

**TRPA  
GOVERNING BOARD  
PACKETS**

**APRIL  
1984**

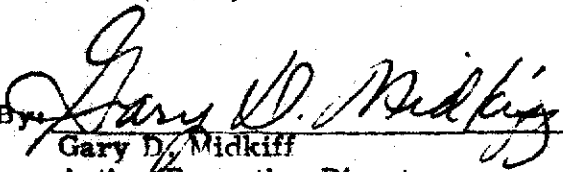
Dr. David Greer

TAHOE REGIONAL PLANNING AGENCY  
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on April 25 and 26, 1984, commencing at 9:30 a.m. each day at the hearing room of the Tahoe Regional Planning Agency located at 2155 South Avenue, South Lake Tahoe, California, 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.

NOTICE IS FURTHER GIVEN that on Wednesday, April 25, 1984, commencing at 8:30 a.m. in the same location, the TRPA Finance Committee will meet to discuss the Agency's budget and work program.

Date: April 6, 1984

By   
Gary D. Midkiff  
Acting Executive Director  
Tahoe Regional Planning Agency

NOTE: Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.

TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BODY

TRPA Office, 2155 South Avenue  
South Lake Tahoe, California

April 25, 1984 9:30 a.m.  
April 26, 1984 9:30 a.m.

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NOTE: There will be a meeting of the Finance Committee at the TRPA office at 8:30 a.m. on Wednesday, April 25 to discuss the Agency's budget and work program.

PRELIMINARY AGENDA

- I CALL TO ORDER AND DETERMINATION OF QUORUM
- II APPROVAL OF AGENDA
- III DISPOSITION OF MINUTES
- IV SPECIAL DETERMINATIONS
  - A. Determination on Status of Pre-1980 Permits Not Requiring TRPA Approval
  - B. Glenbrook Co., Determination on Proposed Removal of Historical Pilings, Douglas County
  - C. Hunton/Anderson vs. TRPA, Determination of Acceptance of Proposed Litigation Settlement, Douglas County APN 07-263-14
- V ENFORCEMENT
  - A. Show Cause Hearings
    - 1. Tahoe Equestrian Center, Inc., Unauthorized Operation of Commercial Off-Road Vehicle Rental, El Dorado County APN 33-110-03 and -04, TRPA File #82002
    - 2. Barsotti, Unauthorized Land Coverage, Construction of a Deck, Lot 71, Elks Subdivision, Douglas County APN 05-232-32
  - B. Reports
- VI ORDINANCE - Thursday, April 26 - 9:30 a.m.
  - Second Reading of Ordinance Adopting and Implementing the Regional Plan
- VII PUBLIC HEARING - Thursday, April 26
  - A. Code of Ordinances
    - 1. Grading

2. Resource Management

3. Transportation/Air Quality

B. Plan Area Statements

VIII PLANNING MATTERS - Thursday, April 26

A. Adoption of Mitigation Fee Schedules

B. Adoption of Project Review Filing Fee Schedules

C. Adoption of Temporary Policy Regarding  
Replacement of Nonconforming Land Coverage

D. Other

IX ADMINISTRATIVE MATTERS

X REPORTS

A. Finance Committee Report

B. Litigation Committee Report

C. Acting Executive Director Report

D. Executive Session

E. Legal Counsel Report

F. Governing Body Members

G. Public Interest Comments

XI CORRESPONDENCE

XII RESOLUTIONS

XIII PENDING MATTERS

XIV ADJOURNMENT

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

P.O. Box 8896  
South Lake Tahoe, California 95731

2155 South Avenue

(916) 541-0246

## MEMORANDUM

Date: April 13, 1984

To: Governing Board  
From: Agency Staff  
Subject: Determination on Status of Pre-1980 Permits Not Requiring TRPA Approval

This item was continued from the March Governing Board meeting so that impacts of this determination upon the local governments could be assessed.

### Background

Prior to the revised TRPA Compact in December of 1980, various building permits issued by local governments did not require approval by this Agency. These include single family dwellings and commercial projects on less than 3 acres. When the revised Compact became effective, many of these building activities became TRPA projects requiring the review and approval of this Agency.

Agency legal counsel has stated that if a building activity under local government permit is determined to be a project as defined in Ordinance 81-1, it is subject to TRPA review and approval unless the activity is vested. In those cases where no construction has commenced, it is legal counsel's opinion that a vested right does not exist.

### Recommendation

Agency legal counsel has recommended that if property owners have maintained valid building permits within the Tahoe Basin through various renewal procedures established by local governments, it may be advisable to inform these individuals and the local building authority that they have a specified time period in which to commence construction and thereby vest their project. Should these permit holders fail to vest their projects within the time specified, they should then be subject to TRPA review and permit procedures with respect to any future building plans.

In addition, Agency staff recommends that in granting any additional time period to allow for the start of construction on these projects, the construction plans are to be submitted for TRPA review to ensure compliance with Best Management Practices.

RP:bl  
4-13-84

AGENDA ITEM IV.A.

Currently, there are 111 building department permits divided among the following jurisdictions:

Douglas	43
Washoe	56
Placer	11
El Dorado	1
City of South Lake Tahoe	0
	<u>111</u>

If the Governing Board were to grant an extension of the subject local building permits through the 1984 building season, these individuals would then have 5½ months in which to at least install a foundation, followed by successive building seasons with faithful performance towards completion of their vested project. Continued on-site progress could then be required in terms of a dollar amount or a particular stage of construction for each building season.

Impacts

Building Permits in the following jurisdictions are good for the following time periods:

Placer	2 years	- 1 year extensions
Washoe	1.5 years	- 1.5 year extensions
El Dorado	2 years	- 1 year extensions
City of S. Lake Tahoe	6 months	- 6 months extension (only 1 ext)
Douglas	3 years	- 6 months extensions

In all jurisdictions except the City of South Lake Tahoe, a building permit can remain active indefinitely through payment of extension fees for the above-noted time periods. No construction need be started to maintain permit status.

In the City of South Lake Tahoe, the permittee is given 6 months plus one 6 month extension to start construction. If no construction has started in that time period, then the permit is revoked.

TAHOE REGIONAL PLANNING AGENCY  
STAFF SUMMARY

Glenbrook Co., Special Determination on  
Proposed Removal of Historical Pilings,  
Douglas County

Project History: The Glenbrook Company submitted an application to TRPA on January 4, 1983 to install a boat lift on the south side of the community pier in Glenbrook. Installation and accessing the proposed lift would necessitate removal of 20 old pilings that were once part of the historical Glenbrook pier. The item was scheduled to be heard as a project at the regular Governing Board meeting in February, 1983. Between the time of application submittal and the meeting, the Agency received approximately 12 letters in opposition to the project stating that the pilings were of major historical and aesthetic value to Glenbrook Bay. Further, the Nevada Division of Historical Preservation and Archeology and the California Heritage Council have stated in writing that the historical pilings should be retained as a reminder of Glenbrook Bay's colorful past.

At the February 1983 TRPA Board meeting, Pam Wilcox, of the Nevada Division of State Lands, recommended that a master plan be developed by all concerned parties for the future development in Glenbrook Bay. This concept was agreeable to all parties and residents at Glenbrook; and the TRPA Chairman Jim Reed therefore continued the item to a later agenda.

The Nevada Division of State Lands held four meetings (April, May, June and July, 1983) to discuss with the interested parties a shorezone development plan for Glenbrook Bay. The pilings were always discussed, and all parties agreed on a compromise on which pilings should be removed and which should remain. The shorezone master plan for Glenbrook provided for removal of the first group of seven deteriorated pilings west of the community pier and submerged pilings south of the pier as indicated on Attachment A, as well as other miscellaneous pilings in the Bay deemed hazardous. Then in February, 1984, the last meeting was held, and the Glenbrook Company representatives stated that, after further legal research, they had concluded that the historical pilings were a liability hazard and that additional pilings should be removed. More specifically, the additional pilings included the 17 pilings located adjacent to the south end of the community pier which are closest to the shoreline. Of these 17 pilings, approximately 10 are submerged. Nevada State Lands does not object to the submerged pilings being removed, only to those 7 or 8 which are above the water's surface.

Review Per Section: Section 3.90 of Ordinance 81-1 which reads as follows:

The demolition of existing single family residences and accessory structures, except historical structures, is not a "project" within the meaning of the Compact and is exempt from the Agency's review and approval where such demolition is pursuant to a local government permit.

4/16/84  
KE:jf

AGENDA ITEM IV B.



Agency staff has interpreted the above section to require that removal of historical structures of any type is a project requiring that an application be submitted and reviewed by the Agency. Pursuant to this interpretation, removal of the historical pilings in Glenbrook Bay is considered to be a "project" requiring approval by the Agency.

Impact Analysis and Mitigation Measures: The historical pilings in Glenbrook Bay are considered to have general historical significance by the Nevada Division of Historical Preservation and the California Heritage Council. The pilings are reminders of the role the lumbering activity at Tahoe had on the Comstock era. The pilings are all greater than one hundred years old and are some of the only remains at Tahoe of an industry which contributed to Nevada's admittance to the Union, which was of national significance. The Historic Preservation representatives feel that the most potentially hazardous pilings may be removed; however, the pilings that remain should represent an impression of the old piers and structures that once existed. They think that removal of the pilings closest to the shoreline along the south end of the community pier would remove the impression that the old pier was once located there.

The Glenbrook Company, which owns the littoral property landward of the subject pilings, feels that the deteriorated piling along the south side of the community pier should be removed because they pose a serious threat to human safety as well as an unacceptable liability to the Company. The Company has offered to remove the pilings at its own expense. Removal of the pilings would be done by cutting them at the lake bottom elevation. This method would minimize disturbance to the lake bottom.

Removal of the pilings along the south side of the community pier would also provide increased boat access to the multiple use pier.

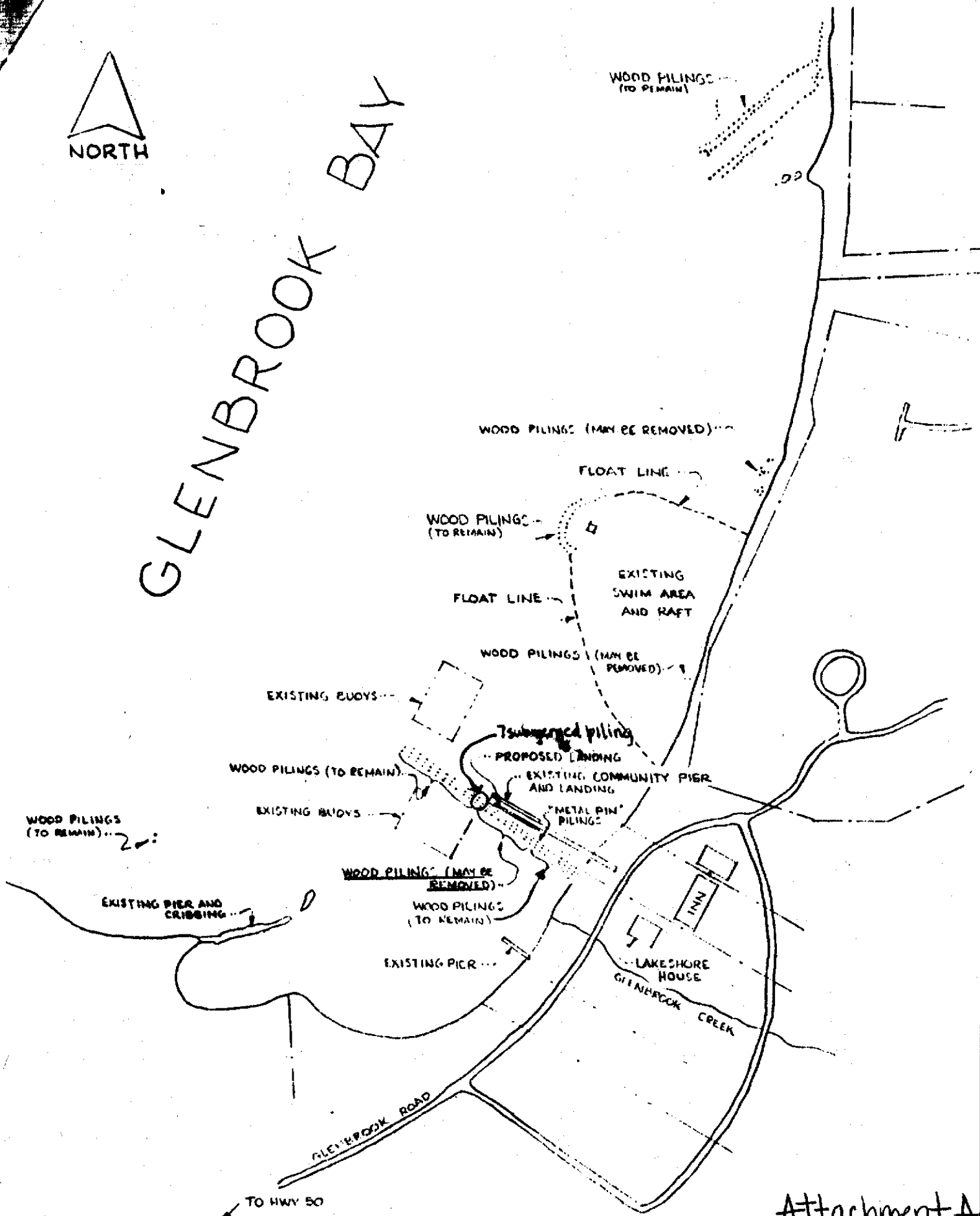
Issues for Discussion:

The Glenbrook Company is concerned that the people, especially children, that utilize the community pier and beach area may harm themselves on the jagged, broken pilings adjacent to the pier and beach. If an injury or death occurred as a result of harm from a piling, the Glenbrook Company assumes it will be held liable. To date, there has been no confirmation as to who is responsible for the pilings. The State of Nevada owns the property lakeward of the low water elevation (elevation 6223.1) on which some of the pilings are located, and the Glenbrook Company owns the property between high and low water where the remaining pilings are proposed to be removed.

There may be alternatives other than removing the pilings that may lessen the possibility of someone being injured on the historical structures. Such an alternative includes installation of a railing or fence along the south end of the pier and posting signs that prohibit swimming in the vicinity of the piling.



# GLENBROOK BAY



**TAHOE REGIONAL PLANNING AGENCY**

P.O. Box 8896  
South Lake Tahoe, California 95731

2155 South Avenue

(916) 541-0246

**MEMORANDUM**

April 16, 1984

**TO:** Governing Board  
**FROM:** Agency Staff  
**SUBJECT:** Hunton/Anderson vs. TRPA, Determination of Acceptance of  
Proposed Litigation Settlement, Douglas County APN 07-263-14

Attached please find a summary prepared by staff for the Litigation Committee on the subject agenda item. This is followed by information submitted by Les Berkson, the attorney for Mrs. Hunton.

This item was heard by the Litigation Committee on January 26, 1984, and then again on March 29, 1984.

