

**TRPA
GOVERNING BOARD
PACKETS**

**FEBRUARY
1980**

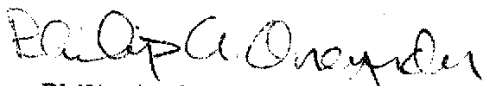
February 1980

NOTICE OF MEETINGS OF THE
NOMINATING COMMITTEE AND GOVERNING BODY
OF THE
TAHOE REGIONAL PLANNING AGENCY

NOTICE IS HEREBY GIVEN that on February 27, 1980, at 9:00 a.m. at the hearing room of the Tahoe Regional Planning Agency, located at 2155 South Avenue, South Lake Tahoe, California, the Nominating Committee of the Tahoe Regional Planning Agency will conduct a meeting to nominate officers of said agency.

NOTICE IS FURTHER GIVEN that on February 27, 1980, at 10:00 a.m. at the same hearing room, the Governing Body of said agency will conduct its regular meeting. The agenda for said meeting is attached to and made a part of this notice.

Dated: February 15, 1980


By: Philip A. Overeynder, ~~Manager~~
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

February 27, 1980
10:00 a.m.

NOTE: There will be a meeting of the Nominating Committee at 9:00 a.m., February 27, 1980, to nominate officers of the Tahoe Regional Planning Agency Governing Body. The regular meeting will commence at 10:00 a.m.

PRELIMINARY AGENDA

- I CALL TO ORDER AND DETERMINATION OF QUORUM
- II APPROVAL OF AGENDA
- III DISPOSITION OF MINUTES APPROVED
- IV CONSENT CALENDAR APPROVED
- V ORDINANCES - Second Readings
- A. Ordinance Amending the Land Use Ordinance to Establish a Land Capability Classification for Man-Modified Areas PAO ✓ PASSED
- B. Ordinance Amending the Regional Plan for Properties Owned by Carole Terry, Douglas County GWB ✓ PASSED
- C. Ordinance Amending the Regional Plan for Property Owned by Tony Parina, Douglas County GWB ✓ PASSED
- VI AGENCY REVIEW
- A. Tahoe Carriage, Administrative Permit for a Commercial Development, City of South Lake Tahoe GWB ✓ APPROVED
- B. Harrah's Tahoe, Finding of Conformance With Previous Approvals, Douglas County GWB - CONTINUE PARINA
- VII CLEARINGHOUSE
- U.S. Environmental Protection Agency, Draft Environmental Impact Statement, Proposed Wastewater Treatment Facilities, South Shore, Lake Tahoe Basin PAO ✓ APPROVED
- VIII PLANNING MATTERS
- A. Work Program - General Plan Update, Threshold Carrying Capacities, and Budget Requirements PAO ✓
- B. Land Use Ordinance Amendments - High Density Apartment Land Use District and Standards for Timesharing, Interval Ownership Condominiums GWB

- C. Information Necessary for Applicants to Submit When Requesting an Administrative Permit for Additional Land Coverage Pursuant to Section 8.25 of the Land Use Ordinance GWB
- D. State of California, State Water Resources Control Board, Draft Water Quality Plan: Lake Tahoe Basin PAO
- E. Implementation of Notice Requirements to Affected Property Owners for Projects Approved at Staff Level PAO

IX REPORTS

- A. Appeals of Staff Decisions
- B. Field Enforcement Report ✓
- C. Agency Manager Report ✓
- D. Legal Counsel Report *none*
- E. Governing Body Members
 - 1. Election of New Agency Officers
 - 2. Appointments to the Advisory Planning Commission
- F. Public Interest Comments

Richard Bailey - passed
 Germaine McMorris - ✓
 Stan Hansen - passed
 Maurice Bidart ✓
 → Bill Curtis (alt.)

X RESOLUTIONS

For Past Board Member Tom Cooke

XI PENDING MATTERS

Executive Session

- 1. Interviews With Applicants for Executive Director Position

XII CORRESPONDENCE

XIII OTHER BUSINESS

XIV ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
Glenbrook, Modification of Previous Approvals, Douglas County	Approval	PAO JPD
U.S. Forest Service, Clearinghouse Review, Acquisition of 1,240 Acres Near Glenbrook, Douglas County, from the Trust for Public Lands	Support	PAO

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Conference Room, 2155 South Avenue
South Lake Tahoe, California

January 23, 1980
10:00 a.m.

