TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, November 20, 2002, commencing at 9:15 a.m., the Nevada Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. The agenda is attached hereto and made a part of this notice.

NOTICE IS HEREBY GIVEN that on Wednesday, November 20, 2002, commencing at 9:30 a.m., the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. The agenda is attached hereto and made a part of this notice.

Governing Board Committee items are action items unless otherwise noted.

NOTICE IS FURTHER GIVEN that on Wednesday, November 20, 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) Quarterly Investment Report; 4) Release of $728,000 in Air Quality, Water Quality, and Stream Environment Zone Mitigation Funds to the City of South Lake Tahoe; and, 5) member comments. (Committee: Slaven, Heller, Galloway, Solaro, Plank)

NOTICE IS FURTHER GIVEN that on Wednesday, November 20, 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) Resolution of Enforcement Action, Chad and Barbara Keck, 5750 McKinney Drive, Placer County, Assessor's Parcel Number 097-192-001; 3) ; and, 4) member comments. (Committee: Waldie, DeLanoy, Miner, Swobe, Derringer)

NOTICE IS HEREBY GIVEN that on Wednesday, November 20, 2002, commencing at Noon, at the same location, the Shorezone Policy Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) approval of minutes; 3) Report on Shorezone Partnership Committee meetings; 4) Discussion and Action on Shorezone ES Schedule; 5) Discussion Regarding Scheduling of Other Policy Matters; and, 6) member comments. (Committee: Waldie, Severson, Derringer, Galloway, Quinn, Perock, Swobe)

November 8, 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

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

November 20, 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) (5 minutes)

VII. REPORTS

A. Executive Director Status Report (20 minutes)
   1. Monthly Status Report on Project Activities Pg. 51
   2. Tahoe Transportation District/Commission Agenda and Report from the November 8, 2002, Meeting Pg. 59

B. Legal Division Monthly Status Report (5 minutes)

VIII. PUBLIC HEARING

A. Annual Adjustment to Chapter 95, Rental Car Mitigation Fee Program Pg. 63

B. Amendments to Code Chapters 2, 4, 30, 53, 55 and Related Chapters, Goals and Policies Chapter IV, and Design Review Guidelines to Implement a Littoral Parcel Scenic Review System And to Further Regulate Structure, Colors and Roofing Materials Pg. 65
IX. PLANNING MATTERS

A. Martis Valley Master Plan and EIR Presentation

B. Report and Discussion on Planning Projects and Public Process

Pg. 163

X. ADMINISTRATIVE MATTERS

A. Reconsideration of the Governing Board’s Decision to Defer Action on the Scenic Ordinances Until the January 2003 Governing Board Meeting and Require the Scenic Ordinances to be Returned to the Advisory Planning Commission for Recommendation (This item must be acted upon prior to consideration of Agenda Item VIII B.)

B. Election of Chairman and Vice-Chairman for 2003-2005

C. Status Report on Lake Tahoe Cruises, Inc. (formerly owned by Hornblower and Recently Acquired by Aramark)

Pg. 165

D. Adoption of Revised Agency Personnel Policy Manual

Pg. 167

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee (5 minutes)

B. Legal Committee (10 minutes)

C. Shorezone Committee

XII. REPORTS

A. Governing Board Members (5 minutes)

XIII. ADJOURNMENT

CONSENT CALENDAR

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. October 2002 Financial Statement</td>
<td>Receipt</td>
</tr>
<tr>
<td>2. Resolution of Enforcement Action, Chad and Barbara Keck, 5750 McKinney Drive, Placer County, Assessor’s Parcel Number 097-192-001</td>
<td>Approval with Conditions Pg. 1</td>
</tr>
<tr>
<td>3. Release of $726,000 in Air Quality, Water Quality, and Stream Environment Zone Mitigation Funds to the City of South Lake Tahoe</td>
<td>Approval Pg. 9</td>
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</tbody>
</table>
4. Flintlock 2000 Trust, Jazz 2000 LLC, & Spike 2000 LLC, Pier Rebuild and Expansion/Multiple-Use Designation, 589 Lakeshore Drive, Washoe County, Nevada, Assessor's Parcel Number 122-1007-26, 18, 10, TRPA File No. 2000767

Approval with Conditions Pg. 15

5. Approval of Cycle 21 California 5311 Program of Projects and Adoption of Supporting Resolution

Approval Pg. 29

6. Davis/Coffeng, New Multiple-Use Pier, 7770 and 7780 North Lake Boulevard, Placer County, Assessor's Parcel Number 117-80-017, 018, TRPA File No. 20010400

Approval with Conditions Pg. 31

Land Capability Challenges

7. Incline Village General Improvement District Land Capability Challenge, 1220 Sweetwater Road, Incline Village, Nevada, Washoe County, Assessor's Parcel Number 130-010-008

Approval Pg. 43

8. VI Investments Land Capability Challenge, Highway 28, Lake Forest, California, Placer County, Assessor's Parcel Number 093-480-009

Approval Pg. 47

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

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

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

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

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

Article III(g) Public Law 96-551
Tahoe Regional Planning Agency Governing Board Members:

Chairman Dean Heller, Nevada Secretary of State
Wayne Perock, Nev. Dept. of Conservation Appointee
Vice-Chairman Dave Solaro, El Dorado County
Drake DeLaney, Nevada Gov. Appointee
Jon Plank, Carson City
Jerry Waldie, Calif. Senate Rules Com. Appointee
Jim Galloway, Washoe County
Hal Cole, South Lake Tahoe

Tom Quinn, Calif. Gov. Appointee
Larry Sevison, Placer County
Ronald Slaven, Calif. Gov. Appointee
Catherine Derringer, Calif. Assembly Spkr. Appointee
Coe Swobe, Nevada At-Large Member
Vacant, Presidential Appointee
Don Miner, Douglas County
NEVADA TAHOE REGIONAL PLANNING AGENCY
333 West Nye Lane, Room 118, Carson City, Nevada 89706
Telephone: (775) 687-4921

NOTICE OF MEETING

NEVADA TAHOE REGIONAL PLANNING AGENCY GOVERNING BOARD

Notice is hereby given that the Nevada Tahoe Regional Planning Agency Governing Board will hold a public meeting on November 20, 2002. The meeting will be held at the North Lake Tahoe Conference Center, 8318 North Lake Tahoe Boulevard, Kings Beach, California. The meeting will begin at 9:15 am., preceding the regular meeting of the Tahoe Regional Planning Agency Governing Board.

The Governing Board of the Nevada Tahoe Regional Planning Agency will consider and act on the following:

1. Call to order
   Roll call
   Approval of minutes of the November 16, 2001 meeting.*
2. Report of the Executive Officer on activities of the agency for the period
   September, 2001 through November, 2002*
3. Report of the Executive Officer on budgeting and fiscal matters of the agency.*
4. Selection of Nevada member-at-large to serve a one-year term commencing on
   of at least four statutory members of the governing board for appointment.*
5. Board member comments.
6. Public comments.
7. Adjourn.

Note: *Denotes items on which the board may take action.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify Mike Del Grosso in writing at the Division of State Lands, 333 West Nye Lane, Room 118, Carson City, Nevada 89706 or by calling (775) 687-4364, ext. 234, no later than November 18, 2002.

Notice of this meeting was posted at the following locations:

Department of Conservation and Natural Resources, 123 West Nye Lane, Carson City
Division of State Lands, 333 West Nye Lane, Room 118, Carson City
Nevada State Library, 100 North Stewart Street, Carson City
Tahoe Regional Planning Agency, 308 Dorla Court, Elk Point, Nevada
Incline Village General Improvement District, 893 Southwood Boulevard, Incline Village
Washoe County Building and Safety Department, 865 Tahoe Boulevard, Incline Village
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

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

October 23, 2002

REGULAR MEETING MINUTES

I. ROLL CALL AND DETERMINATION OF QUORUM

Vice-Chairperson Dave Solaro called the October 23, 2002, Tahoe Regional Planning Agency ("TRPA") Governing Board meeting to order at 9:45 a.m.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

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

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Ms. Bilyeu (arrived at 10:14 a.m.), Mr. Cole, Mr. Plank, Mr. Slaven, Mr. Perock, Mr. Quinn, Mr. Galloway (arrived at 9:46 a.m.), Mr. Swobe, Mr. Sevison

Members Absent: Ms. Derringer, Presidential Appointee Vacant

III. PUBLIC INTEREST COMMENTS - None

IV. APPROVAL OF AGENDA

Deputy Director Jerry Wells stated that there were no changes to the agenda. He requested that the 9:30 a.m. time certain agenda item, for the Best of the Basin Awards, be moved up after the Consent Calendar to accommodate those people who planned on being here at 9:30 a.m.

MOTION by Mr. Swobe to approve the agenda as amended. The motion carried unanimously.

V. APPROVAL OF MINUTES

Mr. Swobe requested that more information be included in his comments about addressing the Dead Tree Removal and Desired Future Conditions at Lake Tahoe on page 13, of the September 15, 2002, minutes.

MOTION by Mr. Sevison to recommend approval of the September 25, 2002, Governing Board meeting minutes as amended. The motion carried unanimously.
VI. CONSENT CALENDAR

Mr. Wells stated the applicant had requested that Consent Calendar Item No. 2 be continued, and it is his understanding that Items 4 and 5 may be pulled.

Mr. Ron Zumbrun, representing the Glenbrook Preservation Association, requested that the enforcement item relating to Harvey Whittemore be pulled off of the Consent Calendar.

Mr. Waldie reported that the Legal Committee acted on Consent Calendar Item Nos. 3, 4, and 5, and recommended approval of the agreement presented in items 3 and 4, and also recommended a change in the Item 5 agreement to have accountability shared equally by the Olsen’s and Bremer’s at the figure in the original agreement that was established by Mr. Olsen.

Vice-Chairperson Solaro reported the Finance Committee approved Consent Calendar Item Nos. 1, 6, 7, 8, and 9. Mr. Quinn requested that Consent Calendar Item No. 3 be pulled, also.

XI. ADMINISTRATIVE MATTERS

A. Best of the Basin Awards

Public Affairs Coordinator Pam Drum presented the Best of the Basin Awards. Ms. Drum acknowledged Louise Whittington from the TRPA staff for doing the bulk of the work in coordinating the Best of the Basin presentation.

VI CONSENT CALENDAR

MOTION by Mr. Solaro to recommend approval of Consent Calendar Item Nos. 1, 6, 7, 8, 9, and 10. The motion carried unanimously.

Mr. Dennis Zabaglo, Associate Environmental Specialist in the Compliance Division, reported that he was the inspector who brought Consent Calendar Item No. 3, Resolution of Enforcement Action, to the Legal Committee, and would be happy to answer any questions that the Board may have.

Mr. Slaven questioned why there was no request in the settlement for them to replant trees, and Mr. Zabaglo replied that this was in a stream environment zone that was fairly well vegetated and staff felt confident that it would restore itself.

Mr. Quinn stated that there may be some cases where a person enhanced their property by a million dollars by cutting down 10 trees, and that would be a good economic return for any fine we would assess. If someone were to cut large limbs off a tree, that is a violation; if they do that again a month from now, that is another violation; six months from now, that is another violation. That is three violations for cutting some limbs off; yet, you can cut the entire tree down and only have one violation. This appears to be an artificial limit; $5,000 per tree can’t really be that. There has to be some sense by which the penalties could presumably be higher if the wrongful act was more egregious.

Agency Counsel John Marshall replied that trees present a difficult problem for the Agency in terms of assessing a penalty. Materially damaging a tree is a violation for which, if it is willful or grossly negligent, the Agency can go up to $5,000 per violation. The example given is probably correct in that by materially damaging a tree, you can get a higher penalty than if you were to
just cut it down in the first instance. That is an unfortunate by-product of the way in which the Compact is constructed. We need to perhaps find a way that we can create the deterrents that you are trying to get at in order to deter the conduct in other ways then just working within the civil provisions of the Compact. That will be our challenge, and he suggested that staff come back to the Board with a series of options that can provide the necessary deterrents for that. Mr. Slaven agreed and asked staff to come back with more options on how to deal with situations like this in terms of fines.

MOTION by Mr. Waldie to recommend approval of Consent Calendar Item No. 3.

The motion carried on the following votes:

Ayes: Mr. Perock, Mr. Cole, Dr. Miner, Mr. Plank, Mr. Waldie, Mr. DeLanoy, Mr. Swobe, Mr. Solaro, Mr. Sevison, Ms. Bilyeu
Nays: Mr. Galloway, Mr. Quinn, Mr. Slaven
Abstenions: None
Absent: Ms. Derringer

Senior Environmental Specialist Brian Judge presented Consent Calendar Item No. 4. The Legal Committee recommended approval of this item. Mr. Judge explained the violation in detail. The violators agreed to pay $50,000 to TRPA within thirty (30) days of the TRPA Governing Board approval of the settlement agreement, and the Whittemore Family Foundation will pay $25,000 to TRPA for an Agency approved environmental restoration project in the Glenbrook, Nevada, area within thirty (30) days of TRPA Governing Board approval of the settlement agreement.

Mr. Quinn was of the opinion that this was clearly a violation, and probably done on the assumption that the person would not be caught; therefore, the plan was just to sneak this through, most likely, and the people who are paying the fine probably can afford the fine. He suggested that the violators be required to do a 1,000 hours of community service consisting of the planting of trees or doing other work. It appeared to him that multi-millionaires could buy his or her way out of trouble. But if someone else had done this, they would not have been able to pay the fine. Doing community service might be a greater deterrent. Mr. Judge stated that we do have options for that, but this way was not considered.

Mr. Marshall replied that our Compact only allows us to impose civil penalties as opposed to requiring community service of violators. We have tried to remove the benefit gain from the violation, and allow the vegetation to grow back.

Mr. Ron Zumbrun, representing the Glenbrook Preservation Association, congratulated staff for discovering this major infraction. However, he feels that the enforcement action should go further; be more specific; and, he recommended to the Legal Committee that they actually go out and observe the property and see what has happened so they can form their own opinion as to what will happen during the rainy season. Mr. Zumbrun was of the opinion that it would be appropriate for the Legal Committee to condition this enforcement action on Mr. Ruvo and Mr. Whittemore not to do any more development work in Glenbrook for the next six months.

Mr. Jack Diepenbrock, representing the Glenbrook Homeowners' Association, stated that the Legal Committee didn’t accept the proposition that there is a rush to judgment here. The settlement agreement needs more attention. Among other things, the $25,000 restoration project is not specified, and perhaps if we don’t do anything else this morning, it should be
specified on the record that that would not overlap the stream restoration project that TRPA required as a condition to the permit, which was granted last December. The Legal Committee should be active in this matter; it is a major matter and major offense, as well as very significant. Mr. Diepenbrock suggested that the Legal Committee deputize a committee to go out there and look at the violation and report back to the Board at the next meeting.

Mr. Reid, representing Mr. Whittemore, requested that the Board approve this agreement. This agreement addresses the issues that have previously been mentioned. If this agreement is approved, there will be no net benefit, either in market value or a desired inappropriate or proper use of the property by the owner. In addition, agreeing not to utilize this property, and in addition to restoring the property, they have also agreed that it would be fenced to prevent access to it. There is a substantial monetary penalty being paid by Mr. Whittemore, and on top of that, he is restoring what was damaged.

Mr. Waldie commented that the Legal Committee was concerned by some of the suggestions made by the Glenbrook Property Owners’ Association and Mr. Zumbrun. The recommendations relative to being certain that the $20,000 for restoration be credited solely to this project and not be accredited against any other similar obligations deriving from other actions. We were assured by counsel that that is taken care. The Committee was also persuaded by staff’s testimony that the amount of damage done was not in the nature of cutting a tree, where reforestation becomes a glimmer but rarely is accomplished, that the sort of growth done here is growth that will restore itself. Also, the $50,000 fine was adequate for that purpose. The Legal Committee voted unanimously to recommend approval.

**MOTION** by Dr. Miner to recommend approval of the settlement agreement.

Mr. Galloway requested that in the future, he hoped staff does respond to Mr. Slaven’s and his request to come back with some equity in these kinds of penalties.

The motion carried on the following votes:

Ayes: Mr. Perock, Mr. Cole, Mr. Galloway, Mr. Quinn, Dr. Miner, Mr. Plank, Mr. Waldie, Mr. DeLanoy, Mr. Swob, Mr. Solaro, Mr. Sevson, Ms. Bilyeu
Nays: Mr. Slaven
Abstentions: None
Absent: Ms. Derringer

Ms. Gretchen Gibson, Associate Environmental Specialist in the Environmental Compliance Division, presented Consent Calendar Item No. 5, which was the Olsen/Bremer Enforcement Action.

Mr. Waldie reported the Legal Committee rejected the settlement agreement, and recommended instead that the assessment imposed against the Bremer’s for $4,000, as compared to the $8,500 assessed against the Olsen’s also be brought up to $8,500. The total assessment for the two trees from the two parties would equal $17,000, instead of the $12,500 that is proposed. The Legal Committee, with the one no vote, felt that the reasons asserted for assessing the Bremer’s less than half of what the Olsen’s were paying was that the Bremer’s motivation for participating in the cutting of the trees by contributing a $1,000 to Mr. Olsen was forest enhancement and that was the only reason they did it. Mr. Waldie didn’t find this credible. He found that the motivation was to improve the scenic view, and therefore, the motion to make accountability equal between the two parties was passed, with Dr. Miner voting no. The Legal
Committee is recommending that the settlement agreement be rejected, and require a minimum of $8,500 from the Bremer's, as well as the Olsen's.

Dr. Miner did support staff's recommendation for the fine as presented; he didn't vote against that. He voted against the fines being equal because he didn't believe there was compelling evidence equally between the two.

**MOTION** by Mr. Waldie, with a second by Mr. Swobe, that Consent Calendar Item No. 5 be withdrawn from the Consent Calendar and from consideration today, and that a settlement agreement attempted to be negotiated, bringing the accountability of the Bremer's from $4,000 to $8,500, and the rest of the terms as set forth in the agreement.

Mr. Waldie withdrew his first motion because he didn't include the agreement between TRPA and the Olsen's.

**MOTION** by Mr. Waldie to recommend approval of the settlement agreement between the Olsen's as set forth in staff's recommendation.

The motion passed on the following votes:

Ayes: Mr. Plank, Mr. Waldie, Mr. Swobe, Mr. DeLancy, Mr. Solaro, Mr. Perock, Mr. Sevison, Mr. Cole
Nays: Dr. Miner, Mr. Galloway, Mr. Quinn, Mr. Slaven, Ms. Bilyeu
Abstentions: None
Absent: Ms. Derringer

**MOTION** by Mr. Waldie to continue the settlement negotiations involving the Bremer's, and that the Bremer's be required to pay $8,500, and the rest of the settlement agreement remain the same.

Mr. Marshall suggested that Mr. Waldie make the motion to approve a settlement agreement with the Bremer's for $8,500, so that TRPA does not have to bring it back to the Board if they agree to $8,500. The way the motion is currently stated, the Board would be continuing the matter for staff to negotiate for $8,500, and then staff would have to bring it back to the Board for approval.

**MOTION** by Mr. Waldie to approve the Bremer agreement, with the figure being increased from $4,000 to $8,500.

The motion failed on the following votes:

Ayes: Mr. Waldie, Mr. DeLanoy, Mr. Swobe
Nays: Mr. Galloway, Mr. Quinn, Mr. Plank, Mr. Sevison, Mr. Slaven, Mr. Solaro, Mr. Perock, Mr. Cole, Dr. Miner, Ms. Bilyeu
Abstentions: None
Absent: Ms. Derringer

**MOTION** by Dr. Miner to approve staff recommendation that the Bremer's pay the required $4,000 as set forth in the settlement agreement.
The motion carried on the following votes:

Ayes: Mr. Plank, Mr. Sevion, Mr. Swobe, Mr. Solaro, Mr. DeLanoy, Mr. Perock, Mr. Cole, Dr. Miner, Mr. Galloway, Mr. Quinn, Ms. Bilyeu

Nays: Mr. Waldie, Mr. Staven

Abstentions: None

Absent: Ms. Derringer

Mr. DeLanoy commented that the Board is sitting as jurors, and it is up to them to decide whether someone is more or less culpable than another. Counsel should give the Board the facts, and the Board makes the determination.

(The following are items approved on the consent calendar
1. September 2002 Financial Statement (accepted)
2. Timberlake Pier Relocation and Expansion, 1380 North Lake Boulevard, Placer County, Assessor’s Parcel Number 094-520-001, TRPA File No. 200491 (continued to November Governing Board meeting)
3. Resolution of Enforcement Action, Byron Gehring, 951 Divot Court, Washoe County, Assessor’s Parcel Number 128-132-14 (approved)
4. Resolution of Enforcement Action, Lakeshore House, LLC and Postmistress Properties, LLC, Shakespeare Road, Glenbrook, Nevada, Assessor’s Parcel Number 001-070-027 (approved)
5. Olsen/Bremer, Resolution of Enforcement Action, 4035 Nightingale Road, Placer County, Assessor’s Parcel Number 92-051-004 (approved)
6. Resolution Allocating 2002-2003 Local Transportation Funds ($554,655) to the City of South Lake Tahoe For STAGE Operating Expenses (approved by Resolution No. 2002-25)
7. Resolution Approving the Reprogramming of El Dorado County Local Transportation Funds ($23,080) for Trolley and STAGE Services (approved by Resolution No. 2002-26)
8. CTS Budget Augmentation (approved)
9. Release of Up to $10,230 from Each of the Five Jurisdictions’ (Douglas, El Dorado, Placer, Washoe, And the City of South Lake Tahoe) Accumulated Interest from their Water Quality Mitigation Funds To Formulate and Evaluate Alternatives for Water Quality Improvement Projects (approved)
10. Alan and Joan Shattuck Land Capability Challenge, 3960 Bellevue Drive, Tahoe Pines, Placer County, Assessor’s Parcel Number 085-221-003 (approved))

II. REPORTS

A. Executive Director Status Report

3. Tahoe Tomorrow Presentation

Executive Director Juan Palma introduced Mr. Lew Feldman, who, along with Charlie McDermott, have formed a group called “Tahoe Tomorrow” and asked that Mr. Feldman make a presentation.

Mr. Feldman and Mr. Carl Robato both gave a presentation on Tahoe Tomorrow.

IX. PUBLIC HEARINGS

A. Amendments to Code Chapters 2, 4, 30, 53, 55 and Related Chapters, Goals and Policies Chapter IV, and Design Review Guidelines to Implement a Littoral Parcel Scenic Review System and to Further
Regulate Structure, Colors and Roofing Materials

Mr. Palma requested that the Governing Board continue the scenic topic until November, and at a maximum, until December.

Mr. Galloway requested that there be a way to be able to have alternative paths so that we don’t run up against absolute or defacto visual magnitude caps.

Mr. Palma replied that whatever we bring to the Board, the package would achieve thresholds. The question is in what timeframe. This is the guiding light. The second principle he has been working with is that there is clearly a message that this package must account for what people have today; that is, what the homeowner or business owner or property owner has bought. He has tried to balance this with all the parties concerned, and this is a big challenge.

Mr. Slaven commented that the proposal on the table does not seem to him to be clear enough to meet our scenic thresholds. He requested that staff be in the middle; not too far on the right and not too far on the left; right in the middle.

Mr. DeLanoy suggested that Mr. Palma talk to counsel. He believed what we are really discussing is the police power of this Agency to affect property rights of everyone in the Basin. Mr. Palma should constantly be discussing this issue with Mr. Marshall. The scenic ordinances have to be clear and reasonable.

MOTION by Mr. Slaven to recommend that Agenda Item No. IX.A. be postponed until the December meeting.

Mr. Waldie commented that the process has gone sour. He has never been comfortable with stakeholders making the decisions. But he also recognizes that there are unique situations and difficulties in the Basin that perhaps it is better than anything that has thus far been devised. This time it seemed to him to have gone awry. He has heard every time that it’s been postponed; we are right near the edge of it, and it is going to be put together next time the Board can act on it. Time after time, staff has come back with the assertion that we are just right next to getting it ready for the Board, and if given a couple of months can be given us, we can do so. The question he has to ask is will there be a point sometime when this Board is going to have to make the decisions that are embodied in this difficult task, and we are not going to rely upon the stakeholders. He assumed that Mr. Palma has hit a wall somewhere along the line that he can’t get around. Mr. Waldie asked Mr. Palma if he was stating that in December he would be around these difficulties and there will be before the Board an acknowledged agreement between the stakeholders? He is fully aware that this issue can’t be voted on today, but can it not be voted on in November rather than December?

Mr. Palma replied that the reason why we can’t come back in November is because we have some critical staff people who will be gone in November, and we don’t have 30 days in November because in order to put the package together for the Board. We have to notice all this during the first part of November. This would all have to be resolved between now and the middle of next week, which is probably more critical than staff being gone. Going to December will give us a little more time to put the package together for the Board. Both November and December Board meetings have been moved up a week because of the holidays. Some would like to wait until January, but he is publicly not agreeing to wait unit January. Mr. Palma didn’t believe that we would all be in agreement by December. But when we come back to the Board
in December, we will be able to articulate clearly where the issues are and where the disagreements are.

Mr. Quinn stated that because this issue has been delayed so many times, the odds of this being delayed again are probably pretty high. The ordinance is very difficult to understand, he is fearful that this will be a full employment act for consultants and attorneys; that wealthy people that want to build homes will be able to afford $50,000 for the expert advise they need. Most people won't have a clue as to what they can and cannot do. The fear he has is that in reading it, there are so many loopholes, and we have watered this down to the extent that it doesn't mean too much if you can hire the right consultants. You can't reinvent this in a month or two. But he is troubled that we are spending so much time on this issue, and it is becoming more and more complex and confusing, and more difficult to understand if you have not been attending the meetings. Mr. Quinn further stated that he is trying to look for some assurance that we are going to have a package that makes sense for the Board members to understand, let alone the public, by December.

Ms. Jan Brisco, with the Lake Front Property Owners' Association, and Ms. Rochelle Nason, with the League to Save Lake Tahoe, expressed their support for an extension of time, and in particular, an extension of time until the January meeting. This is due to the unavailability of some key staff during November, and the need to actually develop a proposal that can be reviewed with adequate time by all parties and counsel. January is a realistic, drop dead date. Ms. Nason stated that from the League's perspective, if there weren't something on the table for you in January, they would continue to support the version that was passed by the APC in July. There is no promise that we will come forward with a package that all of the interested parties can agree upon. That is an unlikely scenario, at best. We will come back to the Board with a well drafted set of proposals that have been reviewed by all of the people who are interested in it, and their legal advisors, and there will be a set of clear choices placed before you about what the remaining issues of contention are, and what the Board's choices are as far as making a decision goes.

Ms. Brisco also reiterated that they are looking for a January date. Not only for additional work through their committee, but also to provide the public and affected property owners with adequate time to review and understand a very complex set of ordinances. This is a major change. It will impact the people that process these applications and the property owners and the consultants. We are trying to provide clarification, education and information to property owners; and we are also trying to meet a 20-day advance notice so that we have a final draft of a document that people can take and say this is what is going to be reviewed by this Governing Board. She would appreciate that this ordinance be extended to January.

Mr. Bob Davidson, representing the Committee for Reasonable Regulations at Lake Tahoe, stated that his group has made it clear to Mr. Palma that he is the quarterback here. He has other considerations with regards to this schedule, and we will cooperate with whatever schedule that he and the Board wish to adopt. We feel that the TRPA has failed to properly consider the economic and financial impact of either of the scenic thresholds or the proposed ordinance. They failed to base their July 24th scenic threshold findings or the proposed scenic ordinance on quantifiable scientific analysis; TRPA has failed to take into account the primary jurisdiction of local fire agencies, which may be corrected; and, they failed to perform an adequate impact analysis for either the scenic thresholds or the scenic ordinance. We are very happy to participate in any discussions that Mr. Palma has organized, and he personally thanked Mr. Palma for being very gentlemanly and cooperative in these discussions; notwithstanding, differences of opinion.
Mr. Michael Donahoe, with the Tahoe Area Sierra Club group, agreed that this needs to be continued. The process he is recommending was to have the next scheduled meeting, which is next Tuesday, to get all of our issues on the table and then to turn this back over to TRPA's staff and their scenic mentors. Mr. Donahoe believed that we have gone as far as we can in terms of input from the public, and the various parties that are interested. TRPA's staff is on the verge of abrogating its responsibility of coming up with Code language to be considered by this Board. It is the pseudo consensus process he is worried about. He asked that the Board continue this item, but also mandate staff to take the lead role in putting together what needs to be accomplished next. In addition, the interested parties should review the document before presenting it to the Board.

Mr. DeLanoy suggested if there are substantial changes to the ordinance, they go back to the APC for review, so January would be a good time. Mr. Galloway agreed with Mr. DeLanoy.

MOTION by Mr. Galloway to amend Mr. Slaven's motion by recommending the scenic ordinance be brought back to the board in January, with the requirement that it go to the APC, as well, for review.

The motion carried on the following votes:

Ayes: Mr. Plank, Mr. Severson, Mr. Solaro, Mr. DeLanoy, Mr. Perock, Mr. Cole, Dr. Miner, Mr. Galloway
Nays: Mr. Quinn, Mr. Waldie, Mr. Slaven, Mr. Swobe, Ms. Bilyeu
Abstentions: None
Absent: Ms. Derringer

MOTION by Mr. Galloway to recommend approval of the amended motion to continue the scenic ordinance to the January Board meeting, while approving the amendment that continues it to January, with the requirement that it go to the APC as well for review.

The motion carried on the following votes:

Ayes: Mr. Plank, Mr. Severson, Mr. Swobe, Mr. Solaro, Mr. DeLanoy, Mr. Perock, Mr. Cole, Dr. Miner, Mr. Galloway, Mr. Slaven, Mr. Waldie
Nays: None
Abstentions: Mr. Quinn, Ms. Bilyeu
Absent: Ms. Derringer

(Break taken for lunch at 12:30 p.m.)

(Reconvened at 1:45 p.m.)

VII. REPORTS

B. Legal Division Monthly Status Report

Mr. Marshall stated that we have filed a motion for preliminary injunction in the Gonzales case for the court to order Gonzales to remove the breakwater. Mr. Gonzales has an illegal structure in the shorezone that distracts from what otherwise law abiding citizens could potentially do in either the shorezone or the littoral zone.
A. Executive Director Reports

1. Monthly Status Report on Agency Activities

Mr. Palma commented that in the month of August, 180 projects were processed; in the month of September, 175 projects were processed. This is a really good trend, which is in large part due to Mr. Jerry Wells' leadership. Between May and now, projects come in at a high rate. But between now and March, there is a big decline in the submittal of projects. If we keep the same productivity, with the decline of projects coming in, he believed that we could catch up in just a couple of months. Project Review is fully staffed and is producing at twice what they were producing before, and this is good news.

VIII. PROJECT REVIEW

A. Lakehouse Mall Pier Plan Revision, Request for Condition of Approval Modification, Grove Street at Lake Tahoe, Placer County, Assessor's Parcel Number 94-090-10, et al., TRPA File No. 20021284

Senior Planner Kathy Canfield presented the Lakehouse Mall Pier Plan Revision, Request for Condition of Approval Modification, Grove Street at Lake Tahoe, Placer County, Assessor's Parcel Number 94-090-10, et al., TRPA File No. 20021284

Ms. Julie Motamedi, the applicant, stated that when Mr. Gregg Lien stood before us and asked if we were willing to deed restrict the four parcels, we said yes, based on a definition of what was in the Board packet because there were no other APN's mentioned, and when Mr. Sevison made the motion, to what we were agreeing to that day, we firmly believed, and were very clear in our commitment of what we were offering; deed restricting parcels A, B, C and D. We had not had any discussions with Mr. Lien prior to that in terms of the other parcels, and they are owned in a separately held trust. The properties on the map are owned separately in a corporation. We believed we were looking at the same information that the Board was, and they were all on the project area maps. The areas that would benefit clearly are in the A, B, C and D areas of lots 10, 11, 13 and 14. All of those parcels clearly are going to benefit, and they are all adjacent. When we heard the motion, we agreed to give four lots and parcels. That was what we were deeding. We didn't have any discussion with Mr. Lien; he looked at us; we said yes to what we believed we were giving at that time. That was in September. We received the minutes and everything else; we went down the road of preparing with our contractors to build this, and in March, we received the deeds for the very first time. The one we got them, we called right away; we got with Kathy; we met with Jerry Wells and tried to resolve this numerous times on the phone. Our counsel and TRPA's counsel couldn't reach a resolution. We have spoken with Mr. Palma about this. We have tried every way possible to resolve this, based on all of the facts and information and what clearly was our intent at the time.

Mr. Gregg Lien, Ms. Motamedi's attorney, commented that according to his recollection, he was standing at the podium; Mr. Waldir had raised the issue— he won't go into it now. We were kind of working off the cuff here. His client told him there were four parcels; he didn't have the parcel map in front of him; he was just trying to figure out how many parcels were involved. He understood, and believed, that they were probably lakefront parcels, and he thought he said as much. That is why the record reflects that. According to a very strict definition of littoral parcel, it turned out he was wrong. They were not. But clearly, in his mind, he was thinking that they
had four lakefront parcels just as the exhibits showed; he didn't think he was offering anymore than what was in the exhibits. His clients didn't think they were offering anymore than what was in the exhibits. Had we known, either he or his clients, what might have been in the mind of the staff, or even some members of the Board, we would have had a problem then, and we would have resolved it. It is unfortunate that it had to come up now.

