

**TRPA
GOVERNING BOARD
PACKETS**

**DECEMBER
1982**

12-82

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

The Chateau, 995 Fairway Boulevard
Incline Village, Nevada

December 15, 1982 9:30 a.m.
December 16, 1982 10:00 a.m.

PRELIMINARY AGENDA

- I CALL TO ORDER AND DETERMINATION OF QUORUM 9:40 A.M.
 - II APPROVAL OF AGENDA 5 MIN.
 - III DISPOSITION OF MINUTES 5 MIN.
 - IV CONSENT CALENDAR 30 MIN.
 - V SPECIAL REPORT - Federal Agency/TRPA Coordination Effort **{P.S.}** 10 MIN.
 - VI SECOND READING OF ORDINANCE 30 MIN.
- Second Reading of Ordinance Amending the Land Use Ordinance
to Allow Condominium Conversions on Nonconforming Properties

VII AGENCY REVIEW

- A. Reconsideration of Prior Action, Jeff Robinson, Dwelling and Replacement of Nonconforming Coverage, Level 1B, Barrier Beach, City of South Lake Tahoe, APN 29-101-13, TRPA File #81110 **OFF** LARRY HOFFMAN 45 MIN. 12:00
- B. Tom Pitts, Variance to Allow Unauthorized Nonconforming Pier, 8391 Kehlet Drive, El Dorado County, APN 16-081-431, TRPA File #81149 - LETTER OF OBJECTION - 30 MIN. **OFF**
- C. Stanley Hiller, Appeal of Staff Decision to Reject Application for Multiple Use Pier, Variance to Allow Unauthorized Nonconforming Appurtenant Structures to a Single Use Pier, 6860 West Lake Boulevard, Placer County, APN 98-200-36, TRPA File #82319 **OFF** DRAFT REQUESTS CONTIN.
- D. Holiday Shores Commercial Condominium Conversion, 7276 North Lake Boulevard, Placer County, APN 89-143-15, TRPA File #82112 10 MIN. **OFF**
- E. Tahoe Station Commercial/Professional Office Complex, State Highway 28 and Fabian Way, Dollar Point, Placer County, APN 93-160-44, -51, -52 and -53, TRPA File #82220 **OFF** REMAINS OFF NO TRPA APPROVAL
- F. Caltrans, Upper Truckee River Bridge Widening, U.S. Highway 50, El Dorado County, TRPA File #821344 10 MIN. **OFF**
- G. Joe Tveten, Replacement of Nonconforming Land Coverage, Meyers, El Dorado County, APN 34-321-10 and -12, TRPA File #821404 10 MIN. **OFF** STAFF RECD. OFF

H. Tibari/Cos
J. Ed. Hartman

2:00 P.M.

VIII APPEALS

U.E.

A. Lifschutz, Appeal of Staff Decision to Approve a Pier Repair, 740 W. Lake Boulevard, Placer County, APN 94-200-17, TRPA File #82261 45 MIN.

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B. Elegant/Buchbinder, Appeal of Staff Decision Pursuant to Lot Review Criteria, Lot 17, Block H, Geraldine Drive, Incline Village Unit #1, Washoe County, APN 125-232-16, TRPA File #82-1392

APPL. REQUESTS CONTINUANCE TO PURSUE APL REG.

Handwritten symbol: a circle with a diagonal line through it.

C. Sells/Lundahl, Appeal of Land Capability Review Team Determination, Washoe County, APN 123-021-02, TRPA File #81-1048

OFF SEE MEMO

G.B.

D. Gary Brand, Appeal of Staff Decision to Require an Amended Final Map to Transfer Additional Land Coverage to Lighthouse Shores, City of South Lake Tahoe

30 MIN

IX SPECIAL DETERMINATIONS

315

GAD/G.B.

A. Determination on Applicability of Land Coverage Exemptions for Local Roads Under Case-by-Case Review

30 MIN.

G.G.

