of the project area of the high capability portion, per Subsection 20.3.B.2 (b) of the TRPA Code of Ordinances).

5. **Coverage Mitigation:**

The applicant will be required to pay a water quality mitigation fee for the new land coverage created up to the maximum allowable land coverage for the parcel (385 square feet). The remaining portion of the land coverage to be transferred to the site is not subject to the water quality mitigation fee.

D. **Building Height:** Based on an 8% cross-slope retained across the building site, and a 5:12 roof pitch, the allowed height for the proposed building is 32 feet, pursuant to Chapter 22, Table A. The proposed building has a height of 32 feet, which is consistent with the additional height findings. This project is permitted the 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 F.8, below.

E. **Commercial Floor Area:** The new building will have 8,140 square feet of commercial floor area (CFA). Douglas County has allocated 1,799 square feet of commercial floor area to the project. An additional 4,341 square feet of CFA will be transferred to the project.

F. **Required Findings:** The following is a list of the required findings as set forth in Chapter 6, 20, and 22 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

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

   (a) **Land Use:** The applicant is proposing to build a new commercial (office) building within the Round Hill Community Plan. The new building will be located adjacent to existing professional offices. The applicant will install temporary and permanent Best Management Practices (BMPs). The proposed use (Commercial: Professional Offices) is an allowed use for the community plan area.

   (b) **Transportation:** The project will generate seventy-nine (79) new daily vehicle trips. Trip generation of less than one hundred (100) new daily vehicle trips is considered an insignificant increase per Subsection 93.2.C of the TRPA Code of Ordinances. 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 (US Highway 50). The proposed building will be situated so the first story will be located below the US Highway 50 grade. The applicant has proposed to retain existing trees and to plant landscaping improvements to further minimize the visibility of the structure from the
roadway. As a condition of project approval, the applicant will be required to retain the two trees greater than 30" in diameter located in an area proposed for parking. 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: The project will not create a demand for new or expanded public service facilities.

(f) Implementation: The project will utilize 1799 square feet of commercial floor area from the Round Hill Community Plan.

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

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

The project proposes to relocate existing land coverage. The coverage will be relocated within the Land Capability Class 5 area. The relocated land coverage will be used for the new parking lot and new building, portions of which will be located on disturbed areas (fill slopes) of the parcel.

5. The area from which the land coverage was removed is restored in accordance with Subsection 20.4.C.

As a condition of project approval, the applicant will provide a restoration/landscape plan for the area from which coverage is removed.

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

The coverage will be relocated within Land Capability Class 5 areas.
7. When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The height of the building will be 32 feet. The building will be situated so that the first floor will be below the grade of the parking lot and neighboring building. The building will not extend above the adjacent forest canopy.

G. 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 F 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:
TAHOE REGIONAL PLANNING AGENCY

308 Dorla Court
Elks Point, Nevada
www.trpa.org

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

Phone: (775) 586-4547
Fax (775) 588-4527
Email: trpa@trpa.org

DRAFT PERMIT

PROJECT DESCRIPTION: New Commercial Building

APNs: 005-350-05.06

PERMITTEE: Lake Salmon LLC

FILE #20020696

COUNTY/LOCATION: Douglas County / 178 US Highway 50

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 28, 2002, subject to the standard conditions of approval attached hereto (Attachment O) and the special conditions found in this permit.

This permit shall expire on August 28, 2005 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 PREGRADE INSPECTION HAS BEEN CONDUCTED. TRPA’S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

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 __________

/ma

PERMIT CONTINUED ON NEXT PAGE

/MA
8/28/02

18 CONSENT CALENDAR ITEM NO. 4
APN: 005-350-05,06  
FILE NO. 20020696

Air quality Mitigation Fee: Amount: $2370  Paid: _______ Receipt No. _______

Water quality Mitigation Fee: Amount: $535.92  Paid: _______ Receipt No. _______

Security Posted: Amount $ 6,500.00  Posted _______ Receipt No. _______ Type _____________

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

* $139 if cash security posted or $72 if non-cash security posted. Please see Attachment J.

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:

_____________________________  Date
TRPA Executive Director/Designee

SPECIAL CONDITIONS of APPROVAL

1. This permit specifically authorizes the construction of a new 6,924 square foot, two-story commercial office building in Round Hill, Douglas County, Nevada. Approved construction is shown on the project plans dated September 28, 2001, and includes the following:

   - The construction of new two-story building with 6,154 square feet of Commercial Floor Area;
   - Construction of a new parking lot connecting to an existing parking lot, including associated grading and tree removal;
   - Construction of retaining walls to stabilize fill slopes; access bridges and landscaping;
   - Construction of permanent Best Management Practices (BMPs);
   - Paving and constructing BMPs on an access easement;
   - The construction of other improvements as shown on the project plans contained in the project file.

2. The Special and Standard Conditions of Approval, when applicable, of TRPA File No. 200668 (APN 005-350-05) shall apply to this permit.

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

/MR
8/28/02

CONSENT CALENDAR ITEM NO. 4
A. The Standard Conditions of Approval listed in Attachment Q.

B. The project plans shall be revised to include the following:

(1) The Permanent BMP Plan shall be revised to include a grease and oil trap designed to treat runoff from parking areas, prior to conveyance to the infiltration basin, pursuant to Subsection 81.2.B of the TRPA Code of Ordinances and the TRPA Memorandum (March 22, 1999) addressing grease/oil trap requirements.

(2) The Site Plan shall be revised to retain the 32-inch and 36-inch pine trees proposed for removal for construction of the parking lot, pursuant to Subsection 71.2.B of the TRPA Code of Ordinances. The parking lot and garbage enclosure shall be reconfigured to retain the trees, and shall include permanent protection for the roots of the trees. The required number of parking spaces may be reduced, to save these trees, pursuant to the parking standards of the Round Hill Community Plan, Parking Standards, A (3) and B(6).

(3) The Landscape Plan shall specify the planting of red cedars or similar spreading conifers between the new building and US Highway 50, as discussed in the Scenic Mitigation Measures (Lundahl, May 21, 2001). The tree list shall be revised to exclude Jeffrey pine and Austrian pine, and shall include Hawthorne, Mountain Ash and other trees specified in the Round Hill Community Plan Design Guidelines.

(4) The Landscape Plan shall demonstrate that 15% of the parking and driveway areas will be landscaped, pursuant to the Round Hill Community Plan, Landscape Standards, B and F(2). Additional landscape screening of the existing commercial building (150 US Highway 50) from the roadway should be included.

(5) The Landscape Plan shall indicate revegetation of the area where asphalt and concrete will be removed on APN 05-350-06, and shall be consistent with Subsection 20.4.C. of the TRPA Code of Ordinances. The restoration plan shall include the installation of permanent parking barriers to provide permanent protection of the restored area.

(6) The Temporary BMP Plan shall be revised to locate the line of tree/vegetation protection fencing (south-east of the new building) to extend between the new building and all retained trees. Tree protection fencing around the drip line of the 32-inch and 36-inch pine trees shall be shown. (See Condition 4.B.(2)).

(7) The land coverage calculations shall specify the amount of land coverage proposed for relocation within APN 05-350-06.

C. The permittee shall submit an exterior lighting plan for TRPA review and approval. Said plan shall describe how all existing and proposed lighting fixtures within the
project area will conform to Subsection 30.8 of the TRPA Code of Ordinances, and the Round Hill Community Plan. All existing lighting fixtures in the project area shall be retrofitted to minimize light spay.

D. The permittee shall submit a report, for TRPA review and approval, that evaluates potential impacts to the trees located adjacent to proposed grading, specifically pine trees 30-inches or greater in diameter (see Condition 3.B.(2)) and pines located north of the new building. Said report shall be prepared by a qualified professional (forester or arborist), or the TRPA Forester, and shall recommend measures to ensure the long-term health of said trees, pursuant to Subsections 65.2.E and 71.2.B of the TRPA Code of Ordinances. Final approval of the proposed grading may require additional mitigation measures.

E. The permittee shall post a project security of $6,500.00 to insure the installation of all required BMPs and all proposed landscaping. Please see attachment J, Security Procedures for appropriate methods to post a security and for calculation of the required Security Administrative fee.

F. The permittee shall submit a BMP Maintenance Plan for TRPA review and approval, pursuant to subsection 25.8 of the TRPA Code of Ordinances.

G. The permittee shall submit documentation that demonstrates that the proposed paving within the access easement on APN 05-350-03 is authorized by the property owner, and that the new land coverage resulting from the paving is consistent with the TRPA land coverage regulations.

H. The permittee shall transfer 4,355 square feet of Commercial Floor Area (CFA) to the project area for the new building. The new building shall have a total of 6,154 square feet of CFA.

I. The permittee shall transfer 8,2004 square feet of land coverage to the project area. All land shall be from Class 1-5, and shall be from Hydro Area 4. Separate TRPA review and approval is required.

J. The permittee shall pay an Air Quality Mitigation fee of $1,975.00 for the creation of 79 new daily vehicle trips, per Subsection 93.3.D of the TRPA Code of Ordinances.

K. The permittee shall submit a water quality mitigation fee of 535.92 based on the creation of 348 square feet of base allowable land coverage.

L. The permittee shall submit three sets of final construction drawings for TRPA review and approval.

4. This permit acknowledges an allocation of 1,799 square feet of Commercial Floor Area (CFA) from Douglas County to the project area.
5. 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.

6. The permittee shall submit a project construction schedule for TRPA review and approval. Said schedule shall include dates for the installation of permanent BMPs, winterization of the project site, and paving of the parking area, if the site will be under construction during winter.

7. This permit does not authorize the proposed signs for the new or existing buildings. A separate TRPA permit is required for new signs.

8. Please note that straw bales that are not certified as weed-free are no longer allowed 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 required.

End of Permit
Project Name: Chaplinsky Conversion of a Boat Ramp to a New Pier, and the Removal and Reconstruction/Reconfiguration of a Shoreline Protective Structure

Application Type: Shorezone

Applicant: Rob Chaplinsky, Leah Kaufman, As Agent

Agency Planner: Brenda Hunt, Associate Planner, Project Review Division

Location: 90 Shoreline Circle, Washoe County, NV

Assessor's Parcel Number / File Number: 122-162-026/20010765

Staff Recommendation: Staff recommends approval of the proposed project as conditioned, based on this staff summary and evidence contained in the project record. The required actions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to remove an existing concrete boat ramp/rail system and a concrete sandbag retaining wall surrounding the boat ramp, and build a new pier. The proposed pier is to extend 150 ft., approximately 60 feet short of the TRPA pierhead line. The proposed pier will be constructed with single pilings and will be 6 feet wide. The pier deck will be at elevation 6232 Lake Tahoe Datum. The pierhead will have double pilings and measure 10 feet wide. A 3' x 45' catwalk and a single low-level boatlift will be attached to the pierhead.

The project also involves the removal of an existing decomposing mortared-solid rock shoreline protective structure. This structure will be rebuilt to better prevent erosion of the shoreline, to provide feed and escape/cover habitat for fish, and to address scenic concerns. (See Site Visit Photos Exhibit A and B)

Site Description: The lake-bottom substrate in the project area has been mapped and verified as prime fish feed and escape/cover habitat and is composed of large boulders and cobbles with interspersed sand and gravel beds. The upland project area is approximately 22,043 square feet (0.5060 acres) in size and is developed with a single family residential dwelling. The backshore contains a large nearly vertical shoreline protective structure, consisting of large boulders mortared together, a concrete boat ramp/rail system with a cement bag retaining wall, and other minor backshore structures. There are rock jetty's associated with both adjacent properties to the West and East. The parcel is composed of Land Capability Districts 1b (backshore), 4 and 6 and is visible from Scenic Shoreline Travel Unit #23 which is currently not in attainment with TRPA scenic thresholds. The project area is also visible from the Burnt Cedar Beach Recreation Area which is a TRPA identified scenic resource. The proposed pier and shoreline protective structure, however, are not visible from the highway.
Issues: The primary issues associated with this project are fish habitat, soil erosion/water quality, and scenic quality:

The proposed project is located in mapped and verified feed, and escape/cover habitat. The removal of the existing concrete boat ramp and the associated cement sandbag retaining wall will allow for the restoration of approximately 220 square feet of currently encapsulated fish habitat. The project will also provide additional feed, escape/cover habitat with the construction of a more ‘fish friendly’ shoreline protective structure.

The existing shoreline protective structure is nearly vertical and has been severely undercut by wave action and ice damming causing the shoreline to erode and deepen at the toe of the wall. Portions of the existing structure are falling into Lake Tahoe, increasing the instability of the structure and the shorezone. The combination of the location of the Chaplinsky property (between two man-made rock jetty’s), the moderately deep water near shore, and the moderate to moderately high energy wave action, results in continued erosion problems at this site. Associated with the erosion problem is the potential for vegetation loss and a decrease in water quality resulting from the instability of the shoreline.

As stated in the Geotechnical Report the erosion of fine to medium grain soils tends to be severe. The redesign of the protective structure has incorporated the wave size and energy in reflection/refraction found at the site. The proposed structure will enhance water quality, littoral processes, and increase the amount of feed, and escape/cover fish habitat within the project area.

The project area is visible from Scenic Shoreline Unit Number 23, Crystal Bay, which is not in attainment with the established scenic threshold. TRPA staff has worked with the applicant’s representatives to develop a scenic mitigation package that is consistent with the recommendations for improving the scenic quality identified in the Scenic Quality Improvement Program (SQIP). The mitigation package is expected to result in an incremental improvement in the scenic quality of the project area after removal of the boat ramp, reconstruction of the shoreline protective structure, and construction of the new pier. The applicant has proposed to mitigate the scenic impacts of the project by repainting the residential dwelling to a darker greenish brown color (rated 5 on the Munsel color chart). The proposed landscape plan provides increased screening for the residential dwelling with the planting of native conifers and other native plant species. Additionally, the rebuilding of the shoreline protective structure includes a landscaping plan with native willows, alders and cottonwoods.

Views of the project from Burnt Cedar Beach Recreation Area will be minimized as a large portion of the pier will be hidden behind the existing rock jetty associated with the beach.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC), a Fish Habitat Environmental Assessment, a Soil and Geotechnical Investigation Report, and a visual simulation. 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, and the above
mentioned items will be made available at the Governing Board hearing and at the TRPA offices.

B. Plan Area Statement: The project is located within Plan Area Statement Number 37/ Lakeview. The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed use (pier) is an allowable accessory structure. The proposed reconstruction of the shoreline protective structure is a special use accessory structure in the Plan Area Statement with the associated allowed use being residential.

C. Land Coverage:

1. Land Capability District: The land capability districts of the project area include classes 6, 4, and 1b (backshore). The total project area is 22,043 square feet (0.5060 acres).

2. Total Allowable Land Coverage: 4,975 square feet

3. Total Existing Land Coverage: 6,240 square feet

4. Proposed Land Coverage: 5844 square feet

5. 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. 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 except where access will not cause environmental harm and pedestrian access to the shoreline is limited to stabilized access ways. The project, as conditioned, complies with the shorezone tolerance district development standards.

E. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 20, 51, 50, 52, 54 and 55 of the TRPA Code of Ordinances. Following each finding, agency staff has 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: Beach Recreation is listed as an allowed primary use within the Lakeview Plan Area Statement. The proposed project involves the construction of an allowed accessory structure (pier) and the reconstruction/reconfiguration of a special use structure consistent with the Land Use Element of the Regional Plan. Surrounding land uses consist of residential properties with
accessory shorezone development consisting of piers and backshore decks. The proposed project will not alter any land use patterns.

(2) **Transportation:** The proposed pier 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. The project area is within a Scenic Shorezone Unit which is not in scenic attainment. The project must show a scenic improvement in order to be approved. The applicant has proposed to paint the residential dwelling a darker color (5 on the Munsel Color Chart) and provide additional landscape screening for the dwelling and the reconstructed shoreline protective structure, to ensure that adverse scenic impacts will be mitigated. This project will not result in the obstruction or degradation of any scenic vista or view open to the public. No Tahoe Yellow Cress (*Rorippa subumbellata*) was found on the site visit conducted 17 June 2002. The area is mapped and verified feed, and escape/cover fish habitat. The project is expected to improve the fish habitat as per the fish habitat study by A.A. Rich and Associates. A monitoring plan will be required to provide evidence regarding the establishment of fish habitat. 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 resources within the project area.

(4) **Recreation:** The project is visible from the Burnt Cedar Beach Recreation Area. The proposed pier will be partially hidden by an existing rock jetty. Scenic mitigation measures associated with the landscaping of the rock protective structure will provide an improvement to the scenic quality. The proposed pier will be similar in length to adjacent existing piers and will not extend beyond the TRPA pierhead line. The proposed pier will not adversely affect recreational boating or top-line angling.

(5) **Public Service Facilities:** This project does not require any additional 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.

The proposed project will require that 100 square feet of coverage be relocated in the backshore to allow access to the pier. The area of relocation has been previously disturbed as it is part of the existing rock shoreline protective structure. The relocation area currently contains no natural vegetation. All relocated land coverage is being relocated within 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 20.4.C.

Pursuant to Subsection 55.6 of the TRPA Code of Ordinances, restoration of the area will be required where the shoreline protective structure is to be reconstructed/reconfigured and the access to the existing boat ramp is being removed. All restoration activities will use species listed on the TRPA-approved plant list as species appropriate for the backshore 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 higher land class to a lower class. All relocation will occur within land class 1b (backshore).
3. **Shorezone Findings (Chapter 50):**

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 removal of the concrete boat ramp and the proposed reconstruction/reconfiguration of the shoreline protective structure will improve littoral processes by dissipating the wave energy over a permeable rock protective structure as opposed to the existing situation. The proposed new pier is 90 percent open and meets all TRPA Design Guidelines. The proposed project is located in an area mapped and verified as prime fish habitat (feed and escape/cover) and will not adversely impact fish spawning. There will be a net gain in fish habitat in relation to the proposed project. The removal of the existing boat ramp will make available 220 square feet of additional fish habitat. The area where the boat ramp is to be removed and the shoreline protective structure is to be reconstructed/reconfigured, will be revegetated and stabilized. The proposed pier will extend from the reconstructed shoreline protective structure and have minimal impact on the backshore. 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 that is verified as a residential. The pier will only be used by the property owners and their guests.

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 and rock jetty’s) 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 proposed pier is located in the foreshore and nearshore of Lake Tahoe and is 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 store construction materials on the beach or in the backshore. Permanent disturbance to ground and vegetation is prohibited. The construction of the pier will be accomplished from the lake by barge. The removal and reconstruction of the rock protective structure will be done from the upland. All construction and grading activities will adhere to the standards found in Chapters 62 and 63 of the TRPA Code of Ordinances. Temporary BMP’s will be required to ensure disturbance is minimized.

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 Nevada Division of State Lands and the U.S. Army Corps of Engineers. Comments from these agencies were solicited as part of the review of this project. The project was also brought to the Shorezone Review for further multiple agency review.

4. **Chapter 51 – Special Use Findings**

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

According to the Plan Area Statement, Shoreline Protective Structures are considered a special use. The existing shoreline protective structure is currently being undermined by wave action and portions of the mortar and rock are falling into Lake Tahoe. The proposed removal and
reconstruction/reconfiguration of the existing protective structure is of a nature, scale, density, intensity and type to be an appropriate use within this project area, as it will control the erosion at this site and improve water quality. The proposed protective structure will be an improvement to the scenic quality of the project area and its surroundings as it will mimic the natural rocky shoreline. The permit will be conditioned to require a monitoring plan to ensure that the proposed benefits relating to the creation of additional fish habitat, better littoral processes and scenic improvements are realized.

b. 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 project as proposed, will utilize best management practices during the removal and reconstruction/reconfiguration of the shoreline protective structure to ensure the project is not injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or neighboring properties. The replaced structure, as proposed, will protect the land and water resources along this portion of shorezone and should improve the littoral process in and around the project area.

c. 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 removal of the existing shoreline protective structure and the replacement, reconstruction/reconfiguration will not change the character of the neighborhood or detrimentally affect or alter the purpose of the plan area statement. In fact, this structure should enhance the character of the area.

5. Shorezone Findings (Chapter 52):

a. The structure, including any expansion, remains in compliance with the applicable development standards.

The project proposes to remove an existing shorezone structure (boat ramp) and replace it with a new pier. The proposed pier will be a 90% open piling design and will meet all of TRPA’s development standards. The removal and reconstruction/reconfiguration of the shoreline protective structure will meet all the TRPA development standards as stated in the findings for Sections 54.13 and Section 55. 4.C outlined below. TRPA staff has inspected the subject parcel and has determined that the proposed project will not adversely impact fisheries due to the proposed

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pier design and construction methods. The project also will not create a degradation of any of the other environmental thresholds (Finding #1.1 above). The proposed pier project is located within Scenic Shoreline Unit 23 (Lakeview), which is not in attainment with TRPA scenic quality thresholds. The applicants are proposing a scenic mitigation package that is expected to result in an incremental improvement in the scenic quality of the project area.

b. **The repair and any expansion conforms to the design standards in Section 53.10.**

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

c. **The project complies with the requirements to install Best Management Practices (BMPs) as set forth in Section 25.2.**

All of the required permanent and temporary BMPs will be installed as a condition of approval.