MOTION by Mr. Sevison to recommend amending the original application to require the setting aside of the easements on Parcels A and B only.

Mr. Marshall commented that the appropriate motion would be to amend the permit issued to require deed restricting Lots A and B as depicted on page 85 of the staff summary.

The motion carried unanimously.

X. APPEAL

A. Harvey’s Tahoe Management Company, Inc., Appeal of Administrative Determination, Assessor’s Parcel Numbers 007-111-09, 10, 11 & 12

Mr. Jordan Kahn, Assistant Agency Counsel, presented the appeal on the Harvey’s Tahoe Management Company, Inc., Appeal of Administrative Determination, Assessor’s Parcel Numbers 007-111-09, 10, 11 & 12.

Mr. Ron Alling, from Alling & Jillson, Ltd., representing Harvey’s Tahoe Management Company, stated that the purpose of his appearance today was to advise the Board that they are appealing the administrative decision made in April, whereby staff is trying to take four vacant lots, for a total of .55 acres, behind the Lakeside Inn and turn it into open space. It hasn’t been previously treated as open space.

In 1976, Douglas County approved a variance to increase the parking lot. The next month the application for a variance came before the TRPA Governing Board. As noted in the staff summary, a motion to approve the variance and a motion to deny the variance both failed to pass. It failed to get the dual majority. Thereafter, the project was deemed approved by the TRPA due to the fact that the TRPA failed to reach a dual majority in taking affirmative action within 60 days of receipt of the original application. Harvey’s went ahead and made the expansion of the parking lot, and three years later, we were back before the Board under a proposed compromise whereby TRPA was objecting to and protesting the action of Harvey’s. We are were not before the Board under an enforcement proceeding. The issue was simple. The applicant and Douglas County both felt that the project was deemed approved. Legal Counsel for the Agency was concerned as to whether or not the 60-day rule could result in a project winding up with greater coverage than what was allowed under the Code at that time. Staff was concerned that there was no infiltration system; no drainage facilities onsite; and, the staff was concerned with the Agency’s image in terms of requiring compliance with its ordinances. Douglas County and the applicant had agreed to a deed that contained a reversionary clause. It provided that the property was not to be used for open space, but the property was to be used for a park. If not used as a park, it would revert back to Harvey’s. As it turned out, Kahle Park was then acquired by the County, and the children’s facility was built there. The County had no need for a children’s park in close proximity to Kahle Park. The deed was prepared, executed and delivered to the County before the Governing Board meeting. There was a motion to accept the compromise and the deed, requesting that the TRPA reclassify the lot so it would always remain as a park. It was then brought to the Board’s
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attention that the deed had already been signed and delivered. It had that reversionary clause in it. Then that motion was amended. The motion was restated to withdraw the protest; the protest of TRPA; subject to Douglas County accepting the deed as prepared. There was further discussion at that time regarding the need for drainage improvements to be installed; the need for an indemnity agreement to be signed by both parties, and legal counsel then stated that the motion could call for a withdrawal of the protest, subject to an indemnity agreement being signed; installation of storm drainage facilities; a requirement for open space; and, commencement of rezoning of the four lots to recreation. The maker of the prior two motions then said he would agree to include these items in his motion. That motion passed unanimously.

The County accepted and recorded the deed as prepared; the applicant then complied with the installation of the storm drainage facilities; there is no indication that an indemnity agreement was ever offered to the applicant or ever signed; there was no rezoning of the lots to recreation; and, there was no clarification of a requirement for open space. Staff is now attempting to rezone the lots 22 years after the fact. The applicant is being penalized because the TRPA failed to take any action with regards to an indemnity agreement, and to take any action with regards to rezoning the property for recreation. Rather than reclassifying or rezoning the lots, the TRPA adopted a planning area statement for the park and identified it as a TDR receiving area for multi-residential units and expressly indicated that the future of the four parcels behind the Lakeside Inn that are owned by Douglas County was unresolved and those lots may be developed or sold.

In conclusion, there was never an agreement that the four lots were to be deeded as open space, rather as a compromise, it was agreed that they would be transferred to Douglas County, pursuant to a deed, which had already been executed which on its face had a reversionary clause. It was a compromise of a questionable legal issue. The applicant has done everything it can within its power; the drainage facilities were installed; maintained; the applicant feels that the best use of the four lots is multi-family housing in close proximity to the casino core; a goal which the Agency has repeatedly sought. This is a situation where there are lots in close proximity to the casino core that could be developed for multi-family purposes. TRPA is saying no; we want to put a better restriction; a greater restriction on those lots and makes it more difficult to develop those lots for multi-family residential use. Mr. Alling is asking the Board to grant the appeal and allow the property to be developed as contemplated in the planning area statement.

Mr. Quinn questioned if his client would be willing to construct affordable housing, and Mr. Alling commented that he was not authorized to speak on their behalf on this issue. He would talk about affordable housing if they came before the Board with a project.

Mr. Quinn commented that it seemed to him that Harvey Gross appeared to have handled this in a gentlemanly and professional manner. Now, we have Harrah’s as his successor in interest coming in and trying to undo what was a legitimate solution to a problem. Harrah’s has been an important part of this area for a long time, it is a shame to see them acting in this disgraceful manner.

Dr. Miner commented that they want to put the land into production, so the message is to come back with a project. If it happens to have a say an employee-housing component, then we look at the coverage issues. If the coverage costs are outrageous, then we don’t approve it. The reasons Harvey Gross did things back then -- and he was a gratuitous guy -- things have changed in the corporate world, and now it is not a question of them not being gentlemanly, or
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whatever; they have an issue and they want to put that particular property into some public benefit.

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

MOTION by Mr. Quinn to recommend approval of the appeal of the Administrative Determination, Assessor's Parcel Numbers 07-1111-09, 10, 11 & 12, Douglas County, Nevada, TRPA File Number 20010643.

The motion failed on the following votes:

Ayes: Mr. Slaven, Mr. Swobe, Mr. Solaro, Mr. DeLaney, Mr. Perock, Mr. Cole, Dr. Miner, Mr. Galloway, Mr. Quinn, Mr. Plank, Mr. Waldie, Mr. Severson, Ms. Bilieeu

Nays: None

Abstentions: None

Absent: Ms. Derringer

IX. PUBLIC HEARING

A. 2002-2003 Tahoe Region Unmet Transit Needs Hearing

Mr. Alfred Knotts, Associate Planner in the Transportation Division, presented the 2002-2003 Tahoe Region Unmet Transit Needs Hearing staff summary.

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

XI. ADMINISTRATIVE MATTERS

B. CTS Status Report

Mr. Nick Haven, with the Transportation Division, presented the CTS Status Report.

C. Adoption of Agency Personnel Policy Manual Update

Mr. Wells requested that the adoption of Agency Personnel Policy Manual Update be continued until November. The vote was unanimous to continue this item until November.

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

Vice-Chairperson Solaro stated that the Finance Committee adopted all of the items on the Consent Calendar.

B. Legal

There was no Legal report.
C. Local Government Committee

Mr. Cole apologized to the public who showed up for the Local Government Committee meeting that was cancelled. He asked if the Governing Board members were available on Monday, December 10th. If not, he would ask Coleen to poll those members of the committee to see which date worked best for all. Mr. Palma reminded the Board that there is a regional revenue meeting on October 30th at the TRPA offices from 9:00 – 12:00.

D. Shorezone Committee

Mr. Perock commented that none of the Board members showed up, except for himself, for the Shorezone Committee meeting at the Tahoe City Marina. The Partnership Group conducted a workshop to kick-off the Shorezone EIS. The Partners are going to have a retreat in mid-November to get the issues out on the table. Mr. Galloway apologized for not coming to the meeting. He had a prior commitment.

E. Rules

Vice-Chairperson Solaro stated that the Rules continued Adoption of the Agency Personnel Policy Manual Update until November.

XIII. REPORTS

A. Governing Board Members

Mr. Cole stated that as most of you know, when we moved the baseline allocations from 300 to 150, three local jurisdictions voted against that. There has been some consideration by some of the members that voted for it that perhaps we might change the baseline back, or at least look at those incentives. He has some meetings scheduled with his staff and stakeholders, and there may be some unintended consequences of reducing allocations without having incentives that are realistic. Mr. Cole is continuing to have meetings to see if we can’t make sure we don’t shoot ourselves in the foot as far as revenue generation, as well as encouraging multi-family and a lot of the issues we are trying to deal with; especially in the South Shore. If there are other elected officials are concerned about reduction in allocations, they can take them up with either Mr. Solaro or himself, or meet with TRPA staff.

Mr. Sevision stated that Placer County is getting ready to do a retrofit program on a subdivision-by-subdivision basis throughout their region. They think that will be a good program. He has gotten a pretty firm agreement from the County to do that. They will start with Public Works and start with a program where they start meeting with homeowner groups and try to get an extensive program of retrofitting existing older homes. Not only helping them, but offering them information, and maybe even doing groups of homes at one time. We are trying to make it a positive program.

Mr. Slaven thanked Juan and the staff for the field trip yesterday, as well as the dinner. He believed it was good for the Board to get together. He appreciated that opportunity, and hoped we continued that in the future. Mr. Perock attended the field trip, and encouraged other Board members to participate in some of the field trips that are coming up and see first hand what’s on the ground. Mr. Solaro stated he would like to participate, but Tuesdays are his Board meetings.
Dr. Miner is glad that Juan is taking the leadership role with staff on the scenic issue and moving more cooperative with what the community wants, and the positive feedback he is getting is that we are seeing more of a balance than we have in the summer when it was pretty much lopsided. He asked that Juan present the Board with a list of critical items in December with regards to scenic that are not resolved at that point so that we can provide direction to the APC when they hear it the first of January.

Mr. Palma stated that the rules read "we shall elect the Chair and Vice Chair at the November Governing Board meeting". He suggested that we do this in December instead.

Ms. Bilyeu stated that as the Elections Director for the State of Nevada, if it says "it shall be held in November in even numbered years", it sounds that it pretty much has to be in November. Mr. Marshall stated that it does say that the election does take place in November; "shall take place in November". The consequences of not doing it are not particularly egregious, but the rules that the Board adopted said you "shall do it". Mr. Galloway was of the opinion that we should do it.

Mr. Palma stated that he needed to close the loop on some of the issues that Board members have requested of him; i.e., Dr. Miner's request for a presentation in December on the issues that have not yet been resolved regarding scenic. He wants to make sure that he responds in the way or ways that the Board members would like.

In addition, Mr. Palma said that TRPA would start having field trips every three months.

XIV. ADJOURNMENT — The meeting adjourned at 3:35 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 Dorla Court, Zephyr Cove, Nevada.
MEMORANDUM

November 1, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution of Enforcement Action
Chad and Barbara Keck
5750 McKinney Drive, Placer County,
Assessor’s Parcel Number (APN) 097-192-001

Responsible Parties: Chad and Barbara Keck (hereinafter collectively the “Settling Party”).

Location: 5750 McKinney Drive, Homewood, Placer County, California, Assessor’s Parcel Number (APN) 097-192-001 (hereinafter “Keck Property”).

Agency Staff: Gretchen Gibson, Associate Environmental Specialist

Recommendation: Staff recommends that the Governing Board accept the proposed Settlement Agreement in which the Settling Party restores the disturbed area in accordance with the requirements in the Settlement Agreement and pays $7,800 to TRPA.

Alleged Violation Description: Prior to May of 2002 approximately seventy-eight cubic yards of fill was placed on the Keck property.

This violation was discovered by TRPA staff on May 31, 2002. TRPA Compliance staff investigated the site on June 3, 2002 and photos were taken on June 10, 2002. At the time of investigation a seasonal spring was flowing downslope of the fill area. The fill was spread in a stream environment zone area approximately 30 feet long and 20 feet wide. The area is described as a wet meadow. The presence of Carex sp., Juncus sp., and wet type grasses was noted by TRPA staff. The fill contained chunks of asphalt and other debris.

Further inspection of the Keck property revealed two unauthorized patios and an unauthorized storage shed on high capability land. One of the patios was completed and the other was under construction. A site assessment letter issued by the Placer County Planning Department indicates that there is enough allowable coverage to permit the shed and patios.

The above-described activities violate the following sections of the TRPA Code of Ordinances:

- 20.4 Prohibition of Additional Land Coverage in Land Capability Districts 1a, 1c, 2 and 3 And 1b (Stream Environment Zones): This ordinance prohibits land coverage and permanent disturbance in sensitive land capability districts. Fill was placed in a stream environment zone where permanent land disturbance is prohibited.
4.7 Projects: Two patios and a shed were constructed on the property. These activities are not exempt from TRPA review and approval and therefore, require a permit. No permit was obtained from TRPA for these structures.

74.2 Protection of Stream Environment Zones: Fill was placed in a stream environment zone with the intention of altering the vegetation composition, which is prohibited.

Proposed Settlement: TRPA staff recommends that the Governing Board approve the proposed Settlement Agreement (Exhibit A) in which the party agrees to the following:

1. The Kecks shall pay $7,800 to TRPA within thirty (30) days of Governing Board approval. If the Kecks fail to timely pay, the Kecks shall confess to judgment against them and in favor of TRPA in the amount of $15,000 (payable immediately). The Kecks also agree to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of $6,000.

2. Keck agrees to remove all unauthorized deposited soil material from the Keck Property to a location outside of the Tahoe Region by September 30, 2002. (All deposited spoils have been removed and the area has been mulched.)

3. Keck agrees to vegetate all disturbed area within the stream environment zone on the Keck property by June 1, 2003 with appropriate species from a TRPA-approved riparian species list. Methods for revegetation shall be consistent with those recommended by TRPA staff on July 30, 2002 (Exhibit B). To ensure that vegetation is successful, Keck agrees to post a $500 security bond with TRPA within 30 days of Governing Board approval.

4. Keck agrees to submit to TRPA a complete Single Family Dwelling Addition application and double filing fee of $392 by September 30, 2002 to remedy the outstanding land coverage issues (patios and shed) on the Keck Property.

5. TRPA shall fully release the Kecks of any and all claims of TRPA arising out of any and all alleged violations resulting from the above activities.

Following is a statement of the facts supporting the determination of a violation:

On May 31, 2001 the Placer County Planning Department issued a site assessment. The survey used for the site assessment was conducted by Thomas Buswell on October 17, 2000. This survey does not show the two patios or the shed.

Prior to May of 2002, approximately 78 cubic yards of fill was placed in a stream environment zone area on the Keck Property.

On June 3, 2002 and June 10, 2002, TRPA staff inspected the property and noted the unauthorized placement of fill in a stream environment zone area and the unauthorized creation of patios and shed. The area where fill was placed is described as a wet meadow habitat with various riparian species present including, Carex sp., Juncus sp., and wet type grasses. Staff also noted the construction of a log round patio northwest of the residence, the placement of a

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shed north of the residence and the creation of a flagstone patio southeast of the residence. The shed and patios are located outside of the stream environment zone.

On June 7, 2002 a Cease and Desist Order was sent to the Kecks requiring that no further construction or grading was to take place on the property. Keck indicated to TRPA staff that they were unaware that the above mentioned activities required a permit. The stated purpose for the placement of fill was to create a level area in which to plant a flower garden. It has not been determined who placed the fill on the Keck Property. In the fall of 2001, Keck made several phone calls to local excavating contractors indicating that fill was needed at the Keck Property. Sometime after these requests were made, the fill was placed on the property. Keck has no written record of any agreement with whoever imported the fill material. The fill was not raked out or stabilized with retaining walls or landscaping. The fill has been removed and the area stabilized with a mulch and silt protective fencing.

Violation Resolution: TRPA staff recommends that the Governing Board accept the proposed settlement, through which the Agency will receive $7,800 for the unauthorized fill placed in a stream environment zone in the Tahoe Region. The proposed settlement is consistent with past settlements, and the Settling Party has agreed in writing to the proposed settlement terms to resolve the alleged violation. The agreements are not binding upon the TRPA Governing Board.

Documentary Evidence supporting the determination of a violation includes photographs of the site. These documents are in TRPA's possession and may be reviewed at the TRPA Offices.

The Tahoe Regional Planning Compact Article VI (k) Compliance provides for enforcement and substantial penalties for violations of TRPA ordinances or regulations.

Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed $5,000 and an additional civil penalty not to exceed $5,000 per day, for each day on which a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

Required Actions: Agency staff recommends that the Governing Board resolve the alleged violation by making a motion to ratify the proposed SETTLEMENT AGREEMENT (Exhibit A), based on this staff summary and the evidence contained in the record.

If there are any questions regarding this agenda item, please contact Gretchen Gibson at (775) 588-4547, extension 261.

Exhibits: A. Keck Settlement Agreement
          B. Letter from TRPA Staff to Kevin Agan, July 30, 2002

GMG/ CONSENT CALENDAR ITEM NO.2
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

SETTLEMENT AGREEMENT (EXHIBIT A)

This agreement is made by and between Chad and Barbara Keck (hereinafter "Keck"), and the Tahoe Regional Planning Agency (hereinafter "TRPA").

This settlement represents full and complete compromise and settlement of the certain violations alleged by TRPA, as described below:

On May 31, 2002, TRPA received a complaint that unauthorized activities had taken place at 5750 McKinney Drive, Homewood, Placer County, California, having Assessor’s Parcel Number 97-182-01 (hereinafter “Keck Property”). TPRA staff inspected the Keck property on June 3, 2002 and discovered that unauthorized grading and creation of land coverage had occurred. The grading consisted of the deposition of 78 cubic yards of fill material in a stream environment zone. Patios were under construction on the north and south sides of the residence and an unauthorized shed was placed on the north side of the residence. These activities are in direct violation of the TRPA Code of Ordinances.

This settlement is conditioned upon approval of this agreement by the TRPA Governing Board. Execution of the agreement prior to Board action shall not be binding on either party in the event that the Board does not authorize settlement on the terms set forth below:

In order to fully resolve the matter, the parties hereby agree as follows:

1. Keck agrees to pay TRPA a settlement of $7,800, due within 30 days of Governing Board approval. If Keck fails to pay within 30 days of the Governing Board approval, or comply with all actions in this settlement, Keck confesses to judgment against him and in favor of TRPA in the amount of $15,000 (payable immediately). Keck also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of $15,000.

2. Keck agrees to remove all unauthorized deposited soil material from the Keck Property to a location outside of the Tahoe Region by September 30, 2002.

3. Keck agrees to vegetate all disturbed area within the stream environment zone on the Keck property by June 1, 2003 with appropriate species from a TRPA approved riparian species list. Methods for revegetation shall be consistent with those recommended by TRPA staff on July 30, 2002. To ensure that vegetation is successful, Keck agrees to post a $500 security bond with TRPA within 30 days of Governing Board approval.

4. Keck agrees to submit to TRPA a complete Single Family Dwelling Addition application and double filing fee of $392 by September 30, 2002 to remedy the outstanding land coverage issues (patios and shed) on the Keck Property.

CONSENT CALENDAR ITEM NO.2
5. TRPA agrees to release Keck of any claims of TRPA arising out of any and all alleged violations resulting from the above activities.

Keck has read this Settlement Agreement and understands all of its terms. Keck has executed this Settlement Agreement voluntarily and with full knowledge of its significance. Keck has been offered the opportunity to review the terms of this Settlement Agreement with an attorney prior to executing the same.

Signed:

______________________________    __________________________
Mr. Chad Keck                     Date

______________________________    __________________________
Mrs. Barbara Keck                  Date

______________________________    __________________________
Juan Palma, Executive Director    Date
Tahoe Regional Planning Agency
EXHIBIT B

CERTIFIED MAIL # 7000 0520 0024 3663 9401
RETURN RECEIPT REQUESTED

July 30, 2002

Kevin Agan
Agan Consulting Corporation
P. O. Box 9180
Incline Village, NV 89452-9180

Dear Mr. Agan,

RESOLUTION OF ENFORCEMENT ACTION, UNAUTHORIZED GRADING, BUILDING, AND CREATION OF PATIO, 5750 MCKINNEY DRIVE, PLACER COUNTY, APN 97-192-01.

The Tahoe Regional Planning Agency (TRPA) inspected the subject property on June 3, 2002, and found that approximately twenty cubic yards of fill material was placed within a stream environment zone. Additionally, patios were under construction and a shed was placed on the property in the absence of a TRPA permit.

This is a CEASE AND DESIST ORDER! NO FURTHER CONSTRUCTION ACTIVITY IS TO TAKE PLACE ON THE PROPERTY UNTIL FURTHER WRITTEN NOTICE BY TRPA.

To resolve the above violations TRPA staff proposes the following:

1. Submit for TRPA review and approval a landscape plan more appropriate for a stream environment zone no later than August 16, 2002. The plant list submitted is not suitable for a stream environment zone. The landscape plan shall include riparian species and a management plan which preserves the natural stream environment zone (no fertilizer is to be applied and the area shall not be mowed). Please see the attached riparian species list. A TRPA approved landscape plan shall be implemented no later than September 30, 2002. Every effort should be made to keep the wet meadow habitat similar and contiguous. As plants within the undisturbed meadow spread via rhizomes, this process should not be disturbed as it will allow the meadow to return to its natural state.

2. Remove all unauthorized fill material, down to the former meadow surface, from the property and haul it to an approved site outside of the Tahoe Basin, and complete an approved landscape and stabilization plan by September 30, 2002.

3. Remove all unauthorized patios and the unauthorized shed no later than August 30, 2002.
4. Submit in writing your agreement to the above actions and acceptance of a proposed penalty settlement of $10,000 for the above violations of the TRPA Code of Ordinances by **August 16, 2002**.

5. As an alternative to item 4 above, submit in writing your agreement to items 1-3 and acceptance of a proposed penalty settlement of $5,000 for the above violations of the TRPA Code of Ordinances by **August 16, 2002** along with an agreement to remove all existing turf grass on the property from the stream environment zone. This area shall be restored to a natural meadow as outlined in item 1 above.

You are advised that Article VI (I) of the Tahoe Regional Planning Compact provides that:

> Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed $5,000 and an additional civil penalty not to exceed $5,000 per day, for each day in which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

Failure to respond and comply with the above conditions by **August 16, 2002**, will result in the TRPA issuing a Notice of Violation and proceeding with a Show Cause Hearing in which the agency will seek penalties well above what is being offered in this settlement.

I realize that August 16, 2002 is two weeks away. I am interested in resolving this matter quickly and would like to facilitate restoration of the disturbed area as quickly as possible given the limited growing season in the Tahoe region. If you have any questions about this matter, please feel free to contact me at the TRPA offices at (775) 588-4547, extension 261, Monday through Friday, 9:00 am - 5:00 pm.

Sincerely,

Gretchen Gibson  
Associate Environmental Specialist  
Environmental Compliance Division

Enclosure

GMG/

c. Chad and Barbara Keck, 410 Walsh Road, Atherton, CA 94027  
Brian Judge, TRPA Compliance Division  
Jordan Kahn, TRPA Legal Division  
Placer County Building Department, P. O. Box 1909, Tahoe City, CA 96145

GMG/  
CONSENT CALENDAR ITEM NO.2
MEMORANDUM

November 5, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of $726,000 in Air Quality, Water Quality, and Stream Environment Zone Mitigation Funds to the City of South Lake Tahoe.

Proposed Action: Approve the release of $726,000 in Mitigation Funds for 2002/2003, in accordance with the City of South Lake Tahoe's (CSLT) Five Year Project Lists (attached). This list may be subject to change pending the results of the residential allocations process currently being developed.

Project Description: The City's Five Year Lists which outline their 2002/2003 requests are attached. The requests break down as follows:

- Air Quality - $200,000
- Water Quality - $376,000
- Stream Environment Zone - $150,000

Staff Recommendation: Staff recommends approving the release of these funds subject to the conditions cited below. The proposed expenditures are consistent with the Environmental Improvement Program and the Regional Transportation Plan. Chapters 82 and 93 of the TRPA Code of Ordinances, an MOU with CSLT, and a Governing Board Policy adopted in August 1995, detail all of the requirements for releases. As of October 1, 2002 the City's mitigation fund balances were as follows: Air Quality - $323,963; Water Quality - $645,470; Stream Environment Zone - $203,075. In addition, the requests for equipment and maintenance reflect the allowed limits of 20% and 10% respectively of the yearly release totals.

Staff recommends approval of this release subject to these conditions:

1. The City shall only use the funds for the projects cited above, and as approved by TRPA.

2. The City shall send a report to the TRPA detailing how and when all funds are expended on the projects. Additionally the City shall be required to follow all federal and state laws, codes and regulations and keep complete records of all funds expended on the projects and how they were used. Such records shall be made available for review and audit by TRPA within thirty (30) calendar days upon written request.
3. Any unused mitigation funds shall be returned to TRPA, or TRPA approval shall be acquired before their re-allocation to another project is made.

4. Signage used to identify the projects during construction shall include all funding sources.

If you have any questions regarding this item, please contact John Van Etten at (775) 588-4547 x 247.

Attachments:

Five Year Project Lists (2002-2007)
Staff Report
City Council Meeting of October 15, 2002

Dr: October 2, 2002
To: David Jinkens, City Manager
Fr: Brad Vidro, Public Works Director/City Engineer
Re: Five-year Capital Improvement List for Tahoe Regional Planning Agency Mitigation Funds

Recommendation:
Approve project list.

Discussion:
The Tahoe Regional Planning Agency (TRPA) requires that the City submit a five-year list of proposed water and air quality mitigation projects. This list identifies potential projects that may require the use of mitigation funds. Approval of this list provides an opportunity for a streamlined disbursement process. If a project is on the list, funding may be approved at staff level. By annually updating the list, the City and TRPA staff are able to discuss planned, future and previously unforeseen new projects and their value as air and water quality improvements.

Financial:
There are no financial implications with this action, other than the fact that a streamlined process allows the City to receive reimbursements quicker reducing the burden on the City's investments.

By: Reviewed and Approved by:

Brad Vidro
Public Works Director/City Engineer

David Jinkens
City Manager

c: John Van Etten, TRPA
Richard Wiggins, TRPA
Mike Dikun
Steve Peck
Jan Busatto

Attachment:
Five-year list
\data-e\trpa\armsplst2002.doc
CITY OF SOUTH LAKE TAHOE
TAHOE REGIONAL PLANNING AGENCY MITIGATION FEES
PROJECT LIST FOR 2002-2007
(ESTIMATED COSTS)

Air Quality Projects

Changeable Message Signs (2002/03) $40,000
Use as additional match funds for CMAQ funding. The previous amount was $40,000. Increases in the project cost will required an additional $40,000.

Double Left-turn at Sierra Boulevard (2002/03) $50,000

South Y Intersection Traffic Improvement Project (2002/03) $75,000
Pursuant to the 1997 South Y Intersection Improvement Study, this $730,000-project would be funded mostly by Federal grants, requiring 20% local match.

Transit Operation and Maintenance Facility (2002/03) $35,000
This is funding to match the $315,000 in Rural Surface Transportation Grant funding obtained to perform the environmental documents and plans and specifications for a new transit operation and maintenance facility south of the Lake Tahoe Airport.

Tahoe Keys/Hwy 50 Traffic Improvements (2003/04) $200,000
This $2.5- to $3-million project would be funded mostly by Federal grants, requiring 20% local match.

Improvements to Existing Bus Maintenance Facility (2003/04) $85,000

Hwy 50/Third Street Turn-Lane Improvements (2004/05) $30,000
This project was identified in the 1997 South Y Intersection Improvement Study as a necessary component of improving overall traffic movement along the Highway 50 corridor.

Transit Maintenance Equipment (As needed) $100,000

Water Quality Projects

Ski Run Village Improvements (2002/03) $75,000
Funding is needed for the curb and gutter portion of these improvements.

Purchase of Vactor Truck for Water Quality Project Maintenance Annual payment for lease/purchase (2002/03) $18,000

Purchase of Sweeper Annual payment for lease/purchase (2002/03) $25,000
Water Quality Projects Cont.

**Harrison Avenue Improvements** (2002/03)
Funding would be for the water quality portion of these improvements.

**Rocky Point Erosion Control Project** (2002/03)
Funding of $100,000 may be used to supplement grant funding.

**Water Quality Improvement Project Alternatives Analysis** (2002/03)
The Lake Tahoe Executive, Soil Erosion Working Group, (Stormwater Quality Committee) has requested up to $15,000 from the interest portion of the mitigation fees to help fund the Alternatives Analysis Study which will assist local agencies in erosion control project implementation.

**Annual lease/purchase payment for Vacor Truck** (2002/03)

**Annual lease/purchase payment for Sweeper** (2002/03)

**Annual lease/purchase payment for Vacor Truck** (2003/04)

**Annual lease/purchase payment for Sweeper** (2003/04)

**East Pioneer Trail Erosion Control Project** (2004/05)
Funding of $80,000 may be used to supplement CTC grant funding.

**Annual lease/purchase payment for Vacor Truck** (2004/05)

**Annual lease/purchase payment for Sweeper** (2004/05)

**Sierra Tract Erosion Control Project, Phase 1** (2005/06)
Funding of $100,000 may be used to supplement CTC grant funding.

**Annual lease/purchase payment for Vacor Truck** (2005/06)

**Annual lease/purchase payment for Sweeper** (2005/06)

**Sierra Tract Erosion Control Project, Phase 2** (2006/07)
Funding of $100,000 may be used to supplement CTC grant funding.

**Annual lease/purchase payment for Vacor Truck** (2006/07)

**Annual lease/purchase payment for Sweeper** (2006/07)

**Stream Environment Zone Restoration**

**Upper Truckee River (Airport Reach) Restoration Project** (2002/03)
Funding of $150,000 may be used to supplement grant funding.

**Various SEZ Restoration** (2003/04)
Funding for restoration yet to be identified throughout the City, in conjunction with the implementation of erosion control projects.
Various SEZ Restoration (2004/05)
Funding for restoration yet to be identified throughout the City, in conjunction with the implementation of erosion control projects.

*$The projects and amounts requested are for planning purposes only and are subject to change.
TAHOE REGIONAL PLANNING AGENCY
306 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

TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Flintlock 2000 Trust, Jazz 2000 LLC, and Spike 2000 LLC

Application Type: Shorezone/Recognition of Multiple-Use Facility/Modification and Reconstruction of an Existing Pier

Applicants: Flintlock 2000 Trust, Ruth Page (Trustee) & Jazz 2000 LLC & Spike LLC, George Ashley (President), Jan Brisco, As Agent.

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

Location: 589 Lakeshore Drive, Washoe County, CA

Assessor’s Parcel Numbers (APNs) / File Number: 122-100-26, 18, and 10 / 2000767

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

Project Description: The applicants are proposing to reconstruct and modify an existing non-conforming single-use pier. The existing pier (rock crib) is currently located on APN 122-100-26 and is eight feet wide and 130-feet in length as measured from the high-water line. The project is located in TRPA mapped and verified prime fish habitat.

The proposed pier will be an open piling design and located in the same location as the existing pier. The new pier will be a double piling pier, eight-feet wide and 173-feet long, which measures 43-feet beyond the TRPA pierhead line (to lake bottom elevation 6,216 feet). The pierhead is proposed to be 14-feet wide and 70-feet long and will contain two catwalks (each 3-feet wide and 42-feet long), two low-level boatlifts and two lake access steel stairways. The project includes the removal of two small stone pump houses located in the shoreline on APN 122-100-26.

In conjunction with the proposed development, the applicants are requesting the Governing Board recognize the pier as a multiple-use facility and thus allow deviations from certain location and design standards. Specifically, the deviations, the addition of a second boatlift, two catwalks, and 43 feet of additional pier length beyond the TRPA pierhead line. The recognition of the pier as a multiple-use facility and deviations from design standards is further discussed in the Issues section below.

Site Description: The upland portion of the project area contains three well-forested parcels with a very rocky shoreline. The Flintlock parcel (APN 122-100-26) is 164,853 square feet in size. The parcel has a banked residential unit (the house has been removed) and a small guest cottage. This parcel contains the existing single-use pier and two small stone mortared pump houses in the shoreline. The existing rock crib pier has a rusted steel plate fastened to the pierhead in an effort to protect the structure from the severe wave action that is known to occur in this vicinity. The Jazz parcel (APN 122-100-18) is 93,167 square feet and the Spike parcel (APN 122-100-10) is 80,048 square feet in size. Both of these parcels contains a single-family residence and no shoreline structures. The total shoreline is 615 linear feet for the three parcels. The parcels are composed of Land Capability District’s 1b (backshore and SEZ) and 4, and are visible from Scenic Shoreline.
Travel Unit (23), Crystal Bay, Scenic Roadway Unit (22), Crystal Bay, and Recreation Area Number (8), Burnt Cedar Beach. The project site is located in Shorezone Tolerance District 2 and is an area mapped and verified as Prime Fish Habitat (Feed and Escape/Cover). Adjacent land uses include residential development with other accessory shorezone structures (piers, jetties and buoys).

Issues: This project involves the reconstruction and expansion of an existing nonconforming pier and recognition of the pier as a multiple-use facility. Therefore, the project requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary issues associated with this project are recognition of the project as multiple-use, fish habitat, and scenic quality. These issues are addressed below.

The applicants are proposing a pier that will be shared by three littoral property owners. Given the number of people being served by the pier, staff has determined the pier can qualify as a multiple-use facility. The definition of a multiple-use facility set forth in Chapter 2 of the TRPA Code of Ordinances is as follows:

**Multiple-Use Facility:** A shorezone facility, usually but not always a pier, which is used by the public, homeowners association or two or more littoral parcel owners, and is recognized by TRPA as multiple-use pursuant to Subsection 54.8.D.