B. Application of Section 12.42(c) of Ordinance 81-5 to Public Projects, Transfer of Permitted Coverage from Lot or Parcel Within Same Watershed

15 MIN.

X ENFORCEMENT

A. Show Cause Hearing - R. Butler, Single Family Dwelling, Grading on High Hazard Lands After October 15, 1989, 789 Burgundy Lane, Incline Village, Washoe County, TRPA File #81088

OFF - SEE MEMO

CHECK 5/21/85 S.C./G.B.

B. Reports

1. David Nelson, Status of and Recommendation on Unauthorized Tree Cutting Violation, 218 Canyon Circle, Douglas County, APN 03-171-22

15 MIN. 4:15

2. Other

XI PLANNING MATTERS

261 PAD

A. Evaluation of Nevada-Side Case-by-Case Review Allowing Development on High Hazard Lands

B. Finalize Regional Plan Alternatives

C. Other

RECOMMEND TIME SPECIFIC 9:30 A.M. THURS

XII PUBLIC HEARING

GWB

To Amend California Side Land Use Ordinance Regarding Variance for Historically Significant Structures

30 MIN.

4:45

XIII ORDINANCES

A. Reconsideration of Ordinance Adopted as an Emergency Extending the Case-by-Case Review Procedure to August 28, 1983

5 MIN

GWB

B. First Reading of Ordinance Amending the California Side Land Use Ordinance Regarding Variances for Historically Significant Structures

5 MIN

XIV ADMINISTRATIVE MATTERS

A. Appointment of Lay Members to the Advisory Planning Commission

5 MIN

B. Other

XV REPORTS

CONTINUE FOR SWAN / REED Mtg. w/ NDOT & NEW OFFICIALS

A. Nevada Department of Transportation, Erosion Control Study, U.S. Highway 50, Stateline to Spooner Summit

B. Executive Session

C. Executive Director Report

1. Interpretation of Shorezone Ordinance Regarding Repairs to Nonconforming Structures in the Shorezone

15 MIN.

2. Classification of Zephyr Heights Subdivision to Potentially Adequate Status Pursuant to the Case-by-Case Review Ordinance

15 MIN.

4:45 PM ROBINSON POWER

3. List of Projects Approved at Staff Level

- NOTICE OF AVAIL. OF EIS FOR DILLINGHAM - TANDE KEYS CONVENIENCE CENTER

4. ~~STATE~~ LAND CAPABILITY RE-CLASS. - WILL NOTIFY JAN. PUBLIC HEARING TO

D. Legal Counsel Report

POSTAL SERVICE - WILL FINIMIZE REPORT ON HOME MAIL DELIVERY PROPOSAL EARLY NEXT YEAR

MODIFY LAND CAP. CLASS. IN AREAS REC. BY L.C. TEAM PURSUANT TO PAST BOARD DIRECTION

E. Governing Body Members

F. Public Interest Comments

- EPA - ARB CONTRACT \$119,000 - NITROGEN DEPOSITION STUDY

- NEED C.B. MEMBER DELEGATIONS TO MEET w/ NDOT TO RE-AFFIRM COMMITMENT TO EROSION CONTROL

XVI RESOLUTIONS

XVII PENDING MATTERS

XVIII ADJOURNMENT

CONSENT CALENDAR

Approval of the following requires a finding of no significant effect and approval with conditions and necessary findings.

1. Tabari/Cox, 15 Unit Apartment Complex, Mays Boulevard and Freel Peak Drive, Washoe County, APN 122-202-26, TRPA File #821170

Rec'd two letters from adv. prep. w/ offering project

2. Edgeking Venture, Administrative Permit for 2 Additional Dwellings Pursuant to a Specific Development Plan, Douglas County, APN 9-550-03-9 and 9-550-04-7, TRPA File #80100

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

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

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

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

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

Vagabond Motor Hotel
Ski Run and Highway 50, South Lake Tahoe

October 27, 1982 10:30 a.m.
October 28, 1982 9:30 a.m.