NLS:mim  
attachment

Agenda Item IV, C

# TAHOE REGIONAL PLANNING AGENCY

P.O. Box 8896  
South Lake Tahoe, California 95731

2155 South Avenue

(916) 541-0246

## MEMORANDUM

DATE: February 15, 1984

TO: Litigation Committee

FROM: Agency Staff

SUBJECT: Hunton/Anderson - Determination of Vested Status on Proposed Single Family Dwelling. APN 07-263-14, 272 Ridge Drive, TRPA File #81-1074

- I. Project Description: The applicant, Cho Hunton, wishes to gain a finding of vested right to construct a single family dwelling on APN 07-263-14. Litigation has been filed on the issue, and the applicant wishes to settle the matter. The applicant has agreed to perform subdivision improvements consistent with the direction of 81-5 to bring the subject subdivision up to a "potentially adequate" standard.
- II. Site Description: The subject parcel is .672 acres of Land Capability 2 (CaE soil type). There is an unimproved, dirt road, an extension of Ridge Drive, which leads to the subject parcel. This road existed prior to 1972. There is an existing foundation on the parcel, which has consisted of grading and placement of stem walls. The sewer and utilities have been brought into the building site adjacent to the existing dirt road.
- III. Project History: The parcel was created in 1974 when a parcel map was filed with Douglas County to create 3 parcels. The split did not require action by the Agency. Douglas County, however, was required to review the parcel map in accordance with the regulations of the TRPA. Section 9.31 of the TRPA Land Use Ordinance requires that the allowable coverages be indicated on the plans. In 1977, a foundation only permit was issued by Douglas County on APN 07-263-14. Water and sewer were installed in the Fall of 1978. The foundation work was conducted in 1980. Douglas County "reinstated" a building permit on December 2, 1982 based upon review of full plans for a single family dwelling.

In September of 1981, Mr. Lou Thomas filed an application for case-by-case review on the subject parcel. He was notified that he was not eligible for the coverage overrides for case-by-case review since the parcel was created after 1972. The parcel is therefore allowed only 1% coverage.

At approximately the same time permits were being processed on APN 07-263-14 (1977), Mr. Bartholomew contacted Douglas County with the intent of obtaining a permit on APN 07-263-20. This parcel was also created as a result of the 1974 map. Douglas County referred him to this Agency since the parcel was created after 1972 and allowable coverage was an issue. Mr. Bartholomew proceeded to process a land capability challenge so that he could gain enough coverage to build a single family dwelling. The land capability challenge was approved by the Agency on October 31, 1977, a building permit was issued and the house was built.

AGENDA ITEM XI C.

MEMORANDUM

Litigation Committee

February 15, 1984

Page Two

The possibility of proceeding with a land capability challenge was discussed with Mr. Hunton in February of 1982. Based upon some preliminary information, however, it was decided that the land capability challenge on APN 07-263-14 would not be pursued.

IV. Issues:

- A. Parcel Map Issue: According to Section 9.31 of the TRPA Land Use Ordinance (the ordinance in effect at the time the parcel map was filed), when a parcel is divided, the person making the division is to calculate the land coverage allocable to each of the resulting lots or parcels and is to note such allocations in the deeds to such resulting lots or parcels and on the lot or parcel map that records such division.

When the subject map was recorded in 1974, no such coverages were indicated. According to Section 9.24, if the coverages were noted, they would have been that which is allowed by land capability, or 1% of the total lot size. The overrides in Section 9.24 (see below) apply only to subdivisions created prior to February 10, 1972:

9.24 Pre-Existing Lots in Subdivisions: The following land coverage limitations, if greater than the amounts otherwise allowed in the land capability districts in which the lot in question is located, shall apply to lots contained in any subdivision, a final map of which was approved by a local government, and where required, by the Agency, prior to February 10, 1972, provided, however, that this section shall not apply where the final map of such subdivision was approved and filed for record more than five (5) years prior to February 10, 1972 and there has been no construction of roads, sewers, or other substantial facilities serving the subdivision, or the posting of performance bonds assuring such construction, prior to February 10, 1972.

<u>Lot Size (in Sq. Feet)</u>	<u>Lot Coverage (in Sq. Feet)</u>
Under 9,000	2,600
9,001 - 13,000	2,800
13,001 - 15,000	3,000
15,001 - 30,000	3,200
30,001 - 40,000	3,400
40,001 - 86,000	3,600
86,001 - 172,000	3,800
172,001 - 430,000	4,000
Over 430,000	1% of the Lot Area

MEMORANDUM

Litigation Committee

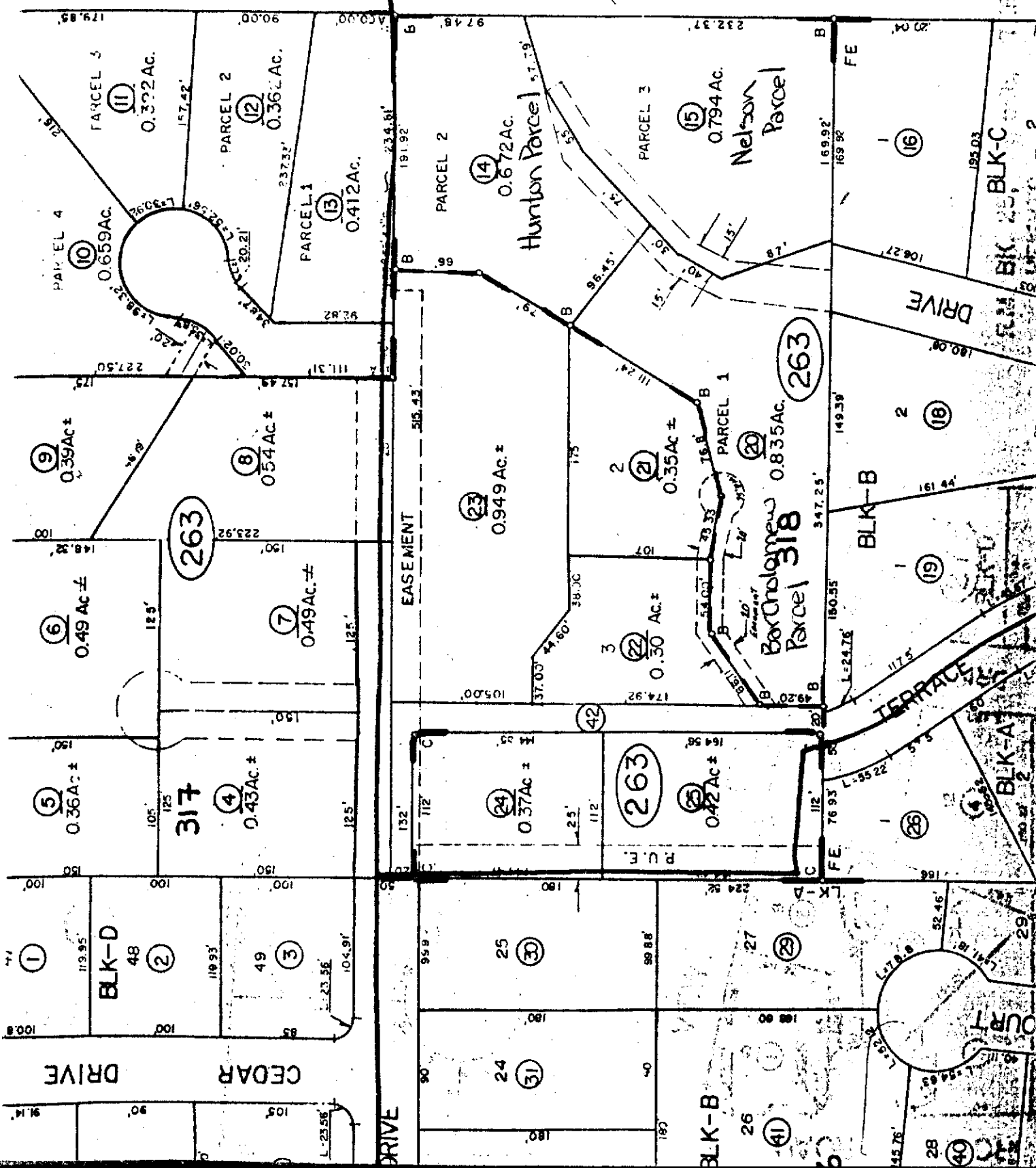
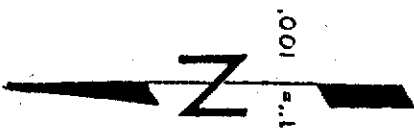
February 15, 1984

Page Three

Additionally, Section 9.30 states that "no person shall create a lot or parcel upon which will exist more than the . . . maximum percentage of land coverage permitted by this ordinance." The dirt road which accesses the property was existing when the parcel map was recorded in 1974. It therefore appears that nonconforming coverage (over the 1% allowable) was created when the parcel map was recorded. This is inconsistent with the provisions of Section 9.30.

- B. Allowable Coverage and Foundation Permit: In 1977, when Douglas County issued the foundation only permit, the total amount of coverage which was indicated as being allowed was 5,417 square feet. This is approximately 20% of the total lot size. Since the parcel is a land capability 2, the allowable coverage was actually 1% of the total lot size, rather than 20%. The application for a building permit, dated August 19, 1977, indicates that the soil type is a CaD, land capability 4. This parcel is mapped, and has been mapped since 1972, as a CaE soil type, land capability 2. The information upon which the Foundation Permit was issued was therefore incorrect.
- C. Vested Rights and a Foundation Permit: It has been the consistent opinion of the Agency's legal counsel that a vested right is only appropriate if reliance has occurred on a valid Building Permit. The issue of a Foundation Permit has arisen several times, particularly in Douglas County. Legal Counsel has indicated that if a set of full building plans is on file at the time the Foundation Permit is issued, and substantial reliance has occurred thereafter, a finding of vested right may be appropriate. If no such plans were on file, however, a vested right may not be appropriate. There is no evidence that full plans were submitted when the Foundation Permit was issued in 1977 on APN 07-263-14.
- V. Proposed Settlement: Cho Hunton requests authorization from the Board to continue construction of a single family dwelling utilizing the existing foundation. As a tradeoff, the applicant has offered to install drainage and stabilization improvements on Ridge Drive to bring it up to a standard which would be classified as "potentially adequate" based upon the case-by-case review criteria. These improvements include paving of Upper Ridge Drive (300 lineal feet) providing infiltration facilities, installing a toe slope retaining wall, revegetating cut slopes and placing of some riprap. The estimated cost of these improvements is \$16,000. These would extend the improved portion of Ridge Drive by 300 feet to the Hunton parcel. At this time, it is anticipated that this extension of improvements will serve only the Hunton parcel. Another parcel (APN 07-263-15) owned by Mr. Hilmer Nelson is also served by this road. No approvals have been issued and no construction has commenced on this parcel, although Mr. Nelson has filed a case-by-case review application. Since the allowable coverage is only 1%, he has not been able to pursue the application.

/sf



R.S. DOC. 03320  
BK. 976 Pg. 951  
(C)

R.M. DOC 14378  
LAKEWOOD  
KNOLLS (ANNEX)

R.M. BK. 14, Pg. 41  
FOOTHILL  
ESTATES

P.M. BK. 7-74, (A)  
Pg. 389, Doc. 74248

P.M. BK. 9-74,

1

263

317

263

263

318

Horton Parcel

Nelson Parcel

BarCholmew Parcel

EASEMENT

BLK-B

BLK-A

BLK-C

DRIVE

TERRACE

BLK-D

DRIVE

CEAR DRIVE

DRIVE

BLK-B

COURT

# APPLICATION FOR BUILDING PERMIT

(Submit in Quadruplicate)

Date of Application AUG. 19, 1977

Parcel existing on 2/10/72 Yes ~~XX~~ NO LOT AREA: 29,272

Location of Work: #07-263-14, PARCEL 3, EXISTING PORTION OF NE 1/4 OF SEC 4 OF NE 1/4 SECTION 23, T13N, R18E, STATELINE, DOUGLAS CO., NEVADA

Name of Applicant BOB HUNTON

Address P.O. BOX 1462, ZEPHYR COVE, NV. 89448

Name of Architect or Engineer CDH ASSOCIATES

Address P.O. BOX , ZEPHYR COVE, NV. 89448

Name of Contractor N.C. WOODS #5976A

Address P.O. BOX , SOUTH LAKE TAHOE, CA.

## DESCRIPTION OF WORK

New () Alteration (  ) Addition (  ) Repair (  ) Moving (  )

Planned use of building FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

Wall Covering \_\_\_\_\_ Roof Covering \_\_\_\_\_

Describe briefly FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

General Plan Designation LDR Land Capability Classification ~~XX~~ C&D

Impervious Surface Allowed: 5417 Proposed 5336 Existing 0

Total Land Coverage 5336 Proposed Building Height: \_\_\_\_\_

Sq. Footage \_\_\_\_\_ Valuation (including plumbing, wiring, etc.,) \$3,000.00

I will save, indemnify and keep harmless The County of Douglas its officers, employees and agents, against all liabilities, judgments, costs, and expenses which may accrue against them in consequence of the granting of permit inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

*Bob Hunton*  
Signature of Applicant

*9/14/78 - This permit reissued at 1/2 fee (\$18.00) then date see receipt # 4401*  
APPLICANT DO NOT FILL OUT BLANKS BELOW

Submitted Plans (  ) Plan Substitute Forms (  ) Not Required (  )

Zone Z-1 Building Department Note FOUNDATION ONLY FOR PROPOSED SFD

Approved Building Department *H. H. H. H.*  
Signature

Permit Fee \$24.00 Paid (  ) Plan Check Fee \$12.00 Paid (  ) TOTAL: \$36.00 PD

Requirements for moved buildings met (  )

Permit 01048 Issued 8/24/77 By *D. H. H. H.*  
Signature



LAW OFFICES

LESTER H. BERKSON  
CLARE GOLNICK

218 ELKS POINT ROAD, SUITE 201  
POST OFFICE BOX 349  
ZEPHYR COVE, NEVADA 89448

PROFESSIONAL CORPORATIONS

AREA CODE 702 • 588-4555  
RENO/CARSON CITY/INCLINE AREAS  
DIAL 882-7618

January 11, 1984

Mr. Larry Sevison, Chairman  
Litigation Committee  
Tahoe Regional Planning Agency  
P.O. Box 8896  
South Lake Tahoe, CA 95731

Re: Cho Hunton Litigation

Gentlemen:

This letter and the enclosures is to supplement the information supplied to the Litigation Committee at the hearing on settlement held Thursday, December 22, 1983.

The first enclosure is a letter from Douglas County verifying their position that they have issued a valid permit effective as of 1977 on which Hunton has relied in performing work.

The second enclosure is an Affidavit of Cho Hunton's former husband, Robert Hunton, verifying the work and expenditures on the subject property during 1977 and 1978. Mr. Hunton verifies that in addition to foundation plans, preliminary plans for the structure were submitted in 1977 to Douglas County. A copy of a portion of these plans is attached to Mr. Hunton's Affidavit.

Once again, it is submitted that Cho Hunton has acquired a vested right and should be allowed to complete her residence.

By request of Gary Owen I have agreed to carry the final consideration over to the February TRPA meeting. If the Committee requires any further information, please let me know.