The Code allows deviations from certain location and design standards by reducing the standards to guidelines if the structure is recognized as multiple-use pursuant to Subsection 54.8.D of the Code. Subsection 54.8.D states,

**Recognition Of Facilities As Multiple-Use:** Facilities recognized by TRPA as multiple-use are subject to the following provisions:

1. **Deviation From Standards:** Deviation from those standards identified in Subsections 54.8.B and 54.8.C as guidelines for multiple-use facilities, shall be allowed only if TRPA recognizes such facilities as multiple-use. The extent of deviation from the standards shall be approved by TRPA and shall be dependent on:

   a. The reduction in development potential of shorezone facilities associated with the application such that the facility will be shared by other littoral property owners; and

   b. The number of people utilizing the facility or the extent to which the facility is available for general public use.

2. **Reductions In Development Potential:** Reductions in development potential shall be established through the recordation by the owner of permanent deed restrictions or other covenants running with the land, reflecting use agreements and development limitations approved by TRPA on the affected properties.

The specific deviations from standards the applicants are requesting 43-feet of additional pier length beyond the TRPA pierhead line, and the addition of a second low-level boatlift, and the addition of a second catwalk. Below is a staff discussion and recommendation for each standard the applicants are requesting a deviation.
Subsection 54.4.A(4), TRPA Code of Ordinances: Piers shall not extend beyond lake bottom elevation 6219.0 feet, Lake Tahoe Datum, or beyond the pierhead line, whichever is more limiting. The pierhead line is established as depicted on the TRPA Shorezone Tolerance/Pierhead Line Maps.

The applicants are proposing to extend the pier 43 additional feet. The existing pier is at the pierhead line (lake bottom elevation 6221 feet), therefore, the proposed pier would extend approximately 43 feet beyond the pierhead (to lake bottom depth 6,216 feet). The primary impacts associated with approval of this length are scenic and navigational safety. The applicants have provided a scenic simulation and a mitigation plan that will mitigate the proposed mass of the pier associated with the increase in length. The depth associated with the length of the pier will facilitate safe mooring as the area is rocky and the wave activity can be hazardous. This combined with the scenic mitigation, the access to the Lake for three littoral owners (and their family and friends), and the reduction of additional shorezone development potential demonstrate that the proposed project, as conditioned, will not cause adverse scenic or recreational impacts.

Subsection 54.4.A(4), TRPA Code of Ordinances: The width of piers shall be a maximum of 10 feet, which shall include all appurtenant structures except for a single low-level boat lift and a single catwalk. A catwalk below the level of the main deck, and not exceeding three feet in width by 45 feet in length, may be permitted. Additional width for a single catwalk may be permitted where TRPA finds it necessary to facilitate barrier free access but at no time shall the entire width of the pier and catwalk exceed 13 feet. A low-level boatlift with forks not exceeding 10 feet in width may be permitted.

The applicants are requesting the Governing Board approve two low-level boat lifts and two catwalks. The primary impact associated with approving a second boat lift and catwalk is the potential impact to scenic quality. The applicants have also prepared a visual simulation and scenic mitigation for review. TRPA staff reviewed the simulation and have negotiated a plan for scenic mitigation that includes the painting of the eastern most residence (Spike 2000 LLC parcel), the removal of the two pump house structures from the backshore, enhanced planting and screening of the former building site, replacement of the blue roof on the guest house on the Flintlock 2000 Trust parcel, and additional planting in the backshore to enhance the existing natural vegetation and provide additional shrubs and a mid-story screen. Several of these project elements directly mitigate the potential scenic impacts of the proposed pier by reducing the amount of visible mass as seen from the lake. Specific calculations comparing the visual mass of the proposed project and the mitigation measures will be made available at the Governing Board Meeting. TRPA staff has determined that the project, as conditioned, will not result in adverse scenic impacts and that the deviations from standards are reasonable.

The reduction in development potential will be established by the recordation of permanent deed restrictions on the three parcels (APN's 122-100-26, 18, & 10). The deed restrictions shall be TRPA approved and shall detail the use agreements for access to the pier and the limits of any future shorezone development.

Staff Analysis:

A. Environmental Documentation: The applicants have completed an Initial Environmental Checklist (IEC) and a Visual Simulation/Scenic Mitigation Report by Vivica Ann Bell Henningsen in order to assess the potential environmental impacts of the project. The TRPA has verified the land capability, backshore boundary and that the area is prime fish habitat (Feed/Cover and Escape). 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 Visual Simulation/Scenic Mitigation Report will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement: The project is located within Plan Area Statement Number 037 (Lakeview). The Land Use Classification is Residential, and the Management Strategy is Mitigation. Piers are listed as allowable accessory structures. Single family dwellings are an allowed use. TRPA staff have reviewed the plan area statement and have determined that the project, as conditioned, is consistent with the applicable planning statement, planning considerations and special policies.

C. Land Coverage:

A project area deed restriction for coverage purposes was recorded on March 8, 1993 that includes all three parcels associated with this pier project and an additional parcel, 122-100-17. There will be no additions or relocations of land coverage on the parcels within the project area. The project area has no excess coverage and therefore, no excess land coverage mitigation fee is required.

D. Shorezone Tolerance District: The subject parcels are located within Shorezone Tolerance District 2. Projects within Shorezone Tolerance District 2 must ensure stabilization and the least environmental impact to the backshore. Vehicle access to the shoreline is not permitted and pedestrian access to the shoreline is limited to stabilized access ways. The project, as conditioned, complies with the shorezone tolerance district standards.

E. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 50, 51, and 52 of the TRPA Code of Ordinances. Following each finding, agency staff has briefly summarized the evidence on which the finding can be made.

1. Chapter Six Findings:

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

(1) Land Use: The single-family dwellings on the subject parcels are an allowed use within the applicable plan area statement. The proposed project involves the reconstruction, modification and expansion of an allowed accessory structure (pier). Surrounding land uses are residential.

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

(3) Conservation: The project, as conditioned, is consistent with the fisheries, shorezone, and scenic sub elements of the Conservation Element of the Regional Plan. The proposed colors and design are consistent with the TRPA Design Review Guidelines. This project will not result in the obstruction or degradation of any scenic vista or view open to the public provided the recommended mitigation measures are implemented. Please see the Issues section for further discussion on scenic matters.

The applicants will install the required Best Management Practices (BMPs) on the parcel, in accordance with Chapter 25 of the TRPA

11/20/02
/BH

CONSENT CALENDAR ITEM NO. 4
Code. There are no known special interest animal species or cultural resources within the project area. The project site was surveyed for Tahoe Yellow Cress in July 2002 and no plants were found.

(4) Recreation: The project area is visible from the Burnt Cedar Beach Recreation area. The standard design requirements and the proposed scenic mitigation measures should minimize the ability for the pier to be seen, thus alleviating any possible recreational impacts to this site. The length of the pier will not adversely impact recreational boating or top-line angling.

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

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

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

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

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

(Refer to paragraph 1.b, above.)

2. Chapter 50 - Required Shorezone Findings:

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

The proposed project will not have an impact on littoral processes because the project does not involve a structure that is less than 90 percent open. The site has not been identified as spawning habitat, and the project, as conditioned, will minimize impact to the lakebed substrate. The proposed pier expansion will not alter the existing backshore. In addition, the installation of vegetation along the shoreline will result in increased backshore stability. 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.
This project involves the reconstruction and expansion of an existing pier. The project is located in the shorezone of properties occupied by single-family residences and a guest residence. The pier will be used by the owners of the three properties and their guests. There is sufficient parking and shorezone access to accommodate the project.

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

The project, as conditioned, is compatible with existing lake and shorezone uses and structures in the vicinity. The surrounding uses consist of piers, jetties and buoys, and will not be adversely affected by this project.

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

The pier and shoreline protective structure are located in the shorezone of Lake Tahoe and are, by their nature, water-dependent.

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

This approval prohibits the use of spray painting and the use of tributyltin (TBT). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

f. Construction and access techniques will be used to minimize disturbance to ground and vegetation.

The applicant shall not be permitted to store construction materials on the beach. Permanent disturbance to ground and vegetation is prohibited. Construction of the pier will be done from a barge on the water.

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 U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers have completed an individual permit review of the project and have found that the proposed pier will not adversely impact navigation of create a threat to public safety. Navigational lights will be placed at the end of the pier to ensure boaters are aware of the location of the new pier.

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 State Lands and the U.S. Army Corps of Engineers. The project was brought before the Shorezone Review Committee and the recommended conditions of approval are consistent with their recommendations and addresses their concerns.

5. Chapter 52 – Required Findings for Expansions of Non-Conforming Structures:
   
a. The structure is not an obstacle to navigation, is not causing significant shoreline erosion or interference with sediment transport, and is not contributing to noncompliance with a scenic threshold.

   The proposed pier project has completed the Army Corps of Engineers individual permit process review with and no obstacles to navigation were identified. The proposed project involves the replacement of a rock crib pier and the construction of an open piling pier that will allow for unimpeded sediment transport. The proposed project is within a shoreline travel unit that is not in scenic attainment. The proposed scenic mitigation package will incrementally increase the unit's score.

b. The structure has not been unserviceable for more than three years.

   The existing pier is in serviceable condition. The proposed project would allow the existing pier to be modified to a conforming, multiple-use structure.

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

   The proposed pier expansion will result in a pier that conforms to all TRPA development standards for multiple-use piers as outlined in the Issues section above. The project, as conditioned, will not create a degradation of any of the environmental thresholds. The project is visible from Scenic Roadway Unit 22, (Crystall Bay), Shoreline Travel Unit 23 (Crystal Bay), which are not in scenic attainment, and the Burnt Cedar Beach Recreation Area. TRPA staff has worked with the applicants to create a scenic mitigation package that will be consistent with Scenic Quality Improvement Program and create an improvement in the Scenic Units. This project is presently located in an area mapped and verified as Prime Fish Habitat.

   The TRPA staff inspected the subject parcel and determined that the proposed project, as conditioned, will not adversely impact fisheries. The existing pier does not comply with several development standards, however, provided the pier is recognized as a multiple-use facility pursuant to Subsection 54.8.D of the Code, the proposed project would comply with all applicable development standards.

d. The project complies with the requirements to install Best Management Practices (BMPs) as set forth in Chapter 25.

   All TRPA required BMP's are being installed as a part of a previous project approval or will be installed as a condition of approval.

e. The project complies with the design standards in Section 53.10.
The proposed project complies with all design and color standards identified in 53.10 of the TRPA Code of Ordinances.

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

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

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

PROJECT DESCRIPTION: Pier Expansion and Multiple Use Designation

PERMITTEE(S): Flintlock 2000 Trust and Jazz 2000 Trust, Ruth Page and George Ashley

APN: 122-100-25, 18 & 10 FILE #: 2000767

COUNTY/LOCATION: Washoe County/ 589 Lakeshore Drive

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on November 20, 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 November 20, 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/CITY BUILDING PERMIT. THE COUNTY/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 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/CITY BUILDING PERMIT.

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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 ______________

Signature of Permittee(s) __________________________ Date ______________

Signature of Permittee(s) __________________________ Date ______________

/bh

PERMIT CONTINUED ON NEXT PAGE

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/BH

CONSENT CALENDAR ITEM NO. 4

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Flintlock/Jazz/Spike Multiple-Use Pier
Page 10 of 14

APNs: 122-100-26, 18 & 10

FILE NO.

Shorezone Mitigation Fee (1):
Amount $ _4290___ Paid _____ Receipt No. ______

Security Posted (2):
Amount $ _5000___ Posted _______ Type ______ Receipt No. ______

Security Administrative Fee (3):
Amount $ _______ Paid _____ Receipt No. ______

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

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

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

TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the removal, reconstruction and modification of the existing.
The pier shall be 173- feet long, specifically not more than 43-feet beyond the TRPA pierhead
line (as measured from the high water line). Accessory structures will include two low level 1200
pound boat lifts with forks that do not exceed 10-feet in width, two adjustable walkways that are
42-feet in length and 3-feet wide, and two swim ladders on either side of the pier. The pier deck
shall not exceed elevation 6232 feet Lake Tahoe Datum. Two standard navigational lights are
authorized for the end of the pier. This permit does not authorize any pilings/lighting posts to be
located above the pier deck. The permit also authorizes the redistribution of the rocks from the
existing cribs as per the fish habitat restoration plan outlined in Condition 3.H. The permit also
requires the removal of two existing pump-houses currently within the shorezone.

2. The standard conditions approval listed in Attachment S.

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

   A. The site plan and pier (plan and elevation views) shall be revised to include:

   (1) The following revised land coverage calculations:

      (a) Lot area above high-water line

      (b) Allowable land coverage for each land capability district including
          backshore area.

      (c) Existing land coverage for each land capability district, including
          backshore areas.

   (2) All property lines.

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CONSENT CALENDAR ITEM NO. 4

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(3) Site plan scale and north arrow.

(4) Topographic contour lines at two (2) foot intervals.

(5) Land capability district and backshore boundaries.

(6) The TRPA projection lines and 20 feet setback measurements.

(7) 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."

(8) 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.

(9) Vegetation protective fencing around the entire construction site located in the backshore.

(10) TRPA approved low-level lighting (turtle type) details for the pier as per Standard 54.4 Guideline 6 in the TRPA Design Review Guidelines.

(11) Location of all recorded easements inherent to the property or resulting from this project.

(12) Please ensure that all features of the catwalks are shown such as any railings required by other agencies.

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

Color: The color of this structure, including any fences on the property, shall be compatible with the surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within the range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish brown, brown, ochre, and umber.

Roofs: Roofs shall be composed of non-glare earthtone or woodtone materials that minimize reflectivity.

Fences: Wooden fences shall be used whenever possible. If cyclone fence must be used, it shall be coated with brown or black vinyl, including fence poles.

B. The permittee shall submit a shorezone mitigation fee of $4,290 for the construction of 43 feet of new pier (assessed at $30 per linear foot), two boatlifts, two catwalks, and two swim ladders (assessed at $500 each).

C. Pursuant to Subsection 54.8.D(2) of the TRPA Code, the applicants shall record a TRPA approved-to-form deed restriction reflecting pier use agreements and shorezone
development limitations on the affected properties. TRPA shall draft the deed restrictions. A copy will be provided to the applicant with the conditional permit.

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 BMP installation for the entire project area.

E. The permittee shall acknowledgement of TRPA Permit # 960812, Residential Banking, and the associated permit conditions.

F. The permittee shall provide a revised scenic simulation and mitigation for TRPA approval.

G. The permittee shall provide a revised landscape plan in accordance with the standards required in Sections 30.7, and 55.6 of the TRPA Code of Ordinances as outlined in the revised scenic mitigation plan for TRPA review and approval. This landscape plan shall include restoration and revegetation of the banked residential unit, TRPA File # 960812, on APN: 122-100-26. This restoration will be enhanced and a portion shall apply as scenic mitigation. Any future construction of the now banked residence on this parcel will require the proposed residence to be in a different location from the restored original residence footprint, or must provide a comprehensive scenic mitigation package that equals the amount to be removed.

H. The permittee shall submit a fish habitat restoration plan to TRPA for review and approval that addresses the redistribution and dispersal of the boulders (if native rock) associated with the existing rock crib pier.

I. Final pier construction drawings shall conform to all the applicable design standards of Section 54.4.B. and 54.6.B, TRPA Code of Ordinances, and all other applicable TRPA design standards.

J. The security required under TRPA Code Section 8.8 shall be $5,000. Please see Attachment J, Security Procedures for appropriate methods to post a security and the required Security Administrative Fee.

K. The permittee shall submit a construction schedule prior to commencement of construction. This schedule shall identify dates for the following: When installation of temporary erosion control structures and turbidity screens will occur; when the existing pier will be removed; when construction will start; when construction slash and debris will be removed; when installation of all permanent erosion control structures will occur; and when construction will be completed.

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

4. The width of the pier shall not be greater than eight feet, except that portion of the pier with a catwalk(s). The catwalk(s) shall not exceed three feet in width. The pier shall be placed only within the area that is enclosed by lines that are parallel to the parcel boundary lines as projected lakeward from low water, and a minimum of 20 feet inward of TRPA lines projected lakeward from high water.

5. This structure shall extend 43 feet beyond the pierhead as indicated on official TRPA maps (173 feet lakeward of the high-water line for this property) located between Elevation 6217 and 6216 Lake Tahoe Datum as indicated on the proposed site plan.
6. Best practical control technology shall be employed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. The permittee shall install a turbidity screen around the entire construction site (in the water) prior to construction. This screen may be removed upon project completion only upon satisfactory inspection by TRPA to insure that all suspended materials have settled. Caissons may be used for placement of the pier pilings at the discretion of the TRPA Environmental Compliance Officer.

7. The pier pilings, structural steel, boat racks, catwalks and swim ladders shall all be black in color. The decking shall be made from 'trex' and be dark in color.

8. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction. Gravel, cobble, or small boulders shall not be disturbed or removed to leave exposed sandy areas, before, during or after construction. The minimum number of pilings shall be placed to achieve a structurally sound pier with minimal disturbance to the Lakebed.

9. All pier construction access shall be from the lake, via barge. Vehicular access to the shoreline is prohibited.

10. 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.

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

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

13. The permittee shall submit post-construction photos within 30 days of the project completion date, demonstrating any resultant impacts to scenic quality is viewed from 300 feet from shore looking landward and the lake bottom conditions as viewed from the subject parcel and the subject pier.

14. This permit does not include relocation of the existing access path to the lake.

15. The trees on this parcel shall be considered as scenic mitigation and shall not be removed or trimmed for the purposes of view enhancement. Any such removal or trimming shall constitute a violation of project approval.

16. By acceptance of this permit, the permittee acknowledges that TRPA Code of Ordinances requires that this property, located within a priority (1, 2, or 3) watershed group, install and maintain all Best Management Practices prior to October 15, (2000, 2006 or 2011).

17. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

18. Any normal construction activities creating noise in excess to the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 A.M. and 6:30 P.M.

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CONSENT CALENDAR ITEM NO. 4

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19. The permittee is responsible for insuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.

20. This site shall be winterized in accordance with the provisions of Attachment S by October 15th of each construction season.

END OF PERMIT
November 7, 2002

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

From: TRPA Staff

Subject: Approval of Cycle 21 CA 5311 Program of Projects and Adoption of Supporting Resolution

Action Request: Approval of the State of California Cycle 21 5311 Program of Projects (POP) for fiscal year 2002-2003; and Adoption of the supporting resolution.

TTAC Recommendation: At the October 2002 TTAC meeting it was recommended that all available funds be allocated to the CA jurisdictions rather than hold the funds for a carryover balance for next year's cycle.

TTD Recommendation: At the time of preparing this staff summary the Tahoe Transportation District had not held their November 2002 meeting.

Background: In order for a Regional Transportation Planning Agency (RTPA) to receive a Section 5311 Grant, the project must be included in the Regional Program of Projects, which is submitted by TRPA to Caltrans for approval no later than December 15, 2002.

Discussion: Over the past couple of years TRPA has received an average of $55,000 from Caltrans for our Regional 5311 Apportionment. This year the estimated figure that TRPA has received from Caltrans is $54,045. According to Caltrans, this figure could either increase or decrease depending on the federal budget. Last cycle the funds totaled $61,497 and were distributed to the City of South Lake Tahoe and Placer County at a 50/50 ratio.

Options for these funds include allocating the funds to one or more entity or leaving the money in the account to be carried over to Cycle 22.

Staff Recommendation: Staff recommends that the entire balance be allocated in the following manner:

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placer County</td>
<td>$19,500 (36.1%)</td>
</tr>
<tr>
<td>City of South Lake Tahoe</td>
<td>$19,500 (36.1%)</td>
</tr>
<tr>
<td>El Dorado County</td>
<td>$15,000 (27.8%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$54,045 (100%)</td>
</tr>
</tbody>
</table>

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CONSENT CALENDAR ITEM NO. 5
This breakdown is based on previous allocations and negotiations between Placer County, City of South Lake Tahoe, El Dorado County, and TRPA. Any change in the final apportionment shall be adjusted according to the above-mentioned percentages for each jurisdiction.

If you have any questions regarding this matter, please contact Alfred Knotts at (775) 588-4547.
TAHOE REGIONAL PLANNING AGENCY

Project Name: Coffeng/Davis Multiple-Use Pier

Application Type: Shorezone/Construction of New Multiple-Use Pier

Applicants: Hans and Peggy Coffeng, Geoff and Christine Davis

Agency Planner: Melissa Joyce, Associate Planner, Project Review Division

Location: 7770 and 7780 North Lake Boulevard, Placer County, California

Assessor's Parcel Numbers (APNs) / File Number: 117-180-017 and 018/20010400

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

Project Description: The applicants are proposing to construct a new multiple-use pier. The proposed pier will be an open piling design and located on the common property line of the two parcels. The new pier will use a single-pile design to the pierhead, where a double-pile design is proposed. The pier will be 150 feet in length (to lake bottom elevation 6,220 feet) and six feet wide to the pierhead, which will be 10 feet wide. The pierhead will be 45 feet in length with two adjustable 3-foot wide catwalks, one on each side of the pierhead.

The applicants are requesting the Governing Board recognize the pier as a multiple-use facility and thus allow deviations from certain location and design standards. Specifically, the deviations include placing the pier outside of TRPA shorezone setback lines, additional width at the pierhead and a second catwalk. The recognition of the pier as a multiple-use facility and deviations from design standards is further discussed below.

Site Description: The project area contains two parcels. The Coffeng parcel (APN 117-180-017) is developed with a single-family dwelling. The Davis parcel (APN 117-180-018) currently has a single-family residential rebuild under construction. There is no existing shorezone development on either parcel. Both parcels slope gradually towards the Lake and are classified as high capability land (Class 5) and backshore. The project site is in an area mapped and verified as Marginal Fish Habitat. Adjacent land uses include residential development, some with piers and buoys.

Issues: This project involves the construction of a new pier and recognition of the pier as a multiple-use facility. Therefore, the project requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary issues associated with this project are:
1. Determination of Subject Parcels as Littoral: The Placer County Assessor's Map indicates an existing 5.9-acre parcel south (lakeward) of the subject parcels extending between the high and low water lines of Lake Tahoe. The parcel was assigned APN 117-180-013. Staff requested the applicants provide documentation that the subject parcels were indeed littoral and eligible for shoreline accessory structures. A title search provided by the applicants indicated Placer County as the owner of APN 117-180-013. The Placer County Counsel's office reviewed the title search information and determined that the Assessor had assigned a parcel number for administrative purposes. The County claims no ownership interest to the parcel and recognizes both subject parcels as littoral. On the basis of this information, staff determined the subject parcels as eligible for an accessory shorezone structure.

2. Recognition of the Pier as a Multiple-Use Facility & Deviation from Design Standards: The applicants are proposing a pier that will be shared by two separate families. Staff has determined the pier qualifies as a multiple-use facility pursuant to Chapter 2 of the TRPA Code of Ordinances:

   Multiple-Use Facility: A shorezone facility, usually but not always a pier, which is used by the public, homeowners association or two or more littoral parcel owners, and is recognized by TRPA as multiple-use pursuant to Subsection 54.8.D.

The Code allows deviations from certain location and design standards if the structure is recognized as multiple-use pursuant to Subsection 54.8.D of the Code. Subsection 54.8.D states:

Recognition Of Facilities As Multiple-Use: Facilities recognized by TRPA as multiple-use are subject to the following provisions:

(1) Deviation From Standards: Deviation from those standards identified in Subsections 54.8.B and 54.8.C as guidelines for multiple-use facilities, shall be allowed only if TRPA recognizes such facilities as multiple-use. The extent of deviation from the standards shall be approved by TRPA and shall be dependent on:

   (a) The reduction in development potential of shorezone facilities associated with the application such that the facility will be shared by other littoral property owners; and

   (b) The number of people utilizing the facility or the extent to which the facility is available for general public use.

(2) Reductions In Development Potential: Reductions in development potential shall be established through the recordation by the owner of permanent deed restrictions or other covenants running with the land, reflecting use agreements and development limitations approved by TRPA on the affected properties.
Deviation from Standards: The applicants are requesting the following deviations from standards: placement of the pier within the required setback, a second catwalk and additional width at the pierhead to accommodate the second catwalk. These requested deviations are discussed further in the following paragraphs.

A. Subsection 54.4.A(5), TRPA Code of Ordinances: The setback for existing piers shall be five feet and for new piers it shall be 20 feet. Piers shall be placed within the setback lines established by TRPA. TRPA shall establish the setback lines by measuring the applicable distance inward from each property line along the high water line. From this point, a setback line shall be projected lakeward and perpendicular to the tangent of the shoreline. TRPA may adjust angle of projection to compensate for unique circumstances such as a small cove.

Discussion: The applicants are proposing to place the pier on the property line dividing the two subject parcels. TRPA staff recommends the setback standard be waived for this project since the pier will be shared by the two parcels affected by the deviation from the setback standard. Staff have determined there would be no adverse impact resulting from placement of the pier on the property line provided, pursuant to Subsection 54.8D(2) of the Code, the owners of both parcels record a deed restriction limiting the potential shorezone development.

B. Subsection 54.4.A(4), TRPA Code of Ordinances: The width of piers shall be a maximum of 10 feet, which shall include all appurtenant structures except for a single low-level boat lift and a single catwalk. A catwalk below the level of the main deck, and not exceeding three feet in width by 45 feet in length, may be permitted. Additional width for a single catwalk may be permitted where TRPA finds it is necessary to facilitate barrier free access but at no time shall the entire width of the pier and catwalk exceed 13 feet. A low-level boatlift with forks not exceeding 10 feet in width may be permitted.

Discussion: The applicants are requesting the Governing Board approve two catwalks, each 3 feet wide. The resulting width of the pierhead (10 feet) and two catwalks (3 feet each) will be 16 feet, which exceeds the maximum width of 13 feet. The primary concern associated with approving a second catwalk is the potential impact to scenic quality. The scenic impact associated with a second catwalk, however, would be less than that from a second pier. Scenic issues are discussed more fully in the following section.

Reduction of Development Potential: A reduction in shorezone development potential will be achieved by requiring owners of both parcels to record a deed restriction limiting future shorezone development.

3. Scenic Quality. The scenic shoreline travel route in this area is in attainment with TRPA scenic thresholds. The project is not visible from the roadway scenic unit. The applicants prepared a visual simulation for review. TRPA staff reviewed the
simulation and determined that the project, as conditioned, would not result in adverse scenic impacts. Several project elements directly mitigate the potential scenic impacts of the proposed pier by reducing the amount of visible mass as seen from the lake. In addition, the required painting and landscaping will create a more natural shoreline. Mitigating project elements include:

- A predominately single-piling pier with adjustable catwalks
- Use of dark, flat colors for the pier deck and pilings
- Painting of existing white trim on the Coffeng residence to a color in the approved Munsell range
- Painting and screening of latticework under the Coffeng deck
- Berming and landscaping to provide additional screening of the existing residences.

Staff Analysis:

A. Environmental Documentation: The applicants have completed an Initial Environmental Checklist (IEC), land capability verifications, backshore boundary determinations, fish habitat verification and a visual simulation in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project, as conditioned, will not have a significant effect on the environment. A copy of the completed IEC and visual simulation will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement: The project is located within the Kings Beach Community Plan, Special Area #4 (Beach Street Tourist/Residential). The Land Use Classification is Commercial/Public Service, and the Management Strategy is Redirection. Single-family dwellings are an allowed use. Piers are listed as allowable accessory structures. TRPA staff have reviewed the community plan and determined that the project, as conditioned, is consistent with the applicable planning statement, planning considerations and special policies.

C. Land Coverage:

Coffeng Parcel (APN 117-180-017)

1. Land Capability District: The parcel is comprised of land capability class 5 and backshore. The parcel area above the high water line is 10,195 square feet.

2. Total Allowable Land Coverage: 2,003 square feet (Class 5) 12 square feet (backshore)

3. Total Existing Land Coverage: 5,777 square feet (Class 5)

4. Proposed Land Coverage: No change

5. Excess Land Coverage: 3,762 square feet

11/06/02
/MJ

CONSENT CALENDAR ITEM NO. 6
6. **Excess Land Coverage Mitigation:** The applicants will be required to mitigate excess land coverage in accordance with Chapter 20 of the TRPA Code of Ordinances. The applicants previously mitigated 31 square feet; therefore, 3,731 square feet of excess land coverage remain to be mitigated.

**Davis Parcel (APN 117-180-018)**

1. **Land Capability District:** The parcel is comprised of land capability class 5 and backshore. The parcel area above the high water line is 9,351 square feet.

2. **Total Allowable Land Coverage:** 1,922 square feet (Class 5)
   16 square feet (backshore)

3. **Total Existing Land Coverage:** 5,168 square feet (Class 5)
   182 square feet (backshore)

4. **Proposed Land Coverage:** No change

5. **Excess Land Coverage:** 3,412 square feet

6. **Excess Land Coverage Mitigation:** The applicants will be required to mitigate excess land coverage in accordance with Chapter 20 of the TRPA Code of Ordinances. The applicants mitigated 254 square feet in conjunction with a previous project; therefore, 3,158 square feet of excess land coverage remain to be mitigated.

**Shorezone Tolerance District:** The subject parcels are located within Shorezone Tolerance District 7. Projects within Shorezone Tolerance District 7 must ensure stabilization and the least environmental impact to the backshore. Vehicle access to the shoreline is not permitted and pedestrian access to the shoreline is limited to stabilized access ways. The project, as conditioned, complies with the shorezone tolerance district standards.

**Required Findings:** The following is a list of the required findings as set forth in Chapters 6 and 50 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:** The single-family dwellings on the subject parcels are allowed uses in the applicable community plan.
The proposed project involves the construction of an allowed accessory structure (pier). Nearby surrounding land uses are residential.

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

(3) **Conservation:** The project, as conditioned, is consistent with the fisheries, shorezone, and scenic subelements of the Conservation Element of the Regional Plan. The proposed colors and design are consistent with the TRPA Design Review Guidelines. This project will not result in the obstruction or degradation of any scenic vista or view open to the public provided the recommended mitigation measures are implemented. Required Best Management Practices (BMPs) have already been installed on the parcels 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:** This project does not involve or impact any public recreation facilities or uses. The proposed pier will be similar in length to adjacent existing piers and will not adversely impact recreational boating or top-line angling.

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

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

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

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

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

(Refer to paragraph 1.b, above.)

11/06/02
/MJ

CONSENT CALENDAR ITEM NO. 6

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2. **Chapter 50 – Required Shorezone Findings:**

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

The proposed project will not have an impact on littoral processes because the project does not involve a structure that is less than 90 percent open. The site has not been identified as fish habitat, and the project, as conditioned, will minimize impact to the lakebed substrate. The proposed pier will not alter the existing backshore except for the installation of landscaping. 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.**

This project involves the construction of a new pier. The project is located in the shorezone with properties occupied by single-family residences. The pier will be used by the owners of the properties and their guests. There is sufficient parking, restrooms and shorezone access to accommodate the project.

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

The project, as conditioned, is compatible with existing lake and shorezone uses and structures in the vicinity. The surrounding uses consist of piers and buoys and will not be adversely affected by this project.

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

The pier is located in the shorezone of Lake Tahoe and is, by nature, water-dependent.

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

This approval prohibits the use of spray painting and the use of tributyltin (TBT). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of
disposal. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

f. **Construction and access techniques will be used to minimize disturbance to ground and vegetation.**

The applicant shall not be permitted to store construction materials on the beach. Construction access shall be via rubber-tired barge with a pile driver. Caissons and sleeves shall be used while pile driving to minimize disturbance.

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 adjacent piers. The U.S. Army Corps of Engineers must also review this project for navigational safety.

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

This project must receive approval from the California State Lands Commission and the U.S. Army Corps of Engineers. Comments from these agencies, as well as the California Department of Fish & Game, were solicited as part of the review of this project. No significant issues were identified by these agencies.

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

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

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

PROJECT DESCRIPTION: Multiple-use Pier

PERMITTEES: Hans and Peggy Coffeng, Geoff and Christine Davis

APNs: 117-180-017 and -018   FILE #20010400

COUNTY/LOCATION: 7770 and 7780 North Lake Boulevard, Placer County, CA

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on November 20, 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 November 20, 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 PERMITTEES HAVE ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE 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.

Signature of Permittees: ____________________________________________ Date ______________________________

Hans Coffeng

______________________________ Date ______________________________
Peggy Coffeng

______________________________ Date ______________________________
Geoff Davis

______________________________ Date ______________________________
Christine Davis

PERMIT CONTINUED ON NEXT PAGE

11/06/02 CONSENT CALENDAR ITEM NO. 6
/MJ 39
Excess Coverage Mitigation Fee
APN 117-180-017\(^{(1)}\):  
Amount $660.00  Paid  
Receipt No.  

Excess Coverage Mitigation Fee
APN 117-180-018\(^{(2)}\):  
Amount $660.00  Paid  
Receipt No.  

Shorezone Mitigation Fee\(^{(3)}\):  
Amount $4,500  Paid  
Receipt No.  

Security Posted\(^{(4)}\):  
Amount $_____  Posted_______  Receipt No. ____  Type _____  

Security Administrative Fee\(^{(5)}\):  
Amount $_____  Paid  
Receipt No. ____  

Notes:
(1) See Special Condition 3.E
(2) See Special Condition 3.G
(3) See Special Condition 3.H
(4) Amount to be determined. See Special Condition 3.I
(5) $139 if a cash security is posted, or $72 if a non-cash security posted.

