TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION
NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on Wednesday, August 13, 2008 at the North Tahoe Conference Center, located at 8318 North Lake Blvd., Kings Beach, CA and on 9:00 a.m. on Thursday, August 14, 2008 at the TRPA Offices, 128 Market Street, Stateline, NV. The agenda for the meeting is attached hereto and made a part of this notice.

August 6, 2008

John Singlaub
Executive Director
AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PUBLIC INTEREST COMMENTS

Any member of the public wishing to address the Advisory Planning Commission on any item not listed on the agenda may do so at this time. Public comment on Public Hearing items will be taken at the time those agenda items are heard.

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

IV. DISPOSITION OF MINUTES

V. PUBLIC HEARINGS

A. Public Comment on Draft Notice of Preparation (NOP) and Determination of Scope for the Boulder Bay CEP Development Project (EIS)/Environmental Impact Statement - 2 Highway 28., Washoe County, Nevada, Assessor’s Parcel Numbers (APNs) 123-052-02, -03, -04; 123-053-02, -04, 123-054-01; 123-071-04, -034, -035, -036, -037, TRPA File No. CEPP 2008-0123 and ENVR 2008-0003

B. Recommendation to the Governing Board on Amendment to Section 4.7 of TRPA’s Code of Ordinances Regarding Project Approvals and Appeals; Amendment to TRPA’s Rules of Procedure to Include Attendance Rules for Non-Compact Designated Members of the Advisory Planning Commission and Governing Board; and to Provide for Other Matters Related Thereto.

C. Recommendation to the Governing Board on Amendments to the Code of Ordinances Chapter 20, Land Coverage, Chapter 2, Definitions, and 25, Best Management Practices to allow for the Conversion of Turf Athletic Grass to Synthetic Turf for Public Athletic Fields and Provide for Other Matters Related Thereto
D. Recommendation to Governing Board on Amendment of Plan Area Statement 082, Upper Kingsbury, to Add “Eating and Drinking Places”, “General Merchandise Stores”, and “Outdoor Recreation Concessions” to the Permissible Use List, and Providing for other Matters Properly Related Thereto

E. Recommendation to the Governing Board on (1) Certification of the Beach Club on Lake Tahoe Final Environmental Impact Statement (EIS) and (2) Finding of Consistency for the Beach Club on Lake Tahoe Project with EIS Recommended Mitigation - Douglas County, California, TRPA Project Number 1318-22-002-002, TRPA File Number 20030691

VI. REPORTS

A. Executive Director

B. Legal Counsel

C. APC Members

VII. ADJOURNMENT
I. CALL TO ORDER AND DETERMINATION OF QUORUM

Meeting called to order at 9:30.

Members Present: Mr. Breuch, Mr. Donohue, Mr. Goldberg, Mr. Harris, Ms. Jamin, Mr. Jepsen, Ms. Kemper, Mr. Harper, Mr. Lefevre, Mr. Kuchnicki, Mr. McIntyre, Ms. Merchant, Mr. Riley, Mr. Tolhurst, Mr. Upton, Mr. Walker, Mr. Zuckerman

Absent: Mr. Maurer, Mr. Plemel, Ms. Schmidt, Mr. Szczurek

II. APPROVAL OF AGENDA

Mr. Harris moved approval.
Motion carried unanimously.

III. PUBLIC INTEREST COMMENTS

Ann Nichols, representing Friends of Crystal Bay, stated that their appeal on the Boulder Bay variance abandonment was upheld by the Washoe County Commissioners 4-1. Boulder Bay has to go back to the drawing board and redesign their access into the area.

John Salam stated that as part of Boulder Bay’s application, they are requesting an amendment to Chapter 22 of the Code of Ordinances to allow for additional height. He is very much opposed to this.

Patricia Wallup stated her concern is that they were supposed to have a scoping meeting for members of the community. They were able to have the EIS postponed for a month, so they have 30 days to study how Boulder Bay’s development will impact the community. They don’t have a completed plan as yet. They would like to look at a completed plan so that they can study it to see what Boulder Bay is actually planning.

IV. DISPOSITION OF MINUTES

Mr. Harris moved approval with amendments.
Motion carried.
Mr. Riley, Mr. Harper, Mr. Donohue abstained.

V. RESOLUTIONS

A. Resolution In Memory of Leo Poppoff

Mr. Harper moved approval.
Motion carried unanimously.
VI. PLANNING MATTERS

A. Report on 2008 MPO Regional Transportation Plan Update

Staff members Nick Haven and Keith Norberg gave an updated report on the 2008 MPO Regional Transportation Plan Update.

Commission Discussion & Questions:

Mr. McIntyre stated that a lot of times when we combine statistics between North Shore and South Shore, we do not get a real picture. TOT in Placer County is up almost 18%. Sales taxes in the Eastern portion of Placer County are up 20% and he agrees that they have lost almost 20% of their population. But the economic reality is that they are looking at, this last fiscal year, as the largest TOT collection that they have had in North Lake Tahoe in their history. He would hope that when these things are analyzed, that we analyze them on a sub-regional basis, so we can do planning from that standpoint. The Highway 89/89 realignment in Tahoe City has been on the shelf for about 5 years because of lack of funds. When that project reached the environmental documentation stage and all the work was done, the traffic analysis clearly showed that two alternatives would completely eliminate the cueing on the West Shore. Without the project, things are back in full force and traffic is backed up to Homewood. This project is extremely critical and he would ask that this project proceed again.

Mr. Upton stated that from a south shore perspective, he shares Mr. McIntyre’s concerns. The south shore has become a Saturday economy and he would like to know what the numbers look like in that respect. On the California side, the room nights used to be 1 million, 20 thousand per year; and, currently they are down around 670,000 which is a huge drop.

Ms. Kemper stated that it was mentioned that there was $973 million for storm water treatment. She suggests making that more explicit in the staff report and explains what the major components are.

Mr. Norberg stated that the biggest part of that money has to do with what Caltrans and NDOT have programmed for erosion control projects. It also includes a local component. They do coordinate with the EIP to make sure things are consistent.

Ms. Kemper stated that in the travel forecast, it is expected the increases in vehicle miles traveled over the 23 year timeframe by 15-16%. Do we also anticipate seeing nox emissions going up and particles going up or do we see in that increase, because of technology, that we will not have this increase in loads.

Mr. Norberg stated that when they did the emissions analysis for this, it was done specifically for carbon monoxide. Part of that analysis identified what the nox emissions and particulate emissions would be in the year 2018. Because we are identified as a limited maintenance for carbon monoxide, we only had to report for CO.
Mr. Haven stated that there are two things that they are dealing with. They have to do a federal conformity finding that looks at certain pollutants which is for federal approval of the document. AB32 has a broader context. We didn’t have full green house gas emission analysis done for this plan, but we anticipate coordinating with TRPA efforts to do so. As far as the energy element, we looked at the project list and tried to quantify what projects would potentially have a benefit as far as reducing green house gas emissions and what could potentially increase them.

Ms. Kemper asked that in terms of our own thresholds for nox and particulates, is the Regional Transportation Plan going to show what your anticipated projections are for those components.

Mr. Haven stated that is something they are trying to do under this emissions analysis, which we don’t have right now. In the interim, we are trying to do a cursory analysis of the project list to get a potential effect.

Mr. Donohue stated there is a section on SMNPLA and how it is reported in the document. He hopes that when it is referenced, it is tied to the storm water elements, because we are hearing from the congressional delegation there is not funding for transportation projects.

Mr. Haven stated that they are very sensitive to that. They reference this in the document that funding could be going away.

Mr. Upton asked if there is any element in the plan regarding creation of other ways to get people to the Basin, other than by car.

Mr. Norberg stated that the best example is the recent program called the Kingsbury Express. When they started identifying some of the traffic volumes, actually at the entry points, weren’t going down but trending upward. So we looked at the hours when the volumes were increasing and what we found was during the commute times was when traffic was increasing. The second home owners’ sold their homes and moved out of the Basin, but still kept their jobs and are commuting up to the Lake.

Ms. Merchant stated that she was confused by the traffic model that shows an increase in traffic, while the counts have had a decrease in traffic over the course of the last five to ten years. It seems inconsistent given the fact that we have had a decrease in traffic and we have unprecedented growth in the surrounding areas of the Tahoe Basin, particularly in some of the key markets where visitors come from.

Mr. Norberg stated that intuitively when you look at the traffic volumes that are count every day by Caltrans and NDOT it looks like they are going down. Then you ask, why are the VMTs going up. It has to do with the model and how it computes cumulative additional growth. We talked with the land use planners and looked at what are the plans as far as future allocations. What does that mean in terms of single family dwellings, PAOTs and all the Regional Plan components? This is an accumulative effort that assumes additional growth but doesn’t necessarily account for economic considerations. To a certain degree the Regional Plan is an optimistic plan that we want and to encourage particular growth in certain areas to assist in reducing traffic volumes.
Mr. Haven stated that this is a straight output from the traffic model analysis. It does not analysis pedestrian and bicycle use, which are some of the major strategies. Pedestrian and bicycle use could have a large effect on the South Shore and if we are able to create these walkable communities and a bicycle friendly Region, we could see that number being back to close to zero or at least reduced.

Ms. Merchant stated that we need to be very clear that this is just a model and may be a worse case scenario. It also doesn’t take into account pedestrian and bicyclists.

Ms. Merchant stated that the fact that the plan is funding constrained and you have these different levels of constraints including an expanded number. Does the expanded number include regional revenue and how much of that is allocated toward regional revenue?

Mr. Norberg stated that yes the regional revenue forecast does include Regional funding revenue. The TTD and TRPA have talked about developing parking strategies to develop future revenues.

Ms. Merchant stated that she has huge concerns about this strategy, when we are trying to redevelop the communities to provide the type of development that motivates people to get out of their cars. They have a choice to stay somewhere that doesn't charge for parking or they can stay in the Basin and pay $25 or whatever for parking. She feels strongly that Placer County is already putting a lot of money into transit. She would like the opportunity to make those decisions and not have their guests charged for parking. She also stated that public comment ends on the 8th and the TTD makes a decision on the 8th. She is not sure how you take into account public comment when the TTD’s makes a recommendation on the same day that public comment ends.

Mr. Haven stated that what they have done historically, as they are under a tight deadline from the Feds, they have incorporated comments received to-date and sent the document out to the Transportation Commission and then when additional comments are received, a comment matrix is presented and the comment is placed in the document where is references as well as how the comment was responded to. What the current plan is to bring forward a document that the Board would have a week to review with comments up to that timeframe. They would continue to add comments in after the document has gone out. During the presentation to the Board at the meeting, we would present a comment matrix and discuss the comments received within that week and how those comments would be incorporated.

Mr. Riley stated concern over the visitor’s overnight occupancies and wondered if the occupancy number that Mr. Upton stated is a common number around the Basin, or was there any different number.

Mr. Norberg stated that they have identified on the California South Shore, the number of rooms rented over a ten year timeframe and also identified the Nevada hotel room night occupancy numbers. The overnight occupancy has declined on the South Shore by 28.8% and 10.9% over a five year timeframe. Not only are those occupancies going down as far as the number of rooms rented, but the cost associated with those rooms have gone up.
Ms. Jamin asked if they could explain the capital projects that are listed and how will these be achieved in terms of priority.

Mr. Norberg stated that they consider all the projects priorities. A lot of it has to do with funding constraints and what we have funding to do, at any particular time. They consider all of the projects a priority.

Mr. Zuckerman stated that in the past TRPA used incentives as a carrot approach with EIP projects and transportation to allow more residential allocations or CFA. They are looking as part of the Regional Plan to delegate some of that CFA and to re-emphasize the residential allocations as an incentive.

Mr. Haven stated that this is an MPO plan and is not talking about TRPA regulatory authority or land use authority. However, it does make recommendations to incentivize the modular development/mixed use development and make recommendations to TRPA for the Regional Plan Update on how to implement these.

Mr. Zuckerman asked what kind of strategies or ideas is there currently.

Mr. Haven stated that it is similar to what is going on now. They have been coordinating heavily with TRPA land use planners and other partners to come up with a plan.

No Public Comment.


Staff member Whitney Kelly gave a status report on the Environmental Improvement Program.

Communications & Legislative Branch Chief Julie Regan gave an update on the August 16th Federal event.

Commission Discussion & Questions:

Ms. Jamin stated that Nevada funding seems quite small compared to other funding, which puts more pressure on the local and private sources. She asked if there is another explanation for this.

Ms. Regan stated that if you look back at the last 10 years, the Nevada share of $82 million represented 8% of the total EIP. It is going from $82 million to $100 million going forward.

Staff member Paul Nielsen stated that this was accurate and they wanted to constrain what we thought might be anticipated revenues, correlating that to the capacity of these implementing agencies to deliver projects. Those were some of the considerations.

Mr. Zuckerman stated that the number of acres of urbanized area in Nevada is so much smaller than the urbanized area in California, which is why Nevada's contribution is not bigger.
Executive Director Singlaub stated that one of the concerns that have been expressed by Senator Feinstein and others is that the local jurisdictions have not come forward. Why should they commit federal dollars, when the locals are not stepping forward with funding? One of the ways of dealing with this is to include operations and maintenance, which has been an important local government contribution. This way we can show that funding spread even more. Caltrans has a significant portion of the amount for California, so it is basically Feds 1/3, California 1/3, and the rest 1/3.

Mr. Zuckerman stated that a significant amount of funding is going to water quality and also to continue grants for local jurisdictions.

Ms. Regan stated that the reauthorization of the Lake Tahoe Restoration Act will be a much longer process. They are hoping to have Senator Feinstein support a bill to reauthorize this, which expires in 2010.

Mr. Nielsen stated that the focus in the EIP, in the short term, is getting ready for the federal event and identifying the funding needs for the next 10 years. But there are other important elements of the EIP that they are continuing to work on and will bring forward to the Commission at the appropriate time. Things like how do we work together, how do we coordinate projects, how do we make sure we are spending this money most efficiently and effectively in combing forces and focusing in those areas that represent the best opportunities. Also, the ability to report these annual reports more accurately and effectively and more quickly every year.

Ms. Kemper stated under the Goals Section, rather than have using past tense, maybe put some of the verbs up front. Use words like enhance, treat and she would suggest adding a bullet that says remove fine sediment from runoff or reduce fine sediment loading. Focus on reduction of pollutants in storm water and have a bullet that says reducing sediment and nutrients, which is a big number like 55%. That is what we are looking for to help achieve the clarity goals.

Ms. Regan stated that when it comes down to it, all the elected officials want to talk about clarity. This is a point well taken and we are working on this.

Ms. Kemper stated that on the focus areas that talk about reducing storm water, she would say that we should look at the pollutant loads and talk about sediment nutrients, which are actually what we are trying to reduce. When you are talking about the nation-wide storm water program and assessment fees, these requirements are in effect today.

Mr. Nielsen stated that some of these comments have already been brought up and we are working on making these changes.

Mr. Goldberg stated that the local fire protection districts are trying to secure funding locally. Senator Feinstein has told them that they need to secure local funding, so we need to have benefit assessments in place. Some of the fire protection districts are looking to pass something in the Basin in the neighborhood of $2-21/2 million.
Mr. Nielsen asked for information on this, so they can reflect that funding in their conversations with Feinstein’s staff.

Mr. McIntyre stated that the North Tahoe Fire Protection District, last summer, passed a benefit assessment that will go toward local funding.

Mr. Harper stated that he would like to have a conversation regarding the amount of revenue per capita that is spent in the Basin and the perception that the local contribution is too low. When you look at the population that is being served, which is declining, it becomes a bit disingenuous to continue to push for more local contribution, when in fact the impacts that may be occurring in the Basin are probably occurring from those that are visiting from outside the Basin. How does that get equalized? If there is an opportunity to do some figures of per capita contribution by the local governments, it might be very helpful.

No Public Comment.

VII. PUBLIC HEARINGS

Recommendation to the Governing Board of an Amendment to the Goals and Policies, Land Use Element, Goal #3, Code of Ordinances Chapter 20, Section 20.3 Land Coverage, and Chapter 35, Section 35.2 Bonus Unit Incentive Program, to allow the Subdivision of Existing Units of Use and Provide for Other Matters Related Thereto

Staff member Neil Crescenti presented the amendment to the Goals and Policies, Land Use Element and proposed changes to the Code of Ordinances.

Commission Discussion & Questions:

Ms. Merchant stated that the way this has been presented that this would include market rate condominiums. Is that accurate?

Mr. Crescenti stated yes. The multi-residential facility is defined as residential uses with two or more units per structure.

Ms. Merchant asked if there is a reason why this is being considered only within Community Plan areas.

Mr. Crescenti stated that the TOD findings do not explicitly do not say “located within Community Plans”. The amendment is explicit within Community Plans; but, the definition is broader, so it would apply anywhere where these uses are allowed.

Staff member Gabby Barrett stated that when we adopted the Community Plan concept, we allowed an increase in permissible coverage, up to 50% & 70% for vacant commercial. The wording today that is written in the Goals and Policies, in the Code and the 208 Plan is that wording. So the multi-residential facilities (5 or more units), which were what was eligible for 50% coverage in Community Plans was not defined. The intent of the proposed definition is not so much the TRPA mindset of ownership and how many owners are in a parcel, but to look at the form. The definition concept is that attached, high density type dwellings in the proper places is a good idea and let’s fix this paragraph to allow those types
of units as moderate and affordable under the definition of multi-residential facilities, not a dwelling unit, but as a facility, this would also work under the definition regarding transferring. If you transfer your units out of an exiting apartment to somewhere else, we would want them to go into this form, attached high density and at least 8 units per acre within walking distances. It makes sense with everything we are doing with the transportation plan. We are trying to allow moderate and affordable to get the 50% coverage without having to go through a 208 Plan amendment and allow for transfer out but to good place. This good place meets the definition of residential facilities and meets the TOD findings for the 10 minute walks, the eight units per acre and services near by.

Mr. McIntyre asked if the Cedar Glen affordable project that was outside the Community Plan would qualify for this.

Mr. Crescenti stated that not for 50% coverage.

Ms. Kemper recommended that this say two to four instead of 4 or less.

Mr. Crescenti stated that under this ordinance today you can build multi-residential facilities of 5 or more units however you cannot subdivide into four or fewer. It limits you to rental stock. To be able to build these types of facilities today but with the option to be able to subdivide for sale in the same form but it now allows for the sale of these are individual units for moderate and affordable.

Public Comment:

Lew Feldman, representing the applicant, stated that the issue is what happens to the units that you take off when substitute bonus units. The idea is to incentivize property owners to deed restrict existing multi-family apartment buildings as affordable and then have an after market for those units. He thinks that we are defeating the incentive that is being asked for as we have very few parcels left and what they are trying to do is say, you own an apartment and we want you to make that permanent affordable housing and to do that we are willing for you to take those units and use them elsewhere. He feels that restricting the aftermarket to PTOD specific areas is defeating the purpose of the incentive to a meaningful degree. He would respectfully request in the interest of time that you delete that requirement and let the market dictate where these units that will be absorbed.

Ms. Merchant asked how limiting is this factor?

Mr. Crescenti stated it is the TOD findings which are currently in the Code today. Locating higher density residential developments within close proximity to urbanized areas services and this is trying to encourage this type of development. For the purposes of reduced traffic and VMT and other associated impacts, staff recommends maintaining this requirement.

Mr. Feldman stated that there are a hundred or so Plan Areas around the Basin that now identified areas that are eligible for multi-family which should be enough of a restriction without going to the next step of TOD. He would hope that existing zoning would dictate the redeployment of these resources to fully incentivize people to take advantage of the opportunity.

Assistant Agency Counsel Nicole Rinke stated that the way that the rule is written
is that you either have to meet the TOD findings or the functional equivalent. There is a provision in the Code that says if you can’t meet one of the enumerated things of the TOD finding, staff could find that there is some functional equivalent that meets the same objectives, so she doesn’t feel it is that strict.

Mr. Upton moved approval with a finding of no significant effect.

Motion carried unanimously.

Mr. Upton moved approval of the proposed ordinance.

Motion carried unanimously.

VIII. REPORTS

A. Executive Director

Executive Director John Singlaub updated the Commission on the actions taken by the Governing Board at their June meeting.

B. Legal Counsel

Assistant Agency Counsel Nicole Rinke stated that when the APC and the Governing Board voted to appoint additional members to the APC, there was direction for some rules regarding attendance and they plan to do this at next months APC and Governing Board meeting.

C. APC Members

Mr. Harper stated that they might have some funding to engage separate staff for the Tahoe Transportation District. He is pleased to see this happening. There will be an advisory vote, probably in November, for Incline Village to become a town under Nevada State law.

Mr. Goldberg stated that he was going to make a recommendation to the Basin Fire Chiefs to look at just one seat on the Commission. He feels that one seat would sufficiently cover these meetings. He will go to the Basin Chiefs and then respond back to the Commission. His suggestion would be to have Mr. Szczurek be his alternate, if he is unable to attend.

Ms. Kemper stated that their Board will be meeting July 23 & 24 in Truckee. Some of the big agenda items is that they just reach a settlement with North Star Development over many construction violations that occurred in the construction season of 2006 and it has results in North Star agreeing to pay $2.75 million which is the biggest settlement that their Board has ever had related to storm water construction violation. The Board will be hearing updates on the timber waver and MOU with TRPA and they will also be taking action on other items. The Board will also be asked to consider a resolution to that would expand the authority of their Executive Officer to grant probations for public health and safety projects.
Mr. Zuckerman stated that from talking with the planning community regarding the Kings Beach decision, it seems like this might be a repudiation of the planning goals and the lack of knowledge of the Governing Board as to the nexus between the planning goals and what was in front of them. Maybe it has to do with political pressures but if John can education them, he is a special and powerful man. We had success in Douglas County with a District Attorney presentation to our Planning Commission, where we tried to educate them and talk to them about when approving or denying a project, the most important thing is did you make the findings? Did you tie your decision back to the legal requirements in the Code and did you show the nexus between the master plan and your preferred alternative when you made your decision? TRPA Legal staff may want to consider something similar with their Governing Board.

Mr. Breuch stated he would like a heads up from the Executive Director’s report on what is anticipated on what items may be coming to APC. He commended Mr. Tolhurst on how he handled the last meeting as things were very heated and he did a great job.

IX. ADJOURNMENT

Chair Mr. Tolhurst adjourned the meeting at 12:30 p.m.

Respectfully submitted,

[Signature]

Judy Nikkel
Clerk to the Board

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 589-5243. In addition, written documents submitted at the meeting are available for review at the TRPA Office, 128 Market Street, Stateline, Nevada.
MEMORANDUM

Date: August 13, 2008

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Notice of Preparation (NOP) and Determination of Scope, for the Environmental Impact Statement (EIS); Boulder Bay Community Enhancement Program Project, 22 Highway 28, Crystal Bay, Washoe County, Nevada, APNs 123-052-02, -03, -04; 123-053-02, -04, 123-054-01; 123-071-04, -034, -035, -036, -037 TRPA File Number ENVR2008-0003.

Requested Action: Staff is notifying the APC that a Notice of Preparation has been issued for the Boulder Bay Community Enhancement Program Project, (Attachment A). Staff requests an APC recommendation to the TRPA Executive Director on the determination of the Scope for an Environmental Impact Statement (EIS), for the Boulder Bay project, as described in the Notice of Preparation (NOP).

Staff Recommendation: Staff recommends that the APC recommend that Executive Director approve the topics and alternatives identified for environmental review in the NOP.

Required Motion(s): The APC motion to recommend approval of the proposed action requires:

1) A motion to recommend approval of the determination of the Scope for the Environmental Impact Statement (EIS) for the Boulder Bay Development Project. As set forth in the Notice of Preparation and the project alternative description.

Project Description/Background: The applicant is proposing to redevelop the existing Tahoe Biltmore Casino site and the former Tahoe Mariner Lodge site located in Crystal Bay, Washoe County, North of State Route 28 (SR 28). The proposed project site consists of the 4-story Tahoe Biltmore Lodge and Casino, six cottages, a two-story administrative building, two vacant buildings formally hotel cottage units, and a storage building which was previously the Horsebook Casino. The existing land coverage is 54.5 percent including 102,862 sq. ft. of Class 1(a) coverage. The existing Tahoe Biltmore is not in compliance with TRPA Code of Ordinances standards including onsite BMPs. The proposed project has been designed to replace the existing facilities, which are substantially past their life cycle, with new structures, amenities and onsite improvements. These improvements are based on the specific vision and goals outlined in the North Stateline Community Plan (NSCP) adopted by TRPA and Washoe County.
The 15.06 acre project area, will be developed as a destination resort community based on the most efficient environmental design and development principles.

This is a scoping meeting intended to elicit comments from APC members and the general public on the content and potential issues as they relate to the scoping of the proposed Environmental Impact Statement (EIS) for the Boulder Bay Community Enhancement Program Project, as initially identified in the TRPA Initial Environmental Checklist (IEC). The EIS is intended to specifically meet the substantive and procedural requirements of the Tahoe Regional Planning Compact as set forth in TRPA’s Code of Ordinances and Rules of Procedure, (see Attachment B for process). The EIS will identify any potential environmental or other impacts that could occur as a result of the implementation of the proposed project.

Issues/Concerns: The key impact areas are described in the attached NOP. In addition, there are three issues that need to be discussed.

- Public Review and Comment Process
- Size and Scale of the proposed project and the alternative descriptions
- Compliance with the CEP Resolution 2008-11 conditions

Environment Document Compliance: The Draft Notice of Preparation has been prepared for the Boulder Bay Development Project in preparation of moving forward with the Environmental Impact Statement, EIS. The EIS is being prepared by the Tahoe Regional Planning Agency pursuant to its Compact and Chapter 5 of the TRPA Code of Ordinances. The public scoping process will consist of a public hearing before the APC, consultation with other agencies of other jurisdictions, and informal scoping sessions with neighbors in August.

If you have any questions, please contact David L. Landry, Senior Planner at dlandry@trpa.org or 775-588-4547 ext. 214.

Attachments:

- Notice of Preparation (Attachment A)
- TRPA Project EIS Process (Attachment B)
- Potential Alternatives (Attachment C)
- Resolution 2008-11 Conditions Boulder Bay CEP (Attachment D)
- Plans (Attachment E)
NOTICE OF PREPARATION

To: California State Clearinghouse
Nevada State Clearinghouse
Cooperating Agencies
Responsible and Trustee Agencies
Interested Parties and Organizations
Affected Property Owners (within 300 feet of the proposed Boulder Bay boundaries; plus affected property owners within 1,000 feet of the project along the northern property boundary of the existing Crystal Bay Casino)

Subject: Notice of Preparation of a Draft Environmental Impact Statement (EIS) for the Boulder Bay Community Enhancement Program Project, Crystal Bay Nevada, 89402.

Lead Agency: Tahoe Regional Planning Agency
P.O. Box 5310
128 Market Street
Stateline, NV 89448
Contact: David L. Landry, Project Manager
Phone: (775) 588-4547 ext. 214
Fax: (775) 588-4527
Email: dlandry@trpa.org

Project Title: Boulder Bay Community Enhancement Program Project

Summary
Project Description: Boulder Bay, LLC is pursuing the redevelopment of the existing Crystal Bay hotel and casino into a new full-service resort community located at North Stateline in Crystal Bay, Nevada. The Boulder Bay development, proposed as a mountain village resort, will contain tourist accommodation units, condominiums, workforce housing, meeting space, retail, dinning, spa and gaming. These amenities are proposed to be connected by a pedestrian friendly network of walkways. Changes to the local roadway access and expansion of the existing
transit system are also proposed. In addition to the proposed structures, the project includes offsite BMPs to protect water quality and provide public open space and a passive park. A more detailed project description is provided below.

**Project Location:** The proposed Boulder Bay project is located in Crystal Bay, NV adjacent to the California/Nevada state line (Figure 1). The project area is bound by State Route 28 to the east, southeast, and south; Stateline Road to the west; and Wassou and Lakeview Road to the northwest. The Crystal Bay Club, Jim Kelley’s Nugget, the Bear Den and the Crystal Bay Motel border the project to the south, across State Route 28. Residential housing units and open forest lands are located to the west, north and east of the project site.