REGULAR MEETING MINUTES

(Although the meeting had been noticed for 9:30 a.m. at the TRPA office, the meeting was relocated to the Vagabond Convention Center due to flooding in the Agency's meeting room because of a broken water heater on the second floor.)

I CALL TO ORDER AND DETERMINATION OF QUORUM

Chairman Bennie Ferrari called the meeting of the Tahoe Regional Planning Agency Governing Body to order at 10:30 a.m. Vice Chairman Norm Woods led in the Pledge of Allegiance to the Flag.

TRPA Members Present: Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison,
Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka,
Mr. Hsieh, Mr. Meder, Mr. Woods, Mr. Ferrari, Mr. Morgan

TRPA Members Absent: Mr. Steele, Mr. Hall

II APPROVAL OF AGENDA

Executive Director Phil Overeynder advised of agenda modifications as follows:
1) The applicant for agenda item VI A. 1. (Wayne Prim, Final Approval of Parcel Map and Administrative Permit to Construct a Road, Washoe County) has requested a 30 day continuance in order to resolve questions with the fire department on road details; staff has advised affected property owners of the continuance and will continue to keep them informed of the time and place when the matter will be heard. 2) Mr. Buchbinder (agenda item VIII Appeals - Buchbinder/Elegant, Staff Decision Pursuant to Lot Review Criteria, Washoe County) has requested a continuance to the December meeting. 3) Staff is requesting a 30 day continuance of the Tom Pitts show cause hearing (agenda item IX A. 4.) in order to allow the applicant time to make application for a variance for the pier in question. 4) The Schumacher show cause hearing for a grading violation (agenda item IX A. 5.) should be withdrawn from the agenda since the matter has been resolved at a staff level.

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

III DISPOSITION OF MINUTES

MOTION by Mr. Woods to accept the September 22, 23, 1982 regular meeting minutes as written. The motion carried on the following vote:

Ayes: Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Heikka, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Woods, Mr. Ferrari
Nays: None
Abstain: Mr. Jacobsen
Absent: Mr. Steele, Mr. Hall

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IV CONSENT CALENDAR

Mr. Morgan pointed out errors in the Hunter/Barrow and King/Barrow summaries (items 1 and 2) on building heights. Associate Planner Jim Dana advised that the figures for proposed and permitted building heights had been transposed and should show that proposed height for item 1. is 12 feet and 34 feet for item 2.

MOTION by Mr. Kjer to approve the consent calendar items as corrected with findings and conditions. The motion carried unanimously.

V SPECIAL REPORT - Federal Agency/TRPA Coordination Effort

Mr. Bill Morgan advised that money is available to proceed with the first phase of the joint TRPA/EPA study to assess atmospheric nitrate loadings. The remaining issue to be resolved before commencement of the project relates to management of the project, and TRPA and EPA staffs will be meeting in the next week to resolve this so the program can get underway as soon as possible.

Mr. Morgan commented on the October 7 announcement from Zane Smith's office that the Lake Tahoe Basin Management Unit has concluded purchase of two parcels totaling 300 + acres under the Burton Santini Bill. Other acquisitions now in the pipeline will be coming forward every few days for the next few months. As these are resolved and options accepted and processed, announcements will be forthcoming.

VI AGENCY REVIEW

- A. Agency Review and Certification of Finding of No Significant Effect
 2. Rocky Point Subdivision/Ferrari, Classification as Man-Modified Area and Local Road Finding, Tunnel Creek Road Improvements, Washoe County, TRPA File #82202