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

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

TRPA Executive Director/Designee  
Date  

SPECIAL CONDITIONS

1. This permit allows the construction of a multiple-use pier located on the property line dividing Placer County APN's 117-180-017 and -018. The pier shall not exceed 150 feet in length (as measured from the high water line). The pier shall be no more than six feet wide to the pierhead which shall be no more than 10 feet wide (total pierhead length = 45 feet) with two catwalks, each no more than 3 feet wide. The pier shall use a single-piling design to the pierhead; a double-piling design is permitted at the pierhead. Maximum piling spacing shall be utilized. Proposed catwalks shall be adjustable. The pier deck shall be dark gray; the pier pilings shall be flat black. No railings, pilings, hoists or other structures above the pier deck are authorized by this permit. This permit does not verify or authorize the relocation and/or placement of any buoys or the moving of any boulders encountered during construction.

2. The Standard Conditions of approval in Attachment S.

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:

11/06/02  
/MJ  

CONSENT CALENDAR ITEM NO. 6  
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(1) Land coverage calculations that reflect the most recent approvals on
the subject properties.
(2) Notes indicating the pier deck shall be dark gray and the pier pilings
shall be flat black.
(3) A note indicating that all lighting shall comply with Subsection 54.4
(4) Proposed lighting locations, spacing and details of proposed lighting
fixture.

B. Prior to permit acknowledgement, the permittees shall submit a landscape plan
for the project area for TRPA review and approval. The landscape plan shall
indicate existing landscaping, additional landscaping required as part of previous
upland approvals and landscaping required as scenic mitigation for the proposed
pier.

C. Prior to permit acknowledgement, the permittees shall submit color samples for
the proposed pier deck and pilings and paint colors for the Coffeng residence
trim and deck latticework for TRPA review and approval. All proposed colors
shall be within approved Munsell color values in accordance with TRPA Design
Standards.

D. Pursuant to Subsection 54.8.D(2) of the TRPA Code, the permittees shall record
a TRPA approved-to-form deed restriction reflecting pier use agreements and
shorezone development limitations on the affected properties prior to permit
acknowledgement. The permittees shall provide TRPA with copies of the most
recent recorded grant deeds for the subject parcels. TRPA shall draft the deed
restrictions.

E. Prior to permit acknowledgement, the permittees shall submit a detailed
construction plan describing methods, access and schedule for TRPA review and
approval.

F. For APN 117-180-017, the permittees shall either pay an excess coverage
mitigation fee of $660 or reduce 101.5 square feet of existing land coverage with
Hydrologic Transfer Area Number 9 (see attached map) based on a construction
cost estimate of $65,000 and 3,731 square feet of remaining excess coverage.
Upon completion of final construction plans, the permittees shall provide a final
construction cost estimate and, if different from the above estimate, the required
mitigation fee may be revised.

G. For APN 117-180-018, the permittees shall either pay an excess coverage
mitigation fee of $660 or reduce 101.5 square feet of existing land coverage with
Hydrologic Transfer Area Number 9 (see attached map) based on a construction
cost estimate of $65,000 and 3,156 square feet of remaining excess coverage.
Upon completion of final construction plans, the permittees shall provide a final
construction cost estimate and, if different from the above estimate, the required
mitigation fee may be revised.

H. The permittees shall submit a shorezone mitigation fee of $4,500 for the
construction of 150 feet of new pier (assessed at $30/foot) and two catwalks

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/MJ
CONSENT CALENDAR ITEM NO. 6
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Coffeng/Davis Multiple-Use Pier
Page 12 of 12

(assessed at $500 each). This mitigation fee may be adjusted dependant on the final project approved by the Governing Board.

I. The security required under Standard Condition A.3 of Attachment S shall be 125% of the cost to complete the required scenic mitigation measures including landscaping and painting. The permittees shall submit a cost estimate prepared by a qualified and licensed contractor(s) prior to permit acknowledgement. Please see Attachment J, Security Procedures.

J. The permittees shall submit 3 sets of final construction drawings and site plans to TRPA.

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

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

6. Best practical control technology shall be employed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. Caissons shall be utilized if lake bottom sediment is resuspended during pile driving or at the TRPA compliance inspector's discretion.

7. 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.

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

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

10. Prior to return of the posted security, the permittee shall submit post-construction photos demonstrating any resultant impacts to scenic quality as viewed from 300 feet from shore looking landward.

11. The trees on these parcels shall be considered as scenic mitigation and shall not be removed or trimmed without prior written TRPA approval. Any such removal or trimming shall constitute a violation of project approval.

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

END OF PERMIT

11/06/02
/MJ

CONSENT CALENDAR ITEM NO. 6

42
MEMORANDUM

November 8, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Incline Village General Improvement District Land Capability Challenge; 1220 Sweetwater Road, Incline Village NV, Washoe County APN: 130-010-008

Proposed Action: The applicant, Incline Village General Improvement District, 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 the parcel changing the land capability classes from 1a and 3 to 2, 4 and 6.

Background: The subject parcel is shown as land capability class 1a, 1b, 2 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 UmF and UmE (Umpan very stony sandy loam, 15-50 percent slopes) and CaE (Cagwin- Rock Complex, 15-30 percent slopes) soil map units. The UmF, UmE and CaE soil map units are consistent with the C-1 (Granitic foothills, moderate hazard lands) and E-2 (Outwash, till and lake deposits, low hazard lands) geomorphic unit classifications. The soils of the Umpan series formed in residual deposits derived from extrusive igneous sources (andesite). The Cagwin soil formed in residual deposits derived from intrusive igneous sources (granodiorite).

A land capability verification was completed on this parcel in December 21, 2001 and the parcel was verified as land capability classes 1a, 1b and 3. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This parcel is approximately 48.4 acres in size and is located at 1220 Sweetwater Road, Incline Village NV. The parcel is mapped within geomorphic units C-1 (Granitic foothills, moderate hazard lands) and 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, and this report was prepared. Based on two soil pits, examination of road related cut-face exposures and multiple auger samples; two representative soil profiles were described (see Attachment A). After visits to the parcel on October 28, 2002 the soils on APN: 130-010-008 were determined to be consistent with land capability classes 1b, 2, 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).

11/08/02
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CONSENT CALENDAR ITEM NO. 7
SOIL INVESTIGATION FOR  
WASHOE COUNTY APN 130-010-08, 1220 Sweetwater Road, Incline Village NV

INTRODUCTION
A soil investigation was conducted on APN 130-010-08, Washoe County, on October 28, 2002. This parcel is approximately 48.4 acres in size and is located at 1220 Sweetwater Road, Incline Village NV. A land capability verification was conducted by TRPA staff on this parcel.

A land capability challenge was filed with TRPA in August 27, 2002 to determine the appropriate land capability classes for this parcel based on an on-site soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability classes 1a, 1b, 2 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 Uma (Umpa very stony sand loam, 15-50% slopes) soil map units. The Uma and Cagwin soil map units are consistent with the C-1 (Granitic foothills, moderate hazard lands) and E-2 (Outwash, till and lake deposits, low hazard lands) geomorphic unit classifications. The soils of the Uma series formed in residual deposits derived from extrusive igneous (andesite) sources. The Cagwin soil formed in residual deposits derived from intrusive igneous sources (granodiorite). This parcel is on a south-southeast facing slope. The natural slope is 5 to 50 percent. The natural vegetation is White fir and Jeffrey Pine, with an understory of wax currant, greenleaf manzanita, bitterbrush and huckleberry oak.

PROCEDURES
Based on two soil pits, road related cut-face exposures and multiple auger samples, this 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
The SEZ delineated on this property is not being contested as part of this land capability challenge. One unknown soil series was identified on this parcel. The majority of the soils on the lower portion of this parcel are deep and well drained to somewhat excessively well drained. The soil is characterized as having a thin (< 1") surface mantle of organic matter over a brown to dark grayish brown very gravelly loamy coarse sand surface horizon. Strong brown very gravelly sandy loam subsoil is present to a depth of greater than 55 inches. This soil is not similar to any soil series listed in the Soil Survey for the Lake Tahoe Basin. Based on percent slope, Runoff Class and Hydrologic Group this parcel would be assigned classes 2, 4 and 6 as per Table 4 of the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil on APN: 130-010-008 were determined to be an unnamed soil series which is associated with land capability classes 2, 4 and 6 in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore assigned 1, 20 and 30 percent allowable coverage respectively. The SEZ delineated on this property is not being contested as part of this land capability challenge.
Representative Soil Profile #1:

Soil Series: Unnamed
Hydrologic Group: B
Drainage Class: Well drained

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

A1  0 to 6 inches; brown (10YR 5/3) very gravelly loamy coarse sand, dark grayish 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, 10 percent cobbles; clear smooth boundary.

AB  6 to 19 inches; pale brown (10YR 6/3), gravelly loamy coarse sand, dark brown (10YR 3/3) moist; moderate fine granular structure; slightly hard, very friable, nonsticky and slightly plastic; few coarse roots; many very fine and fine roots, many very fine and fine interstitial pores; 15 percent gravel, 10 percent cobbles; clear smooth boundary.

Bt1 19 to 28 inches; light yellowish brown (10 YR 6/4) very gravelly sandy loam, dark yellowish brown (10 YR 3/4) moist; single grain structure; hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 15 percent gravel, 15 percent cobbles; clear wavy boundary.

Bt2 28 to 40 inches; strong brown (7.5 YR 5/6) coarse sandy clay loam, strong brown (7.5 YR 4/6) moist; single grain structure; hard, friable, slightly sticky and plastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 15 percent gravel, 15 percent cobbles; clear wavy boundary.
Representative Soil Profile #2:

Soil Classification (1998) Sandy-skeletal, mixed, frigid Humic Dystrochrepts
Soil Series: Unknown
Drainage Class: Excessively Well-Drained
Hydrologic Group: A

Oi 2 to 0 inches; conifer litter and duff

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

AB 4 to 13 inches; brown (10YR 4/3), very gravely coarse sandy loam, dark brown (10YR 3/3) moist; weak fine granular structure; soft, loose, nonsticky and nonplastic; few coarse roots; few medium and common very fine and fine roots, many very fine and fine interstitial pores; 15 percent gravel, 15 percent cobbles; clear smooth boundary.

Bw1 13 to 39 inches; yellowish brown (10YR 6/4) very gravely coarse sandy loam, dark yellowish brown (10YR 4/3) moist; single grain; soft, friable, nonsticky and nonplastic; common fine, medium and coarse roots; many very fine and fine interstitial and tubular pores; few thin clay skins on ped faces and pore linings; 15 percent gravel, 15 percent cobbles; clear wavy boundary.

Bw2 39 to 50 inches; brown (7.5YR 4/4) gravely coarse sandy loam, dark yellowish brown (7.5YR 4/3) moist; single grain; soft, friable, nonsticky and nonplastic; few very fine, fine and medium roots; many very fine and fine interstitial and tubular pores; common thin clay skins on ped faces and pore linings; 25 percent gravel and 20 percent stone; clear wavy boundary.

C1 50 to 60+ inches; pale brown (10YR 6/3) gravely loamy coarse sand, brown (10YR 4/3) moist; massive; soft, friable, nonstick and nonplastic; common interstitial pores; 25 percent gravel and 25 percent stone.
MEMORANDUM

November 8, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: TVI Investments Land Capability Challenge, Highway 28, Lake Forest CA, Placer County APN: 093-480-009

Proposed Action: The applicant, TVI Investments 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 the TVI owned portion of the lake Forest Villas PUD changing the land capability from classes 1b and 5 to classes 1b, 4 and 6.

Background: The subject parcels belong to TVI Investments as incorporated in the Lake Forest Villas PUD. This subdivided portion of the Forest Villas PUD is identified as land capability class 5 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the JhC (Jabu, stony sandy loam, 2-9 percent slopes) soil map units. The JhC soil map units are consistent with the E-2 (Outwash, till and Lake Deposits, low hazard lands) geomorphic unit classification. The Jabu soil is formed in deposits and alluvium derived from mixed granodioritic and andesitic sources.

A land capability verification was never conducted on this portion of the Lake Forest Villas PUD. A land capability challenge was filed to confirm the stream environment zone, soil series and land capability for this section of the property.

Findings: This portion of the Forest Villas PUD that is occupied by the 36 units/pads is equal to 3.21 acres in size. This property is located on Highway 28 in Lake Forest California. The subdivided portion of the PUD 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 three soil pits and multiple auger samples, a representative soil profile was described (see Attachment A). After the visit to the parcel on October 15, 2002, the soils on APN: 093-480-009 were determined to be consistent with land capability classes 1b, 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).

11/08/02
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CONSENT CALENDAR ITEM NO. 8

47
SOIL INVESTIGATION FOR
PLACER COUNTY APN: 093-480-009; Highway 28, Lake Forest CA.

INTRODUCTION
A soil investigation was conducted on APN: 093-480-009 in Placer County, on October 15, 2002. The area of the subdivided PUD that is occupied by the 36 units/pads is equal to 3.21 acres. This property is located on Highway 28 in Lake Forest CA. A land capability verification was never conducted by TRPA staff on this subdivided portion of the Lake Forest Villas PUD.

A land capability challenge was filed with TRPA on August 12, 2002 to determine the appropriate land capability class for this section of the property based on an onsite soil investigation.

ENVIRONMENTAL SETTING
The subdivided portion of the Forest Villas PUD under challenge has been identified as land capability classes 1b and 5 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the JhC (Jabu, stony sandy loam, 2-9 percent slopes) soil map unit. This soil map unit is consistent with the E-2 (Ouwash, Till and Lake Deposits, low hazard lands) geomorphic unit classification. The Jabu soils formed in deposits and alluvium derived from mixed granodioritic and andesitic sources. This subdivided portion of the PUD is on a south-southwestern facing slope. The natural grades associated with this section of property range from 5 to 30 percent. The overstory vegetation is Jeffrey pine and White-fir with an understory of greenleaf manzanita.

PROCEDURES
Three soil pits and multiple 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 subdivided portion of the Lake Forest Villas PUD.

FINDINGS
One unknown soil series was identified on this portion of the Lake Forest Villas PUD. The majority of the soils on this section of property are deep and well drained to somewhat excessively well drained. The soil is characterized as having a thin (< 1") surface mantle of organic matter over a brown to dark grayish brown very gravelly loamy coarse sand surface horizon. Strong brown very gravelly sandy loam subsoil is present to a depth of greater than 45 inches. This soil is not similar to any soil series listed in the Soil Survey for the Lake Tahoe Basin. Based on percent slope, Runoff Class and Hydrologic Group this parcel would be assigned classes 1b, 4 and 6 as per Table 4 of the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soils on APN: 093-480-009 are determined not to be analogous with the central concepts of any named soil series listed in the Soil Survey of the Lake Tahoe Basin. Based on slope and previously described characteristics, the soil on the challenged subdivided portion of the Lake Forest Villas PUD would be partitioned into land capability classes 1b, 4 and 6. These findings are in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore assigned 1, 20 and 30 percent allowable coverage respectively.

Tim Hagan, Senior Planner/ Soil Scientist
11/08/02
TH

CONSENT CALENDAR ITEM NO. 8
Representative Soil Profile:

Soil Series: Unnamed
Hydrologic Group: B
Drainage Class: Well drained

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

A1 0 to 6 inches; brown (10YR 5/3) very gravelly loamy coarse sand, dark grayish 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, 10 percent cobbles; clear smooth boundary.

AB 6 to 19 inches; pale brown (10YR 6/3), gravelly loamy coarse sand, dark brown (10YR 3/3) moist; moderate fine granular structure; slightly hard, very friable, nonsticky and slightly plastic; few coarse roots; many very fine and fine roots, many very fine and fine interstitial pores; 15 percent gravel, 10 percent cobbles; clear smooth boundary.

Bt1 19 to 28 inches; light yellowish brown (10 YR 6/4) very gravelly sandy loam, dark yellowish brown (10 YR 3/4) moist, single grain structure; hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 15 percent gravel, 15 percent cobbles; clear wavy boundary.

Bt2 28 to 45+ inches; strong brown (7.5 YR 5/6) coarse sandy clay loam, strong brown (7.5 YR 4/6) moist; single grain structure; hard, friable, slightly sticky and plastic; common fine, medium and coarse roots; many very fine and fine interstitial pores; 15 percent gravel, 15 percent cobbles; clear wavy boundary.
November 8, 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
October 1, 2002 through October 31, 2002

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TOTAL 8 40 35 43 39 165

/agenda item vii. a.1
Projects Received by TRPA

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<td>11</td>
<td>8</td>
<td>18</td>
<td>51</td>
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TOTAL         | 11                    | 36               | 39               | 30               | 42               | 158             |

As the Table 1 (enclosed) illustrates, the number of applications received in October was the second highest of any month this year. Normally, the number of applications submitted each month to TRPA begins to decline after June. The trend this year has been an increase in monthly application submittals each month from June through October. Despite this anomalous trend, staff has been able to reduce overall workload from 531 applications in July to 464 applications by the end of October (see Table 2, enclosed). In October, staff was also able to complete site visits for all pending applications in anticipation of an early winter snow cover.
Application Status Report
November 8, 2002
Page 3

Projects by Work Element

<table>
<thead>
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<th></th>
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<td>16</td>
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<td>LCV-LCC-IPES</td>
<td>51</td>
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TOTAL 158 165

Total TRPA application work load as of September 31, 2002 471
Total projects received by TRPA in October, 2002 158
Total projects reviewed by TRPA in October, 2002 165
TRPA workload as of October 31, 2002 464

Four emergency permits were issued under Article V, (5.20) of the Rules of Procedure, to Tahoe Douglas Sanitation District for the installation of four concrete pads to support emergency back-up generators.

**Project Review Applications:**
The following 18 applications currently under review by the Project Review Division have been complete for more than 120 days:

<table>
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<tr>
<th>APN</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Days Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>003-180-040</td>
<td>Falcon</td>
<td>Residential</td>
<td>130</td>
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<tr>
<td>Staff anticipates taking an action during the month of November.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>001-110-04</td>
<td>Fondren</td>
<td>Residential</td>
<td>133</td>
</tr>
<tr>
<td>Staff has scheduled the project for the November 21, 2002 Hearing Officer.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>126-084-02</td>
<td>Bar-Zemer</td>
<td>Residential</td>
<td>133</td>
</tr>
<tr>
<td>Staff will take an action in November.</td>
<td></td>
<td></td>
<td></td>
</tr>
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</table>

/mc/kw

AGENDA ITEM VII.A.1.
<table>
<thead>
<tr>
<th>Project Number</th>
<th>Client/Agency</th>
<th>Service</th>
<th>Status/Action Note</th>
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<tbody>
<tr>
<td>005-321-028</td>
<td>Round Hill GID</td>
<td>Public</td>
<td>Staff has scheduled the project for the November 21, 2002 Hearing Officer.</td>
</tr>
<tr>
<td>025-010-052</td>
<td>LT School Dist.</td>
<td>Public</td>
<td>Staff has scheduled the project for the November 21, 2002 Hearing Officer.</td>
</tr>
<tr>
<td>034-771-001</td>
<td>Nicola</td>
<td>Public</td>
<td>Staff has scheduled the project for the November 21, 2002 Hearing Officer.</td>
</tr>
<tr>
<td>032-060-14</td>
<td>McIntyre</td>
<td>Residential</td>
<td>Staff anticipates action in November.</td>
</tr>
<tr>
<td>117-180-17</td>
<td>Davis/Coffeng</td>
<td>Shorezone</td>
<td>Staff has scheduled the project for the November Governing Board.</td>
</tr>
<tr>
<td>132-240-008</td>
<td>Scott</td>
<td>Commercial</td>
<td>The applicant has requested to amend the original application.</td>
</tr>
<tr>
<td>130-010-08</td>
<td>IVGID</td>
<td>Boundary Line</td>
<td>Staff will take an action in November.</td>
</tr>
<tr>
<td>125-372-10</td>
<td>Watson</td>
<td>Residential</td>
<td>Staff will take an action in November.</td>
</tr>
<tr>
<td>005-331-008</td>
<td>Yonano</td>
<td>Admin Deter</td>
<td>Staff will take an action in November.</td>
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<tr>
<td>123-055-001</td>
<td>Crystal Bay</td>
<td>Transfer</td>
<td>Staff will take an action in November.</td>
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<tr>
<td>001-151-008</td>
<td>Fien</td>
<td>Boundary Line</td>
<td>This project is being researched and reviewed as a result of litigation. Action is anticipated in November.</td>
</tr>
<tr>
<td>005-220-014</td>
<td>Bourne</td>
<td>Shorezone</td>
<td>This project is scheduled for review concurrently with another project with the concurrence of the applicant.</td>
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<tr>
<td>530-103-02</td>
<td>Dollar Pt.</td>
<td>Public</td>
<td>Staff will take an action in December.</td>
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<tr>
<td>130-312-024</td>
<td>Gonzales</td>
<td>Residential</td>
<td>Staff anticipates an action in December.</td>
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<tr>
<td>093—83-041</td>
<td>Miller</td>
<td>Shorezone</td>
<td>This project was continued indefinitely by the Governing Board at the June 2002 meeting</td>
</tr>
</tbody>
</table>

/mb/kw
**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.
Table 1

2002 TRPA Application Trend

Predicted and Actual Application Submittals Based on Mean Deviations from a Six-Year Mean

<table>
<thead>
<tr>
<th></th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
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<tr>
<td>2002 Applications Rec'd</td>
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<td>145</td>
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<td>150</td>
<td>158</td>
<td>93</td>
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<td>106</td>
<td>119</td>
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<td>92</td>
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<tr>
<td>Avg. Var. Below Mean</td>
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<td>79</td>
<td>96</td>
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<td>110</td>
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<td>108</td>
<td>115</td>
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November 8, 2002

TO: Tahoe Metropolitan Planning Organization
    Governing Board

FROM: TRPA Staff

SUBJECT: Executive Director Report on the Tahoe Transportation District/Tahoe
         Transportation Commission November 8, 2002 Meeting

Proposed Action: Review of the attached TTD/TTC Agenda for the
November 8, 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, x271.
TAHOE TRANSPORTATION DISTRICT (TTD)
TAHOE TRANSPORTATION COMMISSION (TTC)
AGENDAS

North Tahoe Conference Center
8318 No. Lake Boulevard
Kings Beach, CA

(530) 546-7249

November 8, 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 November 8, 2002

C. Approval of Minutes from October 11, 2002.

II. 

PUBLIC INTEREST COMMENTS (No Action)

III. 

EXECUTIVE DIRECTOR REPORTS


B. Oct. 30, 2002 Joint Meeting of TRPA Local Government Committee and Regional Revenue Steering Committee

IV. 

CONSENT CALENDAR

A. TTD Lease Agreement With CSLT for CNG Station at Lake Tahoe Airport

V. 

TAHOE TRANSPORTATION DISTRICT (TTD) MATTERS

A. Discussion and Possible Action on CTS Management Company Activation

A. Discussion and Possible Action on Tram Status

B. Discussion and Possible Action on CA 5311 Cycle 21 Program of Projects Recommendation to the Regional Transportation Planning Agency.

C. Discussion and Possible Action on Annual Adjustment of Rental Car Mitigation Fee Recommendation to the TRPA

D. Discussion and Possible Action on Camp Richardson Circulator System

E. Discussion and Possible Action on TTD Business Plan

VI. 

TAHOE TRANSPORTATION COMMISSION (TTC) MATTERS

A. Discussion on 2002 and 2004 Regional Transportation Improvement Programs

Jrwb

AGENDA ITEM VII A.2.

60
B. Discussion on 2003 Federal Transportation Plan – Regional Transportation Plan Update Process

VII. REPORTS AND INFORMATIONAL ITEMS
A. Transportation Technical Advisory Committee
B. Board and Commission Members.
C. Tahoe Regional Planning Agency and Staff
   1. Compressed Natural Gas Project Update
   2. Bicycle/Pedestrian Master Plan Update
   3. Revisions to Roles and Responsibilities document
   4. Transit Level Of Service Allocation (Chapter 33) and Local Jurisdiction Commitments
   5. Unmet Transit Needs Update
   6. Douglas County 5 Year Transportation Plan update
   7. Review of Agenda items for December 13, 2002 Meeting of the TTD/C.

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, December 13, 2002 beginning at 9:00 a.m., at the TRPA. 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
November 8, 2002

ITEM
EXECUTIVE DIRECTOR REPORTS
A. October 27/02 Partnership Event Hosted by
   Senator Feinstein at Heavenly Ski Resort
   Received
B. October 30/02 Joint Meeting of TRPA Local Government
   Committee and Regional Revenue Steering Committee
   Received

CONSENT CALENDAR
A. TTD Lease Agreement with CSLT for CNG Station at Lake
   Tahoe Airport
   Continued

Tahoe Transportation (TTD) Matters
A. Discussion and Possible Action on CTS Management
   Company Activation
   Appointed TTD
   Representation

B. Discussion and Possible Action Tram Status
   Surplus for
   Subsequent
   Disposition

C. Discussion and Possible Action on CA 5311 Cycle 21 Program
   Of Projects Recommendation to the Regional Transportation
   Planning Agency
   Continued

D. Discussion and Recommendation on Annual Adjustment of
   Rental Car Mitigation Fee Recommendation to TRPA
   Approved
   Recommendation

E. Discussion and Possible Action on Camp Richardson
   Circulator System
   Approved sole source
   w/continued evaluation

F. Discussion and Possible Action on TTD Business Plan
   Continued

Tahoe Transportation Commission (TTC) Matters
A. Discussion on 2002/2004 Regional Transportation Improvement
   Programs
   Received

B. Discussion on 2003 Federal Transportation Plan - Regional
   Transportation Plan Update Process
   Received
November 7, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Approval of Annual Adjustment to Chapter 95 of the Tahoe Regional Planning Agency Code of Ordinances, Rental Car Mitigation Fee Program

Action Requested: To approve the annual adjustment to the Rental Car Mitigation Fee. The adjustment will increase the Rental Car Mitigation Fee by $0.25 from $4.50 to $4.75 for each day a car is rented in the Tahoe Basin.

TTAC Recommendation: The TTAC recommend approval of the annual adjustment to Rental Car Mitigation fee at the October 24, 2002 meeting.

TTD Recommendation: At the time of preparing this staff summary, the Tahoe Transportation District had not held their November 2002 board meeting. Staff will report the TTD recommendation to the TRPA Governing Board at the November 2000 meeting.

Background: In 1993, the Tahoe Regional Planning Agency adopted Chapter 95, the Rental Car Mitigation Fee Program, in the TRPA Code of Ordinances. This Ordinance was implemented to assist in the achievement and maintenance of environmental thresholds for air and water quality. The Ordinance applies to each rental transaction in which the rental car is rented by, or delivered to a person in the Tahoe Region (defined by watershed/TRPA jurisdiction). Each rental transaction is assessed a mitigation fee, with some exceptions for local residents. The primary provision of this regulation is the assessment of a $4.50 fee for each day the car is rented.

Since the inception of the Rental Car Mitigation Fee, the program has generated approximately $757,741 in fees collected by the TRPA. Under terms of Chapter 95 of the TRPA Code of Ordinances, TRPA disburses the fees to the Tahoe Transportation District (TTD) to be used on projects that are consistent with the TRPA Regional Transportation Plan—Air Quality Plan. Since 1993, approximately $400,000 of the Rental Car Mitigation Fees have been used to assist in the operation of the North and South Shore transit system, including the Nifty Fifty Trolley on the South Shore and the Tahoe Trolley on the North Shore. These funds have also been used as local match money for State and Federal grants to purchase vehicles within these fleets. In addition, up to 15% (annually) of the funds have been used for administrative support for Tahoe Transportation District activities.
Annual Adjustment to Chapter 95, Rental Car
November 7, 2002
Page Two

Discussion: As stated in Chapter 95, Section 95.3 of the Tahoe Regional Planning Agency's Code of Ordinances, "The mitigation fee shall be adjusted annually consistent with the annual change in the Consumer Price Index of the San Francisco region, rounded to the nearest quarter-dollar." According to the Bureau of Labor Statistics, the 2001 CPI for the San Francisco region was 5.1%. This equates to 22.95 cents rounded to the nearest quarter-dollar, which is 25 cents. With this adjustment, the Rental Car Mitigation Fee would be $4.75 effective January 1, 2003.

Staff Recommendation: Staff recommends an increase in the Rental Car Mitigation Fee by $.25 consistent with the Consumer Price Index of the San Francisco Bay Area as stated in Chapter 95 of the TRPA Code of Ordinances. Staff recommends the Governing Board hold a public hearing on this item and approve the proposed increase.

If you have any questions regarding this matter, please contact Alfred Knotts at (775) 589-4547 ext. 204.
MEMORANDUM

November 12, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendments to Code Chapters 2, 4, 22, 30, 52, 53, 55, 74 and Related Chapters, Goals And Policies Chapter IV, and Design Review Guidelines to Implement a Littoral Parcel Scenic Review System and to Further Regulate Colors and Roofing Materials

Proposed Action: If the Chairman’s request for reconsideration is granted, staff proposes the following four action items for adoption. The need for these action items is based on the Governing Board’s adoption in July of the 2001 Threshold Evaluation and Appendix B’s 28 scenic recommendations

1. Adopt a new scenic quality review system for the shoreland area that provides consistency, quantification and accountability to meet Scenic Threshold Standards as prescribed in the 1987 Regional Plan. The system is a new approach to design standards that allows for a quantitative, flexible review process for adherence to protective standards. The process includes establishing bulk/massing limits that allow some increase in structure size, yet avoid the greatly increased mass and scale described as a problem in the 2001 Evaluation. (These bulk/mass limits would be established by the Chapter 30 amendments.) This process will also include specific requirements for color, setback, landscaping, roof material, and window area. This more flexible process will include improved design standards, yet will allow a wider field of design choices based on inherent characteristics of a particular site or neighborhood.

2. Amend Chapter 30, Design Standards, to specify the use of earthtone colors for buildings that fall within a Munsell Color range.

3. Amend Chapter 4, Project Review, to elevate regular maintenance of structures that result in the placement of a metal roof to a Qualified Exempt activity. Further clarify that colors of metal roofs will be subdued dark tones that fall within the Munsell Color range.

4. Amend the Design Review Guidelines and adopt Appendix F, Visual Assessment Tool, and Appendix G, TRPA Approved Earthtone Colors, for reviewing projects located within the shoreland area.
Memorandum to TRPA Governing Board
Amendments to Implement a Shorezone Scenic Review System
Page 2

Staff Recommendation: Staff recommends that if the Governing Board approves the reconsideration and desires to proceed, the Board should conduct the public hearing as noticed and adopt the implementing ordinance amending Code Chapters 2, 4, 22, 30, 52, 53, 55, and 74 and Goals And Policies, Chapter IV (see Attachment A, with Exhibits 1-9); and adopt the resolution amending the Design Review Guidelines to implement a scenic review system for projects in the shoreland and to regulate colors and roofing materials (see Attachment B, with Exhibits 1-3).

Advisory Planning Commission (APC) Recommendation: On August 16, 2002, staff presented to APC an earlier draft of the ordinances proposed herein. The ordinances proposed at that time were based on the visual magnitude system. The APC took considerable public comment on the proposed ordinances. The majority of speakers that presented public testimony objected to the system and recommended that the APC table the issue or recommend that staff continue work on the ordinances. A few public speakers, although objecting to the system, recommended that only portions be forwarded to the Governing Board for consideration. When making their recommendation, staff informed the APC that there might be modifications to the draft ordinances before presenting them to the Governing Board. The current draft has refined the levels of review and added a non-visual magnitude option for review. After public testimony the APC made a motion to recommend approval of the ordinances to the Governing Board with minor modifications to the scenic review panel. The motion passed with a vote of 12 to 1.

Proposed Scenic Resource Amendments: Beginning in August 2001 and running through October 2002, TRPA has held 39 public workshops and presentations to various interest groups in the basin to receive input on the proposed scenic resources amendments. The purpose of these hearings and workshops was to review the documents and provide public input to TRPA to assist in the preparation of the final draft for consideration by the APC and Governing Board. The results of these meetings have been incorporated into the proposed scenic resources amendments, which are discussed further below.

Staff developed the proposed system with input from scenic professionals, private consultants, and members of the public that attended the public workshops. Staff has taken input from the numerous workshops on this issue and has attempted to address the concerns of all partners and amended the system accordingly, while still maintaining and attaining adopted scenic threshold standards.

Discussion: The proposed review system includes three major components: Design Standards, Contrast Rating/Visual Magnitude Rating System, and Levels of Review. The system is an attempt to create a practical, streamlined approach to processing projects that are within 300 feet landward of highwater or on littoral parcels, while safeguarding the overall scenic resources of Lake Tahoe and protecting existing views to the Lake.

Design Standards: The first component is the incorporation of new design standards. Design standards are simple architectural techniques that can be applied in the design stage to reduce the overall contrast of the built environment in the natural landscape. Some design standards include those already adopted as guidelines in TRPA's Design Review Guidelines. The proposed design standards relate to color, setbacks, and glass.
Contrast Rating/Visual Magnitude Rating System: The Contrast Rating part of the system is a tool to physically measure visual contrast and the resulting visual impact in the landscape. The contrast rating can be expressed numerically by assigning relative values to the color, form, line, and texture of a structure. Structures that have high visual contrast in relation to the natural landscape will have a greater visual impact and, therefore, score lower than a structure that employs design techniques to mimic the natural landscape. Structures that are designed to "fit the site" rather than "fit the site to the building" will result in less contrast and create less or no visual impact. The Contrast Rating system will be used to determine if a project meets the minimum requirements for scenic mitigation for different levels of activity within the shoreland area. Attachment B, Exhibit 2, Design Review Guidelines, Appendix F, Visual Assessment Protocol, outlines how this review system works.