6. **Shorezone Findings (Chapter 54):**

a. **Structures in the backshore or environmental threshold values will be enhanced by the construction and maintenance of the protection structures.**

The applicant has provided documentation that the shoreline erosion problem at this project site will require remedial measures. The removal of the existing mortared shoreline protective structure and the reconstruction/reconfiguration with a more dynamic, sloping, and permeable structure will enhance soil protection, improve water quality, enhance scenic quality, and provide improved fish habitat.

b. **The protection of structures in the backshore or the enhancement of environmental threshold values more than offset the adverse environmental effects of the construction and maintenance of the shoreline protective structures.**

See 5(a) above.

c. **Each protective structure has been designed to be sloping and permeable; provided, however, that this findings required under Subparagraph 54.13.B(1).**

The proposed shoreline protective structure to replace the existing near vertical mortared shoreline protective structure will be sloping and
permeable. A landscaping plan for the structure will provide substantial riparian plantings of willows, alders and cottonwoods to screen the structure, and once established, provide added stability to the site.

d. Each protective structure has been designed so that backshore erosion on adjacent properties will not be accelerated as a result of the erection of the protective structure.

Shoreline processes within this area are man-modified. The project area is "protected" to the west by a large rock jetty. The existing shoreline protective structure meets this jetty at an acute angle. The proposed shoreline protective structure will slightly curve toward the existing jetty. Due to the characteristics of this rock jetty and the design of the new shoreline protective structure, the risk of additional erosion is very slight. The project anticipates an increase in the transport of littoral sands on the subject property.

The new shoreline protective structure will be tapered to meet the neighboring property to the east with the use of smaller, less densely placed rocks toward the property boundaries. The proposed project anticipates that the transition will have no significant impact on the neighboring properties. Based on the design of the structure, the project will improve the transport of littoral sand so it will function more naturally.

7. Shorezone Findings (Chapter 55):

a. The project, program or facility is necessary for environmental protection.

See 5(a).

b. There is no reasonable alternative, which avoids or reduces the extent of encroachment in the backshore.

Complete removal of the existing shoreline protective structure without further protection will result in increased erosion of the backshore. The Geotechnical Report estimates that several hundred cubic yards of soil would be transported into the Lake without the proposed structure. There is also the potential for long-term loss of several trees and continued erosion of the subject property. Staff concurs that there is no reasonable alternative to the proposed encroachment in the backshore. All construction activities and final outcomes will be monitored to ensure the project is implemented and functions as proposed.

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:

1. 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.

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/BH

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II. A motion to approve the project based on this staff summary subject to the conditions contained in the attached draft permit:
TAHOE REGIONAL PLANNING AGENCY

308 Dorla Court
Elks Point, Nevada
www.trpa.org

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

DRAFT PERMIT

PROJECT DESCRIPTION: Conversion of existing boat ramp to a new pier, with removal and reconstruction/reconfiguration of the shoreline protective structure.

APN: 122-162-26 FILE NO. 20010795 PERMITTEE: Rob Chaplinsky

COUNTY/LOCATION: 93 Shoreline Circle, Washoe County, NV

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 28, 2002 subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on August 28, 2005 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 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 HAVE ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT.

_________________________ ________________________
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: Date

PERMIT CONTINUED ON NEXT PAGE

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/BH

CONSENT CALENDAR ITEM NO. 5
Excess Coverage Mitigation Fee\(^{(1)}\): Amount $______  Paid _____  Receipt No. ________

Shorezone Mitigation Fee\(^{(2)}\): Amount $5,000  Paid _____  Receipt No. ________

Security Posted\(^{(3)}\): Amount $_____  Posted ________  Receipt No. ______  Type _____

Security Administrative Fee\(^{(4)}\): Amount $_____  Paid _____  Receipt No. ______

Notes:
(1) *Amount to be determined. See Special Condition 3.B, below.
(2) *See Special Condition 3.C, below.
(3) *Amount to be determined. See Special Condition 3.D, below.
(4) *$139 if cash security is posted, or $72 if non-cash security is posted. See attachment "J".

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:

______________________________  __________________________
TRPA Executive Director/Designee  Date

1. This permit specifically authorizes the removal of an existing boatramp and concrete sandbag retaining wall and the placement of a new pier. The pier shall not exceed 150 feet in length (as measured from the high water line). The pier shall be six feet wide and supported by single pilings. The construction of a double piling 45 foot by 3 foot catwalk at the pierhead (includes catwalk, lancing, and ramp), and a single low-level boatlift is also authorized by this permit. The permit also authorizes the removal of an existing mortared rock shoreline protective structure. A new permeable (dynamic toe) rock shoreline protective structure will be reconstructed along the shoreline of the subject parcel (approximately 70 linear feet). The structure shall be constructed along the existing shoreline between lake bottom elevations 6,227' and 6,232'. This permit specifically prohibits the filling of any portion of the lagoon to create additional land area on the subject parcel. This permit does not authorize railings, pilings, or other structures above the pier deck. No existing or proposed buoys are verified or approved under this permit.

2. The Standard Conditions of Approval listed in Attachment S, where applicable shall apply to this permit.

3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
A. The site plan and/or construction plans shall be revised to include:

1. Placement of a turbidity curtain, caissons and erosion control fencing during boat ramp removal, pier construction and any work involving modification of the shoreline.

2. Placement of the pier so all portions of the proposed boatlift are within 20 feet of the TRPA projection lines.

3. TRPA approved low level lighting details for the pier as per Standard 54.4 Guideline 6 in the TRPA Design Review Guidelines.

4. A dynamic component of the shoreline protective structure shall be implemented at the toe of the slope to provide a smooth transition for wave run-up.

5. Revegetation of the area between the residence and the shoreline. The area shall be planted using species listed on the TRPA approved plant list as species appropriate for the backshore. No lawn is to be planted or revegetated in the backshore. Plans for the shoreline protective structure shall include, but not be limited to, native willow, alders and cottonwood trees. Upland area plantings shall use native evergreen species to increase the screening of the residence. The final landscape plan shall be reviewed and approved by TRPA prior to permit acknowledgment.

6. The location of the construction access and staging area shall be defined with vegetation protection fencing. All construction staging and material storage for the shoreline protective structure shall be on asphalt or previously disturbed areas. 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."

7. All required permanant Best Management Practices (BMP's) for the entire project area.

8. Temporary erosion control structures located downslope of the proposed construction areas. Please Note: Straw bales are no longer preferred for temporary erosion control and straw is no longer a recommended mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the 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.
9. Vegetation protective fencing around the entire construction site. Where a tree exists within the construction area, please surround with vegetation protection fencing beyond the dripline of the outermost branches.

10. The following revised land coverage calculations:

   a. Existing and proposed land coverage calculations for each land capability district, shall be revised to be consistent with the land coverage verified as legally existing by TRPA on November 6, 2000 (APN: 122-162-26 Site Assessment). The land coverage calculations shall reflect the following proposed conditions:

      Existing Land Coverage  6240 sq. ft.
      Proposed Land Coverage  5844 sq. ft.
      Relocated Class 1b Land Coverage  100 sq. ft.

   b. The permittee 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.

11. A detail of the cross section of the proposed rock shoreline protective structure, including elevations and slope ratios.

12. The permittee shall submit 4 sets of the final construction drawings and site plans to TRPA.

B. The permittee shall mitigate 1,265 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.

To calculate the amount of excess coverage to be removed, use the following formula:

(1) Estimated project construction cost multiplied by the fee percentage factor 0.0012 divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

(2) Coverage reduction square footage (as determined by formula (1) above multiplied by the coverage mitigation cost fee of $12.00 per square foot for Nevada projects. Please provide a construction
C. The permittee shall submit a shorezone mitigation fee totaling $5,000 ($4,500 for new pier and $500 boat lift addition).

D. The security required under Standard Condition A.3 of Attachment S shall be determined upon the permittees submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures for appropriate methods to post a security and for calculation of the required Security Administration Fee.

4. All construction activity relating to the rock shoreline protection structure shall occur during the grading season, between May 1 and October 15.

5. All construction activity related to the pier shall occur between October 1 and May 1 to minimize impacts to the sensitive life stage of littoral fishes.

6. All rock material (sand, gravel, cobble, and boulders) imported to the site for use in the shoreline protection construction shall be thoroughly washed and shall be free of any silt and clay material. The permittee shall submit a certification from a qualified professional geotechnical engineer that all the imported rock is free of minus #200 sieve material, prior to placing the material into the shoreline protection.

7. Best practical control technology shall be employed to prevent earthen materials from being resuspended as a result of project construction and from being transported to adjacent lake waters. The permittee shall install a turbidity screen around the entire construction site (in the water), or a location determined to by the TRPA Environmental Compliance Officer prior to construction. Caissons may be used for placement of the pier pilings at the discretion of the TRPA Environmental Compliance Officer. The turbidity screen may be removed upon project completion only upon satisfactory inspection by TRPA to insure that all suspended materials have settled.

8. The use of 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 tributyltin (TBT) is prohibited.

9. The trees on this parcel shall not be removed or trimmed without prior written approval from TRPA. Any such removal or trimming shall constitute a violation of project approval.

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

11. Gravel, cobble, or boulders shall not be disturbed or removed to leave exposed sandy areas, before, during, or after construction.

12. The upland single family dwelling shall be painted a value 5 or below on the Munsell Color Chart as part of the scenic mitigation.
13. Prior to return of the posted security, the applicant 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. TRPA staff shall evaluate the photographs to determine if the project is in compliance with the required conditions prior to returning the posted security.

14. All construction staging for the pier shall take place from a barge (off-shore).

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

16. 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.

17. Prior to completion of the project, a Fish Habitat Monitoring Plan shall be developed in conjunction with TRPA staff and a qualified fisheries expert. The plan shall assess fish use of the shoreline protective structure and the pier as feed and cover/escape habitat. Monitoring shall be conducted for a period of not less than three years after completion of the project. After 3 years TRPA shall assess the need for continued monitoring.

18. By acceptance of this permit, the permittee agrees to implement all mitigation measures outlined in the Fish Habitat Environmental Assessment, Soil and Geotechnical Investigation Report, and the scenic mitigation/visual simulation/submitted for this project.

END OF SPECIAL CONDITIONS
TAHOE REGIONAL PLANNING AGENCY

Project Name: South Lake Tahoe Juvenile Hall

Application Type: New Public Service Facility

Applicant: El Dorado County

Applicant's Representative: Craven Alcott, El Dorado County

Agency Planner: Kathy Canfield, Project Review Division

Location: 1041 Al Tahoe Boulevard, City of South Lake Tahoe, El Dorado County

Assessor's Parcel Number/Project Number: APN25-010-52 /20020714

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

Project Description: The applicant is proposing to construct a new 40-bed juvenile detention facility for the Tahoe Basin. The two-story building will be located on a 4-acre parcel of land conveyed to El Dorado County by the Lake Tahoe Unified School District (LTUSD). All land coverage needed for the project, approximately 53,000 square feet, will be transferred to the site. Access to the site is through the existing Government Center parking lot off of Johnson Boulevard and through the existing County Jail parking lot from Al Tahoe Boulevard.

Site Description: The construction site is currently vacant. The land capability district for the project area is Class 7. The new juvenile facility will be located between the existing County Jail and the South Tahoe Middle School, adjacent to the County Jail. The site is nearly flat.

Issues: The proposed project involves a new public service facility with over 3,000 square feet of floor area and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are as follows:

1. Project Area: The four acre project area was originally included in the project area for the South Tahoe Middle School/Al Tahoe Elementary School project area. Chapter 41 of the TRPA Code of Ordinances allows for subdivisions of land for conveyances of property to public entities. As part of the review of the subdivision, TRPA must determine that no additional development potential is created as a result of the subdivision. The agreement between the County and LTUSD is that all land coverage associated with the four acre parcel of land would be retained by LTUSD, meaning that the four acre parcel comes to the County with no base allowable or existing land coverage. This also is the documentation to TRPA that no new development potential is
created. Because the proposed use of the parcel is considered a public health and safety facility, the TRPA Code of Ordinances allows for the transfer of land coverage to be the minimum amount needed for the project. All land coverage needed for the project will be transferred to the project area from another location within the same hydrologic area.

2. **Scenic Quality**: The building has been located so that the proposed project will not be visible from Highway 50, the Al Tahoe bike path (the bike path does not currently extend to the frontage of this property) or from a TRPA designated scenic area. The applicant has proposed building materials that blend, rather than contrast, to the natural surroundings and the design is consistent with the requirements of the Bijou/Al Tahoe Community Plan.

3. **Housing**: The new facility is expected to generate the need for less than 40 employees (approximately 36 employees). El Dorado County has stated in the application material that they expect to hire most of these employees from the local community. The County concludes that the creation of less than 40 permanent job positions would not be considered a significant inducement for population growth or create a demand for additional housing.

4. **Traffic**: The estimated daily vehicle trip end (dvte) generation of the proposed project is 124 dvte. This is defined as a "minor increase" by the TRPA Code of Ordinances and a traffic analysis is not required. The applicant did analyze the Level of Service (LOS) at surrounding intersections including Highway 50 and Al Tahoe Blvd., Johnson Blvd. and Al Tahoe Blvd., and Pioneer Trail and Al Tahoe Blvd. The conclusion of the analysis was that the LOS would not change significantly (a proposed delay increase of 0.1 and 0.4 seconds may occur) the existing conditions at the intersections.

5. **Tree Removal**: The project proposes the removal of approximately 128 trees within the project area. The total site is estimated to have approximately 300 trees. Of the trees to be removed, two are greater than 30-inch d.b.h. (diameter at breast height). The applicant explored alternatives to save the two trees, but the alternative designs either resulted in the removal of other 30-inch trees d.b.h. trees or more total trees. The applicant has proposed to replant approximately 46 new trees and has indicated a willingness to plant more if needed. As a condition of project approval, the applicant will be required to submit a Tree Treatment Plan in accordance with Subsection 65.2.D of the Code. This plan includes, among other things, provisions for optimum stocking levels of trees including the protection and establishment of younger-aged trees as part of the re-vegetation/forestry management strategy for the site. The plan shall be developed by a qualified forester to develop optimum tree stocking levels and a good tree re-vegetation prescription.

**Staff Analysis:**

A. **Environmental Documentation**: The applicant has completed an Initial Environmental Checklist (IEC) and a traffic study 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 and traffic study will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement: The project is located within the Bijou/Al Tahoe Community Plan, Town Center District. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. Agency Staff has reviewed the subject community plan and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (local public health and safety facilities) is listed as an allowed use.

C. Land Coverage:

1. Land Capability District:

The land capability district of the four acre project area is Class 7. The total project area is approximately 174,390 square feet.

2. Existing Coverage:

There is no existing land coverage within the project area.

3. Proposed Coverage:

Building: 20,950 square feet
Roads & Sidewalks: 29,311 square feet
Outdoor Recreation Hard Surface: 3,480 square feet
Total Onsite: 53,741 square feet

4. Allowed Coverage:

No base allowable land coverage is associated with this parcel. See discussion Item 1 above, included in the issues portion of this staff summary.

5. Coverage Mitigation:

The applicant will be required to transfer all land coverage needed for the project to the parcel. Transferred land coverage is not subject to water quality mitigation requirements. The land coverage transfer shall require separate TRPA review and approval.

D. Building Height: Based on a building cross slope of approximately 2%, and a 7:12 majority roof pitch, the base allowed height for the proposed building is 32 feet, 11 inches. This project is eligible for additional height based on the public service use and the function of the building, subject to specific height findings being made by the Governing Board. These findings can be found in Section E of this staff summary. Provided the findings for the additional height are made, the proposed height of 39 feet, 8 inches is consistent with the TRPA height requirements.

/kc
8/15/02

CONSENT CALENDAR ITEM NO. 6
E. **Required Findings**: The following is a list of the required findings as set forth in Chapters 6, 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. **Chapter 6 – Environmental Documentation**:

   (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 proposed use (local public health and safety facility) is an allowed use in the Bijou/Al Tahoe Community Plan Area.

   (2) **Transportation**: The total estimated additional daily vehicle trip ends (dVTE) for the project is 124, which is considered a minor increase by the TRPA Code of Ordinances. The applicant has stated that they will mitigate the 124 dVTE by submitting an air quality mitigation fee.

   (3) **Conservation**: The applicant will be required to apply temporary and permanent Best Management Practice (BMPs) associated with the proposed project. The applicant has submitted photographs demonstrating that the proposed project will not be visible from a TRPA scenic corridor. The applicant has proposed building colors and materials that blend, rather than contrast, with the natural surroundings. There are no known special interest species, sensitive or uncommon plants, or historic or cultural resources in the location of the proposed buildings.

   (4) **Recreation**: No impacts to recreation are expected as a result of the project.

   (5) **Public Service and Facilities**: The project is considered a public service use. Findings to support the additional public service use are outlined below. No other additions to public services or facilities are required to implement the project.

   (6) **Implementation**: This 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 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:

(a) The project is on the list of additional public service facilities if required pursuant to Section 33.5. This list has been replaced by a set of findings. Please see Section E.4, below.

(b) There is no feasible alternative that would reduce land coverage.

Because the parcel does not contain any existing base allowable land coverage, all land coverage proposed for the parcel must be transferred to the parcel. The applicant has proposed a design which provides the minimum parking needed to meet City of South Lake Tahoe requirements and shares an existing driveway with the jail on an adjacent parcel. The juvenile facility has been designed to meet the minimum State and Federal requirements for juvenile detention facilities as well as meeting local regulations concerning height, exterior design, parking, and other site development issues that affect land coverage. In using the minimum standards both for cost containment and to minimize coverage requirements, the design consultants and the County have determined that there are no feasible alternatives that would reduce land coverage further.

(c) The project, because of its unusual configuration or service requirement, requires special consideration.

The design and construction of juvenile detention facilities involves a complex process and requires strict adherence to minimum space and design requirements for all aspects of the facility. These space standards and design criteria have been established by the State and Federal agencies to ensure that the health and safety of both the juvenile detainees and the staff are not compromised. Special consideration of coverage needs is warranted based upon the fact that the facility is overwhelmingly needed in the South Lake Tahoe area and the mandated
design and space criteria provides very little flexibility in the size and footprint of the building.

(d) The facility primarily serves the needs of persons other than those who are, or will be, residents of the lands in question, or the owners of the land in question.

The juvenile hall facility will serve the El Dorado County/City of South Lake Tahoe community and is a public service facility.

3. Chapter 22 – Height:

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

The applicant has submitted photographs demonstrating that the proposed building will not extend above the forest canopy or a ridgeline.

(b) With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.

The buildings will be located within a forested area which does not provide views to distant features.

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

The juvenile hall’s housing unit requires sleeping rooms to be stacked (i.e. multiple stories) to provide optimal visibility and security control from the central control unit of the juvenile hall. Stacking of the sleeping rooms also minimizes the floor area of the day room, providing better control and security of the day room. Minimizing needed floor area also reduces the amount of needed land coverage on the parcel.

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

The roof has been designed to minimize the building height to the maximum extent feasible, while also complying with the 7:12 roof pitch requirement of the Bijou/Al Tahoe Community Plan. No feasible alternatives have been identified that require less additional height and still comply with the community plan roof pitch requirement.
(e) The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.

The elevation drawings include calculations demonstrating that the proposed building complies with this requirement.

3. Chapter 33 – Allocation of Development:

(a) There is a need for the project.

The purpose of the proposed juvenile hall is to supplement the existing juvenile hall in Placerville, 60 miles west of the project site. A Needs Assessment completed by El Dorado County in 1998 identified that the number, age and kinds of beds available for juvenile detention are inadequate to effectively manage the County's current juvenile offender population or its projected growth. The Needs Assessment also found that the law enforcement agencies were constrained in their use of the Placerville Juvenile Hall by distance, time, the court-ordered population cap and the resulting intake/admission criteria.

(b) The project complies with the Goals and Policies, applicable plan area statement and Code.

The Bijou/Al Tahoe Community Plan identifies this parcel to be a within the town center portion of the community plan. The project, as conditioned in the draft permit, is consistent with the TRPA Goals and Policies and Code.

(c) The project is consistent with the TRPA Environmental Improvement Program.

Construction of the project will not impede implementation of the Environmental Improvement Program.

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

The juvenile hall is needed to meet existing needs of law enforcement. See Section E.1, above.

(e) 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.

This project is located within the town center portion of the Bijou/Al Tahoe Community Plan. The project, as conditioned in the attached draft permit, is consistent with the community plan.

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 attached draft permit.
DRAFT PERMIT

PROJECT DESCRIPTION: South Lake Tahoe Juvenile Hall

APN 25-010-52

PERMITTEE(S): El Dorado County

FILE #20020714

COUNTY/LOCATION: El Dorado/1041 Al Tahoe Blvd., City of South Lake Tahoe

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board
approved the project on August 28, 2002, subject to the standard conditions of approval attached hereto
(Attachment Q) and the special conditions found in this permit.