**Figure 1**

In compliance with its Compact and Chapter 5 of the Code of Ordinances, the Tahoe Regional Planning Agency (TRPA) is preparing an Environmental Impact Statement (EIS) that will aid in informing agency decision makers about the potential environmental effects of the Boulder Bay project. This
notice meets the TRPA noticing requirements for a Notice of Preparation (NOP). The purpose of this NOP is to inform agencies and the general public that this environmental document is being prepared for this project and to invite specific comments on its scope and content. Following receipt of scoping comments, a Draft EIS will be prepared for 60-day circulation – it is anticipated that the Draft EIS will be available for public review in early Spring 2009.

We would like to know the views of interested persons, organizations, and agencies as to the scope and content of the information to be included and analyzed in the EIS. Agencies should comment on the elements of the environmental information that are relevant to their statutory responsibilities in connection with the proposed alternatives. The project description, location, alternatives to be evaluated in the EIS, and potential environmental effects of the proposed alternatives (to the extent known) are contained in this NOP.

In compliance with the time limits mandated by TRPA, your responses should be sent at the earliest possible date, but not later than August 18, 2008 to the TRPA contact person and address below. If you represent a public agency, private firm or other entity, please indicate a contact person on your response.

**Tahoe Regional Planning Agency**
P.O. Box 5310
128 Market Street
Stateline, NV 89448
Contact: David L. Landry, Project Manager
Phone: (775) 588-4547 ext. 214
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Email: dlandry@trpa.org

In addition to your opportunity to submit written comments, a public scoping meeting is being conducted to provide you with the opportunity to learn more about the proposed action and to express oral comments about the content of the EIS. The scoping meeting will be held at the following time and location:

**Wednesday, August 13, 2008**
**Meeting Begins at 9:30 AM**
TRPA Advisory Planning Commission
North Tahoe Conference Center
8318 North Lake Blvd.
Kings Beach, CA 96143
PROJECT BACKGROUND

The site of the proposed project currently consists of the 4-story Tahoe Biltmore Lodge and Casino, six cottages, a two-story administrative building, two vacant buildings formally hotel cottage units, and a storage building which was previously the Horsebook Casino. The project site consists of a total of approximately 15.06 acres (655,900 square feet) on 11 distinct parcels. These parcels include the former Tahoe Mariner site that was subject to a settlement agreement signed by the recent property owners, TRPA and the State of California. The original settlement resolved a dispute of TRPA’s ability to approve a tourist redevelopment project on the former Tahoe Mariner site. Subsequent amendments to this settlement agreement have been developed in order to accommodate the changing needs of new property owners.

The existing land coverage is 54.5 percent of the total site. The existing Tahoe Biltmore is not in compliance with current TRPA Code of Ordinances and Standards including onsite BMPs and building height standards. The proposed project has been designed to replace the existing facilities, which are substantially past their life cycle, with new structures, amenities and onsite improvements that are based on the specific vision and goals outlined in the North Stateline Community Plan (NSCP) adopted by TRPA and Washoe County. The 15.06-acre project area has a significant slope that rises approximately 40 feet in elevation from the frontage along State Route 28 to the rear (north) of the site along Stateline and Lakeview roads.

PROJECT OBJECTIVES

The Boulder Bay Project was designed according to guidelines provided by TRPA in the Community Enhancement Program (CEP), August 2007 as well as the place based goals and objectives of the North Stateline Community Plan (NSCP). The CEP is seeking net gain solutions for the Lake Tahoe Basin that implement environmental improvements, enhance the quality of life for residents, improve the visitor experience and contribute to the long-term economic vitality of the region. The focus of the CEP is to implement projects that demonstrate substantial environmental, as well as social and economic benefits through mixed-use development projects on existing disturbed and/or underutilized sites.

The specific goals prescribed by the CEP and NSCP and incorporated in the proposed Boulder Bay project include:
• Create a mixed use community center;

• Develop multi-modal transit options;

• Create gathering spaces and a strong economic center;

• Complete TRPA threshold related environmental improvement projects;

• Transfer development to dense urban core areas; and

• Rehabilitate substandard existing development.

DETAILED PROJECT DESCRIPTION

The proposed project will consist of 11 new structures with one to four levels of underground parking, a pedestrian village, community open space, and integrated on-site storm water treatment. Attachment A shows the proposed location of project structures and roadways. The Boulder Bay project is a mixed-use development that will consist of the following services and amenities:

• 366 Tourist accommodation units (hotel, fractional, condominium-hotel)

• 21 market rate condominiums

• 34 onsite workforce housing units

• Approximately 30,000 square feet of retail and dining within a 2-acre public gathering space and pedestrian village

• Approximately 20,000 square feet for a health and wellness center

• Approximately 12,500 square feet of convention and meeting space

• Approximately 10,000 square feet of casino (reduced from approximately 30,000 square feet of Nevada Tahoe Regional Planning Agency (NTRPA) certified gaming area)

• Approximately 670 parking spaces located primarily underground (on up to four levels)

• Over 4 acres of public park and open space (28% of the project area)
• A proposed transportation strategy to include both stand-alone new services as well as partnerships to expand existing transit services

The proposed project would require an amendment to Chapter 20 of the TRPA Code of Ordinances to add a Special Height District for the project area and an amendment to the existing Settlement Agreement to facilitate the redevelopment of the Biltmore and the former Mariner property.

The Pedestrian Village and Public Gathering Space

A two-acre public space in the form of a pedestrian village will run through the project and will include walkways, street furniture, lighting, and information kiosks/directories. The pedestrian access will be linked to existing public pedestrian and bicycle systems at the periphery of the project site.

Access, Circulation, Utilities and Parking

Roadway realignment, including the proposed abandonment of some road sections, will be incorporated into the project design in order to improve roadway and circulation system in and around the project area. The proponents of the project have submitted a roadway abandonment and variance application to Washoe County and are in the process of modifying the application to provide another access point through the project site. The revised plan will be submitted to the Washoe County Planning Commission for final approval.

Almost 100 percent of the required parking for the project will be located in underground and structured parking facilities. All parking requirements are based on Washoe County parking standards and the Urban Land Institute Shared Use parking methodology.

New utility lines for water supply, sewage, fire flows, electricity, gas, telephone, and cable television will be installed. All utility lines will be placed underground. The Project will be responsible for implementing the required public facility improvements and replacement of utilities in coordination with the utility providers that service the project area.

Transportation Programming

Boulder Bay is proposing the implementation of an intermodal transportation plan based upon a review of existing public and private transit services around the lake and an assessment of potential demand for transit services generated by the proposed project. The proposed transportation strategy will include
both stand-alone new services as well as partnerships to expand existing transit services. Furthermore
the program plans for additional strategies to encourage increased use of transit and non-motorized
travel modes.

Hotel and Tourist Accommodation Units

The tourist accommodation plan for the project includes 217 hotel units and 149 fractional units in 8
separate structures centrally located around the proposed pedestrian village and community gathering
space. The architectural character, materials and color palette derives its appearance from Tahoe
mountain inspired architecture with exposed wood structure elements, heavy wood slat and stone
exteriors.

Residential Units

Four multi-family residential units each containing eight units are proposed and would be oriented
towards mountain and filtered lake views. The cluster of buildings is adjacent to the proposed 4-acre
public open space and is connected to the project via a network of pedestrian paths. The project also
proposes 34 workforce housing units with an average size of 825 square feet.

Parks & Open Space

A 4.16-acre deed restricted, landscaped, public open space with footpaths and lake vistas is proposed to
be developed and maintained by the resort on the north portion of the project area. The landscape and
irrigation plan proposes to use native and appropriate non-native trees and shrubs requiring minimal
maintenance and no fertilizer as well as providing high-traffic, groomed turf areas. An additional mini-
park is proposed on a Stateline parcel (Linked Project Status) as described in the NSCP.

Restoration & Water Quality

Storm water management will consist of collection systems, catch basins, drop inlets, pre-treatment
vaults, underground infiltration vaults and underground piping to intercept the runoff generated in the
proposed project area. Runoff from a 20-year one-hour storm will be treated on-site. All runoff above
the 20-year one-hour storm is proposed to go to a water quality improvement project on the California
Stateline Road parcel (Linked Project Status) or to treatment facilities located on the Crystal Bay Motel
parcel.
The design of the new facilities will provide automatic snow melting capability throughout the pedestrian circulation and promenade. In locations where automatic snow melting is infeasible, these areas have been designed for snow removal and storage. The snow melt from the proposed project will be collected, transported, and treated in the storm water management system.

The total existing land coverage for the project area is 357,357 square feet (54.5 percent), composed of both Class 1(a) and Class 4 land coverage. The plans propose a reduction of approximately 24,600 square feet of existing onsite land coverage. Boulder Bay, through a Linked Project, also proposes to remove and restore 16,391 square feet (100 percent) of the existing land coverage associated with the property known as the Stateline parcel (APN 090-305-016) and 4,127 square feet of offsite land coverage along SR 28 to benefit the overall land coverage reduction associated with the project.

**Development Commodities**

Within the project area, there is currently 83,396 square feet of verified commercial floor area (CFA) which includes 29,744 square feet of NTRPA certified gaming area. Boulder Bay proposes to maintain 28,640 square feet of CFA for the retail and restaurant village along with incorporating a smaller casino with 10,000 square feet of gaming floor area. The total overall reduction of CFA will be 42,256 square feet, including 19,744 square feet of gaming area reduction. This will be a reduction of over 66 percent in total gaming area currently certified on the Biltmore property.

Boulder Bay currently has 151 verified tourist accommodation units (TAUs) associated with the Biltmore Hotel, the Crystal Bay Motel and the 22 remaining units associated with Sierra Park, along with 7 verified Equivalent Residential Units (ERU) associated with the Biltmore property, the three Sierra Park parcels and the manager’s unit at the Crystal Bay Motel.

Boulder Bay proposes 149 fractional ownership condominiums, 217 hotel rooms and suites, and 21 whole ownership condominiums for a total required entitlement of 366 TAUs and 21 ERUs. Taking in consideration the existing verified units of use, the project will require 215 additional TAUs and 14 additional ERUs. Boulder Bay has purchased 141 TAUs, 40 of which are designated SEZ restoration. Boulder Bay proposes to apply for the 43 bonus TAUs associated with the NSCP and 40 bonus TAUs from the Special Project Pool. Boulder Bay also has 14 ERUs banked offsite. All of these units of use will be transferred to the project through the transfer process that will be completed under separate TRPA applications.
Leadership in Energy and Environmental Design

The project will seek a silver level certification from the U.S. Green Building Council. This level of certification is higher than is required by the Community Enhancement Program documentation. The project will also self score according to the LEED Neighborhood pilot program. This is viewed as a progressive environmental proposal for this site and will be achieved by careful attention to site planning and building design. The project will register for federal LEED certification in the fourth quarter of 2008.

Project Height & Scenic Quality

The existing Biltmore Hotel and Casino structure has a height in excess of 76 feet utilizing the current TRPA height calculation method. The position of the existing building provides for less than 7 feet of setback from the State Route 28 right-of-way.

Boulder Bay proposes to create a Special Height District that will provide a transition of height across the building site allowing the buildings to stair-step up the slope to a maximum height below the existing tree canopy.

Consistent with the requirements of the Community Enhancement Program, Boulder Bay has executed a legally binding agreement with Washoe County to participate in the undergrounding of overhead utilities within the NSCP.

Community Plan

The proposed project site is located within the NSCP that defines allowed uses, special uses and critical project goals. In summary, the uses allowed are tourist, residential, commercial, gaming, and uses accessory thereto. All building footprints are sited within the existing NSCP boundary and only that area is utilized for calculation of allowable mixed-use project density. Public open space and a public passive park are the only facilities planned for development outside of the NSCP boundary.

POTENTIAL ALTERNATIVES

Project Scoping is conducted to develop the scope and content of the information to be included and analyzed in the EIS. TRPA Code of Ordinances Subsection 5.8.A(2) requires that an EIS study, develop and describe appropriate alternatives to recommended courses of action for any project which involves
unresolved conflicts concerning alternative uses of available resources. Alternatives for evaluation in the EIS will be developed in consultation with TRPA staff based on input received from the members of the TRPA Advisory Planning Commission and public. Potential alternatives may include, but not be limited to, the following:

- No Action: No redevelopment of the existing site would occur. The project site would retain existing conditions with the requirement that BMPs be installed.

- No Code Amendment: A timeshare/gaming development project that uses grandfathered height in the existing main structure and new buildings consistent with existing TRPA height and coverage requirements.

- Modified Mix of Uses: A mixed-use resort with an alternative mix or number of whole ownership residential, tourist accommodation hotel units, gaming, retail and dining.

**POTENTIAL ENVIRONMENTAL EFFECTS**

The following subject areas include potential environmental effects associated with the proposed Boulder Bay project. These issues will be explored further during project scoping and during preparation of the Draft EIS.

**Land Use.** Land use impacts to be addressed include changes to onsite uses, land use compatibility, and community character. Land use compatibility issues with the surrounding neighborhood will be studied in the EIS. The EIS will also address the project and alternatives consistency with TRPA (e.g., Code of Ordinances, Goals and Policies, Community Plans, and Community Enhancement Program Guidelines adopted by the TRPA Governing Board) and Washoe County planning guidelines. No Community Plan amendments or changes to the allowable NSCP land uses are proposed.

**Hydrology and Water Quality.** Impacts to water quality that may result from construction and permanent facilities will be studied in the Draft EIS. The potential impacts that may result to hydrology and water quality involve the creation of storm water runoff that would result from creation of impervious surfaces associated with the project and the excavation and fill proposed to prepare the site for redevelopment. No existing stream channels have been identified within the site and therefore will not be impacted as a result of project construction or implementation. Effectiveness of proposed Best
Management Practices on water quality will be studied and analyzed. If necessary, additional Best Management Practices or other mitigation measures will be proposed in order to address the potential short- and long-term impacts to hydrology and water quality. The EIS will also address long-term water quality monitoring needs.

**Biological Resources (Fisheries and Aquatic Resources, Vegetation and Wildlife).** The project would likely result in minimal impacts to biological resources due to the existing developed nature of the project area/site. The EIS will evaluate the potential direct, indirect, and cumulative effects of the proposed Boulder Bay project on: 1) existing vegetation communities, wildlife habitats, and aquatic resources; 2) common and ecologically significant vegetation, wildlife, and aquatic resources; and 3) special-status plant, wildlife, and aquatic species, including TRPA Special Interest Species. The relationship of project effects to TRPA thresholds for vegetation, wildlife, and fisheries will also be evaluated.

**Earth Resources: Geology and Soils, and Land Capability and Coverage.** The project would involve excavation and the placement of fill material for construction of the proposed facilities, BMPs and landscaping associated with the proposed project. Potential environmental effects related to land capability and coverage, soils and geology, topographic alteration, seismic hazards, slope stability, and erosion potential will be described. The proposed project carries the potential for large excavations necessary for the foundations and parking garage. If soil export outside of the study area is necessary, potential disposal sites will be identified and evaluated.

**Scenic Resources/Community Design.** The potential impacts from adoption of the proposed Special Height District and construction of the proposed project will be evaluated through the use of site visits and photographs from sensitive viewpoints on and near the project site and review of visual simulations. Viewpoint locations will be selected to include scenic threshold sites from SR 28 and Lake Tahoe. The project site is located in Roadway Unit No. 20D (North Stateline Casino Core) and Shoreline Units No. 22 (Brockway) and 23 (Crystal Bay). The TRPA’s 2006 Threshold Evaluation Report continues to identify Roadway Unit 20D as non-attainment and “at risk” for additional degradation from new structures. Both Shoreline Units 22 and 23 are out of attainment.

The effects analysis will consider the relationship of the project’s building massing, height and design to TRPA scenic ordinances and thresholds and Design Guidelines from the NSCP. The evaluation will
address the proposed special height amendment and its associated impacts on density and neighborhood character.

**Public Access and Recreation.** Construction and operation of the project would have limited impacts to existing public access to and recreational uses adjacent to the project area. Included in the project is a public park and open space area and the potential for a connection to existing and proposed recreational trails adjacent to the project site. The EIS will evaluate the changes to existing recreation areas and uses as a result of project implementation.

**Cultural Resources.** The project is located entirely on developed land. The potential for cultural or historic resources to be located within the project area and the potential for disturbance of known and/or undiscovered cultural or historic resources due to implementation of the project will be analyzed. In addition, the evaluation methodology will include consultation with the Washoe Tribe and evaluation of potentially significant resources in accordance with Section 106 of the National Historic Preservation Act.

**Transportation, Parking and Circulation.** Construction of the proposed project would generate short-term, construction-related traffic. Long-term traffic generated by the proposed project will also be discussed because of the proposed changes to the current density and mix of uses at the site (e.g., replacement of gaming area with additional residential and TAU development). If applicable, the analysis will also discuss potential transportation benefits (e.g., trip reduction, improvements to traffic flow along State Route 28) that may result from project implementation. The transportation analysis will include identification of major roadways and intersections that may be affected by the proposed project, traffic volumes on those roadways, and potential neighborhood effects from proposed abandonment of roadways within the project area. Because of proposed changes to existing roadway network, the effects on local circulation patterns will also be discussed in the EIS, along with the potential for project generated parking demand to exceed the onsite parking supply.

**Air Quality.** Project construction would involve emissions from construction equipment and vehicle trips associated with construction personnel, and the generation of fugitive dust, both contributing pollutants to the air basin. An assessment of short-term (i.e., construction) air quality impacts and long-term (i.e., operational) regional air pollutant emissions, including mobile, stationary, and area source emissions will be performed. If applicable, the analysis will also discuss the potential long-term benefits that may occur from the replacement of old buildings (including offsite TAU's that will be transferred to
the project) with more efficient structures as well as a possible decrease in vehicle trips and/or vehicle miles traveled.

**Noise.** Potential short-term (e.g., construction) and long-term (e.g., traffic and building equipment) noise impacts, relative to sensitive receptors and their potential exposure will be assessed. Noise levels of specific construction equipment will be determined and resultant noise levels at nearby receptors (at given distances from the source) will be calculated.

**Public Services and Utilities.** The EIS will evaluate impacts on power, water treatment and distribution, wastewater collection, solid waste collection and disposal, police services, fire protection services, schools, and fire fuel management.

**Hazards and Hazardous Materials.** The EIS will assess whether potential hazardous materials may be located in the study area. It will also address hazard issues related to adjoining private properties during project construction.

**Agricultural and Mineral Resources.** The proposed alternatives are not expected to affect agricultural or mineral resources in the study area. Existing resources will be verified and discussed.

**Socioeconomics.** Potential economic impacts related to population and housing, especially effects to adjacent residential neighborhoods and from the introduction of work force housing and their occupants to the project site will be considered.

**Growth Inducement.** The effects of the proposed project on growth inducement will be addressed. However, the proposed project is not expected to induce or result in the substantial growth of the full-time population in the region, cause a substantial increase in demand for employment opportunities, or cause an increase in other public needs.

**Cumulative Effects.** The EIS will identify and describe recently approved and reasonably anticipated projects in the Kings Beach/North Shore and Incline Village area and vicinity of the proposed Boulder Bay project, and region-wide planning efforts currently underway. The EIS will evaluate the combined effects of these activities with related impacts of the project or project alternatives.
TRPA Threshold Carrying Capacities: The EIS will include an assessment of the project’s compliance with and contribution to the attainment of environmental threshold carrying capacities adopted by TRPA.

INTENDED USES OF THE EIS

The TRPA will use this EIS to disclose potential environmental effects, and mitigation measures and alternatives that may reduce the significance of potential effects, when considering the project or alternatives for approval. The EIS will also analyze each applicable alternative’s compliance with the Community Enhancement Program criteria adopted by the TRPA Governing Board and the overall net benefits that would be achieved under each alternative. The State of Nevada responsible and trustee agencies may also use this EIS, as needed, for subsequent discretionary actions. Information provided in the EIS will also be used by agencies in their permitting process, including but not limited to, TRPA, NTRPA and Washoe County construction permits, NDOT encroachment permits, and Incline Village General Improvement District (IVGID).
ATTACHMENT A – PROPOSED SITE PLAN
TRPA PROJECT EIS PROCESS

1. Agency/Applicant Identifies a Need for Action and develops a Project/Proposal

2. The Agency Determines Significant Environmental Effects May or Will Occur

4. Notice of Intent to Prepare Environmental Impact Statement (EIS)

5. Public Scoping and Appropriate Public Involvement

6. Draft EIS is Prepared

7. Public Review and Comment and Appropriate Public Involvement

9. Final EIS is Prepared

8. Public Availability of FEIS

11. Decision to Certify EIS

10. Project Decision

12. If Approved: Implementation with monitoring as Provided in the Decision
TRPA REQUIREMENTS FOR ALTERNATIVES

Project Scoping is conducted to develop the scope and content of the information to be included and analyzed in the EIS. In accordance with Article VII (a)(3) of the Tahoe Regional Planning Compact and Subsection 5.8.B of the Tahoe Regional Planning Agency (TRPA) Code of Ordinances, an environmental document will study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources. The analysis contained in an EIS is intended to provide a comparison of a reasonable range of alternatives that are selected based on their ability to feasibly avoid or lessen at least one significant effect of the proposed project and still achieve most of the project objectives including financial viability.

POTENTIAL BOULDER BAY ALTERNATIVES

The alternatives described below are meant to illustrate potential Boulder Bay development scenarios for review and discussion during the Advisory Planning Commission (APC) hearing and public scoping process. As such, the number of units and amounts of commercial and accessory space are expressed as a range to provide the APC members and public with the maximum latitude to provide input on the potential alternatives. The final list and description of alternatives to be studied in the EIS will be based upon the APC, agency and public comment received during scoping. Once selected, the alternatives will be described in the EIS with site plans and detailed development intensities. Like the proposed project, the alternatives need to be capable of meeting the basic project objectives including operational and financial viability in an environmentally sensitive manner.

The no project alternative allows for a discussion of existing conditions at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the proposed project were not approved, based on current plans and consistent with available infrastructure and community services. Accordingly, it is anticipated that the EIS will include two no project alternatives - one based on maintaining the existing conditions at the site with the application of mandated BMPs and another based on what could be constructed on the site without additional agency approvals.

The major comparative elements of the potential Alternatives (A through E) are summarized in the table below. More detailed narrative of each alternative follow the table.
<table>
<thead>
<tr>
<th>Potential Alternative</th>
<th>Brief Description</th>
<th>Land Coverage</th>
<th>Hotel/ Fraction/ Whole/ (units)</th>
<th>Workforce (units)</th>
<th>Gaming (sq ft)</th>
<th>CFA (sq ft)</th>
<th>Max. Height (ft)</th>
<th>Parking (spaces)</th>
<th>SEZ Restoration (TAU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Includes construction of mixed-use resort community with hotel, fractional and whole ownership units, a pedestrian retail village, wellness center, meeting space and public park and open space.</td>
<td>345,578 *</td>
<td>217/ 149/ 21</td>
<td>34 onsite</td>
<td>10,000</td>
<td>28,400</td>
<td>86</td>
<td>670 Under-</td>
<td>40</td>
</tr>
<tr>
<td>B</td>
<td>Includes the construction of a mixed-use resort community similar to the Proposed Project with an alternative mix of accommodation units, commercial and amenity space.</td>
<td>TBD</td>
<td>Approx. 270-300</td>
<td>20-40 infill</td>
<td>10,000-18,000</td>
<td>20,000-30,000</td>
<td>86</td>
<td>TBD Under-</td>
<td>40</td>
</tr>
<tr>
<td>C</td>
<td>Includes the renovation of the existing structure housing gaming to include a large casino and 45-unit timeshare with dining. The remainder of the site will be built out according to TRPA density and height regulations and sold as timeshare. Three single-family homes would be built on the Sierra Park property.</td>
<td>TBD</td>
<td>Approx. 0/ 180-220/ 6-13</td>
<td>0-10 infill</td>
<td>22,400</td>
<td>30,000-40,000</td>
<td>76 (existing)</td>
<td>TBD Surface</td>
<td>None</td>
</tr>
<tr>
<td>D</td>
<td>The casino and dining would remain in operation up to certified area. The hotel units would be converted into timeshare units and sold. Three single-family homes would be built on the Sierra Park property.</td>
<td>TBD</td>
<td>approx. 0/ 92-133/ 3</td>
<td>0</td>
<td>29,744</td>
<td>30,000-48,935</td>
<td>76 (existing)</td>
<td>TBD Surface</td>
<td>None</td>
</tr>
<tr>
<td>E</td>
<td>The existing hotel and casino would remain in operation according to its current format. Mandated BMPs would be installed as required by TRPA.</td>
<td>TBD</td>
<td>approx. 92/ 0/ 3</td>
<td>0</td>
<td>22,400</td>
<td>56,279</td>
<td>76 (existing)</td>
<td>296 Surface</td>
<td>None</td>
</tr>
</tbody>
</table>
## MAJOR COMPARATIVE ELEMENTS OF POTENTIAL BOULDER BAY ALTERNATIVES

<table>
<thead>
<tr>
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<th>Workforce (units)</th>
<th>Gaming (sq ft)</th>
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<th>Max. Height (ft)</th>
<th>Parking (spaces)</th>
<th>SEZ Restoration (TAU)</th>
</tr>
</thead>
</table>

TBD = To Be Determined.  
* Project proposes land coverage reductions (including offsite reductions) totaling 45,182 square feet within the North Stateline Community Plan.  
These items will be fully defined and calculated based upon the final alternative developed based upon APC, agency, and public comments.
ALTERNATIVE A – PROPOSED PROJECT

Alternative A is the proposed Boulder Bay Project discussed in detail in the Notice of Preparation (NOP) published on July 18, 2008. This project will be submitted for consideration and approval under the TRPA Community Enhancement Program and will include a request for 40 bonus TAUs from the special project pool and 43 bonus TAUs associated with the NSCP.

After receiving Washoe County Building Permits, the existing Washoe and Reservoir Roads that bisect the site would be replaced with new realigned roads as depicted in the site plan attached to the NOP. The new paved road would be constructed to meet the Washoe County Code and Standards. The existing utilities onsite are aging and in need of repairs; therefore the utilities would be improved and realigned to follow the new roadway or dedicated utility easements. In addition, pursuant to Chapter 30 of the TRPA Code of Ordinances, any above ground utility lines would be placed underground.

The proposed project would include 217 hotel units, 149 fractional condominium units, 21 whole ownership units, and 34 workforce-housing units. The Project would also include a spa and wellness center, meeting facilities, pedestrian retail village and casino. Parking would be provided for the property according to Washoe County Parking Code. Approximately 98% of the parking would be provided inside underground structured parking facilities.

Alternative A would result in approximately 345,578 sf of land coverage. This would be a reduction of approximately 45,118 sf of total land coverage in comparison to the TRPA verified coverage for the site and associated offsite land coverage reduction sites. Alternative A would include temporary and permanent BMPs to improve site drainage and water quality and would involve the restoration of 40 TAU currently located in SEZ habitat. Completed in conjunction with the project will be two off-site Water Quality Improvement projects including the Stateline WQIP completed on behalf of Placer County. The proposed development will be registered as a LEED® project and would also seek to achieve a silver rating from the U.S. Green Building Council. A 4.16-acre public park and open space will be constructed on the former Tahoe mariner site and maintained by the resort.
Construction of Alternative A would commence as soon as possible after project approval, acquisition of permits and financing. Construction of the proposed project would be completed in two-three phases. The first phase is anticipated to begin as early as 2010, with final project completion anticipated for the fall 2014. Construction activities would be continuous, except during winter months when activities may cease for a period of time.