Levels of Review: The third component is the use of differing Levels of Review and required mitigation depending upon the project and the proposed visible façade seen from the shoreline scenic corridor. There are six levels of review in which a project may fall. A safety net option is also available if a disagreement occurs between staff and the applicant. A third-party expert review or an expert panel review can be used to evaluate projects that exceed the limitations established in Levels 1 through 6. In either case, independent scenic experts would evaluate a project and their findings and recommendations would be included in the review of a proposed project. The review levels are designed to ensure that existing structures do not lose their existing views to the Lake while ensuring that, over time, all structures would implement Scenic Best Management Practices (BMPs) to ensure movement towards threshold attainment.

The level of review is dependent upon the proposed project, and the visual impact being proposed. The required mitigation for different levels of activity is described in detail and illustrated in the table below.

Level 1: This level includes all projects and activities on existing visible structures in the shoreland that are considered repair or maintenance. This includes exact in-kind replacement. There are no mitigation requirements required except as noted in Level 2.

Level 2: This level includes all projects and activities on existing visible structures in the shoreland that are considered painting, re-siding, re-roofing or similar activities that affect the color of the structure and require the applicant to use colors within an acceptable color range. Painting will continue to be an exempt activity provided that the color used is within the acceptable range. Re-roofing of a structure with a metal roof is elevated to a Qualified-Exempt activity and requires the applicant to submit a color sample three days prior to the commencement of the activity.
Level 3: This level includes all projects in the shoreland altering the lakefront façade of an existing visible structure and the cost is ten percent or less of the replacement value of the structure and the result is 1,500 square feet or less of lake front façade or non-repair projects on structures adjacent and lakeward of the shoreland. The applicant is required to implement Scenic BMPs equivalent to a contrast rating score of 21 subject to exceptions for physical impossibility and cost indexing.

Level 4: This level includes all projects in the shoreland altering the lakefront façade of an existing visible structure and the cost is ten percent or less than the replacement value of the structure and the result is more than 1,500 square feet of lake front façade or the project cost is greater than ten percent but equal to 50% or less of the replacement cost of the existing structure or the project is new accessory structure. The applicant has two options for implementation of scenic mitigation. Option 1 requires the applicant to implement Scenic BMPs equivalent to a contrast rating score of 24 and meet certain conditions. Option 2 requires the applicant to apply equivalent scenic BMPs and make a partial progress (based on project cost) toward meeting the requirements of the Visual Magnitude system. Both Options require visual breaks for every 1000 square feet of visible façade and contrast scores are subject to exceptions for physical impossibility and cost indexing.

Level 5: This level includes all projects in the shoreland altering the lakefront façade of an existing visible structure and the project cost is greater than 50% of the replacement cost of the existing structure and new structures. Similar to Level 4, the applicant has two options for implementation of scenic mitigation. Option 1 requires the applicant to implement Scenic BMPs equivalent to a contrast rating score of 28 and meet certain conditions. Option 2 requires the applicant to apply scenic BMPs and make a partial progress (based on project cost) toward meeting the requirements of the Visual Magnitude system. Both Options require visual breaks for every 1000 square feet of visible façade and contrast scores are not subject to exceptions for physical impossibility and cost indexing.

Level 6: This level of review applies to projects required for public health and safety reasons, or for projects needed for threshold attainment with the mitigation being determined on a case-by-case basis. No action will be required for scenic mitigation or water quality BMP retrofit projects.
### Summary of Levels of Mitigation

<table>
<thead>
<tr>
<th>Level</th>
<th>Type of Structure Visible from Lake Tahoe</th>
<th>Trigger for Mitigation</th>
<th>Required Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Existing Structures</td>
<td>Activity or Repair or In Kind Replacement Except as Noted in Level 2</td>
<td>None</td>
</tr>
<tr>
<td>2</td>
<td>Existing Structures</td>
<td>Painting, Re-Roofing or Change in Color</td>
<td>Implement Munsell Color Requirements</td>
</tr>
<tr>
<td>3</td>
<td>Lakefront Alterations of Existing Structures and Shorezone Projects</td>
<td>Projects in the Shorezone Projects Less than 10% Replacement Value and Result in 1,500 sq. ft. or less of Lakefront Façade</td>
<td>Implement Scenic BMPs (with a 10% of Project Cost Limit) to Attain a Contrast Score of 21</td>
</tr>
<tr>
<td>4</td>
<td>Lakefront Alterations of (1) Existing or (2) New Accessory Structures</td>
<td>Projects Less than 10% Replacement Value and Results in Greater than 1,500 sq. ft. of Lakefront Façade Projects Greater than 10% and Less than 50% Replacement Value</td>
<td>Option 1– Implement Scenic BMPs (with a 10% of Project Cost Limit) to Attain a Contrast Score of 24 with Conditions Option 2–VisMag Review: Scenic BMPs/partial Conformance Rule and Conditions</td>
</tr>
<tr>
<td>5</td>
<td>New and Major Rebuilds of Existing Structures</td>
<td>New Structures or Visible Projects greater than 50% Replacement Value</td>
<td>Option 1– Implement Scenic BMPs to attain a Contrast Score 28 with Conditions Option 2–VisMag Review: Scenic BMPs/partial Conformance Rule and Conditions</td>
</tr>
<tr>
<td>6</td>
<td>Other</td>
<td>Projects Necessary for Public Health and Safety or Threshold Attainment</td>
<td>None or Determined on a case by case basis</td>
</tr>
</tbody>
</table>

**Background:** The 2001 Threshold Evaluation presents the results of the TRPA’s third comprehensive evaluation of the environmental carrying capacities, which were adopted in 1982. The Evaluation provides information and recommendations to the TRPA Governing Board to assist in making necessary adjustments to the environmental threshold carrying capacities and the Regional Plan Package, in compliance with provisions of Chapter 32 of the TRPA Code of Ordinances and the Tahoe Regional Planning Compact.

This Evaluation found both improvement and increasingly troublesome trends for the scenic quality thresholds. The Region is widely known for its variety and quality of scenic resources. Scenic resources have been mapped and inventoried by TRPA and the Forest Service in several documents. The outstanding scenic attributes of the natural environment constitute a significant element of the Region’s economic base by drawing visitors to the area for sightseeing and recreation. In the past five years, implementation of a regional design program has noticeably improved the quality of the built environment in the commercial core (i.e., community plans) due to redevelopment efforts; however, cumulative adverse impacts continue in certain transition and shoreline areas.
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The new information from the 2001 Evaluation showed a continued and accelerating decline in the shoreline scenic threshold attainment, due mainly to increased residential development on littoral parcels. The Evaluation indicated that continued scenic degradation is occurring in the shoreline scenic corridors. The Evaluation finds 19 shoreline units in threshold attainment and 14 units out of attainment with the travel route rating criteria. In 1982, upon the adoption of the threshold, only 3 units were out of attainment; in the 1996 Evaluation, 5 new units fell from threshold attainment and none were raised into attainment (although minor score improvements were noted in some areas). The negative trend in the shorezone is due in part to a dramatic increase in the scale and mass of residential structures that often block Lake views from the roadway and are often inadequately screened or sited to reduce visual dominance as seen from the Lake. In addition the increase in new piers and the addition of boatlifts is creating visual clutter along the shoreline. All this has reduced the scenic quality of the shorezone and was first identified in the 1991 Threshold Evaluation and subsequently supported by findings in the 1996 and 2001 Threshold Evaluations.

The current Evaluation highlights the deficiencies of the existing scenic review and monitoring/enforcement programs, and demonstrates the urgent need to implement the recommendations outlined in the Evaluation to assist in attaining and maintaining the Scenic Thresholds. Without the implementation of these recommendations or similar actions, TRPA cannot demonstrate attainment of the shoreline scenic threshold and, hence, projects affecting this threshold cannot be approved. Attachment D is an analysis of the Scenic Thresholds and the proposed ordinances by the scenic mentors who assisted in the development of the thresholds.

Comments and Letters: The following is a summary of comments and questions that have been received by TRPA at hearings and workshops and that have been submitted in writing to TRPA.

1. **Comment:** Provide proof there is a scenic problem
   **Response:** The problems are outlined in the 2001 Threshold Evaluation. The Evaluation indicates that scenic quality is declining in the shoreline scenic units. This is primarily due to development of structures that contrast with the natural landscape and has resulted in increasing visual dominance of the natural landscape by the built environment. Trends that have resulted in scenic degradation include increased mass of structures, the use of highly reflective materials, use of light colored materials and, in many cases, inadequate screening or setback from the backshore boundary line. This trend of visual dominance of the built environment was first documented in the 1991 Threshold Evaluation and reinforced by the 1996 and 2001 Threshold Evaluations.

2. **Comment:** What is scenic equilibrium and how can it be quantified?
   **Response:** Scenic equilibrium, as stated in the Compact and implemented in the 1982 scenic thresholds, refers to the maintenance of the dominant, natural appearing landscape of Tahoe and to ensure that the built environment is compatible and does not detract from the scenic quality of the Region. Many comments have been received that the Agency is ignoring the equilibrium clause of the Compact. Staff disagrees with this assessment. As noted in the 1991, 1996 and, again in the 2001 Threshold Evaluation, development along the
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shoreline is resulting in visual dominance of the shoreline, therefore upsetting
the equilibrium stated in the Compact.

3. **Comment:** How can we quantify scenic impact?
**Response:** The system being proposed quantifies scenic impact. It is based on
widely accepted design principles asserting that designs that mimic the natural
landscape will result in reduced contrast. The system is designed to reward and
courage designs that blend rather than contrast through the use of color, form,
texture, line, and scale.

4. **Comment:** Provide an economic impact analysis.
**Response:** TRPA staff hired Steve Johnson of Johnson, Perkins and Associates,
Inc, to prepare an analysis of the proposed scenic ordinances on property values.
Mr. Johnson's professional opinion is that the proposed scenic ordinances should
not have a significant impact on the overall value of lakefront property. A copy of
his report is attached to this staff summary (See Attachment E).

5. **Comment:** What is the goal of the system?
**Response:** The goal of the system is to develop a quantifiable and objective
system that allows flexibility to applicants to reduce the visual dominance of the
built environment and achieve the scenic threshold of maintaining the dominant
natural appearing landscape of Tahoe.

6. **Comment:** Can the permitting process save time?
**Response:** The system will save time. The permitting process allows streamlined
scenic review for projects that meet all standards. Projects that exceed the
design standards will require additional review; however, this is expected to
require less time than the existing process. This is due in part to the adoption of
a system that is mathematical versus the current qualitative analysis.

7. **Comment:** Is there a conflict between scenic and fire safety? Conflict between
landscaping and water quality?
**Response:** Staff has discussed this issue with fire safety personnel and a conflict
does not exist. The intent of staff in requiring landscaping has been to follow the
fire safety requirements of the States as well as the practices outlined in the
"Tahoe Basin Landscaping Guide"

In regards to the Vegetation Threshold, it is staff's opinion that a conflict does
not exist. The use of fertilizer is generally not required when using native plant
species and generally only watering is required to ensure that native plant
species survive to a mature stage. (See Attachment F)

8. **Comment:** Who are the experts in the system?
**Response:** The experts in the system are the scenic experts that have consulted
with TRPA since the adoption of the Regional Plan. Sheila Brady, ASLA and
Wayne Iverson, FASLA, assisted TRPA in the development of the threshold
standards in 1982 and participated in all 3 Threshold Evaluations. Dr. Stephen
Sheppard has assisted TRPA in two threshold evaluations and has been
instrumental in assisting the Agency in various scenic resource studies. All are
recognized experts in the field of visual resource management.
9. **Comment:** Does the system work in the real world?
   **Response:** Staff has evaluated actual projects that have obtained previous approval from TRPA. In addition, TRPA has evaluated the system on projects that currently are in the system or yet to be submitted. The system works as intended. It is true, however, that some potential projects will not meet the requirements of the new system and will require redesign.

10. **Comment:** Not enough visibility allowed in the system.
    **Response:** It is staff’s opinion, with input from the scenic experts, that the permitted square footage is appropriate. The maximum permissible is 2,200 square feet of visual building surface for any one structure and additional footage is granted for larger parcels. Additionally, the system allows existing structures to maintain the baseline conditions and does not result in a required reduction of façade facing the Lake.

11. **Comment:** From what vantage point does TRPA conduct scenic analysis?
    **Response:** The Agency has two points of analysis: one point for parcel-specific analysis and one for analyzing the whole scenic unit. Parcel-specific analysis is conducted from 300 feet offshore. The scenic unit analysis, which is only conducted during each five-year threshold evaluation period, is evaluated from approximately ¼ mile offshore. The greater distance is necessary to encompass the whole scenic unit, which may be one mile or greater in length. Parcel-specific analysis is conducted at 300 feet. This distance has been chosen because it relates to the field of view (FOV). At 300 feet, the field of view will encompass approximately 200 feet of shoreline. At this distance it is possible in most instances to capture the whole parcel in the field of view. Based on TRPA’s analysis, 78% of the lakefront parcels are 200 feet or less in width.

12. **Comment:** Blending materials and colors with the background needs to be considered.
    **Response:** The system does take this into account. The vast majority of the basin backdrop is comprised of dark earthen colors such as browns and greens. The system rewards structures that use the darker earthen colors with increased visual magnitude. For some sites browns and greens are not the predominant colors in the backdrop. This condition is generally found on very steep rocky slopes that do not support vegetation growth. Staff is proposing to modify the Color Contrast Matrix to account for these unique site characteristics.

13. **Comment:** There is a need for an (independent) appeal process.
    **Response:** An applicant may appeal a staff decision to the Governing Board. An appeal process is included as part of the ordinances. For a period of two years the scenic panel review allows an applicant to have a project reviewed with other professionally-accepted methodologies of impact assessment to determine if a project meets the scenic threshold standards. It is true that the current scenic review panel consists of experts that helped develop the thresholds and conducted many of the evaluations. However, staff does not believe a conflict exists since the individuals are familiar with the thresholds and are experts in the field of visual resource management. The scenic experts are best suited to evaluate a project’s impact using other methodologies since they are most familiar with the threshold standards and other accepted methodologies. The
process allows the applicant and the Agency to each select a qualified expert that has the professional qualifications and experience in visual resource impact assessment; these two experts would then select the third member.

14. **Comment:** How does this ordinance apply to commercial, tourist, public service, recreation, and multi-residential projects?

**Response:** Staff has amended the ordinance language to allow additional square footage with findings and mitigation for tourist accommodation and commercial use projects in Commercial/Public Service and Tourist plan areas. Public service and recreation projects also allow additional square footage with findings similar to that for additional land coverage. Multi residential projects have the same opportunity for additional square footage. This change to the ordinance would be very limited in scope.

15. **Comment:** There needs to be additional façade square footage for large parcels.

**Response:** The proposed system does permit additional square footage for larger parcels. As written, the system allows for an increase of up to 50% for every 100 feet of linear lake frontage in excess of 100 feet. This is due in part to the fact that on large parcels a project may receive additional square footage of visual magnitude without increasing the overall contrast rating. It is possible to have a very low contrast rating score (light colored, high contrasting structure) and earn additional square footage for more visual magnitude without increasing the contrast rating score.

16. **Comment:** Does this ordinance link to piers and boathouses?

**Response:** The ordinances have been revised to adopt an interim system for the transfer of scenic mitigation credits between shorezone structures and the shoreland areas.

17. **Comment:** Rural, transition, and urban areas are not addressed.

**Response:** Currently, the roadway scenic corridors are segmented into different visual landscape character types. Each landscape character type has varying abilities to absorb visual impact with urban cores having the greatest ability. Therefore, a greater range of material choices and colors are available. Although this is a sound concept for roadways, it has not been adopted for this shorezone review system. TRPA is proposing to study this issue and may develop a similar classification; it may not be identical to the roadway system of urban, transition, and natural. This is partly due to the uniqueness of the shoreline of Tahoe, which in many cases does not have the capacity to absorb impacts like roadway units. Preliminary work on classifying the shoreline landscape has been completed for the shorezone EIS and may provide the baseline data for further work.

18. **Comment:** The system needs to reward upgrading.

**Response:** The system is designed to reward upgrading of structures. Regular maintenance activities and upgrades to structures can be performed without a TRPA permit or coming into conformance with the proposed system. The only requirement is the use of earthen colors that fall within an acceptable Munsell color range. The system rewards structures that are designed to complement the landscape by allowing greater façade visibility facing the Lake.
19. **Comment:** Is this proposed system the final action to be taken regarding scenic attainment for the shoreline/viewshed?

**Response:** No, this is not the final action. The Threshold Evaluation has listed a number of recommendations that need to be implemented in order to reverse the declining trend in scenic quality in the shoreline. This is a long-term process and other items that relate to scenic quality in the shoreline need to be accomplished, including completion of the Shorezone Scenic Ordinances, conducting a visual perception survey, implementing a scenic credit and off-site mitigation program, developing a scenic review system for upland development, developing and standardizing protocols for the preparation of visual simulations, and implementing a monitoring and enforcement program.

20. **Comment:** How many lakefront homes are affected by these ordinances?

**Response:** Based on TRPA's database, there are a total of 1,451 lakefront parcels in the Tahoe Basin. Of these parcels, only 103 properties are reportedly vacant and privately owned. This represents only 7.1% of the lakefront properties. 1,042 parcels involve single-family residences or condominiums, which represent 71.81% of the lakefront properties. The ordinances have the potential to affect all these properties, however at different degrees. General maintenance and repair and in-kind replacement do not trigger an action under these ordinances unless this results in exterior modification to the color or the construction of a metal roof. For other projects depending upon the degree of alteration proposed, an applicant may be required to apply Scenic BMPs that impact existing views. It is staff's assumption that all most all projects can achieve a contrast score of 21 with out affecting views. Scores of in the 24 to 28 range and visual breaks will require screening of the structures but with good design it can result in minimal impacts to views. It should be noted that the color requirements apply to all structures visible from scenic threshold travel routes and scenic threshold recreation areas.

21. **Comment:** There is a need for enforcement.

**Response:** The Agency recognizes the need for increased enforcement to ensure that conditions of approval are implemented. TRPA sampling estimates that 10-15% of the problem is insufficient enforcement. The Agency is proposing to increase securities and to require implementation of a scenic monitoring program for certain projects.

22. **Comment:** What is the authority for TRPA to adopt these regulations and is the proposal consistent with constitutional requirements?

**Response:** Under the Compact, TRPA must adopt a set of ordinances that ensures the scenic thresholds will be attained and maintained. In light of the last three Threshold Evaluations, TRPA must address the declining scenic thresholds by adopting (1) a project review system that will preclude approval of structures that result in degradation of thresholds and (2) measures to increase the degraded scenic units.

Under the Compact, TRPA has the authority to adopt measures that improve scenic quality. Environmental improvement has long been recognized as a legitimate exercise of governmental power. Moreover, because the system imposes no obligation that TRPA could not otherwise legally accomplish, does
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not preclude the use of property, and generally promotes directly the accomplishment of important governmental purposes without substantially affecting property values, the proposal is well within all applicable constitutional limitations.

Effects of Amendments on TRPA Work Program: The following elements proposed for adoption are expected to have a long-term positive effect on the TRPA work program. Initially there will be an increased effort to educate and train staff and the public. The Performance Review requirement will cause additional staff time and $5,000 in consultant assistance. The amendments are designed to streamline the scenic quality review process. Currently, the Agency evaluates potential scenic impacts using a qualitative analysis process. The process generally results in subjectivity and many hours spent debating or compromising on scenic mitigation measures. Past evaluations and the current evaluation have noted that this process is not working. Scenic quality continues to degrade at an alarming rate and a new approach to scenic quality review is being recommended.

The proposed amendments result in a number of improvements to the existing system. They further clarify language relating to the use of earthtone colors and implement a color system that is measurable. The amendments will result in implementation of a quantifiable review system for scenic impacts. This will generally result in less time debating scenic impacts and appropriate scenic mitigation since it is a more systematic scoring process. This should reduce the amount of staff and applicant's time spent arguing the impact a project is having on scenic quality. The amendments further clarify and establish protocols for the preparation of visual simulations. This will help applicants and consultants in preparing visual simulations that are accurate for scenic review.

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

Chapter 6 Findings

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

Rationale: The Scenic program amendments are intended to provide a quantifiable mechanism within the Code to evaluate project applications and gain consistency in the review of projects. As indicated in the 2001 Threshold Evaluation Report, the current process of evaluating scenic impacts based on a qualitative analysis has shown to be ineffective in meeting the threshold. The amendments are designed to remedy this situation and are intended to evaluate project impacts in a quantifiable manner in order to ensure attainment and maintenance of the Scenic Threshold standards.
2. **Finding:** The project will not cause the environmental thresholds to be exceeded.

**Rationale:** The amendments will not cause the environmental thresholds to be exceeded. As indicated in the 2001 Threshold Evaluation Report, the current process of evaluating scenic impacts based on a qualitative analysis has shown to be ineffective in meeting the threshold. The amendments are designed to stop the continuing scenic degradation occurring in the shorezone by providing a quantifiable mechanism within the Code to evaluate project applications and gain consistency in the review of projects. The amendments are intended to evaluate project impacts in a quantifiable manner in order to ensure attainment and maintenance of the Scenic Threshold standards. The ordinances over time will result in color changes, screening, and changes to structures to meet the scenic mitigation requirements. It is anticipated that over time with these changes, incremental improvements to scenic quality will occur resulting in increased ratings for the man-made subcomponent score for the shoreline units.

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:** Any proposal that may come forth due to this provision will be required to meet air and water quality standards as set forth in the TRPA Compact.

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

**Rationale:** See findings 1 and 2 above.

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

**Rationale:** See findings 1 and 2 above.

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

**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 1996 and 2001 Threshold Evaluation Reports indicate declining ratings for shoreline travel units. The movement away from threshold attainment for these units is attributable in part to the absence of a coherent and consistent project review system. The amendment to the Design Review Guidelines to adopt a new project review system will not adversely affect implementation of the Regional Plan. The proposed amendment is intended to clarify the process for review of projects located within the immediate shorezone upland area in order to maintain and attain the scenic resource threshold. The amendment is consistent with the Regional Plan Package.

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

Rationale: The amendment will not cause the environmental thresholds to be exceeded. The amendment is intended to evaluate impacts to environmental thresholds and to assist with the attainment of the Scenic Resource Threshold.

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: Any proposal that may come forth due to this provision will be required to meet scenic resource threshold standards as set forth in the TRPA Compact.

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

Rationale: See findings 1 and 2 above.

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

Rationale: See findings 1 and 2 above.

Environmental Documentation: Staff has completed an Initial Environmental Checklist (Attachment C) and proposes a Finding of No Significant Effect (FONSE).

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

1. Make the Chapter 6 Findings and a Finding of No Significant Effect based on the evidence in the record.

2. Adopt the ordinance implementing the proposed scenic amendments.

3. Adopt the resolution implementing the proposed scenic amendments.
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Amendments to Implement a Shorezone Scenic Review System
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Staff will present a PowerPoint slide show of the proposed scenic amendments at the public hearing. If you have any questions or comments on this matter please call Gordon Barrett at 775-586-4547, or email at gbarrett@trpa.org.

Attachments
A. Adopting Ordinance with Exhibits:
   1. Proposed Amendments, Code Chapter 2
   2. Proposed Amendments, Code Chapter 4
   3. Proposed Amendments, Code Chapter 22
   4. Proposed Amendments, Code Chapter 30
   5. Proposed Amendments, Code Chapter 52
   6. Proposed Amendments, Code Chapter 53
   7. Proposed Amendments, Code Chapter 55
   8. Proposed Amendments, Code Chapter 74
   9. Proposed Amendments, Goals and Policies Chapter IV
B. Adopting Resolution with Exhibits:
   1. Proposed Amendments, Design Review Guidelines
C. Initial Environmental Checklist
D. Scenic Threshold Review Report
E. Economic Evaluation Report
F. Vegetation and Fire Safety Evaluation Report
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 Code of Ordinance Chapters 2, 4, 22, 30, 52, 53, 55, and 74; Goals and Policies, Chapter 4, 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 public hearings on the matter and recommended adoption of certain amendments. The Governing Board has also conducted noticed public hearings 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 Chapter 2 of the Code of Ordinances

2.10  Section 2.2 is hereby amended as shown on Attachment A, Exhibit 1, dated November 12, 2002.

Section 3.00  Amendment of Chapter 4 of the Code of Ordinances

3.10  Subsections 4.2.A and 4.3.A (11) are hereby amended as shown on Attachment A, Exhibit 2, dated November 12, 2002.

Section 4.00  Amendment of Chapter 22 of the Code of Ordinances

4.10  Section 22.7 is hereby amended as shown on Attachment A, Exhibit 3, dated November 12, 2002.

Section 5.00  Amendment of Chapter 30 of the Code of Ordinances

5.10  Sections 30.1, 30.6, 30.12 and 30.15 are hereby amended as shown on Attachment A, Exhibit 4, dated November 12, 2002.

Section 6.00  Amendment of Chapter 52 of the Code of Ordinances

6.10  Subsection 52.3.B is hereby amended as shown on Attachment A, Exhibit 5, dated November 12, 2002.

Section 7.00 Amendment of Chapter 53 of the Code of Ordinances

7.10  Subsections 53.10.A and 53.10.B are hereby amended as shown on Attachment A, Exhibit 6, dated November 12, 2002.

Section 8.00 Amendment of Chapter 55 of the Code of Ordinances

8.10  Subsections 55.6 and 55.7 are hereby amended as shown on Attachment A, Exhibit 7, dated November 12, 2002.

Section 9.00 Amendment of Chapter 74 of the Code of Ordinances

9.10  Subsection 74.2.A is hereby amended as shown on Attachment A, Exhibit 8, dated November 12, 2002.

Section 10.00 Amendment of Goals and Policies

10.10  Subsection 6.10 of Ordinance 87-9, as amended, Goals and Policies, Chapter IV, Conservation Element, is hereby further amended as shown on Attachment A, Exhibit 9, dated November 12, 2002.
Section 11.00 Interpretation and Severability

11.10 The provisions of this ordinance 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 shall not be affected thereby. For this purpose, the provisions of this ordinance are hereby declared respectively severable.

Section 12.00 Effective Date

12.10 The provisions of this ordinance amending the Code of Ordinances shall be effective 60 days after its adoption.

12.20 All other provisions of this ordinance amending the Goals and Policies Plan are effective immediately upon adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held November 20, 2002, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Dean Heller, Chairman
Tahoe Regional Planning Agency
New proposed language is *underlined in blue; language to be deleted is struck-out in red.*

Chapter 2

**DEFINITIONS**

Scenic BMPs: Scenic Best Management Practices (BMPs) are mitigation measures that reduce the visual impact of structures to promote threshold attainment. This includes the use of landscaping, building design, glass treatment, articulation, color, texture, screening, and other such techniques.

Shoreland: The distance from the highwater line of Lake Tahoe to the most landward boundary of the littoral parcel, or 300 feet landward, whichever is lesser. In the case where the littoral parcel is a narrow parcel not qualifying for a development right, such as a road right-of-way or a dedicated beach access parcel, the most landward boundary of the adjoining parcel to the littoral parcel or 300 feet shall apply. In the case where a littoral parcel is split by a right-of-way but is considered one project area, the most landward boundary of the project area or 300 feet, whichever is less, shall apply.
Chapter 4
PROJECT REVIEW AND EXEMPT ACTIVITIES

4.2 List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or relocation of land coverage, comply with Sections 30.6, 30.9 and 30.10 and meet all restrictions set forth below.

4.2.A General Activities: The following general activities are exempt:

(2) Ordinary maintenance and repair, which is the upkeep, or preservation of the condition of property and includes: painting; re-roofing with non metallic material; replacement of windows, siding, doors, construction of overlays upon existing paved surfaces, air conditioning, sewer, water and electrical equipment, and other fixtures. For structures visible from the Scenic Threshold Travel Routes and from the Public Recreation Areas and Bicycle Trails identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation, painting and siding shall be consistent with Subparagraph 30.6.A(3).

4.3 List of Qualified Exempt Activities: The following activities are not subject to review and approval by TRPA provided the applicant certifies on a TRPA qualified exempt form that the activity fits within one or more of the following categories and the activity does not result in the creation of additional land coverage or relocation of existing land coverage and complies with all restrictions set forth below. The statement shall be filed with TRPA at least one three working days before the activity commences, except as required for demolition activities in Subparagraph 4.3.A(7) below, and shall be made under penalty of perjury.

4.3.A General Activities: The following activities are qualified exempt:

(11) Replacement of an existing roof with a metal roof that is composed of non-glare earthen color. For this subparagraph, non-glare earthen colors are defined as Munsell® Colors set forth in Appendix G, TRPA Approved Earthen Colors, of the Design Review Guidelines that have a value and chroma of 0-4. The applicant shall submit color and material samples to TRPA with their Qualified Exempt form.
22.7. **List of Findings:** The findings in this chapter are as follows

1. 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. For height greater than that set forth in Table A for a 5:12 pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in Subparagraph 30.15.E, Additional Visual Magnitude, or Appendix F, Visual Assessment Tool, of the Design Review Guidelines.
Chapter 30
DESIGN STANDARDS

Chapter Contents

30.0 Purpose
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30.3 Scenic Quality Improvement Program
30.4 Substitution Of Standards And Guidelines
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30.11 Outdoor Advertising
30.12 Scenic Quality Standards
30.13 Establishment of Scenic Highway Corridors
30.14 Soil and Vegetation Protection Standards
30.15 Scenic Quality Review in the Shoreland

30.1 Applicability: All projects shall comply with the standards set forth in this chapter, except as noted below. In addition, exempt activities, as defined in Chapter 4, shall comply with sections 30.6, 30.9 and 30.10. Substitute design standards shall not apply to the review procedures and standards for projects in the shoreland. Appropriate provisions of the Design Review Guidelines and Scenic Quality Improvement Program may be considered as conditions of project approval.

30.6 Building Design Standards: In accordance with section 30.1, the following building design standards shall apply:

30.6.A General Standards: The general standards are:

(1) The architectural design of a project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, electrical transformer pads and vaults, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground.

(2) Roofs, including mechanical equipment and skylights shall be constructed of non-glare finishes and earthtone colors that minimize reflectivity. For this subparagraph, non-glare earthtone colors are defined as Munsell® Colors set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines, that have a value and chroma of 0-4.
(3) For all structures visible from the Scenic Threshold Travel Routes and from Public Recreation Area and Bicycle Trails identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation, subdued colors of earthen range shall be used for the primary color of structures. Colors shall be within a range of natural colors that blend, rather than contrast, with the existing backdrop vegetation and soils color. For this subparagraph, earthen colors shall be medium to dark and shall meet the Munsell® Colors set forth in Appendix G. TRPA Approved Earthen Colors, of the Design Review Guidelines. TRPA may grant exceptions to this provision pursuant to Section 29.6, for scenic roadway corridors designated as urban, for unique situations such as site characteristics, or as set forth in Section 53.10. Structures in the shoreland that were constructed prior to January 1, 1950 may maintain their historic colors when doing exempt maintenance and repair.

30.12 Scenic Quality Standards: All projects and activities shall comply with the following standards:

30.12.B Roadway and Shoreline Unit Travel Routes: The project shall not cause a decrease in the 1982 roadway or shoreline travel route ratings as shown in Tables 13-6 and 13-7, respectively, of the Study Report for the Establishment of Environmental Threshold Carrying Capacities, October 1982. The criteria for rating travel routes as identified in the study report cited herein and as further explained in the report entitled A Scenic Analysis Of Principle Travel Routes In The Lake Tahoe Region, 1970, shall be used to determine if a project will cause a decrease in the numerical rating. For projects in the shoreland, Section 30.15 shall be used to determine if it will contribute to a decrease in the numerical rating for a shoreline travel route rating.

30.15 Scenic Quality Review in the Shoreland: To make the scenic findings required by Subsection 30.12.B, all projects within the shoreland of any Shoreline Threshold Travel Route shall be reviewed for compliance with the standards set forth below except for projects within marinas with adopted master plans and certified EISs, or structures designated as historic by TRPA, pursuant to Chapter 29.

30.15.A Definitions: The following terms, as used in Section 30.15 shall be defined as:

(1) Lakefront Façade: Surface area of the lakefront elevation(s) for all primary and accessory buildings and other structures, with visible area for a given project area within the shoreland.

(2) Visible Area: Surface area of all structures in the shoreland visible from 300 feet offshore and generally perpendicular to and centered on the project area. Surface area blocked by man-made structures in the shorezone shall count as visible area.
(3) Visual Breaks: The application of landscaping to man-made structures that results in reducing the contrast and breaking the overall visible area of a structure’s facade. This may be achieved by screening with vegetation, rocks, soil, and other natural appearing materials or by using such techniques between detached structures.

(4) Visible Structure: A structure with visible area.

30.15.B Review Process: The applicant shall complete a scenic assessment when applying for any activity requiring a TRPA permit; an applicant may apply for a scenic assessment at anytime to document the baseline condition. Review and mitigation of scenic impacts shall be based on the matrix in Subparagraph (2) below.