Thank you for your consideration.

Sincerely yours,

  
LESTER H. BERKSON

cc: Mr. Gary Owen  
Cho Hunton  
Dave Anderson  
Litigation Committee Members

RECEIVED  
BY \_\_\_\_\_

JAN 16 1984

TAHOE REGIONAL  
PLANNING AGENCY

**DOUGLAS COUNTY - STATE OF NEVADA**  
**OFFICE OF THE DISTRICT ATTORNEY**

CARSON VALLEY OFFICE  
JUDICIAL AND LAW ENFORCEMENT CENTER  
POST OFFICE BOX 218  
MINDEN, NEVADA 89423  
(702) 782-9800

BRENT T. KOLVET  
DISTRICT ATTORNEY  
COUNTY COUNSEL

LAKE TAHOE OFFICE  
POST OFFICE BOX 10859  
ZEPHYR COVE, NEVADA 89448  
(702) 588-3575

REPLY TO: Minden

January 9, 1984

RECEIVED

BY \_\_\_\_\_

JAN 16 1984

Litigation Committee  
Tahoe Regional Planning Agency  
Post Office Box 8896  
South Lake Tahoe, California 95731

TAHOE REGIONAL  
PLANNING AGENCY

RE: Douglas County permit issued to Cho Hunton

Dear Sirs:

This Office is in receipt of a foundation permit issued August 24, 1977, and a residential permit modification, both of which pertain to Assessor's Parcel No. 07-263-14, and are attached to a complaint entitled Anderson, et al. vs. Douglas County, Nevada, et al., No. 14252, Ninth Judicial District Court of the State of Nevada, in and for the County of Douglas. After having said permit and its modification reviewed by the Douglas County Community Development Department, this office is informed that said permit it current and meets the requirements of Douglas County, Nevada, which would allow the construction of the single family residence.

Upon issuing the residential permit modification in 1981, Douglas County, Nevada, informed the applicant that the residential permit modification would relate back to the initial foundation permit issued in 1977. Douglas County, Nevada, is informed that in reliance on this foundation permit and the residential permit modification, applicant Hunton has performed work and expended funds in furtherance of its attempt to construct a residential dwelling on Assessor's Parcel No. 07-263-14. Accordingly, it is the position of Douglas County, Nevada, that applicant Hunton should be allowed to proceed to construct a single family residence on the aforementioned parcel number.

Should you have any questions, please feel free to contact me.

Sincerely yours,

*Stephen C. Balkenbush*

STEPHEN C. BALKENBUSH  
Chief Deputy District Attorney  
Douglas County, Nevada

SCB:dp

AFFIDAVIT OF ROBERT HUNTON

STATE OF FLORIDA        )  
                                  )  
COUNTY OF                )

ROBERT HUNTON, being first duly sworn deposes and says:

1. That affiant was formerly married to Cho Hunton during 1977 and 1978. That at that time affiant and Cho Hunton were the owners of parcel 2 being Douglas County Assessor's parcel 07-263-14 (subject property) which is involved before the Tahoe Regional Planning Agency Litigation Committee for determination of vested rights.

2. Presently affiant lives at Key West Seaside Resort, U.S. 1 and Boca Chica Road, Key West Florida 33040.

3. In 1977 affiant and Cho Hunton purchased the subject property for \$34,675 in reliance on the issuance of a valid Douglas County building permit. That the terms of the purchase stated:

"Sale contingent upon Buyer obtaining building permit for single family residence not to exceed 3,200 square feet on or before August 25, 1977."

4. Prior to close of escrow Douglas County issued to affiant and Cho Hunton a building permit to construct a single family residence on the subject property. That although the permit issued was designated as a foundation permit for a single family residence, affiant was informed at the time of issuance of the permit by Douglas County that under Douglas County practices and procedures the permit gave affiant a vested right to complete a residence.

5. In order to obtain said permit affiant had prepared by Duke Crocket and submitted by Douglas County, foundation plans and, in addition, preliminary plans for the structure itself. A copy of a portion of the preliminary plans submitted to Douglas County is attached as Exhibit 1 to this Affidavit.

6. Affiant would not have purchased the subject property except for the fact that affiant was informed and believed that he and Cho Hunton had a permit that gave them a vested right to construct a single family residence.

7. Thereafter during 1978 affiant paid to the Kingsbury General Improvement District \$850.00 for a sewer and water permit and \$218.54 as an interceptor fee. Copies of the checks for payment are attached as Exhibit 2.

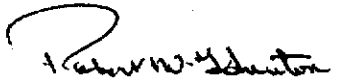
8. During 1978 affiant had installed and paid for 265 feet of 4" sewer line and 265 feet of 1" water line to the building site on the subject property. In addition affiant had excavation and foundation work completed, all at a cost of \$4,914.91. Attached as Exhibit 3 are invoices and cancelled checks representing such work.

9. That the permit affiant obtained (attached as Exhibit 4) was renewed on September 14, 1978. On the permit is the wording "9/14/78 - this permit reinstated at 1/2 fee (18.00) this date see receipt #4401. That in fact the permit was current and the reinstatement was an extension of the then current permit. That to the best of

affiant's knowledge and information the word reinstatement used by Douglas County meant in fact "extension" as used in the context of the permit attached as Exhibit 4.

10. That soon thereafter affiant and Cho Hunton separated and later divorced during 1980 at which time affiant released and quitclaimed all interest to the subject property including all rights to the building permit to Cho Hunton.

Dated: December 31, 1983

  
ROBERT HUNTON

SUBSCRIBED and SWORN TO  
before me this 31st  
day of December, 83.

  
Notary Public

Notary Public, State of Florida at Large  
My Commission Expires Apr. 18, 1986  
MEMBER OF THE FLORIDA NOTARY SELEY  
ASSOCIATION & BONDS, INC.

RECEIVED

1983

MIAMI REGIONAL  
PLANNING AGENCY

LAW OFFICES  
LESTER H. BERKSON  
CLARE GOLNICK

218 ELKS POINT ROAD, SUITE 201  
POST OFFICE BOX 349  
ZEPHYR COVE, NEVADA 89448

PROFESSIONAL CORPORATIONS

AREA CODE 702 • 588-4555  
RENO/CARSON CITY/INCLINE AREAS  
DIAL 882-7618

MEMORANDUM

TO: TRPA LITIGATION COMMITTEE  
FR: LESTER H. BERKSON  
ATTORNEY FOR CHO HUNTON AND DAVE ANDERSON  
DATE: DECEMBER 12, 1983  
RE: PROPOSED SETTLEMENT - CHO HUNTON

-----  
This memorandum is written for the purpose of compromising and settling the Complaint of Cho Hunton (Exhibit A) against TRPA.

Following is an outline of the events leading up to the Litigation Committee hearing. Under separate cover a transcript of the supporting documents is presented.

September, 1974

On September 18, 1974 a parcel map (Exhibit B) was recorded in Douglas County. The Hunton parcel is parcel 2 of three parcels, being Douglas County Assessor's parcel number 07-263-14.

August, 1977

Cho Hunton and her former husband, Robert Hunton, purchased parcel 2 for \$34,650, paying \$20,000 cash down payment and executing a note secured by a deed of trust for \$14,675. The note presently has a balance of less than \$8,000 (Exhibit C).

The closing of escrow was contingent upon the Hunton's obtaining a building permit. Prior to close of escrow a building permit was issued to the Huntons by Douglas County.

August, 1977

A building foundation permit (Exhibit C) was approved by Douglas County on August 24, 1977. On December 2, 1982

Memo  
Re: Hunton

a permit modification was issued by Douglas County with an effective date of August 19, 1977. Under Douglas County practices, procedure and policy, the Hunton's acquired a vested right to build in 1977. At that time TRPA approval was not required. The building permit of Hunton is current and valid.

#### August 1977 to Date

From 1977 to date Cho Hunton has expended:

- (1) \$34,850 for the property purchase.
- (2) In excess of \$10,000 for permits, plans, engineering, excavation and foundation.
- (3) Real property taxes of approximately \$2,500.00.

A partial listing of expenses is set forth in Exhibit D.

In 1980 Cho Hunton had separated from her husband and sold the lot for \$125,000 including the permit. The purchaser completed a foundation of a value in excess of \$12,500. In 1981 the buyer walked away from the purchase and refused to proceed with the purchase because of TRPA staff interference claiming there was not a valid permit. The buyer forfeited a nominal deposit of \$500 and the property was restored to Cho Hunton.

#### Prior Negotiation

In the latter part of 1982 and during 1983 there were negotiations between Cho Hunton's attorney, Lester H. Berkson, and her engineer, Ernie Jones, with the TRPA staff. These negotiations were made in good faith by Cho Hunton to resolve her vested rights administratively without litigation. The final result of the negotiations was a June 28, 1983 letter from Ernie Jones to Nora Shepard (Exhibit E) wherein it was agreed by Cho Hunton that she would complete substantial onsite and offsite drainage and erosion improvements. It was the understanding of the counsel for Cho Hunton that staff would then recommend a settlement based on performance of the mitigation measures and the vested permit right of Cho Hunton. When the matter was reviewed by Phil Overeynder he squelched any settlement on the rationale that it might set a precedent. Further, unsuccessful efforts were made to have the Litigation Committee review the matter without filing a lawsuit. A lawsuit was finally filed October 17, 1983. After filing

Memo  
Re: Hunton

of the lawsuit a Litigation Committee meeting was finally scheduled.

Contentions of Cho Hunton

Cho Hunton claims that she has acquired a vested right pursuant to:

- (1) Issuance of a Douglas County building permit in 1977.
- (2) Her purchase of parcel 2 in 1977 in reliance on a building permit.
- (3) Her expending substantial funds in reliance on a building permit from 1977 through 1983.
- (4) Completion of excavation and foundation work based on the permit. Excavation and foundation work was done from 1978 through 1981.
- (5) Sale of the parcel in reliance on the building permit which sale was rescinded because of TRPA staff interference. The sale was made in 1980 and rescinded in 1981.
- (6) Cooperation with TRPA staff to perform mitigation measures in an attempt to compromise instead of pursuing litigation.

Advantages of a Compromise to TRPA

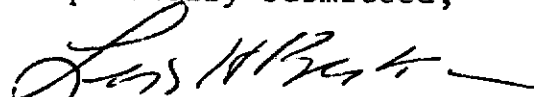
1. A settlement will avoid setting any court precedent.
2. Cho Hunton will cooperate to perform onsite and offsite mitigation measures not originally required under her vested right permit.
3. Avoidance of substantial litigation costs.
4. Will eliminate the present unsightly foundation and help prevent erosion and runoff from the site.
5. Mitigation measures will also help eliminate erosion and improve offsite conditions.

It is respectfully requested that the Litigation Committee recommend a settlement allowing Cho Hunton a

MEMO  
Re: Hunton

vested right to build subject to compliance with performance  
of mitigation measures previously agreed to with TRPA staff.

Respectfully submitted,



LESTER H. BERKSON  
Attorney for Cho Hunton and  
Dave Anderson

APPROVED:

\_\_\_\_\_  
CHO HUNTON



IN THE NINTH JUDICIAL DISTRICT COURT

Of the State of Nevada, in and for the County of Douglas

No. 14252

DAVE ANDERSON and  
CHO HUNTON,

Plaintiff s

vs.

DOUGLAS COUNTY, NEVADA and  
TAHOE REGIONAL PLANNING AGENCY  
Defendant

SUMMONS

The State of Nevada sends greetings to the above-named defendant:

You are hereby summoned and required to serve upon

plaintiff's attorney, whose address is Lester H. Berkson  
P.O. Box 349  
Zephyr Cove, NV 89448  
702/588-4555

an answer to the Complaint which is herewith served upon you, within 20 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. \*

*Yvonne Bernard*

YVONNE BERNARD Clerk of Court.

By *A. Lowen*  
Deputy Clerk.

Date: October 17, 1983.

(S) SEAL OF COURT

\* Note. — When service is by publication, insert a brief statement of the object of the action. See Rule 4.  
RETURN OF SERVICE ON REVERSE SIDE

EXHIBIT "A"

1 Case No. 14852

2  
3  
4  
5  
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF DOUGLAS  
8

9 DAVE ANDERSON and  
10 CHO HUNTON,

11 Plaintiffs,

12 vs.

13 DOUGLAS COUNTY, NEVADA and  
14 TAHOE REGIONAL PLANNING AGENCY,

15 Defendants.

COMPLAINT FOR DECLARATORY  
RELIEF, INJUNCTION AND  
DAMAGES FOR INVERSE  
CONDEMNATION

16 FIRST CAUSE OF ACTION

17 I

18 Plaintiffs are the owners of a valid, existing and  
19 duly approved building permit from Defendant Douglas County,  
20 permitting Plaintiffs to construct a single family residence  
21 on Assessor's Parcel Number 07-263-14 located at Stateline,  
22 Nevada. Plaintiffs' Permit No. 1048 attached as Exhibit A was  
23 issued August 24, 1977 meeting the requirements of Defendant  
24 Douglas County and the requirements of Defendant Tahoe Regional  
25 Planning Agency (TRPA).  
26

27 II

28 Defendant Douglas County ever since 1977 has at all  
29 times mentioned herein and presently does recognize Plaintiffs'  
30 building permit as a valid, existing building permit entitling  
31 Plaintiffs to construct a single family residence on their lot.  
32

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III

In reliance on Plaintiffs' permit, Plaintiffs have spent substantial time, effort and money for engineering, surveying, sewer and water permits, plans, grading, foundation work and other expenses in connection with implementing said permit. By reason of the issuance of Plaintiffs' permit and Plaintiffs' work, efforts and expenditures, Plaintiffs have acquired a vested right to said permit to construct a single family residence.

IV

Thereafter, on or about June 25, 1981, TRPA adopted Ordinance No. 81-5 which requires in part that building permits issued after the date of said Ordinance be reviewed and approved by TRPA.

V

An actual controversy has arisen between Plaintiffs and Defendant TRPA by reason of the following contentions:

1. Plaintiffs claim that they have a vested right to construct a single family dwelling pursuant to a valid building permit.
2. Defendant TRPA claims that Plaintiffs have no vested right to construct a single family residence and require review and approval of TRPA.
3. Defendant Douglas County claims that the permit issued by Douglas County is a valid permit predating any subsequently enacted approval requirements of TRPA.

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OFFICE  
N. BERKSON  
& GOLNICK  
1100 5th Ave  
4th Cove.  
LA 80408  
508-4355

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VI

The contentions of Defendant TRPA are arbitrary and unreasonable and if allowed to continue, constitute a violation of Plaintiffs due process rights and a deprivation of a valuable property right under the 14th Amendment to the U.S. Constitution.

VII

Unless TRPA is restrained from asserting their claim, Plaintiffs will suffer irreparable harm and injury in that they will lose a valuable property right. By reason thereof, Plaintiffs will suffer damages in excess of \$10,000.00.

VIII

It has been necessary for Plaintiffs to retain the services of Lester H. Berkson to bring this action and that reasonable attorney's fees should be allowed for his services.

