

SUBDIVISION PROJECT FINDINGS

I. OVERVIEW

The Tahoe Regional Planning Compact requires certain findings to be made before the Tahoe Regional Planning Agency (TRPA) can take certain actions, including project approval. The Regional Plan (which includes the Goals and Policies, Code of Ordinances, and local plans) sets forth which findings must be made. This document is intended to assist applicants in locating and making the required findings for their specific project. Written findings with a rationale is an application checklist item, meaning findings are required at time of application submittal.

For any questions regarding information within this packet, please call 775-589-5333 or email TRPA@trpa.gov to speak with a permitting technician.

II. HOW TO USE THIS DOCUMENT

This document lists all required findings for Single-family residential projects, organized by Code chapter and subsection. The applicant must read through the findings (Section IV in this document) to determine which pertain to their specific project. **Not all findings will be applicable to every project.** It is suggested to copy and paste the applicable findings into a separate document and provide a written response and rationale for making the findings beneath. Examples are provided in Section III of this document. The rationale must include a detailed explanation of how the project meets the required finding. Simply restating the finding is not acceptable.

III. SAMPLE FINDINGS

Finding 22.7

The impacts of the coverage and disturbance are fully mitigated through means including, but not limited to, the following:

- i. Application of best management practices; and
- ii. Restoration, in accordance with Section 22.7.3, of land in Land Capability Districts 1a, 1c, 2, and 3 in the amount of 1.5 times the area of land in such districts coverage or disturbed for the project beyond that permitted by the coefficients in Subsection 30.4

Rationale:

Temporary best management practices (BMPs) will be implemented during construction including sediment barriers and vegetation protection fencing. Permanent BMPs will include revegetation over the entire area disturbed by the project. The project is not adding coverage or new disturbance to the area. Therefore, it is not required to provide 1.5 times the amount of restoration

needed. This project will be restoring the proposed disturbed area on a 1 to 1 basis.

Finding 37.7.1:

When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7. Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

Rationale:

The Property is visible from a distance of 300 feet from the highwater mark of Lake Tahoe. The additional height will not cause any part of the building to extend above the forest canopy or any ridgeline as shown in the attached photo. The photo is marked with the proposed height of the addition and clearly shows the forest canopy to be higher than the proposed building addition. The property is not located on a ridgeline. The project proposed additional height for a 5:12 pitch greater than that specified in Table A. A Visual Magnitude analysis was completed for this project and is not increased beyond that permitted for the structures on the shoreland as set forth in subparagraph 30.15.E. See attached visual magnitude analysis.

Finding 30.4.4.A

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

Rationale:

The project area has been verified as Land Capability Classes 1b, 4, and 5. Coverage relocation will occur within the Class 1b district with a net reduction due to coverage retirement mitigation requirements. The proposed project will consolidate coverage in the areas adjacent to the buildings. No coverage will be relocated from Class 4 or Class 5 into Class 1b.

IV. SUBDIVISION PROJECT REQUIRED FINDINGS

An applicant is required to provide a written explanation for how the project complies with the following findings at the time of application submittal. The chapters and section numbers listed below are in reference to the [TRPA Code of Ordinances](#). **Not all findings will be applicable to every project.**

CHAPTER 4: REQUIRED FINDINGS

Finding 4.4.1.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.

Finding 4.4.1.B:

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

Finding 4.4.1.C:

Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V (d) of the Tahoe Regional Planning Compact.

CHAPTER 21: PERMISSIBLE USES

Finding 21.2.2.A: The project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and surrounding area in which it will be located.

Finding 21.2.2.B: The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of the surrounding property owners; and

Finding 21.2.2.C: The project which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable planning area statement, community plan, and specific or master plan, as the case may be.

21.5.2 Nonconforming Uses

Finding 21.5.2.C Uses identified as nonconforming shall not be expanded intensified beyond the use existing on the effective date of the Regional Plan. A nonconforming use may not be changed unless the new use conforms to the use regulations set forth in the Code. Expansions of structures containing a nonconforming use shall not be permitted. Modifications may be permitted only when TRPA finds that the modifications do not increase the extent of nonconformity. Such approval shall occur through direct TRPA review, through the conformance review process for Area Plans, or through Memoranda of Understanding with public agencies.