This permit shall expire on August 28, 2005, 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 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 PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA’S
ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

_________________________  _______________________
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  ________________

PERMIT CONTINUED ON NEXT PAGE

/kc
8/15/02

CONSENT CALENDAR ITEM NO. 6
South Lake Tahoe Juvenile Hall
Page 10

APN 11-070-08
FILE NO. 200299

Air Quality Mitigation Fee: Amount $3,720  Paid _________  Receipt No. ____________

Security Posted: Amount $ n/a  Posted _________  Receipt No. _________  Type ____________

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:

__________________________________________  Date

TRPA Executive Director/Designee

SPECIAL CONDITIONS

1. The applicant is proposing to construct a new 40-bed juvenile detention facility for the
Tahoe Basin. The two-story building will be located on a 4-acre parcel of land conveyed
to El Dorado County by the Lake Tahoe Unified School District (LTUSD). All land
coverage needed for the project, approximately 53,000 square feet, will be transferred to
the site. Access to the site is through the existing Government Center parking lot off of
Johnson Boulevard and through the existing County Jail parking lot from Al Tahoe
Boulevard.

2. The Standard Conditions of Approval listed in Attachment Q shall apply to this permit.

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

A. The site plan shall be revised to include:

(1) Identification of vehicular barriers adjacent to all areas of removed land
coverage.

(2) Location and screening of all exterior mechanical equipment. All
equipment shall be screened from public view. Screening shall be
effective in both summer and winter months.

(3) Location and details of all exterior building and parking lot lighting. All
lighting shall be directed downward and the height shall not exceed 26
feet.

(4) Location and details of any proposed fencing within the project area.

/kc
8/15/02

CONSENT CALENDAR ITEM NO. 6

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(5) Location of construction staging area. The construction staging area shall be confined to existing disturbed areas.

B. The permittee shall submit a revised Best Management Practices (BMP) plan that includes the following:

(1) A notation documenting the flow lines for the driveway area adjacent to the outdoor recreation yard and the recreation yard.

(2) A BMP maintenance plan shall be submitted for TRPA review and approval.

(3) Location and detail of temporary erosion control devices shall be provided.

(4) 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."

C. The permittee shall transfer 53,741 square feet of land coverage to the project area prior to final acknowledgement of this permit. The land coverage shall be from any land capability class and shall be located within Hydrologic Area 4.

D. The permittee shall submit a revised landscape plan which includes the following:

(1) Utilizing predominately native plant species for planting/revegetation within the project area. The submitted plant species for the shrubs, groundcovers and sod includes many species not native to the Lake Tahoe Basin.

(2) The planting of trees in accordance with the required stocking plan prepared by a professional forester (see Special Condition G, below), shrubs and groundcovers in the areas of removed land coverage.

(3) A temporary irrigation system to ensure establishment of the proposed vegetation.

E. A sign plan for the project area shall be submitted for TRPA review and approval. All signs shall be consistent with the requirements the Bijou.AI Tahoe Community Plan.

F. The permittee shall demonstrate that the TRPA permit for the parcel line adjustment (conveyance to a public entity – TRPA File 20020712) has received final TRPA acknowledgement prior to acknowledgment of this permit.
G. The permittee shall submit a Tree Treatment Plan in accordance with Subsection 65.2.D of the Code. This plan includes, among other things, provisions for optimum stocking levels of trees including the protection and establishment of younger-aged trees as part of the re-vegetation/forestry management strategy for the site. The plan should be developed by a qualified forester to develop optimum tree stocking levels and a good tree re-vegetation prescription.

H. The permittee shall submit a detailed report demonstrating conformance with all Bijou/AI Tahoe Community Plan/City Wide Design Manual standards and guidelines for TRPA review and approval.

I. The permittee shall submit a $3,720 air quality mitigation fee. This fee is based on the generation of 124 additional daily vehicle trip ends (dvte) assessed at $30 per dvte.

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

4. Prior to, or at, the TRPA pre-grade inspection, the permittee shall provide the TRPA Environmental Compliance Inspector with a projected construction completion schedule. Said schedule shall include completion dates for each item of construction, as well as BMP installations for the entire project area.

5. The adequacy of all required BMPs as shown on the final construction plans shall be confirmed at the time of the TRPA pre-grading inspection. Any required modifications, as determined by TRPA, shall be incorporated into the project permit at that time.

6. All utilities within the project area shall be placed underground.
TAHOE REGIONAL PLANNING AGENCY

Project Name: CALSTAR Office Facility

Application Type: Public Service Addition (Lake Tahoe Airport)

Applicant: City of South Lake Tahoe

Applicant's Representatives: Mike Dikun and Tim Oliver

Agency Planner: Lyn Barnett, AICP – Project Review Division Chief

Location: Lake Tahoe Airport, 1901 Airport Road, South Lake Tahoe, California

Assessor's Parcel Number/Project Number: 033-050-011 (El Dorado County)/STD-20021276

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

Project Description: The applicant proposes to place a one-story 1,422 square foot manufactured modular office building at the Lake Tahoe Airport to house California Shock/Trauma Air Rescue (CALSTAR) offices. CALSTAR is a new non-profit helicopter medical rescue service that has an operating agreement with Lake Tahoe Airport. CALSTAR helicopters provide vital emergency medical services throughout the Tahoe Sierra Region including, but not limited to, emergency air transport to and from regional hospitals.

CALSTAR currently operates out of a temporary trailer inside an airport hanger. This trailer is not adequate in size for the service and has inadequate insulation for winter temperatures. The proposed modular unit will be owned by CALSTAR and will provide adequate office space and temporary crew quarters for on-call medical and flight staff. The proposed modular building will be removed from the airport if the operating agreement between CALSTAR and the City is ever terminated. The applicant proposes to locate the structure over existing pavement; therefore no new land coverage will be created. Some grading is required for utility connections to the building and to construct building footings. The proposed building is considered a public service facility and does not require an allocation of commercial floor area. The architecture will be consistent with City of South Lake Tahoe Design Manual Standards. Building colors will be in the earth-tone range and the roof of the structure will be green asphalt shingles.

Site Description: The proposed manufactured modular building will be located on existing pavement, outside of the 100-year flood plain, at the Lake Tahoe Airport. The location of the building will be south of the passenger terminal near the T-Hanger buildings.

8/28/02
/LB

CONSENT CALENDAR ITEM NO. 7

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Lake Tahoe Airport Office Facility
Page 2

Issues: The proposed project involves expansion of public service floor area at the Lake Tahoe Airport and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code. Project related issues include:

1. **Airport Master Plan Consistency.** The Lake Tahoe Airport Master Plan does not contain any restrictions on emergency services such as those proposed by the applicant. Please see the enclosed letter from J. Dennis Crabb, Esq., concerning this matter (Exhibit "A").

2. **Traffic.** The proposed facility will generate about 18 daily vehicle trips. This is defined as an insignificant increase in the TRPA Code. CALSTAR employs 8 full-time nurses, 4 full-time pilots, one mechanic, and one half-time administrator. Medical flights to and from the Airport are on an as-needed basis.

Staff Analysis:

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

B. **Plan Area Statement:** The project is located within Plan Area 116 – Airport. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. 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 is accessory to the Lake Tahoe Airport, is listed as an allowable use.

C. **Land Coverage:**

1. **Land Capability District:**
   
The land capability district of the construction site is class 5. The project area also contains the following land capability districts: 1b (stream environment zone), 2, 3, 4, 5 and 6. The total project area is approximately 371 acres.

2. **Existing Coverage:** 32,444,237 square feet (estimate only – there is a pending land coverage verification application on-file with TRPA that will determine exact land coverage).

3. **Allowable Land Coverage:** Aggregate allowable land coverage for the project area is approximately 16,151,486 square feet. No new or relocated land coverage is proposed with this project. A preliminary land coverage breakdown by land capability district is being reviewed by TRPA under separate application.

4. **Land Coverage Mitigation:** Based on the above coverage figures, the existing project area contains more than 174,240 square feet of excess land coverage (the maximum amount described in the Excess Land Coverage Mitigation Table in Subsection 20.5.A (3)(d) of the Code). To mitigate the existing land coverage,
the applicant shall be required to either pay a mitigation fee, or reduce existing coverage pursuant to Subsection 20.5 of the TRPA Code of Ordinances.

D. **Building Height:** Based on a 0-percent cross-slope retained across the building site, and a 5:12 roof pitch, the maximum allowed height for the proposed building is 30-feet, 0 inches. The proposed building has a maximum building height of approximately 20-feet.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6 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. **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:** Emergency aircraft facilities are appropriate uses at an airport. Lake Tahoe Airport is an allowable land use in the Plan Area Statement in which it is located. The proposed building will not have an impact on adjacent, non-airport uses.

      (2) **Transportation:** The proposed project will generate an insignificant increase in vehicle traffic (as defined in the TRPA Code) to the Airport. To mitigate this impact the applicants shall submit an air quality mitigation fee.

      (3) **Conservation:** There are no known special interest animal or plant species, or historic or archeological resources, that could be affected by the proposed project. The proposed building will be located on existing pavement. Storm water runoff from this paved area is currently directed through a vegetated-water treatment ditch on the west side of the airport. Temporary erosion control structures are required during construction and grading.

      (4) **Recreation:** This public service safety project will not have an impact on recreation opportunities in the Region.

      (5) **Public Service and Facilities:** The proposed building will house a public health and safety service use. Emergency helicopter services compliment other emergency services in the Region.

      (6) **Implementation:** No allocations of development are required for this public service project.

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 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 2, above.)

2. Chapter 33 – Allocation of Development Findings

a. There is a need for the project.

The emergency medical transport services provided by CALSTAR are essential for public health and safety in many life or death situations where immediate medical transport is required.

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

This project has been reviewed against all TRPA regulations and found to be in compliance with said regulations. Lake Tahoe Airport is not located in a community plan area.

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

The proposed project is not included in the TRPA EIP program and will not preclude implementation of this program.

d. 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.

See response to Finding 1, above.

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

Lake Tahoe Airport is not located in a community plan area.
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 conditions of approval in the enclosed draft permit.
TAHOE REGIONAL PLANNING AGENCY

308 Doria Court
Elks Point, Nevada
www.trpa.org

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

DRAFT PERMIT

PROJECT DESCRIPTION: CALSTAR Modular Office Building

APN: 033-050-11

PERMITTEE: City of South Lake Tahoe/Lake Tahoe Airport

TRPA FILE NO.: STD-20021276

COUNTY/LOCATION: El Dorado Co (CSLT)/Lake Tahoe Airport, 1901 Airport Road, South Lake Tahoe

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 28, 2002, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on August 28, 2005, 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 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 CITY BUILDING PERMIT. THE CITY 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 PERMITTEES HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA’S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A CITY BUILDING PERMIT.

______________________________
TRPA Executive Director/Designee
Date

PERMITTEES’ 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.

Permittee Signatures: ________________________________
Date ________________________________

City of South Lake Tahoe

______________________________
LB

PERMIT CONTINUED ON NEXT PAGE

8/26/02
/LB

CONSENT CALENDAR ITEM NO. 7

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Air Quality Mitigation Fee (1): Amount $540 __ Paid ___ Receipt No. __________
Water Quality Mitigation Fee: Amount $N/A __ Paid N/A__ Receipt No. N/A
Offsite Coverage Mitigation Fee: Amount $N/A __ Paid N/A__ Receipt No. N/A
Excess Coverage Mitigation Fees (2): Amount $__________ Paid ______ Receipt No. ______
Security Posted (3): Amount $N/A Posted N/A__ Type N/A__ Receipt No. N/A

Notes:
(1) See Special Condition 3.B, below.
(2) See Special Condition 3.C, below.
(3) Not applicable to the City of South Lake Tahoe.

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 construction of a 1,422 square foot, one-story modular office building for CALSTAR. This building shall be removed if the use by CALSTAR (or a replacement emergency helicopter transport service) is discontinued. Building colors shall conform to, or be darker than, the samples submitted to TRPA with the project application.

2. The Standard Conditions approval listed in Attachment Q are applicable to this project.

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

A. The site plan shall be revised to include:
   (1) The location of all necessary grading for utility connections, etc.
   (2) Temporary erosion control structures located down-slope of the proposed construction areas, including areas to be graded for utility line construction. Temporary erosion control structures located down-slope of
the proposed construction areas. Please Note: Straw bales are no longer preferred for temporary erosion control and straw is no longer a recommended mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the 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.

B. The permittee shall submit a $540 air quality mitigation fee. This fee is based on the addition of 18 daily vehicle trip ends at $240.00/trip.

C. The affected property has more than 174,240 square feet of excess land coverage. The permittee shall mitigate excess land coverage on this property by removing coverage within Hydrologic Transfer Area 5 (see attached map) or by submitting an excess coverage mitigation fee.

To calculate the amount of excess land coverage to be removed, use the following formula:

(1) Estimated project Construction Mitigation Construction Cost (see Subsection 20.5.A (3) (d) of the TRPA Code for a definition of this cost) multiplied 0.05, divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in-lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

(2) Coverage reduction square footage (as determined by formula (1) above) multiplied by the coverage mitigation cost fee of $6.50. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than $200.00.

D. The permittee shall submit a projected construction completion schedule to TRPA prior to commencement of construction. Said schedule shall include completion dates for each item of construction, as well as temporary erosion control structures installation for the construction site.

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

4. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground. Roofs, including mechanical equipment and skylights, shall be constructed of non-glare finishes that minimize reflectivity.

END OF PERMIT
July 9, 2002

Lynn Barnett
Chief-Planning Division
Tahoe Regional Planning Agency
318 Dorla Court
Zephyr Cove, NV 89448

Re: CALSTAR Applications

Dear Lynn:

Our firm has been retained by CALSTAR to assist them with their application for a permanent facility at the Tahoe Valley Airport.

As you may know, I had the opportunity to be involved in all of the discussions leading up to the adoption of the present Airport Master Plan and, ultimately, approved by the U. S. District Court.

The purpose and intent of the Master Plan was to control two Airport functions: general aviation operation and commercial airline service. It was not intended, nor does it contain any restrictions on, the provision of emergency services such as the medical transport services conducted by CALSTAR, a non-profit corporation. In fact, the Master Plan contains an express exemption for emergency and medical flights.

CALSTAR must, like any other land use, comply with the applicable TRPA and City ordinances and regulations. Since the project is located on existing coverage, requires no commercial square footage, and will pay the required mitigation fees, the application would appear to present no substantive issues. We would request, on behalf of CALSTAR, that it be dealt with at the hearing officer level in order to expedite this highly desirable public service project.

If there are any questions, please contact me at any time.

Very truly yours,

J. Dennis Crabb

cc: Tim Oliver
May 6, 2002

Juan Palma, Executive Director
Tahoe Regional Planning Agency
308 Dorla Court
P.O. Box 1038
Zephyr Cove, NV 89448

Dear Juan:

It is my understanding that CALSTAR currently has a project under review by your agency. As I understand it, this project will allow them to provide proper crew quarters and a small office space at the airport. As you might guess, I am very hopeful that this project be allowed to move forward.

CALSTAR is a tremendous addition to the Public Safety community here at the South Shore. They have proven their worth here, not just with the transfer of patients to other hospitals, but with quick response to local emergencies, as well as cooperating with all other emergency agencies. They have provided search and rescue functions and limited law enforcement support. They have become involved in our training programs and I believe that we are seeing the beginnings of a much enhanced pre-hospital care program as a result. I cannot overstate the importance of their services to the South Shore Community.

The current facility that they are using is woefully inadequate. I would hope that this project be given every consideration. As usual, if you have any questions, please do not hesitate to contact me.

Sincerely,

Michael M. Chandler
Chief

Cc: Teri Jamin, Community Development Director
    Michael Dikun, Airport Manager
    Tom Goff, CALSTAR
May 17, 2002

Chris Feesler, Pilot
Cal Star 6
1901 Airport Road, Suite 112
South Lake Tahoe, California 96150

Re: Upgraded Housing

Dear Chris:

I understand you are in the application process with TRPA for a modular style house for your crews at the South Lake Tahoe Airport. I wish to make it known I believe this project is imperative and approval should be given the highest priority so we can move on to the task at hand, saving lives.

Cal Star has proven in a very short period of time that air transport services are a tremendous asset in reducing the morbidity and mortality of patients we see in our area on a daily basis because we have the ability to quickly determine the best transport modality for our desired outcome.

We support your application and I remain available for anyone who wishes to discuss the importance of getting on with the planning process so we can make our services flow even more smoothly.

Respectfully,

Bruce Van Cleemput
Assistant Chief
LAKE VALLEY FIRE PROTECTION DISTRICT

"Serving the Community Since 1947"
Brian Schaffer, Fire Chief

May 12, 2002

Mr. Juan Palma
Executive Director
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nevada 89448

Dear Juan,

I would like to take a moment of your time to express to you the importance of California Shock/Trauma Air Rescue (CalStar) to our community and ask that you give them every consideration to assist them with their application to improve their accommodations at the South Lake Tahoe Airport.

CalStar began operations in the community in October 2001. Since that time they have transported over 100 critically injured patients from throughout the Lake Tahoe region to trauma centers. By being located at the South Lake Tahoe Airport, CalStar is able to pick up patients at the scene of an emergency and transport patients to trauma centers considerably faster than previously possible resulting in a considerable improvement in a patient's outcome.

While CalStar is not a governmental agency, they are a non-profit public safety company that has partnered with local fire agencies and is indeed an integral part of protecting the lives of our community's residents and visitors.

I would like to thank you for your time and consideration in this matter.

Respectfully,

Brian Schaffer
Fire Chief

Cc. Forsler
MECHANICAL NOTES:

1. DUCT MATERIAL IS 28 GA. GALV. AND FLEX DUCT WORK SHALL BE MANUFACTURED FOR HVAC CHAP 6.

2. MATERIALS IN DUCTWORK IN A CLASSE A SPREAD INDEX OF LESSTHAN 20.


4. SEAL MANDATORY JOINTS IN ACCORDANCE WITH HVAC CHAP 6.

5. NO VALVE, VALVES, AIR HANDLING UNITS, OR PUMPS ARE REQUIRED PER HVAC CHAP 6.

6. NO EXHAUST EXCEPT AS NOTED ON PLAN.

7. NO EXHAUST EXCEPT AS NOTED ON PLAN.

MECHANICAL PLAN

REFLECTED CEILING PLAN

QTY. SIZE DESCRIPTION

H.V.A.C. 3 3 MIN. 10 M.M. VALVES MUKL

THERMOSTAT 1 DONE AS REQUIRED

[Diagram of mechanical plan and reflected ceiling plan with various symbols and annotations]
August 15, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Edward Fein Land Capability Challenge, 1950 Glenbrook Road, Glenbrook Nevada, Douglas County APN: 001-151-08

Proposed Action: The applicant, Edward Fein requests that the Governing Board review and approve the proposed Land Capability Challenge.

Staff Recommendation: The staff recommends that the Governing Board approve the land capability challenge for this parcel changing the land capability from classes 5, 2 and 1b to classes 5, 4 and 1b.

Background: The subject parcel is delineated into land capability classes 5, 2 and 1b on the TRPA Land Capability Overlay Maps. Outside the uncontested delineation of SEZ (1b) along the eastern boundary, this parcel is demarcated into map units of JaC (Jabu, coarse sandy loam, 0-9 percent slopes) and CaE (Cagwin- Rock Complex, 15-30 percent slopes) soil map units. The JaC and CaE soil map units are consistent with the E-2 (Outwash, till and Lake Deposits, low hazard lands) and C-1 (Granitic foothills, moderate hazard lands) geomorphic units. The Jabu and CaE soils formed in deposits and alluvium derived from mixed granodioritic and andesitic sources.

A land capability verification was conducted on this property on November 13, 1999. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is 83,136 square feet (1.91 acres) in size and is located at 1950 Glenbrook Road, Glenbrook Nevada. The parcel is mapped within geomorphic units E-2 (Outwash, Till and Lake Deposits, low hazard lands) and C-1 (Granitic foothills, moderate hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA staff. Based on three soil pits and three auger samples, representative soil profiles were described (see Attachment A). After the visit to the parcel on June 28, 2002 the soils on APN. 001-151-08 were determined to be consistent with land capability classes 5, 4 and 1b, 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).

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CONSENT CALENDAR ITEM NO. 8
SOIL INVESTIGATION FOR
DOUGLAS COUNTY APN: 001-151-08; 1950 Glenbrook Road, Glenbrook Nevada.

INTRODUCTION
A soil investigation was conducted on APN: 001-151-08 in Douglas County, on June 28, 2002. This parcel is approximately 83,136 square feet (1.91 acres) square feet in size and is located at 1950 Glenbrook Road, Glenbrook Nevada. A land capability verification was conducted by TRPA staff on this particular parcel.

A land capability challenge was filed with TRPA on March 1, 2002 to determine the appropriate land capability class for this parcel based on an onsite soil investigation.

ENVIRONMENTAL SETTING
This parcel is delineated into land capability classes 5, 2 and 1b on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the JaC (Jabu, coarse sandy loam, 0-9 percent slopes) and CaE (Cagwin- Rock Complex, 15-30 percent slopes) soil map units. The JaC and CaE soil map units are consistent with E-2 (Outwash, till and Lake Deposits, low hazard lands) and C-1 (Granitic foothills, moderate hazard lands) geomorphic units. The Jabu and CaE soils formed in deposits and residuum derived from mixed granodioritic and andesitic sources. This parcel is comprised of slope aspects that range from north to east. The natural grades associated with this property range from 2 to 30 percent. The majority portion of the property being challenged is characterized by an overstory of Jeffery pine with a sparse understory of greenleaf manzanita, purshia and native grasses.