REGULAR MEETING MINUTES

I CALL TO ORDER AND DETERMINATION OF QUORUM

Chairman Jim Henry called the meeting of the Tahoe Regional Planning Agency to order at 10:10 a.m., noting that the proper notices had been posted and mailed as required by the Nevada Open Meeting Law. The Board joined in the Pledge of Allegiance to the Flag.

A letter from Roland Westergard, Director of the Nevada Department of Conservation and Natural Resources, was read into the record appointing John Meder to represent that agency for the January 23 meeting. It was noted that Bill Morgan was sitting in for Marc Petty. Mr. Henry announced that Tom Cooke, Governor List's representative on the Board, had submitted his resignation and that the Governor was actively seeking a replacement.

TRPA Members Present: Mr. Kjer, Mr. Stewart, Mr. Woods, Mr. Ferrari,
Mr. Jacobsen, Mr. Meder, Mr. Henry, Mr. Morgan

TRPA Members Absent: Mr. Johnson, Governor of California Appointee (position
vacant), Governor of Nevada Appointee (position vacant)

II APPROVAL OF AGENDA

MOTION by Mr. Stewart to approve the agenda as presented.
The motion carried unanimously.

III DISPOSITION OF MINUTES

MOTION by Mr. Kjer to approve the regular December 19, 1979
meeting minutes as presented. The motion carried on the following
vote:

Ayes: Mr. Kjer, Mr. Stewart, Mr. Woods, Mr. Ferrari,
Mr. Jacobsen, Mr. Henry
Nays: None
Abstain: Mr. Meder
Absent: Mr. Johnson

IV CONSENT CALENDAR

MOTION by Mr. Meder to approve the items on the consent calendar.
The motion carried unanimously.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

V GENERAL PLAN AMENDMENTS

The following properties (agenda items A through C) are located adjacent to Kingsbury Grade in Douglas County and are approximately 1.3 miles east of the intersection of Kingsbury Grade and U.S. Highway 50.

- A. A 1.02 Acre Portion of a 1.34 Acre Parcel Owned by Carole Terry,
Located North of Kingsbury Grade - from General Commercial to
Medium Density Residential

Senior Planner Gordon Barrett presented the staff summary and recommendation for approval of the requested amendment, explaining that the development trend in this area on Kingsbury Grade is towards residential uses with approximately 35% coverage and a density of 8 units per acre. The property owner in this case is requesting Medium Density Residential on the front portion of the parcel with a reduction in coverage from 70% to 35% in hopes that another parcel which she owns will be reclassified from General Forest to MDR as an exchange. Although the impacts on this parcel will be reduced with the residential zoning, staff is concerned about the availability of sewer capacity and water in the Kingsbury area. Approximately 50% of this area is built out. Ms. Carole Terry indicated she concurred with the staff's recommendation.

MOTION by Mr. Jacobsen to approve the requested amendment for the Carole Terry property from General Commercial to Medium Density Residential. The motion carried unanimously.

- B. 1.62 Acres Owned by Carole Terry, Located South of Kingsbury Grade, from General Forest to Medium Density Residential

Mr. Barrett explained that this parcel was across Kingsbury from the previously-discussed application. The applicant is proposing to construct a 6 unit development and agrees to the staff-recommended coverage of 35%, or 15,600 square feet. The staff recommends that the request be approved for Tourist Commercial which will allow the coverage for residential uses to be set at 35% of the site and to be located in the disturbed area; a reclassification to MDR would permit 35% coverage of the total site. The APC recommended that the amendment to Tourist Commercial be approved with 35% coverage allowed for residential uses to be located on the northern third of the property. All other uses would be permitted 1% coverage. Dan Jenkins, on behalf of the property owner, explained that Douglas County had approved the site for 8 units per acre and either MDR or TC zoning would allow the proposed development. The applicant intends to restrict the coverage to the disturbed portion of the site in any case.