CHAPTER 30: LAND COVERAGE

30.6 Excess Land Coverage Mitigation Program

Finding 30.6.1.B.5 Projects Within Community Plans

Projects that are located within an adopted community plan may rely on the community plan to mitigate excess land coverage provided TRPA makes findings a and b, below. In lieu of findings a and b being made, TRPA may determine that a project complies with the requirements of this subparagraph by making finding c, below:

- a. The project is located within an area for which a community plan, as originally adopted or subsequently amended, includes a program to mitigate the excess land coverage within the area. Such a program shall ensure that coverage mitigation, when measured for individual parcels affected by the program, meets the standards set forth in subparagraphs 30.6.1.A through C. The options available for mitigating excess land coverage under any such program shall be any combination of those options set forth in subparagraphs 1, 2, 3, or 4 above.
- b. There is an irrevocable commitment for the funding necessary to implement the program for mitigating excess land coverage. For

purposes of this subparagraph, “irrevocable commitment” shall mean the following:

- i. The public entity funding the measure or, when necessary, the electorate has made all discretionary decisions required for the issuance of the bonded indebtedness under applicable state law and that only ministerial acts necessary to the issuance of any such bonded indebtedness and the receipt of funds therefrom remain to be completed. Any such funds shall be finally committed to, and available for, expenditure;
 - ii. The application for state and federal grant monies has received approval, and such grant monies are included in a duly enacted state budget or a legislative appropriation or federal authorization and appropriation. Any such funds shall be finally committed to, and available for, expenditure for the excess land coverage mitigation program in accordance with the approved community plan;
 - iii. Where the funding of the program is the responsibility of a person or persons, TRPA shall ensure that the public entity has received sufficient funds or an acceptable security to fully fund the program;
 - iv. The public entity funding the program has received a funded commitment from another public entity as described in a or b above; or
 - v. Any combination of (i) through (iv) above.
- c. As a condition of approval, the permittee for the project shall post a security with TRPA, in accordance with Section 5.9, in an amount equal to the excess coverage mitigation fee otherwise required under Section 30.6. If a program to mitigate excess land coverage within the community plan has not been adopted by TRPA and an irrevocable commitment made by the time of final inspection of the project by TRPA, or three years after commencement of construction, whichever is sooner, the security shall be forfeited to TRPA. Securities forfeited to TRPA under this subparagraph shall be forwarded to a land bank to provide land coverage reduction.

CHAPTER 31: DENSITY

Finding 31.4.1:

Affordable Housing:

A. Affordable Housing

Affordable housing projects meeting TRPA requirements may be permitted to increase the maximum density established in Section 31.3 by up to 25 percent, provided TRPA finds that:

1. The project, at the increased density, satisfies a demonstrated need for additional affordable housing; and
2. The additional density is consistent with the surrounding area.

B. Affordable Housing within Kings Beach Commercial Community Plan

Affordable housing projects meeting TRPA requirements and located in designated special areas for affordable housing within the Kings Beach Commercial Community Plan may be permitted to increase the maximum density established in Section Error! Reference source not found. by 100 percent, provided TRPA finds that:

1. The project, at the increased density, satisfies a demonstrated need for additional affordable housing;
2. The additional density is consistent with the surrounding area; and
3. The project meets the Kings Beach Commercial Community Plan improvement requirements and special policies of the Special Area.

Finding 31.4.2:

Timeshare Uses (Residential Design): Timeshare use (residential design) in an adopted community plan area may increase the permitted density by a factor of two, or a timeshare use (residential design) in an adopted TRPA Redevelopment Plan Area may increase the permitted density by a factor of 2.5, provided TRPA makes the following findings:

- A. The special use findings in subsection 0 are satisfied;
- B. The project provides transit service for its patrons directly or by contract with a transit provider;
- C. The project provides pedestrian and access amenities within the project area or within adjacent rights-of-way, consistent with the community or redevelopment plan; and
- D. If the project area contains excess land coverage, the land coverage will be reduced to no more than 75 percent of the project area.

Findings 31.4.3:

Density in Special Height Districts: The maximum densities established in Section 31.3 may be exceeded for projects located in designated Special Height Districts as defined in subsection 37.5.4. The amount of deviation from the density standards shall be established by a density analysis report approved by TRPA; however, the deviation shall not exceed the maximum densities established in Section 31.3 by a factor of three. To approve any project relying on the increase in density specified in the density analysis report, TRPA shall make the findings pursuant to subparagraphs 31.4.2.A through D.

CHAPTER 32: BASIC SERVICES

32.3.1

Paved Roads

Finding 32.3.1

TRPA may permit a waiver of this requirement if the agency finds that one of the following criteria is met:

- A. The project is subject to a variance for historically significant structures and districts pursuant to Chapter 67: *Historic Resource Protection*;
- B. The roadway is not designated to be paved by the surface water management plan (Volume I of the 208 Water Quality Plan as amended);
- C. The project is the expansion of a single-family dwelling;

- D. The permittee posts a security with TRPA in an amount equal to 110 percent of the permittee’s fair share of the estimated cost of paving the road serving the parcel. TRPA shall apply the procedures established in law by the local jurisdiction to determine a fair share, or in the absence of such procedures, shall adopt a procedure for determining a fair share. This waiver shall not apply to the construction or reconstruction of a commercial, tourist accommodation, or multi-family residential project; or
- E. A program has been established that provides assurance the road will be paved within five years.