PROCEDURES
Three soil pits and three auger samples were completed on this parcel. After examination of the profile and samples, the soils were described in detail as representative of the soils on the parcel.

FINDINGS
One locally recognized soil and two unnamed soils were identified on this parcel. Two of the soils are characterized as deep and somewhat excessively well drained with the third identified as moderately well drained. The locally recognized Gefo soil is characterized as having a thin (< 1") sparse surface mantle of organic matter over a brown gravelly loamy coarse sand surface horizon. The subsoil is comprised of dark yellowish brown gravelly loamy coarse sand to a depth of greater than 48 inches. The unnamed soil associated with soil description # 3 is similar to the Gefo soil series except for it exceeding the slope ranges associated with that map unit. The unnamed soil identified with soil description #1 is characterized as having a thin (< 1") sparse surface mantle of organic matter over a dark brown gravelly loamy coarse sand surface horizon. The subsoil is a buried horizon characterized as a dark brown gravelly loamy coarse sand to 34 inches with a weak argillic subsurface diagnostic horizon beneath to a depth of 50 inches. None of these soils are analogous to the JaC or CaE soil series/ map units as depicted in the Soil Survey for the Lake Tahoe Basin. Therefore, as directed by the Bailey Land Capability Classification system, the soils on APN: 001-151-08 are partitioned into three map units comprising land capability classes 5 and 4. The uncontested SEZ along the eastern boundary of the parcel has been identified and delineated based on primary vegetative indicators as identified in Chapter 37 of the TRPA Code of Ordinances.
CONCLUSION
Based on the results of the site visit, two of the three soils mapped as present on APN: 001-151-08 and listed in the Soil Survey of the Lake Tahoe Basin were not verified. Based on slope and previously described characteristics, the soils on this parcel would be partitioned into land capability classes 5, 4 and 1b, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore assigned 25, 20 and 1% allowable coverage respectively.

Tim Hagan, Senior Planner/ Soil Scientist
Representative Soil Profile #1:

Soil Series: Unnamed
Soil Classification: (1998) Fine-loamy, mixed, frigid, Mollic Haploxeralfs
Drainage Class: Deep, Moderately Well Drained
Hydrologic Group C

Oi  1 to 0 inches; Jeffrey pine needles and native grass thatch.

A    0 to 4 inches; brown (10YR 4/3) gravelly loamy coarse sand dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

B   4 to 14 inches; yellowish brown (10 YR 5/4) gravelly loamy coarse sand, yellowish brown (10YR 5/8) moist; weak, fine subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 15 percent gravel; clear wavy boundary.

2A  14 to 25 inches; light yellowish brown (2.5Y 6/4) gravelly loamy coarse sand, yellowish brown (10YR 5/8) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

2AB  25 to 34 inches; dark yellowish brown (10YR 4/4) gravelly sandy loam, dark yellowish brown (10YR 3/6) moist; weak, fine subangular structure; very hard, friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

2ABt  34 to 48 inches; strong brown (7.5YR 4/6) gravelly sandy clay loam, yellow (7.5Y R 4/6) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; few, thin clay films on ped faces and lining pores; common, fine and medium roots; common fine medium interstitial pores; 15 percent gravel.

Representative Soil Profile #2:

Soil Series: Gefo
Soil Classification: (1998)
Drainage Class: Deep, Somewhat Excessively Well Drained
Hydrologic Group A

Oi  1 to 0 inches; Duff from mixed sources.

A    0 to 4 inches; brown (10YR 5/3) gravelly loamy coarse sand dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel.

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nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

A2 4 to 11 inches; pale brown (10 YR 6/4) gravelly loamy coarse sand, brown (10YR 4/3) moist; weak, fine subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 15 percent gravel; clear wavy boundary.

Bw 11 to 25 inches; light yellowish brown (10YR 6/4) gravelly loamy coarse sand, dark yellowish brown (10YR 4/3) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C1 25 to 35 inches; very pale brown (10YR 7/3) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; very hard, friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C2 35 to 48 inches; strong brown (710YR 7/4) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; loose, very friable, nonsticky and nonplastic; few, thin clay films on ped faces and lining pores; common, fine and medium roots; common fine medium interstitial pores; 15 percent gravel.

Representative Soil Profile #3:

Soil Series: unnamed Gefo variant (20 to 30 percent slopes)
Soil Classification: (1998)
Drainage Class: Deep, Somewhat Excessively Well Drained
Hydrologic Group A

Oi 1 to 0 inches; Duff from mixed sources.

A 0 to 5 inches; brown (10YR 5/3) gravelly loamy coarse sand dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

A2 5 to 13 inches; pale brown (10 YR 6/4) gravelly loamy coarse sand, brown (10YR 4/3) moist; weak, fine subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 15 percent gravel; clear wavy boundary.

C1 13 to 22 inches; light yellowish brown (10YR 6/4) gravelly loamy coarse sand, dark yellowish brown (10YR 4/3) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.
C2 21 to 34 inches: very pale brown (10YR 7/3) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; very hard, friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C2 34 to 48 inches: strong brown (710YR 7/4) gravelly loamy coarse sand; yellowish brown (10YR 5/4) moist; single grain; loose, very friable, nonsticky and nonplastic; few, thin clay films on ped faces and lining pores; common, fine and medium roots; common fine medium interstitial pores; 15 percent gravel.
MEMORANDUM

August 15, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Kathryn Butler Land Capability Challenge; 1330 Kings Way, Tahoe Vista CA, Placer County APN: 112-250-046

Proposed Action: The applicant, Kathryn Butler, requests that the Governing Board review and approve the proposed Land Capability Challenge.

Staff Recommendation: The staff recommends that the Governing Board approve the land capability challenge for this parcel changing the land capability from class 1a to classes 4 and 6.

Background: The subject parcel is shown as land capability class 1a on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the UmF (Umpa very stony sandy loam, 30 to 50 percent slopes) soil map unit. The UmF soil map unit is consistent with the D-1 (Toe Slope Lands, low hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock.

A land capability verification was never conducted on this parcel. This land capability challenge was filed on March 15, 2002 to confirm the soil series and land capability for the parcel.

Findings: This parcel is 12,478 square feet (0.28 acre) in size and is located at 1330 Kings Way, Tahoe Vista CA. The parcel is mapped within geomorphic unit D-1 (Toe Slope Lands, Low hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA Staff Soil Scientist, and this report was prepared. One representative soil profile was described (see Attachment A). After visits to the parcel on August 2, 2002 the soils on APN 112-250-046 were determined to be consistent with the JwE/D (Jorge-Tahoma very stony sandy loams, 5 to 15 and 15 to 30 percent slopes) soil map units, which are associated with land capability classes 4 and 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.
SOIL INVESTIGATION FOR
PLACER COUNTY APN: 112-250-046; 1330 Kings Way, Tahoe Vista CA

INTRODUCTION
A soil investigation was conducted on APN: 112-250-046, Placer County, on August 2, 2001. This parcel is 12,478 square feet (0.28 acre) in size and is located at 1330 Kings Way, Tahoe Vista CA. A land capability verification was never conducted by TRPA staff on this parcel.

A land capability challenge was filed with TRPA in March 2002 to determine the appropriate land capability class for this parcel based on an onsite soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability class 1a on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the UmF (Umpa very stony sandy loam, 30 to 50 percent slopes) soil map unit. The UmF soil map unit is consistent with the D-1 (Toe Slope Lands, low hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock. This parcel is on an east-southeast aspect. The slopes range from 13 to 26 percent. The natural vegetation is Jeffrey pine, white fir, manzanita, bitterbrush and chinquapin.

PROCEDURES
One soil pit and two auger samples were conducted on this parcel. After examination of the profile and samples, 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 and two soil map units were identified on this parcel. The soils on this property are deep and well drained. The soil is characterized as having a brown very stony sandy loam surface layer over a pale brown very stony sandy clay loam subsoil. This soil is analogous to the Jorge soil series listed in the Soil Survey for the Lake Tahoe Basin, and would appropriately fit the JwE/D (Jorge-Tahoma very stony sandy loams, 5 to 15 and 15 to 30 percent slopes) soil map units. The JwE/D soil map units are assigned to land capability classes 4 and 6, under the Bailey Land Capability Classification system.

CONCLUSION
Based on the field results, the soil on APN: 112-250-046 was determined to be consistent with the JwE/D (Jorge-Tahoma very stony sandy loams, 5 to 15 and 15 to 30 percent slopes) soil map units, which are associated with land capability classes 4 and 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and is assigned 20 and 30 percent allowable coverage respectively.

Tim Hagan
Senior Planner / Soil Scientist
Representative Soil Profile:

Soil Classification: Loamy-skeletal, mixed, frigid, Ultic Haploxeralf
Drainage Class: Well drained
Hydrologic Group: B
Soil Series: Jorge

Oi  Jeffrey pine and white fir litter.

A1  0 to 6 inches; brown (10YR 5/3) very stony sandy loam, dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots; many very fine and fine interstitial pores; 10 percent gravel, 15 percent stones; clear smooth boundary.

A2  6 to 12 inches; brown (10YR 5/3), very stony sandy loam, dark brown (10YR 3/3) moist; weak fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine, common roots; common very fine and fine interstitial pores; 15 percent stones; gradual smooth boundary.

Bt1  12 to 42 inches; brown (10YR 5/3), very gravelly sandy clay loam, dark yellowish brown (10YR 3/4) moist; moderate medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; common fine and medium tubular pores; common moderately thick clay films on ped faces and pores; 15 percent gravel; gradual wavy boundary.

Bt2  42 to 60 inches; very pale brown (10YR 7/3) very gravelly sandy clay loam, yellowish brown (10YR 5/4) moist; moderate medium subangular blocky structure; hard, friable, slightly sticky and slightly plastic; common fine and medium and few coarse roots; common fine and medium tubular pores; common moderately thick clay films on ped faces and pores; 20 percent gravel.
MEMORANDUM

August 15, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Robert and Judy Swanson Land Capability Challenge, 221 Paradise Flat Lane, Rubicon Bay CA, El Dorado County APN: 017-021-06

Proposed Action: The applicants, Robert and Judy Swanson request that the Governing Board review and approve the proposed Land Capability Challenge.

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

Background: The subject parcel is delineated into land capability classes 6, 5, 4 and 1b on the TRPA Land Capability Overlay Maps. Outside the uncontested delineation of SEZ along the southern boundary, this parcel is demarcated in to map units of JgC (Jabu sandy loam, moderately fine subsoil variant, 0-9 percent slopes) and GeC/D (Gefo gravelly loamy coarse sand, 2 to 9 and 9 to 20 percent slopes). The JgC and GeC/D soil map units are consistent with the E-2 (Outwash, till and Lake Deposits, low hazard lands) geomorphic unit classification. The Jabu and Gefo soils formed in deposits and alluvium derived from mixed granodioritic and andesitic sources.

A land capability verification was conducted on this property on June 7, 1999. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is 385,942 square feet (8.86 acres) in size and is located at 221 Paradise Flat Lane, Rubicon Bay CA. The parcel is mapped within geomorphic unit the E-2 (Outwash, Till and Lake Deposits, low hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA staff. Based on two pits and three auger samples, a representative soil profile was described (see Attachment A). After the site visit on July 18, 2002 the soils on APN: 017-021-06, outside the uncontested delineation of SEZ along the southern boundary, are consistent with land capability classes 4, 6 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).
SOIL INVESTIGATION FOR
EL DORADO COUNTY APN: 017-021-06, 221 Paradise Flat Lane, Rubicon Bay CA

INTRODUCTION
A soil investigation was conducted on APN: 017-021-06 in El Dorado County, on July 18, 2002. This parcel is approximately 385,942 square feet (8.86 acres) feet in size and is located at 221 Paradise Flat Lane, Rubicon Bay CA. A land capability verification was conducted by TRPA staff on this particular parcel.

A land capability challenge was filed with TRPA on March 27, 2002 to determine the appropriate land capability class for this parcel based on an onsite soil investigation.

ENVIRONMENTAL SETTING
This parcel is delineated into land capability classes 6, 5, 4 and 1b on the TRPA Land Capability Overlay Maps. Outside the uncontested delineation of SEZ (1b) along the southern boundary, this parcel is demarcated in to map units of JgC (Jabu sandy loam, moderately fine subsoil variant, 0-9 percent slopes) and GeC/D (Gefo gravelly loamy coarse sand, 2 to 9 and 9 to 20 percent slopes). The JgC and GeC/D soil map units are consistent with the E-2 (Outwash, Till and Lake Deposits, low hazard lands) geomorphic unit classification. The Jabu and Gefo soils formed in deposits and alluvium derived from mixed granodioritic and andesitic sources. The slope aspects on this parcel range from east to south. The natural grades associated with this property range from 2 to 27 percent. The portion of the property being challenged is characterized by an overstory of Jeffery pine, white fir, incense cedar and lodgepole pine is with a varied understory of bitterbrush, chinquapin, snowbrush and squaw carpet. The area immediately around the main residence supports irrigated landscape ornamentals.

PROCEDURES
Two soil pits and three auger samples were conducted on this parcel. After examination of the profile and samples, the soils were described in detail as representative of the soils on the parcel.

FINDINGS
The Elmira soil series / EfB map unit was identified on the contested portion of this parcel. The Elmira soil is deep and somewhat excessively well drained. It is characterized as having a thin (< 1") sparse surface mantle of organic matter over a dark brown gravelly loamy coarse sand surface horizon. The subsoil is comprised of dark yellowish brown gravelly loamy coarse sand to a depth of greater than 60 inches. This soil is not analogous to the Jabu soil series / JgC soil map unit listed in the Soil Survey for the Lake Tahoe Basin because of textural class, depth and the absence of a fragipan in the subsoil. Therefore, the contested portion of the soils on APN: 017-021-06 are assigned land capability class 7 as directed by the Bailey Land Capability Classification system.

8/15/02
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CONSENT CALENDAR ITEM NO. 10
CONCLUSION
Based on the results of the site visit, the contested portion of APN: 017-021-06 is determined not to be consistent with the central concepts of the Jabu soil series but is more characteristic of the Elmira soil series / EfB soil map unit listed in the Soil Survey of the Lake Tahoe Basin. Based on slope and previously described characteristics, the soil on this parcel, outside the uncontested delineation of SEZ (1b) along the southern boundary, would be partitioned into land capability classes 4, 6 and 7, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore assigned 30, 20 and 1% allowable coverage respectively.

Tim Hagan, Senior Planner/ Soil Scientist
Representative Soil Profile #1:

Soil Series: Elmira
Soil Classification: (1998)
Drainage Class: Deep, Somewhat Excessively Well Drained
Hydrologic Group A

Oi 1 to 0 inches; Duff from mixed sources.

A 0 to 4 inches; brown (10YR 5/3) gravelly loamy coarse sand dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

A2 4 to 11 inches; pale brown (10 YR 6/4) gravelly loamy coarse sand, brown (10YR 4/3) moist; weak, fine subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 15 percent gravel; clear wavy boundary.

Bw 11 to 25 inches; light yellowish brown (10YR 6/4) gravelly loamy coarse sand, dark yellowish brown (10YR 4/3) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel, abrupt wavy boundary.

C1 25 to 44 inches; very pale brown (10YR 7/3) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; very hard, friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C2 44 to 48 inches; strong brown (710YR 7/4) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; loose, very friable, nonsticky and nonplastic; few, thin clay films on ped faces and lining pores; common, fine and medium roots; common fine medium interstitial pores; 15 percent gravel.

Representative Soil Profile #2:

Soil Series: Gefo
Soil Classification: (1998)
Drainage Class: Deep, Somewhat Excessively Well Drained
Hydrologic Group A

8/15/02 /TH
Oi  1 to 0 inches; Duff from mixed sources.

A  0 to 6 inches; brown (10YR 5/3) gravelly loamy coarse sand dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

A2  6 to 10 inches; pale brown (10 YR 6/4) gravelly loamy coarse sand, brown (10YR 4/3) moist; weak, fine subangular structure; soft, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 15 percent gravel; clear wavy boundary.

Bw  10 to 22 inches; light yellowish brown (10YR 6/4) gravelly loamy coarse sand, dark yellowish brown (10YR 4/3) moist; weak, fine subangular structure; loose, very friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C1  22 to 40 inches; very pale brown (10YR 7/3) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; very hard, friable, nonsticky and nonplastic; common fine and medium roots; common fine medium interstitial pores; 15 percent gravel; abrupt wavy boundary.

C2  40 to 50 inches; strong brown (710YR 7/4) gravelly loamy coarse sand, yellowish brown (10YR 5/4) moist; single grain; loose, very friable, nonsticky and nonplastic; few, thin clay films on ped faces and lining pores; common, fine and medium roots; common fine medium interstitial pores; 15 percent gravel.
MEMORANDUM

August 15, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Momentum Investments, LLC Land Capability Challenge; 727 Champagne Road, Incline Village NV, Washoe County APN: 126-262-05

Proposed Action: The applicant, Momentum Investments, LLC, requests that the Governing Board review and approve the proposed Land Capability Challenge.

Staff Recommendation: The staff recommends that the Governing Board approve the land capability challenge for this parcel changing the land capability from classes 1a and 3 to classes 2 and 4.

Background: The subject parcel is shown as land capability classes 1a and 3 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the UmE/F (Umpa very stony sandy loam, 15 to 30 and 30 to 50 percent slopes) soil map units. The UmE/F soil map units are consistent with the D-2 (Headlands, moderate hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock.

A land capability verification was conducted on this parcel on November 11, 1997. This land capability challenge was filed on March 13, 2002 to confirm the soil series and land capability for the parcel.

Findings: This parcel is 43,867 square feet (1.007 acre) in size and is located at 727 Champagne Road, Incline Village NV. The parcel is mapped within geomorphic unit D-2 (Head Lands, moderate hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA Staff Soil Scientist, and this report was prepared. One representative soil profile and two auger samples were described (see Attachment A). After visits to the parcel on August 2, 2002 the soils on APN: 126-262-05 were determined to be consistent with the JwE/F (Jorge-Tahoma very stony sandy loams, 15 to 30 and 30 to 50 percent slopes) soil map units, which are associated with land capability classes 2 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) 586-4547 ext. 275.
SOIL INVESTIGATION FOR
WASHOE COUNTY APN: 126-262-05; 727 Champagne Road, Incline Village NV

INTRODUCTION
A soil investigation was conducted on Washoe County APN: 126-262-05 on August 2, 2002. This parcel is 43,867 square feet (1.007 acre) in size and is located at 727 Champagne Road, Incline Village NV. A land capability verification was conducted on this parcel on November 11, 1997.

A land capability challenge was filed with TRPA in March, 2002 to determine the appropriate land capability class for this parcel based on an onsite soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability classes 1a and 3 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service, Soil Survey for the Lake Tahoe Basin places this parcel within the UmE/F (Umpa very stony sandy loam, 15 to 30 and 30 to 50 percent slopes) soil map units. The UmE/F soil maps unit are consistent with the D-2 (Head Lands, (Moderate hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock. This parcel is on a west-southwest aspect. The slopes range from 20 to 35 percent. The natural vegetation is Jeffrey pine, white fir with an understory of manzanita, bitterbrush, huckleberry oak and squaw carpet.

PROCEDURES
One soil pit and two auger samples were conducted on this parcel. After examination of the profile and samples, 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 and two soil map units were identified on this parcel. The soils on this property are deep and well drained. The soil is characterized as having a grayish brown very stony sandy loam surface layer over a light yellowish brown very stony sandy loam subsoil. An argillic subsurface diagnostic horizon was identified in this profile. This soil is analogous to the Jorge soil series listed in the Soil Survey for the Lake Tahoe Basin, and would appropriately fit the JwE/F (Jorge-Tahoe very stony sandy loams, 15 to 30 and 30 to 50 percent slopes) soil map units. The JwE/F soil map units are assigned to land capability classes 2 and 4, under the Bailey Land Capability Classification system.

CONCLUSION
Based on the field results, the soil on APN: 126-262-05 was determined to be consistent with the JwE/F (Jorge-Tahoe very stony sandy loams, 15 to 30 and 30 to 50 percent slopes) soil map units, which are associated with land capability classes 2 and 4, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and is assigned 1 and 20 percent allowable coverage respectively.

Tim Hagan
Senior Planner / Soil Scientist
Representative Soil Profile:

Soil Classification: Loamy-skeletal, mixed, frigid, Ultic Haploxeralf
Drainage Class: Well drained
Hydrologic Group: B
Soil Series: Jorge

Oi Jeffrey pine and white fir litter.

A1 0 to 5 inches; grayish brown (10YR 5/2) very stony sandy loam, very dark grayish brown (10YR 3/2) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots; many very fine and fine interstitial pores; 5 percent gravel, 15 percent stones; clear smooth boundary.