MOTION by Mr. Kjer to approve a General Plan amendment for the subject parcel to be reclassified from General Forest to Medium Density Residential with the zoning line between the MDR and General Forest portions of the property to be such that 15,600 square feet of coverage is allowed on the MDR property. The motion carried unanimously.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

C. 3.1 Acres Owned by Tony Parina, Located South of Kingsbury Grade,
from General Forest, General Commercial and Medium Density
Residential to Tourist Commercial

Mr. Barrett presented the staff summary and recommendation for approval of the requested amendment. The applicant intends to process a 31 unit condominium development. The staff recommends that the 35% allowable coverage for residential use be restricted to the areas with slopes of less than 15% and also that the development be confined to the disturbed areas. The APC recommended approval of the requested amendment but felt that the applicant should be given the latitude to design the project utilizing the entire site. It was felt that staff would have the ability to restrict development if necessary at time of the tentative map review. Ms. Germaine McMorris, representing Tony Parina, concurred with the staff recommendation to approve the General Plan amendment to Tourist Commercial pointing out that the County had limited the future project to 10 units per acre. The applicant requests that the architect be given the flexibility to use the total site in the design of the units and not be limited to those areas with slopes less than 15%. One design possibility is to cantilever the front units over the slopes to take maximum advantage of the views, thereby allowing the back units to have views as well. Mr. Tony Parina gave a brief background of the project site explaining that the most unstable areas are the banks and these unstable areas will be used to get a drop in elevation. Extensive revegetation will be planned for the flat areas.

MOTION by Mr. Kjer to approve the requested reclassification of the Tony Parina property to Tourist Commercial with the maximum permitted land coverage for residential uses to be 35%. The land coverage for all other uses shall be governed by land capability. The motion carried unanimously.

VI CLEARINGHOUSE

A. Heritage Conservation and Recreation Service/Incline Village General Improvement District, Incline Village Park Athletic Field, Washoe County

Phil Overeynder, Chief Engineer, explained the Incline Village General Improvement District's request for Agency comment on its application for Federal funds for the Incline Village Park athletic fields. These fields were approved as public works projects on December 19, 1979. Staff recommends that the Heritage Conservation and Recreation Service be notified that TRPA has approved the athletic fields with the specific findings that there will be no detrimental effects to the stream environment zone on the subject property and further specify that the procedural requirements of the executive order regarding funding for projects in the flood plain should be followed.

MOTION by Mr. Meder to approve the staff's recommendation on the Incline Village GID's request of Federal funds from the Heritage Conservation and Recreation Service. The motion carried unanimously.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

B. U.S. Environmental Protection Agency/Incline Village General Improvement District, Incline Lakes Facility, Washoe County

Planning Assistant Jim Dana presented the staff summary and recommendation for approval of the District's request for partial funding to undertake the study of alternative methods of providing sewage collection and disposal for the Incline Lake area. The area encompasses forty leaseholds in the proximity of Incline Lake and is 1/2 mile north of the present District boundary. The present limit of the existing sewer system is 8,000 linear feet from the study area and 1,000 feet above the elevation of the highest point of the present system. Staff recommends that the funding be granted for the study but asks that the study incorporate six specific items of concern not originally outlined as part of the study, that the Agency staff be given the opportunity to give input during the plan formulation stage and review of the completed facility plan, and that the analysis address a no-action alternative. Mr. Jack Shefchik, representing the Incline Village GID, concurred with the staff recommendation and conditions.

Mr. Bill Morgan commented that one of the implications of the Agency supporting this request for funding is that the TRPA does support the use of Federal funds. Such a study could eventually result in construction of the project. This should be taken into consideration. Mr. John Meder indicated that TRPA's support at this stage of the process is possibly the first step towards some type of increased development in this area.

John Reily, from the audience, advised the Board that he was interested in the ski potential of this area. If the skiing demand is not satisfied in the Tahoe Basin, this area may in the future be needed to provide housing or other development suitable for the skiing public.

MOTION by Mr. Ferrari to approve the staff's recommendation as outlined to support the funding of the study for the Incline Lake area. The motion carried on the following vote:

Ayes: Mr. Kjer, Mr. Stewart, Mr. Woods, Mr. Ferrari,
Mr. Jacobsen, Mr. Henry
Nays: Mr. Meder
Abstain: None
Absent: Mr. Johnson

C. U.S. Environmental Protection Agency, Draft Environmental Impact Statement; Proposed Wastewater Treatment Facilities, South Shore, Lake Tahoe Basin