Greg George, Chief of the Project Review Division, passed around photographs of Tunnel Creek Road and reminded the Board that the key issue in September when this item was discussed was a determination of man-modified areas under the Land Use Ordinance. The applicant has requested reclassification of the bench area of the road to man-modified status. The area in question totals 92,000 square feet. Because the proposed road improvements require 46,400 square feet of coverage and permitted coverage in the area is only 23,000 square feet, the applicant requests the compacted main travel way in blue (on the display) and adjacent areas to this travel way, totaling 55,647 square feet, be classified as existing coverage. To comply with coverage requirements, the applicant then proposes to replace this coverage under Section 9.21(3) of the Nevada Side Land Use Ordinance and to relocate it to an area currently not covered. The ordinance states that an administrative permit may be issued for a man-modified area only if the applicant shows and it is found that the land was man-modified prior to February, 1972 in such a fashion as to substantially alter the land's soil or geomorphic characteristics. The land capability review team and the staff cannot find that the grading done prior to February 1972 altered the geomorphic unit characteristics so substantially that the land exhibits characteristics of a lower capability district. The record is clear that the Board's intent in adopting criteria for recognizing man-modified areas was not

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to include creation of roads as sufficient justification to alter a geomorphic unit. Staff cannot verify there is a total of 55,647 square feet of existing coverage on the bench area of the road.

The applicant contends that the new road will result in a net benefit to the environment. The team and staff agree that rehabilitation of the lower portion of the road in the vicinity of the Ponderosa Ranch is needed, and commitments presently exist between the owner of the Ponderosa Ranch and the Agency to make these improvements in lieu of enforcement action. Staff and the review team do not concur with the applicant that the existing bench area is man-modified nor that there is 55,647 square feet of existing coverage on the bench area of Tunnel Creek Road. Staff does not concur that, as required under Section 9.21(3), the relocation of coverage will protect the environment to a better extent than replacement on the original site. Based on this analysis, the staff cannot find the project is exempt from the prohibitions in Ordinance 81-5.

Mr. George presented a brief summary of the five issues of concern and the findings necessary for approval of the requests. If the Board does not determine that the bench area of Tunnel Creek Road is man-modified, the project cannot go forward since it is impossible to exempt the coverage for the proposed road improvements. If the request is approved, however, the applicant has two alternatives - either to proceed with relocation of existing land coverage or to request a local road finding. Approval of the road improvements would permit a portion of the Rocky Point Subdivision to be brought up to a "potentially adequate" standard as outlined in the 1981 case-by-case subdivision review criteria so that review can proceed on seven single family dwellings under this same case-by-case review criteria.

Discussion followed on improvements necessary to solve erosion problems on the lower portion of the road and the extent of improvements needed to insure maintenance of the road as access to upland areas for fire protection. Mr. Morgan, of the Forest Service, reminded the Board again that there were no National Forest lands serviced by this road, and the only commitment the Forest Service would have in case of fire would be as a cooperative fire fighting entity.

Mr. Stephen Mollath, representing the Ferrari family, distributed to the Board members a summary of his requests and pertinent issues, a summary from Dr. Skau on the status of Tunnel Creek Road, a letter from Pezonella Associates, engineers, and a letter from the North Lake Fire Protection District in favor of a 20 foot road width for fire suppression activities. The applicant contends that a road such as Tunnel Creek with its geomorphic conditions can be recognized as a separate unit which is man-modified under Sections 12.63 and 8.29. Once this is determined, the question of whether there is 55,647 square feet of existing coverage must be determined. The applicant contends too that Tunnel Creek is an existing local road under Section 8.25 of the ordinance. To mitigate any impacts, the applicant will commit \$150,000 to fund offsite erosion improvements extending the total length of Tunnel Creek Road. Mr. Paul Ferrari presented a model of the proposed homes which would utilize a caisson-type of construction to place pillar foundations. Since the foundations would be placed from the roadway, no equipment would be used on the site. Shade tolerant plant species will be used under the houses should the existing manzanita not survive. Fire protection devices will be installed on the bottom of the structures. All lot slopes are less than 30%; the lots are 50 feet wide; the houses themselves

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are to be 34 feet wide and 900 square feet in size; there will be 16 feet between houses.