A2 6 to 14 inches; dark grayish brown (10YR 4/3), very stony sandy loam, dark brown (10YR 3/3) moist; weak fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine, common roots; common very fine and fine interstitial pores; 15 percent stones; gradual smooth boundary.

Bt1 14 to 28 inches; yellowish brown (10YR 5/3), very stony sandy loam, dark yellowish brown (10YR 3/4) moist; moderate medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; common fine and medium tubular pores; common moderately thick clay films on ped faces and pores; 15 percent stones; gradual wavy boundary.

Bt2 28 to 40 inches; very pale brown (10YR 7/3) very stony sandy clay loam, yellowish brown (10YR 5/4) moist; moderate medium subangular blocky structure; hard, friable, slightly sticky and slightly plastic; common fine and medium and few coarse roots; common fine and medium tubular pores; common moderately thick clay films on ped faces and pores; 20 percent stones.

C 40 to 50 inches; very pale brown (10YR 7/3) very stony sand loam, dark yellowish brown (10YR 4/4) moist; massive; slightly hard, friable, nonstick and nonplastic; common fine and medium and few coarse roots.
August 16, 2002

To: TRPA Governing Board

From: Juan Palma, Executive Director

Prepared By: Mike Cavanaugh, Senior Planner, Project Review Division
             Kathy White, Planning Technician, Project Review Division

Subject: TRPA Application Status Report
         July 1, 2002 through July 31, 2002

Projects reviewed by Staff and Governing Board

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AGENDA ITEM VII.A.1
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Total TRPA application workload as of July 1, 2002 510
Total projects received by TRPA in July, 2002 145
Total projects reviewed by TRPA in July, 2002 124 **
TRPA workload as of July 31, 2002 531

** This was accomplished even though the Division is experiencing a 20% reduction in staff due to three vacancies.

**Project Review Applications:**
The following applications are currently under review by the Project Review Division and have been complete for more than 120 days:

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Application Status Report
August 16, 2002
Page 4

085-040-029 Tahoe West Residential 148
Staff will take an action in September.

130-152-012 Ingemanson Verification 162
This project has potential violation related issues and has been transferred to the Compliance Division.

005-081-001 Hempler Residential 176
Staff is waiting for final comments from the Nevada Historic Preservation Office and is prepared to issue a permit for this project.

005-220-014 Bourne Shorezone 217
This project is scheduled for the August 22, 2002 Hearing Officer.

130-312-024 Gonzales Residential 203
Staff anticipates an action prior to the August Governing Board.

093-092-005 Alamillo Residential 224
Staff has scheduled a final meeting with the applicant's representatives to discuss changes to the design that will result in an approvable project.

093–83-041 Miller Shorezone 513
This project was continued indefinitely by the Governing Board at the June 2002 meeting.

Land Capability and IPES Applications:
There are no Land Capability and IPES applications that have been complete for more than 120 days.

Compliance Division

There are no projects under review by the Compliance Division that have been complete for more than 120 days.

AGENDA ITEM VII. A. 1.
2002 TRPA Application Trend

Predicted Application Submittals Based on Average Deviations from Mean Over Six-Year Period

<table>
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<th>Year</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
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Table 2

Project Review Workload 2002

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</table>
August 9, 2002

TO: Tahoe Metropolitan Planning Organization
    Governing Board

FROM: TRPA Staff

SUBJECT: Executive Director Report on the Tahoe Transportation District/Tahoe
         Transportation Commission August 9, 2002 Meeting

Proposed Action: Review of the attached TTD/TTC Agenda for the
August 9, 2002 regular Meeting of the Board.

Staff Recommendation: Seek clarification as necessary.

If there are any questions regarding this agenda item, please contact Richard Wiggins at
(775) 588-4547, x 271.
TAHOE TRANSPORTATION DISTRICT (TTD)
TAHOE TRANSPORTATION COMMISSION (TTC)
AGENDAS

City of South Lake Tahoe
Council Chambers
1900 Lake Tahoe Blvd.
So. Lake Tahoe, CA
(530) 542-6005
August 9, 2002
9:00 a.m.

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

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 August 9, 2002
C. Approval of Minutes from July 12, 2002.

II. PUBLIC INTEREST COMMENTS (No Action)

III. EXECUTIVE DIRECTOR REPORTS
A. Action Plan Short-Term Strategies.
B. TRPA/TTD MOU.
C. Tahoe City Intermodal Transit Center.
D. Agency Roles and Responsibilities.

IV. CONSENT CALENDAR

V. TAHOE TRANSPORTATION DISTRICT (TTD) MATTERS

B. Presentation by El Dorado County Regarding FY 2002-2003 TDA Program.
C. Presentation by City of South Lake Tahoe Regarding FY 2002-2003 TDA Program.
D. Discussion and Possible Action Regarding CNG Station Construction and Operation Contracts and Lease Agreements.

VI. TAHOE TRANSPORTATION COMMISSION (TTC) MATTERS

A. Discussion and Possible Action on Proposed Request for Proposals (RFP) for TRPA Five Year Regional Transit Plan for the Lake Tahoe Basin.
B. Discussion and Possible Action on Proposed Transit Baseline and Level of Service Performance Measures.

VII. REPORTS AND INFORMATIONAL ITEMS
A. Transportation Technical Advisory Committee

Jrwb

AGENDA ITEM VII.A.2.

B. Board and Commission Members

C. Tahoe Regional Planning Agency and Staff
   1. Monthly Review of Master Calendar
   2. Status Report on CTS Phase II
   5. Bi-State/Stateline US Highway 50 Transportation Improvement and Community Planning Grant.
   6. Review of Agenda items for September 13, 2002 Meeting of the TTD/C. (to be held at the North Tahoe Conf. Ctr.)

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

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, September 13, 2002 beginning at 9:00 a.m., at the North Tahoe Conference Center, Kings Beach, CA. Meetings are held on the second Friday of each month pending unforeseen circumstances, upon those unforeseen circumstances, the meeting will be rescheduled for the following Friday.)
ACTION SHEET
TAHOE TRANSPORTATION DISTRICT/COMMISSION
REGULAR BOARD MEETING
August 9, 2002

ITEM
EXECUTIVE DIRECTOR REPORTS

CONSENT CALENDAR
There were no items under consent.

Tahoe Transportation (TTD) Matters
A. Presentation by El Dorado County Regarding
   FY 02/03 TDA Program.
   Received

B. Presentation by City of So. Lake Tahoe Regarding
   FY 02/03 TDA Program.
   Received

C. Discussion and Possible Action Regarding CNG Station
   Construction and Operation Contracts and Lease
   Received w/updates requested

Tahoe Transportation Commission (TTC) Matters
A. Discussion and Possible Action on Proposed Request for
   Proposals for TRPA Five-Year Regional Transit Plan for
   The Lake Tahoe Basin.
   Approved w/recommendations

B. Discussion and Possible Action on Proposed Transit Baseline
   And Level of Service Performance Measures.
   Approved W/recommendations

Jrwb

AGENDA ITEM VII.A.2.

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MEMORANDUM

August 19, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Sierra Nevada College, Actions Related to the Closure of the College Park Mobile Home Park: (1) Modification to 1999 TRPA Dormitory Permit; and (2) Approval of New TRPA Permit Authorizing Closure

Request: Sierra Nevada College ("SNC" or "College") requests the Governing Board modify Special Condition 5(b) in the 1999 TRPA permit authorizing a new 126-student dormitory on the College’s Lake Campus in Incline Village (Washoe Co. APN 127-040-08, TRPA File No. 980950). That permit condition requires SNC to keep open the SNC-owned mobile home park located adjacent to the College’s Mountain Campus in Incline Village pending certification of the forthcoming Environmental Impact Statement ("EIS") for SNC’s proposed campus build-out. SNC requests that condition 5(b) be modified to specify the mitigation obligation arising from the closure of College Park.

TRPA staff is treating the application as one for two different actions: (1) to delete Special Condition 5(b) from the 1999 dormitory permit; and (2) for a new permit authorizing the closure of the College Park Mobile Home Park located at 800 College Drive, Incline Village, Washoe Co. APNs 129-280-20, 21 ("College Park"). These actions will facilitate the sale of College Park by SNC prior to EIS certification.

Recommendation: Staff recommends that the Governing Board delete Special Condition 5(b) from the 1999 dormitory permit and approve the attached draft permit for the closure of College Park (Attachment A). The closure permit requires that 20 low cost housing units be developed as mitigation for the loss of housing stock per the College Park Housing Impact Analysis prepared by Research and Consulting Services and Johnson-Perkins and Associates, Inc. (Attachment B). These units are to be developed either on the College Park property by SNC or its successor-in-interest or by SNC somewhere in Incline Village.

TRPA staff is comfortable deleting Special Condition 5(b) in this manner. The intent behind the 1999 dormitory permit condition was to ensure that SNC studied and mitigated the loss of housing attributable to closing College Park. It was originally contemplated that this analysis would occur within the context of the EIS. However, the housing study has already been completed and SNC is willing to mitigate the housing impacts by developing 20 low cost units. Therefore, the requested actions are consistent with the intent of the 1999 permit condition and will prevent a loss of housing stock in Incline Village attributable to the closure of College Park.

Background: In 1999 SNC sought a dormitory permit from the TRPA Governing Board. At that time, the Governing Board raised concerns regarding the adverse housing impacts on the Incline Village community associated with closing College Park. With the new dormitory, SNC no longer needed to operate College Park as student housing and would likely close the facility.
affecting the non-student population. The May 1999 Governing Board minutes summarize these concerns (Attachment C).

After an extended debate, the Board ultimately approved a conditioned dormitory permit (Attachment D). Special Condition 5(b), proposed and drafted by the College, was intended to address concerns that College Park could be closed without mitigating the loss of housing stock. That condition reads:

The Permittee shall not exercise its rights as to non-student residential housing closure until the new Sierra Nevada College Environmental Impact Statement (EIS) is certified by TRPA. If the EIS is withdrawn by Sierra Nevada College from further TRPA review, the College may apply to TRPA under separate application to remove or modify College Park.

In effect, Special Condition 5(b) required that SNC maintain College Park until the housing impacts and necessary mitigation associated with its closure are analyzed and approved by the TRPA Governing Board. The condition references an EIS under preparation to concentrate SNC’s facilities away from the College’s Mountain Campus towards its Lake Campus (both located in Incline Village). Preparation and public circulation of the EIS has been delayed for a number of reasons and TRPA staff is currently reviewing an administrative draft submitted in July 2002. The document will likely come before the Board for certification prior to 2003.

SNC now hopes to realize its intent to sell the mobile home park to a potential developer. To avoid having to wait until EIS certification, SNC in June 2002 requested that TRPA delete Special Condition 5(b) and threatened to have the condition invalidated as unconstitutional through litigation. See June 20, 2002 letter from Dan Reaser (Attachment E).

Discussions ensued between TRPA staff and SNC. Although TRPA counsel believes Special Condition 5(b) to be defensible, TRPA staff determined that there could be advantages to having SNC commit itself to mitigate for the loss of housing stock attributable to closing College Park. The mitigation requirement had recently been quantified through the Housing Impact Analysis (Attachment B). That study determined that closing College Park would require mitigation in the form of 20 low cost housing units as defined in Chapter 41 of the TRPA Code (note: the study concluded that no “affordable housing” mitigation was required in part because of the Code’s definition of affordable housing as “deed restricted”).

In response to these discussions, SNC altered its request to merely amend Special condition 5(b). See letter dated August 2, 2002, from Dan Reaser (Attachment F). In this correspondence, SNC offers to replace the existing 5(b) with a commitment to develop the amount of low cost units deemed necessary to mitigate the loss of housing attributable to closing College Park (note: the August 2 correspondence references 17 units based on a preliminary draft of the housing study; the actual number of low cost units required for mitigation is 20).

Analysis: TRPA was in 1999, and continues to be, concerned with the housing impacts associated with SNC closing College Park, the only mobile home park in Incline Village. Special Condition 5(b) placed as a pre-requisite on such closure the certification of an EIS that would consider, among other impacts, the loss of housing stock resulting from closing College Park. Therefore, staff supports SNC’s request to forego the 1999 pre-requisite for
closing College Park so long as it is replaced with a commitment to develop those units necessary to mitigate the housing impacts arising from the closure.

SNC originally requested that Special Condition 5(b) be deleted, then modified that request to amend the condition to reflect a commitment to mitigate housing impacts. Staff believes that the "cleanest" approach is to delete the 1999 permit condition and issue SNC a separate permit authorizing the closure of College Park. In this manner, the obligations imposed in the 1999 permit are no longer outstanding. Instead, the new permit requires that SNC (or its successor-in-interest) apply to TRPA within six months of Board approval to develop 20 low cost housing units on the College Park properties. The permit further covers the situation in the event this application is not forthcoming. If this occurs, SNC alone will be responsible for developing twenty low cost units in Incline Village.

Environmental Documentation: TRPA staff has prepared an Initial Environmental Checklist (IEC) for an application to close College Park. Based on the IEC, staff has determined that the only environmental impacts associated with the closure of College Park involve housing. No other impacts were found to be significant or in need of mitigation (i.e. those pertaining to land, water, etc.) This conclusion is due in part to the absence of construction activities associated with the closure and the fact that less residents in College Park will result in less disturbance to the environment. Accordingly, all significant impacts attributable to closing College Park will be mitigated through the development of 20 lost cost housing units in Incline Village.

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

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

There is sufficient evidence in the record to make the finding.

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 TRPA Governing Board hearing.

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.)
Sierra Nevada College Mobile Home Park
August 19, 2002
Page 4

Requested Actions: Staff recommends that the Governing Board delete Special Condition 5(b) in the 1999 TRPA permit for construction of new college dormitories on the College's Lake Campus, and approve the enclosed draft permit to allow closure of the College Park Mobile Home Park by making the following motions based on this memorandum and the evidence contained in record:

I. A motion based on this memorandum to make the required findings and a finding of no significant environmental effect.

II. A motion based on this memorandum to delete Special Condition 5(b) from the 1999 TRPA permit authorizing the construction of a dormitory on SNC's Lake Campus (TRPA File No. 980950)

III. A motion based on this memorandum to approve the draft permit to close College Park Mobile Home Park.

Attachments:

A. Draft TRPA permit for the closure of College Park
B. College Park Mobile Home Park Housing Impact Analysis prepared by Research and Consulting Services and Johnson-Perkins and Associates, Inc.
C. Minutes from the May 1999 Governing Board meeting
D. 1999 TRPA permit authorizing the construction of a dormitory on SNC's Lake Campus (TRPA File No. 980950)
E. June 20, 2000, letter from Dan Reaser
F. August 2, 2002, letter from Dan Reaser

Note: Only Attachment A will appear in the Governing Board packet. Each Governing Board member will be mailed the remaining attachments under separate cover. Members of the public wishing to obtain these attachments can do so by contacting Cherry Jacques, Executive Assistant for the Project Review Division, at (775) 588-4547 extension 277 or via e-mail at: cjacques@trpa.org.
TAHOE REGIONAL PLANNING AGENCY

308 Dorla Court
Elks Point, Nevada
www.trpa.org

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

DRAFT PERMIT

PROJECT DESCRIPTION: Closure of College Park Mobile Home Park

PERMITTEE: Sierra Nevada College

TRPA FILE NO.: STD 20021252

COUNTY/LOCATION: College Park Mobile Home Park, 800 College Drive, Incline Village, Nevada

APN: 129-280-20 and 21

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 28, 2002, subject to the standard conditions of approval attached hereto (Attachment R) and the special conditions found in this permit.

This permit shall expire on August 28, 2005, without further notice unless closure has commenced prior to this date and diligently pursued thereafter. 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 CLOSURE OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CLOSURE OR GRADING SHALL COMMENCE UNTIL ALL PRE-CLOSURE CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CLOSURE OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEES HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PRE-CLOSURE INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY PERMIT.

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.

Permittee's Signature: ____________________________ Date: ____________________________

Sierra Nevada College

LB PERMIT CONTINUED ON NEXT PAGE

8/28/02 119 AGENDA ITEM NUMBER VIII A
Sierra Nevada College Mobile Home Park
August 19, 2002
Page 6

APNs 129-280-20 & 21
FILE NO. STD 20021252

Security Posted(1): Amount $10,000 Posted _______ Type ______ Receipt No. _______
Security Administrative Fee(2): Amount $_______ Paid ______ Receipt No. _______

Notes:
(1) See Special Condition X, X, below.
(2) please see Attachment "J," Security Procedures.

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

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

TRPA Executive Director/Designee __________________________ Date ________________

SPECIAL CONDITIONS

1. This permit specifically authorizes the closure of, and removal of existing mobile home units within, the College Park Mobile Home Park, located at 800 College Dirve, Incline Village, Nevada, Washoe Co. APNs 129-280-20 & 21 ("College Park Properties"). No grading, relocations of land coverage, vegetation removal, or other activities not directly related to the removal of mobile home units is authorized. Only grading necessary to cap utility connections to mobile home pads is authorized, provided the grading occurs between May 1 and October 15 during the life of this permit, and temporary erosion control structures are installed to contain soil erosion. A TRPA pre-grade inspection is required before grading can occur. Banking of land coverage requires a separate application to TRPA.

2. Prior to acknowledgement of this permit, the permittee shall record a TRPA-approved deed restriction or other covenant running with the land against the College Park Properties that limits rental rates and sales price of 20 units to households or tenants that earn not more than 120 percent of applicable county median income.

3. Within six months of approval by the Governing Board, the permittee or the current owner of the College Park Properties shall submit a complete application for the construction of 20 low cost housing units on the College Park Properties in accordance with Chapter 41 of the TRPA Code of Ordinances.

4. If the permittee or current owner of the College Park Properties fails to timely submit the application (Special Condition # 3), permittee shall be responsible for the development of 20 low cost housing units in Incline Village.

5. The permittee shall submit a security in the amount of $10,000 prior to closure of any units. Please see Attachment "J," Security Procedures for methods to post a security and related security administration fees.

8/28/02 120 AGENDA ITEM NUMBER VIII.A.
6. All aerial electrical and cable lines to mobile homes shall be removed from trees and utility poles within the College Park Mobile Home Park.

7. All mobile home pads shall be re-vegetated with TRPA approved re-vegetation species after mobile homes are removed. Application of a pine needle mulch in re-vegetated areas is recommended. There shall be no debris left after demolition that creates a public nuisance.

END OF PERMIT
MEMORANDUM

August 6, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of the Ponderosa Ranch Community Plan to Designate it a Preferred Industrial Area

Proposed Action: TRPA staff proposes to amend the Ponderosa Ranch Community Plan to designate the area outside Special Area #1 as a Preferred Industrial Area. See Attachment A, Exhibit 1 for proposed language changes to the Ponderosa Ranch Community Plan document, and Attachment B for the location of Preferred Industrial Area.

Staff Recommendation: Staff recommends the TRPA Governing Board conduct the public hearing as noticed and approve the proposed amendment to the Ponderosa Ranch Community Plan.

APC Recommendation: APC recommended approval by a vote of 13 to 0 with 1 abstention.

Background: On May 28, 1997, the Governing Board adopted Ordinance 97-9, amending Subsection 33.3.B(5) of the Code of Ordinances. The amendment was part of an agreement reached by the Commercial Policy Committee on providing incentives in industrial areas. The amendment created an incentive for additional commercial square footage in areas designated as ‘Preferred Industrial Areas’. Per Subsection 33.3B(5), transfers and allocations in the preferred industrial area will be doubled. Transfer of commercial floor area out of a preferred industrial area will be reduced by 50 percent unless the floor area was acquired through a TRPA-approved transfer on a 1:1 ratio or through a community plan allocation system. Transfers within a preferred industrial area shall be at a 1:1 ratio.

Discussion: In order for an area to qualify for the preferred designation, Subsection 33.3.B(5) requires TRPA to make findings that the area has implemented area-wide Best Management Practices (BMPs), or the local government of jurisdiction has committed to implement area-wide BMPs in its five-year CIP list submitted to TRPA. Washoe County has already implemented water quality improvements on Sweetwater Road by installing two sediment basins on the north side of the road. Nevada Department of Transportation (DOT) has committed to water quality BMPs along State Route 28 through this area, scheduled for 2004. See Attachment C for the letter of commitment, and completion of required BMP improvements from Washoe County. See Attachment D for the 2002 Federal Transportation Improvement Program entry for the
Memorandum to TRPA Governing Board
Amend Ponderosa Ranch Community Plan
Page 2

Nevada DOT State Route 28 project submitted by the Tahoe Metropolitan Planning Organization. These two projects will meet the area-wide BMP requirements.

As to land use, this area is appropriate for the special designation. Current uses outside of Special Area #1 include storage, auto and hardware/lumber retail that serve residents. As per the agreement with the Commercial Policy Committee, staff notified all property owners within 500 feet of designated area of the proposed amendment, to assure that they do not object.

It is staff’s conclusion that the area outside of Special Area #1 qualifies for the Preferred Industrial Designation. Washoe County has not taken action on amending this community plan, but has expressed support for this designation and assigned commercial floor area to a project in this area.

**Effect on TRPA Work Program:** Should this Preferred Industrial designation be successful, applications for redevelopment of commercial facilities may need to be processed. Project Review and Environmental Compliance will be involved in this effort. The one project that is likely to result from this designation has already been submitted to TRPA and will require a minor effort in tracking floor area.