Phil Overeynder presented the staff summary on EPA's draft document and outlined the service areas for the Douglas County Sewer Improvement District and the South Tahoe Public Utility District. Both of these facilities have prepared facilities plans that describe recommended alternatives to meet revised waste discharge requirements for the 1982 deadline. This draft was prepared by EPA as a preliminary step in determining whether or not proposed improvements and expansions of the facilities should be funded. There are numerous mitigation measures addressed in the report which are analyzed in terms of five scenarios (low growth to full growth). The impact statement analyzes the secondary effects due to plant expansion and upgrading and is basically an impact statement on the Agency's General Plan.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

The APC has reviewed the document and has made several recommendations on the validity of the impacts, the desirability of implementing the mitigation measures, and the responsible entities. The two districts are asking local governments and regional entities to agree to commitments on the mitigation measures so that they can proceed with their grant processes. The deadline for receipt of comments by EPA is February 29 and staff intends to take the document back before the APC on February 13 for further review.

The APC felt that expansion of the South Tahoe PUD plant to 10 MGD and the upgrading of the Douglas County SID plant to its original design capacity of 3 MGD was within the limitations established by the TRPA General Plan and should be supported. With regard to protecting water quality of the stream environment zones, it was felt that no further action was necessary since the ordinances currently in effect are sufficient. With regard to best management practices to control erosion, the APC felt the existing 208 ordinance was sufficient mitigation. The APC members agreed that local governments within their own jurisdiction could institute an evaluation point system to limit the number of sewer connections to control location and level of growth. The criteria for this system would be determined by the local governments.

Board member Ken Kjer objected that the draft EIS was using sewage capacity as a constraint on natural development. Agreements with EPA were entered into many years ago to sewer the lands of the Basin as a mitigation measure to protect the Lake's water quality. There are natural and public constraints for development and sewage capacity should not be one of them. If the real intent is to stop development, the money should be made available to purchase the lots on which homes cannot be built. In the meantime, however, sewage should not be used as a constraint.

In explaining the intent of the document, Bill Morgan pointed out that for a number of years the Federal Government has been in partnership with state and local agencies at Tahoe and this draft EIS is an attempt to reassess and reexamine these arrangements to see if changes are necessary.

Jim Cofer, General Manager of the South Tahoe Public Utility District, voiced concern that statements had been made by the California Water Quality Control Board, prior to hearings on the new California 208 Plan, that any grants for improvements which call for capacity greater than 7.5 MGD will not be supported. It is still felt, however, that EPA has an open mind and will listen to the comments of the local agencies on proposed mitigation measures. Jere Williams, on behalf of the Douglas County SID, emphasized the importance of timing and the necessity of meeting permit requirements by 1984. Substantial money is necessary for the proposed expansion to meet new discharge requirements and this funding is currently being held up by EPA. The hearing process on this document must be satisfied before EPA can make any funding decisions. In California, the State Water Resources Control Board will be responsible for disbursement of construction funds.

Tom Stewart informed the Board that El Dorado County and the City of South Lake Tahoe were putting together a memorandum of understanding to come up with implementable mitigation measures to be handled by the local governments. A meeting has been scheduled for early in February. Mr. Henry asked that the agreed-upon mitigation measures be submitted to the Advisory Planning Commission in February for further review. Agency legal counsel Gary Owen indicated he would get together with TRPA staff to go over his concerns with the EIS. Ken Kjer advised staff that Douglas County's comments would also be submitted for review.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

The Board recessed for a lunch break.

MOTION by Mr. Stewart to approve the executive session minutes from the December 19, 1979 meeting. The motion carried on the following vote:

Ayes: Mr. Kjer, Mr. Stewart, Mr. Woods, Mr. Ferrari,
Mr. Jacobsen, Mr. Henry
Nays: None
Abstain: Mr. Meder
Absent: Mr. Johnson

D. U.S. Forest Service, Acquisition of the Jennings Casino Site,
Douglas County

Mr. Overeynder presented the staff's summary and recommendation to support the Forest Service's request for funding to acquire the Jennings casino site in the Stateline area. Staff recommends that the Forest Service give consideration to the restoration of the hydrologic characteristics of the site. Mr. Bill Morgan, of the U.S. Forest Service, advised that if the funding request is successful the Forest Service's intent is to restore the site to as near the natural condition as possible, recognizing that some major alterations have taken place.