(1) Scenic Assessment: A scenic assessment shall be required prior to submittal of a project application. The scenic assessment will establish a baseline scenic condition for all following scenic impact analyses. The baseline shall be the existing condition at the time of the first scenic assessment, unless the site is the subject of an existing TRPA approval, by litigation settlement or otherwise, that contains a scenic analysis, in which case the existing scenic condition represented in the approved scenic analysis shall be the baseline. For purposes of this Section, un-built projects with an active permit shall be considered as existing structures. The scenic assessment shall include the following:

(a) Description of existing scenic conditions in the project area including, but not limited to, structure color and height, existing visible mass from the Lake, types and areas of materials of existing structures, and identification of needed scenic BMPs.

(b) Identify existing vegetation types, location, size, and height.

(c) Photographic inventory of the site from 300’ and one quarter mile offshore, with at least one photo from center and perpendicular to the project area, and photos of onsite existing conditions.

30.15.C Levels of Scenic Mitigation: The following levels of scenic mitigation shall be required based on the level of the activity or project:

(1) Level 1: All projects and activities on existing visible structures in the shoreland that are considered repair or maintenance. This includes exact in-kind replacement. There are no mitigation requirements required except as noted in Level 2.

(2) Level 2: All projects and activities on existing visible structures in the shoreland that are considered painting, re-siding, re-roofing or similar activities that affect the color of the structure. The mitigation requirements for this level shall be the color requirements set forth in Subsection 30.6.A
(3) **Level 3:** All projects in the shoreland altering the lakefront façade of an existing visible structure and the cost is ten percent or less of the replacement value of the structure and the result is 1,500 square feet or less of lakefront façade or non-repair projects on structures adjacent and lakeward of the shoreland. The mitigation requirements for this level shall be the implementation of scenic BMPs in the shoreland. The BMPs shall bring the project into conformance with a minimum contrast rating score of 21; except where:

(a) it is physically impossible to attain a score of 21 through application of scenic BMPs; or

(b) the cost of the scenic BMPs required to increase the baseline contrast score to 21 exceeds ten percent of the cost of the project; and

(c) if the project is not required to bring the project area into conformance as a result of subparagraphs (a) and (b) above, the applicant shall attain the highest possible score.

(4) **Level 4:** All projects in the shoreland altering the lakefront façade of an existing visible structure and the cost is ten percent or less than the replacement value of the structure and the result is more than 1,500 square feet of lake front façade or the project cost is greater than ten percent but equal to 50% or less of the replacement cost of the existing structure or the project is a new accessory structure. The mitigation requirements for this level shall be as set forth in Option 1 or Option 2 at the applicant's choice.

(a) **Option 1:** The Projects shall meet the following mitigation standards:

(i) The project area shall score a minimum of 24 points based on the Contrast Rating System; except where:

(A) it is physically impossible to attain a score of 24 through application of scenic BMPs; or

(B) the cost of the scenic BMPs required to increase the baseline contrast score to 24 exceeds ten percent of the cost of the project; and

(C) if the project is not required to bring the project area into conformance as a result of subparagraphs (i) and (ii) above, the applicant shall attain the highest possible score.

(ii) The resulting allowable visible area square footage in the project area shall not exceed 2200 sq. ft. The visible area square footage may be increased by 5% for each additional 10 ft. of linear lake frontage over 100 ft. Existing structures exceeding the 2200 visible square feet standard shall mitigate any additional area square footage on a 1:1 square foot basis.
(iii) A minimum building setback from the backshore boundary line shall be 10% of the lot depth not to exceed 20 feet. Each side yard setback shall be 10% of the lot width or the setback established by the local jurisdiction whichever is greater. Existing structures shall not be required to conform to setback standards. No expansion of structures shall be allowed in the setback area. At grade decks, erosion control structures, stairs, and similar structures are permissible in the setback at the allowed land coverage.

(iv) The height standard, including but not limited to the height limitations, findings, and regulations set forth in Chapter 22 for structures shall apply.

(v) Visual breaks shall be required on all structures. At a minimum, breaks shall be spaced along the lakefront façade to provide approximately 250 square feet screening for every 1000 square feet of lakefront facade. A break should extend vertically to two-thirds of the structure height and horizontally to approximately 10 feet. TRPA may approve equal or superior alternatives to this standard.

(b) Option 2: Visual Magnitude System. A project must score a minimum contrast point score for the desired square footage of visual magnitude based on Appendix F, Visual Assessment Tool, of the Design Review Guidelines or if non-complying, shall implement Scenic BMPs as required in Option 1 above; and:

(i) The visible façade square footage may be increased by 5% for each additional 10 ft. of linear Lake frontage over 100 ft;

(ii) Visual breaks shall be required on all structures. At a minimum, breaks shall be spaced along the lakefront façade to provide approximately 250 square feet screening for every 1000 square feet of lakefront facade. A break should extend vertically to two-thirds of the structure height and approximately 10 linear feet horizontally. TRPA may approve equal or superior alternatives to this standard; and

(iii) Existing projects not complying with visual magnitude shall implement visual breaks and improvements that demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structure.

(5) Level 5: All projects in the shoreland altering the lakefront façade of an existing visible structure and the project cost is greater than 50% of the replacement cost of the existing structure or proposing...
a new visible structure. The mitigation requirements for this level shall be as set forth in Option 1 or Option 2, at the applicant's choice.

Option 1: As a result of the project, the project area must score a minimum 28 points based on the Contrast Rating System. The projects shall meet the following mitigation standards:

(i) The resulting allowable visible area square footage in the project area shall not exceed 2200 sq. ft. The visible area square footage may be increased by 5% for each additional 10 ft. of linear lake frontage over 100 ft. Existing structures exceeding the 2200 square feet standard shall mitigate any additional area square footage on a 1:1 square foot basis.

(ii) A minimum building setback from the backshore boundary line shall be 10% of the lot depth not to exceed 20 feet. Each side yard setback shall be 10% of the lot width or the setback established by the local jurisdiction, whichever is greater. Existing structures shall not be required to conform to setback standards unless the proposed modification makes it feasible. No expansion of structures shall be allowed in the setback area. At grade decks, erosion control structures, stairs, and similar structures are permissible in the setback at the allowed land coverage.

(iii) The height standard, including but not limited to the height limitations, findings, and regulations set forth in Chapter 22 for structures shall apply.

(iv) Visual breaks shall be required on all structures. At a minimum, breaks shall be spaced along the lakefront façade to provide approximately 250 square feet screening for every 1000 square feet of lakefront façade. A break should extend vertically to two-thirds of the structure height and approximately 10 linear feet horizontally. TRPA may approve equal or superior alternatives to this standard.

Option 2; Visual Magnitude System. A project shall attain the minimum contrast point score for the desired square footage of visual magnitude based on Appendix F, Visual Assessment Tool, of the Design Review Guidelines or if non-complying, shall implement Scenic BMPs as required in Option 1 above and:

(i) The square footage may be increased by 5% for each additional 10 ft. of linear lake frontage over 100 ft;
(ii) Visual breaks shall be required on all structures. At a minimum, breaks shall be spaced along the lakefront façade to provide approximately 250 square feet screening for every 1000 square feet of lakefront façade. A break should extend vertically to two-thirds of the structure height and horizontally to approximately 10 linear feet. TRPA may approve equal or superior alternatives to this standard; and

(iii) Existing projects not complying with visual magnitude shall implement visual breaks and improvements that demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structure. In no case shall the total visible façade square footage exceed the maximum set forth by the visual magnitude system.

(6) Level 6: All projects involving new or existing structures in the shoreland that are visible from the Lake and that qualify as public health and safety projects or Environmental Improvement Program projects. The mitigation requirements for this level shall be established on a case-by-case basis. Projects whose primary purpose is implementation of water quality or scenic BMPs are exempt from mitigation requirements.

30.15.D General Standards of Review: The following general standards of review shall apply to projects reviewed pursuant to this Section:

(1) Prohibition on Segmenting: Projects may not be segmented in order to qualify for a lower level of mitigation requirements.

(2) Calculation of Cost and Value: Whenever required by this Section, cost estimates and replacement values shall be based on Marshall Swift calculations.

(3) Fire Protection: The applicant shall not submit vegetative screening inconsistent with local fire protection standards. As used in this Section, the term "physical impossibility" shall not include inconsistency with local fire protection standards.

30.15.E Independent Review: If there is a disagreement in the application of the standards of this section, the applicant or TRPA staff may elect to pursue the following independent review option:

(1) Third Party Expert Review: In the event an applicant disagrees with TRPA's review of a proposed project, the applicant may initiate a third party expert review consistent with the process outlined in subparagraphs (i) through (iii). The applicant shall fund the review and the third party expert review shall use the same methodology in the Visual Assessment Tool established in Appendix F of the Design Review Guidelines.
(a) Third Party Expert: TRPA shall maintain a list of scenic experts recognized as possessing the necessary qualifications to evaluate impacts to the scenic resources threshold. An expert shall be selected from the list randomly, as long as that expert did not consult on or participate in the design of the proposed project.

(b) The Third Party Expert shall prepare an analysis of the proposed project. The report shall include:
   (i) A description of the proposed project; and
   (ii) An analysis of the proposed project’s consistency with the standards set forth in this ordinance; and
   (iii) Written findings quantifying the project’s impacts and any mitigation, if required.

(c) Use of Third Party Report: The Executive Director shall review the third party expert report and may approve, deny, or require modifications to the project. The expert’s findings shall be included in the review of the project.

(2) Scenic Panel Review: Until October 23, 2004, the applicant or TRPA may elect to initiate a Scenic Panel Review if there is a disagreement in the determination of mitigation required pursuant to this Subsection. The cost of the panel shall be paid by the initiator. Panels initiated during this period shall continue until the completion of the panel’s review process. An expert panel of three people shall prepare a scenic analysis of the project and its impact including foreseeable reasonable activities on the entire scenic unit. The panel shall recommend appropriate conditions of approval necessary to make the required scenic attainment findings.

(a) TRPA shall select a panel member, the applicant shall select a panel member and the two panel members shall select a third member to review the project.

(b) The analysis may include other professionally accepted methods of evaluating scenic impacts. This Subparagraph may be extended beyond the two-year limitation pursuant to the performance review required in Subsection 30.15.F.

(c) Use of Panel Report: The Executive Director shall review the scenic panel report and may approve, deny, or require modifications to the project. The panel’s findings shall be included in the review of the project.

30.15.F Marina Master Plans: In developing and approving marina master plans pursuant to Chapter 16, the applicant shall use the contrast rating/visual magnitude system outlined in Appendix F, Visual Assessment Tool of the Design Review Guidelines or an equal or superior method of evaluating scenic impacts. All significant scenic impacts shall be
identified in the environmental document using an approved scenic impact analysis methodology and mitigation measures shall be proposed and incorporated into the master plan to ensure consistency with attainment and maintenance of environmental thresholds.

30.15.G Additional Visual Magnitude: TRPA may permit additional square footage of visual magnitude with visual breaks for a given contrast rating in Appendix F, Visual Assessment Tool, of the Design Review Guidelines as follows:

(1) Public Outdoor Recreation: For public outdoor recreation uses that are subject to Subsection 33.6.C, PAOT allocations, additional square footage of visual magnitude may be permitted if TRPA finds that:

(a) The project is a necessary part of a long range plan for public outdoor recreation; and

(b) The project is consistent with the Recreation Element of the Regional Plan; and

(c) There is no reasonable alternative which would avoid or reduce the extent of visual magnitude; and

(d) The additional square footage is mitigated pursuant to subparagraph (6) below; or

(e) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that results in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

(2) Public Service Facilities: For public service uses, additional square footage of visual magnitude may be permitted if TRPA finds that:

(a) The project is necessary for public health, safety or environmental protection; and

(b) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and

(c) The additional square footage is mitigated pursuant to subparagraph (6) below; or

(d) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a
reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

(3) Tourist Accommodation and Commercial Projects in Commercial and Public Service Plan Areas and Tourist Accommodation Plan Areas: Additional square footage of visual magnitude may be permitted for projects in Commercial and Public Service Plan Areas, if TRPA finds that:

(a) The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5; and

(b) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and,

(c) The additional square footage is mitigated pursuant to subparagraph (6) below; or

(d) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

(4) Residential Uses Other Than Single Family Dwelling: Additional square footage of visual magnitude may be permitted for projects, if TRPA finds that:

(a) The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5; and

(b) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and,

(c) The additional square footage is mitigated pursuant to subparagraph (6) below; or

(d) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects
shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

30.15.H Transfer of Scenic Mitigation Credits (Interim System): Until a permanent scenic mitigation credit system is adopted, certain scenic impacts may be mitigated outside the shoreland as follows:

(1) The mitigation source is the adjacent shorezone project area or other shoreland parcels within the same scenic unit.

(2) Project mitigation requirements shall utilize the Visual Magnitude System outlined in Appendix F, Visual Assessment Tool, of the Design Review Guidelines to calculate the square footage mitigation requirement or mitigation may be determined by the full panel review process.

(3) Mitigation in attainment areas shall be on a one-to-one basis and on a one-to-one and a half basis in non-attainment areas.

(4) All structures in the shoreland, both on the receiving and sending project areas, must have implemented scenic BMPs (21 contrast score rating) to be eligible for transfer of mitigation credits.

(5) TRPA shall require restoration securities, deed restrictions, and inspections as appropriate to assure implementation and documentation of scenic mitigation credit.

(6) This interim system may be utilized:

(a) To mitigate additional square footage associated with shorezone structures; or

(b) To gain additional square footage when permissible (e.g. for commercial, public service, multi-residential, etc.)

(7) Contributions to TRPA-approved non-profit organizations that have qualifying scenic mitigation projects may be accepted for mitigation credit, provided the mitigation credit can be quantified and tracked.

30.15.I Performance Review: For two years after the adoption of the Scenic Quality Review System, TRPA shall monitor the application of the system. No later than two years from the adoption of the system, TRPA shall prepare a report on the system with recommended amendments, if necessary, and present it to the TRPA Governing Board. A long-term performance review shall be included in the next applicable threshold review.
Chapter 52
EXISTING STRUCTURES

52.3.B List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they comply with Subsection 53.10.A, do not result in the creation of additional land coverage, or in an increase in the dimensions of the structure, including height, width and length.
New proposed language is *underlined* in blue.

**Chapter 53**

**SHOREZONE TOLERANCE DISTRICTS AND DEVELOPMENT STANDARDS**

53.10 **Design Standards Within The Shorezone:** Design standards within the shorezone are as follows:

53.10.A **Color:** The color of structures, including fences, shall be compatible with its surroundings. Subdued colors in the earhtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within a range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earhtone colors are considered to be shades of reddish-brown, brown, tan, ochre, umber, sand and dark green. Colors shall be medium to dark and shall meet the Munsell® Color value as set forth in Appendix G, TRPA Approved Earhtone Colors, of the Design Review Guidelines. Structures in the shoreland that were constructed prior to January 1, 1950 may maintain their historic colors when doing exempt maintenance and repair.

53.10.B **Roofs:** Roofs shall be composed of nonglare earhtone or wood tone materials that minimize reflectivity. Metal roofs shall be compatible with their surroundings and composed of nonglare earhtone colors. Metal roofs colors shall meet the Munsell® Color value as set forth in Appendix G, TRPA Approved Earhtone Colors, of the Design Review Guidelines.
Chapter 55
DEVELOPMENT STANDARDS IN THE BACKSHORE

55.6 **Vegetation:** Indigenous vegetation, appropriate to the backshore shall not be removed or damaged in the backshore, unless otherwise authorized under TRPA permit pursuant to Sections 55.4 or 74.2. Landscaping installed for the purpose of scenic quality may be maintained pursuant to Section 74.2. Species used in the backshore for revegetation or landscaping shall be those listed on the TRPA-approved plant list as species appropriate for the backshore type and site conditions (e.g. barrier beach, sedimentary bluff).

55.7 **Project Review:** In imposing special conditions of approval on projects in the backshore, TRPA shall be guided by an appraisal of the nature of the backshore, as set forth in Section 55.0 and Subsection 30.15, in relation to the unique characteristics of the project area and shall consider the following objectives:
Chapter 74

VEGETATION PROTECTION AND MANAGEMENT

74.2 Protection of Stream Environment Zones: No project or activity shall be undertaken in an SEZ (land capability 1b) which converts SEZ vegetation to a non-native or artificial state, or which negatively impacts SEZ vegetation through action including, but not limited to, reducing biomass, removing vegetation, or altering vegetation composition.

74.2.A Exceptions: The following are exceptions:

(1) Manipulation or management of SEZ vegetation may be permitted in accordance with the Code of Ordinances for purposes of SEZ vegetation health or wildlife or fish habitat improvements, and after approval of a vegetation management plan pursuant to Subsection 74.4.B., or as provided in Subsections 20.4, 20.5.C., or 79.2, or Chapters 71 or 72.

(2) Maintenance of landscaping that was installed prior to the creation of TRPA, or installed for the purpose of scenic quality pursuant to Chapter 30, Design Standards, or pursuant to a TRPA permit, or under a TRPA exemption prior to August 1, 1997, provided that fertilizer use is restricted in accordance with the BMP Handbook, unless a remedial action pursuant to Section 74.3 has been taken by TRPA.
CHAPTER IV
CONSERVATION ELEMENT

GOAL #1
MAINTAIN AND RESTORE THE SCENIC QUALITIES OF THE NATURAL APPEARING LANDSCAPE.

As with many of the Region’s natural resources, the scenic qualities of the Basin are vulnerable to change. Modifying the natural scenic features of the Basin is a by-product of development, but such impacts need not be devastating. A coordinated effort that incorporates architectural design and location considerations in the project review process is a useful means for promoting scenic and aesthetic values. Policies to achieve this goal are consistent with the adopted environmental thresholds.

POLICIES

1. ALL PROPOSED DEVELOPMENT SHALL EXAMINE IMPACTS TO THE IDENTIFIED LANDSCAPE VIEWS FROM ROADWAYS, BIKEPATHS, PUBLIC RECREATION AREAS, AND LAKE TAHOE.

The impact of development on the landscape views and scenic qualities of the Tahoe Region should be considered as part of the project review process. Conditions should be placed on project approval in a manner capable of mitigating any likely impacts. Impacts shall be evaluated against specific management directions provided for each identified landscape view. Management and remedial criteria for each roadway and shoreline unit shall be updated through appropriate studies so they are consistent with the format and detail of the 1983 scenic analysis of the recreation areas. Lake Tahoe Basin Scenic Resource Evaluation, 1983, Wagstaff and Brady. In addition, the Scenic Quality Improvement Program (SQIP, adopted September, 1989) and Design Review Guidelines for Scenic Quality (September, 1989) are to provide direction for the design, review, and implementation of projects viewed from identified roadways, bikepaths, public recreation areas, and Lake Tahoe.
TAHOE REGIONAL PLANNING AGENCY

RESOLUTION 2002-__

RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY TO AMEND THE DESIGN REVIEW GUIDELINES TO IMPLEMENT A SHOREZONE SCENIC REVIEW SYSTEM AND FURTHER REGULATE COLORS AND ROOFING MATERIALS

WHEREAS, the Design Review Guidelines, adopted on September 27, 1989 by Ordinance 89-16 shall be amended by resolution of the Board; and

WHEREAS, amendments to the Design Review Guidelines adopted by the Board, and any amendment or repeal thereof, shall become effective 60 days after adoption of this resolution; and

WHEREAS, in order to maintain and improve the overall quality of the built environment in the Lake Tahoe Region and attain TRPA’s adopted Scenic Resource Threshold, TRPA has adopted design standards and the Design Review Guidelines. The Design Review Guidelines manual contains a collection of design, site planning, and visual assessment tools that may be used during project development to meet the design standards. The Design Review Guidelines are intended to create and maintain community settings that are visually attractive to both visitors and residents.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board, based on the recommendation of Staff and substantial evidence in the record, hereby amends the Design Review Guidelines, as shown on Attachment B, Exhibit 1, and adds Appendix F and Appendix G, as shown on Attachment B, Exhibit 2 and Exhibit 3, dated November 12, 2002.

Passed and adopted this 20th day of November, 2002, by the Governing Board of the Tahoe regional Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

____________________________________
Dean Heller, Chairman
Tahoe Regional Planning Agency

103
INTRODUCTORY SECTIONS

HOW TO USE THIS MANUAL

Introductory Sections

An important goal of this manual is to present positive solutions to design problems, which designers must address in the Region. It is strongly recommended that everyone read the introductory sections of this document. These sections discuss the philosophy behind the guidelines as well as their legal standing and authority.

An important concept behind this manual is the existence of three different visual environments throughout the Region. The three environments are: urban areas, transition areas, and natural areas. The characteristics of each environment are identified, and the design implications discussed beginning on page vi.

An important section that should be reviewed is the ALTERNATIVES TO THE DESIGN REVIEW GUIDELINES. It identifies situations where project applicants may substitute design guidelines in place of guidelines listed in this document, and outlines a basic appeal procedure.

The legal authority to invoke the design standards and guidelines is established in Chapter 30, Design Standards, or TRPA's Code of Ordinances, and states the following:

30.1 Applicability: All projects shall comply with the standards set forth in this chapter, except as noted below. In addition, exempt activities, as defined in Chapter 4, shall comply with sections 30.6, 30.9 and 30.10. Substitute design standards shall not apply to the review procedures and standards for projects in the shoreland. Appropriate provisions of the Design Review Guidelines and Scenic Quality Improvement Program may be considered as conditions of project approval.

30.2 Design Review Guidelines: Design and site planning methods and techniques shall be set forth in a handbook called Design Review Guidelines, except that design review guidelines for the Meyers Community Plan are set forth in the adopted community plan.
C. REGIONAL VISUAL ENVIRONMENTS

At first glance the Lake Tahoe Region may appear to be a relatively homogenous forested landscape. Upon closer inspection, however, one finds a variety of visual environments including: urban centers, residential neighborhoods, small commercial nodes that serve the residential neighborhoods, large-scale recreation areas, and undeveloped stretches of wild and natural landscapes. Recognition of distinct visual environments within the Region has led to the establishment of three visual environments: urban, natural, and a transition environment between urban and natural areas.

Visual Environment Descriptions

1. **Urban Areas:** Commercial areas should retain a small-scale, compact character that is well-integrated with the surrounding natural environment. The goal is to create urban areas that complement the existing environment and utilize it to enhance the quality of the built environment. Existing Examples: Tahoe City, South Lake Tahoe, Stateline, Kings Beach, and Incline Village.

2. **Transition Areas:** The visual appearance of transition areas should be a balance between man-made development and natural landscape features. In terms of site planning it is appropriate to fit the development into the transition landscape, taking advantage of existing site planning and design opportunities, while recognizing potential limitations of the landscape. Commercial and public service activities in transition areas are among the most visible uses in these areas. It will be especially important for both new and redeveloping commercial and public service uses to make use of design and site planning guidelines in order to minimize their visual impact in transition areas. Existing Examples: Round Hill, Zephyr Cove, Christmas Valley, Tahoma, Sunnyside, and Homewood.

3. **Natural Areas:** Natural areas should retain the overall appearance and feeling of dominance by natural elements and processes. From a preservation of scenic quality standpoint, new development in natural areas should not be visually evident from the travel route. Where existing development is visually evident in the landscape, modification or redevelopment of it should be sited or screened so as to be visually subordinate. Existing Examples: Emerald Bay, Luther Pass, East Shore forests.

A. Transition Visual Environments

1. **Scale of Development:** Linear experience of spaces for vehicles, pedestrians and bicycles; moderate vehicle speeds means less detail needed.

2. **Level of Human Activity:** Moderate; primarily residential, recreation activities with well organized landmarks of neighborhood commercial nodes.

3. **Access/Parking:** Access is controlled; parking integrated with setting; well buffered and sensitively sited; out of sight except in commercial/public service uses.

4. **Architectural Style:** Responds to context and setting; blends and appears to achieve a high degree of fit with the surrounding landscape.
5. **Landscaping**: Functional; used to highlight changes in use, access, etc; limited palette with some non-native species is appropriate; overall goal is to blend with setting.

6. **Building Materials and Colors**: More narrow range of materials and colors than in urban settings; responds to and blends with context of setting; natural appearing materials and colors are most appropriate.

7. **Lighting**: Intermittent, as needed; primarily used at intersections, nodes, and other activity areas.

8. **Signage**: Existence of sign itself will draw attention to the use; moderate range of materials and colors with emphasis on those which respond to context and setting; in most cases internal lighting is not necessary; competition of signs is inappropriate.

**B. Natural Visual Environments**

1. **Scale of Development**: Moderate-high vehicle speeds; humans become temporary yet participatory part of the landscape; less detail needed.

2. **Level of Human Activity**: Lowest of 3 environments, primarily recreation, sight-seeing and conservation activities; places where nature creates the focal interest.

3. **Access/Parking**: Points of access are nominal; parking is hidden except for existing uses and roadside scenic viewpoints.

4. **Architectural Style**: Responds to context and setting; typically small scale which does not dominate surrounding landscape.

5. **Landscaping**: Responsive to plant communities in setting; very few opportunities for non-native species except for foundation plantings and planters.

6. **Building Materials and Colors**: Narrowest range of colors and materials is appropriate; colors should be dark toned and harmonize with those in and around site; natural materials are most appropriate; natural appearing materials should be a minimum requirement.

7. **Lighting**: Minimal; only as necessary for safety and function.

8. **Signage**: Minimal need for signs; signs should be small scale as presence of sign alone will draw attention to use; limited to natural and natural-appearing colors and materials only.
SCENIC HIGHWAY CORRIDORS

Design of Highway Fixtures. Consider the following design solutions when designing projects that include highway fixtures. Also see the Retaining Wall guidelines listed in Section 1. Site Design.

(a) Use dark colors with flat finishes that have a Munsell color value of 4 or less and a chroma value of 4 or less.
(b) Articulate plane surfaces to create shadow lines.
(c) Wherever possible, use materials, rough textures or surfaces to create heavy shadow patterns.
(d) Minimize reflective surfaces on all fixtures except directional and regulatory sign faces. Limit reflective surfaces to lettering and other graphics wherever possible (not including sign background).
(e) Treat metal beam guard rails with a mild acid bath (vinegar) or equal process to dull the silver metallic finish. The use corten steel for metal beam guardrails is encouraged over galvanized steel.

Guidelines:

Site New Development to be Visually Subordinate to the Natural Landscape. All new development when viewed at a distance including those things specifically excepted in 30.13.1(1) should meet the Visual Magnitude/Color Contrast rating for Natural Scenic Highway Corridors found in Appendix D of this manual.

(a) Use landform and topography as a screen. This is especially effective in siting buildings and other structures. In mountainous landscapes numerous opportunities exist to hide structures behind small changes in landforms or topography.
(b) Use vegetation as a screen. This is particularly important in screening as much of the perimeter of the structure as possible. Straight lines of buildings and other structures as often what makes them stand out in an otherwise natural landscape.
(c) Blend the structure into the landscape by using appropriate colors. In most cases appropriate colors are dark shades or earthen tone colors that fall within the Munsell color ranges in Appendix G. Flat finishes also help blend structures into the surrounding landscape.
(d) In some cases, road cuts for which retaining walls or other remedial erosion control measures are designed, consist of light colored soils. In these situations, light shades of earthen tone colors may be appropriate in order to blend the wall or other solution into the landscape.
BUILDING DESIGN

Standard: 30.6.A

In accordance with Section 30.1, the following building design standards shall apply. The general standards are:

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

2. Roofs, including mechanical equipment and skylights shall be constructed of nonglare finishes and earthtone colors that minimize reflectivity. For this subparagraph, non-glare earthtone colors are defined as Munsell® Colors set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines, that have a value and chroma of 0-4.

3. For all structures visible from the Scenic Threshold Travel Routes and from Public Recreation Area and Bicycle Trails identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation, subdued colors of earthtone ranges shall be used for the primary color of structures. Colors shall be within a range of natural colors that blend, rather than contrast, with the existing vegetation and soils color. For this subparagraph, earthtone colors shall be medium to dark and shall meet the Munsell® Colors set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines. TRPA may grant exceptions to this provision pursuant to Section 29.6, for scenic roadway corridors designated as urban, for unique situations such as site characteristics, or as set forth in Section 53.10. Structures in the shoreland that were constructed prior to January 1, 1950 may maintain their historic colors when doing exempt maintenance and repair.

Guidelines:

2. Use Roof Surfaces to Help Integrate the Building. The form, color, and texture of a building's roof should be an integral part of the building design, and should be compatible with both the natural environment and the man-made setting. Compatibility can be produces by selecting appropriate roofing materials. It is recommended that roof surfaces generally be dark in color, with a low reflectivity. Skylights and solar-energy collector panels are recognized exceptions to this guideline. Metal roofs are appropriate when the metal has a low-gloss finish of low reflectivity. This generally means dark colors (greens, browns, dark gray, black) with a matte finish that fall within the Munsell color ranges in Appendix G. Additionally, the use of articulated roof surfaces using features such as gables, clerestories, and dormers will break up continuous roof planes and help integrate the structure into the setting.

TRPA Design Review Guidelines
SCENIC HIGHWAY CORRIDORS
BUILDING AND STRUCTURE HEIGHTS

Standard: 22.4.B

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

Guidelines:

Color/Reflectivity. Dark shades of earthtone colors (including black) with flat or matte finishes should be used on all surfaces in order for the structure to recede into the natural landscape. Where appropriate, surfaces of structures should be heavily textured using rough or articulated surfaces to minimize reflectivity. Earth tone colors should fall within the Munsell color ranges in Appendix G.

BUILDING MATERIALS AND COLORS

Generally the widest variety of building materials and colors is appropriate in urban areas. Materials and colors used in urban areas may also reflect community values or traditions. A more narrow range of building materials and colors is appropriate in transition areas. In these areas context and setting should become increasingly important as design determinants. Structures in transition areas should use building materials and colors advantageously to help them achieve a high degree of apparent fit with the surrounding landscape. The narrowest range of materials and colors is appropriate in natural areas. In natural areas primarily design goals should be to preserve the appearance and form of the natural landscape while accommodating necessary structures. Natural building materials and dark-toned colors with flat finishes that fall within the Munsell color ranges in Appendix G are strongly recommended.

Guidelines:

Building Color. Exterior building colors should be compatible with the surrounding natural and man-made environment, and not in competition with surrounding material elements for attention (i.e., building color should not become "signing" for the site). The use of earth tone colors should fall within the Munsell ranges in Appendix G is encouraged.

- Urban. Generally, the widest variety of building colors is appropriate in urban areas, however, the use of earth tone colors are encouraged. Primary colors or other bright colors should be used only as accents to enliven architecture, or as an integral component of a specific theme. It is important to remember that light-valued elements project forward against the dark greens and browns of the forest background, making them more visually prominent.

- Natural and Transition Areas. The use of earth tone colors on exterior surfaces is strongly recommended in natural and transition areas. Earth tone colors are also recommended in situations where the goal is to blend the building into the natural landscape. If your design goal is to completely blend your house into the surrounding landscape, choose colors that are slightly darker than the colors of the surrounding vegetation and landforms. Earth tone colors are considered to be darker shades of reddish-brown, brown, tan,
ochre, umber, sand and green. Certain hues of blue and gray can also function as earth tone colors, as can lighter hues of brown and sand when the building(s) is located in a granite-dominated setting. TRPA maintains a full-color catalog of the recommended colors at the TRPA offices.

Primary colors or other bright colors should be used as accents in transition areas such as on trim, or in conjunction with a specific theme. Primary colors and other bright colors are not recommended for use in natural areas. It is important to remember that light-valued elements project forward against the dark greens and browns of the forest background, making them more visually prominent.

Also see the guidelines in Section 2.B. Building Design.
Appendix F
VISUAL ASSESSMENT TOOL FOR THE REVIEW OF PROJECTS LOCATED WITHIN THE SHORELAND

VISUAL MAGNITUDE/CONTRAST RATING PROCEDURAL STEPS

1. Determine the square footage of differing surfaces (i.e., roof, windows, shingle, stone) by direct measurement of the building(s)/structure(s) on the project area from elevation views.

2. Determine the percentage of each differing surface in relation to the overall square footage of the façade facing the lake.

3. Utilize the Color Matrix below to determine the rating for each differing surface. Use the percentage of each differing surface and multiply by the appropriate rating. Sum the results, this is your Color Score. For unique site conditions where the dominant color in the background is gray or green, the Brown to Black category may be used for scoring. Use the Light/Gloss column to determine the color rating for glass.

<table>
<thead>
<tr>
<th>Color Matrix</th>
<th>Light/Gloss (Glass) (Value 7+)</th>
<th>Medium Light (Value 6)</th>
<th>Medium (Value 4-5)</th>
<th>Medium Dark (Value 2-3)</th>
<th>Dark/Flat (Value 0-1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White to Light Gray</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Yellow</td>
<td>2</td>
<td>3</td>
<td>5</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Red</td>
<td>3</td>
<td>5</td>
<td>6</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Blue</td>
<td>4</td>
<td>6</td>
<td>8</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>Gray</td>
<td>5</td>
<td>7</td>
<td>9</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Green</td>
<td>6</td>
<td>8</td>
<td>11</td>
<td>13</td>
<td>16</td>
</tr>
<tr>
<td>Brown to Black</td>
<td>8</td>
<td>10</td>
<td>12</td>
<td>15</td>
<td>17</td>
</tr>
</tbody>
</table>

4. Determine the number of plane surfaces visible. The visible plane column will be used in Step 6 to determine the appropriate rating. See Figure 2 for graphic examples.