**Findings:** Prior to amending the TRPA Code of Ordinances, TRPA must make the following findings.

**Chapter 6 Findings**

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

   **Rationale:** The amendment to the Ponderosa Ranch Community Plan to designate a Preferred Industrial Area outside of Special Area #1, is consistent with and will not adversely affect implementation of the Regional Plan Package. The Code provides for designation of a preferred industrial area provided the area implements area-wide BMPs or the local jurisdiction submits a CIP list to the TRPA that includes the project that will treat runoff from the industrial area.

   Washoe County has committed to and completed BMPs on the only local jurisdiction street not included in EIP project commitments. Nevada DOT has committed to water quality improvements along SR 28 below the designated area (EIP project # 10156). This project includes shoulder improvements providing erosion control, water control, drainage, and runoff treatment.

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

MV/dmc

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AGENDA ITEM IX.A.
Rationale: The amendment will not cause environmental thresholds to be exceeded. In return for additional commercial floor area in an industrial area, the area will implement area-wide BMPs to treat runoff.

The BMPs implemented by Washoe County, and the Nevada DOT SR 28 Project constitute area-wide BMPs for the designated area. The BMPs and the Nevada DOT projects control and treat stormwater runoff and erosion. The Nevada DOT project is scheduled for the 2004 construction year and is consistent with the goals to attain and maintain the water quality threshold for surface runoff to reduce the annual nutrient and suspended sediment load into Lake Tahoe.

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

Rationale: See findings 1 and 2 above. The amendment to the Ponderosa Ranch Community Plan provides an opportunity for treating stormwater runoff and reducing sediment loads in the Lake, a goal of the water quality threshold.

Chapter 13 Findings

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

Rationale: See findings 1 and 2 above. The amendment to the Ponderosa Ranch Community is consistent with the Plan Area Designation criteria in Subsection 13.5.B and 13.5.C.

Environmental Documentation: Staff completed the Initial Environmental Checklist for the proposed action. Staff recommends that a Finding of No Significant Effect (FONSE) be made based on the IEC, Chapter 6 and 13 Code findings.

Requested Action: Staff requests the Governing Board take the following actions:

1. Motion to make a Finding of No Significant Effect;
2. Motion to adopt the implementing ordinance.

Staff will begin this item with a brief presentation. Please contact John Hitchcock at 775-588-4547, or via email at jhitchcock@trpa.org, if you have any comments regarding this item.

Attachments: A. Adopting Ordinance with Exhibit 1, Proposed Language Changes
B. Location Map
C. Letter of Commitment from Washoe County
D. 2002 FTIP entry for the Nevada DOT State Route 28 project

MV/dmc 125 AGENDA ITEM IX.A.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 2002 -

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING THE PONDEROSA RANCH COMMUNITY PLAN TO DESIGNATE A PREFERRED INDUSTRIAL AREA OUTSIDE OF SPECIAL AREA #1 AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Ponderosa Ranch Community Plan to designate a Preferred Industrial Area outside of Special Area #1 in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirement of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission ("APC") has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

1.40 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.

1.50 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 and 13 of the Code and Article V(g) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of the Ponderosa Ranch Community Plan

Subsection 6.10, subparagraph (28) of Ordinance 87-9, as amended, is hereby further amended as set forth in Exhibit 1, dated August 6, 2002, which attachment is appended hereto and incorporated herein.
Section 3.00  Interpretation and Severability

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

Section 4.00  Effective Date

The provisions of this ordinance amending Special Designations shall be effective immediately.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 28, 2002, by the following vote:

Ayes:  
Nays:  
Abstentions:  
Absent:  

__________________________
Dean A. Heller, Chairman
Tahoe Regional Planning Agency
Appendix A
COMMUNITY PLAN AREA STATEMENT 054

PLAN DESIGNATION:

Land Use Classification: COMMERCIAL/PUBLIC SERVICE
Management Strategy: REDIRECTION
Special Designations: TDR RECEIVING AREA FOR:

1. Existing Development
2. Multi-Residential Units (Special Area #1 only)

SCENIC RESTORATION AREA

BONUS UNIT INCENTIVE PROGRAM AREA
(Special Area #1 only)

PREFERRED AFFORDABLE HOUSING AREA
(Special Area #1 only)

PREFERRED INDUSTRIAL AREA
(Ponderosa Ranch Outside of Special Area #1)
May 6, 2002

Larry Benoit
TRPA
P.O. Box 1038
Zephyr Cove, NV 89448

RE: Sweetwater Road Water Quality Improvements

Washoe County Road Department will be installing water quality improvements on Sweetwater Road in early May. The improvements are a result of a site visit with yourself, Gary Midkiff from Midkiff and Associates and Fred Carson. As we discussed in the field, a sediment can will be installed on the southeast corner of Sweetwater Road and Ponderosa Ranch Road. Two small sediment basins will be constructed on the north side of Sweetwater Road at the natural drain. All the improvements will be completed by May 15, 2002. If you have any questions or concerns please call me at (775) 832-4125.

Sincerely,

Dick Minto
Road Supervisor
**NV0201 Federal Transportation Improvement Program**
*(Dollars in Whole)*

*State Highway System*

<table>
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<tr>
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<tr>
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<td>MPO D - NV0201</td>
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</table>

**TITLE (DESCRIPTION):**
SR 28 Water Quality Project (SR 28, from 5.5 miles north of Carson City/Washoe County line (Fondencor) to 8.3 miles north (M. Rose Hwy), shoulder improvements, providing erosion control, water control, and ditches). (Dollars in whole)

**MPO Aprv.:** 07/14/2022
**State Aprv.:** 07/09/2022
**Federal Aprv.:** 07/09/2022

**IMPLEMENTING AGENCY:** Nevada DOT
**PRJ MGR:** BILL GALL
**PHONE:** (775) 388-1921

**EPA TABLE II or III EXEMPT CATEGORY:**
Shoulder Improvements.

### PROJECT VERSION HISTORY (Printed Version is Shaded)

| Version | Status | Official Date | Updated By | Change Reason | Amnt No. | Prop Con | Prop RW | PE | PRIOR | 07/03 | 07/04 | 07/05 | 07/06 | 07/07 | 07/08 | 07/09 | 07/10 | BEYOND | TOTAL |
|---------|--------|---------------|------------|---------------|----------|----------|---------|-----|-------|-------|-------|-------|-------|-------|-------|-------|--------|-------|
| 1       | Official | 07/12/2022   | DNREBIE    | Adoption - New Project | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 | 4,860,000 |

**Comments:**
*Version 1 - 07/12/02*  
*1994 FTP RFP number: 472*  
*NEOT number: WA200201 F701*

132

**ATTACHMENT D**
MEMORANDUM

August 20, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Amend PAS 145 Fallen Leaf Lake to Eliminate Hotel, Motel, and Other Transient Dwelling Units as a Permissible Use

Proposed Action: The proposed staff-initiated amendment is a modification to Plan Area Statement 145, South Fallen Leaf Lake, to remove tourist accommodation units as a permissible land use (see Attachment A, Exhibit 1).

Staff Recommendation: Staff recommends that the Governing Board conduct the public hearing as noticed and, based on its outcome, approve the amendment.

APC Recommendation: The APC voted unanimously (13 members present) to recommend approval of the proposed amendment as recommended by staff.

Background: The staff proposes to amend Plan Area Statement (PAS) 145 to remove tourist accommodation as a permissible use in response to a change in use being implemented by the Fallen Leaf Lake Homeowners. In the 1970’s Fallen Leaf Lodge was a mixed used tourist/recreation facility located at the south end of Fallen Leaf Lake. The site was purchased by the Fallen Leaf Lake Homeowners and redeveloped into a modern 41 unit facility that was required to be rented to the public. The marina and store were required to be maintained and open to the public. These cabins were determined to be tourist accommodation units. Through a series of events, TRPA has allowed the units to be subdivided and converted to residential units. Therefore, the need for the designation of tourist accommodation units as a special use is no longer needed. The removal of use would assist four owners of existing units to convert to residential use.

PAS 145 is a Residential Plan Area located at the southern end of Fallen Leaf Lake (see Attachment A, Exhibit 2). The Plan Area is bounded by Fallen Leaf Lake on the north, and surrounded by PAS 144, which is designated as Recreation. Predominant uses in PAS 145 consist of single family residential units, USFS summer tract homes and the Stanford Camp group facility (see Exhibit 2). Access to this plan area is limited in the winter. The South Fallen Leaf area contains some high hazard areas with a high percentage of land coverage and disturbance. The existing coverage is over four times the allowable amount. Open space predominates the adjoining areas. The potential for building a new tourist accommodation facility is low. Public access to the store, marina and back country will not be affected by the plan amendment.

Effect on TRPA Work Program: This amendment is not expected to have an effect on the TRPA Work Program, as it is removing a special use from the Plan Area.
Memorandum to TRPA Governing Board
Amendment to PAS 145, South Fallen Leaf Lake
Page 2

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

A. Chapter 6 Findings:

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

   **Rationale:** The proposed Plan Area Statement amendment will remove tourist accommodation as a permissible use. Currently there are no tourist accommodation units within the plan area or surrounding three plan areas. This change is consistent with the character of the area.

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

   **Rationale:** Future development must comply with all applicable provisions of the Regional Plan. No additional development in excess of that established in the Regional Plan is permitted by the amendment.

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:** Future project applicants will continue to be subject to the Regional Plan package, including maintenance of applicable air and water quality standards.

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

   **Rationale:** For reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the thresholds.

5. **Finding:** The Regional Plan, as amended, achieves and maintains the thresholds.

   **Rationale:** For reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the thresholds.
Chapter 13 Findings

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

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

Environmental Documentation: Based on the above analysis and completion of an Initial Environmental Checklist (IEC), staff recommends a Finding of No Significant Effect (FONSE). The amendment is consistent with the policies of the Plan Area Statement and will help facilitate the development of multi-residential housing for senior citizens.

Requested Action: Staff requests the Governing Board take the following actions:
   1. Motion to make a Finding of No Significant Effect;
   2. Motion to adopt the implementing ordinance.

Staff will begin this item with a brief presentation. Please contact Gordon Barrett at (775) 588-4547 if you have any questions of comments regarding this agenda item.

Attachments: A. Adopting Ordinance with
   Exhibit 1, Proposed PAS Amendment
   Exhibit 2, Location Map
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 02 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING PLAN AREA STATEMENT 145, SOUTH FALLEN LEAF LAKE, TO REMOVE TOURIST ACCOMMODATION AS A PERMISSIBLE USE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the South Fallen Leaf Lake Plan Area Statement (PAS 145), 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 of the South Fallen Leaf Lake Plan Area Statement

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibit 1, dated August 6, 2002, which attachment is appended hereto and incorporated herein.
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 Plan Area Statements 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 the South Fallen Leaf Lake Plan Area Statement 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 August 28, 2002, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Dean Heller, Chairman
Tahoe Regional Planning Agency
145
SOUTH FALLEN LEAF LAKE

PLAN DESIGNATION:

<table>
<thead>
<tr>
<th>Land Use Classification</th>
<th>RESIDENTIAL</th>
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<td>Management Strategy</td>
<td>MITIGATION</td>
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<td>Special Designation</td>
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DESCRIPTION:

Location: This Plan Area is located on the east and south shores of Fallen Leaf Lake and is depicted on TRPA E-19 and E-20.

Existing Uses: Existing uses include residential summer homes, the Fallen Leaf Lake Lodge and cabins, and the Stanford camp resort.

Existing Environment: The area is predominantly covered with coniferous fir trees, with willow and alders located within the SEZ. Glen Alpine Creek is located on the south side of the planning area. SEZs account for approximately five percent of the planning area with a total of 78 percent classified as high hazard.

PLANNING STATEMENT: This area should continue to provide activities and uses primarily associated with summer homes and outdoor recreation.

PLANNING CONSIDERATIONS:

1. The access road is narrow and has poor alignment and slight distance.
2. There is a general lack of adequate drainage devices on improved/unimproved properties and the roadway.
3. Total hard and soft coverage is four times the allowed land coverage.
4. The provision to upgrade the sewer system is resulting in increased requests to improve existing uses.
5. Recreational demand in the area is creating access and parking problems.
6. Access to Fallen Leaf Lake for recreational use is severely restricted.
7. Recreational facilities on private property, including overnight recreational vehicle and camping facilities, are being eliminated.
8. An are within the Fallen Leaf Lodge property has been subject to winter debris avalanches induced by heavy precipitation over the existing snow pack.
9. Stanford camp area is subject to avalanche hazards.
SPECIAL POLICIES:

1. This end of the lake should continue to provide for public access. Public boat launching facilities should be of a small scale to avoid the need for fueling facilities, dredging, artificial harbors, and extensive backshore facilities.

2. New piers on the lake should serve multiple landowners. Piers serving individual landowners will be discouraged.

3. Winter access requiring plowing of roads is prohibited.

4. Local residents of Fallen Leaf Lake, in cooperation with the USFS, the county, and the TRPA, should evaluate the best uses for the lake, especially with regard to public boat access and appropriate boat and motor size restrictions. Special Policies #1 and #2 may be modified as a result of this evaluation.

5. New development should be of a size, scale and character so as to be compatible with existing uses and character of the area.

6. This is a high priority area for land coverage removal.

7. Additional commercial development shall be limited to parcels containing commercial uses on the effective date of the plan.

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

General List: The following list of permissible uses is applicable throughout the Plan Area:

Residential
- Single family dwelling (A), summer homes (A).

Tourist Accommodation
- Hotel, motel and other transient dwelling units (S).

Commercial
- Eating and drinking places (S) and food and beverage retail store (S).

Public Service
- Local public health and safety facilities (S), transit stations and terminals (S), pipelines and power transmission (S), transmission and receiving facilities (S), transportation routes (S), public utility center (S), churches (S), and local post offices (S).

Recreation
- Participant sports facilities (S), day use areas (A), riding and hiking trails (A), marinas (S), outdoor recreation concessions (S), beach recreation (A), and group facilities (S).

Resource Management
- Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment/management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A) and runoff control (A).
Shorezone: Within the specified shorezone tolerance district, the following primary uses may be permitted in the backshore, nearshore, and foreshore. Accessory structures shall be regulated pursuant to the regulations applicable to the primary use upon which they are dependent in accordance with Chapter 18. The following structures may be permitted in the shorezone as an allowed (A) or special (S) use only if they are accessory to an existing, allowed use located on the same or adjoining littoral parcel.

Tolerance District 4 and 6

Primary Uses
Beach recreation (A), safety and navigational devices (A), boat launching facilities (S), and salvage operations (A).

Accessory Structures
Buoys (A), piers (A), fences (S), boat ramps (S), breakwaters or jetties (S), shoreline protective structures (S), floating docks and platforms (A), and water intake lines (S).

Tolerance District 2

Primary Uses
Safety and navigational devices (A) and salvage operations (A).

Accessory Structures
Buoys (A), piers (A), fences (S), boat ramps (S), breakwaters or jetties (S), shoreline protective structures (S), floating docks and platforms (A), and water intake lines (S).

Tolerance District 7

Primary Uses
Beach recreation (A), safety and navigational devices (A), marina (A), outdoor recreation concessions (A), boat launching facilities (S), and salvage operation (S).

Accessory Structures
Buoys (A), piers (A), fences (S), boat ramps (A), breakwaters or jetties (S), shoreline protective structures (S), floating docks and platforms (A), and water intake lines (S).

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

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<tr>
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<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
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<tr>
<td>Summer Home</td>
<td>1 unit per lot or lease site</td>
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<tr>
<td>Tourist Accommodation</td>
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</tr>
<tr>
<td>Hotel, Motel, and Other Transient Dwellings Units</td>
<td>15 units per acre</td>
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<td>* with kitchens or without kitchens</td>
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MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan Area is 55 CNEL.

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

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

ENVIRONMENTAL IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan and Environmental Improvement Plan (EIP) for this area shall be implemented.  

5 Amended 5/22/02
MEMORANDUM

August 20, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Amend the Tahoe City Community Plan, Special Area 5, to Allow Single Family Dwellings as a Special Use.

Proposed Action: The applicant, Michael Merriman, represented by Leah Kaufman, proposes to add single-family dwellings as a Special Use to Special Area #5 of the Tahoe City Community Plan. See Attachment A, Exhibit 1.

Staff Recommendation: Staff recommends the TRPA Governing Board conduct the public hearing as noticed and approve the proposed amendment to the Tahoe City Community Plan.

APC Recommendation: The APC voted unanimously (13 members present) to recommend approval of the proposed amendment to add Single-family Dwellings to Special Area #5 of the Tahoe City Community Plan.

Background: The Tahoe City Community Plan was adopted in 1994. The applicant contends that the adoption of the Community Plan (CP) made his and neighboring properties non-conforming uses; the original plan area statement for this area had single-family dwellings as a special use. The EIS prepared for the adoption of the CP makes no mention of creating non-conforming uses within Special Area #5 of the CP. It states that the only uses made non-conforming by adoption of the CP were located within Special Areas #1, 2, and 3. However, the individual parcel inventory, completed as part of the EIS, must have either been incorrect in regards to Special Area #5, or these homes were used as something other than single-family residences at the time of the inventory. Regardless, the applicant’s home was built as a single-family dwelling in the 1960’s and his neighbor immediately to the west was permitted by TRPA in 1988 as a single-family dwelling.

Discussion: Special Area #5 is located in the eastern portion of Tahoe City, containing 13 lots on the northern side of SR 28 (see Attachment B). When the CP was adopted by the TRPA and Placer County, an intentional discrepancy in uses for this Special Area was made. For Placer County, single-family dwellings are currently an Allowed Use within Special Area #5; therefore, no action will be required of Placer County. However, according to TRPA, single-family dwellings are currently not a permissible use, hence this application to amend the permissible use list for Special Area #5.

Special Area #5 is designated as a retail area for the Community Plan. Many of the parcels within Special Area #5 are currently occupied as homes (single and multiple family), commercial offices, and two retail uses at the western edge of Special Area #5.
Memorandum to TRPA Governing Board
Amendment to Tahoe City CP
Page 2

The purpose of the application is to amend the permissible use list to allow for the opportunity to redevelop and expand a single-family home, which currently would not be allowed as TRPA recognizes the current use (single-family dwelling) as a non-conforming use. Per TRPA Code Chapter 18, non-conforming uses cannot expand or intensify the use. In this case, some amount of additional coverage will be required to meet the applicant’s goal of remodeling his single-family home.

Effect on TRPA Work Program: The effect on the TRPA staff work program is anticipated as minor. One project will arise from this amendment and, since it is located on SR 28 (a designated scenic travel route), that permit would be processed by TRPA.

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

A. Chapter 6 Findings:

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

   Rationale: The proposed amendments to the Community Plan will not adversely affect implementation of the Regional Plan. Residential uses are currently occupying many of the parcels of the subject special area, and the amendment will make the CP consistent with the adopted list of permissible uses for Placer County.

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

   Rationale: The addition of single-family dwellings as a special use to Special Area #5 will not adversely affect the implementation of the Regional Plan. All projects resulting from this amendment will be consistent with the Code of Ordinances and other land use documents.

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: Any new or expansion of development due to this amendment will continue to be subject to federal, state, and local air and water quality standards.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.
Memorandum to TRPA Governing Board
Amendment to Tahoe City CP
Page 3

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

5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

B. Chapter 13 Findings:

1. Finding: Prior to adopting any plan area amendment, TRPA must find the amendment is substantially consistent with the plan area designation criteria in Subsection 13.5.B and 13.5.C.

Rationale: There are a fair amount of properties within Special Area #5 today that are used as residences, and the applicants’ parcel itself would require considerable site work to redevelop the parcel for retail use. Therefore, given the current mixture of land uses and TRPA’s desire to minimize extensive grading within close proximity to Lake Tahoe, the proposed use can be considered to be consistent with the existing Community Plan land use theme for Special Area #5, retail, and will not hinder the ability of the Community Plan to realize its planned environmental and socioeconomic goals for development.

Environmental Documentation: Staff completed the Initial Environmental Checklist for the proposed action. Staff recommends that a Finding of No Significant Effect (FONSE) be made based on the IEC, Chapter 6 and 13 Code findings.

Requested Action: Staff requests the Governing Board take the following actions:

1. Motion to make a Finding of No Significant Effect;
2. Motion to adopt the implementing ordinance.

For questions concerning this item, contact Peter Eichar at (775) 588-4547 or, recreation@trpa.org.

Attachments: A. Adopting Ordinance with Exhibit 1, Proposed changes to Tahoe City Community Plan
B. Map of Community Plan Area
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2002 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING THE TAHOE CITY COMMUNITY PLAN, TO AMEND THE PERMISSIBLE USE LIST OF SPECIAL AREA #5 BY ADDING SINGLE-FAMILY DWELLINGS AS A SPECIAL USE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Tahoe City Community Plan, Plan Area Statement (PAS 001A), 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 of the Tahoe City Community Plan, Plan Area Statement

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibit 1, dated August 7, 2002, which exhibit is appended hereto and incorporated herein.
Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Community Plan adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Community Plan 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 the Tahoe City Community Plan, shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 28, 2002, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

______________________________
Dean Heller, Chairman
Tahoe Regional Planning Agency
Chapter II
LAND USE ELEMENT

B. TAHOE CITY COMMUNITY PLAN AREA STATEMENT
This Community Plan Area Statement supersedes TRPA Plan Area Statements and Placer County zoning within the Community Plan boundaries.