DEVELOPMENT ALTERNATIVES

For the purposes of the EIS, three action alternatives (B, C and D) have been identified to represent a proposed range of development on the existing parcels. In addition, existing conditions will be analyzed (Alternative E). Because the NSCP and the existing coverage entitlements would allow each of the new parcels to be built as tourist commercial, each of the action alternatives include this as the primary use. Alternative D (No Project - Timeshare Renovation of Existing Structure Housing Gaming) would involve renovation of the existing structure housing gaming according to the NTRPA Compact and the development of the former Tahoe Mariner parcel according to the current Amendment to the 1981 Settlement Agreement. Alternative C – Timeshare Renovation would involve development of both the Biltmore and Mariner properties according to the existing TRPA Code with the maximum land coverage and commercial uses. Alternative B – Alternative Mix of Uses would also propose to use commodities available in the NSCP and through the CEP, but would change the mix of proposed uses to reduce the number of fractional ownership and onsite workforce housing units.

ALTERNATIVE B – RECONFIGURATION OF PROPOSED USES

Alternative B is a mixed-use resort with an alternative mix and number of whole ownership residential units, tourist accommodation units, gaming, retail and dining areas. The purpose of this alternative would be to evaluate the impact of different types and intensity of residential uses when the program is shifted away from fractional and timeshare towards predominately whole ownership and hotel. This project would be submitted for consideration and approval under the TRPA Community Enhancement Program and will include a request for 40 bonus TAUs and up to 43 bonus TAUs associated with the NTCP.
Similar to Alternative A, after receiving Washoe County Building Permits, the existing Washoe and Reservoir Roads that bisect the site would be replaced with new realigned roads as depicted in the attached site plan. The new paved road would be constructed to meet the Washoe County Code and Standards. The existing utilities onsite are aging and in need of repairs; therefore the utilities would be improved and realigned to follow the new roadway or dedicated utility easements. In addition, pursuant to Chapter 30 of the TRPA Code of Ordinances, any above ground utility lines would be placed underground.

The proposed project would include approximately 270-300 hotel units, 20-40 fractional condominium units 50-60 whole ownership units and up to 40 workforce-housing units that may be developed offsite. The Project would also include a spa and wellness center, increased meeting facilities, pedestrian retail village and casino. Parking would be provided for the property according to Washoe County Parking Code. Approximately 98% of the parking would be provided inside underground structured parking facilities.

Alternative B would result in approximately 340,000-350,000 sf of land coverage. This would be a reduction of approximately 40,000-50,000 sf of total land coverage in comparison to the TRPA verified coverage for the site and associated offsite land coverage reduction sites. Alternative B would include temporary and permanent BMPs to improve site drainage and water quality and would involve the restoration of 40 TAU currently located in of SEZ habitat. Completed in conjunction with the project will be two off-site Water Quality Improvement projects including the Stateline WQIP completed on behalf of Placer County. The proposed development will be registered as a LEED® project and would also seek to achieve silver rating from the U.S. Green Building Council. A 4.16-acre public park and open space will be constructed on the former Tahoe mariner site and maintained by the resort.

Construction of Alternative B would commence as soon as possible after project approval, acquisition of permits and financing. Construction of the proposed project would be completed in two-three phases. The first phase is anticipated to begin as early as 2010, with final project completion anticipated for the fall 2014. Construction activities would be continuous, except during winter months when activities may cease for a period of time.
ALTERNATIVE C – RENOVATION AND REDEVELOPMENT

Alternative C is a timeshare/gaming development project that proposes a renovation of the existing structure housing gaming with grandfathered height and the addition of new buildings consistent with existing TRPA height and coverage requirements built on the remainder of the site. This project will be withdrawn for consideration from the CEP.

After receiving Washoe County Building Permits, the existing Wassou would be abandoned and the existing Reservoir would be retrofitted to conform to Washoe County width and design standards as depicted in the attached site plan. The existing utilities offsite will be repaired and retained in an overhead configuration.

The proposed project would include approximately 180-220 timeshare units, 3-10 whole ownership units, and up to 10 workforce-housing units that may be developed offsite. The Project would also include a 22,400 sq ft casino and other commercial options consistent with current floor area. Parking would be provided for the property according to Washoe County Parking Code. 100% of the parking would be provided on surface parking lots. Three single family homes would be built on the Tahoe Mariner site with and access driveway from Reservoir Road.

Alternative C would maintain up to 390,760 sf of land coverage. Alternative B would include temporary and permanent BMPs to improve site drainage and water quality. The project would not include the restoration of 40 TAU within SEZ habitat. No offsite WQIP will be built as a result of this project. The proposed development will not be able to achieve LEED certification. The public park would not be built.

Construction of Alternative C would commence as soon as possible after project approval, acquisition of permits and financing. Construction of the proposed project would be completed in two phases. The first phase is anticipated to begin as early as 2010, with final project completion anticipated for the fall 2014. Construction activities would be continuous, except during winter months when activities may cease for a period of time.
ALTERNATIVE D – NO PROJECT (TIMESHARE RENOVATION OF EXISTING STRUCTURE HOUSING GAMING)

Alternative D is a Timeshare renovation of the existing structure housing gaming under the authority of the Nevada Tahoe Regional Planning Agency Compact.

All of the exterior structures, parking facilities, driveways and signage will be retained in its current configuration and state. The interior of the facility will be renovated and the existing hotel units will be converted to up to 133 timeshare units and sold in 1-week increments. The casino space would be enlarged and renovated to approximately 29,744 sq ft. Basic infrastructure maintenance and upgrades would be completed, and BMPs, such as infiltration trenches and limited revegetation, would be implemented as required by the TRPA BMP Retrofit Program. Parking would be provided for the property according to Washoe County Parking Code. 100% of the parking would be provided on surface parking lots.

Alternative D would maintain up to 390,760 sf of land coverage. The project would not include the restoration of 40 TAU within SEZ habitat. No offsite WQIP will be built as a result of this project. The proposed development will not be able to achieve LEED certification. The public park would not be built.

Construction of Alternative D would commence as soon as possible after project approval, acquisition of permits and financing. Construction of the proposed project would be completed in one phase beginning as early as 2009, with final project completion anticipated for the fall 2010. Construction activities would be continuous, except during winter months when activities may cease for a period of time.

No improvements will be made to public roads transportation or infrastructure either on or offsite. Assembled TAU and ERU will be reapplied to multiple smaller project proposals around the basin with distributed footprints.
ALTERNATIVE E – NO PROJECT (EXISTING CONDITIONS)

Under the No Project Alternative, the Tahoe Biltmore Hotel and Casino would be retained with 22,400 square feet of casino area, 92 hotel units, existing commercial floor area and would include basic infrastructure maintenance and upgrades and BMPs, such as infiltration trenches and limited revegetation, as required by the TRPA BMP Retrofit Program.

No improvements will be made to public roads transportation or infrastructure either on or offsite. Assembled TAU and ERU will be reapplied to multiple smaller project proposals around the basin with distributed footprints. Note that while this Alternative will be studied for comparison purposes, the more likely scenario from a fiscal perspective is Alternative D, and the renovation and timeshare conversion of the existing structure housing gaming under the TRPA compact.
Resolution - Attachment E

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2008 – 11

A RESOLUTION APPROVING AN INITIAL RESERVATION OF SPECIAL PROJECTS
ALLOCATION OF COMMERCIAL FLOOR AREA, TOURIST ACCOMMODATION BONUS
UNITS, AND MULTI-RESIDENTIAL BONUS UNITS TO ELIGIBLE PROJECTS IN
ACCORDANCE WITH CHAPTER 33 AND 35 OF THE TRPA CODE OF ORDINANCES

WHEREAS, Chapter 33 of the TRPA Code sets for the methods and time
schedules for reserving commercial floor and tourist accommodation for special projects;
and

WHEREAS, Chapter 35 set forth the methods for reserving multi-residential
bonus units for projects; and

WHEREAS, Chapter 33 also was enacted pursuant to Article V(g) of the
Compact to codify and implement the requirement to ensure attainment and
maintenance of the thresholds;

WHEREAS, Chapter 33 is designed to implement and coordinate the growth
management provisions of the Regional Plan Package and provide guidance to the
Governing Board during the ongoing implementation and process; and

WHEREAS, the goals and requirements of the Code Subparagraph 33.3.D (3)
Special Projects have been incorporated into the Community Enhancement Program
released August 1, 2007; and

WHEREAS, the Community Enhancement Program sets forth the goals,
evaluation criteria, time schedules, and pre-application requirements for the designation
of project proposals as Community Enhancement Program/Special Projects and the
reservation of commercial floor area, tourist accommodation bonus units, and multi-
residential bonus units for those designated proposals.

WHEREAS, Chapter 33 and the Community Enhancement Program called for
the completion and action of mixed used projects that implement environmental
improvement projects and provide substantial environmental benefits or mitigation in
excess of the TRPA project mitigation requirements; and

WHEREAS, per Chapter 33, staff provided adequate public notice (90 days) in
advance of any action to reserve commercial floor area, tourist accommodation bonus
units and multi-residential bonus units,

WHEREAS, the Performance Review Committee completed review of the
Community Enhancement Program/Special Project criteria and staff recommendation for
the reservation of allocations and forwarded their recommendation to the Advisory
Planning Commission; and

WHEREAS, the Advisory Planning Commission completed review of the
Community Enhancement Program/Special Project criteria and staff recommendation for
the reservation of allocations and forwarded their recommendation to the TRPA
Governing Board.
Resolution - Attachment E

WHEREAS, TRPA and Local Jurisdiction staff utilized the CEP/Special Project criteria to review the pre-applications and have made appropriate recommendations to the Governing Board; and

WHEREAS, the TRPA Governing Board has reviewed the staff summary and recommendations, and other updates and information submitted at its July 25, 2007, November 28, 2007, January 23, 2008, and February 27, 2008 meetings; and

WHEREAS, any commercial floor area, tourist accommodation bonus units, or multi-residential bonus units not utilized by the any of the project proposals listed below, will be returned to the allocation pool and assignment of those allocations would be subject to a subsequent Governing Board action; and

WHEREAS, the amount of commercial floor area requested by each proposals has been proportionally reduced by 7.05% to accommodate all the proposals; and

NOW, THEREFORE, BE IT RESOLVED THAT the Governing Board of the Tahoe Regional Planning Agency hereby amends Resolution 98-8, and designates the following project proposals as Community Enhancement Program/Special Projects and initially reserves these proposals commodities as outlined in the Table 1, below:

Table 1:

<table>
<thead>
<tr>
<th>Community Enhancement Project Proposals</th>
<th>Commercial Floor Area (square feet)</th>
<th>Tourist Accommodation Units</th>
<th>Multi-Residential Bonus Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Placer County</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BB LLC</td>
<td>46,475</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>Ferrari</td>
<td>27,048</td>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>Domus</td>
<td>8,175</td>
<td>0</td>
<td>79</td>
</tr>
<tr>
<td>KB Resorts</td>
<td>6,971</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>Pastore</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ryan</td>
<td>2,383</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Homewood</td>
<td>23,237</td>
<td>50</td>
<td>12</td>
</tr>
<tr>
<td>Washoe County</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boulder Bay LLC</td>
<td>0</td>
<td>40</td>
<td>48</td>
</tr>
<tr>
<td>City of South Lake Tahoe</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Former</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mikasa</td>
<td>43,872</td>
<td>0</td>
<td>24</td>
</tr>
<tr>
<td>South Y</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kmart/Raleys</td>
<td>15,801</td>
<td>0</td>
<td>45</td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED THAT the Governing Board hereby declares that at the time a project application to TRPA and the local jurisdiction is received, the project proposals designated as Community Enhancement Program/Special Projects shall be consistent with the goals and objectives of the Community Enhancement Program and the proposal concepts reviewed by staff in their pre-application packages.
BE IT FURTHER RESOLVED THAT the Governing Board hereby declares that the designation of the above proposals and the reservation of commodities are subject to the conditions as generally outlined in Exhibits 1-9.

BE IT FURTHER RESOLVED THAT TRPA recognizes that the project development process is fluid and that the details of project proposals are likely to change over time after the formal applications are submitted based on at least considerations of feasibility as well as the outcome of the environmental review analyses, and therefore the project conditions stated as requirements may be amended added to, or deleted, and further may not need to be met in every detail. The project conditions as generally set forth or as may be added should be viewed as statements of issues that must be addressed to the full satisfaction of TRPA at the appropriate point in the project development process and no later than the time the project is considered for decision by the TRPA Governing Board.

BE IT FURTHER RESOLVED THAT the adoption of this resolution by the TRPA Governing Board is a set aside of commodities from the Special Projects pool for planning purposes only. The Board’s action is not a project approval or guarantee of any kind that the project, in any form, must be or will be approved. The CEP project applicants alone assume all risks of development, including the outcome of any future decisions of TRPA, and this reservation of allocations must not be construed as an entitlement or vested right of any kind.

BE IT FURTHER RESOLVED THAT the Governing Board hereby declares that this reservation of commodities shall expire on, Wednesday, February 25, 2009, unless extended by TRPA upon a showing of adequate progress toward project approval.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at its regular meeting held on February 27, 2008, by the following vote:

Ayes: Ms. Aldean, Mr. Biaggi, Ms. Bresnick, Mr. Galloway, Mr. Kranz, Ms. McDermid, Mr. Merrill, Mr. Miller, Mr. Ruthe, Ms. Santiago, Mr. Swobe, Mr. Waldie, Mr. Weber

Nays:

Abstain:

Absent:

Mara Bresnick, Chair
Tahoe Regional Planning Agency
February 4, 2008

Resolution 2008 –11
Exhibit 6
Conditional Reservation of Allocations – Boulder Bay, LLC

Project Proponent: Boulder Bay, LLC
Project Representative: Lew Feldman
Feldman Shaw LLP
P.O. Box 1249
Zephyr Cove, NV 89448

There are many positive aspects to this project; but, the pre-application proposal needs improvement to be accepted by TRPA for action as a qualified CEP project. These requirements for improvement shall be addressed at the time TRPA receives an application for the project or when appropriate, before any action approving the project. Below is a list of requirements for continued participation as a qualified CEP project. Staff is available to work with the applicant to ensure that the project has met these requirements and all other TRPA project requirements.

The allocations outlined in the table below shall be reserved for the B.B., LLC proposal for one year subject to the following requirements.

<table>
<thead>
<tr>
<th>CEP Projects</th>
<th>Requested CFA</th>
<th>Proportional Reduction of 7.05% *</th>
<th>Recommended CFA Reservation</th>
<th>TABU</th>
<th>Recommended MRBU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boulder Bay LLC</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>40</td>
<td>48</td>
</tr>
</tbody>
</table>

Requirements for Continued Participation:

Settlement Agreement:
1. The project as proposed is currently inconsistent with the Settlement Agreement between Crystal Bay Associates and the TRPA dated 9/17/2001. Major concerns relating to existing permanent deed restrictions and use restrictions on the Mariner Site have been identified. TRPA requires that the site be redesigned and the settlement agreement renegotiated to meet the overall goals of the CEP, the project, and the intent of the original settlement agreement. TRPA requires that in order for the intent of the settlement agreement to be realized, Boulder Bay, LLC will commit to providing the improvements for the park, dedicating the land to public use, and providing for the long-term maintenance of the site.

Scale, massing, height, and community character:
1. TRPA has concerns with the proposed 75 feet height of the casino structure as it will likely be visible from Lake Tahoe as it is being relocated up hill and could be visible over tree canopy. TRPA recognizes the need to allow additional height to achieve the visions espoused in the existing Community Plan; the place based planning process local and regional visions, and the CEP itself. Site context,
varying step backs, roof pitch, and articulation need to be considered for additional height to be appropriate for this location. Given the proposed project area is located on a slope; TRPA is considering an alternative method of measuring height in these situations. TRPA’s design guidelines provide details in relation to stepping a building with the contours and staying below the tree canopy. The proposal will require the use of a building envelope that would allow a building to stair step up a slope to a maximum height not to exceed currently existing height at the highest point of the envelope/slope. TRPA requires a decrease in the proposed height if TRPA height findings (1), (7) and (9) in Section 22.7 can not be made.

2. TRPA requires Boulder Bay, LLC specify the percentage of land coverage reduction proposed for this overall project. The increase in density and height should result in an overall reduction in land coverage. The existing Community Plan requires a minimum of 5% land coverage reduction. This may be accomplished through providing landscaping pockets, planter beds, etc; however, an additional reduction needs to be provided to be in accord with the increased height proposal noted above.

3. A Scenic/Visual analysis of roadway unit and how it will enhance the scenic travel route rating will be required for this project. The scenic analysis will also include an analysis of how the scenic threshold will be potentially impacted and any impacts mitigated. If the proposed project is visible from Lake Tahoe, an additional scenic analysis will be required that addresses the impacts to Lake Tahoe.

4. TRPA requires the use of high quality natural materials including stone, wood, and alternative green building materials should be incorporated into the designs. Texture, color, form and glass reflectivity need to be considered on all buildings, especially those that front the Scenic Travel Route.

**Environmental Improvements/ Environmental Improvement Program (EIP):**

1. For allocations to be reserved and projects to be approved, CEP projects are required to commit to substantial environmental improvements, which must include specifically identified EIP projects. Your project proposes a number of environmental benefits/improvements; however, TRPA requires a written commitment regarding the funding, construction, and overall maintenance/monitoring for these EIP project contributions in order to ensure the projects are implemented. The EIP concerns listed in TRPA’s January 16, 2008 letter shall be addressed.

2. TRPA requires that each of the project’s buildings meet the minimum LEED certification. This is to ensure that green building methodology will be completed and a long term commitment to maintain this certification is undertaken. Additionally, TRPA is also requiring that the project be scored against the pilot LEED for neighborhoods program and obtain a minimum score of 40. This second scoring would be reviewed by TRPA as the program is only in a pilot stage and projects are unable to receive a certification at this time. The reason for this second scoring is that this pilot program has very similar goals to the CEP and it is a nationally recognized quantifiable way to ensure that the mixed use projects are achieving those goals.
3. One of the important goals outlined in the TRPA Code of Ordinances and the CEP is to promote the transfer of development that results in substantial environmental benefits. TRPA requires Boulder Bay, LLC provide specific details on the location and land capability of the 40 TAUs.

**Housing:**
1. To promote Transit Oriented Development, TRPA will require the proposed project to meet minimum density and floor area standards that promote transit and walkability.

**Parking:**
1. The project proposes an amendment of parking standards to accommodate a 45% reduction in parking. Boulder Bay, LLC is required to provide a detailed discussion and commitments toward coordination, implementation, and long term maintenance of a transportation strategy which will allow this reduction to be justified. See Transportation section below.

2. TRPA requires the parking lot in Boulder Bay, LLC ownership located across the street from the existing Biltmore be included in this project proposal.

**Transportation/ Recreation:**
1. TRPA requires an estimate of VMT reduction, strategies and methodology.

2. TRPA requires Boulder Bay, LLC provide specific details including confirmation and commitments regarding the proposed transit components. This is to ensure connections are coordinated and improved with existing public transportation authorities and private shuttle systems for transport to and from the site, including transport to other recreation facilities/sites (Ski areas, beaches, trailheads, etc.).

3. TRPA requires Boulder Bay, LLC provide a kiosk with signs, maps, etc. that provides linkages to schools, community facilities, bike paths should be located on site in or near the transit center/shelter.

4. TRPA requires Boulder Bay, LLC to coordinate with CalTrans, NDOT, Washoe and Placer County to create a multi-use trail connecting Crystal Bay to Kings Beach Commercial Area. This would be beneficial to your project, other CEP projects within the Kings Beach area, and the local residential and tourist populations.

5. TRPA requires Boulder Bay, LLC to help achieve a portion of the NV Stateline to Stateline trail being planned to connect Crystal Bay to Incline Village. Coordination with this trail project would be considered an environmental benefit and would help reduce the need for the automobile, provide access to your site from the surrounding areas, and be a recreational benefit for the community. It is likely that a bike trail associated with this parcel would be considered a leg of the around the Lake trail.

**Basic Site Information:**
1. TRPA requires Boulder Bay, LLC identify where the North Stateline Community Plan Boundaries are located within the project area. TRPA has concerns that per the project proposal site plan dated 10/31/2007, Locations I, J, & K may be outside the CP boundary. All development located outside the CP boundary cannot be a part of this CEP proposal.

2. TRPA requires Boulder Bay, LLC provide specific verifications and calculations for the existing (Biltmore and Tahoe Mariner) land coverage, cfa, and TAUs.

3. TRPA requires Boulder Bay, LLC provide Soils Hydrological determination in relation to the proposed underground parking facility.

4. TRPA requires Boulder Bay, LLC provide details and confirmation regarding the issue of moving of gaming/casino floor area with NTRPA and ensure project conformance with compact requirements prior to application to TRPA.

**Miscellaneous CEP/CP Items:**
1. TRPA requires Boulder Bay, LLC some form of functional public art and potentially play structures/etc.

2. TRPA requires Boulder Bay, LLC provide details on the number and types of proposed mix of uses for the site using TRPA Chapter 18, Permissible Uses as a guide.

3. Identify public/private open spaces for the residential housing and/or general public use within the mixed use development.

4. TRPA requires Boulder Bay, LLC provide details and commitments on how is this proposal will help meet the existing goals within the CP:
   a. a reduction in driveway cuts
   b. the inclusion of left turn pockets to reduce traffic delays
   c. Inclusion of Bus Shelters on the Biltmore site
   d. Buffers between existing residential and the commercial areas
   e. And, Snow Storage
Boulder Bay
Project Area Context

Contextual Photographs
MEMORANDUM

To: TRPA Advisory Planning Commission (APC)

From: TRPA Staff

Date: August 5, 2008

Subject: Recommendation to the Governing Board of an Amendment to the Code of Ordinances, Section 4.7.D Appeals, Requiring Project Appellants to Exhaust Remedies with the Governing Board Prior to Filing an Action with a Court of Competent Jurisdiction and Providing for Other Matters Related Thereto.

Requested Action: Staff requests an APC recommendation to the Governing Board on the proposed TRPA Code of Ordinances (Code) amendments and findings of no significant effect.

Staff Recommendation: Staff recommends that the APC recommend that the Governing Board make the required findings and approve the proposed Code amendment to Code Section 4.7.D as described in the proposed Ordinance (Attachment B).

Required Motion: The APC motion to recommend approval of the proposed Code amendments includes the recommendation that the Governing Board make the following motions, based on this staff summary and the evidence in the record:

1) Motion to approve the required findings (Attachment A), including a finding of no significant effect; and
2) Motion to approve the proposed Ordinance amending the Code (Attachment B).

Background: Staff proposes an amendment to Code Section 4.7.D, Appeals, to make the Code consistent with the Compact’s intention that a project appellant exhaust administrative remedies (i.e., Governing Board appeal hearings) before filing an action with a court of competent jurisdiction.

Section 4.7.D, Appeals, currently reads as follows, “The final action of the Executive Director may be appealed to either the Governing Board pursuant to TRPA’s Rules of Procedure or to a court of competent jurisdiction pursuant to Article VI (j) of the Compact.” [Emphasis added.]
The Compact provides that any “aggrieved person” may appeal any staff or Executive Director decision to a court of competent jurisdiction. An aggrieved person is defined in the Compact as one who has appeared at “an appropriate administrative hearing”. Thus, the Compact envisions administrative review as a required precursor to judicial review, not as an option. The amendment proposed by staff is consistent with this intent.

It is a well settled principle of administrative law that administrative remedies be exhausted before judicial review is granted. See e.g. *Gibson v. Berryhill*, 411 U.S. 564, 574 (1973) (“A party must exhaust his available administrative remedies before invoking the equitable jurisdiction of a court”). The proposed amendment honors the general principle that administrative agencies are created to have special expertise and should have a right of review prior to intervention by the courts. See e.g. *Parisi v. Davidson*, 405 U.S. 34, 38 (1972) (“The basic purpose of the doctrine of exhaustion of administrative remedies is to allow an administrative agency to perform functions within its special competence to make a factual record, to apply its expertise, and to correct its own errors so as to moot judicial controversies”). TRPA was created as a Bi-State agency to have special expertise regarding the environment in the Tahoe Region. It is imperative to the achievement of TRPA’s goals and to the effective resolution of matters before TRPA, that the TRPA Governing Board retain the first right of review. The amendment proposed by staff would accomplish this goal.

Staff therefore proposes that Code Section 4.7.D be amended to read as follows:

> The Final Action of the Executive Director may be appealed to the Governing Board pursuant to TRPA’s Rules of Procedure. Final Action of the Governing Board may be appealed to a court of competent jurisdiction pursuant to Article V (j) of the Compact.

**Issues/Concerns**: The amendment ensures that administrative remedies are exhausted with TRPA prior to judicial review, as envisioned by the Compact.

**Regional Plan Compliance**: The proposed action complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code, including all required findings in Chapter 6 of the Code (see Attachment A for details).

If you have any questions, please contact Nicole U. Rinke, Assistant General Counsel, at nrinke@trpa.org or (775) 589-5286.

**Attachments**:

- **Attachment A** – Required Findings pursuant to Chapter 6 of the Code.
- **Attachment B** – Proposed Ordinance amending the Code.
- **Exhibit 1** – Proposed new Ordinance language.
Attachment A

REQUIRED FINDINGS

Required Findings: The following findings must be made prior to adopting the proposed amendment to TRPA Code Section 4.7.D:

A. Chapter 6 Findings:

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

Rationale: It is a well settled principle of administrative law that administrative remedies be exhausted before judicial review is granted. The proposed amendment honors the general principle that administrative agencies are created to have special expertise and are most effective when given the right of review before a court. The proposed amendment will ensure that the TRPA Governing Board is able to consider project appeals for consistency with the thresholds and the Regional Plan prior to intervention by a court of competent jurisdiction.

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

Rationale: As stated in 1, above, this Code change will ensure that the Governing Board has the opportunity to review project appeals for consistency with thresholds and the Regional Plan prior to intervention by a court of competent jurisdiction.

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

Rationale: As stated in 1 and 2, above, this Code change will ensure that the Governing Board has the opportunity to review project appeals for consistency with thresholds and the Regional Plan prior to intervention by a court of competent jurisdiction.

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

Rationale: As stated in 1, 2 and 3, above, this Code change will ensure that the Governing Board has the opportunity to review project appeals for consistency with thresholds and the Regional Plan prior to intervention by a court of competent jurisdiction.
5. **Finding:** The Regional Plan, as amended, achieves and maintains the thresholds.

**Rationale:** As stated in 1, 2, 3 and 4, above, this Code change will ensure that the Governing Board has the opportunity to review project appeals for consistency with thresholds and the Regional Plan prior to intervention by a court of competent jurisdiction.

**Environmental Documentation:** Staff has prepared an Initial Environmental Checklist (IEC) for the proposed amendments. Staff proposes a Finding of No Significant Effect (FONSE) based on the Chapter 6 findings shown above.
Attachment B

DRAFT
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 2008 - ___

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE CODE OF ORDINANCES OF THE TAHOE REGIONAL PLANNING AGENCY TO AMEND CHAPTER 4, PROJECT REVIEW AND EXEMPT ACTIVITIES, SECTION 4.7.D, APPEALS, REQUIRING APPELLANTS TO EXHAUST ADMINISTRATIVE REMEDIES (GOVERNING BOARD APPEAL HEARING) PRIOR TO FILING AN ACTION WITH A COURT OF COMPETENT JURISDICTION.

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

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which Ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinances Chapter 4, Project Review and Exempt Activities, Section 4.7.D, Appeals, in order to further implement the Regional Plan pursuant to Article VI (a) and other applicable provisions of the Tahoe Regional Planning Compact.

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

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

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

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

1.60 Each of the foregoing findings is supported by substantial evidence in the record.
Section 2.00 Amendment of Code of Ordinances Chapter 4, section 4.7.D.

Subsection 6.60, of Ordinance No. 87-9, as amended, is hereby further amended as set forth in Exhibit 1, dated August 27, 2008, which attachment is attached hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this Ordinance and the amendment of the TRPA Code of Ordinances Chapter 4, section 4.7.D, adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision, or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and the amendment to TRPA Code of Ordinances Chapter 4, section 4.7.D. shall not be affected thereby. For this purpose, the provisions of this Ordinance and its amendments are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this Ordinance amending Code of Ordinances Chapter 4, section 4.7.D shall be effective immediately.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 27, 2008 by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Mara Bresnick, Chair
Tahoe Regional Planning Agency
EXHIBIT 1 to Attachment B

Proposed Amendment to the TRPA Code of Ordinances

The words shown with strikethrough are proposed for removal and the italicized, bolded, words for addition to the current section.