5. Determine the appropriate surface pattern for each differing surface determined in Step 1. Using the Surface Plan & Texture Matrix below and the appropriate visible plan column from Step 5, assign a appropriate rating and multiply it to the percentage of each differing surface. Sum the results, this is your Surface Plan/Texture Score. (See Figure 3)
<table>
<thead>
<tr>
<th>Surface Plane &amp; Texture Matrix</th>
<th>Number of Visible Planes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 Plane Surface</td>
</tr>
<tr>
<td>Unbroken Plane Surface with little or no Texture</td>
<td>1</td>
</tr>
<tr>
<td>Minimally Broken Plane Surface with Moderate Texture</td>
<td>2</td>
</tr>
<tr>
<td>Moderately Broken Plane Surface with Moderate Texture</td>
<td>3</td>
</tr>
<tr>
<td>Heavily Broken Plane Surface with Heavy Texture</td>
<td>4</td>
</tr>
</tbody>
</table>

No to Little Texture: Stucco walls, plywood, and metal roofing.
Moderate Texture: Shiplap siding, heavy v-joint siding, wood shingle roofs.
Heavy Texture: Rock masonry, logs, boards and batten, composite shingle, shake roof.

6. From the critical viewing point 300 feet offshore, estimate the percent of the building(s)/structure(s) perimeter\(^1\) that is visible. Then determine the rating on the Perimeter Matrix below. See Figure 1 for graphic examples. This rating is your Perimeter Score.

<table>
<thead>
<tr>
<th>Perimeter Matrix</th>
<th>Percent of Perimeters of Structure Visible</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-10%</td>
</tr>
<tr>
<td>Rating</td>
<td>10</td>
</tr>
</tbody>
</table>

7. Add the three scores (Color Score, Perimeter Score, and Surface/Texture Score). This is the CONTRAST RATING.

\(^1\) Perimeter refers to the edges of the building(s)/structure(s) and not to the visible mass or square footage facing the lake. This is a linear measurement not an area measurement.

9. Follow that row to the right to the VISIBLE SQUARE FOOTAGE ALLOWED. This is the allowed visible square footage allowed for the proposed project.

<table>
<thead>
<tr>
<th>Contrast Rating</th>
<th>Visible Square Footage Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>55</td>
</tr>
<tr>
<td>4</td>
<td>63</td>
</tr>
<tr>
<td>5</td>
<td>73</td>
</tr>
<tr>
<td>6</td>
<td>84</td>
</tr>
<tr>
<td>7</td>
<td>97</td>
</tr>
<tr>
<td>8</td>
<td>110</td>
</tr>
<tr>
<td>9</td>
<td>120</td>
</tr>
<tr>
<td>10</td>
<td>150</td>
</tr>
<tr>
<td>11</td>
<td>170</td>
</tr>
<tr>
<td>12</td>
<td>195</td>
</tr>
<tr>
<td>13</td>
<td>225</td>
</tr>
<tr>
<td>14</td>
<td>290</td>
</tr>
<tr>
<td>15</td>
<td>295</td>
</tr>
<tr>
<td>16</td>
<td>340</td>
</tr>
<tr>
<td>17</td>
<td>390</td>
</tr>
<tr>
<td>18</td>
<td>450</td>
</tr>
<tr>
<td>19</td>
<td>515</td>
</tr>
<tr>
<td>20</td>
<td>595</td>
</tr>
<tr>
<td>21</td>
<td>680</td>
</tr>
<tr>
<td>22</td>
<td>785</td>
</tr>
<tr>
<td>23</td>
<td>900</td>
</tr>
<tr>
<td>24</td>
<td>1035</td>
</tr>
<tr>
<td>25</td>
<td>1190</td>
</tr>
<tr>
<td>26</td>
<td>1365</td>
</tr>
<tr>
<td>27</td>
<td>1565</td>
</tr>
<tr>
<td>28</td>
<td>1800</td>
</tr>
<tr>
<td>29</td>
<td>2000</td>
</tr>
<tr>
<td>30</td>
<td>2200</td>
</tr>
<tr>
<td>31</td>
<td>2400</td>
</tr>
<tr>
<td>32</td>
<td>2600</td>
</tr>
<tr>
<td>33</td>
<td>2800</td>
</tr>
<tr>
<td>34</td>
<td>3050</td>
</tr>
<tr>
<td>35</td>
<td>3300</td>
</tr>
</tbody>
</table>
FIGURE 1: PERIMETER OF STRUCTURE VISIBLE

90-100%

80-90%

70-80%

60-70%

50-60%

40-50%
FIGURE 2: NUMBER OF VISIBLE PLANE SURFACES

1 Plane Surface

2 Plane Surfaces

3 Plane Surfaces

4 Plane Surfaces

5 Plane Surfaces

6 Plane Surfaces

7 Plane Surfaces

8 Plane Surfaces
FIGURE 3: TEXTURE AND APPERANCE OF PLANE SURFACES

Unbroken Textureless

Minimally Broken Plane
no Texture

Moderately Broken Plane
with Minimal Texture

Moderately Broken Plane
with Minimal Texture

Heavily Broken Plane
with Moderate Texture

Heavily Broken Plane
with Moderate Texture

Heavily broken Plane
with Heavy texture

Heavily broken Plane
with Heavy texture
Appendix G
APPROVED TRPA RANGE OF EARTHTONE COLORS

The TRPA approved earhtone colors are based on the Munsell Color System. The colors in the Munsell system are arranged by three dimensions that combine to describe all colors and are known in the Munsell system as Hue, Value and Chroma.

The hue notation of a color indicates its relation to red, yellow, green, blue, and purple; the value notation indicates its lightness; and the chroma notation indicates its strength (or departure from a neutral of the same lightness). The TRPA approved color ranges are based on colors in the Munsell system that approximate soils and plant tissue colors.

The Munsell notation for color consists of separate notations for hue, value, and chroma, which are combined in that order to form the color designation. The symbol for hue is the letter abbreviation of the color of the rainbow (R for red, YR for Yellow-Red, Y for Yellow) preceded by numbers from 0 to 10. Within each letter range, the hue becomes more yellow and less red as the numbers increase.

The notation for value consists of numbers from 0, for absolute black, to 10 for absolute white. Thus a color of value 5 is visually midway between absolute white and absolute black.

The notation for chroma consists of numbers beginning at 0 for neutral grays, and increases at equal intervals to a maximum of about 20. For absolute achromatic colors (pure grays, white, and black), which have 0 chroma and no hue, the letter N (neutral) takes the place of a hue designation.

In writing the Munsell notation, the order is hue, value, and chroma with a space between the hue letter and the succeeding value number, and a diagonal between the two numbers for value and chroma. Thus, the notation for a color of hue 5YR (yellow-red), value 5, chroma 6 is “5YR 5/6”. The approved earhtone color ranges based on the Munsell system are provided below categorized by hue and indicated by a black dot.
### HUE 10R (Red)

<table>
<thead>
<tr>
<th>VALUE</th>
<th>2.5/</th>
<th>3/</th>
<th>4/</th>
<th>5/</th>
<th>6/</th>
<th>7/</th>
<th>8/</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5/</td>
<td>dark reddish gray</td>
<td>very dusky red</td>
<td>dark red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3/</td>
<td>dark reddish gray</td>
<td>Dusty red</td>
<td>Red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4/</td>
<td>dark reddish gray</td>
<td>Reddish brown</td>
<td>Red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5/</td>
<td>reddish gray</td>
<td>Pale red</td>
<td>Weak red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6/</td>
<td>light reddish gray</td>
<td>Pale red</td>
<td>Light reddish brown</td>
<td>Light red</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7/</td>
<td>white</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
</tr>
<tr>
<td>8/</td>
<td>white</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
</tr>
</tbody>
</table>

### HUE 2.5YR (Yellow-Red)

<table>
<thead>
<tr>
<th>VALUE</th>
<th>2.5/</th>
<th>3/</th>
<th>4/</th>
<th>5/</th>
<th>6/</th>
<th>7/</th>
<th>8/</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5/</td>
<td>dark reddish gray</td>
<td>Very dusky red</td>
<td>Dark red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3/</td>
<td>dark reddish gray</td>
<td>Dark reddish brown</td>
<td>Dark red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4/</td>
<td>dark reddish gray</td>
<td>Reddish brown</td>
<td>Red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5/</td>
<td>reddish gray</td>
<td>Red</td>
<td>Weak red</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6/</td>
<td>light reddish gray</td>
<td>Light reddish brown</td>
<td>Light red</td>
<td>Light red</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7/</td>
<td>white</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
</tr>
<tr>
<td>8/</td>
<td>white</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
<td>Pink</td>
</tr>
</tbody>
</table>

**CHROMA**
### HUE 5YR (Yellow-Red)

<table>
<thead>
<tr>
<th>VALUE</th>
<th>8/1</th>
<th>7/1</th>
<th>6/1</th>
<th>5/1</th>
<th>4/1</th>
<th>3/1</th>
<th>2.5/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>white</td>
<td>white</td>
<td>pink</td>
<td>pink</td>
<td>reddish yellow</td>
<td>reddish brown</td>
<td>reddish brown</td>
<td>yellow red</td>
</tr>
<tr>
<td>light gray</td>
<td>pinkish gray</td>
<td>light reddish brown</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>gray</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reddish gray</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
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### HUE 7.5YR (Yellow-Red)

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TRPA Design Review Guidelines
APPENDIX G

121 Page G-3
### HUE 10YR (Yellow-Red)

<table>
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- **Value**: 8/7/6/5/4/3/2.5/1/2/3/4/5/6/7/8
- **Color**: white, light gray, gray, olive gray, olive gray, very dark gray, dark olive gray, black
- **Chroma**: values 1/2/3/4/5/6/7/8
- **Color**: pale yellow, light olive gray, pale olive gray, olive, olive gray, dark olive gray, black

### HUE 7.5Y (Yellow)

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- **Value**: 8/7/6/5/4/3/2.5/1/2/3/4/5/6/7/8
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### HUE 10Y (Yellow)

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- **Color**: white, light gray, gray, olive gray, olive gray, very dark gray, dark olive gray, black
- **Chroma**: values 1/2/3/4/5/6/7/8
- **Color**: pale yellow, light olive gray, pale olive gray, olive, olive gray, dark olive gray, black
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### GLEY 1

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TRPA INITIAL ENVIRONMENTAL CHECK LIST

for
The Initial Determination Of Environmental Impact

I PROJECT NAME AND DESCRIPTION: (use additional sheets, if necessary)
Amendments to Code Chapters 2, 4, 22, 30, 52, 53, 55, and 74 and Related Chapters, Goals and Policies, Chapter IV, and Design Review Guidelines to Implement a Littoral Parcel Review System and to Further Regulate Colors and Roof Materials

II ENVIRONMENTAL IMPACTS:
The following questionnaire will be completed by the applicant based on evidence submitted with the application. All "yes" and "no, with mitigation" answers will require further written comments.

1 Land
Will the proposal result in:

a. Compaction or covering of the soil beyond the limits allowed in the land capability or Individual Parcel Evaluation System (IPES)?

<table>
<thead>
<tr>
<th>Yes</th>
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<th>Data Insufficient</th>
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<tbody>
<tr>
<td></td>
<td>X</td>
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</tbody>
</table>

b. A change in the topography or ground surface relief features of site inconsistent with the natural surrounding conditions?

<table>
<thead>
<tr>
<th>Yes</th>
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</thead>
<tbody>
<tr>
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</table>

c. Unstable soil conditions during or after completion of the proposal?

<table>
<thead>
<tr>
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<th>No</th>
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<th>Data Insufficient</th>
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</thead>
<tbody>
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</table>

d. Changes in the undisturbed soil or native geologic substructures or grading in excess of 5 feet?

<table>
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<tr>
<th>Yes</th>
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</thead>
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</table>
c. The continuation of or increase in wind or water erosion of soils, either on or off the site?

<table>
<thead>
<tr>
<th>Yes</th>
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<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

f. Changes in deposition or erosion of beach sand, or changes in siltation, deposition or erosion, including natural littoral processes, which may modify the channel of a river or stream or the bed of a lake?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
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</tr>
</tbody>
</table>

g. Exposure of people or property to geologic hazards such as earthquakes, landslides, backshore erosion, avalanches, mud slides, ground failure, or similar hazards?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
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2 Air Quality

Will the proposal result in:

a. Substantial air pollutant emissions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
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</thead>
<tbody>
<tr>
<td></td>
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</table>

b. Deterioration of ambient (existing) air quality?

<table>
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<tr>
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<th>Data Insufficient</th>
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</thead>
<tbody>
<tr>
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c. The creation of objectionable odors?

<table>
<thead>
<tr>
<th>Yes</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
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</tr>
</tbody>
</table>
d. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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e. Increased use of diesel fuel?

<table>
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<tr>
<th>Yes</th>
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<th>No, with Mitigation</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
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3 Water Quality

Will the proposal result in:

a. Changes in currents, or the course or direction of water movements?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
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</table>

b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff so that a 20 yr. 1 hr. storm runoff (approximately 1 inch per hour) cannot be contained on the site?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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<th>Data Insufficient</th>
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</thead>
<tbody>
<tr>
<td></td>
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c. Alterations to the course or flow of 100-year flood waters?

<table>
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<th>No</th>
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d. Change in the amount of surface water in any water body?

<table>
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<tbody>
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</table>
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?

<table>
<thead>
<tr>
<th></th>
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f. Alteration of the direction or rate of flow of groundwater?

<table>
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g. Change in the quantity of groundwater, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

<table>
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h. Substantial reduction in the amount of water otherwise available for public water supplies?

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i. Exposure of people or property to water related hazards such as flooding and/or wave action from 100-year storm occurrence or seiches?

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j. The potential discharge of contaminants to the groundwater or any alteration of groundwater quality?

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Vegetation

Will the proposal result in:

a. Removal of native vegetation in excess of the area utilized for the actual development permitted by the land capability/IPES system?

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b. Removal of riparian vegetation or other vegetation associated with critical wildlife habitat, either through direct removal or indirect lowering of the groundwater table?

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c. Introduction of new vegetation that will require excessive fertilizer or water, or will provide a barrier to the normal replenishment of existing species?

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See Attachment F of the 10/16/02 Staff Summary for an expanded explanation.

d. Change in the diversity or distribution of species, or number of any species of plants (including trees, shrubs, grass, crops, micro flora and aquatic plants)?

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c. Reduction of the numbers of any unique, rare or endangered species of plants?

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f. Removal of streambank and/or backshore vegetation, including woody vegetation such as willows?

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g. Removal of any native live, dead or dying trees 30 inches or greater in diameter at breast height (dbh) within TRPA’s Conservation or Recreation land use classifications?

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h. A change in the natural functioning of an old growth ecosystem?

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5 Wildlife

Will the proposal result in:

a. Change in the diversity or distribution of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects, mammals, amphibians or microfauna)?

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b. Reduction of the number of any unique, rare or endangered species of animals?

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c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?

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d. Deterioration of existing fish or wildlife habitat quantity or quality?

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6 Noise

Will the proposal result in:

a. Increases in existing Community Noise Equivalency Levels (CNEL) beyond those permitted in the applicable Plan Area Statement, Community Plan or Master Plan?

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b. Exposure of people to severe noise levels?

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c. Single event noise levels greater than those set forth in the TRPA Noise Environmental Threshold?

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7 Light and Glare

Will the proposal:

a. Include new or modified sources of exterior lighting?

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b. Create new illumination that is more substantial than other lighting, if any, within surrounding area?

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c. Cause light from exterior sources to be cast off-site or onto public lands?

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d. Create new sources of glare through the siting of the improvements or through the use of reflective materials?

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8 **Land Use**

Will the proposal:

a. Include uses which are not listed as permissible uses in the applicable Plan Area Statement, adopted Community Plan, or Master Plan?

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b. Expand or intensify an existing non-conforming use?

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9 **Natural Resources**

Will the proposal result in:

a. A substantial increase in the rate of use of any natural resources?

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b. Substantial depletion of any non-renewable natural resource?

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10 Risk of Upset
Will the proposal:

a. Involve a risk of an explosion or the release of hazardous substances including, but not limited to, oil, pesticides, chemicals, or radiation in the event of an accident or upset conditions?

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b. Involve possible interference with an emergency evacuation plan?

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11 Population
Will the proposal:

a. Alter the location, distribution, density, or growth rates of the human population planned for the Region?

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<th>Yes</th>
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b. Include or result in the temporary or permanent displacement of residents?

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12 Housing

Will the proposal:

a. Affect existing housing, or create a demand for additional housing?

To determine if the proposal will affect existing housing or create a demand for additional housing, please answer the following questions:

(1) Will the proposal decrease the amount of housing in the Tahoe Region?

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(2) Will the proposal decrease the amount of housing in the Tahoe Region historically or currently being rented at rates affordable by lower and very-low-income households?

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Number of Existing Dwelling Units __________

Number of Proposed Dwelling Units __________

b. Will the proposal result in the loss of housing for lower-income and very-low-income households?

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13 Transportation/Circulation

Will the proposal result in:

a. Generation of 100 or more new daily vehicle trip ends (DVTE)?

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b. Changes to existing parking facilities, or demand for new parking?

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c. Substantial impact upon existing transportation systems, including highway, transit, bicycle or pedestrian facilities?

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d. Alterations to present patterns of circulation or movement of people and/or goods?

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e. Alterations to waterborne, rail or air traffic?

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f. Increase in traffic hazards to motor vehicles, bicyclists, or pedestrians?

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14 Public Services

Will the proposal have an unplanned effect upon, or result in a need for new or altered governmental services in any of the following areas?

a. Fire protection?

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See Attachment F of the 10/16/02 Staff Summary for an expanded explanation.

b. Police protection?

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c. Schools?

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d. Parks or other recreational facilities?

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e. Maintenance of public facilities, including roads?

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f. Other governmental services?

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15 **Energy**

Will the proposal result in:

a. Use of substantial amounts of fuel or energy?

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b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?

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16 **Utilities**

Except for planned improvements, will the proposal result in a need for new systems, or substantial alterations to the following utilities:

a. Power or natural gas?

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b. Communication systems?

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c. Utilize additional water which amount will exceed the maximum permitted capacity of the service provider?

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d. Utilize additional sewage treatment capacity which amount will exceed the maximum permitted capacity of the sewage treatment provider?

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e. Storm water drainage?

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f. Solid waste and disposal?

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17 Human Health

Will the proposal result in:

a. Creation of any health hazard or potential health hazard (excluding mental health)?

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b. Exposure of people to potential health hazards?

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Scenic Resources/Community Design

Will the proposal:

a. Be visible from any state or federal highway, Pioneer Trail or from Lake Tahoe?

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The proposal is an amendment to the Regional Plan that would result in additional scenic mitigation to reduce visual contrast in the natural landscape. The proposal would require projects visible from the scenic corridors to implement measures to reduce impacts to scenic quality.

b. Be visible from any public recreation area or TRPA designated bicycle trail?

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The proposal is an amendment to the Regional Plan that would result in additional scenic mitigation to reduce visual contrast in the natural landscape. The proposal would require projects visible from the scenic corridors to implement measures to reduce impacts to scenic quality.

c. Block or modify an existing view of Lake Tahoe or other scenic vista seen from a public road or other public area?

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d. Be inconsistent with the height and design standards required by the applicable ordinance or Community Plan?

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e. 
f. Be inconsistent with the TRPA Scenic Quality Improvement Program (SQIP) or Design Review Guidelines?

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19 Recreation:

Does the proposal:

a. Create additional demand for recreation facilities?

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b. Create additional recreation capacity?

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c. Have the potential to create conflicts between recreation uses, either existing or proposed?

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d. Result in a decrease or loss of public access to any lake, waterway, or public lands?

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20 Archaeological/Historical

a. Will the proposal result in an alteration of or adverse physical or aesthetic effect to a significant archaeological or historical site, structure, object or building?

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The proposed ordinance has language that exempts historical structures from the scenic mitigation requirements.

b. Is the proposed project located on a property with any known cultural, historical, and/or archaeological resources, including resources on TRPA or other regulatory official maps or records?

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c. Is the property associated with any historically significant events and/or sites or persons?

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d. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?

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The proposed ordinance has language that exempts historical structures from the scenic mitigation requirements.

e. Will the proposal restrict historic or pre-historic religious or sacred uses within the potential impact area?

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21 **Findings of Significance.**

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California or Nevada history or prehistory?

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b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)

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c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environmental is significant?)

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d. Does the project have environmental impacts which will cause substantial adverse effects on human being, either directly or indirectly?

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III  CERTIFICATION

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

[Signature]

10/16/02

Signature of Person Completing this Form
Date

IV  DETERMINATION (TO BE COMPLETED BY TRPA)

On the basis of this evaluation:

a. The proposed project could not have a significant effect on the environment and a finding of no significant effect shall be prepared in accordance with TRPA's Rules of Procedure.

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b. The proposed project could have a significant effect on the environment, but due to the listed mitigation measures which have been added to the project, could have no significant effect on the environment and a mitigated finding of no significant effect shall be prepared in accordance with TRPA's Rules and Procedures.

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c. The proposed project may have a significant effect on the environment and an environmental impact statement shall be prepared in accordance with this chapter and TRPA's Rules of Procedure.

[Signature]

10/16/02

Signature of Evaluator
Date

Senior Planner, Scenic Program Manager
Title of Evaluator
INTRODUCTION

Scenic quality is the most identified natural resource of the Lake Tahoe Basin. Visitors to the area enjoy views of a magnificent lake setting within a forested mountainous environment. The Tahoe Basin is unique in that it combines visual elements normally found in several different landscape settings into one clearly defined region exhibiting exceptionally high aesthetic values.

The high scenic quality of the Basin is the result of several factors. First, and probably most important, is the Lake itself. Distinctive mountain landforms surround the flat plane of the Lake, creating an enclosed landscape. The edges between sky and ridge tops, between water and shore, and between vegetation and rock all add interest to the scenic landscape. Finally, numerous smaller features such as streams, rock formations, sandy beaches, and rocky shorelines each create landscapes of interest on a more intimate scale. It is this natural landscape seen from the region’s scenic corridors, recreation areas and bike trails that the framers of the TRPA Compact intended to preserve when they declared, "Maintenance of the social and economic health of the region depends on maintaining the significant scenic values provided by the Lake Tahoe Basin." (TRPA Compact, Public Law 96-551-Dec. 19, 1980, Article I)

The TRPA Compact provided for the development and implementation of environmental threshold carrying capacities or ‘thresholds’. In 1982, the threshold study team completed the scenic resource inventory and evaluation necessary to define and establish threshold standards for preservation of scenic quality. At that time numerical standards were established for roadway and shoreline travel route ratings, and roadway and shoreline scenic quality ratings. Additionally, TRPA adopted a management standard policy statement for overall community design elements.

BACKGROUND

Threshold Study Report - Scenic

From the late 1970s onward, numerous policies were adopted by a variety of agencies that relate to scenic quality within the Basin. Although motivated by a common goal, “to prevent the destruction of attractive natural features and qualities of the region” (CTRPA), the early policies give no uniform standards for scenic quality protection in the Tahoe Basin.

In accordance with the Compact directive to develop environmental threshold carrying capacities, TRPA convened a threshold study team to assist in development of the scenic resource threshold. The firm of Wagstaff and Brady, a landscape architecture and urban planning firm, was selected as the consultant for the study team.

The purpose of the Study Report was to establish threshold standards for the protection of scenic quality and development of a methodology for measuring change in scenic quality over time.

The team began by developing a draft value statement focusing the scope of their work on protection of the natural landscape, while also emphasizing the identification and protection of existing visual resources as envisioned and outlined in the Compact. This three-part value
statement was derived from existing goal statements contained in various TRPA, local, state and federal documents relating to the Tahoe Basin. They are as follows:

1. Maintain and enhance the dominant natural-appearing landscape for the vast majority of views and lands in the basin.
2. Maintain and/or improve the aesthetic characteristics of the man-made environment to be compatible with the natural environment.
3. Restore, whenever possible, damaged natural landscapes.

Most viewers see the landscape either from major roadways or from the Lake waters. Despite their relative importance to Basin-wide scenic values, the majority of the lands immediately surrounding the Lake and along many of the major roadways are privately owned, and where most development has taken place. Consequently, these are also the areas where the scenic quality is most threatened. Scenic deterioration results from types of development that dominate or are incompatible with the natural landscape; in locations, visible from major roadways, that block important views and that remove vegetation and natural features, and that alter the topography. Therefore, the focus of the scenic study was on defining components of visual resources, identifying, evaluating and mapping those resources, and establishing thresholds for major visual resources that can be seen from major Basin roadways and from the Lake itself, as these are the areas of greatest use by both visitors and residents.

Past Resource Inventory and Assessment
The condition of Tahoe’s scenic resources is described and understood through intensive inventory of past and current conditions. The major source of historical data trends of the scenic resources began in 1971 with the U.S. Forest Service (USFS) study, “Scenic Analysis of Principal Travel Routes in the Lake Tahoe Region”, a study to analyze and evaluate comparative scenic values of the major roads in the Lake Tahoe region and of views seen from the Lake itself. The study provided the foundation for further work conducted by the threshold study team in developing the scenic thresholds. The USFS study divided roadways and the Lake shoreline into units. The scenery of each of the 43 roadway units was evaluated based on man-made features, physical distractions to driving along the roadways, roadway characteristics, views of the Lake from the ways, general landscape views, and the variety of scenery from roadways and shoreline. Within each of these criteria, a numerical grade was assigned, varying from a low of 1 to a high of 5. Each unit could have a score between 6 and 30. For the 33 shoreline units, the study team primarily evaluated the views from the Lake, as seen by viewers on sight-seeing boats. Ratings were based on man-made features, general landscape/background views, and the variety of scenery from the shoreline relating to Lake travel; scores varied between 3 and 15. A 1978 update of the roadway portion of this analysis showed deterioration in scenic quality, chiefly resulting from new development and construction, and signing and grading along roadways.

The threshold study team updated the USFS study for 1982. Because the travel route ratings provided a baseline condition for measuring scenic quality and a way of measuring change in scenic quality over time, these ratings were adopted as one of the scenic quality thresholds in the Regional Plan.

---

SHORELINE THRESHOLD STANDARDS

To establish thresholds, an updated analysis of the principal travel routes was conducted in 1982. The analysis included inventory and evaluation of scenic resources, and was used to establish the baseline condition of existing resources, so that threshold levels can be tied to measurable degrees of change in resource status, which would result from change in the landscape. The 43 roadway and 33 shoreline units defined by the 1971 study were used for this inventory. From this point forward, this summary focuses on the shoreline units only.

Each scenic shoreline unit was surveyed and evaluated. The 1982 update evaluated scenery for each shoreline unit based on the following criteria:

1. Man-made features (particularly along the shoreline).
2. General landscape/background views from the shoreline units.
3. Variety of scenery from the shoreline units.

For the analysis within each criterion, numerical grades were assigned from 1 to 5, with 1 for low, 3 for medium, and 5 for a high rating. For the scoring, the threshold study team traveled at a slow speed around the lake at a distance from shore similar to that traveled by sight-seeing boats. A continuous section of lakeshore with similar landscape characteristics was designated as a unit. Shoreline units could have scores from a minimum of 3 to a maximum of 15; the actual scores ranged from 5 to 14. The results of the 1982 update were summarized in the 1982 Study Report for the Establishment of Environmental Threshold Carrying Capacities and became the baseline condition against which the threshold standards were measured.

Although various alternatives were analyzed in the Study Report from no action to maximum scenic quality protection, the TRPA Governing Board ultimately adopted, in Resolution 82-11, the mid-level alternative recommended by the report. The adopted threshold policy was expressed in numeric terms, and represents existing scenic quality for each shoreline unit. It also recommended that the scenic quality of the travel experience (travel route rating) on major roadways and shoreline units should be monitored through periodic updates (threshold evaluations) of the scenic analysis of principal travel routes, to maintain and attain the ratings established in the 1982 update. The policy stated the following: "Maintain the 1982 travel route ratings on all roadway and shoreline units. Restore scenic quality in roadway units rated 15 or below and shoreline units rated 7 or below."

In practice, the adopted threshold rating (i.e., existing scenic quality) was to be maintained or improved and mechanisms for ensuring this level of scenic quality were adopted in the Regional Plan. This threshold was based on average scenic quality as the minimum threshold standard to be met in achieving attainment, and beyond that to maintain the baseline condition for units that had better than average scenic quality.

Threshold evaluations are conducted every five years through a combination of field visits, analysis of landscape changes, consideration of new development recorded by TRPA, and photographic and video review of travel routes. A team or panel of scenic experts familiar with the scoring system usually conducts the evaluation. Each squad member scores each unit, followed by discussion and determination of an agreed (aggregate) score, with reference to previous scores and any identified changes in the landscape since the last evaluation. In the procedure for rating shoreline travel routes, the combined scenic contributions of shorezone, littoral parcels ("shorelands"), and backdrop are evaluated, to reflect the cumulative visual condition of the entire unit. Shorezone and shoreland structures tend to be evaluated primarily by the 'man-made features' criterion, and man-made changes on slopes above the Lake can
influence the general landscape/background views criterion; however, man-made changes anywhere in the unit are considered under the man-made features criterion, and can also influence the variety criterion.

RESULTS OF THRESHOLD EVALUATION

TRPA’s Regional Plan requires a five-year evaluation of progress towards threshold attainment and meeting interim targets. It is also intended to assess the effectiveness of the Regional Plan’s control measures. In 1991, the first evaluation was conducted. The visual condition of the shoreline was recorded from a boat, approximately 300 feet from the shore. After the videotapes were reviewed, an evaluation field team checked all shoreline units to identify changes that had taken place since the 1986 rating and to evaluate their effect on the applicable ratings. The participating team members all had previous experience in using TRPA’s scenic threshold and familiarity with the Tahoe landscape, and thus able to provide continuity. TRPA’s permit database was queried for new and remodeled construction that had occurred, in order to evaluate the effect on the units’ ratings.

The 1991 Threshold Evaluation Report revealed significant changes in four shoreline units that caused a decrease in ratings. Units that declined in scenic quality were primarily the result of a reduction in score for the ‘variety of scenery’ criterion. The lowered variety ratings were primarily due to the cumulative effect of build-out of residential structures visible from Lake Tahoe. As property values increased, small cabins were converted to large estates and mansions, thus changing the character of the shoreline. These mansions and the large piers that are often built during conversions dominate what was once a natural-looking shoreline. In terms of the ratings, variety is a result of changes in the total landscape that can be created by harmonious combinations of topography, vegetation, water, or man-made structures. Positive variety results when the changes harmonize with the natural environment. However, as the 1991 findings indicated, the trend towards larger homes dominating the natural setting affected the variety criterion and, in many cases, the man-made criterion as well.

The 1996 Threshold Evaluation Report, as in 1991, showed that travel route ratings generally improved in urban roadway travel units, and decreased in shoreline travel units. The remodeling trend in the shoreline resulted in massive structures that adversely impacted the natural character of the landscape. Of the 33 shoreline units covered by the threshold, an additional three declined from 1991 conditions and none improved. The primary reason for degradation in scenic quality was additional development, generally of residential structures and accessory uses, which cumulatively lowered the man-made feature of the threshold in particular. In degraded units, new or remodeled structures tended to be large and bulky and built too close to the water’s edge for their size, or did not utilize effective screening to the point where they were a significant distraction from the natural landscape setting. This trend was first noticed in 1991 and continued in 1996.

The 2001 Threshold Evaluation Report shows that the declining trend in scenic quality along the shoreline units continues, however at an increased pace. The evaluation findings show that an additional four units declined from 1996 conditions. Similar to the findings identified in 1991 and 1996, the trend of residential rebuilds that result in larger, massive structures along the shoreline was contributing to decreased scenic quality and a numerical decline in the man-made and variety criteria. The following problems were noted in the 2001 Evaluation:

- Dramatic increase in the scale and mass of structures along the shoreline. In many cases the structures are inadequately screened or sited to reduce visual dominance from the Lake.
- Residential structures along the shoreline are being placed at the backshore boundary line. This reduces the areas that can effectively be used to retain native vegetation and effectively screen structures.
- Architectural features that are resulting in increased visibility and reflectivity. This trend includes the expansive use of glass, use of reflective roof materials, and the use of exterior materials that are too light-colored and that fail to visually recede in the forested backdrop.

Although the decline in scenic quality in the shoreline units is not limited to residential development along the shoreline, it is the major contributor in many areas around the Lake. The scenic units, when evaluated from the Lake, take into account development along the ridgeline and backdrop areas of the Region. However, because of the distance factor from the viewer, the impacts are primarily seen in the visible foreground view, which is increasingly dominated by development along the shoreline. Therefore, shoreline development and, in particular, the larger new and remodeled structures occurring along the shoreline, tend to have the greatest impact on the shoreline’s scenic quality.

REGULATORY APPROACH

A regulatory approach under a system of defined scenic thresholds, as with all resources, must address both the risks of future degradation and the measures needed to restore scenic qualities to threshold attainment levels. TRPA has operated a system of identifying at-risk units where trends have been noticed, but are not necessarily fully reflected in the ratings (since these are cumulative measures and single structures or lots may not necessarily tip a unit over the edge of a rating change). It is, therefore, essential that TRPA develop measures to address cumulative changes, with a fair share system addressing each individual lot or development. Faced with a continuing and accelerating decline in scenic thresholds, with the goal of attainment and, thus, legal compliance becoming harder and harder to reach, it is appropriate that the agency apply the precautionary principle in eliminating/replacing procedures which have permitted further decline, and instituting firm actions to improve existing conditions. While TRPA has demonstrated considerable innovation in continuing to explore non-regulatory solutions such as incentive programs and trading scenic credits, in partnership with various stakeholders, ultimately there remains the need to protect both public resource values and private property values through regulation of scenic quality.