CHAPTER 38: SIGNS

Findings 38.2.3.C.

Finding Required for Substitute Standards

In making the finding that the substitute standards are equal or superior to TRPA standards, TRPA shall consider the following:

- 1. A scenic quality analysis using appropriate methods of visual simulation that indicates the substitute standards do not result in adverse impacts on applicable scenic resources and community design thresholds; and
- 2. The substitute ordinance, in combination with the applicable elements of TRPA's Scenic Quality Improvement Plan and adopted community plans, redevelopment plans, or other TRPA-approved master plans, results in a threshold travel route rating for applicable threshold travel routes of at least 16 for roadway travel routes, or a shoreline travel route rating of at least 8 and does not result in a decline of applicable roadway or shoreline scenic quality ratings.

CHAPTER 29: SUBDIVISION

Finding 39.2.3:

Subdivision of Existing Structures: Subdivision of eligible existing structures, as set forth in subparagraph 39.1.3.E, may be permitted subject to the following requirements:

D. Density

Subdivision of existing structures that exceed the density standards in Chapter 31: Density, or the applicable plan area statement by more than ten percent shall not be permitted.

- 1. Conversions of existing structures that exceed the density standards in Chapter 31 by no more than ten percent may be permitted provided TRPA finds that the resultant excess density is not inconsistent with the surrounding uses and the goals of the applicable plan area statement.

Findings 39.2.5:

Subdivision of Post-1987 Projects: Subdivision of projects approved after July 1, 1987 pursuant to the 1987 Regional Plan, as it may be amended, may be permitted subject to the following requirements:

E. Moderate-Income Housing

Subdivision of moderate-income housing projects may be permitted provided TRPA finds that the resultant use qualifies as moderate income housing and appropriate deed restrictions or other covenants running with the land are recorded to document the restriction of units to moderate income housing.

F. Affordable Housing

Subdivisions of post-1987 residential projects in plan areas designated preferred affordable housing areas. Approval of subdivisions after December 31, 1995, of post-1987 residential projects that do not qualify as affordable housing shall be prohibited until TRPA finds the city or county, with zoning jurisdiction, has demonstrated its commitment to assume its "fair share" responsibility to provide lower and very low income housing within existing urban areas pursuant to Policy HS-1.2 of the TRPA Housing Sub element of the Regional Plan Goals and Policies.

CHAPTER 60: WATER QUALITY

Finding 60.2.2 Water Quality Mitigation

Applicability:

B. Exemptions

The projects and activities provided below that create impervious coverage shall be exempt from water quality mitigation requirements:

3. Limited Exception for Additional or Transferred Development Within Adopted Community Plans

Additional or transferred development located within an adopted community plan, the water quality impacts of which were evaluated in the EIS for the community plan and mitigated by the provisions of the community plan, shall be exempt from the requirement of subsection 60.2.3 provided TRPA finds that the implementation element of the community plan, as a whole, meets the standards of subsection 60.2.3.

Finding 60.2.3 **Required Offsets:** All projects and activities that result in the creation of additional impervious coverage shall completely offset the potential water quality impacts of the project through one, or a combination, of the methods listed below.

A. Mitigation Projects

Implementation of offsite water quality control projects or stream environment zone restoration projects as a condition of project approval, pursuant to TRPA guidance on identification, design, and effectiveness of offsite mitigation projects. Applicants who wish to exercise this option shall include plans for the offsite mitigation project with their application. TRPA shall approve the offsite

mitigation plans in conjunction with the approval of the project. Before issuing an approval, TRPA shall find that the offsite mitigation proposal completely offsets the expected impacts of the project.

CHAPTER 67: HISTORIC RESOURCE PROTECTION

Finding 67.7.3

Demolition

Historic resources shall not be demolished, disturbed, or removed unless TRPA finds that:

- A. The action will not be detrimental to the historic significance of the resource;
- B. The action is pursuant to a recovery plan approved by the applicable state historic preservation officer; or
- C. It is the only feasible alternative to protect the health and safety of the public.

Finding 67.7.4:

Construction, reconstruction, repair, and maintenance of historic resources shall be in accordance with the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

67.8

Exceptions for Historical Structures and Districts: To encourage the protection, maintenance, or rebuilding of sites, structures, or districts designated as a historic resource, TRPA may grant exceptions to certain provisions of this Code to allow reconstruction or repairs.

Finding 67.8.1

Exceptions may be granted if TRPA finds that:

- A. The site, structure, or district is designated as a historic resource; and
- B. The reconstruction, modification, or repair is in the public interest.