

**TRPA
GOVERNING BOARD
PACKETS**

**FEBRUARY
1992**

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on February 26 and 27, 1992, commencing at 9:30 a.m. on both days, the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting at the TRPA office, 195 U.S. Highway 50, Zephyr Cove, Nevada. The official agenda is attached hereto and made a part of this notice.

NOTICE IS FURTHER GIVEN that on February 26, 1992, at 8:30 a.m., in the same location, the Finance Committee will discuss: 1) receipt of the January financial statement/check register; 2) receipt of FY 90-91 audit report; 3) TRPA office lease; 4) interest rate on TRPA cash security deposits; and 5) release of water quality mitigation funds to South Lake Tahoe for West Sierra Tract erosion control project (\$60,000) and for El Dorado Campground drainage improvements (\$21,946).

NOTICE IS FURTHER GIVEN that on February 26, 1992, during the lunch recess, the Rules Committee will meet to discuss procedures for treatment of incomplete applications.

NOTICE IS FURTHER GIVEN that on February 27, 1992, at 8:00 a.m., at the same location, the Capital Financing Committee will meet to discuss: 1) proposed legislative approach for discussion with Nevada oversight committee; 2) work program; 3) grants and legislation status report; and 4) CIP/SEZ restoration staffing.

Date: February 18, 1992



David S. Ziegler
Executive Director

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 BOARD

TRPA Office, 195 U.S. Highway 50
Zephyr Cove, Round Hill, Nevada

February 26, 1992 9:30 a.m.
February 27, 1992 9:30 a.m.

All items are action items unless otherwise noted.

OFFICIAL AGENDA

- I PLEDGE OF ALLEGIANCE
- II ROLL CALL AND DETERMINATION OF QUORUM
- III APPROVAL OF MINUTES
- IV APPROVAL OF AGENDA
- V CONSENT CALENDAR (see page 3)
- VI PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS
- A. 1991 Evaluation Report, Appendix A (Compliance Measures List and Related Information and Analysis Prepared Pursuant to Chapter 32) and Appendix B (Schedule of Implementation), and the followed related Regional Plan Amendments:
1. Amendment of Chapter 33 (Allocation of Development) and Related Amendments to the Development and Implementation Priorities Subelement of the Goals and Policies **35-43**
 2. Amendment of Chapter 25 (Best Management Practice Requirements) Goals and Policies, and 208 Plan Relative to BMP Compliance Program **35-43**
 3. Amendment of Chapter 82, Goals and Policies and 208 Plan Relative to Update of Water Quality Mitigation Fee **44-64**
 4. Amendment of Chapter 91 (Air Quality Control) Relative to Requirements for Wood Heaters **35-43**
 5. Amendment of Chapter 93 (Traffic and Air Quality Mitigation Program) Relative to Impact Fee Schedule **35-43**
- B. Amendment of Chapter 33 (Allocation of Development) Relative to Allocation Distribution and Administration **65-71**
- C. Draft Regional Transportation Plan/Air Quality Plan and EIR/EIS **72-73**
- D. Amendment of Chapter 4 (Project Review and Exempt Activities) to Adopt MOU Between TCI Cablevision and TRPA **74-83**

Page #

E. Amendment of Chapter 26 (Signs), Chapter 4 (Project Review and Exempt Activities), and Plan Area Statements 028 (Kings Beach Residential) and 093 (Bijou) to Make Technical Corrections and to Clarify Existing Provisions (This item will be acted on prior to action on consent calendar item 5.)

84-95

F. Elkpoint Community Beach Master Plan and Environmental Assessment (to be continued to the March meeting)

VII APPEAL

A. Embassy Suites, Appeal of Staff Determination Relative to Lighting, Douglas County APN 800-100-89/1

96-99

B. Nev-Pines Subdivision, Appeal of Executive Director Determination Regarding Guest Houses and Residential Allocations, Douglas County APNs 41-010-12, -13, -14, -15, and -17

100-174

VIII PLANNING MATTER

Reprogramming of Commercial Sewer Allocation to Residential Use and Release of 1992 Residential Allocations in South Tahoe Public Utility District Service Area

175-211

IX COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

- 1. Receipt of the January Financial Statement and Check Register
- 2. Receipt of FY 90-91 Audit
- 3. TRPA Office Lease
- 4. Interest Rate on TRPA Cash Security Deposits

212

B. Rules Committee

Amendment of Rules of Procedure Relative to Treatment of Incomplete Applications

C. Capital Financing Committee

X REPORTS

A. Executive Director

- 1. Status Report on Processed Projects
- 2. Status Report on IPES (Individual Parcel Evaluation System)

213

214

- 3. Status Report on Residential MOU With the City of South Lake Tahoe
- 4. Other

- B. Agency Counsel
- C. Governing Board Members (No Action)

XI RESOLUTION

Commending the Incline Village General Improvement District for Timber Harvesting Operation

217

XII PUBLIC INTEREST COMMENTS (No Action)

XIII ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. Entner, Settlement of Enforcement Action, Single Family Dwelling Addition, Special Use Determination, Potential Avalanche Hazard Area, 250 Tuscarora, Washoe County APN 123-163-07	Approval With Findings	1-10
2. Lopez, Settlement of Enforcement Action, 1947 Marconi, El Dorado County APN 22-241-26	Approval	11
3. Wilson, Settlement of Enforcement Action, Placer County APN 93-370-02	Approval	12-13
4. Caltrans, Shoreline Protection, State Route 89, Post Mi. 3.1 to 3.4, Placer County	Approval With Findings And Conditions	14-16
5. Bijou Congregation of Jehovah's Witness Church, Change in Operation/Special Use Determination, El Dorado County APN 27-204-07 (This item will be acted on after action on agenda item VI E.)	Approval With Findings	17-22
6. Release of Water Quality Mitigation Funds (\$60,000) to the City of South Lake Tahoe for West Sierra Tract Erosion Control Project	Approval	23
7. Release of Water Quality Mitigation Funds (\$21,946) to the City of South Lake Tahoe for El Dorado Campground Drainage Improvements	Approval	24-28

(Consent Calendar - continued)

- 8. Eggenberger, New Single Family Dwelling,
Special Use Determination, Potential Avalanche
Hazard Area, 480 Wassou Road, Washoe County
APN 123-137-02

Approval With Findings

29.34

These consent calendar items are expected to be routine and noncontroversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that any item be removed from the calendar, it will be taken up separately under the appropriate agenda category.