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

The Definitions of terms used in the Section on Permissible Uses are those found in Chapters 2 (Definitions), and 18 (Permissible Uses), of the TRPA Code.

Special Area #5 (Retail Area): The following list of permissible uses is applicable throughout the Special Area.

**Residential**
Employee housing (A); multiple family dwelling (A); nursing and personal care (S); residential care (S), and single family dwelling (A) Placer County only. (S) TRPA only*

**Tourist Accommodation**
Bed and breakfast facilities (A); hotel, motel, and other transient dwelling units (S); timesharing (hotel/motel design) (S); time-sharing (residential design) (S).

**Commercial**

A. Retail
Auto, mobile home and vehicle dealers (S); building materials and hardware (S); eating and drinking places (A); food and beverage retail sales (A); furniture, home furnishings and equipment (A); general merchandise stores (A); mail order and vending (A); nursery (S); outdoor retail sales (S); service stations (A).

B. Entertainment
Amusements and recreation services (A); privately owned assembly and entertainment (S).
C. Services
Animal husbandry services (S); auto repair and service (S); broadcasting studios (A); business support services (A); contract construction services (A); financial services (A); health care services (A); laundries and dry cleaning plant (S); personal services (A); professional offices (A); repair services (S); schools - business and vocational (A); secondary storage (S).

D. Light Industrial
Printing and publishing (A).

E. Wholesale/Storage
Vehicle storage and parking (A).

*Single family use is an allowed (A) use under Placer County's General Plan/zoning laws. However, it is NOT an allowed use under TRPA's Community Plan.
MEMORANDUM

August 19, 2002

TO: Tahoe Regional Planning Agency
   Governing Board

FROM: Richard A. Wiggins Transportation Staff

SUBJECT: Tahoe Transportation District Advisory Planning Commission Appointee

Proposed Action: Approval of Tahoe Transportation District APC appointee and Alternate.

Staff Recommendation: Seek clarification as necessary.

Background: The Tahoe Transportation District (TTD) has taken the following action in regards to its TRPA Advisory Planning Commission (APC) representative and alternate representative. The TTD Board has appointed Mr. Ron McIntyre as the TTD representative to the APC for a two-year term. The TTD has also appointed Ms. Jennifer Merchant as the TTD alternate representative should Mr. McIntyre be unable to attend.

Please find attached letter from the Chairman of the TTD, Mr. Michael A. Harper confirming the above action.

Please direct any questions or comments to Richard Wiggins, Transportation Division Chief, at (775) 588-4547.
June 21, 2002

Mr. Juan Palma
Executive Director
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448

Dear Mr. Palma:

The Tahoe Transportation District (TTD) Board of Directors have voted to retain Mr. Ron McIntyre as the TTD appointee to the TRPA Planning Advisory Committee (APC) for the next two years. In addition, the TTD voted Ms. Jennifer Merchant as Mr. McIntyre’s alternate should he be unable to attend.

If you have any questions or desire to discuss this further, please feel free to contact me at your convenience.

Respectfully,

Michael A. Harper, AICP
Chairman
MEMORANDUM

August 15, 2002

To: TRPA Legal Committee

From: TRPA Staff

Subject: Lira’s Supermarket, 2977 Highway 50, Meyers, El Dorado County, California, APN 34-270-49

The purpose of this memo is to respond to concerns and issues brought before the Governing Board during the public comment session of July’s meeting. At that time, Sue Abrams spoke on behalf of Jim and Shirley Lira, owners of Lira’s Supermarket.

Mr. and Ms. Lira submitted an application to remodel and expand an existing commercial building in November of 1998. During the planning stages for the project, TRPA staff met with the Liras and their representatives numerous times to discuss commercial floor area (CFA) issues. The issue of enclosing the front entrance was discussed at length because it would require additional CFA, which was a limited resource for the overall project. Enclosing the front entrance would put the project over the available CFA. (Please see attached memo from Kathy Canfield). Ultimately, the Governing Board approved the project in August of 1999, with a front entrance that was not enclosed, and therefore, did not require additional CFA.

In November of 2001, TRPA staff conducted a security return inspection of the project to verify compliance with the conditions of approval for TRPA permit # 990009 and 990838. Items that were non-compliant are described in a letter sent to the Lira’s in January of 2002 (attached), and briefly include mechanical equipment screening, signs, storage areas and unauthorized CFA (enclosure of front entrance). Most items have been addressed, however, the most outstanding item is the unauthorized CFA associated with the enclosed front entrance. Chapters 33 and 34 of the TRPA Code of Ordinances regulate how additional CFA can be brought to a project. Chapter 33 addresses how a CFA allocation can be used for a project once either an SEZ restoration project has been constructed or a transfer of CFA at 2:1 ratio matches the allocation. Chapter 34 addresses how additional CFA can be transferred to a project when land coverage has been reduced and restored either on-site or on sensitive lands. In a letter to the Liras dated August 13, 2002, (attached), TRPA staff explained the pertinent Code sections from both chapters and outlined four possible options to resolve this issue. The Liras were given until August 30, 2002 to inform TRPA of the option they will pursue.

If there are any questions regarding this item, please contact Katie Guthrie at (775) 588-4547, extension 274.
August 13, 2002

Jim and Shirley, Lira
2977 Highway 50
South Lake Tahoe, CA 96150

Dear Mr. and Ms. Lira

LIRA’S SUPERMARKET, APN 34-270-49, 2977 & 2981 HIGHWAY 50, EL DORADO COUNTY, CALIFORNIA.

The intent of this letter is to clarify outstanding items from my initial security return inspection letter dated January 18, 2002, our meeting on August 2, 2002, and other concerns you have brought forward.

Mechanical Equipment Screening
The major revision permit for the supermarket required that all external mechanical equipment shall be constructed of a non-glare finish or coated with a non-glare finish to minimize reflectivity. My letter to you in January required this condition to be fulfilled by April 29, 2002. An inspection on July 30, 2002 revealed that the screening devices have been installed around the equipment but remain a non-complying red primer color. The screening materials were installed and painted “mallard green” on August 1, 2002, per Shirley Lira.

Signs

In November of 2001, the freestanding sign was inspected for compliance with the conditions of approval (TRPA permit # 200704). While the sign was found to conform to the conditions of approval, the security deposit of $9,000 could not be released because it is linked to the major revision permit for the supermarket. We received an incomplete TRPA Sign application and a photocopy of a bid proposal from Signs of Tahoe in July 2002. This application was not signed and did not indicate location or size of proposed signage. A complete application and filing fee was submitted on August 2, 2002. The application (TRPA permit # 20021334) is currently being reviewed by the Environmental Compliance Division.

Commercial Floor Area/ Commercial Application

In my letter dated January 18, 2002, I informed you that the enclosed front entrance constituted unauthorized commercial floor area and that you were in violation of your TRPA permit. This area was to be reconfigured and all unauthorized commercial floor area (approximately 350 square feet) removed by April 29, 2002. Jim Lira’s letter from January 31, 2002, indicated that he was going to contact an architect to review and discuss the possibility of making application for additional commercial floor area (CFA).
In July 2002, we received a TRPA Commercial application to add 2,000 square feet of CFA to the Lira's site. Proposed floor plans included constructing a loft area and maintaining the unauthorized enclosed front entrance. The application also included documentation dated October 20, 1998, from the El Dorado County Board of Supervisors recommending that a request for an additional 2,000 square feet of CFA be approved. The Commercial application was incomplete as it lacked new traffic information (trip calculations), revised parking spaces and other items needed for Hearing's Officer public notification (reduced plans, list of adjacent property owners and envelopes with postage). Moreover, it did not identify where the additional CFA allocation was coming from. The incomplete application was returned to Shirley Lira on August 2, 2002.

The TRPA Code of Ordinances Section 33.3.A states: “No person shall construct a project or commence a use, which creates additional commercial floor area, without first receiving an allocation approved by TRPA”. Furthermore, the Code regulates how additional CFA can be allocated to projects on sensitive lands (Class 1, 2, 3 or SEZ). The land capability for the Lira's site is Class 1b (SEZ). If you wish to keep the unauthorized enclosed front entrance, additional CFA would have to be brought to the site in accordance with the provisions of TRPA Code of Ordinances, Chapter 33, which addresses allocations or Chapter 34, which addresses transfers. The following discussion cites the pertinent TRPA Code sections and interprets them as they relate to the Lira's site.

Chapter 33 provides two options: (1) Use an allocation of CFA and satisfy the associated requirements; or, (2) Use a combination of transferred and allocated CFA, and satisfy the associated requirements.

**Option 1**

Section 33.3.A (3)(b) states:

*The parcel receiving the allocation is in an adopted community plan where one or more SEZ restoration projects have been completed and the local jurisdiction has submitted a CIP list pursuant to the residential allocation requirements in subparagraph 33.2.B (5).*

Since you've expressed an interest in pursuing this option, I will explain it first. This option has two steps — (1) Apply for and complete an SEZ restoration project, and (2) Submit an application for a project that uses the additional CFA allocation. Once an SEZ restoration project has been constructed, then any parcel in the Meyers Community Plan area may be eligible to receive additional CFA allocations to sensitive parcels. An application for a project that proposes to use additional CFA on sensitive land would be submitted to TRPA for review. The application would include the local jurisdiction’s recommendation for additional CFA to a particular project. To date, an SEZ restoration project has not been constructed in the Meyers Community Plan area. Therefore, additional CFA cannot be used at the Lira's site at this time.
Option 2
As an alternative, additional CFA may be allocated and transferred to the project.

Section 33.3.A (3)(a) states:

*The allocation is matched by a transfer from an equal or more sensitive land capability district at a ratio of one square foot of commercial floor area allocation to two square feet of transferred commercial floor area.*

As an example, to use an additional 2,000 square feet of CFA at the Lira’s site, 1,333 square feet of CFA would have to be transferred in (from 1b land capability) and 667 square feet of CFA would come from an allocation. This option would not require an SEZ restoration component.

Option 3
Section 34.4 allows for certain elements of development (in this case, commercial floor area) to be transferred from one parcel or project to another, without using an allocation, if the receiving parcel is in a adopted community plan area (like the Meyers Community plan) and designated as a receiving area for existing development. If the receiving parcel is on sensitive lands (1b for example), then one of the following conditions has to be met.

Section 34.4.B (9) states:

*The receiving parcel shall have a building site that is determined to be in Land Capability District 4, 5, 6, or 7; or if applicable, in the top rank under IPES unless:*

(i) *There is a 25 percent or greater reduction in existing land coverage and restoration on the receiving parcel and there is no increase in vehicle trips, parking, cubic volume of the structures, or adverse impacts; or*

(ii) *The transfer of commercial . . . units of use to a site inside a designated community plan area, is from sensitive lands to an equal or less sensitive land capability district, and a reduction of land coverage and restoration occurs at the receiving parcel or sending site, equal to . . . one square foot per one square foot of land coverage of commercial floor area transferred; or*

(iii) *The transfer of commercial floor area from nonsensitive lands to a site inside a designated community plan area results in a reduction of land coverage and restoration on the receiving site or like sensitive lands in the watershed at a ratio of one square foot of transferred floor area to two square feet of land coverage reduced.*

Condition (i) would require reduction/restoration of land coverage at Lira’s site by 25%, with no increase in vehicle trips or parking. This condition is not a valid option because new CFA automatically generates new vehicle trips. Condition (ii) would require a transfer of 2,000 square feet of CFA from 1b to the Lira’s site and reduction/restoration of 2,000 square feet of land coverage at Lira’s site. Condition (iii) would require a transfer of 2,000 square feet of CFA from land capability districts 4-7 and a reduction/restoration of 4,000 square feet of 1b land coverage somewhere in Hydrologic Area 5.
Option 4
Remove the unauthorized commercial floor area associated with the enclosed front entrance. This aspect of the project would then be in compliance with your TRPA permit and approved plans.

By August 30, 2002, please advise TRPA in writing which option you choose to pursue.

Landscape

Kathy Canfield approved proposed revisions to the original landscape plan in the fall of 2001. Primarily, the revisions substituted red or incense cedar for western mountain junipers. My letter to you in January indicated that substantial compliance with the original approval must be must be field verified by TRPA staff. Based on our meeting on August 2, 2002, Sue Abrams shall prepare a revised landscape plan and submit it to TRPA for review and approval. The revised plan shall show how the Tahoe Turf proposal will be implemented. Once this plan has been received, I shall draft a letter stating that after the approved landscape plan has been implemented and inspected by TRPA staff, the landscape component will be in compliance with your TRPA permit. Please be advised that all vegetation must be established prior to the release of your security. To be considered established, vegetation growing from seed must substantially cover the ground where it was planted. Potted plants and trees must show new growth.

Thank you for your cooperation. Should you have any questions, you may contact me at (775) 568-4547, Ext. 274, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

Katie M. Guthrie
Associate Environmental Specialist

Enclosures

C: El Dorado County Building Department, 3368 Lake Tahoe Blvd., South Lake Tahoe, CA 96150
   Roger Trout, El Dorado County Planning Department, 2850 Fairlane Court, Placerville, CA 95667
August 12, 2002

To: Katie Guthrie, Compliance Division
    Project File

From: Kathy Canfield, Project Review Division

Subject: Lira’s Market – Review of Project Application & Commercial Floor Area

During the review of the original project, the subject of commercial floor area (cfa) was discussed with Mr. Jim Lira, Ms. Sue Abrams and Mr. Brian Shinault. Prior to the permit being scheduled for the August 1999 TRPA Governing Board meeting, I had several discussions with both Ms. Abrams and Mr. Shinault, and met with them and Mr. Lira at Ms. Abrams office about the cfa. At that meeting on August 3, 1999, we worked out a solution that came up with a design that didn’t require a transfer or an allocation of cfa. As part of that meeting, I again discussed why the allocation wouldn’t work for their project at that time. The applicant came up with a design that limited the cfa for the site to the existing amount plus 500 square feet (which was permitted to be added as a one-time option). The design the applicant proposed was to keep the front entryway open (versus enclosed) and reduce the amount of upstairs floor area. The Governing Board approved the project with those design elements at their August 1999 meeting.
January 18, 2002

Mr. Jim Lira
60 Sierra Avenue
Rio Vista, CA 94571

Dear Mr. Lira:

SECURITY RETURN INSPECTION, COMMERCIAL ADDITION AND REBUILD/MAJOR REVISION AND SIGN PERMITS, LIRA'S SUPERMARKET, APN 34-270-49, 2977 & 2981 HIGHWAY 50, EL DORADO COUNTY, TRPA FILE #990009 #990838 and #200704

On November 20, 2001, and January 17, 2002, Tahoe Regional Planning Agency (TRPA) staff inspected the above-referenced parcel to verify compliance with the conditions that were part of your project approvals. The inspection revealed that the following items still need to be completed prior to release of the security you posted:

1. Four historic markers located on the property prior to commencement of this project shall be replaced in a publicly visible location.

2. All banners shall be removed from the building. In addition, the community board located to the right of the main entrance shall be relocated inside, as agreed to during the project review process. All signage on the property must be brought into compliance with your TRPA permits.

3. The enclosed area to the right of the main entrance, housing the "Mountain Craft Too" shall be immediately dismantled, as it constitutes unauthorized commercial floor area (CFA), and violates your permit. All signage associated with this unauthorized use shall be removed immediately.

4. All miscellaneous shipping items, including pallets, crates and crushed cardboard shall be stored inside or behind a solid wood fence.

** The above requirements shall be met by February 1, 2002.

5. All external mechanical equipment shall be constructed of a non-glare finish or coated with a non-glare finish that minimize reflectivity. In addition, all mechanical equipment shall be screened from public view. These are requirements of your TRPA permit # 990009 (Special Condition 4) and shall be fulfilled by April 29, 2002.

6. The main entrance to the supermarket shall be reconfigured to comply with the TRPA stamped plans. The current configuration (doors located on the outermost wall) creates approximately 346 square feet of unauthorized CFA and violates your permit. This area shall be reconfigured and the unauthorized CFA eliminated by April 29, 2002.
Lira’s Supermarket/Security Return Inspection
January 18, 2002
Page 2

If you wish to keep the floor plan changes and associated CFA referenced in items 3 and 6 above, additional commercial floor area would have to be transferred to this project, in accordance with either Section 33.A.3 (a) and (b), or 34.4.B (9) of the TRPA Code of Ordinances. If you wish to pursue this option, item 3 would still have to be fulfilled by the deadline. Please be advised that adding CFA to this site has the potential to increase the parking space requirements. The pursuit of this option will require a complete Commercial Minor Addition/Modification application, filing fee and a public hearing with the TRPA Hearing’s Officer.

Revisions made in the fall of 2001 to the proposed landscape plans must be field verified by TRPA staff for substantial compliance with the original TRPA approved landscape plan.

Please be advised that all vegetation must be established prior to the release of your security. To be considered established, vegetation growing from seed must substantially cover the ground where it was planted. Potted plants and trees must show new growth.

Enclosed are copies of photos taken of unauthorized signage and visible mechanical equipment and other violations. Further inspections will be required in the spring or summer of 2002 to verify compliance with all conditions of your permits.

Thank you for your cooperation. Should you have any questions, you may contact me at (775) 588-4547, Ext. 274, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

Katie M. Guthrie
Associate Environmental Specialist

Enclosures

C: El Dorado County Building Department, 3368 Lake Tahoe Blvd., South Lake Tahoe, CA 96150
MEMORANDUM

August 16, 2002

To: TRPA Governing Board and Rules Committee

From: TRPA Staff

Subject: Rules Committee Agenda Items 2) Concurrent Scheduling of APC & Governing Board Agendas, and 3) Policy Discussion Concerning Effective Dates and Retroactivity of New Ordinances and Regulations

At the request of Board Member Jim Galloway, the above-referenced items have been placed on the Rules Committee for discussion (see attached information). At Mr. Galloway’s request, Agenda item 2 will be discussed at the Rules Committee only at this time. Depending upon the Rules Committee discussion and recommendation, item 3 may be presented to the full Governing Board for direction to staff. If the Rules Committee and Governing Board agree that the proposed amendments should go forward, the Board will need to direct staff to prepare the necessary rules language, findings and adopting resolution for Governing Board action in September.

AGENDA ITEM NO. XI.D.

169
To: Dean Heller
    Juan Palma

From: Jim Galloway

Fax: 588-4527
Fax: 775-328-2037
Office: 775-328-2005

Subject: Proposed Policy Concerning Scheduling items on Advisory Planning
      Commission and Governing Board Agendas

As Chair of the Rules Committee I request to include the attached August 7th memo on
the Rules Committee Agenda for August. This will not be a Governing Board item at
this time.
7 August 2002

Jim Galloway, Chair
Governing Board Rules Committee
Tahoe Regional Planning Agency

RE: Proposed Policy Concerning Scheduling items on Advisory Planning Commission and Governing Board Agendas.

Dear Jim;

I would like to request the Rules Committee consider creating a policy that would not allow items to be scheduled on the agendas of Advisory Planning Commission (APC) and the Governing Board in the same month. There have been several incidents in the past year where items were placed on the APC and the Governing Board agenda for the same month and for a variety of reasons the APC was unable to make a recommendation at their meeting. The problem is that since the item was already on the Governing Board’s agenda the Board was required to hear the item before the item was completely reviewed by the APC.

The APC does not review every item that goes before the Governing Board, but items that we do review are given serious thought before we make a recommendation. As a member of the APC, I feel we should have sufficient time and opportunity to carefully review each item on our agendas, and if need be ask staff to bring the item back with additional information or options before forwarding it to the Governing Board. Under the current procedures when an item is scheduled on the APC agenda, it is also scheduled for the Governing Board two weeks later. This often means there is no time to pull an item from the Governing Board’s agenda if the APC has not completed its review.

This process does a disservice to the Governing Board, the Advisory Planning Commission and the public. The Governing Board is forced to hear an item before adequate review is completed, making their meetings longer and requiring that the item be heard again at another meeting. The public is required to attend the Governing Board meeting to weigh in on an issues, knowing full well that the APC did not have sufficient information to make a determination and that the Governing Board may postpone their decision until the APC can make a recommendation. The APC is also pressured by staff to make a recommendation because the item is already scheduled to go to the Governing Board in two weeks. Even if the APC makes a recommendation on an item, those recommendations often time will include amendments or additions. Tahoe Regional Planning Agency (TRPA) staff is then required to make the appropriate changes in the short period of time before the Governing Board meeting. APC is not given an opportunity to review the actual changes that are sent to the Governing Board. While staff does a good job getting the changes incorporated, mistakes can be made or ideas don’t always come across as hoped. APC should have the opportunity to review the final product sent to the Governing Board. All these issues could be resolved if there were a rule in place that would direct staff to not schedule a item on the APC and the Governing Board’s agenda in the same month.