The new language proposed is as follows:

The Final Action of the Executive Director may be appealed to the either Governing Board pursuant to TRPA’s Rules of Procedure. *Final Action of the Governing Board may be appealed* or to a court of competent jurisdiction pursuant to Article V (j) of the Compact.
MEMORANDUM

To: TRPA Advisory Planning Commission
From: TRPA Staff
Date: August 5, 2008
Subject: Amendment of Article VII of the TRPA Rules of Procedure to add Section 7.11 to provide a procedure for establishing APC attendance rules

Requested Action: Advisory Planning Commission (“APC”) action on a Resolution authorizing an addition (section 7.11) to Article VII of the TRPA Rules of Procedure to provide APC member attendance rules.

Staff Recommendation: Staff recommends that the APC recommend approval to the Governing Board of the proposed Resolution (Attachment A) amending Article VII of the Rules of Procedure adding section 7.11 to provide for the establishment of attendance rules for APC members.

Required Motion: The APC motion to recommend approval of the proposed Rule of Procedure includes the recommendation that the Governing Board make the following motions, based on this staff summary and the evidence in the record:

A motion to approve the Resolution amending Article VII of the Rules of Procedure adding section 7.11 to provide for the establishment of attendance rules for APC members.

Background: Article III, Section (4) of the TRPA Compact (Tahoe Regional Planning Compact, Public Law 96-511, 94 STAT.3233 – December 19, 1980) provides language to ensure that the TRPA Governing Board has reasonable attendance and a consistent quorum. It provides that, “the position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.” No similar rule exists for the APC. Certain members of the APC and Governing Board have requested that staff formulate a similar rule for the APC to maximize the participation of all members. Further, with the recent addition of positions to the APC, beyond those required in the Compact, APC and Governing Board members wanted to ensure a mechanism was in place to remove positions in the event of non-attendance and thereby retain the APC’s ability to achieve a quorum.
Staff proposes the following rule be added to Chapter VII:

7.11 The position of any member of the APC shall be deemed vacant if such a member is absent from three consecutive meetings of the APC in any calendar year. The Governing Board shall have the authority to abolish the position of the non-attending member if that position is not designated by the Compact.

Issues/Concerns: The issues noted below are addressed in the proposed amendment to Article VII of the Rules of Procedure (adding section 7.11) (Attachment A).

**Under the new rule, how will committee members be removed from the APC?**

Similar to the Compact rule regarding Governing Board members, if an APC member is absent from three consecutive meetings of the APC in any calendar year their seat will be deemed vacant. The Governing Board shall retain the authority to appoint a new designee or to abolish the position of the non-attending member if that position is not mandated by the Compact. This will allow the APC to retain its ability to obtain a quorum.

**What if an APC member has valid reason for being absent from three consecutive meetings?**

If an APC member anticipates frequent absences, he/she should designate an alternate that will attend the meetings in his/her absence. The alternate will be counted towards the quorum and attendance by the alternate will not be counted as an absence for the purpose of the rule.

**What is the effective date of the amended rule?**

The proposed rule will become effective on the day of its approval by the Governing Board if the vote is unanimous. If the Board does not vote unanimously but nevertheless approves the proposed Rule, it would become effective at the next regular Board meeting. See Rules of Procedure § 3.2.

Regional Plan Compliance: Pursuant to Rule of Procedure 3.1, rules of procedure shall be adopted or amended by resolution of the Governing Board. Prior to the adoption or amendment of any rule, the Board shall conduct a public hearing at which all interested persons shall be afforded a reasonable opportunity to comment. Pursuant to Rule of Procedure 12.12, notice of the adoption or amendment of the Rules of Procedure shall be given as part of the Governing Board agenda. These provisions will be complied with if the APC recommends approval to the Governing Board of the addition of section 7.11 to Article VII of the Rules of Procedure.
If you have any questions, please contact Nicole U. Rinke, Assistant General Counsel, at nrinke@trpa.org or (775) 589-5286.

Attachments:

**Attachment A** -- Proposed Resolution amending Article VII of the Rules of Procedure adding section 7.11 to provide a procedure for the establishment of attendance rules for APC members.
RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY
AMENDING ARTICLE VII OF THE TAHOE REGIONAL PLANNING AGENCY’S RULES
OF PROCEDURE ADDING SECTION 7.11 REGARDING APC MEMBER
ATTENDANCE RULES

WHEREAS, the Compact authorizes the Governing Board to establish Rules of Procedure; and

WHEREAS, the Rules do not currently provide a procedure for vacating APC seats held by members not provided for in the Compact; and

WHEREAS, the Governing Board, therefore, wishes to establish a clearly defined attendance rule for APC positions and retain the right to abolish an APC position not designated by the Compact;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that Article VII of the Tahoe Regional Planning Agency’s Rules of Procedure be amended as shown in Exhibit “1.”

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency on this 27th day of August, 2008

Ayes:

Nays:

Abstentions:

Absent:

___________________________
Mara Bresnick, Chair
Tahoe Regional Planning Agency

Agenda Item V.B.
The following language would be added as section 7.11 of Article VII of the Rules of Procedure:

7.11 The position of any member of the APC shall be deemed vacant if such a member is absent from three consecutive meetings of the APC in any calendar year. The Governing Board shall have the authority to abolish the position of the non-attending member if that position is not designated by the Compact.
MEMORANDUM

Date: August 6, 2008

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Recommendation to the Governing Board on Amendments to the Code of Ordinances Chapter 20, Land Coverage, Chapter 2, Definitions, and 25, Best Management Practices to allow for the Conversion of Turf Grass to Synthetic Turf for Public Athletic Fields and Provide for Other Matters Related Thereto

Requested Action: Staff requests the TRPA Advisory Planning Commission (APC) to review and make a recommendation on the proposed amendment of the TRPA Code of Ordinances (Code) to allow for the conversion of degraded, turf grass public athletic fields to synthetic turf, establishment of a reduced excess land coverage mitigation fee for synthetic turf coverage, and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the APC recommend that the Governing Board (GB) approve the proposed Code amendment.

Required Motion(s): In order to recommend approval of the proposed Code amendment, the APC must make the following motions, based on this staff summary and the evidence in the record:

1) A motion to approve the required findings (see Attachment A), including a finding of no significant effect; and

2) A motion to recommend approval of the proposed amendments to the TRPA Code of Ordinances. (see Attachment B).

In order for the motion(s) to pass, a simple majority vote of the APC is required.

Project Description/Background: School districts and park departments within the Lake Tahoe Basin have constructed a few synthetic turf public athletic fields to accommodate increased player usage, reduce long-term maintenance costs, and reduce adverse impacts to the environment associated with fertilization and runoff of turf grass fields. Generally, synthetic turf athletic fields get two to four times more activity than turf grass because of long playing seasons and no “resting periods” for irrigation, fertilization and/or aeration. Attachment C contains a synopsis of the typical construction and maintenance associated with synthetic turf fields.

The past installations of synthetic turf have been addressed within the TRPA Code of Ordinances (Code) as creation of new land coverage when no previous athletic field existed at that location. This proposed amendment to the Code would address those
situations where there is an existing public athletic field that consists of highly compacted, highly degraded soils. Because of intense use over time, many of the public athletic fields meet the existing definition for soft coverage, which is described in the second part of the “land coverage” definition as “lands so used before February 10, 1972, for such uses as for the parking of cars and heavy and repeated pedestrian traffic [emphasis added] that the soil is compacted so as to prevent substantial infiltration … Common terms related to land coverage are: 1) Hard Coverage--man-made structures as defined above. 2) Soft Coverage--compacted areas without structures as defined above.”

Most public grass fields have been previously graded, had sand added for increased stability, and are composed of non-native types of ryegrass, bluegrass and bentgrass. A preliminary review of saturated hydraulic conductivity rates in urban soils inside the Lake Tahoe basin found that lawn areas ranged from 50 percent to 10 percent of their natural capacities. While that preliminary review did not include any athletic fields, it is expected such fields are likely at 10 percent or lower of their native hydraulic conductivity capacity. The reduced rate that water can move through these degraded situations is readily evident by the annual or bi-annual need to aerate these fields due to compaction by player foot traffic and mowing equipment. Synthetic turf meets the definition of land coverage, since it is a covering that that allows 75 percent of precipitation to reach the ground, but does not permit the growth of vegetation.

**Issues/Concerns:** The primary reasons for converting degraded turf grass to synthetic turf for public athletic fields is to benefit water quality and air quality. The following items summarize the key issues associated with the conversion of turf grass to synthetic turf for public athletic fields:

1) **Infiltration and Air Quality Benefits:** The existing public athletic fields are significantly compacted (due to repeated foot traffic from players), which in turn requires fertilization, irrigation and aeration to maintain a playable surface. The physical qualities of synthetic turf means that these existing compacted surfaces would be converted to high infiltration surfaces (20 to 30 inches per hour). And as an artificial playing surface, there would no longer be any use of fertilizers, or need for weekly mowing or seasonal aeration which generate hydrocarbon air emissions.

2) **Subsurface Drainage:** To avoid inadvertent impacts to sensitive lands, a provision in the proposed Code language specifies that the subsurface drainage system must comply with groundwater interception regulations (as per Chapter 64.7) and cannot accelerate natural drainage within a Stream Environment Zone (SEZ). This provision assures that TRPA environmental standards are not undermined.

3) **Leaching Concerns:** The proposed amendment to the Code also explicitly states that “the synthetic turf and associated materials do not contain materials that could leach into the ground water or present a health hazard to people, flora or fauna.” This requirement eliminates concerns regarding health and environmental allegations that have surfaced in a few states. In a few instances, older synthetic turf fields have used recycled tires and lead-based pigments in some of the construction materials. New construction materials are now available that do have these health and environmental concerns or allegations associated with them.
4) **Soil Function**: Another issue associated with the conversion of turf grass to synthetic turf is the potential loss of soil function and natural (vegetated) ground cover. At present, these compacted turf grass fields provide only minimal soil functions because they have poor infiltration (hence increased runoff), diminished porosity (lower plant growth), and lower water holding capacity (also due to lower porosity). These minimal soil functions cannot be rehabilitated without substantially reducing player usage, frequently reconstructing the turf surface (often with imported turf grown in the valley), and using fertilizers. As proposed by this Code amendment, the loss of the natural growing surface is a trade-off for gaining restored capacity of soil infiltration and elimination of ongoing fertilization and aeration practices that contribute excess nutrients to Lake Tahoe.

5) **Mitigation**: The proposed amendment includes a mitigation provision, since this type of soft coverage has not been previously mitigated as either excess land coverage or new coverage (both situations require mitigation). The mitigation would involve restoring a similar acreage of compacted turf grass to native conditions, or payment of a fee roughly equal to the amount paid for excess coverage mitigation in the South Lake Tahoe vicinity. The intent of this mitigation is to either have turf grass restored to naturalistic condition for infiltration, either by the applicant (such as a school or park district), or generate a fee that could used for such restoration. Thus, the fee proposed would be five (5) percent of the structural construction cost (which is already defined in Chapter 20.5 (3)(d) and includes the improvements that are not regularly replaced on 10 to 20 year basis). Therefore, the expected mitigation fee is $14,000 to $25,000, based upon 110,000 sq. ft. of synthetic turf and $350,000 to $500,000 structural construction costs. This amount would be roughly the same amount paid if the soft coverage were officially mitigated as excess coverage (that fee is currently calculated as $15,805 to $22,578 using the cost factor for South Lake Tahoe and the same sq. footage and range of structural construction costs).

**Regional Plan Compliance**: The proposed amendments to the TRPA Code of Ordinances comply with all requirements of the TRPA Goals and Policies, Plan Area Statements, and other aspects of the TRPA Code of Ordinances, including all required findings in Chapter 6 (Attachment A).

If you have any questions, please contact Phil Scoles, Senior Soil Scientist, at pscoles@trpa.org or 775-588-4547.

**Attachments**:
- Required Findings/Rationale (Attachment A)
- Implementing Ordinance and Proposed Code Amendment (Attachment B)
- Synthetic Turf Construction (Attachment C)
Required Findings / Rationale

Required Findings: The following findings must be made prior to adopting the proposed amendment to the TRPA Code of Ordinances Chapter 20:

A. Chapter 6 Findings:

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

   Rationale: The proposed amendment to allow the conversion of degraded, turf grass to synthetic turf for public athletic fields will neither increase nor decrease development potential as currently specified by the Regional Plan. The proposal will increase the utility of already developed lands by extending the playing season to almost seven months, instead of four or five months. The proposal maintains consistency with both the TRPA Goals and Policies and Code of Ordinances including Chapter 2 (for land coverage definition) and Chapter 20 (for relocation of existing coverage).

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

   Rationale: The proposed amendment allowing the conversion of degraded turf grass to synthetic turf for public athletic fields will clarify that existing, degraded turf grass fields, if sufficiently compacted, are consistent with other types of land coverage, even though not exactly meeting the definition of land coverage (see “land coverage” definition in Chapter 2). Furthermore, the proposal aims to facilitate the conversion of such fields to synthetic turf to reduce nutrient transport that could enter Lake Tahoe. This reduction, although small, will incrementally help attainment of the water quality threshold. The proposal will not cause the vegetation threshold to be exceeded, since only a plant community of non-native mowed grasses will be replaced with synthetic turf. The proposal will also not cause the land coverage conservation threshold to be exceeded, because athletic fields eligible for this proposal already meet the definition of land coverage due to compaction by repeated pedestrian traffic, mowing and other maintenance equipment. Thus, any new synthetic turf installed under these provisions will only remove degraded and significantly compacted soil conditions. The proposed amendments will not worsen stream environment zone (SEZ) threshold attainment because it does not prevent future restoration, if desired. Lastly, only existing athletic fields will
be converted to synthetic turf fields; therefore, no change will occur to the attainment status of the scenic threshold.

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

Rationale: Amendment to Chapter 20 of the TRPA Code of Ordinances to allow the conversion of degraded, grass turf to synthetic turf for public athletic fields will not exceed any local air and water quality standards. It is expected that such fields will assist with the attainment of these standards by eliminating future indirect discharges of nutrients and lawn mowing related air emissions associated with turf grass maintenance and use. Use of a subsurface drainage system and infiltration facility will eliminate runoff that now occurs with grass turf fields.

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

Rationale: See Findings 1, 2 and 3 above.

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

Rationale: See Findings 1, 2 and 3 above.

B. Ordinance 87-8 Findings

1. Finding: That the amendment is consistent with the Compact and with the attainment or maintenance of the thresholds.

Rationale: See Chapter 6 Findings. The amendment is consistent with the Compact and with attainment or maintenance of the thresholds. The proposed Code amendment will address the existence of excess land coverage by removing existing sources of nutrients that now enter Lake Tahoe and reducing air emissions. Furthermore, any excess land coverage converted to synthetic turf will be mitigated but at a lower rate.

2. Finding: One or more of the following,
   a) There is demonstrated conflict between provisions of the Regional Plan Package and the conflict threatens to preclude attainment or maintenance of thresholds;
b) That legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code;

c) That technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code;

d) That the provision to be amended has been shown, through experience and time, to be counter-productive to or ineffective in attainment or maintenance of the thresholds;

e) That implementation of the provision sought to be amended has demonstrated to be impracticable or impossible because of one or more of the following reason:

1) The cost of implementation outweighs the environmental gain to be achieved.

2) Implementation will result in unacceptable impacts on public health and safety; or

3) Fiscal support for implementation is insufficient and such insufficiency is expected to be a long-term problem.

f) That the provision to be amended has shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan Package and complying with the Compact.

Rationale: Both Findings a) and c) are applicable. The subject public athletic fields, by having degraded and compacted play surfaces, require irrigation, fertilization, mowing, aeration, and related maintenance to achieve even minimal erosion control and maximize the utility of such fields. Yet, much of these maintenance activities have secondary impacts that are contrary to the attainment of the water quality and air quality thresholds. The presence of such land coverage is often already in excess of the allowable land coverage. Conversely, the recreational benefit of synthetic turf land coverage is large. And the elimination of nutrients and air emissions associated with the maintenance activities is another significant benefit to those thresholds. The net result of allowing the conversion of degraded, grass turf to synthetic turf public athletic fields is expected to be beneficial to the water quality and air quality thresholds, while not adversely affecting the land coverage threshold.
The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

<table>
<thead>
<tr>
<th>Section 1.00</th>
<th>Findings</th>
</tr>
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<tbody>
<tr>
<td>1.10</td>
<td>It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which Ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinance subsection 2.2, and adding a new subsection 20.7, in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.</td>
</tr>
<tr>
<td>1.20</td>
<td>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.</td>
</tr>
<tr>
<td>1.30</td>
<td>The Advisory Planning Commission (APC) has conducted a public hearing on the amendment and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendment. At those hearings, oral testimony and documentary evidence were received and considered.</td>
</tr>
<tr>
<td>1.40</td>
<td>The Governing Board finds that, prior to the adoption of this Ordinance, the Board made the findings required by Chapter 6 of the Code, and Article V(g) of the Compact.</td>
</tr>
<tr>
<td>1.50</td>
<td>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.</td>
</tr>
<tr>
<td>1.60</td>
<td>Each of the foregoing findings is supported by substantial evidence in the record.</td>
</tr>
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</table>
AGENDA ITEM V.C
ATTACHMENT B
IMPLEMENTING ORDINANCE

Section 2.00 Amendment of Code of Ordinance Chapter 2, and Chapter 20 with the addition of 20.7.

Subsection 6.60, of Ordinance No. 87-9, as amended, is hereby further amended as set forth in Attachment B Exhibit 1, dated August 6, 2008, which attachments are attached hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this Ordinance and the amendment of the Code of Ordinance Subsection 2.2, and the addition of Subsection 20.7, adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and the amendment to the Code of Ordinance Subsection 2.2 and addition of Subsection 20.7 shall not be affected thereby. For this purpose, the provisions of this Ordinance and its amendments are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this Ordinance amending Code of Ordinance Subsection 2.2, and addition of Subsection 20.7 shall be effective immediately.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 27, 2008 by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

___________________________
Mara Bresnick, Chair
Tahoe Regional Planning Agency
EXHIBIT 1

Proposed Amendment to the TRPA Code of Ordinances

The proposed Code of Ordinance changes are shown with deletions shown as “strike-out” text and additions are shown as “bold and underline” text.

Code of Ordinance Chapter 2 – Definitions

**Land Coverage:** 1) A man-made structure, improvement or covering, either created before February 10, 1972 or created after February 10, 1972 pursuant to either TRPA Ordinance No. 4, as amended, or other TRPA approval, that prevents normal precipitation from directly reaching the surface of the land underlying the structure, improvement or covering. Such structures, improvements and coverings include but are not limited to roofs, decks, surfaces that are paved with asphalt, concrete or stone, roads, streets, sidewalks, driveways, parking lots, tennis courts, patios; and 2) lands so used before February 10, 1972, for such uses as for the parking of cars and heavy and repeated pedestrian traffic that the soil is compacted so as to prevent substantial infiltration. A structure, improvement or covering shall not be considered as land coverage if it permits at least 75 percent of normal precipitation directly to reach the ground and permits growth of vegetation on the approved species list. Common terms related to land coverage are:

1) Hard Coverage—man-made structures as defined above.

2) Soft Coverage—compacted areas without structures as defined above.

See also Potential Land Coverage.

**...definitions between additions omitted for efficiency purposes...**

**Protective Structure:** A structure placed in a body of water or the area of wave run-up, to prevent erosion.

**Public Athletic Fields:** Play fields constructed and operated by or for schools and government agencies primarily for team sport usage, such as baseball, football and soccer. Public athletic fields are typically open for public use for at least 120 days between May 01 and October 31. Golf courses, landscaping, lawns, meadows, ski runs, and similar open space are not considered public athletic fields.

**Public Service:** Public service shall be public or quasi-public uses or activities pertaining to communication, transportation, utilities, government, religion, public assembly, education, health and welfare, or cultural and civic support. It does not include such uses or activities that are primarily involved in commercial enterprises.

Code of Ordinance Chapter 20 – Land Coverage Standards

Chapter Contents
20.0 Purpose

20.1 Applicability

20.2 Land Capability System

20.3 Land Coverage Limitations

20.4 Prohibition of Additional Land Coverage in Land Capability Districts 1a, 1c, 2 and 3 and 1b (Stream Environment Zones)

20.5 Excess Land Coverage Mitigation Program

20.6 Land Coverage Requirements For Redevelopment Projects

20.7 Turf Grass Coverage Conversion to Synthetic Turf for Public Athletic Fields.

20.7 Conversion of Turf Grass Coverage to Synthetic Turf Coverage for Public Athletic Fields:
Turf grass public athletic fields may be converted to synthetic turf fields as follows:

A. Eligibility: TRPA shall find that the turf grass field meets all of the following criteria:

   (1) The turf grass field shall be composed of non-native turf grasses and receive regular fertilization and periodic irrigation.
   (2) The condition of the turf grass field shall be substantially compacted by repeated pedestrian traffic so as to reduce saturated hydraulic conductivity by 50 percent or more when compared to natural conditions for the same soil type.

B. Construction Standards: The synthetic turf field shall be constructed and maintained to meet all of the following standards:

   (1) The synthetic turf design shall include a subsurface drainage system that discharges to a water quality treatment area. The subsurface drainage system shall comply with groundwater interception regulations pursuant to Code Section 64.7 and shall not adversely affect water levels within a Stream Environment Zone.
   (2) The synthetic turf shall be limited to team playing fields and player staging areas only.
   (3) Synthetic turf components shall not contain materials that could leach into the ground water, present a health hazard to people, or adversely affect flora or fauna.
   (4) The synthetic turf shall not receive runoff or overflow from adjacent lands, except under extraordinary circumstances, such as 20 year or greater storm events.

C. In-Lieu of Excess Coverage Mitigation and Water Quality Mitigation: In order to approve synthetic turf for public athletic turf fields, the coverage shall be mitigated either by:

   (1) Restoration of an equal area of highly compacted turf grass to native vegetation so as to achieve a saturated hydraulic conductivity of greater than 50 percent of natural conditions for the same soil type, or
(2) Payment of a fee equal to four (4) percent of the structural cost of the synthetic turf construction as specified in Code subsection 20.5 (A)(3)(d).

D. Synthetic Turf Coverage Transfer or Conversion Limitations: Synthetic turf coverage shall not be transferred to a different parcel and shall not be converted to hard coverage without appropriate approvals and for excess land coverage and water quality applicable to non-synthetic turf coverage transfers or conversions.
Typical Construction Details of Synthetic Turf Fields

Typical construction of a synthetic turf field, when replacing an existing playing field, begins with the removal of the existing sod and subsoil to a depth of 2 to 4 inches. This sod and soil is loaded into trucks and hauled offsite to an approved disposal location. This initial phase of construction typically uses tracked excavators and dump trucks, as well as related support vehicles.

A subsurface drainage system is then laid out to capture infiltrated water and allow to keep the synthetic turf from becoming inundated during high rainfall or rapid snowmelt conditions. This drainage system is commonly 6 to 8 inches deep, which consist of 3 to 4-inch diameter perforated drain pipe that is laid out in a grid or herringbone configuration. This pipe is covered with an inch or two of drain rock or gravel and then slightly compacted. Next, the sub-grade of the new field is graded and compacted in accordance with appropriate standards for crowning and uniform surface. The anticipated slope of the new playing surface is usually less than 1 percent. A final lift of finer stone (crushed rock) caps the compacted sub-grade, prior to installing the synthetic turf carpet (see diagram below). This phase of the construction typically uses backhoes, dump trucks (to import gravel), front-loaders, blade graders, rollers, and related support vehicles.
Next, the synthetic turf carpet is placed using rolls that are 10 to 15 feet wide. This laminated 2-ply carpet is similar to the durable backing used for interior carpets, except that it is constructed of weather resistant materials. This backing typically can infiltrate 20 to 30 inches of rain/snowmelt per hour. The synthetic fibers or fake grass threads are woven into this backing in a manner similar to standard carpet fibers. The grass blade material is a blend of polyethylene and polypropylene yarn (has low abrasiveness and a grass-like look). The seams between rolls are sealed together using a fiber-reinforced tape and adhesive. Once the adhesive has dried, an in-fill material is added to help the synthetic grass fibers stand up and also to create a surface that mimics the softer attributes of a natural grass turf field (absorb shock, provide traction, etc.). This BB-sized infill material is made of clean-washed sand, rubber pellets or both. Overall, construction often takes six to eight weeks to complete, depending upon available resources and weather conditions. A typical cross-sectional view of a synthetic field is shown on the previous page.

The maintenance of synthetic turf is relatively low. Seams that become loose are easily re-sealed with the same type of adhesive used during construction. Special motorized brooms or sweeping equipment are occasionally used to evenly distribute the sand or rubber infill pellets (heavy use of the synthetic turf fields can incrementally push the sand and/or rubber infill pellets toward the outer edges of the field). Rainfall and snowmelt effectively cleanse the fields of air-borne dust and pollen. While after-market products exist to cleanse or disinfect synthetic turf fields, they are rarely needed. A project manager with the Eugene, Oregon school district was interviewed about their experience with synthetic turf and he indicated they have never needed to “wash” or disinfect any of their fields over the past nine years. The very nature of the polyethylene “grass blades” is that it does not retain moisture nor get moldy when constructed with a subsurface drainage system and properly maintained (such as sweeping). The carpet surface of synthetic turf typically last 10 to 12 years before they require partial or total replacement.
MEMORANDUM

Date: August 6, 2008

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Recommendation to Governing Board on Amendment of Plan Area Statement 082, Upper Kingsbury, to Add “Eating and Drinking Places”, “General Merchandise Stores”, and “Outdoor Recreation Concessions” to the Permissible Use List, and Providing for other Matters Properly Related Thereto

Requested Action: Staff received a request from Les Spear to amend the permissible use list of Plan Area Statement 082—Upper Kingsbury to add “Eating and Drinking Places”, “General Merchandise”, and “Outdoor Recreation” as Permissible Uses.

Based on a land use analysis and the applicant’s project description staff is requesting that the Advisory Planning Commission (APC) make a recommendation to the Governing Board to only amend the Permissible Use List to add “Outdoor Recreation Concessions” as a Special Use to the Upper Kingsbury plan area.

Staff Recommendation: Staff recommends that the Advisory Planning Commission (APC) concur with the required findings and recommend approval of the proposed PAS amendment and findings of no significant environmental effect.

Required Motion(s): in order to recommend approval of the proposed PAS amendment the APC must take the following motions, based on this staff summary and the evidence in the record:

1) A motion to approve the required findings (see Attachment A), including a finding of no significant effect; and

2) A motion to recommend approval of the proposed amendment to the PAS (Attachment B).

In order for the motion(s) to pass, a simple majority vote of the APC is required.

Project Description / Background: The applicant proposes to amend Plan Area Statement 082—Upper Kingsbury to expand the list of permissible uses to include land uses that will accommodate a business offering seasonal recreational equipment rentals and/or sales as well as recreational related concessions. The Assessor’s Parcel Number of interest is 1319-19-201-
003 located at 680 Kingsbury Grade (see Attachment C) and is currently used as a Real Estate office. The parcel is located at the corner of North Benjamin and Kingsbury Grade and is primarily surrounded by single family dwellings and public open space. The plan area is designated as a residential area and is approximately 55 percent built-out with residential uses with the remainder of the parcels in public ownership (see Attachment D). The subject parcel is the only commercial use located within this plan area and is located in close proximity to recreational uses such as Heavenly Resort and access to the Tahoe Rim Trail.