SECOND CAUSE OF ACTION

I

All of the allegations of the first cause of action are incorporated by reference as part of this second cause of action.

II

Plaintiffs are the owners of real property located in the Lake Tahoe Basin of Douglas County as described in the first cause of action. Plaintiff Cho Hunton originally acquired the property in August 1977 for the purpose of developing and building a single family residence. Said Plaintiff paid in excess of \$34,000 for the property and conditioned the completion of purchase on the issuance of a valid building

1 permit. That effective August 24, 1977 Defendant Douglas County  
2 issued a valid permit to construct a residence on said property.

3  
4 III

5 Pursuant to the policies, procedures, ordinances and  
6 administration of Douglas County said building permit permitted  
7 Plaintiffs to commence their residence in stages with  
8 construction of the foundation as the first stage. Upon  
9 completion of the foundation, Douglas County agreed the permit  
10 would be modified to allow completion of the balance of the  
11 structure. That such modification of the already issued permit  
12 is ministerial in nature and that Douglas County has complied  
13 with their agreement by modifying said permit.

14  
15 IV

16 Defendant TRPA was aware of the ordinances,  
17 administration, practices and procedures in respect to the  
18 issuance of building permits by Defendant Douglas County and  
19 permitted Defendant Douglas County to do so. Defendant TRPA  
20 knew or should have known that Plaintiff and others similarly  
21 situated would rely, to their detriment, on the issuance of such  
22 permits.

23  
24 V

25 That in reliance on the issuance of a building permit  
26 on August 24, 1977 and the practices, procedures, administration  
27 and ordinances of Defendant Douglas County and TRPA then in  
28 force, the Plaintiffs and their privies proceeded to spend  
29 substantial monies, work and effort for sewer and water permits,  
30 engineering and surveying fees, plans and specifications and  
31 construction of a foundation which was substantially completed  
32 prior to June 1981.

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VI

That in reliance on the issuance of said building permit, Plaintiffs, about January 1981 sold said real property including the permit rights for \$125,000. That soon thereafter the Buyers rescinded said sale because of the interference and unwarranted claims of TRPA that said building permit was not valid and did not entitle the completion of a residence on the property.

VII

That subsequent to the issuance of a building permit on August 24, 1977 the Defendant TRPA by and through its directors and staff commenced a scheme of ordinances and administration to prohibit building on Plaintiffs' property and to deprive Plaintiffs of their vested property right to build.

VIII

That on or about June 25, 1981 the Defendant TRPA enacted their Ordinance 81-5 which required review and approval of building permits for residential building lots by TRPA. That one of the purposes of such ordinance and the administration thereof was to wrongfully deprive Plaintiffs and other similarly situated of the right to use and develop their property for a residence. That said ordinance is invalid and unconstitutional as applied to Plaintiffs vested right to build in each and all of the following respects, among others:

- (a) Said ordinance is not applicable to Plaintiffs prior vested right to build and the retroactive application and administration by Defendant TRPA of said ordinance is discriminatory, capricious, unreasonable and confiscatory.

////

NY OFFICE  
N. BERKSON  
12 GOLNICK  
3, 602 540  
170 COVE.  
RDA 89448  
1 588-4556

1 (b) Said administration and application of  
2 Ordinance 81-5 to Plaintiffs' property and Plaintiffs  
3 vested prior right to build prohibits and prevents any  
4 and all beneficial and reasonable uses of Plaintiffs  
5 property.

6 (c) The administration and application of  
7 Ordinance 81-5 has effectively destroyed the value  
8 of Plaintiffs' property without any corresponding  
9 benefit to public health, safety, morals, general  
10 welfare or the protection of the environment.  
11

12 (d) Said Ordinance 81-5 constitutes the  
13 confiscation and taking of Plaintiffs' property and  
14 land without payment of just or any compensation  
15 whatsoever therefor in violation of the Fifth and  
16 Fourteenth Amendments to the Constitution of the  
17 United States.

18 IX

19 The Defendant TRPA by the wrongful administration of  
20 their ordinances have prohibited and prevented Plaintiffs from  
21 developing their property even though Plaintiffs have acquired a  
22 vested right to build pursuant to the Douglas County building  
23 permit issued August 24, 1977.

24 X

25 By reason of the foregoing, Plaintiffs ever since 1977  
26 have had a vested right to construct a single family residence  
27 on their property.

28 XI

29  
30 By reason of the wrongful and unlawful conduct of  
31 Defendant TRPA Plaintiffs have been deprived of a valuable  
32 property right and their property has been inversely condemned.

1 That such conduct by Defendant TRPA is in violation of  
2 Plaintiffs rights under the Constitution of the State of  
3 Nevada and the United States Constitution.

4 XII

5 By reason of Defendant TRPA's wrongful conduct the  
6 Plaintiffs have been unlawfully deprived of their property and  
7 property rights to their damage in excess of \$10,000. That such  
8 damages include among other things legal costs and attorneys  
9 fees required to protect and preserve the rights of Plaintiffs  
10 against the wrongful, unlawful and discriminating conduct of  
11 Defendant TRPA.

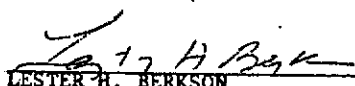
12 XIII

13 That unless Defendant TRPA is restrained from  
14 interfering with Plaintiffs vested right to construct a single  
15 family residence on their property the Plaintiffs will suffer  
16 irreparable damage.

17  
18 WHEREFORE, Plaintiffs pray judgment:

- 19  
20 1. For judgment confirming Plaintiffs' vested right  
21 to build.  
22 2. For damages for interference with Plaintiffs'  
23 vested right to build.  
24 3. In the alternative for an order declaring that  
25 Plaintiffs' property has been inversely condemned and awarding  
26 Plaintiffs' damages.  
27 4. For reasonable attorneys fees and court costs.  
28 5. For such other relief as may be just.

29 DATED this 17<sup>th</sup> day of October, 1983.

30  
31   
32 LESTER H. BERKSON



VERIFICATION

1  
2 Under penalties of perjury, the undersigned declares  
3 that they are the Plaintiffs named in the foregoing COMPLAINT  
4 FOR DECLARATORY RELIEF, INJUNCTION AND DAMAGES FOR INVERSE  
5 CONDEMNATION and knows the contents thereof; that the pleading  
6 is true of their own knowledge, except as to those matters  
7 stated on information and belief, and that as to such matters,  
8 they believe it to be true.

9  
10 October 14, 1983

Dated

*Chas. Lynn Hunton*  
\_\_\_\_\_  
CHAS HUNTON

11  
12 October 14, 1983

Dated

*Dave Anderson*  
\_\_\_\_\_  
DAVE ANDERSON

Date of Application AUG. 19, 1977  
Parcel existing on 2/10/72 Yes  No  LOT AREA: 29,272  
Location of Work LOT 263-14, PARCEL 1, XXV PORTION OF NE 1/4 OF SW 1/4 OF SEC. 23, T13N, R18E, STATELINE, DOUGLAS CO., NEVADA

Name of Applicant BOB HUNTON  
Address P.O. BOX 1462, ZEPHYR COVE, NV. 89448  
Name of Architect or Engineer CDP ASSOCIATES  
Address P.O. BOX 1462, ZEPHYR COVE, NV. 89448  
Name of Contractor N.C. WOODS #5976A  
Address P.O. BOX 1462, SOUTH LAKE TAHOE, CA.

DESCRIPTION OF WORK  
New (X) Alteration ( ) Addition ( ) Repair ( ) Moving ( )  
Planned use of building FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING  
Wall Covering \_\_\_\_\_ Roof Covering \_\_\_\_\_  
Describe briefly FOUNDATION ONLY FOR PROPOSED SINGLE FAMILY DWELLING

General Plan Designation LDR Land Capability Classification XXV CRD  
Impervious Surface Allowed: 5336 Proposed 5336 Existing 0  
Total Land Coverage 5336 Proposed Building Height: \_\_\_\_\_  
Sq. Footage \_\_\_\_\_ Valuation (including plumbing, wiring, etc.) \$3,000.00

I will save, indemnify and keep harmless The County of Douglas its officers, employees and agents, against all liabilities, judgments, costs, and expenses which may accrue against them in consequence of the granting of permit, inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

*[Signature]*  
Signature of Applicant

*7/14/78 - This permit reviewed at 1/2 fee (18.00) then  
not see receipt # 4401*  
APPLICANT DO NOT FILL OUT BLANKS BELOW

Submitted Plans (X) Plan Substitute Forms ( ) Not Required ( )  
Zone E-1 Building Department Note FOUNDATION ONLY FOR PROPOSED SFD  
Approved Building Department *[Signature]*  
Signature

Permit Fee \$24.00 Paid (X) Plan Check Fee \$12.00 Paid (X) TOTAL: \$36.00 PD CR

Requirements for moved buildings met ( ) Bond Filed \_\_\_\_\_  
Permit 01048 Issued 8/24/77 By *[Signature]*  
Number Date Signature

EX A

PERMIT MODIFICATION

DOUGLAS COUNTY  
DEPARTMENT OF BUILDING & SAFETY

1048  
SAME AS ORIGINAL

1 1 UNITS

MODIFICATION TYPE

- SUPPLEMENTAL
- AMENDMENT
- EXTENSION
- REINSTATEMENT

ORIGINAL ISSUE DATE 8/19/77

APPLICATION DATE 10/20/81

ISSUE DATE \_\_\_\_\_

DESCRIPTION SFD REINSTATEMENT

ASSESSOR'S PARCEL NO. 07-263-14

WORK LOCATION \_\_\_\_\_

Foothill Estates

NAME OF APPLICANT David Anderson/Cho Lynn Hunton

ADDRESS P. O. Box 11980, Zephyr Cove NV 89448

NAME OF ARCHITECT OR ENGINEER Hansen Engineering Ltd

ADDRESS 205 S. Minnesota Str., C.C. 89701

NAME OF CONTRACTOR to be let *nlb* LICENSE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_

DESCRIPTION OF WORK

SURFACE COVERAGE

ALLOWED \_\_\_\_\_ sq. ft.

PROPOSED \_\_\_\_\_ sq. ft.

BUILDING AREA 5258 sq. ft.

VALUATION \$ 193,387.00

SINGLE FAMILY DWELLING

MULTIPLE FAMILY DWELLING \_\_\_\_\_ UNITS

TOWNHOUSE

CONDOMINIUM

APARTMENT

ARCHITECTURAL FEATURES

WALL COVERING 5/8 siding

ROOF COVERING cedar shakes

NUMBER OF STORIES \_\_\_\_\_

BUILDING HEIGHT \_\_\_\_\_

I will save, indemnify and keep harmless the COUNTY OF DOUGLAS, its officers, employees and agents against all liabilities, judgments, costs and expenses which may accrue against them in consequence of the granting of permit, inspections, or use of any on or off-site improvements placed by virtue hereof, and will in all things strictly comply with all applicable rules, ordinances and laws.

SIGNATURE OF APPLICANT \_\_\_\_\_

RCPT. EXEMPT Permit Predates Ord.

APPROVED

PLANNING DEPT JR

DATE 12/2/82

ENGINEERING DEPT HA

DATE \_\_\_\_\_

BUILDING DEPT Dave Mc

DATE 12/2/82

TRPA \_\_\_\_\_

DATE \_\_\_\_\_

PLAN CHECK FEE 434.00

PERMIT FEES 668.00

TOTAL FEES 1102.00

LESS DEPOSIT \_\_\_\_\_ PAID

TOTAL DUE 1102.00 PAID

ISSUED BY *Richard C. Spring*

DATE 12/2/82

to be deposited in trust upon acceptance of this offer.  
deposited by Cash  Personal Check  Certified Check  Cashier's Check  Other   
deposit on account of the PURCHASE PRICE of \$ 34,675 THIRTY-FOUR THOUSAND SIX HUNDRED SEVENTY-FIVE DOLLARS  
the real property situated in the City of \_\_\_\_\_ County of DOUGLASS State of NEVADA  
described as: PARCEL # 2, LAND OF NELSON, ROGE DR.; 1672 ACRE LOT, WITH  
ALL IMPROVEMENTS THEREON. upon the following TERMS and CONDITIONS:

20,000 CASH TO SELLER INCLUDING ABOVE DEPOSIT.  
4,675 PAYABLE MONTHLY FOR TEN YEARS AT NINE PERCENT  
AT \$185.90 OR MORE TO SELLER.  
SALE CONTINGENT UPON BUYER OBTAINING BUILDING  
PERMIT FOR SINGLE FAMILY RESIDENCE NOT TO EXCEED  
3200 SQUARE FEET ON OR BEFORE AUGUST 25, 1977  
SELLER AGREES TO SUBORDINATE FOR A PERIOD OF TEN YEAR  
BUYER IS LICENSED REAL ESTATE AGENT IN STATE OF NEVADA

ADDENDUM. The following addendum of same date, signed and attached hereto is included in this agreement: Addendum No. \_\_\_\_\_, Addendum No. \_\_\_\_\_

ATTN: All improvements, fixtures, attached wall to wall carpeting, other attached floor coverings, draperies including hardware, shades, blinds, window and door  
rents, storm sash, combination doors, awnings, outdoor plants, trees and items permanently attached to the real property are included, unless specifically excluded.  
PERSONAL PROPERTY. The following personal property, on the premises when inspected by Purchaser, is included in the purchase price and shall be transferred in  
usual working order, unless otherwise stated herein, by a Warranty Bill of Sale to Purchaser at close of escrow:

ENCUMBRANCES. In addition to any encumbrances referred to above, Purchaser shall take title to the property subject to: 1) Real Estate Taxes not yet due and  
Covenants, conditions, restrictions, rights of way and easements of record, if any, which do not materially affect the value or intended use of the property.

amount of any bond or assessment which is a lien shall be  paid,  assumed by BY SELLER

EXAMINATION OF TITLE. 15 (fifteen) days from date of acceptance hereof are allowed the Purchaser to examine the title to the property and to report in  
writing any valid objections thereto. Any exceptions to the title which would be disclosed by examination of the records shall be deemed to have been accepted unless  
reported in writing within said 15 days. If Purchaser objects to any exceptions to the title, Seller shall use due diligence to remove such exceptions at his own  
expense within 60 days thereafter. But if such exceptions cannot be removed within the 60 days allowed, all rights and obligations hereunder may, at the election of  
the Purchaser, terminate and end, and the deposit shall be returned to Purchaser, unless he elects to purchase the property subject to such exceptions.

EVIDENCE OF TITLE in the form of  a policy of title insurance,  other \_\_\_\_\_ to be paid for by \_\_\_\_\_

LOSING. Within 30 days from acceptance, or upon removal of any exceptions to title by Seller, as provided above, whichever is later, both parties shall  
deposit with an authorized escrow holder, selected by undersigned Purchaser, all funds and instruments necessary to complete the sale in accordance with the terms hereof.  
hereafter, any party, including Agent, may disclose the terms of sale.