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"Dedicated to Excellence in Public Service"
Letter to:
Subject:
Date:
Page 2

Respectfully,

[Signature]
Eva M. Krause
Advisory Planning Commissioner
Washoe County

cc. Mike Harper, Advanced Planning Manager
Alice Baldrick, Chair, Advisory Planning Commission

173
July 30, 2002

Dean Heller, Chairman
TRPA
101 No. Carson Street, Ste. #3
Carson City, NV 89701-4786

Juan Palma, Executive Director
TRPA
PO Box 1038
Zephyr Cove, NV 89448-1038

Subject: Proposed Policy Concerning Effective Dates and Retroactivity of New Ordinances and Regulations

Dear Dean and Juan:

As Chairman of the Rules Committee, I submit the above titled subject item and a copy of my February 6th memo. Please consider pages 2 and 3 of that memo, items A, B and C as a proposal to be considered by the Rules Committee at the August 28th meeting. Please schedule that committee meeting for the noon break. Please include this letter and my February 6th memo in the August 28th meeting packet. If TRPA staff has other relevant material they wish to include in the packet for this item, please furnish that in advance to me so that I have time for questions or suggestions before the packet is mailed.

I also request that this same matter be brought to the Governing Board for possible action on August 28th (in the afternoon) or on September 25th (prior to action on the proposed new shoreline scenic regulations).

The Washoe County District Attorney has been asked to give a written opinion on 1) restrictions on retroactivity as they exist in Nevada law; and, 2) whether TRPA is bound by those Nevada restrictions. Please request one or more California agencies to provide opinions on California law with regard to retroactivity and application to TRPA. In addition, would our TRPA legal staff please provide the Rules Committee in advance with their legal opinion — especially as to whether or not they believe TRPA is bound by State laws in these matters.

Please let the agenda reflect that Mr. Mike Harper may be acting in my place at the Rules Committee meeting. I plan to attend the board session in the afternoon, but it is uncertain that I can be there in time for the noon break. Mr. Harper is thoroughly familiar with this subject matter, and is an official alternate Governing Board Member for Washoe County.
My February 6th memo requested that this item go before the Governing Board in March, but that didn't happen. Now we are considering action on new scenic rules in which retroactivity could have an enormous impact. There must be no more delay. I expect to receive a draft of the Rules Committee/board package on this subject from you as soon as possible.

Sincerely,

Jim Galloway
Washoe County Commissioner

cc w/ encl: TRPA Board Members
Jerry Wells, TRPA
Carl Hasty, TRPA
Jordan Kahn, TRPA
John Marshall, General Counsel TRPA
Katy Singlaub, Washoe County Manager
Maddy Shipman, Washoe County Assistant District Attorney
Washoe County Commission
Judge Parlen McKenna
William Horn, IVDID
Mike Harper, Washoe County Community Development Department
Eva Krause, Washoe County Community Development Department
Chad Giesinger, Washoe County Community Development Department
February 6, 2002

via fax: 775/588-4527

To: TRPA
Atttn: Dean Heller and Juan Palma, Executive Director

From: Jim Galloway

In keeping with my conversation with Juan Palma at our last board meeting, I am writing to ask that you confirm that the following items will be addressed in future agendas of the Governing Board:

For the February Meeting:

1. On the agenda of the Governing Board: it is my understanding that Juan Palma will agendize a possible suspension of the rules and reconsideration of the LSOG ordinance adopted in 2001 only for the sole purpose of possible elimination or modifications in the restrictions on cutting 30" trees or larger inside the urban boundaries.

I understand that the staff report will indicate that the basis for this agenda item is that after a long debate and a close vote on private timber operations within the basin, the Board proceeded to pass the ordinance based on a statement by staff at the meeting that the revised ordinance would make no change in any requirements within the urban boundary. A subsequent letter by a TRPA staff member documents that this was not the case. The previous interim ordinance placed no restriction on tree removal or cutting within the urban boundaries. It would be appropriate to attach that letter, (by Paul Nielsen) and a copy of the ordinance as it now stands and to refer to the 2001 staff report for all other information. Do you agree that it should not be necessary to rehear this matter since we can base all our decision entirely on the 2001 hearing and package?

For the March Meeting:

2. On the agenda for the Rules Committee and the Governing Board; I have already verbally requested the following item: "Discussion and possible direction to staff regarding the preparation of code changes/ordinance as required to implement policies pertaining to permit or approval applications for land use changes, building and development, additions, remodels, and related items.
This agenda item should include consideration of the following proposed policy:

A. A prospective applicant shall be furnished promptly upon request with a checklist prepared by staff that shows all information and content known to be required from the applicant to make a complete application. If staff is aware of any additional special information required, they shall add this to the checklist for that particular application.

The first 15 days after an application is submitted to TRPA shall constitute the initial staff review period. Within 15 business days after receipt of said application, the TRPA staff shall notify the applicant as follows: (i) the application is complete OR (ii) there is information missing that is required by the checklist, OR (iii) there is additional unanticipated new information required by staff for a complete application. Staff may amend or modify such notice within the specified 15 business days. However, any information or content requested after that time shall be considered “post-application information” and shall have no affect on when the application should be considered complete for the purposes of policy provisions B and C, as stated below.

If staff fails to notify the applicant within the specified 15 days, the application will be deemed complete for the purposes of provisions B and C below. If staff notifies the applicant of deficiencies or more information needed, then the application shall be deemed complete for the purposes of B and C below when the applicant has furnished the information in the notice as issued or amended by staff within the specified 15-day period.

Additional post-application information requested by staff after the 15-day initial staff review period, shall not render an application incomplete as it pertains to provisions B and C below, even though such requested information may be relevant to the eventual approval or disapproval of the application. In any staff report concerning the application, additional information requested after the 15-day notification period and used, as part of the recommendation shall be so identified in the staff report as “post-application information”.

B. An application that is complete for the purposes of this section shall be subject only to those fees that are in effect as of the date in which the application is complete. I request that staff provide a package containing comments and recommendations from our legal staff and any other interested parties who may submit such comments.
C. An application that is deemed complete for the purposes of this section shall be subject, for approval purposes, only to those TRPA and code requirements that are adopted and in effect on the date upon which the application is complete. Also, if there should be any TRPA moratorium that would otherwise effect the subject application, it shall not effect the said application if that application was complete either prior to the date of the adoption of the moratorium or prior to the effective date of the moratorium, as adopted. However, in the event of a court order, that contravenes this policy, then the application shall be affected or not affected according to the terms of the court order.

For the March Meeting

On the agenda of the Governing Board: discussion and possible limited or permanant extension or the exemption from the two-stroke carbonated engine ban for auxiliary engines of 25 hp or less used on sail powered craft and engines of 10 hp or less used on motorized watercraft.

Subsequent to the adoption of the ban and the exemptions, TRPA has conducted a boating study. The exemptions were passed based on indications that the effect of these engines would be de minimus unless the results of the boating study contradict that premise, I suggest that the exemption be extended indefinitely. Staff is asked to provide any and all applicable results of the study as the package for this item.

I realize that this may seem like a great deal of material to be considered, but all of these items have been requested by me in prior meetings of our Governing Board, or as in the case of item 1, they have been discussed on more than one occasion with Director Juan Palma.

JG:dc
cc: Katy Singlaub
    Mike Harper
    Eva Krause
    Maddy Shipman

/Washee County Commissioner
MEMORANDUM

To: TRPA Governing Board

From: TRPA Agency Counsel

Date: August 20, 2002

Re: Point of Application of TRPA Ordinances and Vested Rights

Governing Board Member Galloway has requested a discussion of the effective dates of TRPA ordinances and the application of new or amended regulations to applications already submitted to TRPA. Mr. Galloway considers application of new or amended regulations to pending applications as “retroactive” and contrary to Nevada state law. Mr. Galloway, a Washoe County Commissioner has requested an opinion from the Washoe County District Attorney’s Office on the state of Nevada law and its applicability to TRPA (the responding memorandum is attached as Exhibit A).

As set forth below, the Compact and binding case law require that TRPA apply the substantive regulations in effect at the time of action on the application rather than at the time the application was filed.¹ California and Nevada state law hold that an applicant has no vested right to any particular set of ordinances until a permit has been issued and reliance thereon has commenced.

1. Point of Application of TRPA Ordinances

When reviewing project applications, TRPA applies the regulations in effect when action is taken (by the Governing Board, Hearings Officer, or Executive Director). The date the application is submitted is not relevant; the regulatory structure existing at the time is employed regardless of whether the application was submitted prior to an Ordinance being amended or adopted. This approach is demanded by the Tahoe Regional Planning Compact, P.L. 96-551, 94 Stat. 3233, N.R.S. § 277.200 et seq., Cal. Gov. Code § 66801 et seq. (1980) (“Compact”).

The Compact requires that findings be made prior to any project approval. Specifically, “prior to approving any project in the region[,]” TRPA must make “specific written findings”

¹ This memorandum addresses only TRPA ordinances and regulations that are substantive—that relate to threshold maintenance and attainment. TRPA has greater flexibility regarding purely procedural regulations (e.g. filing fees).
that the project “will not cause the adopted environmental carrying capacities of the region to be exceeded.” Compact, Article V(g). See also Compact, Article VI(b). If application of a TRPA Ordinance is necessary to make this finding, the Agency must do so. As the thresholds must be achieved above all else, TRPA cannot not “freeze” the regulations in effect when a project application is filed to accommodate the expectations of the applicant.

TRPA’s approach is also mandated by controlling case law. In People ex rel. Van De Kamp v. TRPA, 766 F.2d 1308 (9th Cir. 1985) ("Van De Kamp"), the Ninth Circuit Court of Appeals expressly held that TRPA cannot “grandfather” pending applications. When TRPA adopted its Regional Plan in 1984, it included a provision that project applications submitted prior to its adoption would be reviewed differently than those submitted after adoption. Approximately 300 single-family residence project applications already submitted would be reviewed only for consistency with the former regional plan (i.e., they were to be exempt from the new regulations).

The State of California and League to Save Lake Tahoe challenged TRPA’s adoption of the 1984 Plan. These parties argued that the exemption facilitated project approval without the findings of threshold consistency necessitated by Article V(g) of the Compact. The District Court agreed and issued an injunction prohibiting all development in the Tahoe Region, which action was upheld on appeal. Van De Kamp, 766 F.2d 1308. The Ninth Circuit decision was unambiguous:

We agree with the district court that the mandate of the Compact is clear: no projects can be lawfully approved without written findings that show how each project “will not cause the adopted environmental threshold carrying capacities to be exceeded.” Id. at 1314. TRPA claimed discretion under the Compact to review existing applications using the old regulations, but the Ninth Circuit rejected this position because the Compact lacks ambiguity. Id. at 1313-14, citing Chevron v. Nat. Res. Defense Coun., 467 U.S. 837 (1984). The injunction was appropriate because TRPA’s attempt to exempt projects from the new regulations “was simply contrary to the clear directive of the Compact.” Van De Kamp, 766 F.2d at 1315.

2. TRPA’s Approach Does Not Impair Vested Rights

The Washoe County legal opinion concludes that TRPA’s approach does not impair vested rights. See Exhibit A at 2 (“it would be allowable to impose newly developed standards upon a permit already in process prior to approval and, possibly prior to a building permit being obtained.”) This determination is based on a survey of relevant Nevada and California precedent. Depending on the case, one obtains a property right to continue with a project either after a building permit is issued or “there has been substantial good faith expenditures made in reliance on previously granted local approvals.” Exhibit A at 2.
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Vested rights to a TRPA project do not accrue until, at the earliest, the applicant has received a TRPA permit and has expended funds in good faith thereon. One does not acquire any vested right by merely filing an application; TRPA is therefore limited to using the ordinances in place at the time of submission. Based on existing law, TRPA can legally withdraw or modify a permit after it is issued based on new regulations (but before a building permit is issued or there is substantial reliance on the TRPA permit). Therefore, if a subsequently enacted Ordinance is required to make the findings necessitated by the Compact, TRPA’s application of that new regulation does not impair vested rights because no such right exists and could not exist under the Compact.

3. TRPA’s Approach is Consistent with Nevada Statutes

(A) N.R.S. 278.0233

The Washoe County legal opinion describes a Nevada statute that potentially raises a conflict with TRPA’s ability to use existing regulations when considering previously submitted applications. See Exhibit A at 2-3. That statute provides monetary relief against a Nevada agency found liable for:

Any final action, decision or order of the agency which imposes requirements limitations or conditions upon the use of property in excess of those authorized by ordinances, resolutions or regulations adopted pursuant to N.R.S. 278.010 to 278.630, inclusive, in effect on the date the application was filed and which:

(1) Is arbitrary or capricious; or
(2) Is unlawful or exceeds lawful authority . . .

N.R.S. 278.0233(1)(a) (emphasis added). Thus, the Nevada legislature actually authorizes a state agency to use new regulations when reviewing previously submitted applications.

Nevada state agencies may apply new ordinances so long as that action is not arbitrary or otherwise unlawful. Id. TRPA is similarly constrained by the Compact, which prohibits such actions. Compact, Article VI(j)(5). Therefore, if TRPA acts in conformance with the Compact, it will also comply with Nevada law. N.R.S. 278.0223(1)(a) does not place an additional requirement on TRPA or affect TRPA’s point of application. In fact, the statute provides support for TRPA’s ability to apply subsequently enacted Ordinances – so long as TRPA’s action is otherwise consistent with the Compact.

(B) Inconsistent State Law Does Not Apply to TRPA

The Washoe County legal opinion describes as “unclear” whether a Nevada statute “would even apply to the TRPA.” Exhibit A at 3. Although TRPA may be subject to California or Nevada law in some circumstances, it is beyond question that the Compact and TRPA’s implementing regulations “preempt” inconsistent state law. Lake Tahoe Watercraft Ass’n v.
TRPA, 24 F.Supp.2d 1062 (E.D. Cal. 1998). Owing to its status as federal law, the Compact trumps inconsistent state law pursuant to the Supremacy Clause of the U.S. Constitution. 24 F.Supp.2d. at 1069. Therefore, if N.R.S. 278.0223(1)(a) presented a conflict by requiring that TRPA applications be reviewed using then existing regulations – which it does not – the inconsistent Nevada law would be preempted and inapplicable to TRPA.

4. Conclusion:

TRPA acts on project applications using ordinances in place upon final action. This approach is mandated by the Compact, which unambiguously directs TRPA to approve projects only after finding that such action will not degrade the environmental thresholds. Vested rights to pursue TRPA projects accrue only after TRPA issues a permit, and are consequently not implicated when TRPA applies regulations subsequently adopted to pending applications. Nevada law actually supports TRPA’s approach and, if it were inconsistent, would be preempted.
MEMORANDUM

TO: JIM GALLOWAY
Washoe County Commissioner

FROM: MADELYN SHIPMAN
Assistant District Attorney

RE: TRPA and Vested Rights

DATE: August 5, 2002

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You have asked that I provide you with a memorandum regarding Nevada law and vested rights as it applies to applications for land use approvals. Specifically, you have indicated that TRPA is contemplating adopting certain regulations and that the agency intends to apply the newly adopted regulations to land use applications currently under review by the agency. As I indicated to you orally, the issue is not black or white. In answering, it is necessary to first review the doctrine of vested rights as it exists in Nevada.

The general rule, to my knowledge applied in both California and Nevada, is that in order for rights to vest against the application of new regulations a developer must have obtained a building permit and substantially relied on that permit. Lakeview Development Corporation v. City of South Lake Tahoe, 915 P.2d 1290 (1990). This general rule has been relaxed somewhat by certain rulings, including in Avco Community Developers, Inc. v. South Coast Regional Commission, 17 Cal.3d 785, 132 Cal. Rptr. 386, 553 P.2d 546 (1976). In Avco the court stated the general rule as follows: "If a property owner has performed substantial work and incurred substantial liability in good faith reliance upon a permit issued by the government, he acquires a vested right to complete construction in accordance with the terms of the permit." In that case, the developer had moved forward pursuant to local government approvals to construct all the infrastructure for an approved subdivision when he was told he had to stop all development until a further permit was obtained from a recently created regional commission. The court stated its decision as follows:

We conclude that the exemption provided by Public Resources Code section 27404 applies where the property owner has performed substantial work in good faith reliance on the final discretionary approval of the controlling governmental entity, regardless of whether that approval is designated a 'building permit' or some other type of permit. Under the trial court's findings that are well supported by the record, Orange County had given its final discretionary approval prior to November 8, 1972 and would be estopped
to now deny Avco the right to complete its project. The construction performed here by Avco even though it was not actually on the end product, the houses, was substantial and was performed lawfully and in good faith prior to November 8, 1972, and thus well before February 1, 1973.

The exemption in Public Resources Code section 27404 provided essentially that if construction had commenced under a building permit in good faith reliance on prior approvals, a permit from the regional commission would not be required. The exemption constituted a codification of what was believed at the time to be the vested rights doctrine as recognized in California in 1975.

Nevada cases dealing with vested rights include Kings Castle Limited Partnership, Lake Enterprises, Inc. v. Washoe County Board of County Commissioners, 88 Nev. 557, 502 P.2d 103 (1972) and LeRoy Land Development Corp. v. Tahoe Regional Planning Agency, 543 F.Supp. 277 (D.Nev. 1982). In both of these cases the courts upheld, under the facts of each particular case, the rule that a building permit and substantial reliance thereon was required to vest rights. Analyzing the rule of vested rights in Nevada in Wal-Mart Stores, Inc. v. County of Clark, 125 F.Supp. 2d 240 (D.Nev. 1999), the court concludes that later cases, including Board of County Comm’rs of the County of Clark v. CMC of Nevada, Inc., 99 Nev. 739, 670 P.2d 102 (1983), Fernhoff v. Tahoe Regional Planning Agency, 599 F.Supp. 185 (D.Nev. 1984), City of Reno v. Nevada First Thrift, 100 Nev. 483, 686 P.2d 231 (1984) and American West Development, Inc. v. City of Henderson, 111 Nev. 804, 898 P.2d 110 (1995), either discarded or loosened the rule as it mandated a building permit to have been issued. The result of the court’s analysis was to conclude that a building permit, per se, was not required if all discretionary permits had been obtained and there had been substantial good faith expenditures made in reliance on previously granted local government approvals.

Thus, it would appear from the case law that it would be allowable to impose newly developed standards upon a permit already in process prior to its approval and, possibly, prior to a building permit being obtained. However, none of the above cases – even the Wal-Mart case – discussed the application of NRS 278.0233 which states, in applicable part, as follows:

1. Any person who has any right, title or interest in real property, and who has filed with the appropriate state or local agency an application for a permit which is required by statute or an ordinance, resolution or regulation adopted pursuant to NRS 278.010 to 278.630, inclusive, ... may bring an action against the agency to recover actual damages caused by:
   (a) Any final action, decision or order of the agency which imposes requirements, limitations or conditions upon the use of the property in excess of those authorized by ordinances, resolutions or regulations adopted pursuant to NRS 278.010 to 278.630, inclusive, in effect on the date the application was filed, and which:

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(1) is arbitrary or capricious; or
(2) is unlawful or exceeds lawful authority...

Couple the above language with NRS 278.0237 which states, among other things, that it is a complete defense to an action brought pursuant to NRS 278.0233 if the order complained of was required by a federal or state law or regulation adopted "... after the date on which the application for a permit was filed". The latter language, by implication, suggests that it is not a complete defense to an action if a regulation or ordinance adopted by the defendant local government was imposed. In fact, it is the opinion of this office that the intent of NRS 278.0233 and the italicized language noted, which law was enacted in 1983, was to specifically provide more certainty to applicants seeking local government approvals. Therefore, it has always been this office's—albeit conservative—advice to the Department of Community Development that newly adopted ordinances not be applied to new applications or applications in process.

If the application of new rules or regulations is intended to be applied to projects already approved but for which no building permit, or equivalent type of permit, has been issued, it is likely the Wal-Mart analysis will apply to allow or not allow application of the new rules and/or regulations. However, what is less clear is what a Nevada court would do if faced explicitly with a NRS 278.0233 challenge to the application of new regulations to an pending but not approved application. It is the opinion of this office that a court would look to various matters in making a decision is such a case, including whether the application of the newly adopted regulations was in good faith, whether the regulations are broad based and applicable to more than just the pending project, whether and to what degree the applicant has relied upon existing regulations and, finally, whether and to what degree the new regulations would impact the proposed project.

Finally, because NRS 278.0233 is a Nevada statute, it is unclear whether it would even apply to the TRPA. To my knowledge, the courts have never addressed the issue of whether the TRPA would have to apply different rules to property in different states—assuming there was a conflict of law between the states. The Lakeview court stated it thusly:

If there were a conflict between California and Nevada law on the question of vested rights, this case would be more difficult. We would have to decide whether to apply the law of the jurisdiction where the land is situated and the permit was granted or whether to apply some other principle to resolve the conflict.

In conclusion, it is this office's opinion that the doctrine of vested rights is an equitable doctrine and, therefore, any strict application of the law will give way to what appears 'right' and 'just' to a court. Under current case law, the courts would scrutinize carefully any attempt at retroactively applying new regulations on already approved development or applications in progress—taking into account the discussion hereinabove.
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If you have any further questions, please do not hesitate to contact me.

cc: Mike Harper, Program Manager
    Department of Community Development