Although primarily zoned for residential uses, the plan area does permit commercial uses that are neighborhood-serving, but only parcels whose use was commercial at the effective date of the TRPA Regional Plan. The subject parcel qualifies under this policy and is the only parcel within the plan area where commercial use is permitted.

Discussion: The applicant has proposed to amend Plan Area Statement 082-Upper Kingsbury to allow for the subject parcel to provide a location to rent and or purchase seasonal recreational equipment (i.e. snowshoes, skis, bicycles, backpacks, etc.), and secondarily to provide recreational-related concessions (i.e. prepared lunches, snacks and beverages). In addition, the applicant would also provide a vacation rental key drop due to the abundance of timeshares and vacation rentals in the area.

In the application, the applicant has requested that TRPA amend the use list to include three uses that they believed are necessary to achieve their project goals. The uses include “Outdoor Recreation Concessions”, “Eating and Drinking Places”, and “General Merchandise”. It was believed that all these uses would be necessary in order to operate outdoor recreation concessions that also provided other recreation-related items such as prepared lunches, snacks, beverages, and recreation-related items for sale. After further review of the applicant’s project goals, and the definition of “Outdoor Recreation Concessions”, staff believes that the intended uses proposed for the project site is consistent with the definition of “Outdoor Recreation Concessions”. The definition of “Outdoor Recreation Concessions” allows for onsite food and beverage sales as part of the primary use which is the rental or sale of recreation equipment and therefore the other proposed uses are not necessary. Based on this rationale staff proposed that the use list is only amended to add “Outdoor Recreation Concessions”.

Issues and Concerns: TRPA staff supports the inclusion of “Outdoor Recreation Concessions” to the Permissible Use List as a Special Use. The designation would require any future proposed project onsite to be reviewed by TRPA. Staff is proposing the Special Use designation due to concerns that were raised during review of the application and previous permit approvals on site. Concerns relate to parking and BMPs, scenic quality, and traffic.

Parking and BMPs: TRPA has verified existing coverage onsite in a December 2002 permit that recognized 8,310 square feet of coverage. The majority of that (5,007 sq. ft.) is a dirt parking lot. Staff is concern that parking may become an issue onsite due to the inherent nature of outdoor recreation concessions that require outdoor storage and equipment display as part of the use. A potential for conflicts between parking and outdoor display may be a concern. Secondly, in the permit issued in December 2002, the applicant was put on notice that the parcel had not been retrofitted with Best Management Practices (BMPs). Staff has followed up with the applicant’s representative on this issue and was told that BMPs have not been installed to-date. A Special Use designation will require project approval by TRPA and therefore ensure installation of the required BMPs on a parcel that is mapped in a high hazard geomorphic area and on a parcel where the majority of coverage is dirt parking lot.
Scenic Quality: The subject parcel is located adjacent to and is visible from Kingsbury Grade a designated Scenic Corridor. In addition, the plan area is designated as a Scenic Restoration Area and is targeted for restoration. Special Use designation would allow TRPA to review any proposed project for consistency with the scenic threshold standards consistent with the plan area Special Policy #3.

Traffic: Due to the location of the site at the corner of North Benjamin and Kingsbury Grade, staff is concerned with potential ingress and egress conflicts as a result of any project onsite. Special Use designation would permit staff to review any proposed plan to reduce conflicts on North Benjamin and Kingsbury Grade. In addition, staff has reviewed the traffic analyses submitted by the applicant. For the current use of the parcel, the trip rate calculation is 18.33 trips. The proposed allowable use would result in 70.20 vehicle trips for an additional 51.87 vehicle trips. Since there is less than an additional 100 daily vehicle trips, the proposed Plan Area Statement amendment will result in an insignificant increase in daily trips.

Regional Plan Compliance: The proposed amendment will not have an adverse effect on the Land Use, Transportation, Recreation, Public Service and Facilities, or implementation sub-elements of the Regional Plan. The subject parcel is consistent with Special Policy #2 which permits limited commercial uses on parcels whose was commercial at the effective date of the Regional Plan. The proximity of this parcel to recreational facilities and recreational access make it an ideal location for recreation concessions use. The amendment will not result in any additional development beyond that established by the Regional Plan nor will it create a significant negative impact on local air and water quality above and beyond its current designation uses.

Any environmental impacts associated with approval of this proposal will be mitigated as appropriate. An overall positive environmental impact is anticipated due to the resultant reduction in vehicle miles traveled within the Tahoe basin. All future projects related to the proposed amendment shall comply with the scenic quality provisions of Chapter 30 of the Regional Plan.

Please contact Lief Larson at (775) 589-5206, or via email at llarson@trpa.org if you have any questions regarding this agenda item.

Attachments:

Attachment A Required Findings/Rationale
Attachment B Implementing Ordinance
    Exhibit 1 Amendment to Plan Area Statement 082-Upper Kingsbury
Attachment C, Plan Area Map
Attachment D, Adjacent Land Uses
Attachment E, Aerial Map
ATTACHMENT A
Required Findings / Rationale

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

A. Chapter 6 Findings:

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

Rationale: There is no evidence showing that the proposed amendment will have an adverse effect on the Land Use, Transportation, Conservation, Recreation, Public Service and Facilities, or Implementation sub-elements of the Regional Plan. The parcel is consistent with Special Policy #2 which permits limited commercial uses on parcels whose use was commercial at the effective date of the Regional Plan and whose primary purpose is neighborhood serving. In addition, the proximity of subject parcel to recreational facilities and recreational access points make it an ideal location for recreation concessions use.

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 does not result in any additional development potential beyond that established by the Regional Plan but rather provides limited opportunities for commercial development that are dependent on recreational facilities and recreation access points in close proximity.

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

Rationale: The proposed amendment will not create a significant negative impact on local air and water quality above and beyond its current designation allowable uses.

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

Rationale: The proposed amendment will achieve and maintain the thresholds in the Regional Plan.
5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See Findings 1, 2, 3 and 4 above.

B. Chapter 13 Findings:

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

Rationale: Subsection 13.5.b(1) defines Land Use Classifications. Plan Area Statement 082 has a Land Use Classification as Residential. The proposed amendment is substantially constant with this plan area designation since commercial and recreational are already listed as permissible uses in this PAS and Special Policy #2 permits limited commercial activity on parcels whose use was commercial at the effective date of the Regional Plan.

Subsection 13.5.B(2) defines Management Strategies. PAS 082 has a Management Strategy of Mitigation which is also consistent with the proposed amendment. Any environmental impacts associated with the approval of this proposal will be mitigated as appropriate. An overall positive environmental impact is anticipated due to the resultant reduction in vehicle miles traveled within the Tahoe basin.

Subsection 13.5.C addresses Special Designation, and PAS 082 is designated as a Scenic Restoration Area, which is, “therefore subject to the scenic quality provisions of Chapter 30.” Any and all future projects related to the proposed amendment shall comply with the scenic quality provisions of Chapter 30.

Environmental Documentation: Staff has reviewed the Initial Environmental Checklist completed by the applicant for the proposed lining project. Staff will recommend that a Finding of No Significant Effect (FONSE) be made for the Plan Area Amendment based on the IEC, Chapter 6 and 13 findings and information contained in this Staff Summary and the project file.
AGENDA ITEM V.D
ATTACHMENT B
AUGUST 6, 2008

DRAFT
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2008-__

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, TO AMEND PLAN AREA STATEMENT 082-UPPER KINGSBURY PERMISSIBLE USE LIST TO ADD OUTDOOR RECREATION CONCESSIONS AS A SPECIAL USE AND PROVIDE FOR OTHER MATTERS PROPERLY RELATED THERETO.

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

Section 1.00  Findings

1.10  It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, to amend Plan Area Statement 082-Upper Kingsbury Permissible Use List to add Outdoor Recreation Concessions as a Special Use, 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  This amendment has been determined not to have a significant effect on the environment, and therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

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

1.40  The Governing Board finds that, prior to the adoption of this Ordinance, the Board made the findings required by Chapter 6 of the Code, Chapter 13 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 Plan Area Statement 082

Subsection 6.10, subparagraph (2) of Ordinance No. 87-9, as amended, is hereby further amended as set forth in Attachment A, Exhibit 1, dated 08/06/2008, which attachments are attached hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this Ordinance and the amendment Plan Area Statement 082-Upper Kingsbury adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and the amendment of Plan Area Statement 082-Upper Kingsbury shall not be affected thereby. For this purpose, the provisions of this Ordinance and its amendments are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this Ordinance amending Plan Area Statement 082-Upper Kingsbury shall be effective immediately upon adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held August 28, 2008 by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Mara Bresnick, Chair
Tahoe Regional Planning Agency
082
UPPER KINGSBURY

PLAN DESIGNATION:

- Land Use Classification: RESIDENTIAL
- Management Strategy: MITIGATION
- Special Designation: SCENIC RESTORATION AREA

DESCRIPTION:

Location: This is the residential area above Logging Road Lane on Kingsbury Grade and is located on TRPA map I-16.

Existing Uses: The area contains several newer subdivisions and one condominium development. The area is about 55 percent built out.

Existing Environment: The area is 85 percent high hazard and 15 percent SEZ. The total area coverage is 15 percent plus an additional 25 percent disturbed. The higher coverage and disturbance is in the condominium development.

PLANNING STATEMENT: This area should continue to be residential, generally retaining the existing character with some Scenic Improvement.

PLANNING CONSIDERATIONS:

1. The area is not up to minimal BMP standards.
2. The Summit Village development has inadequate parking due to multi-density parcels and is severely constrained by available land coverage.
3. Scenic Roadway Unit 44 is within this Plan Area and is targeted for scenic restoration as required by the scenic threshold.

SPECIAL POLICIES:

1. Any further development in Summit Village shall be at one unit per parcel.
2. Commercial development shall be limited to parcels whose use was commercial at the effective date of the plan. Change in use shall be limited to neighborhood serving uses which reduce vehicle miles traveled.
3. Land coverage reduction is a high priority in this area.

PERMISSIBLE USES: Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the
New language double underlined in blue, deleted language struck-thru in red.

use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

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

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

**Commercial**
- Professional offices (S).

**Public Service**
- Local public health and safety facilities (S), transit stations and terminals (S), pipelines and power transmission (S), transmission and receiving facilities (S), transportation routes (S), public utility centers (S), local post offices (S), and day care centers/pre-schools (S).

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

**Resource Management**
- Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment/management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A), and runoff control (A).

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

<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
</tr>
</tbody>
</table>

**MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL:** The maximum community noise equivalent level for this Plan Area, including the Highway 207 corridor, is 55 CNEL.

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

SUMMER DAY USES 0 PAOT  WINTER DAY USES 0 PAOT  OVERNIGHT USES 0 PAOT
ENvironmental Improvement Programs: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan and Environmental Improvement Plan (EIP) for this area shall be implemented.  

Amended 5/22/02
Plan Area 082-Upper Kingsbury

Subject Parcel
1319-19-201-003

Basin Boundary
MEMORANDUM

August 5, 2008

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Recommendation for Certification of the Final EIS for the Beach Club on Lake Tahoe (APN 1318-22-002-002, TRPA File Number ENVR2007-0003)

Requested Action: Staff requests that the Advisory Planning Commission (APC) make a determination of adequacy of the Final Environmental Impact Statement (EIS) for the Beach Club on Lake Tahoe Project.

The Final EIS was mailed or delivered to the APC and Governing Board members separately the week of July 21, 2008.

Staff Recommendation: Staff recommends that the APC make a recommendation to the Governing Board to certify the Final EIS.

Required Motion(s): Staff requests that the APC take the following actions based on the Final EIS, this staff memorandum, and the complete administrative record:

To Recommend Certification of the Final EIS (two motions):

1) A motion to recommend the Governing Board make the Compact Article VII(d) findings for the Final EIS (see Attachment A for the findings).

2) A motion to recommend the Governing Board certify the Final Environmental Impact Statement for the Beach Club on Lake Tahoe Project.

Please note that should the certification of the Final EIS fails, the project listed under Agenda Item V.E(2) cannot be considered for Governing Board action.

Project Description: Recommend to the Governing Board the certification of the Beach Club on Lake Tahoe Final EIS based on the Compact Article VII(d) findings.

Background: In June of 2003, Beach Club, Inc. submitted an initial application to TRPA for the redevelopment of the project area associated with the Tahoe Shores Mobile Home Park. Upon initial review of the Initial Environmental Checklist (IEC), TRPA determined that the IEC was inadequate to determine the impacts associated with redevelopment of the site, and required that a TRPA Environmental Impact Statement (EIS) be prepared.
This EIS has been prepared with an analysis of five separate alternatives, two of which are no-project alternatives. The consulting firm EDAW acted as the lead contractor for the environmental document, although subcontractors assisted in its preparation. The Draft EIS was issued in January 2008 for a 60-day circulation and public comment period. During the comment period, public hearings on the draft document were held before the TRPA APC and Governing Board.

Issues/Concerns: Thirty-one comment letters and e-mails were received by the TRPA on the Draft EIS during the public circulation period, and seventeen members of the public offered oral comment at the APC and Governing Board meetings in February 2008. Several issues were raised by commenters, and many comments raised similar issues. The range of comments is included within the individual comment letters and the Response to Comments portion of the Final EIS. Generally, the primary issues raised were the following:

A. Displacement of Tahoe Shores Mobile Home Park residents,
B. Adequacy of the housing affordability determination and mitigation,
C. Issues and impacts to KGID water pump operations,
D. Impacts to recreational fishing.

Staff and the consultant team will be prepared to discuss these issues with the Advisory Planning Commission at the meeting.

A Final EIS, which responds to all written and oral comments received during the comment period, was prepared and then distributed to the public on July 25, 2008. The document has been made available at the TRPA website: www.trpa.org; TRPA offices (128 Market St., Stateline, NV and 3080 North Lake Blvd., Tahoe City, CA); Tahoe Shores Manager’s Office (395 Eugene Drive, Stateline, NV); Zephyr Cove Branch of the Douglas County Library (233 Warrior Way, Zephyr Cove, NV); City of South Lake Tahoe Branch of the El Dorado County Library (1000 Rufus Allen Blvd., City of South Lake Tahoe, CA).

If you have any questions, please contact Theresa Avance, AICP, Senior Planner at tavance@trpa.org or 775-589-5224.

Attachments:
- Required Findings/Rationale (Attachment A)
- Environmental Documentation (Attachment B)
- Exhibits (Attachment C)
Attachment A – Required Findings

Article VII(d) Findings for the EIS: These findings with respect to an Environmental Impact Statement must be made prior to the certification of the Beach Club on Lake Tahoe Final EIS. Specific mitigations proposed for each issue area are detailed in Table 1-1 of the Final EIS.

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

   Rationale: The identified population and housing impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.2). The project will result in the loss of 54 moderate-income residential units at the Tahoe Shores Mobile Home Park. As mitigation for this loss, the applicant would deed restrict 54 existing offsite residential units at affordable and moderate income limitations. Compliance with the TRPA Regional Plan and State of Nevada requirements relating to population and housing will provide further assurances that no adverse impacts will occur.

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

   Rationale: The identified land use impacts associated with the project are not significant as demonstrated in the Final EIS (see Chapter 5.3). Compliance with the TRPA Regional Plan and Code requirements relating to land use will provide assurances that no adverse impacts will occur.

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

   Rationale: The identified geology and soil impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.4). Compliance with the TRPA Regional Plan and Code requirements relating to land coverage and soils disturbance will provide assurances that no adverse impacts will occur. The primary mitigation measures identified in the Final EIS are preparation and implementation of a dewatering plan, and preparation and implementation of a complete and detailed BMP plan.

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

Rationale: The identified hydrology and water quality impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.5). All alternatives include improvements to capture, convey, and treat storm water. Compliance with the TRPA Regional Plan and Code requirements relating to water quality will provide mitigation for hydrology and water quality impacts. The primary mitigation measures identified in the Final EIS are preparation and implementation of a dewatering plan, and preparation and implementation of a complete and detailed BMP plan. In addition, the proposed project would include restoration of approximately two acres of SEZ habitat along the northern portion of the project site adjacent to the Burke Creek Meadow.

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

Rationale: The identified transportation and parking impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.6). Compliance with the TRPA Regional Plan and Code requirements relating to transportation and parking will provide assurances that no adverse impacts will occur.

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

Rationale: The identified air quality impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.7). Compliance with the TRPA Regional Plan and Code requirements relating to air quality, including required dust control measures, will provide assurances that no adverse impacts will occur.

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

Rationale: The identified noise impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.8). Compliance with the TRPA Regional Plan and Code requirements relating to noise will provide assurances that
no adverse impacts will occur. The FEIS includes mitigations that will ensure that the 55 dBA CNEL will not be exceeded.

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

Rationale: The identified biological resource impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.9). Compliance with the TRPA Regional Plan and Code requirements relating to fisheries, wildlife and vegetation will provide assurances that no adverse impacts will occur. The FEIS details comprehensive mitigation measures that include protective measures for sensitive plant species, restoration requirements for riparian habitat, construction schedule requirements that take into account the nesting season for migratory birds, and complete BMPs that will actually improve existing water quality issues on fisheries caused by stormwater runoff.

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

Rationale: The identified scenic resource impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.10). By implementing the mitigation measures outlined in the Final EIS and complying with the TRPA Regional Plan and Code requirements relating to scenic resources, identified scenic impacts will be mitigated to a less than significant level. Some of the mitigation measures include designing onsite landscaping to provide screening of proposed buildings, conducting screening mitigation monitoring, and developing and implementing a detailed lighting plan.

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

Rationale: The identified cultural resource impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.11). No impacts to any known historical or cultural resources will be caused by any of the alternatives. The FEIS includes mitigation measures that will ensure detection and protection of any previously undiscovered cultural resources.

11. Finding: With respect to the significant and possibly significant effects on
WATER RECREATION AND SHOREZONE identified in the EIS, changes or alterations have been required in or incorporated into the project which avoid or reduce the potentially significant adverse effects to a less than significant level.

Rationale: The identified water recreation and shorezone impacts associated with the project are not significant as demonstrated in the Final EIS (see Chapter 5.12). Compliance with the TRPA Regional Plan and Code requirements relating to water recreation and shorezone will provide mitigation for associated impacts.

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

Rationale: The identified human health and risk of upset impacts associated with the project are either not significant or are mitigated to a less than significant level as demonstrated in the Final EIS (see Chapter 5.13). By implementing the mitigation measures outlined in the Final EIS, identified effects on human health and risk of upset will be mitigated to a less than significant level. Some of the mitigation measures include preparation and implementation of a site health and safety plan, and minimization and coordination of loss of public utilities during construction.

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

Rationale: The identified cumulative impacts associated with the project are not significant as demonstrated in the Final EIS (see Chapter 5.14).
Attachment B – Environmental Documentation:

Environmental Analysis: The applicant has completed an Environmental Impact Statement for the proposed project. The Beach Club on Lake Tahoe Final EIS is before the Advisory Planning Commission for a recommendation to the Governing Board on technical adequacy and certification. Certification is defined as a finding that the Final EIS is in compliance, procedurally and substantively, with Article VII of the Compact, Chapter 5 of the Code of Ordinances, and the Rules of Procedure.

1. Development of Alternatives: As stated in the EIS, the primary objective of the project is to redevelop the existing Tahoe Shores Mobile Home Park. The EIS analyzes five separate project alternatives:

   - **Alternative A** - 143 market rate condominium units (15 of the units may be deed restricted moderate-income for-sale as part of mitigation; the remainder would be sold at the market rate), a beach club and pool available to residents and club members, and pier expansion on-site. Additionally, a total of 54 residential units would be permanently deed restricted for affordable or moderate-income use; 39 existing off-site units would be deed restricted affordable, and 15 additional units, either on-site or off-site, would be deed restricted moderate income.

   - **Alternative B** - 2 single-family estates, with guest homes, outbuildings, and pier expansion.

   - **Alternative C** - 155 market rate condominiums in eight buildings, with a recreation building, pools, decks, and pier expansion.

   - **Alternative D (No Project 1)** - Mobile home park continues, with transition to 70% double-wide and 30% single-wide, removal of excess land coverage, and maintenance and upgrades as needed.

   - **Alternative E (No Project 2)** - Close and clear the mobile home park, complete all infrastructure and BMP improvements at one time, and re-establish 155 manufactured housing units. Mobile home park operation continues after reconstruction.

2. Comparison of Impacts: Exhibit 1 of this staff report is a table from the FEIS that summarizes and compares the potential environmental effects of the alternatives (Table 1-2). By including the required mitigation measures and design features into the Proposed Project and the Project Alternatives, the FEIS concludes that no significant effects result from implementation of the projects under any of the alternatives.
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<td>LTS</td>
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<tr>
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<td>Not Applicable</td>
<td>Not Applicable</td>
<td>NI</td>
<td>NI</td>
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<td>5.3 Land Use</td>
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<td>1: Consistency with Regional Plan Land Use Goals and Policies.</td>
<td>LTS</td>
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<td>LTS</td>
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<td>2: Potential for Division of an Existing Community (or Land Use Compatibility).</td>
<td>LTS</td>
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<td>5.4 Geology and Soils</td>
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<td>4: Interception of Groundwater Table During Construction.</td>
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<td>5: Littoral Zone Sedimentation.</td>
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<td>5.5 Hydrology and Water Quality</td>
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<td>1: Potential Short-Term Accelerated Soil Erosion and Sedimentation and/or Release of Pollutants to Nearby Water Bodies During Construction.</td>
<td>LTS</td>
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<td>2: Impervious Surface Area and Runoff.</td>
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<td>5: Interference with Littoral Processes from Pier Extension and Buoy Relocation.</td>
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<td>LTS</td>
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<td>6: Degradation of Water Quality During Pier Extension and Buoy Relocation Activities.</td>
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<td>7: Degradation of Water Quality from Increased Boating Activity.</td>
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<td>8: Flood Hazard Effects.</td>
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### 5.6 Transportation and Parking

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<td>1: Existing (Year 2011) plus Alternative A Level of Service.</td>
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<td>6: Construction Traffic.</td>
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### 5.7 Air Quality

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<td>1: Short-Term Construction-Generated Criteria Air</td>
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<td>Proposed Project</td>
<td>Single-Family Estates</td>
<td>Multifamily Residential</td>
<td>No Project – Jere Williams Plan</td>
<td>No Project – Manufactured Housing</td>
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<td>2: Long-Term Operational (Regional) Criteria Air Pollutant and Precursor Emissions.</td>
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<td>5: Hazardous Air Pollutant Emissions.</td>
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<td>1: Short-Term Construction Noise Levels.</td>
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<td>2: Long-Term Project-Generated Non-Traffic Source Noise Levels.</td>
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<td>3: Long-Term Project-Generated Traffic Noise Levels.</td>
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<td>4: Land Use Compatibility of Proposed Sensitive Receptors with On-site Noise Levels.</td>
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<td><strong>5.9 Biological Resources</strong></td>
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<td>1: Impact to Jurisdictional Waters of the United States and Removal of Riparian Vegetation.</td>
<td>( \text{LTS} )</td>
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<td>( \text{NI} )</td>
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<td>2: Loss of Common Vegetation (other than deciduous riparian vegetation), Uncommon Vegetation, and Late Seral/Old Growth Ecosystems.</td>
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<td>3: Tree Removal.</td>
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### Table 1-2
Summary Comparison of the Project Alternatives

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<td>4: Loss of Tahoe Yellow Cress, a TRPA Threshold Sensitive Plant Species and USFWS Candidate Species.</td>
<td>LTS</td>
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<td>5: Introduction and Spread of Weeds.</td>
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<td>6: Degradation or Loss of Wildlife Movement Corridors.</td>
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<td>7: Removal of Migratory Bird Nests.</td>
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<td>8: Disturbance to and Loss of Habitat for Nesting Raptors and Special-Status Bird Species.</td>
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<td>9: Disturbance to Foraging Osprey and Bald Eagle.</td>
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<td>10: Loss of Waterfowl Habitat.</td>
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<td>11: Disturbance to Fish Habitat.</td>
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<td>12: Disturbance to Fish Habitat – Water Quality (Stormwater).</td>
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<td>13: Degradation of Fish Habitat Due to Degradation of Water Quality from Increased Boating Activity.</td>
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#### 5.10 Scenic Resources

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<td>1: Effects on SR-1, TRPA Travel Route Threshold Ratings.</td>
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<td>4: Effects on SR-4, TRPA Community Design</td>
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<td>Threshold.</td>
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<td><strong>5.11 Cultural Resources</strong></td>
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<td>1: Effects on Known Cultural Resources.</td>
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<td>2: Effects on Previously Undiscovered Cultural Resources.</td>
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<td>3: Effects on Paleontological Resources.</td>
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<td>1: Impacts on Boating Activity.</td>
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<td>2: Impacts on Shoreline Access.</td>
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<td>4: Impacts on Recreational Facilities.</td>
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<td>1: Expose the Public or Environment to Hazardous Materials.</td>
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<td>4: Expose Future Residents to Potential Health Hazard Related to Radon.</td>
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<td>5: Increased Risk of Health Hazards From Vector-Born Diseases.</td>
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<td>6: Increased Exposure to Wildland Fire Hazard.</td>
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<td>7: Increased Exposure to Boating Hazards.</td>
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To: TRPA Advisory Planning Commission

From: TRPA Staff

Date: August 5, 2008

Subject: Finding of Consistency for the Beach Club on Lake Tahoe Project (Assessor’s Parcel Number (APN) 1318-22-002-002, TRPA File Number 20030691) with the Environmental Impact Statement Recommended Mitigations

Requested Action: Staff requests that the Advisory Planning Commission (APC) make a recommendation to the Governing Board on the Beach Club on Lake Tahoe Project as to its consistency with the Environmental Impact Statement (EIS) and the required TRPA Code of Ordinances Subsection 5.8.D findings (see Attachment A).

Staff Recommendation: Staff recommends that the APC recommend to the Governing Board that the proposed project, as conditioned in the Draft Permit, and the associated findings are consistent with the EIS that was prepared for this project. The recommended conditions of approval are stated in the attached Draft Permit (Attachment B).

Required Motion(s): To recommend a finding that the proposed project is consistent with the EIS, the APC should make the following motions, based on this staff summary and the evidence in the record:

I. A motion, based on this staff summary and the complete administrative record, recommending that the findings set forth in Attachment “A” are consistent with the EIS.

II. A motion, based on this staff summary and the complete administrative record, recommending a finding that changes or alterations have been made that avoid or reduce the significant adverse environmental effects for all potential impacts.

III. A motion, based on this staff summary and the complete administrative record, recommending that the project, subject to the attached Draft Permit, is consistent with the EIS.

Site Description/Background: The 855,001 square foot (19.63 acres) project site consists of two adjacent developed parcels located at the northwest end of Kahle Drive in Douglas County, Nevada. The site contains the 155-unit Tahoe Shores Mobile Home Park with two parallel access roads, a manager’s office, storage and maintenance buildings, a recreational pier, and the Kingsbury General Improvement District (KGID) pump station and ozone treatment plan, which is located within a non-exclusive easement. The site includes 457,959 square feet of verified existing land coverage, equal to 54 percent of the total project area. Of the 155 existing mobile home units, 54 have been determined to qualify as moderate income units.
The project area is located within two Plan Area Statements: the 2.37 acre lakefront parcel (APN 1318-22-002-002) is located within PAS 070A – Edgewood, which has a recreation land use classification; the 17.26 acre parcel (APN 1318-22-002-001) is located within PAS 077 – Oliver Park, with a land use classification of residential.

The project site is visible from Highway 50 Roadway Travel Unit 31, which is currently in attainment; Lake Tahoe Shoreline Travel Unit 30, which is currently in non-attainment; and Nevada Beach, a TRPA-identified public recreation area.

The project area is surrounded by United States Forest Service lands to the north, including Burke Creek (Rabe) Meadow and Nevada Beach Campground, residential apartments and the Oliver Park General Improvement District to the east, the University of Nevada 4-H camp and Edgewood Golf Course to the south, and Lake Tahoe to the west.