DEPOSIT INCREASE. The deposit shall be increased to \$ \_\_\_\_\_ within \_\_\_\_\_ days from acceptance, in the form of \_\_\_\_\_

OCCUPANCY. Possession shall be delivered to Purchaser:  Upon recordation of the deed.  After recordation, but not later than \_\_\_\_\_  
unless Seller has vacated the premises prior to recordation of the deed. Seller agrees to pay Purchaser \$ \_\_\_\_\_ per day from recordation to date possession  
delivered and to leave \$ \_\_\_\_\_ in escrow, to be disbursed to the persons entitled thereto on the date possession is delivered.

RISK OF LOSS. Any risk of loss to the property shall be borne by the Seller until title has been conveyed to the Purchaser.

RECORDATIONS. Rents, taxes, premiums on insurance acceptable to Purchaser, interest and other expenses of the property to be prorated as of recordation of deed.  
security deposits, advance rentals or considerations involving future lease credits shall be credited to Purchaser.

MAINTENANCE. Until possession is delivered Seller agrees to maintain heating, sewer, plumbing and electrical systems and any built-in appliances and equipment in  
normal working order, to maintain the grounds and to deliver the property with no broken window or shower glass.

NOTICES. By acceptance hereof, Seller warrants that he has no notice of violations relating to the property, from City, County or State agencies.

DEFAULT. In the event that Purchaser fails to pay the balance of the purchase price, or to complete the purchase as herein provided, Seller may, subject to any rights of  
the Agent herein, retain all amounts paid hereunder as damages for the breach of this agreement by Purchaser; provided, however, that Seller may take such action as he deems  
terms appropriate to collect such additional damages as may have been actually sustained, and that Purchaser shall have the right to take such action as he deems  
appropriate to recover such portion of the amounts paid hereunder as may be allowed by law. In the event that Purchaser shall so default, Purchaser agrees to pay to  
the brokers entitled thereto such commissions as would be payable by Seller in the absence of such default. Purchaser's obligation to said brokers shall be in addition to  
any rights which said brokers may have against Seller in the event of default. In the event legal action is instituted by any party to this agreement to enforce the terms  
of this agreement, or arising out of the execution of this agreement or the sale, the prevailing party shall be entitled to receive from the other party a reasonable attorney  
fee to be determined by the court in which such action is brought.

PROVISIONS ON THE REVERSE SIDE. The provisions printed on the reverse side hereof which are checked below are included in this agreement:

- PEST CONTROL INSPECTION PAID BY BUYER
- PEST CONTROL INSPECTION PAID BY SELLER
- WAIVER OF INSPECTION
- AS IS, BUT SUBJECT TO BUYER'S APPROVAL
- VA APPRAISED VALUE CLAUSE
- FHA APPRAISED VALUE CLAUSE

EXPIRATION. This offer shall expire unless a copy hereof with Seller's written acceptance is delivered to Purchaser or his Agent within THREE days from date  
of acceptance. Time is of the essence of this agreement.

The undersigned Purchaser hereby acknowledges receipt of a copy hereof and acknowledges further that he has not received or relied upon any  
statements or representations by the undersigned Agent, which are not herein expressed.

CRAIG LODATO Agent  
Craig Lodato Purchaser  
CRAIG LODATO Broker  
X I. C. ... Purchaser

ACCEPTANCE

The undersigned Seller accepts the foregoing offer and agrees to sell the herein described property for the price and on the terms and conditions herein specified.

COMMISSION. Seller hereby agrees to pay to \_\_\_\_\_ the Agent in this transaction,  
of the sale price for services rendered and in the event Seller and Purchaser fail to complete the sale as herein provided, the Agent shall be entitled to receive one half  
the deposit required by the within agreement, but not more than the commission earned. In the event legal action is instituted to collect this commission, or any portion  
hereof, Seller agrees to pay the Agent such additional sum as the court may adjudge reasonable for attorney fees. This agreement shall not limit the rights of Agent provided  
in any listing or other agreement which may be in effect between Seller and Agent, except that the amount of the commission shall be as specified herein.

The undersigned Seller hereby acknowledges receipt of a copy hereof. DATED \_\_\_\_\_ TIME \_\_\_\_\_

By \_\_\_\_\_ Agent  
By \_\_\_\_\_ Seller

Exhibit "C"

BUYER'S  BORROWER'S

**ESCROW INSTRUCTIONS**

Date August 29 1977

Order Number 100123

of DOUGLAS COUNTY TITLE COMPANY, INC.

We hand you herewith Funds indicated as per statement below. A Note and Deed of Trust, executed by the undersigned, in the amount of \$ 14,675.00 payable 185.90 or more per month including 9% interest per annum, all to be due and payable on or before August, 1987. Said Deed of Trust contains a Subordination Clause for the term of the Note.

which you are authorized to deliver and/or record when you have received for my account the following: A Grant Deed executed by Doug Picking and Connie Jo Picking in favor the below named Vestee

and when you can issue your standard coverage form policy of title insurance with a liability of \$ 34,675.00 on the property described as A Parcel of Land within the N/E 1/4 of the S/E 1/4 of the N/E 1/4 of Section 23 13 N, R 18 E, MDB & M. More particularly described in our Preliminary Report dated August 1, 1977 a Parcel No. 07-263-14.

showing title vested in Robert M. Hunton and Cho Lynn Hunton, husband and wife as Joint Tenants

subject to:

Printed exceptions and conditions in said policy.

ALL General and special taxes for fiscal year 1977 1978

Assessments and/or bonds not delinquent. None of Record

Exceptions numbered 3,4,5,6,7, and 8 as shown in your preliminary title report dated August 1, 1977

issued in connection with the above order number.

Deed of Trust for \$ 14,675.00 handed you herewith for recording.

Upon consummation of this escrow, you are authorized to disburse in accordance with the following statement. Prorate as of Loss of Escrow 19 on the basis of a 30 day month. Taxes based on the latest available tax figures.

	Debits		Credits	
Sales Price	34,675	00		
Paid outside of Escrow to				
Deposit by <u>Craig Indato</u>			1000	00
Encumbrance of Record				
Loan Trust Fund				
Assumption Fee				
New Loan				
Deed of Trust <input checked="" type="checkbox"/> 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd			14,675	00
Loan Charges: Loan Fee \$				
Appsl. Fee \$				
Cred. Rept. \$				
Int. Est. @ % Fr To \$				
<input type="checkbox"/> Pay Fire Ins. Prem.				
<input type="checkbox"/> Pay Tax Service				
<input type="checkbox"/> Pay Taxes				
<input type="checkbox"/> Personal Property Tax				
<input type="checkbox"/> Pay Assessments or Bonds				
<input checked="" type="checkbox"/> Prorate Taxes Fr. 7/1/77 To 9/19/77 on \$ 182.83			40	12
<input type="checkbox"/> Prorate Fire Ins. Fr. To on \$				
<input type="checkbox"/> Prorate Int. @ % Fr. To on \$				
<input type="checkbox"/> Prorate Rent Fr. To on \$				
Draw Doc. \$ Note and Deed of Trust		20	00	
Notary Fee \$				
Title Prem. Std. \$ 185.40 ALTA \$ 1 Fee		92	70	
Escrow \$ 109.80 1 Fee		54	90	
Recording \$ 8.00 Deed and Deed of Trust		8	00	
Balance Due <input checked="" type="checkbox"/> To Close <input type="checkbox"/> The Undersigned				
Totals	34,850	50	34,850	50

These instructions are effective until September 19 1977 and thereafter unless revoked by written demand and authorization satisfactory to you. Incorporated herein and made a part hereof by reference are the "General Provisions" and any additional instructions appearing on the reverse side of this page.

Received:

Douglas County Title Co., Inc.

Address

P.O. Box 1462, Zephyr Cove, NV 89448

Phone No.

by

*Robert M. Hunton* Robert M. Hunton  
*Cho Lynn Hunton* Cho Lynn Hunton

14,675.00

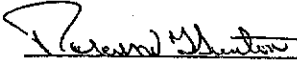
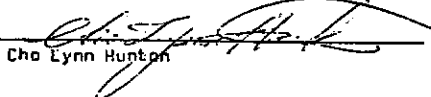
GARDNERVILLE, Nevada

AUGUST 29, 19 77

For value received, undersigned promise to pay to Dug Picking and Connie Jo Picking,  
~~husband and wife as Joint Tenants,~~  
order, at a place designated by Beneficiary,  
a sum of fourteen thousand six hundred seventy five and no/100 Dollars,  
with interest from SEPTEMBER 1977 on unpaid balance at the rate of  
NINE percent per annum; principal and interest payable in  
installments of ONE HUNDRED EIGHTY FIVE AND 90/100 Dollars, or more,  
the 15 day of each and every month beginning on the  
day of SEPTEMBER, 19 77, and continue until August 1987. Beneficiary hereby  
consents to subordinate his lien evidenced by a promissory note herein described, to a First (1st)  
Deed of Trust in favor of a recognized lending company for purposes of a construction loan  
or improvements to be erected on the herein described property.

Should interest not be so paid it shall thereafter bear like interest as the  
principal. In the event the undersigned shall make a general assignment for the benefit  
of creditors or be adjudged bankrupt, or shall be in default in payment of any install-  
ment of principal or interest or in performance of any obligation contained in the Deed  
of Trust by which this note is secured, the whole sum of principal and interest shall  
become immediately due at the option of the holder hereof. Principal and interest payable  
in lawful money of the United States. If action be instituted in any Court to enforce  
any obligation secured by such Deed of Trust, undersigned promise to pay such sum as the  
Court may fix as attorney's fees in said action.

The makers and endorsers severally waive presentment, demand, notice,  
protest and notice of protest; diligence and nonpayment of this note; and all defenses  
on the ground of any extension of time of payment that may be given by the holder or  
endorsers to them or either of them and/or any other defenses which they or either of them  
ought or could have. This note is secured by a Deed of Trust, of even date herewith,  
Douglas County Title Co., Inc., a Nevada corporation.

  
Robert M. Huntton  
  
Cho Lynn Huntton

DO NOT DESTROY THIS NOTE: When paid, this note  
with Deed of Trust securing same, must be  
surrendered to Trustee for cancellation before  
reconveyance will be made.

Erin & O'Reilly  
Attorneys at Law  
P.O. Box 606  
Gardnerville, Nevada 89701  
P.O. Box 1327  
Gardnerville, Nevada 89410

THIS DEED OF TRUST, made this 29th day of AUGUST, between ROBERT M. HUNTON AND CHO LYNN HUNTON, HUSBAND AND WIFE AS JOINT TENANTS, herein called TRUSTOR,

whose address is \_\_\_\_\_ (number and address) \_\_\_\_\_ (city) \_\_\_\_\_ (state) \_\_\_\_\_ (zip) and

DOUGLAS COUNTY TITLE CO., INC., a Nevada corporation, herein called TRUSTEE, and

DUG PICKING AND CONNIE JO PICKING, HUSBAND AND WIFE AS JOINT TENANTS, herein called BENEFICIARY,

WITNESSETH: That Trustor irrevocably grants, transfers and assigns to Trustee in trust, with power of sale, that property in DOUGLAS County, Nevada, described as:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF:

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the purpose of securing (1) payment of the sum of \$ 14,675.00 with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and all extensions or renewals thereof; and (2) the performance of each agreement of Trustor incorporated herein by reference or contained herein; (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or to his successors or assigns, when evidenced by a promissory note or notes; reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious Deed of Trust recorded in the office of each County Recorder in the State of Nevada on January 30, 1968, in the book and at the page thereof, or under the document or file number, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	DOC. NO.	COUNTY	BOOK	PAGE	DOC. NO.	
Churchill	39	Mortgages	383	Lincoln	115384		45902	
Clark	850	Off. Rec.	682747	Lyon	37	Off. Rec.	341	100841
Douglas	57	Off. Rec.	115	Mineral	11	Off. Rec.	129	89072
Elko	92	Off. Rec.	632	Nye	105	Off. Rec.	107	04823
Esmeralda	3-X	Deeds	185	Ormsby	72	Off. Rec.	537	32887
Eureka	22	Off. Rec.	138	Perkins	11	Off. Rec.	249	66107
Humboldt	28	Off. Rec.	124	Storey	"B"	Mortgages	206	31508
Lander	24	Off. Rec.	168	Washoe	300	Off. Rec.	517	107192
				White Pine	255	R.E. Records	258	

shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivision A and B, (identical in all counties, and printed on the reverse side hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed a reasonable amount. The Beneficiary or the collection agent appointed by him may charge a fee of not to exceed \$15.00 for each change in parties, or for each change in a party making or receiving a payment secured hereby.

The undersigned Trustor requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

STATE OF NEVADA }  
COUNTY OF Douglas } ss.

On Sept 1, 1977 personally appeared before me, a Notary Public,

Robert M. Hunton and

Cho Lynn Hunton

who acknowledged that they executed the above instrument.

Signature [Handwritten Signature]  
(Notary Public)

Robert M. Hunton [Handwritten Signature]  
Cho Lynn Hunton [Handwritten Signature]

MURPHY L. MURPHY  
Notary Public - State of Nevada  
Douglas County  
My commission expires Jan. 28, 1980

ORDER NO. }  
ESCROW NO. } 100123

WHEN RECORDED MAIL TO:

Dug and Connie Jo Picking

P.O. Box 1307

Indco, Nevada 89423

FOR RECORDER'S USE

IRVING A. SHEERIN  
Attorney at Law  
P. O. BOX 200  
LAS VEGAS, NV 89101  
P. O. BOX 1137  
RENO, NV 89502

LEGAL DESCRIPTION

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

A Parcel of land lying wholly within the Northeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 23, Township 13 North, Range 18 East, M.D.B.&M., Douglas County, Nevada, described as follows:

Beginning at the Northwest corner of Lot 1, Block C of that certain Map of Foothill Estates as recorded under Document No. 21268 Official Records of Douglas County, Nevada; thence North 20° 30' 00" West, 87.00 feet; thence North 30° 00' 00" East, 40.00 Feet; thence North 47° 00' 00" East, 30.00 feet to the True Point of Beginning; thence North 51° 42' 05" West, 96.45 feet; thence North 31° 12' 36" East, 79.00 feet; thence North 00° 20' 18" East, 65.85 feet (recorded as North 00° 20' 26" East, 65.85 feet) to the Southerly boundary of Summit Creek Amended Parcel Map, Official Records of Douglas County, Nevada; thence along said Southerly boundary South 89° 37' 06" East, 191.92 feet to the Easterly section line of Section 23; thence along said Section line South 00° 09' 17" East, 97.48 feet; thence South 75° 00' 00" West, 57.79 feet; thence South 59° 00' 00" West, 57.79 feet; thence South 59° 00' 00" West, 55.00 feet; thence South 47° 00' 00" West, 75.00 feet to the Point of Beginning.

Said land being shown on Parcel Map filed for record September 18, 1974, in Book 974, Page 564, Document No. 75520, Official Records of Douglas County, State of Nevada as Parcel No. 2.