Mr. Overeynder explained that the Board's action in April of 1981 found that a single family dwelling was a permitted and conforming use on each lot or parcel of record as of February 10, 1972, under Section 9.13 of the ordinance, as opposed to a "vested right". What has been done is to decide, from a zoning standpoint only, that each lot has that permitted use. In April, 1981, TRPA was conducting hearings on and later adopted a water quality plan which proved that there were substantial impacts from continued building of subdivisions and roads on high hazard lands. It was made clear to Mr. Ferrari when he was before the Board in April that the Agency was considering adoption of an ordinance which could prohibit construction on high hazard lands and which could potentially affect his land. The question now, however, is not assessment of the environmental impacts of the project but rather the compliance of the proposals with Agency regulations. Staff contends that as proposed they violate ordinance provisions. Because of the scale of the project an EIS as outlined in the Compact should be prepared. Staff is not prepared to address whether the road permit will reduce net pollution load entering Lake Tahoe. While the review team believes the road has caused modification of the environment, this modification does not fit the criteria set up in the Land Use Ordinance for recognizing "man-modified" areas.

There was discussion on Section 9.13 of the Land Use Ordinance; and Mr. Heikka suggested that, based on the evidence, he did not see that each of the lots in question was allowed, as a permitted use, one single family dwelling. The owners of record as of 1972 for each separate parcel have a legitimate building site and that right of use should not be taken away. There is a question whether this applicant acquired a series of parcels of record. Discussion followed on the Board's April, 1981 decision to find that each lot or parcel of record as of February, 1972 had the right to a single family dwelling.

Mr. Jim Bruner, from the League to Save Lake Tahoe, urged the Board not to approve the request to recognize the road as man-modified since it would set precedent for other roads in the Basin.

MOTION by Mr. Kjer to find that the bench area of Tunnel Creek Road is man-modified under Section 8.29 of the Nevada Side Land Use Ordinance.

Mr. Gregg Lien, for the Tahoe Sierra Preservation Council, suggested that recognition of this road as man-modified would not be precedential because it must also be found that the improvements would have a net beneficial environmental effect.

The motion failed on the following vote:

Ayes: Mr. Richter, Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Meder,
Mr. Kjer, Mr. Ferrari
Nays: Mr. Sevison, Mr. Reed, Mr. Hsieh, Mr. Stewart, Mr. Woods
Abstain: None
Absent: Mr. Hall, Mr. Steele

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Mr. Overeynder explained that, as a result of the action, the application for recognition of portions of Tunnel Creek Road as man-modified had been rejected; since subsequent parts of the application rested on that determination, the effect is denial of the project. Simple paving of the roadway which staff views as existing land coverage could possibly be handled at staff level. The real issue is the Washoe County and fire department requirement that the road be 20 feet in width. Staff does not concur that the roadway has a 16 foot wide compacted surface; 12 feet is closer to what staff considers as existing impervious coverage. Reducing the proposed roadway to 16 feet would not satisfy all requirements. Additionally, the fire department has required a 65 foot radius turnaround for fire fighting equipment. Discussion followed among the Board members on continuing the application for 60 days, rescinding the previous action of denial, or reconsidering the application.

MOTION by Mr. Kjer to reconsider the Ferrari request. The motion failed on the following vote:

Ayes: Mr. Robertson, Mr. Jacobsen, Mr. Heikka, Mr. Kjer
Nays: Mr. Sevison, Mr. Reed, Mr. Hsieh, Mr. Meder, Mr. Stewart, Mr. Richter,
Mr. Woods, Mr. Ferrari
Abstain: None
Absent: Mr. Hall, Mr. Steele

Staff advised that the applicant could submit a revised application in compliance with the ordinances. Mr. Hsieh suggested to Mr. Ferrari that there was no guarantee that submittal of an application for a 16 foot wide road width would be given automatic approval.