The site was originally part of Burke Creek Meadow. It was graded in the 1960s and used as an airport runway for the South Lake Tahoe area until the 1970s when the Tahoe Shores Mobile Home Park was constructed. Coverage on the site exceeds that allowed by the land capability districts established later by the TRPA, and the site lacks sufficient drainage and water quality treatment facilities. Runoff from the site drains, untreated, directly into Lake Tahoe. A drainage ditch on the northern boundary of the project site, which was originally constructed to prevent Burke Creek flood waters from encroaching on the mobile home park, no longer receives drainage on a regular basis. Instead, water is diverted through upstream culverts associated with the Kahle treatment ponds to the east of the project site. The ditch regularly holds standing water and has been identified as a mosquito breeding area and vector control problem.

**Project Description:** Consistent with Alternative A of the FEIS for the Beach Club on Lake Tahoe, the applicant is proposing to close the Tahoe Shores Mobile Home Park, remove the 155 existing mobile home spaces, realign the project site roadways and utilities, and construct 15 buildings containing 143 multiple family dwelling units, a beach and swim club (participant sports facility), expand the existing pier, relocate the three existing buoys, construct stormwater treatment facilities, and restore approximately two acres of onsite SEZ habitat. In addition, a total of 54 income-restricted residential units will be provided. 39 existing residential units, located at Aspen Grove Apartments (APN 1318-22-002-007) directly east of the proposed project, will be deed restricted affordable-income units. The location of the remaining 15 units has not been determined, but would be provided by one of two options: 1) 15 of the 143 proposed multiple family dwelling units within the project area will be deed restricted as moderate-income units, or; 2) an additional 15 off-site market rate residential units will be acquired in the south shore area of the Tahoe Basin and deed restricted as moderate-income rental units.

Through separate application, the existing parcels will be reconfigured into two common area parcels, and the project will be subdivided into separate ownership condominium parcels. One of the common area parcels will consist of the approximately two acre SEZ restoration area.

The market-rate condominiums will be constructed with the residential units of use that were associated with the mobile homes. Units of use not needed for this project will be banked onsite. The 39 deed restricted affordable units to be established at Aspen Grove Apartments are proposed to use the bonus unit substitution program established in Section 35.2.F of the TRPA Code, which provides that bonus units may be substituted for existing residential units of use if the property is deed restricted for affordable or moderate housing. Similarly, since Douglas County maintains a TRPA-certified Local Government Moderate Income Housing Program, the 15 moderate-income housing units are proposed to use Multi-residential bonus units. In total,
the project proposes to use 54 residential bonus units. In addition, the project will be allocated 15 moderate-income residential allocations pursuant to Section 33.2.A(4)(b) of the TRPA Code. Under this provision, 39 market rate residential units of use will be banked to the Aspen Grove Apartment parcel, and, if deed restricted off-site, 15 market rate units of use will be banked to whatever property on which the units are deed restricted.

The project proponent also requests Linked Project designation, per Code Section 31.5, to allow the Aspen Grove Apartments to become a project area with the 2 acre SEZ parcel so it will meet the density requirements to qualify for substitution bonus units. Code Section 20.3.D(1)(a)(v) provides that non-contiguous parcels may be deed restricted as a project area if the proposed project is linked to the accomplishment of an EIP project. To qualify for linked project status, the applicant is proposing to underground approximately 354 linear feet of the lakefront overhead utility lines on the adjacent University of Nevada 4-H camp site (APN 1318-22-002-005), a part of Scenic Resources EIP Project Number 506, which would reduce the visual clutter when viewed from Lake Tahoe and further ameliorate conditions that now contribute to the non-attainment status of Shoreline Travel Unit 30.

The proposed project also includes the expansion of the existing pier. The proposed pier expansion will replace the existing 109-foot fixed pier with a 159 foot fixed-to-floating pier and would be anchored by a total of twelve pilings. The floating section of the pier will be constructed in an “L” shape, with a maximum width of 30 feet at the pier headline (last 20 feet of the pier). The reconstructed pier will be deeded to the Beach Club Homeowner’s Association and the applicants are seeking designation as a multiple use pier. As such, the pier would be eligible for deviation from the standard 10-foot pier width to allow for the “L” shaped portion of the floating pier. In addition, the three existing buoys would be relocated perpendicular to the shoreline to remove the buoys from the scenic viewsed from Nevada Beach. The pier would be accessible from the project site by the Homeowner's Association, members of the beach and swim club, and their guests. The pier will not be available for general use by the public.

Issues/Concerns:

The proposed project, for which an EIS was prepared, involves the elimination of ten or more mobile homes, and requires Governing Board review in accordance with Chapter 4, Appendix A of the TRPA Code.

The primary project related issues are the removal of an existing mobile home park, and linked project status. These issues are discussed in detail in Attachment C.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 5, 6, 18, 20, 22, 28, 31, 35, 50, 52, 53 and 64 of the TRPA Code of Ordinances (see Attachment C for details).

Environmental Documentation: An environmental impact statement (EIS) was prepared for the Beach Club on Lake Tahoe Project. On July 25, 2008, the Final EIS was distributed to APC and Governing Board members, distributed to the Douglas County and El Dorado County libraries, and posted on the TRPA website for public viewing. The Draft EIS analyzed five project alternatives, including two no project alternatives. The proposed project in the EIS is Alternative A. No unmitigated significant environmental impacts were identified in any of the analyzed alternatives.
If you have any questions, please contact Theresa Avance, AICP, Senior Planner at tavance@trpa.org or 775-589-5224.

Attachments:
- Required Findings/Rationale (Attachment A)
- Draft Permit (Attachment B)
- Issues/Concerns Discussion (Attachment C)
- Regional Plan Compliance Analysis (Attachment D)
- Site Plan/Elevations (Attachment E)
- Exhibits (Attachment F)
Attachment A – Required Findings

The following is a list of the required findings as set forth in Chapters 5, 6, 18, 20, 22, 28, 31, 35, 50, 52, 53 and 64 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. Chapter 5 – Environmental Impact Statement

(a) Changes or alterations have been required in or incorporated into the project which avoid or reduce the significant adverse environmental effects to a less than significant level.

Table 1-1 of the Draft EIS, with revisions as identified in Chapter 4 of the Final EIS, outlines all potentially significant project impacts, and the proposed mitigation measures that make those impacts less than significant.

2. Chapter 6 – Required 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: Multiple-Family Dwellings are proposed within the PAS 77 portion of the project area, and are an allowed use in this PAS. The Beach and Swim Club is classified as a participant sports facility and is a special use in both PAS 77 and PAS 70A. The proposed project is consistent with the Regional Plan and will not result in any adverse effects.

(2) Transportation: The Final EIS includes an analysis of traffic, parking, and circulation to assess potential impacts associated with the project. This analysis concluded that the proposed project is estimated to generate 303 additional daily vehicle trip ends (dvte) which is defined by the TRPA as a significant increase. Pursuant to Chapter 93.3.D of the TRPA Code of Ordinances, an air quality mitigation fee, assessed at a rate per daily vehicle trip, is required to offset the potential traffic and air quality impacts associated with the project. TRPA requires that the air quality impact mitigation fee be paid for any project that results in an increase of daily vehicle trips in the Tahoe Basin. Per TRPA Code of Ordinances Section 93.3.C, the Air Quality Mitigation Fund provides for regional and cumulative mitigation measures that may include, but are not limited to:

- Transit facility construction;
- Transportation Systems Management measures, including but not limited to, bicycle facilities, pedestrian facilities, and use of alternative fuels in fleet vehicles; or
• Transfer and retirement of off-site development rights.

The applicant shall contribute the required corresponding mitigation fee to the Air Quality Mitigation Fund.

The EIS applied parking demand ratios for the residential portion of the project that were determined from parking analysis for similar projects within the Douglas County area. The analysis determined that the parking demand for the market rate residential units is 1.25 spaces per 2-bedroom unit and 1.75 spaces per 3-bedroom unit. Parking rates for the beach and swim club/restaurant uses were based on the Douglas County Consolidated Development Code rates. Based on the analysis in the EIS, the minimum number of parking spaces required for the proposed project is 342 spaces. The project proposes a total of 358 parking spaces, 16 more spaces than required.

(3) Conservation: The project will be visible from Nevada Beach, a TRPA designated scenic recreation area, TRPA designated Scenic Roadway Unit 31, which is currently in attainment, and Scenic Shoreline Unit 30, which is in non-attainment. The 1996 scenic threshold evaluation resulted in the Shoreline Unit falling out of attainment due to the construction of unscreened structures located too close to the water’s edge (including the KGID pump house building). The project includes landscaping between the KGID pump house and the shoreline to reduce the visible area of the structure, removal of bright colored mobile home structures, construction of highly articulated structures that are dark in color and blend with the existing onsite vegetation, and undergrounding of lakefront overhead utility lines on the project area and the parcel directly to the south of the project area. As a result of the proposed improvements, the proposed project would contribute to an improvement to the visual quality in the scenic shoreline unit and result in an incremental increase in the scenic shoreline unit score. The site contains known clusters of Tahoe yellow cress. As a condition of approval, a site specific management plan will be prepared to ensure these clusters are protected from disturbance before, during and after construction. There are no known historic or pre-historic resources within the project area.

(4) Recreation: The proposed project includes a recreation use of participant sports facility for the proposed Beach and Swim Club, expansion of an existing private pier, and designation of the pier as a multiple use facility. The club will include two swimming pools, kayak and water toy rentals, locker rooms, a restaurant, and an assembly room. Additionally, a swim area will be roped off adjacent to the pier. Although these facilities will be private, available only to residents and members of the beach and swim club, construction of these project elements would improve the existing recreational facilities on the project site. The project would not have any direct impacts on recreational facilities outside of the project site.
(5) Public Service and Facilities: The Final EIS did not identify any adverse impacts to public service and facilities associated with the project development. However, the 19.63 acre site includes the Kingsbury General Improvement District (KGID) water intake line, water pump station and ozonation facility at the west end of the project site. These KGID facilities provide the drinking water supply for approximately 2,500 properties. The Lake Pump Station, the Ozone Disinfection Facility and associated ozone contact chambers and pipelines are located on a non-exclusive easement within the project area. The project has been designed to ensure access to the pump station continues to be available to maintenance and monitoring employees of KGID, and that the water intake line will remain unaffected by the pier expansion.

(6) Implementation: The market rate residential units within the project area will use the existing residential units of use associated with the mobile home park. No additional units of use will be required for the proposed project. Fifteen residential allocations will be obtained for the moderate income units from the pool of allocations reserved for moderate income units, and 15 residential bonus units will be allocated from the regional pool to the existing units that will be deed restricted as moderate income, and the existing market rate residential units of use will be banked onsite. Additionally, if the linked project designation is granted, 39 residential bonus units will be allocated from the regional pool to the existing units that will be deed restricted as affordable income, and the existing market rate residential units of use will be banked onsite.

(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 in the checklist indicate compliance with the environmental threshold carrying capacities. Also, an EIS has been prepared for the proposed project. There were no unmitigated significant impacts identified in the environmental document. A copy of the checklist and Final EIS have been made available to the APC and Governing Board members and at TRPA.

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

(Refer to paragraph (b), above.)

2. Chapter 18 – Special Use Findings:
(a) The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcels on which, and surrounding area in which, it will be located.

The proposed Beach and Swim Club constitute a “participant sports facilities”, defined in Chapter 18 of the TRPA Code as facilities for various outdoor sports and recreation. These include tennis courts, swim and tennis clubs, ice skating rinks, and athletic fields (non professional). Participant sports facilities is listed as a special use in PAS 070A and PAS 77.

The proposed beach and swim club is of such a nature, scale, density, intensity and type to be an appropriate use for the subject parcel and the surrounding areas. At approximately 28,000 square feet of land coverage, the beach and swim club will be an appropriate size for the 2.37-acre lakefront parcel on which it will be located. The club, which will accommodate approximately 300 persons, will be open to members only, roughly half of which will be residents of the residential development proposed as part of this project. The club will consist of indoor and outdoor swimming pools, a gym, locker rooms, food and beverage facilities, a deck and offices. The location of the beach club adjacent to the beach and multiple use pier will enable members and their guests to enjoy a variety of recreational activities.

Surrounding land uses consist of U.S. Forest Service lands, including Burke Creek (Rabe) Meadow and Nevada Beach Campground (located in Recreation PAS 070B), the Meadow Brook Apartments, Oliver Park GID and Kingsbury GID water treatment systems, the University of Nevada 4-H Camp and Edgewood Golf Course. The beach and swim club’s recreational character is compatible with the adjacent 4-H camp where children swim and partake in a number of other outdoor activities, Edgewood Golf Course, and the U.S. Forest Service lands used for hiking, biking, cross-country skiing, camping and swimming.

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

The beach and swim club will include indoor and outdoor swimming pools, a gym, locker rooms, food and beverage facilities, a deck and offices. It will be open to members only, roughly half of which will be residents of the residential development proposed as part of the Beach Club Project. The club activities will take place solely on the Beach Club property and will not be injurious to the health, safety or general welfare of persons or property in the neighborhood or the general welfare of the region. Further, the club activities will not disturb the enjoyment of property as most of the adjacent property is publicly owned and/or subject to recreation uses. The residential neighbors will not be disturbed as the swimming
and other activities that will occur at the club are not known to be loud or disruptive and club hours will be restricted to reasonable times.

The EIS has thoroughly evaluated factors that could be injurious or disturbing to the neighborhood and region. Through adoption of the required mitigation measures, the applicant has taken reasonable steps to protect against such injury and to protect the land, water and air resources of both the applicant's property and that of surrounding property owners. Required mitigation measures include completion of a dewatering plan during excavation, installation and maintenance of permanent and temporary Best Management Practices (BMPs), and compliance with noise and exterior lighting standards.

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

The beach and swim club will not change the character of the neighborhood. Surrounding land uses primarily consist of recreational uses or public utilities. The club is part of a larger residential project and will blend and be compatible with the adjacent residential properties. The beach and swim club is located primarily in PAS 070A, a recreation plan area. The planning statement for PAS 070A explains that this area should provide a range of visitor and local outdoor-oriented recreation opportunities. The beach and swim club will allow members, both residents and non-residents, and their guests to enjoy the adjacent beach and Lake Tahoe due to its location and by providing kayaks, beach chairs and other such gear. At the club, members and guests can swim in the outdoor swimming pool and enjoy the views in the shade while they have lunch and drinks at the club grille. Accordingly, the beach club furthers the purpose of the plan area statement by providing a range of recreation opportunities.

3. Chapter 20- Coverage Relocation Findings

(a) The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:

(1) Whether the area of relocation already has been disturbed.
(2) The slope and natural vegetation on the area of relocation.
(3) The fragility of the soil on the area of relocation.
(4) Whether the area of relocation appropriately fits the scheme of use of the property.
(5) The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of stream environment zones or backshore.
(6) The project otherwise complies with the land coverage mitigation program set forth in Section 20.5.

Existing land coverage within the 19.63 acre project area equates to approximately 10.5 acres, and exceeds 50% of the project area, although much more of the project area has been or is disturbed. Most of the existing land coverage is located in Land Capability District 1b, while the remainder is in Class 7. Most of the relocation will be within Land Capability District 1b, however, a total of 2 acres of 1b/SEZ lands will be permanently restored. All relocation of land coverage will be to an equal or superior portion due to moving it farther away from the stream zone and/or to previously disturbed areas. Excess coverage will be mitigated in accordance with Section 20.5. of the TRPA Code of Ordinances.

(b) The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

The areas from which coverage will be removed will be landscaped and restored in accordance with Code requirements and as described in paragraph (d), below.

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

All land coverage will be relocated within Class 1b or Class 7 land capability district, or will be relocated from Class 1b to Class 7. No Class 7 land coverage will be relocated to Class 1b.

(d) If the relocation is from one portion of a stream environment zone to another portion, there is a net environmental benefit to the stream environment zone. For projects involving the relocation of more than 1000 square feet of land coverage within a stream environment zone, a finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the stream environment zone and will not negatively affect the quality of existing habitats.

The proposed project will restore SEZ adjacent to an existing SEZ known as the Burke Creek Meadow. The area adjacent to the meadow within the project area currently consists of mobile homes and paved areas with a cut-off ditch or channel that intercepts high flows. The project will remove the existing coverage and restore approximately 2 acres of SEZ adjacent to the meadow.

The area will be restored by removing non-native fill material and bringing in soil and vegetation consistent with the adjacent Burke Creek meadow. Further, the project includes infiltration trenches that will aid in the saturation of the restoration area to help develop the vegetation regime. This restoration will improve the functionality of the SEZ within the project area and the habitats within the existing meadow. (See SEZ Coverage
4. Chapter 22- Additional Height Findings:

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

The project involves the construction of 15 new buildings: 13 residential buildings, a gatehouse and a clubhouse. Each of the buildings will be 36 feet in height with a roof pitch of 10:12. Slopes across the building sites range from 0.5% to 1.8%. Per Table A in Chapter 22 of the Code, the maximum height for a building with a roof pitch of 10:12 or greater and where the slope retained across the building site is between 0.0 and 2.0% is 36 feet.

The proposed project is visible from Lake Tahoe, Nevada Beach, and portions of westbound Highway 50. The site and surrounding area are vegetated with existing Sierran mixed conifer, with a tree canopy of approximately 50 to 65 feet tall. The maximum height for any proposed structure is 36 feet above existing grade. Therefore, the additional height will not cause any building to extend above the forest canopy. A simulation prepared for the EIS (EIS Exhibit 5.10-6b) demonstrates that when viewed from Lake Tahoe the proposed project will not extend above the ridgeline.

(b) When outside a community plan, the additional height is consistent with the surrounding uses.

The surrounding uses consist of open space to the north, and residential and commercial uses to the east and south. The project is consistent in height with the multiple family developments located directly adjacent and to the east of the proposed project. Additionally, the proposed development has been situated on the southern portion of the project area to allow for as much continuous open space as possible adjacent to Burke Creek Meadow. The additional height is consistent with these surrounding uses.

(c) With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable. (Required for proposed gatehouse and beach club buildings only).

The gatehouse will be located at the entrance of the development, at least 2,500 feet from Lake Tahoe and will not interfere with existing views from the lake. Further, when viewed from Highway 50, the gatehouse building will be set against the forest backdrop and will not interfere with views of Lake Tahoe.

The beach and swim club building will be partially visible from US 50. The building has been designed to minimize interference with existing views, but the roofline of the building will appear against the Lake, blocking approximately 8% of the lake surface currently in view (per the September...
2006 Scenic Simulation, Exhibit 5.10-5b in the EIS). Some existing trees on the site will have to be removed to construct the building and implement the proposed SEZ restoration. Some of these trees currently block part of the view of the lake, and their removal will increase the amount of the lake’s visible surface by roughly 40%. The net change in the area of visible lake surface would be an increase of about 32%. Accordingly, the proposed project will result in a net increase in the amount of the lake’s visible surface when viewed from US 50. (See Section 5.10.3 of the EIS.)

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

The proposed buildings include architectural features that break up the majority of vertical exterior walls, and the maximum height at any corner of two exterior wall of the buildings does not exceed 29 feet in height, or 80 percent of the 36-foot high structure. Therefore, the maximum height at any corner of two exterior walls of the buildings will not exceed 90 percent of the maximum building height.

5. Chapter 28- Floodplain Development Findings

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

The SEZ restoration portion of the project is necessary to achieve full hydrologic re-establishment of the Burke Creek meadow. The proposed improvements - SEZ restoration within the FEMA limits (approximately 72,000 sf of area) will allow for significant environmental protection of the SEZ habitat area.

(b) There is no reasonable alternative which reduces the extent of encroachment in the flood plain.

The extent of the encroachment is the minimum area needed to achieve the restoration between the existing developed area and the natural Burke Creek meadow area adjacent to the northern project property boundary.

(c) Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 20.3.C(2)(e) are met.

The existing land coverage within the 100-year FEMA defined limits (approximately 50,000 square feet) will be removed. No land coverage will be added to the floodplain.

6. Chapter 31- Linked Project Status Findings

(a) The development project is linked to accomplishment of one or more EIP projects, but is not an EIP project itself; and
The proposed project consists of the redevelopment of the Beach Club, and the deed restriction of the 39 Aspen Grove Apartments as affordable housing. The project proposes to create a larger project area between the Beach Club properties with the non-contiguous property of the Aspen Grove. The Beach Club redevelopment project is not an EIP project itself; however, it will be linked to the accomplishment of EIP Project No. 506, which includes undergrounding the utility lines at the 4-H site to the south of the project area. Consistent with linked project designation, this EIP project will be reviewed and approved under a separate application to the TRPA within two years of linked project status approval by the Governing Board.

(b) **Participation in creating environmental improvements goes beyond that otherwise required on site for the non-EIP project.**

Participation in the utility undergrounding at the 4-H site goes beyond that required for the proposed project. While the overhead utility lines on the Beach Club site will be placed underground as scenic mitigation for the Beach Club project, undergrounding off-site utilities, such as those at the 4-H site, is not required for the Beach Club project.

(c) **There is more than one stakeholder required to accomplish the EIP improvements.**

The 4-H camp is operated by the University of Nevada (UN). Accomplishment of the proposed EIP project will require the UN’s participation in the form of authorizing Beach Club, Inc. to underground the utilities and granting access to complete the work. Further, the 4-H Camp and the general public on Lake Tahoe will benefit from the improved scenic quality as a result of the utility undergrounding. The 4-H Camp Advisory Committee unanimously approved and expressed gratitude for the undergrounding at its meeting on July 15, 2008.

(d) **Accomplishment of the EIP project(s) may require an agreement between TRPA and implementation partners.**

Beach Club, Inc. is prepared to enter into an agreement with TRPA and UN, if necessary, to implement the EIP project.

(e) **A combination of public and private funds may be required to accomplish the affected EIP projects.**

Beach Club, Inc. is not seeking a contribution of public funds and will implement the project at its own expense.

(f) **Status designation is justified as the best approach to EIP implementation.**

Neither the UN/4-H Camp nor the affected utility providers are proposing to complete this EIP project any time in the foreseeable future, and the linked project status designation will ensure the EIP improvement is completed within a few years. The Beach Club project includes the undergrounding of all utilities within its project boundaries. Together with the undergrounding of the lakefront utility lines
at the 4-H site, approximately 354 linear feet of utility lines will be undergrounded, which will improve the scenic quality of this area as viewed from both U.S. 50 and the Lake.

7. Chapter 50- Shorezone and Lakezone Findings

(a) The project will not adversely impact:

(1) Littoral processes.

Pier pilings will be sufficiently spaced to ensure no disruption of littoral processes.

(2) Fish spawning.

The project area is mapped as marginal fish habitat. Construction of the extended pier would result in temporary, localized substrate and water column disturbance, but would not impair or reduce fish habitat. Boating activity is not expected to increase as a result of the project as no new mooring buoys or boating facilities will be added.

(3) Backshore stability.

Backshore stability will not be adversely impacted as pier construction will generally take place lakeward of the backshore.

(4) On-shore wildlife habitat, including wildfowl nesting areas.

The proposed pier extension will have no impact on on-shore wildlife habitat.

(b) There are sufficient accessory facilities to accommodate the project.

The shorezone and lakezone component of the project involves a modification and expansion of an existing pier. The pier will be a multiple use pier serving members of the proposed Beach Club Homeowners Association and members of the Beach and Swim Club. No additional accessory facilities are needed to accommodate the pier expansion.

(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 modifications of such existing uses or structures will be undertaken to assure compatibility.

The proposed pier modification and expansion is compatible with existing uses and structures on and in the immediate vicinity of the littoral parcel. The pier will serve the residents and members of the Beach Club and is compatible with the existing pier at the adjacent 4-H Camp site and beach recreation uses at the adjacent Nevada Beach and Campground.
(d)  The use proposed in the foreshore or nearshore is water dependent. The pier will extend through the foreshore and, by its nature, is water dependent.

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

A Spill Control Plan will be prepared and in place during pier construction and after the project is complete. A full perimeter turbidity curtain will be installed and maintained throughout construction, in accordance with TRPA and NDEP standards, to prevent any suspended sediments from leaving the site and any contamination of the drinking water source. An engineer will be onsite during construction to work with the contractor to ensure compliance with BMPs and adherence to appropriate construction methodologies.

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

All pier construction activities will take place via water barge access. No construction equipment will be permitted on the sandy beach area. A full perimeter turbidity curtain will be installed and maintained throughout construction, in accordance with TRPA and NDEP standards, to prevent any suspended sediments from leaving the site and any contamination of the drinking water source.

(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 pier component of the project involves extending the existing pier an additional 50 feet to the pier headline. The additional 50 feet will not adversely impact navigation. The three existing buoys located on the western side of the existing pier will be moved to the eastern side, and boating will be prohibited on the south side of the proposed pier, resulting in safer swimming conditions for children staying at the 4-H Camp just south of the Beach Club property. Accordingly, the pier project will not adversely impact navigation or create a threat to public 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 the project.

TRPA has solicited comments from public agencies during the public comment period of the Draft EIS and at the Shorezone Review Committee. Comments received during the Draft EIS comment period have been considered and are included, along with responses thereto, in the Final EIS for the Beach Club on Lake Tahoe, and suggestions received during the Shorezone Review Committee have been incorporated into the proposal.
8. Chapter 52 - Structures that Comply with all Development Standards

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

The proposed structure complies with the applicable development standards: it will not extend beyond the pier headline, the width complies with Chapter 54 and the portion that exceeds the standard 10-ft width is permissible as a part of a multiple-use facility.

(b) The repair and any expansion conform to the design standards in Section 53.9.

The shorezone of the property is located within Shorezone Tolerance District 7, and the project must comply with the development standards for District 7 set forth in Section 53.9.B.

(1) Vehicular access to the shoreline shall not be permitted except where TRPA finds that such access will not cause environmental harm.

Consistent with the preliminary pier construction methodology, there will be no vehicular access to the shoreline; all shorezone construction activities will occur from Lake Tahoe, by barge access.

(2) Boat launching facilities and marinas shall be located where the nearshore shelf is of sufficient width to enable construction and use without potential for significant shelf erosion.

The proposed project does not include boat launching facilities or marinas.

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

In accordance with Section 25.2, the proposed project includes both temporary BMPs during construction and appropriate permanent BMPs that will treat storm water runoff after project construction.

9. Chapter 64 – Excavation Findings:

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

An approval of excavation depth was issued by TRPA staff on August 11, 2003, TRPA File Number 20030501. The soils/hydrologic analysis determined that groundwater will be encountered between six and ten feet below grade, in various locations on the project site. The proposed excavation depths were approved with the caveat that if groundwater is intercepted at any depth, the TRPA shall be
immediately notified and the foundation design shall be revised to not intercept groundwater.

(b) The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to Subsection 65.2.E, including root systems and hydrologic conditions of the soil.

The project site contains 140 trees (78 conifers and 62 deciduous trees) that are six inches in diameter at breast height (dbh) or greater. Ten of these trees are 24 inches dbh or greater. The proposed project would remove or relocate 51 trees (28 conifers and 23 deciduous trees). The trees identified for removal are those that would be directly affected by a proposed structure, roadway, pond or footpath. None of the trees that are 24 inches dbh greater are proposed to be removed. If any of the trees fail that are identified on the site plan to be retained, they shall be replaced near the same location (in open areas) by a healthy specimen of the same or similar species, at a 3 to 1 ratio.

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

Excavated material shall be disposed of offsite at an approved location according to TRPA requirements.
Attachment B – Draft Permit

PROJECT DESCRIPTION: Change in Use: Multiple Family Dwellings, Participant Sports Facility, Pier Expansion, and SEZ Restoration

APN 1318-22-002-002 FILE # 20030691

PERMITTEE(S): Beach Club, Inc./ Tom Castaneda and Bob Mecay

COUNTY/LOCATION: Douglas County/346 Eugene

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on August 27, 2008, subject to the standard conditions of approval attached hereto (Attachments R and S) and the special conditions found in this permit.