Together with the following described access and utility easement; Beginning at the Northeast corner of Lot 2, Block B, of aforesaid Foothill Estates Subdivision, the True Point of Beginning; thence North 04° 02' 14" East, 85.80 feet; thence North 30° 00' 00" East, 45.70 feet; thence North 47° 00' 00" East, 29.94 feet; thence South 51° 42' 05" East, 15.17 feet; thence North 47° 00' 00" East, 75.00 feet; thence North 59° 00' 00" East, 55.00 feet; thence South 31° 00' 00" East, 15.00 feet; thence South 59° 00' 00" West, 53.41 feet; thence South 47° 00' 00" West, 101.01 feet; thence South 30° 00' 00" West, 34.55 feet; thence South 04° 02' 14" West, 76.92 feet; thence North 98° 32' 47" West, 30.06 feet to the Point of Beginning.

Assessor's Parcel No. 07-263-14

SUBORDINATION CLAUSE

Beneficiary hereby agrees to subordinate his lien, evidenced by a promissory note herein described, to a first (1st) Deed of Trust in favor of a recognized lending company for purposes of a construction loan for improvements to be erected on the herein described property.



PROPERTY SALES PRICE \$34,050.60 - inc closing costs 8/29/77

CURRENTLY OWED - \$8800.00 PAID

EXPENSES PAID BY BUYERS - IMPROVEMENTS - INVESTMENTS

- 1) \$60.00 - Duke Crockett - Preliminary House Plans - 8/19/77
- 2) \$370.00 - Guy Brown - - 9/6/77
- 3) \$36.00 - Dong Co Bldg Dept - Foundation Permit - 12/19/77
- 4) 18.00 " " " " - Reinsure Permit - 9/14/78
- 5) \$235.00 Duke Crockett - Topo Survey 8/24/78
- 6) \$63.00 " " Plans 12/6/78
- 7) \$215.00 " " Foundation Plans 10/13/78
- 8) \$850.00 Kingly Imp Dist - Sewer & Water Permit 9/14/78
- 9) \$218.54 " " " - Interceptor Fee 9/14/78
- 10) \$4914.91 ~~13442.50~~ CBH Construction - Excavation Water & Sewer Lines 10/9/78
- 11) \$18.00 Dong Co Bldg Dept - Capped Permit #1048 6/5/80
- 12) \$112.50 Martin Engineering - Consultation w/ TRSA re Coverage 5/20/81
- 13) \$256.00 " " - Survey existing foundation - 5/13/82
- 14) \$1500.00 Gary Schackenberg - Plans for house - 8/15/82
- 15) \$700.00 Stan House - Structural Plans - 8/15/82
- 16) \$100.00 Dong Co Bldg Dept - Bldg Permit Renewal 8/27/82
- 17) \$250.00 " " " " - SCS 9/3/82

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OPT: 18) \$12000.00 Existing foundation value

TAHOE REGIONAL PLANNING AGENCY  
STAFF SUMMARY

Tahoe Equestrian Center, Inc., Unauthorized Operation of Commercial Off-Road Vehicle Rental, El Dorado County, APN 33-110-03 and -04, TRPA File #82002, Continued from March 1984 Governing Board Meeting.

Continuation of Hearing: This show cause hearing was continued from the March Governing Board meeting due to the Tahoe Equestrian Center (TEC) having a hearing at the Federal Bankruptcy Court in Reno on the same day. Representatives of the creditors have filed a petition for a court appointed trustee to oversee the management of the Center. Agency legal counsel has advised that due to the bankruptcy proceedings continuing under Chapter 11, the appropriate legal action will be determined at a later date pending resolution of the bankruptcy proceeding. The staff now recommends that the Governing Board find that a violation exists and direct the Tahoe Equestrian Center to cease all off-road vehicle activities on the subject parcels.

Property Owner: Tahoe Equestrian Center, et al., Janet Moore

Violation Description: During late February and March of 1984 the Tahoe Equestrian Center (TEC) (formerly Sunset Corrals) began commercial off-road vehicle rental (ORV) operation on its property located immediately south west of the Lake Tahoe Airport. The vehicles (four wheel motorcycle-type) were operated on wet and muddy ground within identified stream environment zones and land capability district 6 lands. Significant soil and vegetation disturbance occurred as a result of the operation.

A significant amount of the disturbance occurred on an area revegetated by the previous owner by order of this Agency to settle a violation of the TRPA Grading Ordinance. Such a commercial rental operation requires an Agency permit. The Agency did not issue such a permit nor did it authorize in any way the rental operation.

The TEC was noticed by Agency letter dated March 6, 1984 (attached) that they were in violation of Agency ordinances by operating the ORV (motorcycle) rental without an Agency or El Dorado County approval. They were required at that time to cease the operation. Subsequent telephone conversations with TEC management indicated that the ORV's would be rented in defiance of the TRPA order to cease the activity. In response a letter (attached) dated March 9, 1984, was sent to the TEC further stating the Agency position regarding the ORV rental activity and again explaining the penalties outlined in the Tahoe Regional Planning Compact. Agency staff witnessed and photographed the continued ORV activity on TEC property on March 17, 1984.

The Tahoe Equestrian Center (TEC) has a permit to operate a commercial snow-mobile operation. The permit was renewed by Agency letter (attached) on January 27, 1984 with specific conditions including:

SC:bl  
4-17-84

AGENDA ITEM V A. 1.

Tahoe Equestrian Center, Inc.  
Page Two

9. "No environmental degradation due to the operation and no vegetation removal."
13. "The TRPA must be immediately informed of any modifications to the operation and any violations of the above conditions."

The TEC contends that the off road vehicle rental operation is only an extension of the snowmobile rental permit. Condition #13 clearly states that a modification requires Agency involvement. The Agency staff position is, as stated in the letters of March 6 and 9, 1984, that such an activity as ORV (motorcycle) rentals is a separate project and requires Agency review and approval. The possible and witnessed impacts of such a project would require that the project be reviewed by the Governing Board.

Violation Location: Tahoe Equestrian Center, El Dorado County, APN 33-110-03 and -04

Site Description: Stream environment zone, lodgepole pine trees, high water table, close proximity to the Upper Truckee River; land capability 6 land having a history of disturbance and subsequent revegetation.

Land Use District: Recreation

Violation Analysis: The Tahoe Equestrian Center rented off-road vehicles (motorcycles) on their property without an Agency permit. The owners were notified of the violation by letters and phone calls. They subsequently continued the activity, causing further environmental degradation in close proximity to the Upper Truckee River, a major tributary to Lake Tahoe. The initial violation consisted of significant environmental degradation which was willful. The second violation, in defiance of written Agency requirements to cease the activity was also of a willful nature.

Staff Recommendations:

1. Agency staff recommends that the Governing Board find that a violation exists and direct the Tahoe Equestrian Center to cease all off-road vehicle activities on the subject parcels and that Agency legal counsel be authorized to take appropriate legal action.

SC:bl  
4-17-84

AGENDA ITEM V A. 1.

# TAHOE REGIONAL PLANNING AGENCY

P.O. Box 8896  
South Lake Tahoe, California 95731

2155 South Avenue

(916) 541-0246

## MEMORANDUM

Date: April 13, 1984

To: Governing Body

From: Agency Staff

Subject: Barsotti, Unauthorized Land Coverage, Construction of a Deck, Lot 71,  
Elks Subdivision, Douglas County APN 05-232-32

Mr. Barsotti has requested a 30 day continuance so that he can obtain counsel to represent him in this matter. This agenda item will then be presented at the May, 1984 Governing Board meeting.

RP:bl  
4-13-84

AGENDA ITEM V. A. 2.

TAHOE REGIONAL PLANNING AGENCY

ORDINANCE NO. 84-

AN ORDINANCE RELATING TO THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; PRESCRIBING AMENDMENTS TO SAID REGIONAL PLAN, AS AMENDED TO DATE, PURSUANT TO ARTICLE V(c) OF THE TAHOE REGIONAL PLANNING COMPACT, AS AMENDED, SO THAT, AT A MINIMUM, THE PLAN AND ALL OF ITS ELEMENTS, AS IMPLEMENTED THROUGH AGENCY ORDINANCES, RULES AND REGULATIONS, ACHIEVES AND MAINTAINS THE ADOPTED ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES; MAKING FINDINGS REGARDING THE BACKGROUND FOR AND BASES OF THE AMENDMENTS TO SAID REGIONAL PLAN ADOPTED HEREBY; PRESCRIBING SPECIFIC WRITTEN FINDINGS PURSUANT TO ARTICLE V(g) OF SAID COMPACT ASSURING THAT APPROVAL OF A PROJECT WILL NOT ADVERSELY AFFECT IMPLEMENTATION OF THE REGIONAL PLAN, AS AMENDED HEREBY, AND NOT CAUSE THE ADOPTED ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES OF THE REGION TO BE EXCEEDED; PRESCRIBING PROCEDURES FOR IMPLEMENTATION; PRESCRIBING PROCEDURES FOR REVIEW OF APPLICATIONS FOR PROJECTS ON FILE PRIOR TO THE ADOPTION OF THIS ORDINANCE AND APPLICATIONS FOR OTHER SPECIFIED PROJECTS; REQUIRING PLAN ENFORCEMENT AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Body of the Tahoe Regional Planning Agency ("Agency") does ordain as follows:

Section 1.00 Findings

- 1.10 On December 19, 1980, the Tahoe Regional Planning Compact ("Compact") was amended, requiring, among other things, that the Agency adopt environmental threshold carrying capacities for the Lake Tahoe region. The Compact further provided that, within one (1) year after the adoption of the environmental threshold carrying capacities, the Agency shall amend its regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities.
- 1.11 The Compact finds, among other things, that: (a) the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region; (b) the public and private interests and investments in the region are substantial; (c) the region exhibits unique environmental and ecological values which are irreplaceable; (d) said region is experiencing problems of resource use and deficiencies of environmental control; (e) increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands; (f) maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by said region; (g) there is a public interest in protecting, preserving and enhancing such values for the residents of the region and for visitors to the

region; (h) in order to preserve the scenic beauty and outdoor recreational opportunities of said region, there is a need to insure an equilibrium between said region's natural endowment and its manmade environment; and (i) it is imperative that there be established an agency with powers, among others, to establish environmental threshold carrying capacities and adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

- 1.12 The Agency Governing Body unanimously approved Resolution No. 82-11, adopting environmental threshold carrying capacities for the Lake Tahoe region pursuant to Article V(b) of the Compact. Said carrying capacities were adopted subsequent to consideration by the Agency Governing Body of an environmental impact statement, including response to comments, thereon, a lengthy, detailed study report, and oral testimony and documentary evidence received at public hearings concerning said carrying capacities.
- 1.13 Prior to the adoption of this ordinance, the Advisory Planning Commission ("APC") of the Tahoe Regional Planning Agency conducted a duly-noticed public hearing in accordance with Article V(a) of the Compact, at which hearing considerable oral testimony and documentary evidence concerning the proposed amendments to the Agency's regional plan were received and considered by the APC. The Governing Body has received and considered the recommendations of the APC, which recommendations were formulated after said public hearing. In addition to said APC public hearing, the Governing Body, both prior and subsequent to said APC public hearing, has conducted duly-noticed public hearings in accordance with said Article V(a), at which hearings considerable oral testimony and documentary evidence were received and considered. The substance of the amendments including, but not limited to, the documents and maps adopted by this ordinance was the subject of said public hearings. In addition to said formal public hearings, the Governing Body and staff conducted numerous public meetings and forums in various locations within the States of California and Nevada, at which meetings and forums the proposed amendments were discussed.
- 1.14 The provisions of this ordinance, themselves, were also the subject of a duly-noticed public hearing before the Governing Body as required by the Agency's Rules and Regulations of Practice and Procedure.
- 1.15 As required by Article V(c) of the Compact, the amendments to the Agency's regional plan adopted by this ordinance, including all the elements thereof, as implemented by this ordinance and as to be implemented through other agency ordinances, rules and regulations, at a minimum will achieve and maintain the adopted environmental threshold carrying capacities, while providing opportunities for orderly growth and development consistent with such capacities. Each element of the regional plan, as amended hereby, contains implementation provisions and time schedules for such implementation by ordinance in compliance with said Article V(c).

- 1.16 As further required by said Article V(c), the regional plan, as amended by this ordinance, consists of a single, enforceable plan and includes correlated elements consisting of a land use plan, a transportation plan, a conservation plan, a recreation plan, a public services and facilities plan, and an implementation element, each of which plans sets forth the material required by, and otherwise complies with, said Article V(c) of the Compact.
- 1.17 As required by Article V(d) of the Compact, the regional plan, as amended by this ordinance, provides for the attaining and maintaining of federal, state or local air and water quality standards, whichever are strictest, in the respective portions of the Lake Tahoe region for which such standards are applicable. To the extent said plan, as amended, imposes air or water quality standards or control measures more stringent than the applicable state implementation plan or applicable federal, state or local standards for the Lake Tahoe region, the Governing Body finds that such additional standards or control measures are necessary to achieve the purposes of the Compact. Each element of said regional plan, as amended hereby, where applicable, identifies the means and time schedule by which air and water quality standards will be attained in compliance with said Article V(d).
- 1.18 The provisions of this ordinance prescribing specific written findings pursuant to Article V(g) of the Compact relate to environmental protection and insure that the project under review will not adversely affect implementation of the Agency's regional plan, as amended hereby, and will not cause the environmental threshold carrying capacities of the Lake Tahoe region to be exceeded.
- 1.19 This ordinance is necessary and desirable to promote, and is reasonably related to, a legitimate governmental interest, consisting of the public health, safety, general welfare, and environment of the Lake Tahoe region. In addition to the specific findings of compliance set forth hereinabove, this ordinance otherwise complies in all respects, procedural and substantive, with the Compact and is necessary to effectuate and implement the same.
- 1.20 The amendments to the Agency's regional plan, adopted by this ordinance, were the subject of an environmental impact statement ("EIS"), which was processed, reviewed and approved by the Agency in accordance with the substantive and procedural provisions of Article VII of the Compact and the applicable provisions of the Agency's Rules and Regulations of Practice and Procedure. Without limiting the generality of the foregoing, the Governing Body further finds that said EIS contained the following information required by Article VII(a)(2) of the Compact: (a) the significant environmental impacts of the proposed amendments to said plan; (b) any significant adverse environmental effects, which cannot be avoided should said amendments be implemented; (c) alternatives to the proposed plan amendments, the number, description and types of which are hereby found to be appropriate and adequate for purposes of said Article VII of the Compact; (d) mitigation measures which must be implemented to assure

meeting the standards of the Lake Tahoe region; (e) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; (f) any significant irreversible and irretrievable commitments of resources which would be involved in the proposed amendments, should they be implemented; and (g) the growth-inducing impact of the proposed amendments. The Governing Body further finds that said EIS adequately addressed the amendments to the regional plan, adopted by this ordinance, and provided the Governing Body substantial, detailed information and a proper disclosure, upon which it has based a reasoned, sufficient and deliberate review and evaluation of the environmental impacts and commitments of said plan amendments adopted hereby, as well as those of various alternatives thereto set forth in said EIS. The Governing Body further finds that, prior to adopting this ordinance, the Governing Body complied with the findings requirements of Article VII(d) of the Compact, a separate written finding having been made for each significant effect identified in said EIS as resulting from the amendments to the regional plan adopted hereby. The Governing Body further finds that said written findings pursuant to Article VII(d) are supported by substantial evidence in the record.