MOTION by Mr. Kjer to support the staff recommendation. The motion carried unanimously.

VII PLANNING MATTERS

A. Land Use Ordinance Amendments

1. High Density Apartment Land Use District

Mr. Barrett explained the proposed amendments to the Land Use Ordinance which would create a new land use district for apartment-only developments. Board member Norm Woods commented that he could not support such an amendment because such development, while permitted in Nevada, is prohibited in California. Current regulations will not allow development at a greater density than 8 units per acre; what is being proposed here is 15 units per acre. Mr. Kjer asked that the proposed definition for an apartment dwelling unit speak specifically to duplexes, triplexes and fourplexes in order to be consistent with state and local laws. Mr. Ferrari suggested that the specific purpose of this new use district be to provide rental housing for residents. Mr. Owen suggested several modifications.

There was general agreement that the amendments should be discussed further with the Advisory Planning Commission in February.

2. Standards for Timesharing, Interval Ownership Condominiums

Mr. Kjer questioned the advisability of the Agency's involvement in timesharing and pointed out that interval ownership would be a difficult thing to police, especially for already built projects. Staff pointed out that the issue was being addressed at the request of Washoe County in an attempt to assure that if timesharing were going to occur at Tahoe that it take place in the appropriate use district. Mr. Ferrari advised that the economic

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

impact to a community should be studied. What is really occurring with these timesharing condominiums is a commercial use and a lot of money is being spent for units which are owned by people residing out of the Tahoe area. These units are unfairly competing with local motels and are not required to collect room taxes from their guests. TRPA must address this situation in order to provide for orderly planning for the Basin. Too often an apartment project or high density project is approved only to have the owner convert the units into condominiums or timesharing units. Timesharing units should be restricted to commercial land use areas. Mr. Meder suggested that the staff research ownership of these units by corporations for employee or client use; the number of owners per unit should also be addressed. Chairman Jim Henry asked that the discussion be continued with the APC.

B. Subdivision Ordinance Amendments Relating to Condominium Conversions

The proposed amendments would call for conversions to be reviewed under the current subdivision standards. Mr. Kjer suggested that the proposed amendments call for TRPA review of five or more units. Mr. Ferrari suggested that the conversion issue be discussed with the APC in conjunction with the new apartments-only zone.

VIII REPORTS

A. Western Federal Regional Council,
Tahoe Basin Environmental Assessment

David Clark, project leader for the Western Federal Regional Council's (WFRC) assessment, gave a slide presentation summarizing the major points in the document. The purpose of the assessment is for the federal agencies to review past reports, to make a determination as to the adequacy of the data base, and to resolve some of the questions that have arisen based on the data. The document describes what has happened in the Lake Tahoe Basin over the last ten years, develops cause and effect relationships and explores the possibility of environmental thresholds as a way to manage growth in the Tahoe Basin.

Mr. Morgan pointed out that this assessment is the first step in a three stage process. Following preparation of the assessment it was planned that its interpretation would lead to establishment of thresholds relating to the Basin's finite capacities and implementation of measures, regulations or land use programs to achieve those thresholds. It was felt that the federal agencies could handle the first step and that phases two and three would be the concern of local and regional agencies. The Agency's 208 Plan and Nonattainment Air Quality Plan have both addressed some of the major concerns; other concerns which should be addressed are noise levels, traffic increases, and visual qualities.

There was considerable discussion among the Board members on past problems in the Tahoe Basin and efforts by local and regional governments to correct them.

The public has been invited to respond to the document and all comments will be reviewed in February to see whether or not the federal government will foster further use of the information. It was hoped at the outset that TRPA could proceed with phases two and three.

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

MOTION by Mr. Jacobsen to accept the Western Federal Regional Council's environmental assessment document into the TRPA record. The motion carried unanimously.

MOTION by Mr. Stewart to place the item on the agenda for the next meeting. The motion failed on the following vote:

Ayes: Mr. Stewart, Mr. Woods, Mr. Ferrari, Mr. Meder
Nays: Mr. Kjer, Mr. Jacobsen, Mr. Henry
Abstain: None
Absent: Mr. Johnson

MOTION by Mr. Woods to request funds from the California Governor's office and the California Resources Agency for a General Plan Update which would address the establishment of thresholds in the Tahoe Basin.