This permit shall expire on August 27, 2011 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 TREE REMOVAL, CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL:
(1) 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;
(2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT;
(3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. TRPA’S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT. THE COUNTY/PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS; AND
(4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

TRPA Executive Director/Designee Date

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

Signature of Permittee(s) Date

PERMIT CONTINUED ON NEXT PAGE

TA/ps 08/05/2008

AGENDA ITEM V.E(2)
Air Quality Mitigation Fee (1): Amount $10,968.60 Paid _____ Receipt No.______
Monitoring Cost Deposit (2): Amount $4000.00 Paid _____ Receipt No.______
Excess Coverage Mitigation Fee (3) Amount $_______ Paid _____ Receipt No.______
EIP Completion Security Posted (4): Amount $_______ Type ___ Paid _____ Receipt No.______
Security Administrative Fee (5): Amount $_______ Paid _____ Receipt No.______
Security Posted (6): Amount $_______ Type ___ Paid _____ Receipt No.______

Notes:
(1) See Special Condition 3.R., below.
(2) See Special Condition 3.S., below.
(3) Amount to be determined. See Special Condition 3.T., below.
(4) Amount to be determined. See Special Condition 3.U., below.
(5) $148 if a cash security is posted, or $76 if a non-cash security is posted.
(6) Amount to be determined. See Special Condition 3.V., below.

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

PHASE ONE (See Special Condition 3)
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 ___________________________

PHASE TWO (See Special Condition 4)
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 of an existing 155-unit mobile home park located at 346 Eugene in Douglas County, Nevada, and a change in use as follows:

A. Construction of 143 market-rate for-sale condominium units in 14 separate buildings and a residents and members-only Beach and Swim Club with a swimming pool on a project site of approximately 19.63 acres. The project includes the construction of driveways and parking areas, construction of stormwater treatment facilities, and restoration of approximately two acres of onsite stream environment zone (SEZ) habitat. Maximum height of each structure shall not exceed 36 feet above existing grade.

B. The reconstruction and expansion of an existing pier and relocation of three existing buoys, consistent with plans provided in the Final EIS for Beach Club on Lake Tahoe. The existing 109-foot pier will be reconstructed using a combination of fixed pile and floating pier, and shall be extended to the pier headline of elevation 6219, with a length of 159 feet. The pier shall not exceed 10-feet in width and will have an 80-foot vertically-adjustable fixed section, a 20-foot transition section that connects the fixed section to the floating section, and a 59-foot floating section. The final 20 feet of the floating section will be 30-feet wide to form an “L” shaped pierhead. A total of 10 pilings will be installed for pier stability; the fixed and transition sections will have dual piles, and the floating section will be stabilized with single piles.

C. A total of 54 income-restricted residential units will be provided. Thirty-nine existing residential units, located at Aspen Grove Apartments (APN 1318-22-002-007) directly east of the proposed project, will be deed restricted affordable-income units, as defined in the TRPA Code. The location of the remaining 15 shall be provided by one of two options: 1) 15 of the 143 proposed multiple family dwelling units within the project area will be deed restricted as moderate-income units, or; 2) an additional 15 off-site market rate residential units will be acquired in the south shore area of the Tahoe Basin and deed restricted as moderate-income rental units.

D. Linked project status is hereby granted to the Beach Club on Lake Tahoe and the adjacent University of Nevada 4-H camp property (APN 1318-22-002-005) in accordance with Chapter 31 of the TRPA Code for partial completion of Scenic Resources EIP Project Number 506. The precise boundaries of the linked project may be adjusted as necessary by the TRPA Executive Director. Linked project status shall expire within two years from Governing Board approval if all required project approvals are not granted within this time period in accordance with Subsection 31.5.A of the TRPA Code. Time extensions may be granted by the Executive Director, but only upon request in writing by the affected parties prior to the expiration date.

There are two phases for this project. The first phase is for the construction of approximately 2/3 of the proposed residential condominium units, the Beach and
Swim Club, the pier expansion and buoy relocation, roadways, BMPs, SEZ restoration, and associated landscaping. The second phase is for the construction of the final 1/3 of the proposed residential condominium units, roadways, BMPs, and associated landscaping.

2. The Standard Conditions of Approval listed in Attachments R and S shall apply to this permit.

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

   A. The site plan shall be revised to include:
      
      (1) Identification of the residential units that will be constructed under Phase One of this permit, and which will be constructed under Phase Two.

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

      (3) Detailed land coverage calculations broken down by type of development and land capability. Include existing and proposed land coverage within the backshore boundary.

      (4) Location and details of trash refuse containers.

      (5) Location and details of the proposed perimeter fence to be located on the south property line.

   B. The Grading Plan shall be revised to include:
      
      (1) Existing and proposed topographic contour lines, clearly identified, at one (1) foot intervals, and all areas of cut and fill.

      (2) Identification of existing and finished grade elevation at each building corner.

      (3) Location of all trees 6-inches diameter or greater, with identification of all trees to be removed as a part of this project.

      (4) Location of the proposed construction staging area. All staging shall be located outside of tree driplines, and within areas of existing disturbance.

      (5) The location of all proposed underground utility lines. Disturbance to existing vegetation shall be minimized to the extent feasible, and shall include clustering utilities in shared trenches. All utility lines shall be placed to avoid trees identified to be retained and shall be no closer than 10 feet to the trunk of any tree 24-inches in diameter or greater. Any utility lines approved within a tree dripline shall be hand-dug. Final utility line location shall be reviewed for approval by
the TRPA prior to the time of permit acknowledgement and shall be consistent with the required dewatering plan.

(6) All temporary BMPs, including:

(a) Temporary erosion control structures located downslope of the proposed construction areas. Please Note: Straw bales are no longer acceptable for temporary erosion control or 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 required.

(b) Sturdy high-visibility protective fencing shall be installed at the limits of construction (including all grading, road improvements, underground utilities, staging, storage, parking, or other development activity), and outside of the critical root zone of all trees to be preserved that have critical root zones in the limits of construction, and that are 6 in inches dbh (or 10 inches dbh aggregate for multi-trunk trees) or, in limited instances, at the limit of the foundations. The critical root zone is defined here as the area within 10 feet of a tree’s drip line. This fencing shall be included on all site plans (e.g., Staging, Grading, Drainage, and Utility plans) and shall be depicted in the Tree Management Plan. No equipment, personnel or disturbance is allowed within the vegetation fencing.

(c) If grading, trenching, or transplanting is necessary within the root zone of trees to be preserved, per Special Condition 3.B(6)(b) above, the work will be supervised by a certified arborist, an RPF, or other qualified biologist, and the following measures shall be implemented:

1. soil shall be removed in lines radial to, rather than tangential to the tree to avoid excessive ripping and shattering of roots;

2. if root cutting cannot be avoided, roots shall be cut cleanly at a 90-degree angle;

3. a minimum of 6 inches of soil or sand shall be placed over exposed cuts and roots to reduce soil desiccation until the area is back-filled;

4. native soil shall be used to back-fill all cuts.

(d) Temporary gravel earthen berms, sandbag dikes or a filter fence to prevent discharge of earthen materials from the site during periods of precipitation or runoff;
(e) Temporary slope stabilization on all slopes subject to erosion;

(f) Loose piles of soil, silt, clay, sand, debris, or other earthen material shall be covered to prevent the discharge of these materials.

C. A BMP Plan shall be prepared that is consistent with the Beach Club on Lake Tahoe Final EIS and the TRPA Code, and shall include:

(1) Infiltration galleries and/or detention basins to ensure onsite infiltration of stormwater runoff.

(2) Proposed locations of the required snow storage for the project area of a size adequate to store snow removed from parking, driveway and pedestrian access areas, or provide documentation that arrangements have been made to remove and store accumulated snow offsite.

(a) The snow storage system shall be designed to avoid ice-sheeting within the parking lot and walkways that can result as the snow melts, shall be sited such that snow removal activities will not pose a risk of damage to preserved trees, and so that excessive snow-melt does not over-saturate the root zone of trees to be preserved.

(b) The project site shall be designed to eliminate or reduce runoff contaminants originating in snow storage areas. Filtering devices may be necessary in areas storing snow that may contain water quality contaminants such as de-icers and automobile exhaust components. Alternatives may include designing storage areas to utilize filtering devices for roadway runoff. Another alternative is the use of a hard system to clean out sand and oil from snowmelt. All methods shall comply with TRPA standards to prevent water quality impacts downstream and to meet local, state, and federal water quality standards.

(3) Sand/oil separators to treat driveway and parking area runoff. Include location, capacity, and details of each separator unit.

(4) The snow storage, infiltration galleries, and infiltration basin areas shall be included in the landscape plan as well, to ensure appropriate species are selected for these hard-use areas.

(5) Any other Best Management Practices identified in the Storm Water Pollution Prevention Plan (SWPPP), as required in Special Condition 3.P. of this permit. The permittee shall provide a list of these additional BMPs, with specific reference to the SWPPP.
(6) The permittee shall submit calculations demonstrating that the proposed infiltration facilities are sized accordingly for the slope and soil type of the property and will capture and infiltrate a 20 year/1 hour storm event.

(7) A note indicating: “All areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices and Living with Fire, Lake Tahoe Basin, Second Edition.”

(8) A note indicating: “All areas disturbed by construction shall be treated with an appropriate dust control measure. This treatment shall be continued or maintained from completion of the initial grading through completion of the project. Broadcast mulch shall not be permitted as a dust control measure within in 35 feet of structures.”

D. The Landscape Plan shall include:

(1) The location of proposed erosion control facilities as identified in Special Condition 3.C. of this permit, including snow storage areas, drywells, infiltration galleries, and basins. Appropriate landscaping (species and irrigation) shall be proposed in and around these areas/facilities.

(2) A plant list, a planting plan, planting and maintenance techniques, and measures to control the introduction or spread of invasive plants. All landscaping shall consist of native plant species from the TRPA-approved plant list, except for accent plants which can be adapted plants.

(3) A fertilizer management plan in accordance with the standards required in Section 81.7 of the TRPA Code of Ordinances for TRPA review and approval.

E. The Elevations shall be revised to include:

(1) Separate elevations for each proposed structure that includes:
   (a) Outline of existing and proposed grade for each view aspect.
   (b) Elevation of the lowest point of the foundation wall at existing grade.
   (c) Elevation of the highest roof ridge.
   (d) Roof pitch of each roof plane. If more than one pitch is proposed, provide a roof plan.
   (e) Allowable and proposed height calculations.
(f) Outline of the proposed excavation depth, to scale in relation to existing grade.

F. The Floor Plans shall be revised to include:

(1) Complete floor plans for each unit in each structure.

(2) Scaled dimensions.

(3) Location and type/model of any woodstoves, fireplaces, gas heaters, etc.

G. The proposed pier plan shall be revised to include:

(1) A note indicating that no overnight boat mooring will be permitted at the pier.

(2) A final BMP plan construction methodology for the proposed pier for TRPA review and approval.

(3) Details on the plan shall be in conformance with the preliminary and final construction methodology.

H. A detailed lighting and photometric plan shall be submitted that demonstrates compliance with the Chapter 30 of the TRPA Code. Additionally, the pier lighting plan shall demonstrate low-level lighting that will not broadcast light from the proposed pier.

I. The permittee shall provided evidence that a boundary line adjustment has been approved and acknowledged by the TRPA, and recorded with the Douglas County Recorder’s Office, that adjusts the existing lot lines to reflect the proposed common area parcels for the project area.

J. The permittee shall provide a recorded copy of the new legal descriptions and grant deeds for the boundary line adjustment identified in Special Condition 3.H. of this permit. Once received, TRPA will prepare a project area deed restriction for land coverage purposes. The permittee shall record the deed restriction with the Douglas County Recorder’s Office and provide a conformed copy of the recorded deed restriction, or the original recorded deed restriction to the TRPA.

K. The permittee shall provide a copy of the latest recorded grant deed for the Aspen Grove Apartments (APN 1318-22-002-007). Once received, TRPA will prepare a project area deed restriction for density purposes between this parcel and the SEZ common area parcel as created by the boundary line adjustment required under Special Condition 3.H. of this permit. The permittee shall record the deed restriction with the Douglas County Recorder’s Office and provide a conformed copy of the recorded deed restriction, or the original recorded deed restriction to the TRPA.
L. The permittee shall prepare for TRPA approval and signature a deed restriction permanently assuring that the 39 residential units located in the Aspen Grove Apartments (APN 1318-22-002-007) are available to lower income households (income not to exceed 80 percent of the median income for Douglas County). All housing units shall be occupied in accordance with local, regional, state and federal standards for the assistance of households with lower income and very low income occupants. Such housing units shall be made available for rental or sale at a cost that does not exceed the recommended state and federal standards. The permittee shall record the deed restriction with the Douglas County Recorder’s Office and provide a conformed copy of the recorded deed restriction, or the original recorded deed restriction to the TRPA.

M. The permittee shall provide documentation that pursuant to Section 35.2.F(2) the local jurisdiction has inspected and certified that each of the 39 units identified to receive substitution bonus units as the Aspen Grove Apartments meets the Douglas County health and safety requirements for residences.

N. The permittee shall provide will-serve letters that indicate adequate services are available for water, sewer, fire flow, gas, and electricity.

O. The permittee shall submit an EIS mitigation measure compliance plan to TRPA for review and approval for all mitigation measures identified for the proposed project in the EIS. All mitigation measures contained in the Beach Club on Lake Tahoe EIS are hereby incorporated by reference as conditions of project approval.

P. The permittee shall prepare a Storm Water Pollution Prevention Plan (SWPPP), which describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and nonstormwater management controls. Water quality controls shall be consistent with TRPA guidelines and Douglas County requirements for erosion control and shall demonstrate that the water quality controls would ensure compliance with all current requirements of the County and TRPA. Water quality controls shall ensure that runoff quality meets or surpasses TRPA water quality objectives. Stormwater quality sampling and reporting associated with the SWPPP shall be the responsibility of the project applicant. The SWPPP shall specifically include a dewatering plan and measures to prevent/minimize sediment and contaminant releases into groundwater during excavations and methods to clean up releases if they do occur. If necessary, dewatering shall be done in a manner that allows discharge to an infiltration basin approved by TRPA and Douglas County. Measures to prevent/minimize sediment and contaminant releases into groundwater during excavations and methods to clean up releases may include using temporary berms or dikes to isolate construction activities; using vacuum trucks to capture contaminant releases; and maintaining absorbent pads, and other containment and cleanup materials on-site to allow an immediate response to contaminant releases if they occur.
Q. The permittee shall prepare and submit an emergency access plan to TRPA for review and approval. The plan shall include detailed descriptions of how emergency access would be maintained throughout project construction. Emergency access measures are expected to include the following:

1. Phasing construction activities to provide continual access to emergency vehicles during construction.
2. Backfilling trenches and/or placing metal plates over the trenches at the end of each workday.
3. Using alternate access routes as needed.
4. Notifying the Douglas County Sheriff’s Department and the KGID of construction activities and providing these agencies with a copy of the emergency access plan.

R. The permittee shall submit a $10,968.60 air quality mitigation fee. This fee is based on the addition of 303 daily vehicle trip ends at $36.20/trip.

S. The permittee shall submit a $4,000.00 deposit for monitoring costs. Field inspections and administrative costs related to monitoring will be charged against this deposit. This deposit is based on review of two monitoring plans per year, for a minimum of 5 years. Fees charged against this deposit will be based on a reasonable hourly rate, $75 per hour at the time of permit issuance. Rates are subject to change for inflation. If necessary, TRPA will send an invoice for an additional deposit to cover monitoring costs. Any such invoice shall be paid within 30 days. Upon successful completion of the monitoring period, any funds remaining in the deposit shall be refunded to the permittee.

T. The affected property has 406,009 square feet of excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within Hydrologic Transfer Area 4 – South Stateline (Nevada side), or by submitting an excess coverage mitigation fee.

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

\[
\text{Estimated project construction cost} \times \frac{0.05}{8}
\]

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:
Coverage reduction square footage (as determined by formula above) multiplied by the coverage mitigation cost fee of $15.00 for projects within Hydrologic Transfer Area 4 – South Stateline (Nevada side). Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than $200.00.

U. The permittee shall post a security to ensure completion of the proposed linked status project on the adjacent University of Nevada 4-H camp property (portion of Scenic Resources EIP Project Number 506). The permittee shall submit preliminary plans and cost estimates, prepared by a qualified engineer, for the undergrounding of the overhead utility lines. The security shall be 125% of the estimated construction costs.

V. The permittee shall submit plans, cost estimates and installation schedule for the installation of all required water quality improvements (BMPs) for the entire project area. The security required under Standard Condition A.1(3) of Attachment R shall be equal to 110 percent of the estimated BMP costs. All required BMPs shall be installed prior to project completion.

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

   (1) **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, tan, ochre, and umber.

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

   (3) **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.

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

4. Prior to permit acknowledgement of **Phase Two**, the permittee shall:

   A. Identify the location of the 15 residential units of use that will be deed restricted as moderate income housing.

   B. The permittee shall prepare for TRPA approval and signature a deed restriction permanently assuring that the 15 residential units identified for the moderate income housing are available to moderate income households (income not to exceed 120 percent of the median income for
Douglas County). All housing units shall be occupied in accordance with local, regional, state and federal standards for the assistance of households with lower income and very low income occupants. Such housing units shall be made available for rental or sale at a cost that does not exceed the recommended state and federal standards. The permittee shall record the deed restriction with the Douglas County Recorder’s Office and provide a conformed copy of the recorded deed restriction, or the original recorded deed restriction to the TRPA.

C. The permittee shall provide documentation that pursuant to Section 35.2.F(2) the local jurisdiction has inspected and certified that each of the 15 units identified to receive substitution bonus units and moderate income allocations meet the Douglas County health and safety requirements for residences.

5. 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.

6. Appropriate informational signage will be placed on the pier and/or walkway to the pier that includes the following restrictions:
   A. No overnight mooring will be permitted on the pier.
   B. All boat access is prohibited on the south side of the pier.
   C. No motorized boating is authorized within the swimming area to the north of the pier.

7. The following monitoring reports will be required:
   A. After construction, the permittee shall submit an annual report, due on March 1, detailing the income of each residential household located within the Aspen Grove Apartments, the average monthly rent, and percent occupancy for each unit of affordable housing. (The report can be based on, or copied from, a comparable federal/state required report). The project must meet the definition of affordable housing as outlined in Chapter 2 of the TRPA Code of Ordinances.
   B. After construction, the permittee shall submit an annual monitoring report detailing vegetation success to the TRPA. The report shall be due on October 30 of each year for a minimum period of 5 years. Any revegetation falling below an 85% survival rate shall be replaced by the project applicant. Mitigation and monitoring of replacement revegetation shall continue until it satisfies the criteria for successful establishment. Criteria for successful establishment shall include survivorship for a period of at least 5 years.

8. Infiltration trenches, swales and drywells shall be inspected once yearly to ensure they are functioning properly and to ensure debris is removed from the flow path.
9. **Construction contractors shall retain a copy of the approved SWPPP on the construction site.**

10. Washoe tribal members shall be notified at least 2 weeks in advance of ground-disturbing activities and invited to conduct archaeological monitoring during such activities. In the event that previously unknown archaeological resources are discovered during any ground-disturbing activities, construction shall immediately cease in the vicinity of the resource. A qualified archaeologist approved by TRPA shall be consulted to evaluate the resource in accordance with TRPA guidelines. If the discovered resource is determined to be significant, a mitigation plan consistent with the TRPA Code of Ordinances shall be drafted and submitted for approval by TRPA and the Nevada State Historic Preservation Office (SHPO). Such a plan may include recovery and recor dation of the resource, additional monitoring, or other activities required by TRPA and the Nevada SHPO. Any necessary archaeological excavation and monitoring activities shall be conducted in accordance with prevailing professional standards and, shall be implemented before commencement of construction in the area of the resource.

11. In the event that human remains are discovered, the Douglas County Coroner shall be contacted and, if the remains are determined to be Native American, also the Nevada Office of Historic Preservation in accordance with Section 383.170 of the Nevada State Revised Statutes. Section 383.170 directs the SHPO to consult immediately with the Nevada Indian Commission and notify the appropriate Indian tribe. This section also authorizes the Indian tribe, with the permission of the landowner, to inspect the site and recommend an appropriate means for the treatment and disposition of the site and all associated artifacts and human remains.

12. Excavation equipment shall be limited to the foundation footprint to minimize site disturbance. No grading or excavation shall be permitted outside of the building footprint.

13. All waste resulting from the saw-cutting of pavement shall be removed using a vacuum (or other TRPA approved method) during the cutting process or immediately thereafter. Discharge of waste material to surface drainage features is prohibited and constitutes a violation of this permit.

14. All trash storage and enclosures shall be screened from public view in accordance with Subsection 30.5.B (4) of the TRPA Code of Ordinances.

15. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground, in accordance with Subsection 30.5.B of the TRPA Code of Ordinances. Roofs, including mechanical equipment and skylights, shall be constructed of non-glare finishes that minimize reflectivity.

16. Maintenance of BMPs during project construction shall include:

   A. This site shall be winterized in accordance with the provisions of Attachment R by October 15th of each construction season.
B. After October 15 of each year, construction vehicles on-site shall be kept to paved roads only.

C. Any spilled petroleum products or petroleum-contaminated soils shall be immediately cleaned up to the maximum extent possible and transported to a legal disposal site.

D. Before completion of the construction project and at the end of each grading season, all surplus or waste earthen materials shall be removed, transported and disposed of at a TRPA-approved location and the site stabilized.

17. The project applicant shall implement the following mitigation measures during construction to reduce on-site short-term construction noise levels:

A. Construction activity that results in increased noise levels beyond the project site's property line, including all material haul trips, shall be limited to the hours between 8:00 AM and 6:30 PM and prohibited on Sundays and federal holidays.

B. All construction equipment shall be equipped with properly operating mufflers and engine shrouds, in accordance with manufacturers’ specifications.

C. Equipment engine doors shall be kept closed during equipment operation.

D. Inactive construction equipment shall not be left idling for prolonged periods of time (i.e., more than 2 minutes).

E. Stationary equipment (e.g., power generators) shall be located at the maximum distance feasible from nearby noise-sensitive receptors.

18. As a result of the approval for Phase One of this project, TRPA hereby allocates thirty-nine multiple-family bonus units to the Aspen Grove Apartments (APN 1318-22-002-007).

19. As a result of the approval for Phase Two of this project, TRPA hereby allocates fifteen multiple-family bonus units and 15 moderate income residential allocations to the properties deed restricted pursuant to Special Condition 4.B. of this permit.

END OF PERMIT
Attachment C – Issues/Concerns

1. **Loss of Existing Mobile Home Park:** The proposed project, if approved, will result in the closure of the Tahoe Shores Mobile Home Park and removal of 155 mobile home spaces containing 150 manufactured homes. Closure of the park will permanently displace 128 mobile homes with full time residents and 22 units with seasonal occupants, as determined as of February 2004 (five park spaces were vacant at that time). TRPA has received numerous comments and letters from the tenants of the park requesting that they be fairly compensated for the cost of their units. There are no TRPA regulations that describe proper treatment and compensation for tenants that are being displaced from a mobile home park, therefore, TRPA must defer to the requirements of the State of Nevada. Before closure of the Tahoe Shores Mobile Home Park, the owner would be required by Douglas County to comply with the Nevada Revised Statues (NRS 118B.177) which require the owner to either: 1) pay the tenant the costs of moving the manufactured home to another location up to 100 miles away, including fees for inspection, deposits for utility connections, and cost of complete take down, moving, set up, and leveling at the new location; or 2) if the manufactured home is unable to be relocated for any reason, pay the tenant the fair market value for the home as determined by a dealer licensed pursuant to Chapter 489 of the NRS, less the costs to dispose of the unit (~$5,000), and remove and dispose of the manufactured home. The park owner must serve written notice to each tenant in accordance with NRS 40.280, giving the tenant at least 180 days after the notice date before they are required to move the manufactured home or sell it to the park owner.

2. **Linked Project Status:** As stated in the project description, the applicant desires to obtain substitution bonus units for the Aspen Grove Apartments and bank the existing residential units of use to the parcel. However, the density of Aspen Grove exceeds the maximum permissible in the TRPA Code and Plan Area Statement. To satisfy the density requirement, the applicant proposes to create a non-contiguous project area for density purposes consisting of the Aspen Grove Apartments and the 2 acre SEZ parcel within the larger project area of the Beach Club. Pursuant to TRPA Code Section 20.3.D(1)(a)(v), non-contiguous parcels may be deed restricted as a project area if the proposed project is linked to the accomplishment of one or more EIP improvement projects.

To obtain this status, the applicant proposes the undergrounding of approximately 354 linear feet of the lakefront overhead utility lines on the adjacent University of Nevada 4-H camp site (APN 1318-22-002-005), a part of Scenic Resources EIP Project Number 506, which would reduce the visual clutter when viewed from Lake Tahoe and further ameliorate conditions that now contribute to the non-attainment status of Shoreline Travel Unit 30.

Linked project designation must be reviewed and approved by the Governing Board in accordance with Chapter 31 of the TRPA Code. Upon designation of a project to this special category, the applicants and TRPA shall have a maximum of two years to obtain TRPA approval for a project. Failure to meet this deadline shall void the designation unless an extension of time is granted by the Governing Board. Development proposals may be designated as candidates for linked project status if:

A. The development project is linked to accomplishment of one or more EIP projects, but is not an EIP project itself; and
B. Participation in creating environmental improvements goes beyond that otherwise required on site for the non-EIP project; and

C. There is more than one stakeholder required to accomplish the EIP improvements; and

D. Accomplishment of the EIP project(s) may require an agreement between TRPA and implementation partners; and

E. A combination of public and private funds may be required to accomplish the affected EIP projects; and

F. Status designation is justified as the best approach to EIP implementation.

The proposed linked project satisfies all these requirements. Please see Attachment A for required linked project findings.
Attachment D – Regional Plan Compliance Analysis:

A. Environmental Documentation: An environmental impact statement (EIS) was prepared for the Beach Club on Lake Tahoe project, and Vg findings have been completed in order to assess the potential impacts of the project. Additionally, a soil/hydrologic analysis for excavation depth approval was provided. There were no unmitigated significant impacts identified in the environmental document, and staff has concluded that the project will not have a significant effect on the environment. Copies of the Final EIS, Vg findings, and soils/hydrologic analysis will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement/Community Plan: The project is located within Plan Area Statements (PAS) 070A (Edgewood) and PAS 077 (Oliver Park). The Land Use Classification for PAS 070A is Recreation, with a Management Strategy of Mitigation. Participant Sports Facilities is a special use in this PAS. The Land Use Classification for PAS 077 is Residential, with a Management Strategy of Redirection. Multiple-family and Single Family Dwellings are allowed uses within this PAS. Agency staff has reviewed the subject Plan Area Statements and has determined that the project, as conditioned in the attached permit, is consistent with the applicable planning statement, planning considerations, and special policies and is considered a permissible use.

C. Land Coverage:

1. Allowable and Existing Coverage: The project area consists of two separate land capability districts:

<table>
<thead>
<tr>
<th>Land Capability</th>
<th>Percent</th>
<th>Allowable Area (SF)</th>
<th>Total Allowable (SF) Coverage (SF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1b</td>
<td>1%</td>
<td>705,345</td>
<td>7,053</td>
</tr>
<tr>
<td>Class 7</td>
<td>30%</td>
<td>149,656</td>
<td>44,987</td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td>855,001</td>
<td>51,950</td>
</tr>
</tbody>
</table>

3:1 Height Reduction: -2,162

Total Existing Coverage: 457,959

2. Proposed Land Coverage: The project area consists of 12 new individual buildings, including 12 residential buildings, a beach and swim club, and a gatehouse (Buildings 2 and 3 as depicted on the site plan are attached and are viewed by TRPA as one structure). Most of the buildings incorporate multiple roof pitches, but all have one roof pitch.