MOTION by Mr. Meder to waive the filing fee should Mr. Ferrari submit a modified application. The motion carried on the following vote:

Ayes: Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder,
Mr. Richter, Mr. Sevison, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh, Mr. Stewart
Abstain: None
Absent: Mr. Hall, Mr. Steele, Mr. Kjer (out of the room)

The meeting recessed from 12:25 p.m. to 1:30 p.m. for a lunch break.

3. McFarland Professional Building, 800 Southwood Boulevard, Washoe County, APN 122-222-43, -44, -45, and -46, TRPA File #82736

Mr. George presented the staff's summary on the proposal and explained that staff's concerns with this project were the site design, preservation of trees and provision for pedestrian access from the public right-of-way. Mr. Jeff Lundahl, for the project, suggested that staff's concerns with regard to screening from the street could be mitigated through landscaping and a condition on the project requiring landscape screening and maintenance of vegetation in the public right-of-way. The buildings are placed on the site to achieve maximum solar benefits and to melt ice on pedestrian walkways. There are high density residential units all around the project site, and the buildings as sited will actually provide open space benefits to these adjacent properties.

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MOTION by Mr. Kjer to find that the McFarland Professional Building will have no significant environmental effect. The motion carried on the following vote:

Ayes: Mr. Reed, Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer,
Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Woods, Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Hall, Mr. Steele

MOTION by Mr. Robertson to approve the McFarland Professional Building contingent on the proposal by the applicant to landscape and maintain the public right-of-way in a manner acceptable to the staff. The approval is granted with findings and conditions as outlined in staff's summary.

AMENDMENT proposed by Mr. Hsieh to approve the project with findings and conditions but with the buildings to be reoriented on the site as recommended by staff. The amendment failed on the following vote:

Ayes: Mr. Hsieh, Mr. Reed
Nays: Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr.
Richter, Mr. Sevison, Mr. Robertson, Mr. Woods, Mr. Ferrari
Abstain: None
Absent: Mr. Hall, Mr. Steele

Mr. Robertson's motion to approve the project as proposed carried on the following vote:

Ayes: Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Richter,
Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen, Mr. Woods,
Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Hall, Mr. Steele

4. Yountchi/Lundahl, Retail Commercial and Office Building, 288 Village Boulevard, Washoe County, APN 122-282-25, TRPA File #81-1208

Associate Planner Jim Dana presented the summary on the proposed office building. Staff has similar concerns with this proposal as with the previous application and questions the proximity of the building to the property line and the Village Boulevard intersection. Washoe County has indicated that, to meet County regulations, the project must be moved back 10 feet from its present location. The County has no problem with the applicant providing vegetative screening in the County's right-of-way so long as it is maintained by the applicant. Should future road modifications be necessary, the vegetation would have to be removed. Additional conditions to be placed on the project would provide for the building relocation to meet County setback requirements applicable to Village Boulevard to be approved by TRPA staff prior to permit issuance and placement and maintenance of vegetative screening on the property line and in the County right-of-way subject to a plan to be approved by TRPA staff. Architect Jeff Lundahl, on behalf of the project, indicated he had no problem with staff's conditions.

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MOTION by Mr. Heikka to find that the Yountchi professional building would have no significant environmental effect. The motion carried unanimously.

MOTION by Mr. Heikka to approve the Yountchi professional building with findings and conditions as modified. The motion carried unanimously.

- B. W. Belleville, Single Family Dwelling With 1980 Permit Status and Local Public Road Finding, Level 1A, Hubbard Road, Douglas County, APN 08-332-02, TRPA File #82330

Planning Assistant Nora Shepard presented the summary of the request for approval of a 2-story dwelling with a detached 2-story garage. The second story of the garage is to be a guest house. The application requires a finding that a guest house is a similar and appropriate use in General Forest. Also being requested is a local road finding. The parcel is 8 acres in size. The history of the project substantiating its 1980 permit status was presented. Staff recommends that the applicant provide a drainage and slope stabilization plan for the dwelling and pave and improve Hubbard Road (cut and fill slopes and infiltration of road runoff). The findings of similar and appropriate use relate to the character of the neighborhood and whether the guesthouse would have any adverse impacts. Staff feels that the finding can be supported. Mr. Belleville indicated concurrence with the staff's presentation.