PROPOSED SCENIC ORDINANCE AMENDMENTS

The proposed system targets the dominant causes of decline in the shoreline thresholds, and, as a key part of the larger program to address scenic threshold attainment, should reverse the trend. Through its ongoing consultation process with both experts and representatives of interested and affected stakeholders, TRPA has demonstrated a serious commitment to halting longstanding trends, while specifically addressing the concerns of local residents and businesses. The series of amendments in the ordinances proposed at this time respond to some of the key recommendations in the threshold evaluation report, and represent a substantively improved approach to the problem, relative to current project approval procedures; as such, we endorse it as a vital component in the overall program to reach attainment.

The concept of visual magnitude and contrast rating provides a means to assess the visual impact of each shoreland house and littoral parcel in a quantitative manner, relate that equitably to neighbouring properties within the same unit, and allow for additional development in the Lake viewshed where there is visual capacity on the parcel. This is all without the more normal massing standards or Floor-area ratios which are routinely used to limit overall house size in
many other jurisdictions. The overall concept is based on the presumption that if all the homes complied with Scenic BMPs, and were limited to a certain amount of visible façade and/or have visual breaks with vegetation to reduce the appearance of massing, then the threshold scores would rise to attainment. This is consistent with reduced dominance of the structures relative to the natural environment, and helps stay closer to the “Tahoe look” of handsome structures with natural materials, nestling in the forest at the edge of the Lake with spectacular framed views of the water. The intent is that the improvements in colour, material, vegetation framing, and apparent massing of the buildings will cumulatively more than compensate over time for the generally increasing size of houses and the adverse scenic impacts that have already occurred from housing and other structures built before the proposed system was developed. It should also be noted that the weaker the regulations in the shoreland (littoral) parcels, the stronger must be the controls on shorezone development in order to realise a nett gain/no nett loss overall.

The measures contained in the current form of the ordinance should meet the needs of threshold attainment over the long term in our estimation. However, whether the measures are effective in reaching actual attainment targets can only be confirmed through monitoring over at least the next 5-10 years, and probably longer. Because the ordinance does not contain any measures to oblige owners of existing structures which do not conform with the new requirements to mitigate their scenic impact, we estimate that it is likely to take 20 years or even longer to reach attainment in all shoreline units. This is because TRPA anticipates about 50 project permits in the shoreland per year which would trigger scenic BMPs at some level; this represents approximately 5% of the overall shoreland housing stock, and therefore it would take approximately 20 years to reach 100% of the house. Repainting houses (which happens more frequently) with the lower contrast range of colours will also help some homes substantially, but does nothing to reduce visual mass or increase levels of natural vegetation in the many more recent larger homes which occur in the various Non-Attainment Units, and which are not likely to come in for permits triggering BMPs in the next few years. For these reasons, we encourage TRPA to go beyond the regulations proposed here, and develop incentive programs and community outreach programs to encourage more rapid cumulative improvements in scenic quality. It would also be very important to develop a more comprehensive quantitative inventory of the shoreland parcels (as has been done with the shorezone structures), using the vismag/contrast rating system, to permit more confident and precision in predictions of what it will take to reach attainment and when that might be expected.

Dr. Stephen Sheppard, ASLA
University of British Columbia

Sheila Brady, ASLA
LSA, Associates

Wayne Iverson, FASLA
Scenic Resource Management
November 12, 2002

Mr. Gordon W. Barrett
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

Re: Proposed Shorezone Scenic Evaluation System Impact on Property Values

Dear Mr. Barrett:

The Tahoe Regional Planning Agency (TRPA) is currently considering the implementation of a new shorezone scenic evaluation system that will be applied to new developments and reconstruction projects within 300 feet of the Lake Tahoe shoreline. This letter is in response to your request that we address, in a general manner, how the proposed scenic evaluation system may affect the current and future values of lakefront properties in the Lake Tahoe Basin.

Stephen R. Johnson, MAI, SREA and Cynthia Johnson, SRA are principals in the appraisal and consulting firm of Johnson-Perkins & Associates, Inc. The firm maintains offices in Reno and Roundhill, Nevada and is the largest independent real estate appraisal and consulting firm in northwestern Nevada and northeastern California. Both Mr. Johnson and Mrs. Johnson have in excess of thirty years of real estate appraisal experience and have resided in the Lake Tahoe Basin for approximately twenty years. Both appraisers are licensed
in the states of Nevada and California. They have appraised thousands of parcels in the Lake Tahoe Basin over the past twenty years ranging from remote vacant residential homesites to the largest commercial properties. While Mr. Johnson has appraised numerous vacant and improved lakefront properties, Mrs. Johnson has specialized in appraising lakefront residential homes.

The scope of our investigations have included reviewing various drafts of the proposed scenic evaluation regulations (most recent 11-12-02), meeting on a number of occasions with TRPA staff, reviewing photo simulations prepared by the TRPA staff and other consultants, attending a workshop on this issue, meeting with private TRPA consultants and other parties, and reviewing letters, maps and other documentation assembled by the Committee for Reasonable Regulation of Lake Tahoe. The scope of our assignment was to determine whether or not the new scenic evaluation system would have a significant negative impact on the value of lakefront properties. Our evaluation was based upon the difference between projects approved under current regulatory standards as compared to projects along the lakefront which will be evaluated under the proposed regulations. It should also be noted that TRPA considers itself obligated to cease approving projects under the current regulatory standards that may be deleterious to the thresholds.

All lakefront residential projects submitted to the Tahoe Regional Planning Agency for review and approval are currently evaluated based upon their scenic impact. The scenic issues had been evaluated by individual TRPA staff members based upon a qualitative system. The evaluations have primarily involved the TRPA staff, the property owners and outside consultants reviewing photo simulations of the proposed development and then negotiating the terms and conditions of approval. As a result, lakefront property owners requesting approval to build a new residence have found it very difficult to anticipate how their proposed project would be interpreted from a scenic standpoint. There have also been reports of differing interpretations from individuals within the Tahoe Regional Planning Agency. This has contributed to lengthy and potential costly project approvals.
A more quantifiable and clearly understood system should help minimize uncertainty for both TRPA staff members and lakefront property owners. As the guidelines are more fully understood by the architects, builders and property owners, the scenic issues will be more readily and completely addressed. This should reduce much of the uncertainty that results in increased risk to a proposed project. A more quantifiable and objective system should also result in reduced project approval times. From a valuation standpoint, the reduced risk and project approval time represent value enhancements to the property.

The scenic best management practices (BMP’s) are mitigation measures that are intended to reduce the visual impact of structures and insure that these structures more completely integrate with Lake Tahoe’s natural environment. The scenic mitigation measures proposed by the Tahoe Regional Planning Agency for reconstruction projects and new construction projects include the use of landscaping, building design, grass treatment, articulation, color, texture, screening and other such techniques.

Based upon the Tahoe Regional Planning Agency database, there are a total of 1,451 lakefront parcels in the Tahoe Basin. Of these parcels, only 103 properties are reportedly vacant and privately owned. This represents only 7.1% of the lakefront properties. Reportedly, 1,042 parcels involve single family or condominium utilizations which represent 71.81% of the lakefront properties. The balance of the properties involve tourist accommodations, commercial uses, public facilities or recreational facilities. Based upon the TRPA database, 56% of the lakefront residential parcels involve 100 or less linear feet of lakefrontage. 33% of the parcels involve between 101 and 200 feet of frontage, while the remaining 11% of the parcels involve properties with more than 200 linear feet of frontage on Lake Tahoe.

Under the proposed ordinance, there are essentially five levels of activity which will trigger escalating conformance with the scenic standards. The various levels and required actions are discussed as follows:
Level One

Addresses existing structures for which normal repairs and maintenance are proposed. All normal maintenance and repairs with the exception of those areas which impact the exterior color of the building are exempted. It is further these consultants’ understanding that the vast majority of interior modifications to a residence are also exempted from the scenic ordinance. As a result, it is also our understanding that no scenic BMP’s will be required for an existing residence undergoing an interior renovation or normal maintenance and repairs, with the exception of those impacting the exterior color of the structure.

Level Two

Activities falling under Level Two involve the repainting or re-roofing of existing structures. It is these consultants’ understanding that, at the point in time that a house is repainted or re-roofed, the owner will be required to select exterior colors which are in conformance with the Munsell color requirements. In essence, under Level Two activities, the homeowner will only need to select a darker earthtone color that will blend with the surrounding natural environment. It is these appraisal consultants’ opinion that the Munsell color requirements for both the exterior painting and roof of the residence should not have a material impact on the value of the single family residences.

Level Three

Level Three applies to existing structures that are undergoing a small remodeling or construction project where the cost is 10% or less of the replacement value of the structure and the result is 1,500 square feet or less of lakeshore façade or non-repair projects on structures adjacent to and lakeward of the shoreline. These Level Three projects will be required to implement scenic BMP’s in the immediate shorezone upland area. The property owner will be required to bring the property into conformance with the minimum contrast rating score of 21 with several significant exceptions. Existing properties will be exempt from obtaining the score of 21 if it is physically impossible to do so. Finally, the cost of the
scenic BMP's shall not exceed 10% of the cost of the project. The property owner, however, will still be required to obtain the highest possible score.

Many of the existing lakefront residences in the Lake Tahoe Basin already meet a minimum contrast rating score of 21. As a result, in these instances no additional action will be required. Finally, the last protection provided under the Level Three activity is that the scenic BMP's cannot exceed 10% of the cost of the remodeling or construction project. As a result, for smaller projects, only minimal scenic BMP improvements will be required.

In summary, it is these consultants conclusion that the Level Three requirements which impact existing structures undergoing a small remodeling project should not be significantly impacted as a result of the new scenic BMP requirements.

Level Four

Level Four activity involves projects which are visible from Lake Tahoe with more than 1,500 square feet of façade and where the project cost is greater than 10% but equal to or less than 50% of the replacement cost of the existing structure. Under the Level Four activity, the property owner will be allowed two options to meet the scenic mitigation requirements.

Under the first option, the property owner will need to obtain a minimum contrast rating score of 24. The same two exemptions which were discussed under Level Three activity will still apply. In addition, the resulting allowable visible façade square footage in the project area shall not exceed 2,200 square feet or that of the existing visible façade. The 2,200 square feet of permissible visible façade shall be increased by 5% for each additional ten feet of linear lake frontage over 100 feet. Existing structures exceeding these standards shall be required to mitigate any additional square footage on a 1:1 basis. The minimum building setback from the shoreline will be 10% of the lot depth not to exceed 20 feet. The side yard setbacks are to be 10% of the width of the lot and no expansion shall be allowed in
the setback areas. Under this level of activity it will also be necessary to provide approximately 250 square feet of screening for every 1,000 square feet of lakefront façade.

Under Option One the scenic BMP’s cannot exceed 10% of the cost of the remodeling or construction project. To achieve the minimum contrast rating score of 24, the owner may achieve the required score by repainting the exterior of the residence in conformance with the Munsell color requirements and installing the necessary landscape screening. It is possible that these modifications could be accomplished at a cost below the 10% maximum cap. In other cases where the full 10% cap is expended on scenic BMP’s, it is conceivable that if these BMP’s are properly designed and installed, that they could result in an enhancement to the value of the subject property equivalent to or in excess of the cost of the scenic BMP’s.

Option Two under a Level Four activity allows the property owner to utilize the visual magnitude system. The project must score a minimum contrast point score for the desired square footage of visual magnitude. or must implement the scenic BMP’s as required under the Level Three activity, if non-conforming. Under the Level Four Option Two, scenic non-conforming projects shall implement visual breaks that demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structure. In essence, this provision requires that the proposed project achieve the percentage attainment equivalent to the percentage that the cost of the project represents of the total cost new of the structure.

In summary, under the Level Four activity, the impacts of implementing increased scenic BMP requirements have been somewhat minimized. The implementation of visual scenic breaks could have some impact on the view enjoyed from the residence. As a result, Level Four could result in some diminution in value as a result of the reduction in the view from the residence for those projects involving more than 1,500 square feet of lakefront façade where the cost of the project is between 10% and 50% of the cost new of the structure.
Level Five

Level Five involves new construction of single family residences and major
reconstruction projects to existing structures where the cost of the project is more than 50% of
the replacement cost new of the existing structure. At this level of activity, the property
owner is offered two options. Under the first option, the project must achieve a minimum
contrast score of 28 or the property owner may utilize Option Two which falls under the
visual magnitude rating system.

Under the visual magnitude rating system, the utilization of dark carthorne colors
which blend with the natural environment are strongly encouraged. The screening of the
perimeter of visual structures is also encouraged through the utilization of landscaping and
natural vegetation. Finally, the use of increased surface planes and heavy texture exterior
materials are encouraged. Projects designed with these features in mind will achieve the
maximum allowable visible square footage. As the amount of lake frontage increases over
100 feet, the visible square footage allowed for any project is increased.

In summary, it is these consultants’ understanding that through the utilization of dark
carthorne colors, enhanced landscaping and the utilization of architectural exterior features,
that a residential structure may still be allowed a reasonable amount of visible square footage.
It is these appraisers’ opinion that, if these elements are properly incorporated into the
residential project, it will result in an enhancement of the overall appearance and desirability
of the completed residential project.

Under Level Five activity, it is these consultants concern that the scenic BMP
requirements may limit the view potential, as compared to prior approvals, from new and
significantly remodeled lakefront homes. As the view potential from a home has a significant
impact on value, it is likely that a significant reduction in the view potential from a home will
result in a decline in the value of that home. The Level Five requirements will also, in all
likelihood, limit the amount of lakefront facade available to unimproved lakefront lots. A
significant reduction in the development potential in these lots will also result in a reduction in the value of these homesites.

In summary, the vast majority of the lakefront residential properties are currently improved. These existing residential structures will not be impacted by these scenic BMP requirements in any significant manner until such time as a major remodeling or reconstruction project is initiated. For the projects where the remodeling costs fall between 10% and 50% of the replacement cost new of the structure, the scenic BMP requirements are not felt to be significant and should not significantly impact the value of these properties. For those projects that involve major reconstruction activities, expansions or new residential construction, the new scenic BMP requirements may result in the view potential from the home being reduced and the lakefront facade also being reduced in comparison to past approval projects. The new scenic ordinances will, in all likelihood, result in a reduction in the amount of visible glass incorporated within these projects, as compared to some of the lakefront homes which have been built in recent years incorporating floor to ceiling windows fronting to Lake Tahoe.

It is these consultants' opinion that as a result of the potential reduction in the view potential from these lakefront homes, the potential for the reduction in the amount of visible glass incorporated into the structures and the limitation on the amount of lakefront facade may have an impact on the value of properties experiencing a major reconstruction or vacant parcels. It is not possible for these appraisers to estimate the exact decline in value which may result from these new regulations without an extensive analysis of the homes which could be approved under current regulations as compared to homes which could be approved under the revised scenic BMP requirements. The impact on value will also be dependent upon how some of the regulations are interpreted and implemented.
Finally, it is these consultants' opinion that through the proper integration and design
of the architectural features, color components and landscaping, that the overall attractiveness
and desirability of the residential projects will be enhanced.

The number of properties being improved with new single family residences or that
involve substantial reconstruction or expansion of existing properties represent a very small
percentage of the lakefront properties in the Lake Tahoe Basin.

Although the new scenic BMP requirements are not felt to have a significant impact
on Level One through Four activity, it is felt that for those properties involving a Level Five
activity, the new regulations could result in a decline in the value of individual properties. As
a relatively small number of properties will fall under the Level Five requirements each year,
it is felt that the impact on the overall value of lakefront properties in the Lake Tahoe Basin
should be relatively minor.

It is further these consultants' opinion that the proposed regulations should not have a
significant impact on the ad valorem tax base in the Lake Tahoe Basin. In the state of
California Proposition 13 requires that the value of the property be established as of the date
of acquisition. As a result, many of the California properties are currently on the tax rolls at
substantially below their current Market Values. On the Nevada side of the Lake Tahoe
Basin, the taxable values are established by estimating the Market Value of the land and then
adding the replacement cost new of the structures less one and a half percent depreciation per
year. It has been these consultants' observation that the above formula typically results in the
value of the improved properties in the State of Nevada being placed on the tax rolls at less
than the full cash value. As the taxable values in both the states of California and Nevada are
on the rolls at values below market levels, it is felt that in the few instances where the
property may experience a decline in value, that the real property taxes collected will in all
probability not be impacted.
We hope this letter is of assistance in evaluating the proposed scenic ordinances and should you have any additional questions, please do not hesitate to contact us.

Respectfully Submitted,

Stephen R. Johnson, MAI, SREA
California Certified General Appraiser
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Nevada Certified General Appraiser
License #00003

Cynthia Johnson, SRA
California Certified General Appraiser
License #AR011120
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MEMORANDUM

Date: October 10, 2002

To: TRPA Governing Board

From: Mike Vollmer, Vegetation Program Manager

Subject: Evaluation of Proposed Scenic System Landscaping Requirements and their Potential Impacts to Fire Hazard (Urban-Wildland Interface (fire) Code) and Water Quality

Fire Hazard
TRPA staff understand that wildfire poses a great threat to life, property and the natural environment of the Lake Tahoe Basin. The regional climate, vegetation and topography combine to create a “first-rate” fire environment. As a result, ecosystems in the region have evolved with fire as a necessary component for ecological health. Fire contributes to ecosystem health by thinning forests, removing decayed growth and preparing seed beds for regeneration of new plants. However, with the large amount of urban wildland interface in the Basin, it is not only necessary, but also imperative that fuels and fire be managed for public safety and protection of property.

The Fire Chiefs of the Tahoe Basin have voiced their concern regarding possible conflicts between TRPA’s “Amendments to Implement a Shorezone Review System” and the Urban-Wildland Interface Fire Code (from the International Fire Code Institute). The “Amendments to Implement a Shorezone Review System” seek to bring Scenic Thresholds into compliance through implementing new architectural and landscape design review tools. These new design review tools will be in compliance with the Urban-Wildland Interface Code (UWIC) and TRPA staff will work with the six fire agencies in the Tahoe Basin to be sure there is no conflict between TRPA Code and the Urban-Wildland Interface Code. Staff has included language in Section 30.15 to assure that there will be no conflict. The new ordinances will not have a significant impact on fire protection.

Currently, TRPA staff are working with both State (NV & CA) and Federal agencies, through the Forest Health Group, to create a fire management plan for the Tahoe Basin. The focus has been on fire threat and defense zones surrounding urban-wildland interface communities in the Tahoe Basin. This group is working towards defensible space criteria at the parcel level. TRPA staff believe this group can find a balance between fuel reduction, soil conservation and scenic issues while maintaining compliance with TRPA and Urban-Wildland Interface Codes. The efforts of this group will also help revise and add language to Chapter 75, Sensitive and Uncommon Plant Protection and Fire Hazard Reduction, to codify defensible space guidelines that comply with the UWIC.
Water Quality
The potential water quality impacts from the proposed scenic ordinance regarding the planting of vegetation in the shorezone for scenic quality/screening purposes will be less than significant and have a potential positive effect. Section 74.2.A(2) of TRPA Code states "...that fertilizer use is restricted in accordance with the BMP Handbook, unless a remedial action pursuant to Section 74.3 has been taken by TRPA" and the BMP Handbook follows by stating "Fertilizers shall not be used in or near stream channels and in the shorezone areas" (208 Plan Vol II, pg 227).

With these restrictions in place the most important step to landscaping in or near the shorezone is species selection. Plant species appropriate and approved by TRPA for shorezone and SEZ areas are native and adapted species. These species are acclimated to ecologic pressures of this environment and will grow fine without fertilizer in most situations. A simple and affordable alternative to fertilizers, especially with trees and shrubs, is applying a mycorrhizal fungi product (e.g. M-Roots--www.rootsinc.com) at the time of planting. Mycorrhizal fungi attach to the roots of plants and aid them in acquiring nutrients and water from the natural soil environment. Therefore, if appropriate species are planted for scenic quality/screening purposes that require no fertilizer (there may be exceptions for establishing new plants in difficult areas) the nutrients they uptake from the natural soil environment may have a positive water quality benefit.

TRPA will continue researching and updating its approved plant species list for Shorezone/SEZ areas to better reflect the best species choices for scenic quality, fire resistance and no fertilizer needs.
November 5, 2002

To: TRPA Governing Board (GB) Members

From: Carl Hasty, Deputy Executive Director

Subject: Planning Projects and Public Process

**Action Requested:** None at this time. This topic is informational only to make the Governing Board aware of some current and future planning projects and its relevancy to Governing Board interests.

**Staff Recommendation:** Staff recommends the Governing Board review the staff summary and asks questions of clarification, concern, etc., after staff's presentation. Staff also recommends the Governing Board discuss how it would like to be involved in master-planning public process(es) for the large scale planning projects in particular.

**Background:** TRPA has prepared a five-year strategic plan for the period 2002 to 2007. As you are aware, some significant and unique events will take place during that time frame. Namely, these events include updating Threshold standards and creating a revised 20-year land-use plan. This, in turn, will require the updating of a number of other area plans including the Lahontan Region's (California Regional Water Board) basin management plan and the Lake Tahoe Basin Management Unit's (USFS) basin management plan to name a few. In addition, there are a number of other current and potential smaller planning projects.

The list of current and potential planning projects is as follows. Please note this list is incomplete. Staff will make a presentation to the Governing Board discussing them in more detail and how TRPA intends to proceed.

1. Threshold Update/Revision
2. Regional Land-Use Plan Update/Revision
3. Regional Transportation/Air Quality Plan Update 2004 (merge with MPO plan)
4. Regional Transportation/Air Quality Plan Update 2007
5. Establishment of Total Maximum Daily Load (TMDL) standards
6. Water Quality Management Plan Update
7. Lahontan Tahoe Basin Management Plan Update/Revision
8. LTBMU Basin Management Plan Update/Revision
9. Shorezone Policy EIS
10. Scenic Visual Preference
11. Socio-Economic Visioning Consistent with Thresholds
12. Airport Masterplan Update
13. South Stateline Community Plan Update
14. Homewood Masterplan
15. Westshore Community Plan
16. Marina Masterplans
17. Recreation Masterplan
18. EIP Update 2003
19. EIP Update 2005
20. EIP Update 2007

Discussion: The significance of this topic is the fact that all of these planning projects require some form of staff and public process that involves a number of organizations. That is not in itself unusual but the number of projects and the scale of the interaction needed is daunting considering these projects will also need to be undertaken while the Basin stakeholders move concurrently to implement the EIP, and make the transition from the current land-use plans and programs to revised or new concepts.

If left to traditional patterns of planning, each of the projects on the list will follow an independent path to involve agency staffs and public. In staff’s view, such an approach is disconcerting. Staff is concerned such a traditional path will overburden all stakeholders involved, can lead to mixed messages, be inefficient, redundant in some cases, and be less than constructive. It is once a generation that Thresholds and 20-year land-use plans are developed. We must be sophisticated about how we approach such a complex task.

Recommendation: No action is needed at this time except for discussion on the content. TRPA staff wants to make the Governing Board aware of what lies ahead and invite their participation in developing a stakeholder master plan for engaging agency staffs, executives, Boards, Commissions, and the public. The intent of the master plan concept is to maximize efficiency, not overwhelm those involved, and create congruent public messages on Tahoe planning efforts and the future of the Tahoe Basin. At this time, the topic is only being introduced.
MEMORANDUM

To: TRPA Governing Board Members
From: TRPA Staff
Date: November 4, 2002
Re: Status Report on Lake Tahoe Cruises, Inc., Formerly Hornblower,
(recently acquired by Aramark, Inc.)

The TRPA Governing Board in 2002 approved two permits for Lake Tahoe Cruises, Inc. ("Lake Tahoe"). Aramark recently acquired Lake Tahoe Cruises from Hornblower and has taken over the day-to-day operations of the fleet. Aramark inherited the 1986 Tahoe Queen permit, as well as the two TRPA permits recently issued by the Governing Board:

1. The March 2002 TRPA approval of a “charter” permit authorizing Lake Tahoe Cruises to use the Tahoe Queen, Princess, Paradise and Meteor for excursions on Lake Tahoe that begin and end at different locations.

2. The June 2002 TRPA approval of a temporary (six-month) “waterborne transit” permit authorizing Lake Tahoe Cruises to use the Meteor to circle Lake Tahoe, picking up and/or dropping off passengers at various destinations around the Lake.

When approving these permits, the Board requested a status report from staff. Below are summaries of the status of these projects. Staff will make a brief presentation and be available to answer questions, as will a representative from Aramark.

1. Charter Permit

TRPA staff has not detected any problems with the operation of the charter. At the March 2002 hearing, objections were made concerning parking at Ski Run Marina and the use of the Tahoe City Campground as a permitted destination. The conditional permit was approved, in part, based on a representation that all charter passengers would be bused to and from charter destinations. TRPA has not received any complaints concerning the charter permit. TRPA Compliance staff conducted several “spot” investigations of the charter operation at Ski Run Marina. No problems were observed and, when questioned, a Ski Run Marina employee explained that parking for the charter operation was prohibited in Ski Run Marina.

The Tahoe City Campground pier is not being used in the charter operation because the applicant remains unable to satisfy the permit’s pre-requisites for its use. Aramark intends to apply to TRPA to increase the number of permitted destinations authorized in the charter permit. Because Aramark also owns the M.S. Dixie, it will seek to add Zephyr Cove Marina. Aramark also intends to add Vikingsholm, and an application to change the Plan Area Statement ("PAS") to allow tour boat operations has already been submitted. Once the PAS has been amended, Aramark will submit an application to add Vikingsholm, Zephyr Cove, and any other potential destinations.
II. Waterborne Transit Permit

Unfortunately, the waterborne transit project has been discontinued. Aramark determined that the operation was not cost-effective and has sold the Meteor. Aramark believes that the project was unsuccessful due to the lack of a destination in Tahoe City (an ideal destination for waterborne transit). In the short time that the Meteor was providing waterborne transit, some valuable market data was gathered. Passengers questioned overwhelmingly responded that they used the service instead of driving around the Lake. Further, many passengers took advantage of the discounts for riding the Meteor in conjunction with the trolley service or bringing a bicycle on board. This research confirms the strong potential for waterborne transit on Lake Tahoe as an environmentally-preferable and economically viable service. Aramark has indicated a willingness to re-apply for a project if a suitable location in Tahoe City can be secured (in which case Aramark will purchase a new vessel specifically for the waterborne transit operation).

If you have any questions concerning this agenda item, please contact Brent Richmond at (775) 588-4547, Extension 301 or via e-mail at: brichmond@trpa.org
November 20, 2002

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution to Approve New TRPA Employee Policy Manual

Proposed Action: Adoption of the resolution approving the 2002 TRPA Employee Policy Manual. (Attachment "A")

Staff Recommendation: Staff recommends that the Governing Board review the proposed Employee Policy Manual, make the required findings and adopt the attached resolution.

Rules Committee Recommendation: The Governing Board Rules Committee will report on their recommendation at the time this agenda item is heard by the full Board.

Background: The original Personnel Policy Manual was adopted by the Governing Board on June 26, 1991. Over the past eleven years, various amendments have been made, but employment laws continue to change. In order to remain compliant with current state and federal laws, the Agency contracted with an Employment Law Specialist, Robert Story, to create a new policy manual that addresses current legal requirements and employment issues. The main concepts of the new TRPA Employee Policy Manual remain consistent with those of the current Policy Manual and with the Agency’s Strategic Plan to have a "well-trained, competent, cohesive staff." The Rules Committee met on October 23, 2002, and made some additional recommendations. The major policy changes are listed below, including the recommendations made by the Rules Committee.

1.) Introduction

The introduction now includes a statement indicating this is not a contract between the Agency and the employees, but a policy manual.

2.) Policy 1.2 – Personnel Recruitment

Policy 1.2 will allow the Executive Director more flexibility when filling open positions by allowing open positions to be posted internally and externally simultaneously. While an internal candidate’s experience will continue to be highly valued, the enlarged applicant pool will assure that the Agency will have access to a larger group of qualified candidates when determined necessary by the Executive Director.
3.) **Policy 1.1 – Equal Employment Opportunity**

The Agency may make reasonable accommodations for known physical or mental disabilities of qualified applicants or employees.

4.) **Policy 1.3 – Application, Interview and Selection**

The policy was amended to allow the eligibility list to be extended for an additional six months upon the approval of the Executive Director or his/her designee.

5.) **Policy 1.7 - Overtime**

Policy 1.7 is different from the current overtime policy which only allows hours actually worked and paid holiday hours to be considered when calculating overtime. The new policy allows all compensable hours to be considered when calculating overtime. Both California and Nevada calculate overtime pay for State employees based on all compensable hours, not just hours worked. Overtime hours would still be required to be approved in advance by the supervisor and would therefore continue to be monitored appropriately.

6.) **Policy 1.9 – Return to Former Position**

Policy 1.9 is a new policy. In the past, there was no provision for an employee who did not satisfactorily complete his/her promotion or lateral transfer to a new position. Now, when an employee is unable to satisfactorily complete the probationary period for a new position (not including new hire probationary employees), the Executive Director has the option to return the employee to his/her former position if it is not filled or allow the employee to apply for another vacant position for which he/she is qualified or the employee may be terminated. In the past the only option was termination.

7.) **Policy 1.10 – Performance Appraisal**

Policy 1.10 continues the requirement for regularly scheduled performance appraisals but the new policy is not limited to a specifically defined process. While regular performance appraisals are a critical aspect of training and development, the current policy did not allow the performance appraisal process to change to incorporate new or more effective techniques.

8.) **Policy 1.13 - Layoff**

Policy 1.13 defines the process to return laid-off employees to work. The new policy will apply for only one year from the date of layoff rather than for an indeterminate time.

9.) **Policy 1.17 – Agency Counsel**

The policy was amended to reflect current practice. Assistant Agency Counsel and administrative staff are hired by and report directly to the Agency Counsel and are subject to the same policies and procedures as other Agency staff.
10.) Policy 2.3 Sick Leave (Paid Absences)

In the current policy manual, the sick leave accrual limit is set at 800 hours for all employees hired after March 24, 1999. In addition, accrued sick leave over 240 hours is paid out to the employee who is laid off or resigns. The new Policy Manual clarifies that those employees hired prior to March 24, 1999, will be eligible for payout of all their accrued sick leave if they are laid off or resign, provided the employee leaves the Agency on good terms. The new Policy Manual also adds a provision allowing donation of accrued sick leave or vacation to employees with catastrophic health problems provided the donating employee’s vacation or sick leave does not drop below 40 hours.

11.) Policy 2.7 – Family Medical Leave

Policy 2.7 has been updated to be compliant with current regulations regarding the Family Medical Leave Act. In addition, the policy states that the Family Medical Leave (FML) begins when the Agency approves the FML.

12.) Policy 3.4 – Flexible Scheduling

Policy 3.4 is an enhancement to the previous policy on flexible scheduling and provides more specific details on what constitutes a flexible schedule, when it can be used, and the necessary approval process.

13.) Policy 4.5 – Prohibited Harassment

Policy 4.5 includes an expanded explanation of prohibited harassment of all kinds and provides specific details on reporting and responding to complaints.

14.) Policy 4.7 - Email and Voicemail

Policy 4.7 is a new policy in response to the new technologies and new laws regarding workplace privacy issues. This policy provides guidelines for acceptable use of email and voicemail and puts employees on notice that privacy is not guaranteed when using either email or voicemail. In addition, it states that employees who violate the policy are subject to disciplinary action up to and including termination.

15.) Policy 4.11 – Workplace Violence

Policy 4.11 is an addition to the Manual. It defines workplace violence and provides some examples of workplace violence. The policy also includes reporting procedures and the consequences for violent behavior.

16.) Policy 4.6 – Confidentiality

Policy 4.6 is an addition to the Manual and addresses the confidential nature of any information regarding members of the public that we serve, and provides examples of confidential employee information. The policy states that it is a violation to divulge any confidential information, and to do so will result in immediate discipline, up to and including termination.
17.) Policy 4.18 – Personal Property

Policy 4.18 is a new policy and discourages employees from bringing personal property to work and disclaims any responsibility for loss of any employee’s personal property. In addition, the policy states that the Agency reserves the right to have an employee remove any personal property that is determined to be in violation of federal or state law or Agency policies.

Budget Issues

The budget could be impacted by the change to 1.7 - Overtime. In the event that an employee uses paid time off during the week and then actually works enough hours to bring the total compensable hours over the 40 hour limit there would be overtime costs to the Agency. But, the overtime costs can be contained because overtime must be approved in advance by the supervisor.

Findings: Chapter 6 of the TRPA Code requires the following findings be made.

1. The amendment 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 amendments are purely administrative in nature, and are consistent with and will not affect implementation of the Regional Plan.

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

Rationale: The amendments are administrative in nature and will not affect the thresholds.

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

Rationale: See finding 2, above.

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

Rationale: See findings 1 and 2, above.

Environmental Documentation: Due to the administrative nature of these amendments, staff recommends a finding of no significant effect.

The Employee Policy Manual will be sent under separate cover to the members of the Governing Board.

If there are any questions regarding this agenda item, please contact Michele Chouinard, Human Resources Manager, at (775) 588-4547.