<table>
<thead>
<tr>
<th>Proposed Onsite Coverage</th>
<th>Class 1b</th>
<th>Class 7</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings (SF)</td>
<td>153,849</td>
<td>54,238</td>
<td>208,087</td>
</tr>
<tr>
<td>Road/Parking Areas (SF)</td>
<td>109,101</td>
<td>1,809</td>
<td>110,910</td>
</tr>
<tr>
<td>Walking Paths (SF)</td>
<td>28,498</td>
<td>15,171</td>
<td>43,669</td>
</tr>
<tr>
<td>KGID Access (SF)</td>
<td>12,786</td>
<td>0</td>
<td>12,786</td>
</tr>
<tr>
<td>Total Proposed Onsite</td>
<td>304,234</td>
<td>71,218</td>
<td>375,452</td>
</tr>
</tbody>
</table>

3. Excess Land Coverage Mitigation: The project area has 406,009 square feet of excess coverage to be mitigated. Excess coverage will be mitigated in accordance with Chapter 20 of the TRPA Code of Ordinances.

D. Building Height: 14 new individual buildings are proposed for the project, including 12 residential buildings, a beach and swim club, and a gatehouse (Buildings 2 and 3 as depicted on the site plan are attached and are viewed by TRPA as one structure). Most of the buildings incorporate multiple roof pitches, but all have one
SEZ Coverage Relocation Report
for
Beach Club on Lake Tahoe

Douglas County, Nevada

Prepared for:
Beach Club, LLC
110 Country Club Drive, Suite 4
Incline Village, Nevada 89451

Prepared by:
Nichols Consulting Engineers
&
Telesto Nevada

Submitted to:
Tahoe Regional Planning Agency

September 2007
# TABLE OF CONTENT

1.0 GENERAL LOCATION AND DEVELOPMENT DESCRIPTION  2
   1.1 Scope  2
   1.2 Location of Property  2
   1.3 Description of Project  2

2.0 TRPA FINDINGS  3
   2.1 Coverage Relocation Summary  3
   2.2 SEZ (Stream Environment Zone) Restoration  3-4

3.0 REFERENCES  5

Appendices:
   - FEMA FIRM Panel
   - Proposed Project Site Plan with BMP Plan
   - Proposed BMP Plan Cross Section
   - SEZ Coverage Removed from Restoration Area
   - SEZ Coverage Overlay Exhibit (Existing vs. Proposed)
   - Soils Hydro Report - Kleinfelder
1.0 GENERAL LOCATION AND DEVELOPMENT DESCRIPTION

1.1 Scope

The purpose of this report is to provide detailed information the support the relocation of coverage within an SEZ per TRPA Code of Ordinances, per Chapter 20.5.C – (4)c. for the Beach Club on Lake Tahoe, owned by Beach Club, LLC. This study will address the existing and proposed SEZ, floodplain, conditions that are adjacent to the project site within the Burke Creek (Rabe) Meadow. The criteria set forth in the Tahoe Regional Planning Agency (TRPA), “Regional Plan for the Lake Tahoe Basin - Code and Ordinances, Rules and Procedures,” and Douglas County Code has been used as the technical basis for this study.

1.2 Location of Property

The subject floodplain, Burke Creek (Rabe) Meadow, lies to the northeast of Kahle Drive, approximately 5,100 feet, from Highway 50 and Lake Tahoe. The subject site, Beach Club on Lake Tahoe, currently Tahoe Shores Mobile Home Park, lies southwest of Kahle Drive, beginning approximately 2,300 feet south of the intersection at Kahle Drive and U.S. Highway 50 in the southern Douglas County area of Lake Tahoe Nevada. The proposed project is within the South half (S1/2) of Section 22, Township 13 North (13N), Range 28 East (18E), M.D.M., Douglas County, Nevada.

1.3 Description of Project

The Beach Club on Lake Tahoe project consists of two (2) parcels, APN 1318-22-002-001 & APN 1318-22-002-002, having a combined area of approximately 19.6 acres. Burke Creek runs adjacent to the property to the north, meandering through Burke Creek (Rabe) Meadow. The average slope of the Burke Creek Meadow, where the floodplain study was done, is approximately 0.7%, sloping towards Lake Tahoe.
2.0 TRPA FINDINGS

2.1 Coverage Relocation Summary

The project will include the Relocation of Existing Land Coverage within an SEZ, per Chapter 20.5.C – (4)c:

“For projects involving the relocation of more than 1000 square feet of land coverage within a stream environment zone, as finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the stream environment zone and will not negatively affect the quality of existing habitats.”

The Beach Club on Lake Tahoe project proposes a 22% reduction of overall coverage on the project site. The majority of this coverage reduction lies within Primary SEZ (1b) areas. The percentages of coverage reduction within each Land Capability are as follows:

- 16% reduction within the Primary SEZ (1b)
- 4% reduction within the Secondary SEZ (1b)
- 2% reduction within Land Capability 7

48% of the Primary SEZ (1b) reduction will be removed from a sensitive area directly adjacent to the Burke Creek Meadow. This area will also be restored to a natural SEZ condition to enhance the functionality of the floodplain and reestablish the historical habitat.

13% of the Primary SEZ (1b) reduction will be relocated to a less sensitive area near the KGID intake station, the remainder shall be banked.

2.2 SEZ (Stream Environment Zone) Restoration

The proposed project includes restoration areas adjacent to an existing stream environment zone (SEZ) known as the Burke Creek Meadow. The area adjacent to the meadow within the project area currently consists of mobile homes and paved areas with a cut-off ditch, channel, that intercepts high flows. The project proposes to remove the existing
coverage and restore as much area as possible adjacent to the meadow. The restoration area consists of the removal of the cut-off ditch and the non-native fill material, along with the replacement of soils and vegetation that is consistent with the adjacent Burke Creek meadow. The soils report by R.J. Poff & Associates demonstrates the non-native fill that has been placed on the Beach Club site.

The project also includes infiltration trenches that will aid in the saturation of the restoration area to help develop the vegetation regime that is consistent with the adjacent Burke Creek Meadow. The restoration area will be saturated in conditions other than the 100-year flooding event.

It is anticipated that this restoration effort will significantly enhance the area with vegetation and allow the floodplain to spread over a larger area to the north of the project, consistent with the historical floodplain for the Burke Creek Meadow.

This restoration effort will aid in the functionality of the SEZ within the project area and the habitats within the existing meadow.
3.0 REFERENCES


### AGENDA ITEM V.E(2)

**Beach Club on Lake Tahoe**

**PROPOSED PROJECT SITE PLAN**

**PROPOSED PROJECT BMP PLAN**

#### LEGEND
- STORM DRAIN PIPE
- PERFORATED PIPE/INFILTRATION TRENCH
- UNDERGROUND INFILTRATION BASIN
- UNDERGROUND INFILTRATION OVERFLOW
- CATCH BASIN (WITH SUMP)
- WATER QUALITY VAULT
- DIVERSION SWALE

#### AVERAGE REMOVAL PER TABLE 5.5-6

<table>
<thead>
<tr>
<th>BMP TYPE</th>
<th>TSS</th>
<th>NITROGEN</th>
<th>PHOSPHORUS</th>
<th>PATHOGENS</th>
<th>METALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEDIA FILTER</td>
<td>99.9</td>
<td>95.5</td>
<td>78.1</td>
<td>97.8</td>
<td>99.9</td>
</tr>
<tr>
<td>DRY WELL (UG Infiltation Basin)</td>
<td>85</td>
<td>65</td>
<td>30</td>
<td>82.5</td>
<td>65</td>
</tr>
<tr>
<td>RETENTION BASIN (Lined Pond)</td>
<td>85</td>
<td>47.5</td>
<td>47.5</td>
<td>15</td>
<td>65</td>
</tr>
<tr>
<td>INFILTRATION TRENCH (Meadow)</td>
<td>65</td>
<td>65</td>
<td>30</td>
<td>82.5</td>
<td>65</td>
</tr>
<tr>
<td>POLLUTANT LOAD REMAINING (%)</td>
<td>0.1</td>
<td>4.5</td>
<td>21.9</td>
<td>2.2</td>
<td>0.1</td>
</tr>
<tr>
<td>TOTAL REMOVAL BY TREATMENT SEQUENCE (%)</td>
<td>99.9</td>
<td>95.5</td>
<td>78.1</td>
<td>97.8</td>
<td>99.9</td>
</tr>
</tbody>
</table>
May 28, 2003

Mr. Tom Castaneda
Tahoe Beach Club, LLC
110 Country Club Drive, Suite 4
Incline Village, NV 89451

RE: Soils Report, Tahoe Beach Club

Dear Mr. Castaneda:

At your request, I met Mr. Tim Hagan of TRPA at your property site on May 1, 2003. Together, we selected potential locations for backhoe pits. On May 13, nine backhoe pits were dug to allow soil observations. Mr. Hagan was contacted by phone, and he told us that he did not want complete profile descriptions or a soil classification at each stop, just observations and notes describing the depth of fill or grading, water table, and presence of redoximorphic features that could be used to identify aquatic conditions.

Methods
After the pits were opened, I made brief notes at Stops 1, 2, and 3, and sampled the soil horizons in each pit. After Mr. Hagan arrived, he and I examined backhoe pits 4 through 9 together. We observed fill material, buried soils, and redoximorphic features, discussed their significance, and concurred that our observations and interpretations were in agreement. After Mr. Hagan left, I measured horizon depths, made notes, and collected samples from pits 4 through 9.

Samples were collected in zip-lock bags to avoid exposure to air. The next morning I read moist colors and redoximorphic features. I allowed the samples to air dry overnight, and the following day read the dry colors and made field estimates of soil texture and consistence. Colors were read in good light using a new Munsel® color book. Colors are for moist soil, except as noted. Except for stops 2 and 3, all horizon boundaries were abrupt and smooth. Soil structure was very weak in most horizons and was not noted.
The following profile notes were made at the pits and from the collected samples. It should be noted that this is not the normal protocol for describing soils. The reasons the soils were described in this manner are discussed in detail in Appendix 4.

**Description of Soils**

The nomenclature used follows that given in Vepraskas\(^1\) and the NRCS field book for describing soils\(^2\). Although the redoximorphic features observed are noted as being the result of seasonal saturation, it is also possible—even likely—that some features are relic and do not represent current aquatic conditions. Stop locations are shown in Figure 1.

**Stop 1** (S. edge of Lot 325) No photos taken.

<table>
<thead>
<tr>
<th>Layer</th>
<th>Depth</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ap</td>
<td>0-14 in</td>
<td>5Y 2.5/1 loam, 2.5Y 4/2 dry. Slightly hard, very friable, slightly sticky, slightly plastic. Mixed fill material includes cinders, wood, some asphalt. Dark surface from lawn.</td>
</tr>
<tr>
<td>Bwp1</td>
<td>14-18 in</td>
<td>10YR 4/3 loamy sand, 10YR 6/4 dry. Soft, very friable, non-sticky, non-plastic. Few, fine, faint 7.5YR 4/6 Fe masses. Weak seasonal episaturation. Fill material.</td>
</tr>
<tr>
<td>Bwp2</td>
<td>18-26 in</td>
<td>10YR 5/4 loamy coarse sand, 10YR 6/6 dry. Moderately hard, very friable, non-sticky, non-plastic. 10YR 5/2 Fe depletions along 10% of root channels; 7.5YR 4/6 Fe masses. Seasonal episaturation. Fill material.</td>
</tr>
<tr>
<td>Bwp/2Ab</td>
<td>26-32 in</td>
<td>5Y 2.5/1 silt loam, 10YR 4/1 dry. Slightly hard, firm, slightly sticky, slightly plastic. Mixture of fill material and original A horizon of meadow soil. No redox features.</td>
</tr>
<tr>
<td>2Cg</td>
<td>53-55 in</td>
<td>5Y 3/2 silty clay, 2.5Y 5/2 dry. Extremely hard, firm, very sticky, very plastic. 20-40% 10YR 4/6 Fe masses in matrix; 5-10% 5YR 5/1 Fe depletions along root channels and as masses. C horizon of original meadow soil. Seasonal endosaturation. No water encountered.</td>
</tr>
</tbody>
</table>

---


Stop 2 (in vacant lot across from Lot 344) No photos taken.

Bw1  0-14 in.  7.5YR 3/2 heavy sandy loam, 10YR 5/3 dry. Slightly hard, firm, slightly sticky, slightly plastic. Upper B horizon of original soil has been exposed by blading off 18-24 inches of original upland soil. No Redox features.

Bw2  14-20 in.  7.5YR 3/2 heavy loam, 10YR 5/3 dry. Moderately hard, firm, moderately sticky, moderately plastic. Few, fine, faint 10YR 4/6 Fe masses. Lower B horizon of original soil.

Bw3  20-30 in.  7.5YR 4/4 heavy loam, 10YR 6/4 dry. Moderately hard, firm, moderately sticky, moderately plastic. Few, medium, distinct Fe depletions along root channels; many, fine, prominent 10YR 4/6 Fe masses. Upper fringe of seasonal endosaturation.

Cg   30-48 in.  2.5Y 5/4 heavy loam, 2.5Y 6/4 dry. Moderately hard, friable, moderately sticky, moderately plastic. Many, medium and coarse, prominent 7.5YR 4/6 Fe masses. A gleyed matrix with many red Fe masses. Appears to be seasonal endosaturation but could be episaturation. At top of zone of current fluctuating water table that might be perched. Water at 42 inches.

Appears to be an upland soil that has been scalped 18-24 inches and subjected to a raised water table.

Stop 3 (between Lots 365 and 369; bank cut into upland soil) No photos taken.

Ap    0-7 in.  2.5Y 4/3 coarse sandy loam, 10YR 5/4 dry. Soft, very friable, slightly sticky, non-plastic. Fresh fill material. Many fine, medium, and coarse roots.

A     7-20 in.  10YR 3/2 sandy loam, 10YR 4/2 dry. Soft, very friable, slightly sticky, non-plastic. Many fine, medium, and coarse roots.

Bw1   20-32 in.  10YR 3/4 sandy loam, 10YR 5/4 dry. Soft, very friable, slightly sticky, non-plastic. Many fine, medium, and coarse roots. No redox features.

Bw2   32-50 in.  10YR 4/4 sandy loam, 10YR 5/4 dry. Soft, very friable, slightly sticky, non-plastic. No redox features.

C     50-60 in.  10YR 5/6 heavy loamy sand, 10YR 6/4 dry. Soft, very friable, non-sticky, non-plastic. No redox features. This is
the dry upland soil used as a reference for the modified soils. No redox features. No water encountered.

**Stop 4** (at the SE corner of the picnic area) Photo 4.

<table>
<thead>
<tr>
<th>Layer</th>
<th>Depth</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2Ap</td>
<td>24-32 in.</td>
<td>5Y 2.5/1 loam, 5Y 4/1 dry. Slightly hard, friable, slightly sticky, slightly plastic. Very few, faint Fe depletions. Fill material.</td>
</tr>
<tr>
<td>3Cp</td>
<td>32-46 in.</td>
<td>10YR 4/3 heavy loamy sand, 10YR 5/4 dry. Slightly hard, very friable, non-sticky, non-plastic. Very few, medium, faint 10YR 4/1 Fe depletions; few, fine, faint 10YR 5/6 Fe masses. Fill material. Upper zone of seasonal endosaturation.</td>
</tr>
<tr>
<td>4Ab</td>
<td>46-52 in.</td>
<td>N 2/0 silt loam, 5Y 6/1 and 5/4 dry. Moderately hard, firm, slightly sticky, slightly plastic. Common, medium, faint 5Y 4/1 Fe depletions. Buried A horizon of original meadow soil that has been reduced and is now in zone of seasonal water table fluctuation. Seasonal endosaturation. Many old roots. Very humic. No water encountered.</td>
</tr>
</tbody>
</table>

**Stop 5** (at the NE corner of the picnic area) Photo 5.

<table>
<thead>
<tr>
<th>Layer</th>
<th>Depth</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2Ab</td>
<td>24-29 in.</td>
<td>10YR 3/1 loam, 10YR 4/1 dry. Slightly hard, very friable, slightly sticky, slightly plastic. No redox features. Fill material.</td>
</tr>
<tr>
<td>3Cg</td>
<td>29-37 in.</td>
<td>5Y 4/2 gravelly loam, 2.5Y 5/4 dry. Moderately hard, friable, slightly sticky, slightly plastic. Gleyed matrix with few, fine, faint 10YR 6/6 Fe masses. Seasonal endosaturation. Fill material.</td>
</tr>
<tr>
<td>4Ab</td>
<td>37-48 in.</td>
<td>5Y 2.5/1 heavy silt loam, 5Y 5/1 dry. Moderately hard, firm, moderately sticky, moderately plastic. Common, medium, faint 5Y 6/4 Fe depletions. Buried A horizon of</td>
</tr>
</tbody>
</table>
original meadow soil. Seasonal endosaturation. No water encountered.

**Stop 6** (at Lot 468) Photo 6.

Ap 0-20 in. 5Y 5/4 loamy coarse sand, 5Y 7/4 dry. Soft, very friable, non-sticky, non-plastic. Gleyed matrix with few, fine, faint 10YR 6/8 Fe masses at 18-20 inches. Redox features could be relic. Fill material with 10% lenses of dark meadow soil mixed into the lower half of the horizon.

2Ab 20-25 in. 5Y 3/1 heavy clay loam, 5Y 5/1 dry. Hard, firm, moderately sticky, very plastic. No redox features. The buried A horizon of original meadow soil, but appears to have been scalped 6 to 10 inches based on observations of comparable soils in meadow to the north (on Forest Service).

2Cg 25-36 in. 5Y 4/1 sandy loam, 5Y 5/2 dry. Slightly hard, very friable, slightly sticky, non-plastic. Gleyed matrix with some faint Fe depletions. Seasonal endosaturation. Water at 30 inches.

**Stop 7** (at Lot 448) Photo 7 (N and S ends of pit are different in 0-14 inches; North end has a wedge of dark meadow soil; see photo 7)

Ap 0-14 in. (North pit face) 5Y 2.5/1 heavy silt loam, 5Y 4/1 dry. Moderately hard, firm, moderately sticky, moderately plastic. No redox features. Displaced A horizon of meadow soil.

Ap 0-14 in. (South pit face) 2.5Y 5/4 loamy coarse sand, 2.5Y 6/4 dry. Slightly hard, very friable, non-sticky, non-plastic. Very few, fine, faint 10YR 6/6, and few, coarse, prominent 7.5YR 5/6 Fe masses. Displaced C horizon of meadow soil. Redox features likely relic.


3Cg 18-30 in. 5Y 5/2 loamy very coarse sand, 5Y 6/2 dry. Slightly hard, very friable, non-sticky, non-plastic. Gleyed matrix. C
horizon of original meadow soil. Seasonal endosaturation. Water at 17 inches.

**Stop 8** (at Lot 423) Photo 8.

**Ap** 0-6 in. 5Y 2.5/1 heavy loam, 5Y 4/1 dry. Slightly hard, friable, moderately sticky, moderately plastic. No redox features. Fill material, but has a wedge of dark meadow soil on top of fill.

**2Bw** 6-13 in. 2.5Y 5/4 gravelly loamy coarse sand, 2.5Y 6/4 dry. Moderately hard, friable, non-sticky, non-plastic. Very few, fine, faint 10YR 5/6 Fe masses and very few, fine, faint Fe depletions in pores and root channels. Fill material.

**3Ab** 13-30 in. 5Y 2.5/1 silt loam, 2.5Y 5/2 dry. Soft, very friable, slightly sticky, slightly plastic. No redox features. Buried A horizon of meadow soil. Very humic.

**3Cg** 30-36 in. 5Y 3/2 silty clay, 2.5Y 5/2 dry. Extremely hard, very firm, very sticky, very plastic. Gleyed matrix. Common, coarse, prominent 7.5YR 5/8 and 5/6 Fe masses in matrix. Common, medium, faint 5GY 5/1 and common, coarse, faint 5Y 4/1 Fe depletions along ped faces and root channels. C horizon of original meadow soil. Seasonal endosaturation. Water at 20 inches.

**Stop 9** (between Lots 406 and 408) Photo 9.

**Ap/Cp** 0-28 in. Very stratified fill material that includes multiple organic, reduced, and oxidized layers. Only the 10-13 inch layer was described. Difficult to determine seasonal water table. Could be as close as 15 inches from the current surface.

**Ap/Cp** 10-13 in. 5Y 3/1 and 4/2 sandy clay loam, 2.5Y 5/2 dry. Moderately hard, friable, slightly sticky, slightly plastic. Few, fine, distinct 7.5 YR 4/6 Fe masses along root channels. Weak seasonal episaturation.

**2Ab** 28-36 in. 5Y 2.5/1 silty clay, 2.5Y 5/2 dry. Very hard, firm, very sticky, very plastic. No redox features. Buried A horizon of meadow soil. Does not appear scalped.
2Cg 36-48 in. 5Y 4/1 loam, 5Y 5/2 dry. Slightly hard, friable, slightly sticky, slightly plastic. Common, fine, distinct 7.5YR 5/6 and 4/6 Fe masses along root pores. Gleyed matrix. Seasonal endosaturation. Original C of meadow soil. No water encountered.

**Soils Boundaries from 1930 Aerial Photo**

Soils were delineated stereoscopically on aerial photos taken in 1930 (Figure 2). Soils were delineated into three classes based on topographic position and photo tone: (1) well-drained upland soils (equivalent to Elmira), (2) an upland-meadow transition (more like Elmira), and (3) wet meadow soils (equivalent to Elmira, wet variant). The meadow soil in this area is characterized by a dark-colored, very humic A horizon, typically 12-18 inches thick, which serves as a good marker to determine fill depth. The soil boundaries as they existed in 1930 combined with the buried meadow soils are useful in determining depths of cut and fill and in interpreting the redoximorphic indicators of aquatic conditions.

**Discussion**

To determine whether soils have been altered or not requires some frame of reference. Stop 3 was used as the reference soil for the upland portion of the property. The reference for the original meadow soil was the Forest Service meadow north of the property where several observations were made. The meadow soil here typically has about 12-18 inches of a humic A over a gleyed C of very coarse sand. Some areas, apparently old buried channels, have a silty clay C horizon. The meadow area was mapped as Elmira, wet variant, in the Tahoe Basin Area Soil Survey of 1972.\(^3\) This soil was later correlated as the Marla series, although the humic A horizon of the soils in this meadow is not typical.

Subsurface water movement is complex on the property. Not only have cuts, fills of fill, and buried soils created discontinuous layers with strongly contrasting hydraulic conductivities, but numerous buried utility lines have created corridors of disturbed soil running the length of the property. These corridors and layers very likely capture and channel subsurface water, moving it and trapping it in unexpected directions and locations.

This is further complicated by a major water-line leak that has existed for at least several months—if not years—and very likely existed as a chronic smaller leak for many years. Free water was observed only in backhoe pits 2, 6, 7, and

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8 (at 42, 30, 17, and 20 inches, respectively). This suggests the water leak is located somewhere within an area defined by stops 8, 7, and 2.

Multiple buried A horizons at stops 4 and 5, and to some extent at stop 9, suggest there may have been multiple episodes of grading on the site, at least at the west end of the property. Alternatively, these multiple buried horizons may simply be the result of different lifts of fill during one grading operation.

Because of the extensive modification of soils on the site, and because of the current and possibly historic water-line leak (or leaks), the redoximorphic indicators of aquic conditions that were observed may not be reliable indicators of past or current conditions since the site was first graded. Some of the redoximorphic features observed might be relic, i.e. developed before the site was graded, when the soil was in a different position relative to the water table. Other redoximorphic features could be quite recent, the consequence of water-line leaks. A lot of field work would be needed to sort out these relationships, and some may be impossible to sort out.

On this particular site, the observations of fill material, buried horizons, scalped profiles, and the boundaries of the three soil classes on the 1930 aerial photo are more reliable indicators of current and past aquic conditions than are the observed redoximorphic features.

If I can be of further assistance, please give me a call.

Sincerely,

R. J. POFF & ASSOCIATES

Roger J. Poff
Principal Soil Scientist
Figure 1. Soil Pit Locations, With 1930 Soil Boundaries
Figure 2 – 1930 Aerial Photo With Soil Boundaries
FIGURE 2 - R.J. POFF & ASSOCIATES SOILS REPORT
BEACH CLUB on LAKE TAHOE
June 18, 2003
File: 29778.01

Mr. Tim Hagan
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nevada 89448

SUBJECT: Soils/Hydrologic Final Report
Proposed Tahoe Beach Club
Stateline, Nevada
APN 1318-22-002-001 and -002

Dear Mr. Hagan:

Please find a Soils/Hydrologic Final Report, a site plan showing test pit locations excavated/logged by Roger Poff on May 13, 2003 (Test Pits 1 through 9) and excavated/logged by Kleinfelder on June 2, 2003 (Test Pits 7A, 8A, 10, and 11), and test pit logs.

Excavations greater than 5 feet are intended for buildings 1, 2, 3, and 13. Test pit 10 was excavated in the area of Building 13, and Test Pit 11 was excavated in the area of Building 1. Test pits 7A and 8A were excavated at the same locations as Test Pits 7 and 8, respectively at the request of the Tahoe Regional Planning Agency.

Test pit 10 (ground elevation = 6246 feet msl) encountered approximately 4 feet of fill overlying silty sand and sand deposits. Gray and weak red mottled sand was encountered at a depth of 9.5 feet below ground surface (bgs). Groundwater was encountered at a depth of 10 feet and rose to a depth of 9.5 feet after several minutes. This indicates that the groundwater elevation is currently 6236.5 feet msl. It is proposed to excavate a maximum depth of 6 feet for Building 13 to an base of footing elevation of 6238 feet msl. This will be above the current and historic groundwater surface.

Test pit 11 (ground elevation = 6231.3 feet msl) encountered 2 feet of fill overlying black silty sand and silt deposits to a depth of 4.8 feet bgs. Sand was then encountered to the depth explored, 7.0 feet. Groundwater was encountered at a depth of 6.5 feet bgs or an elevation of 6224.8 feet msl. The elevation of the water surface of Lake Tahoe on June 2, 2003 was 6224.68 feet msl indicating flow from the groundwater system to Lake Tahoe with a difference in elevation of 0.12 feet between the groundwater and Lake Tahoe. Using the high lake level of 6229.1 feet msl, the maximum groundwater elevation at the location of Test Pit 11 would be 6229.22 feet msl. Therefore, excavation to an elevation of 6229.3 feet msl would not penetrate the groundwater surface.
Test Pit 7A (elevation 6236 feet msl) encountered 0.5 feet of fill overlying black silt to a depth of 2 feet bgs. Sand was then encountered to the depth explored, 4 feet. Water seepage at a high flow rate was noted at a depth of 45 inches and the water level rose to 44 inches (elevation 6233.3 feet msl). The high flow rate of water seepage appears to indicate a man-made source of water such as a leaking water line. The water level in Test Pit 7 on May 13, 2003 was 17 inches. The abrupt drop in the water level from 17 to 44 inches in 20 days also indicates a man-made source for the water.

Test Pit 8A (elevation 6240 feet msl) encountered 1.0 feet of fill overlying black silt to a depth of 2.3 feet bgs. Mottled silty clay was encountered to a depth of 4 feet underlain by sand and silty sand to the depth explored, 7 feet bgs. Groundwater was encountered at a depth of 6.9 feet bgs (elevation 6233.1 feet msl). The water level in Test Pit 8 on May 13, 2003 was 20 inches bgs. The abrupt drop in water level from 20 to 81 inches in 20 days indicates a man-made source for the water.

Conclusions

Excavation to a depth of 6 feet for proposed Building 13 should not encounter groundwater. Excavation to an elevation of 6229.3 feet msl should not encounter groundwater in the area of Building 1. Water levels dropped from 17 to 44 inches bgs in Test Pit 7 and from 20 to 81 inches in Test Pit 8. These areas appear to have been affected by a leaking water line.

Thank you for reviewing this final report. If you have any questions regarding this letter, please call me at (775) 689-7800.

Sincerely,

KLEINFELDER, INC.

David J. Herzog
Certified Engineering Geologist (California) #1295

cc: Paul Pettersen, Carter & Burgess

Attachments
DJH:dg