MOTION by Mr. Kjer to approve the Belleville requests with conditions and findings as outlined by staff. The motion carried unanimously. (Mr. Sevison was out of the room; Messrs. Steele and Hall were absent.)

VII SPECIAL DETERMINATIONS

- A. Interpretation of Section 9.13 Regarding Permitted uses in the General Forest Land Use District, Nevada Side Land Use Ordinance

Mr. George explained that the Agency has been interpreting this section of the ordinance (entitled "Single Family House on Pre-Existing Lots and Parcels") to mean that if the subdivision in question does not meet the tests of either substantial facilities or posting of performance bonds, a single family dwelling is not a permitted use on the lots contained in the subdivision, regardless of individual ownership patterns within the subdivision as of February 10, 1972. Board member Dick Heikka has suggested that the intent of this section of the ordinance was to recognize one single family dwelling as a permitted use on parcels of record within a subdivision recorded more than five years prior to February 10, 1972 even if that subdivision fails the test of substantial facilities or posting of bonds. A single family dwelling would therefore be a permitted use on a parcel of land described in a deed recorded as of February, 1972, even if such land is within a subdivision that does not meet the tests set forth in Section 9.13. Under this interpretation, if a person owned two or more contiguous assessor parcels or lots, only one single family dwelling would be recognized as a permitted use on the land area which was described in deeds recorded as of February 10, 1972.

Agency legal counsel Lou Doescher reminded the Board that copies of a confidential legal opinion from Gary Owen had been made available to them. Mr. Meder suggested the Board had no option but to go with Gary Owen's interpretation.

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MOTION by Mr. Meder to find that the Board's interpretation of Section 9.13 of the Nevada Side Land Use Ordinance is set forth in Gary Owen's opinion.

Staff explained that should this opinion, which is similar to that outlined by Mr. Heikka, be accepted it would be the burden of the applicant to substantiate dates of record, ownership and purchase dates. On balance, staff would recommend Agency legal counsel's opinion even though Mr. Owen is not completely comfortable with the interpretation. Mr. Hsieh advised that he, too, did not feel comfortable with the interpretation.

The motion failed on the following vote:

Ayes: Mr. Stewart, Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson,
Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Woods, Mr. Ferrari
Nays: Mr. Reed, Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

The meeting recessed for 15 minutes while Board member and former Executive Director Dick Heikka explained the intent of the ordinance drafters in writing Section 9.13 to allow one single family dwelling on every lot or parcel of record as of February 2, 1972, regardless of the status of subdivision improvements. After the break and the explanation, Mr. Reed suggested that he had no further doubts and that Mr. Owen's opinion on Section 9.13 was correct. Mr. Hsieh asked that the matter be deferred so that legal counsel and staff could work on clearing up any remaining reservations about the interpretation and to assess the ramifications of the decision.

MOTION by Mr. Kjer to reconsider the interpretation of Section 9.13. The motion carried on the following vote:

Ayes: Mr. Kjer, Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed,
Mr. Jacobsen, Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Woods, Mr.
Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

MOTION by Mr. Meder to accept Gary Owen's opinion on Section 9.13 of the Nevada Side Land Use Ordinance as the official interpretation of the ordinance. The motion carried on the following vote:

Ayes: Mr. Richter, Mr. Sevison, Mr. Robertson, Mr. Reed, Mr. Jacobsen,
Mr. Heikka, Mr. Meder, Mr. Stewart, Mr. Kjer, Mr. Woods,
Mr. Ferrari
Nays: Mr. Hsieh
Abstain: None
Absent: Mr. Steele, Mr. Hall

- B. Gary Sheerin, Rocky Point Subdivision, Block C, Lots 1-4, Washoe County, APN 055-345-01, TRPA File #81-1148, Status Under Section 9.13, Nevada Side Land Use Ordinance