- 1.21 The administrative record for purposes of consideration and adoption of this ordinance is hereby declared to include, but not be limited to: all documents adopted hereby as comprising the amendments to the Agency's regional plan; the environmental impact statement, including response to comments, and documents incorporated therein, prepared with respect to said amendments; all reports or studies received, prepared or authorized by the Agency with respect to said amendments, including, but not limited to, the report of the Urban Land Institute; Resolution No. 82-11, adopting environmental threshold carrying capacities; the environmental impact statement and documents incorporated therein, prepared with respect to said environmental threshold carrying capacities; the Study Report prepared with respect to said environmental threshold carrying capacities; the Agency's Lake Tahoe Region Water Quality Management Plan, including all documents incorporated therein and supplemental thereto; the environmental impact statement and documents incorporated therein and supplemental thereto, prepared with respect to said water quality management plan; the Findings and Declarations contained in Article I of the Compact; all oral testimony and documentary evidence received or noticed by the Governing Body or APC relating to all of the foregoing; and the minutes and transcripts of the Governing Body and APC relating or referring to preparation, consideration, or adoption of the amendments to the Agency's regional plan and the environmental threshold carrying capacities upon which such amendments are based.
- 1.22 The Governing Body incorporates herein, as though fully set forth, the findings and provisions of Resolution No. 82-11, adopting environmental threshold carrying capacities for the Lake Tahoe region.
- 1.23 The Governing Body acknowledges the existence of the Santini-Burton Act (P.L. 96-586, 94 Stat. 3381) and the Lake Tahoe Acquisition Bond Act (California Government Code, Section 66950 et seq.). The Agency recognizes said federal and state programs as separate and



distinct from the Agency, an entity having no power of eminent domain, vested exclusively with authority to regionally plan and zone for the use of property pursuant to the police power. While the Agency, including its regional plan and ordinances, and said land acquisition programs are legally and operationally separate and distinct, the Agency recognizes that substantial acquisition of land through said independent programs may affect the environment of the Lake Tahoe region to some degree. As required by Article V(c) of the Compact, it is the present intent of the Governing Body to reexamine the provisions of the amendments to the regional plan, adopted by this ordinance. As part of said review, the effect, if any, upon said region resulting from said acquisition programs shall be noted. Said intent to reexamine the provisions of said amendments is not to be construed as a suggestion or advocacy by the Agency that the governmental entities administering said programs, or any other governmental entity, purchase or otherwise acquire any real property situated within the Lake Tahoe region. The regional plan, as amended hereby, is not conditioned in any respect on an acquisition program, nor is it intended to designate any lands to be acquired, or to assist in such acquisition.

- 1.24 The land use regulatory provisions of the amendments to the regional plan, adopted by this ordinance, turn upon the provision of a reasonable, beneficial use of land under all the circumstances within the Lake Tahoe region, including, but not limited to, the circumstances identified in Article I of the Compact. The goals of such regulatory provisions comply with the intent and purpose of the Compact, including, but not limited to, the protection of the quality of the water of Lake Tahoe. It is not the intent of the amendments to the regional plan adopted hereby to reduce or otherwise affect the value of real property in the Lake Tahoe region, the desire being that the value thereof remain as that of property subject to a reasonable, beneficial use pursuant to the regulations set forth in said amendments. The portions of the amendments adopted hereby concerning stream environment zones recognize the necessity of said wetlands for protection and maintenance of the quality of water in Lake Tahoe, as documented in the Agency's Water Quality Management Plan and Environmental Threshold Carrying Capacities, including the environmental impact statements prepared for same, and that development of said wetlands has an immediate, adverse impact upon the quality of said water. The portions of the amendments adopted hereby concerning land classified within Land Capability Districts 1 through 3 recognize that development of said fragile lands has an adverse impact upon the quality of water within Lake Tahoe, as documented in said water quality management plan and environmental thresholds, including said environmental impact statements, and that the Agency has no environmentally documentable or supportable development screening system to adequately review and control development upon said fragile lands without harming the quality of said water. There is thus a necessity to temporarily prohibit development upon said lands in the manner set forth in the amendments adopted hereby subject to the preparation of said development screening system.

- 1.25 Although the framers of the Compact were aware of the difficulty of the mandate set forth in Article V, the process of amending the regional plan has been even more arduous than anticipated due to the exceedingly complex nature of the task. The Governing Body has deliberated for many months with due diligence and made many difficult decisions, which decisions have resulted in the amendments to the regional plan adopted hereby.
- 1.26 The Governing Body, by the adoption of this ordinance, does not intend, and the amendments to the regional plan adopted hereby shall not be construed as authorizing the Agency, to exercise its regulatory power to grant or deny a permit in a manner which shall take or damage private property for public use without payment of just compensation or due process of law. Nothing in said amendments is intended to increase or decrease the rights of any property owner under the Constitutions of the United States, the State of California, or the State of Nevada.
- 1.27 It is the intent of the Governing Body, by the adoption of this ordinance, to amend the regional plan heretofore in effect, including, but not limited to, the regional plan of the California Tahoe Regional Planning Agency otherwise applicable to the portion of the Lake Tahoe Region located in the State of California pursuant to Article V(e) of the Compact. It is also the intent of the Governing Body, by adoption of this ordinance, to amend the Agency's "Lake Tahoe Basin Water Quality Management Plan, January, 1978". The amendments to said water quality management plan are set forth in the Regional Plan for the Lake Tahoe Basin, Part I, Goals and Policies, referred to in subsection 2.11(1). The amendments to said water quality management plan shall take effect upon certification by the States of California and Nevada and approval by the U.S. Environmental Protection Agency pursuant to Section 208 of P.L. 92-500.
- 1.28 The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to pending projects reviewed under the provisions of Agency Ordinance No. 79-10, as amended:
- (1) Said provisions of Section 4.00 are limited to a finite number of projects, which number is 87.
  - (2) Review of said pending projects is limited to a specific period of time, expiring December 31, 1984.
  - (3) The amendments to the Water Quality Management Plan and the provisions of Agency Ordinance 79-10 for review and approval of applications for construction of single family residences upon high erosion and high runoff hazard lands, including the environmental impacts resulting therefrom, were the subject of an environmental impact statement prepared, circulated, certified and otherwise processed, reviewed and approved by the Tahoe Regional Planning Agency in accordance with the substantive and procedural provisions of Article VII of the Tahoe Regional Planning Compact. Said environmental impact statement adequately addressed the effects of construction upon Land Capability

Districts 1 through 3 as proposed by the pending projects under Agency Ordinance No. 79-10, as amended, and thus provided the Governing Body a proper disclosure upon which it has based a reasoned, sufficient and deliberate review and evaluation of the environmental impacts and commitments of said projects.

- (4) The review procedure for said pending projects adopted by this ordinance is necessary to allow them to be processed, to the greatest extent possible, under the standards and regulations in effect at the time said applications were accepted by the Agency. The provisions of this finding are not to be construed as granting said applications the status of a common law vested right.
- (5) It is necessary and desirable to set December 31, 1984 as the deadline for the Agency to take final action on such pending projects.
- (6) The Addendum to the Environmental Impact Statement for the Agency's 208 Water Quality Management Plan (revision date May 28, 1981) assesses the adverse impacts on soils, water quality, vegetation and wildlife resulting from the construction of a typical single family residence on land classified as Land Capability Districts 1 through 3, and generally concludes that a significant adverse impact on water quality will result from such construction, due primarily to sediment loading amounting to approximately .44 metric tons per year for each such residence.
- (7) The Environmental Impact Statement for Adoption of a Regional Plan for the Lake Tahoe Basin (TRPA, February, 1983) assesses the adverse impacts resulting from the existing land uses in the region and concludes that such uses result in significant adverse impacts on water quality due to, but not limited to, sediment loading amounting to 42,000 metric tons per year from "controllable erosion".
- (8) Under a worst case scenario of all pending projects reviewed under the provisions of Agency Ordinance No. 79-10, as amended, being approved pursuant to Section 4.00 of this ordinance, the resulting significant adverse impacts on water quality due to sediment loading will amount to a .09% increase over that amount presently resulting from existing land uses.

1.29 The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to pending projects other than those referred to in subsection 1.28:

- (1) Said provisions of Section 4.00 are limited to a finite number of projects, which number is 56.
- (2) Review of said pending projects is limited to a specific period of time, expiring December 31, 1984.

- (3) In view of said limitations, the provisions of Agency Ordinance No. 81-1, and the assessment and conclusions contained in the EIS for Adoption of a Regional Plan for the Lake Tahoe Basin (TRPA, February, 1983), the approval of said pending projects will not cause the adopted environmental threshold carrying capacities of the region to be exceeded and will not adversely affect implementation of the regional plan.

1.30

The following findings are made with respect to the provisions of Section 4.00 of this ordinance relating to 1983 building allocations issued in El Dorado and Placer Counties:

- (1) Said provisions of Section 4.00 are limited to a finite number of projects, which projects will consist exclusively of single family houses located on land classified as Land Capability Districts 4-7 and in compliance with the land coverage limitations of said districts.
- (2) The number of 1983 building allocations issued in Placer County of 278 is consistent with the allocation limitations set forth in the Compact for Placer County for previous years, using said limitations as a guideline for the entirety for 1983.
- (3) One-hundred and five of the recipients of the 278 allocations in Placer County have received notice from the California Tahoe Regional Planning Agency (CTRPA) that their lots are buildable and that they should proceed with the permit process, including development of plans.
- (4) Said 105 of the recipients, in the absence of Agency Resolution No. 83-21, may have proceeded with the permit process subject to all applicable CTRPA and Agency plans, ordinances, rules, regulations and policies in effect at that time.
- (5) The number of 1983 building allocations issued in El Dorado County of 374 exceeds by 122 the allocation limitations set forth in the Compact for El Dorado County for previous years, using said limitations as a guideline for the entirety for 1983. To be consistent with the intent of the Compact, said excess number shall be counted against El Dorado County's share of the allocation limitations set forth in the amended regional plan.
- (6) None of the 299 recipients of the 1983 allocations issued by El Dorado County on September 8, 1983 has received notice from the CTRPA that their lots are buildable or that they should proceed with the permit process.
- (7) Placer County issued all 278 allocations in 1983 prior to the effective date of Agency Resolution No. 83-21 (August 26, 1983), and El Dorado County did not issue 299 of the 374 allocations in 1983 until September 8, 1983.

- (8) Based on the foregoing findings, said provisions of Section 4.00 with respect to 1983 building allocations issued by El Dorado and Placer Counties are equitable and consistent with the intent of the Compact and the Agency's amended regional plan, adopted hereby, and therefore will not adversely affect compliance with the mandate to adopt an amended regional plan that will achieve and maintain the adopted environmental threshold carrying capacities.

- 1.31 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Adoption of Amendments to the Regional Plan

- 2.10 The regional plan of the Agency, as amended to date, is hereby further amended to include the following documents, each of which is incorporated herein by this reference as though fully set forth:

2.11 Plan Documents

- (1) Tahoe Regional Planning Agency, Regional Plan for the Lake Tahoe Basin, Part I, Goals and Policies, Amended Final Draft, February 1984.
- (2) Tahoe Regional Planning Agency, 1983, Environmental Impact Statement for the Adoption of a Regional Plan for the Lake Tahoe Basin.
- (3) Tahoe Regional Planning Agency, February 1983, Environmental Impact Statement for Adoption of a Regional Plan for the Lake Tahoe Basin: Response to Comments.
- (4) Peat, Marwick, Mitchell & Co., September 1983, Financing Techniques Matrix.
- (5) Peat, Marwick, Mitchell & Co., and A.G. Becker Paribas, Inc., September 1983, Preliminary Findings and Recommendation: Financial Planning and Fiscal Impact Analysis in Support of Regional Plan.
- (6) Peat, Marwick, Mitchell & Co., October 1983, Alternative Financing Methods & Impacts: TRPA Water Quality Program.
- (7) Peat, Marwick, Mitchell & Co., August 1983, Socio-economic Impact Monitoring Program.
- (8) Peat, Marwick, Mitchell & Co., October 1983, TRPA Capital Improvement Plan Financing Strategy.
- (9) Tahoe Regional Planning Agency, 1982, Study Report for the Establishment of Environmental Threshold Carrying Capacities.

- (10) Tahoe Regional Planning Agency, 1982, Environmental Impact Statement for the Establishment of Environmental Threshold Carrying Capacities.
- (11) Tahoe Regional Planning Agency, 1982, Air Quality Plan for the Lake Tahoe Basin.
- (12) The Lake Tahoe Basin Water Quality Management Plan, January 1978, consisting of the elements set forth in Section 2.00 A.6. of Agency Ordinance No. 81-4, as amended by this ordinance.

2.12 Plan Area Statements

The document entitled Draft, Regional Plan for the Lake Tahoe Basin, Part I: Plan Area Statements, Tahoe Regional Planning Agency, is adopted as an interim policy guideline, effective until July 1, 1984, unless otherwise provided by amendment to this ordinance. The Governing Body shall amend said document and the Plan Area Overlay Maps referred to in subsection 2.13(1), pursuant to at least one duly-noticed public hearing, the subject of which hearing shall be the adoption of said document and said maps, as they may be amended, as final land use regulations.

2.13 Regional Plan Maps

- (1) Plan Area Overlays for base maps at scales of 1"=400' and 1"=2000' (July 1983), which maps shall be subject to the public hearing referred to in subsection 2.12 and as they may be amended pursuant thereto.
- (2) Land Capability Overlays for base maps at scales of 1"=400' and 1"=2000' (July 1983).
- (3) Shorezone Tolerance/Pierhead Line Maps (Photographs) at an approximate scale of 1"=400' (July 1976).
- (4) Special Interest Species and Sensitive/Uncommon Plant Maps at the scale of 1"=2000' (August 1982).
- (5) Prime Fish Habitat Map at the scale of 2"=1 mile (August 1981).
- (6) Stream Habitat Quality Maps at the scale of 1"=2000' (August 1982).
- (7) Historical Sites Map at the scale of 2"=1 mile (July 1983).

2.14

Said maps are subject to variation in a particular case upon a demonstration that the land in question, based upon a detailed site investigation, is not accurately classified, delineated or depicted.

2.20 Plan Reference Documents

The following documents represent reference documents for the regional plan. Said documents are to be used when necessary for interpretation of the regional plan. In the event of an inconsistency or conflict between any said document and the regional plan, said plan, to the extent of said inconsistency or conflict, prevails.

- (1) Tahoe Regional Planning Agency, 1981, Lake Tahoe Basin Water Quality Management Plan -- Draft Environmental Impact Statement.
- (2) Tahoe Regional Planning Agency, 1981, Addendum to Draft Environmental Impact Statement, Lake Tahoe Basin Water Quality Management Plan, Revised May 28, 1981.
- (3) Tahoe Regional Planning Agency, 1978, Natural Hazards of the Lake Tahoe Basin, California-Nevada.
- (4) Tahoe Regional Planning Agency, 1973, Shorezone Plan for Lake Tahoe.
- (5) Bailey, R.G. 1974, Land Capability Classification of the Lake Tahoe Basin.