The Board members discussed the wisdom of requesting financial aid when the amount that would be necessary to undertake the General Plan Update was presently unknown. Mr. Meder suggested that the Agency would be in a more reasonable position if it had a more specific program to present to both states and staff should be directed to put something together for the Board's review next month.

Mr. Woods withdrew his motion.

MOTION by Mr. Woods that this matter be considered by the Board at the next meeting and that staff be directed to prepare a brief work program outline for presentation in February. The motion carried on the following vote:

Ayes: Mr. Stewart, Mr. Woods, Mr. Ferrari, Mr. Jacobsen,
Mr. Meder, Mr. Henry
Nays: Mr. Kjer
Abstain: None
Absent: Mr. Johnson

Mr. Kjer and Mr. Jacobsen indicated they were opposed to requesting funds from the states on a piecemeal basis. Mr. Stewart advised that presentation of a new work program may require amendments to and resubmittal of the Agency's budget.

B. Appeals of Staff Decisions - none

C. Executive Session - none

D. Field Enforcement Report

1. Harvey's Inn, Compliance With Open Space Requirements

Senior Planner Gordon Barrett presented the staff summary on the Harvey's Inn coverage situation commenting that the existing 84% coverage on the Harvey's Inn site far exceeds any coverage overrides allowed by TRPA. There is no infiltration system on the site and no drainage is being retained. Staff is also concerned with the enforcement aspect of the situation and the Agency's image in terms of requiring compliance with the ordinances. One alternative which has been proposed to resolve the required open space problem is the deeding of four lots on Laura Drive to Douglas County for permanent open space as a

TRPA REGULAR MEETING MINUTES JANUARY 23, 1980

neighborhood park. At one time during previous compromise negotiations, Harvey's had offered to dedicate all of the lots along Laura Drive to open space. The four lots total .55 acre.

Bob Gardner, on behalf of Harvey's, presented Harvey's understanding of the coverage situation at Harvey's Inn explaining that Harvey's had presented an application to Douglas County in August 1976 for a parking area which would have increased coverage from 67.2% to 83%. That application was approved by Douglas County on August 9, 1976 with findings which were submitted to TRPA. TRPA failed to reach a dual majority on the variance application on September 22, 1976, and Harvey's felt the variance was deemed approved after 60 days. Harvey's proceeded according to the variance issued by the County and engaged Summit Engineering for parking lot improvements following the map approved by Douglas County. After these plans were approved, Harvey's went to the County and obtained a grading permit for the improvements after which the applicant proceeded to pave the parking area.

After the project was paved (storm drainage improvements were not yet installed), two meetings were held with TRPA to reach a compromise solution on the coverage. The paving added 1 acre of coverage to the site and compliance with the TRPA ordinances would have required removal of 1 acre of coverage. If the variance is legal it would not require uncovering any space. Harvey's therefore felt that a compromise would mean returning up to 1 acre or, as a compromise, 1/2 acre to open space. The proposed compromise at this point is to commit four lots to be deeded to Douglas County. The only request that Harvey's has is that should the Board act favorably on the compromise proposal it would be such that legal counsel could work out the details to Harvey's benefit from a tax standpoint.

In further discussing the deeding of the four lots, Board member Ken Kjer commented that Douglas County would not permit the closing of Laura Drive since it provides an access to the nearby 4-H Camp.

Grant Bastian, of Summit Engineering, explained the proposed drainage system to be installed on the Harvey's Inn parking lot and indicated that it would be similar to the one in use at Harvey's Resort Hotel at Stateline. This system has been designed for a 100 year, 2 hour storm. Staff explained that it was concerned with buildup of materials on the parking lot because of the additional impervious coverage and increased flows into an unstable drainage channel (Burke Creek). Staff wants to assure that the runoff is being detained on the site so that the flows are not increased into this eroding channel. Staff requests that this be a condition of any compromise.

Agency legal counsel Gary Owen explained the situation from a legal standpoint and commented that one question which must be addressed if litigation is pursued is whether a project can have more coverage through a deemed approved variance than that which is allowed in the ordinances. Mr. Owen indicated he did not believe this was possible. However, the 60 day rule has not been tested with regard to a project which appears to exceed the ordinances or a project which does not conform to the project previously approved by a dual majority. TRPA would likely have a 50/50 chance at best in a legal attack on the project.