Section 3.00 Article V(g) Findings for Project Review  
Pending Adoption of Agency Regulatory Code

3.10 Pursuant to Article V(g) of the Compact, the Agency shall make the following specific, written findings prior to approving any project in the region, except those pending projects referred to in subsections 4.20(1) and (2).

- (1) The project is consistent and complies with the CTRPA and Agency ordinances, maps, rules, regulations and policies in effect on August 25, 1983 where said ordinances, maps, rules, regulations and policies are not inconsistent or in conflict with the amendments to the regional plan adopted by this ordinance. In the event said ordinances, maps, rules, regulations or policies are inconsistent or in conflict with said amendments to the regional plan, the Agency shall find that the project is consistent and complies with said amendments to the regional plan.
- (2) The project has been processed in accordance with the Agency's Rules and Regulations of Practice and Procedure.
- (3) With respect to projects for which an environmental impact statement has been prepared, 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; or specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project; and that a separate written

finding has been made for each significant effect identified in the environmental impact statement on the project, which said findings are supported by substantial evidence in the record.

- (4) With respect to projects for which an environmental impact statement has not been prepared, the project, including compliance with the conditions of approval, will not have an adverse significant, individual or cumulative impact on the environment.
- (5) The establishment, maintenance and operation of the project will not be detrimental to the health, safety, peace, comfort or general welfare of the Lake Tahoe Region.
- (6) The project, including compliance with the conditions of approval, is consistent with, and thus will not adversely affect implementation of the regional plan, as amended hereby, including but not limited to the Land Use, Transportation, Conservation, Recreation, Public Services and Facilities and Implementation Elements of said plan.
- (7) The project is consistent with the goals and policies of the Water Quality Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for water quality to be exceeded.
- (8) The project is consistent with the goals and policies of the Transportation and Air Quality Elements of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for air quality to be exceeded.
- (9) The project is consistent with the goals and policies of the Conservation Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for vegetation, wildlife, fisheries, soils and scenic quality to be exceeded.
- (10) The project is consistent with the goals and policies of the Recreation Element of the regional plan, as amended hereby, and therefore will not cause the adopted environmental threshold carrying capacities for recreation development to be exceeded.
- (11) The project is consistent with the goals and policies of the Public Services and Facilities Element of the regional plan, as amended hereby.
- (12) The project is consistent with the goals and policies of the Implementation Element of the regional plan, as amended hereby.
- (13) It has been demonstrated that the suppliers of water, sewage treatment, fire protection, educational services, police protection and other appropriate utilities have or will have the physical and legal capacity to supply said services to the project.



(14) As an alternative to the specific findings listed in subsection 3.10(7) through (13), inclusive, the Agency may find that:

- (a) The project presents a situation or circumstance demanding immediate action to preserve the public peace, health, safety or general welfare, or to protect and enhance the environment of the Lake Tahoe Region;
- (b) The project will not individually cause the adopted thresholds to be exceeded;
- (c) A mitigation program is required as a condition of project approval which will ensure that the impacts of the project will be mitigated to the greatest extent possible; and
- (d) Conditions of approval have been placed on the project to insure that as soon as possible after such situation or circumstance ceases to exist, a complete application for said project, including the appropriate environmental document, shall be submitted to the Agency, at which time approval of said project shall be subject to the findings required under Section 3.00, other than those in subsection 3.10(14).

(15) There is substantial evidence in the record supporting the foregoing findings.

3.20 Section 3.00 expires upon adoption by the Agency Governing Body of the Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, which code or other compilation shall include the findings required by Article V(g) of the Compact.

#### Section 4.00 Interim Project Review

Pending adoption of the Agency's Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and pending adoption of Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12 of this ordinance, the Agency shall accept, review and approve applications for projects only in accordance with Section 4.00.

#### 4.10 Definitions

- (1) "Single-family house" as used in Section 4.00 means "single-family house" as defined by Section 3.00 of the Agency's Land Use Ordinance (No. 4), as amended.
- (2) "Emergency" refers exclusively to a project presenting a situation or circumstance demanding immediate action to preserve the public peace, health, safety or general welfare, or to protect and enhance the environment of the Lake Tahoe Region.

4.20 Review of Certain Pending Applications

Applications for the following classes of projects shall be accepted, where applicable, reviewed and may be approved pursuant to the Agency plan, ordinances, rules, regulations and policies in effect on August 25, 1983, and for activities in California, pursuant to the CTRPA plan, ordinances, rules, regulations and policies in effect on May 1, 1983:

- (1) Complete applications for single family houses or additions thereto received by the Agency on or before 5:00 p.m. August 26, 1983. For purposes of reviewing and approving any of said applications that are pursuant to Agency Ordinance No. 79-10, as amended, the provisions of said ordinance, as amended, including but not limited to those that may have otherwise expired, shall be in effect.
- (2) Complete applications for single family houses on lots having valid 1983 Placer County development allocations and for which letters have been issued by the CTRPA establishing that said lots are buildable. For purposes of reviewing and approving any of said applications, or, where applicable, applications referred to in subsection 4.20(1), the provisions of CTRPA Urgency Ordinances entitled "Development Permit Allocation for Placer County" (adopted on July 30, 1982 and extended on December 3, 1982) and "Development Permit Allocation for El Dorado County" (adopted on May 6, 1983), notwithstanding the expiration of said ordinances, shall be the standards for review and approval of said applications pursuant to this ordinance.

4.21 Required Findings

Prior to approving any of the projects identified in subsection 4.20, the Agency shall make the following findings:

- (1) The findings set forth in Agency Ordinance No. 79-10, as amended, if applicable to the application.
- (2) The findings set forth in the CTRPA Urgency Ordinances, if applicable to the application.
- (3) The project is consistent with the Agency's regional plan in effect on August 25, 1983, and the applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the Lake Tahoe region.
- (4) The establishment, maintenance or operation of the project will not be detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood of the project.

- (5) The project will not be detrimental or injurious to the environment or general welfare of the Lake Tahoe region.
- (6) There is substantial evidence in the record supporting the foregoing findings.

4.30 Review of Other Pending and New Projects

Applications for the following classes of projects shall be accepted, where applicable, reviewed and may be approved pursuant to Section 5.00, and prior to approving such projects, the Agency shall make the findings set forth under Section 3.00:

- (1) Complete applications received by the Agency on or before 5:00 p.m. August 26, 1983, other than those identified under subsection 4.20(1), pursuant to the requirements of Section 4.60, where applicable.
- (2) Complete applications for projects received after the effective date of this ordinance, other than those identified under subsection 4.20(2), pursuant to the requirements of Section 4.60, where applicable, and other than those identified as being prohibited in the document entitled "Project Review Under Adopting Ordinance", dated March 28, 1984, which document is incorporated herein by this reference as the same may be amended from time to time by resolution of the Governing Body.

4.31 Review Criteria

Prior to approving any of the projects referred to in subsection 4.30, the Agency shall find that:

- (1) The project is consistent with the Phase I Priorities set forth in the Implementation Element of the Regional Plan for the Lake Tahoe Basin, Part I, Goals and Policies, February 1984.
- (2) Pending adoption of the Plan Area Statements and Plan Area Overlay Maps as final land use regulations, pursuant to subsection 2.12, the project does not propose density in excess of one (1) single family house per lot or parcel of record prior to the effective date of this ordinance and the use is not inconsistent with the applicable Plan Area Statement and Plan Area Overlay Map.
- (3) With respect to applications for single family houses, or additions thereto, the project complies with the following development criteria:
  - (a) Under the limitations of the land capability system, a lot or parcel shall contain sufficient high capability (Class 4-7) land so that at least 1,200 square feet of impervious surface area can be created on the lot or parcel. The limitations imposed by the land capability system

specify what percentage of a lot or parcel may be covered by impervious surface area. For high capability lands, these limits range from 20 to 30 percent, depending upon the land classification.

(b) The lot or parcel shall be located in a Development Priority Area. A lot or parcel is within a Development Priority Area if it is serviced by at least three of the following:

- i. Paved road.
- ii. Water service.
- iii. Sewer service.
- iv. Electric utility.

(c) If a lot or parcel does not have sufficient high capability land and thus cannot create 1,200 square feet of impervious surface area, or is not in a Development Priority Area, the owner shall do one of the following:

- i. Relinquish any development allocation issued pursuant to the regional plan, as amended hereby.
- ii. Transfer said allocation to a high capability lot or parcel which does meet the criteria referred to in subsection 4.31(3).
- iii. Combine one or more adjacent lots or parcels with the lot or parcel that received the said allocation in order to meet said criteria.
- iv. Appeal to the TRPA Governing Board and explain why or how the lot or parcel that received said allocation meets said criteria.

#### 4.40 Deadline for Processing Certain Applications

The Agency on or before December 31, 1984 shall take final action on all projects referred to in subsection 4.20. The applicable provisions of Section 4.00 shall remain in effect for this purpose until all such applications have received final action by the Agency or December 31, 1984, whichever occurs first.

#### 4.50 Expiration

Except as otherwise provided by subsection 4.40, Section 4.00 expires upon adoption by the Agency Governing Body of the Regulatory Code or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12.

4.60 Development Permit Allocations

Applications for projects identified under subsection 4.30 shall not be accepted, reviewed or approved by the Agency unless the applicant has received either of the following:

- (1) A 1983 Placer or El Dorado County development allocation and, with respect to El Dorado County, an allocation having been determined by El Dorado County to be one of the 177 allocations issued in 1983; or
- (2) A development allocation from the appropriate government entity pursuant to Goal #2, Policies 2, 3, 4 and 5 of the Development and Implementation Priorities subelement of the Regional Plan for the Lake Tahoe Basin, Part I, Goals and Policies, Amended Final Draft, February 1984.

Section 5.00 Implementation of Regional Plan

5.10 Except as otherwise provided by this section, all Agency ordinances, maps, rules, regulations and policies in effect on August 25, 1983, including, but not limited to, those otherwise expiring upon the adoption of the amendments to the regional plan pursuant to this ordinance, shall remain in effect until otherwise amended or repealed. Pending adoption of the Agency's Regulatory Code, or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12, said existing Agency ordinances, maps, rules, regulations and policies shall be utilized by the Agency to implement the regional plan, as amended hereby, to the extent that they are consistent with said regional plan, as amended hereby, and the environmental threshold carrying capacities. In the event said ordinances, maps, rules, regulations or policies are inconsistent or in conflict with said regional plan, as amended hereby, or with said carrying capacities, said amended regional plan and carrying capacities, to the extent of said inconsistency or conflict, prevail.

5.20 This section expires upon adoption by the Governing Body of the Regulatory Code, or other appropriate compilation of regulatory ordinances further implementing the amendments to the regional plan adopted by this ordinance, and the Plan Area Statements and Plan Area Overlay Maps as final land use regulations pursuant to subsection 2.12.

Section 6.00 Compliance With Agency's 208 Water Quality Management Plan

Notwithstanding Section 5.00, all projects referred to in subsection 4.30 shall comply, at a minimum, with the ordinances implementing the Agency's 208 Water Quality Management Plan, January 1978, unless and until said ordinances and 208 Plan are amended and said amendments are certified by the States of California and Nevada and approved by the U.S. Environmental Protection Agency pursuant to Section 208 of P.L. 92-500.

Section 7.00    Enforcement

The provisions of this ordinance and the amendments to the Agency's regional plan adopted by this ordinance shall be enforced by the Agency, the States of California and Nevada, the City of South Lake Tahoe, and the Counties of El Dorado, Placer, Washoe, Carson City and Douglas.

Section 8.00    Interpretation and Severability

The provisions of this ordinance and the amendments to the regional plan adopted by this ordinance shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance or said amendments is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance or said amendments, as the case may be, shall not be affected thereby. For this purpose, the provisions of this ordinance and said amendments are hereby declared respectively severable.

Section 9.00    Effective Date

This ordinance shall be effective immediately upon adoption hereof.

FIRST READING:            March 28, 1984

SECOND READING:

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held \_\_\_\_\_, 1984, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

\_\_\_\_\_  
Norman C. Woods, Chairman  
Tahoe Regional Planning Agency

March 28, 1984

PROJECT REVIEW UNDER ADOPTING ORDINANCE

- I. Project Review Pursuant to Previous Plan and Ordinances: All those projects accepted and reviewed pursuant to Section 4.20 of the adopting ordinance may be approved if determined to comply with the plan, ordinances, rules, regulations and policies in effect on August 25, 1983. This class of projects includes 87 pending single family case-by-case applications, 56 other pending applications for single family residences or additions thereto, and 105 Placer County 1983 allocations for single family residences that received "buildable" letters from CTRPA.
  
- II. Project Review Pursuant to Amended Plan: (This information is in summary form in the table in Appendix B)
  - A. Pending distribution by TBAG of the allocation limitations set forth in the Regional Plan for the Lake Tahoe Basin, Part 1: Goals and Policies, February 1984:
    1. No projects proposing a new single family dwelling or new commercial floor area.
  
  - B. Pending Establishment of Water and Air Quality Mitigation Fee Schedules:
    1. No projects that create new land coverage or generate new vehicle trips or miles travelled in the Basin. Projects proposing to replace existing conforming or nonconforming land coverage could be accepted and processed, provided no new vehicle trips or miles travelled are generated. Projects that are otherwise exempt from these mitigation fees could be accepted and processed.
  
  - C. Pending Final Adoption of Plan Area Statements:
    1. No new multiple density residential or tourist accommodations since the plan area statements will identify in which plan areas these uses are allowed, special or prohibited uses and establish maximum densities.
    2. No new commercial floor area since the plan area statements will identify where new commercial floor area is an allowed, special or prohibited use and will establish maximum limits for new commercial floor area within each plan area.
    3. No uses that are identified as a special use in a plan area since the findings required for a special use to become an allowed use will not be established until adoption of the TRPA Code of Ordinances.
    4. No uses that are identified as a prohibited use in a plan area.

5. Applications for uses that are identified as an allowed use in a plan area, other than those set forth in 1 and 2 above, could be accepted and processed, provided the actions identified under A. and B. above have been taken by the Governing Board.

D. Pending Approval by Both States and EPA of the Amendments to the Agency's Water Quality Management Plan:

1. No projects proposing land coverage in land capability districts 1, 2, or 3 or in excess of the limits set forth in land capability districts 4, 5, 6, and 7, except for regional public facilities, public outdoor recreation facilities and public works projects provided the required findings are made as set forth in the Regional Plan for the Lake Tahoe Basin, Part 1: Goals and Policies, February 1984.

E. Pending Adoption of TRPA Code of Ordinances: Appendix A lists projects and activities that can not be processed by the Agency until adoption of the TRPA Code of Ordinances. These projects and activities can not be processed because the Code, as currently drafted, establishes specific standards and regulations relative to these projects and activities that are not included in current Agency ordinances or addressed in adequate detail in the Goals and Policies Plan.