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 procedure 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.

- Article III(g) Public Law 96-551

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley, Al Tahoe, and Tahoe City, California.

TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Entner, Settlement of Enforcement Action, Single Family Dwelling
Addition, Potential Avalanche Hazard Zone

Application Type: Residential, Special Use Determination

Applicant: John Entner

Agency Planner: Douglas F. Smith, Associate Environmental Specialist

Location: 250 Tuscarora, Crystal Bay, Nevada

Assessor's Parcel Number: 123-163-07, Washoe County

Staff Recommendation: Agency staff recommends that the Governing Board approve the project including the assessment of a \$2,500 penalty for construction without prior approval.

Project Description: The applicant proposes to construct a detached garage over an existing foundation. The foundation has been in place since October 13, 1970, as verified from aerial photographs.

This project is being reviewed by the Environmental Compliance Division since the garage was constructed without prior approvals. As a means of resolving this matter and in accordance with the attached "Guide For Fines" (Exhibit A), Mr. Entner has agreed to pay TRPA a penalty in the sum of \$2,500, in lieu of civil litigation. The penalty calculation was based upon the nature of the violation to be willful negligence for a major permissible activity. TRPA staff believes the settlement is appropriate to the violation and is consistent with past settlements. The TRPA Governing Board approved a \$2,500 settlement on July 24, 1991 for a similar incident in which a property owner built a permissible, attached garage over an existing parking deck without a TRPA permit. Mr. Entner paid a double filing fee of \$600, which is consistent with the TRPA Filing Fee Schedule for projects involving a violation.

The construction of the garage did not involve excavation, creation of new land coverage or other site disturbance. Rather, Mr. Entner constructed walls and a roof on a legally existing foundation (Exhibit B).

Site Description: The mountainside parcel has an average slope of 45 percent. The parcel is well vegetated, although BMPs will be required in certain areas. The property contains one single family dwelling at the highest end of the lot with a long walkway down the hill to the proposed garage on the pre-existing foundation.

2/13/92
DFS:jsd

CONSENT CALENDAR ITEM 1.

Issue: The project involves an addition to a single family dwelling in a TRPA Plan Area that has been identified as having potential avalanche danger. The proposed use is a special use because of the avalanche potential. The applicant submitted an avalanche assessment, prepared by a qualified avalanche expert, to TRPA. The assessment concluded that the subject parcel is located outside of the avalanche influence zone. Please see Exhibit C.

Staff Analysis:

- A. Environmental Documentation: TRPA staff completed an Initial Environmental Checklist (IEC) to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the TRPA Governing Board hearing and at TRPA.
- B. Plan Area Statement: The project is located within Plan Area 034, Crystal Bay. The Land Use Classification is residential and the Management Strategy is Mitigation. Agency staff reviewed the subject Plan Area and determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity is listed as a special use.
- C. Required Findings: The following is a list of the required special use findings as set forth in Chapter 18 of the TRPA Code of Ordinances. Following each finding, Agency staff briefly summarized the evidence on which the finding can be made.
 1. The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be appropriate use for the parcel on which, and surrounding area in which, it will be located.

The construction of a detached garage over an existing foundation is appropriate for the residential neighborhood in which it is located.
 2. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.

There is no evidence the garage addition will be injurious or disturbing to the health, safety, enjoyment of property or the general welfare of persons or property in the neighborhood or region. The applicant submitted an avalanche assessment (prepared by a qualified avalanche expert) to address avalanche safety concerns in the applicable Plan Area. The assessment concludes that the property is not located within the avalanche influence zone.

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

The project does not change the existing residential character of the neighborhood. The project is not within an adopted community, specific or master plan area.

- D. Required Actions and Findings: Agency staff recommends the Governing Board make the following motions based on this staff summary and the evidence contained in the record.

- I. A motion based on this staff summary, for the findings contained in Section C above, and a finding of no significant environmental effect.
- II. A motion based on this staff summary, to approve assessment of a \$2,500 penalty to be paid by Mr. Entner within thirty (30) days from the date of project approval.
- III. A motion to direct staff to complete review of the project and, if appropriate, approve the project with conditions of approval.

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

(702) 588-4547
Fax (702) 588-4527

GUIDE FOR FINES

<u>Degree of Violation</u>	<u>Nature of Violation</u>			
		Inadvertent	Simple Negligence	Willful/Gross Negligence
	*			
	*			
	*			
Permissible Activity	Minor *	31.25	62.50	125.00
	Major *	312.50	625.00	2,500.00
	*			
	*			
Permissible Activity But Not In Compliance	Minor *	62.50	125.00	250.00
	Major *	625.00	1,250.00	5,000.00
	*			
Prohibited Activity	Minor *	125.00	250.00	500.00
	Major *	1,250.00	2,500.00	10,000.00

Definitions

a "Permissible Activity" is one which the TRPA can approve. "Permissible Activity", "But Not In Compliance" is an activity which was not in compliance with conditions of approval or which could have been approved, but where the activity is not in compliance with conditions that normally would have been imposed. A "Prohibited Activity" is one which cannot be approved by the Agency.

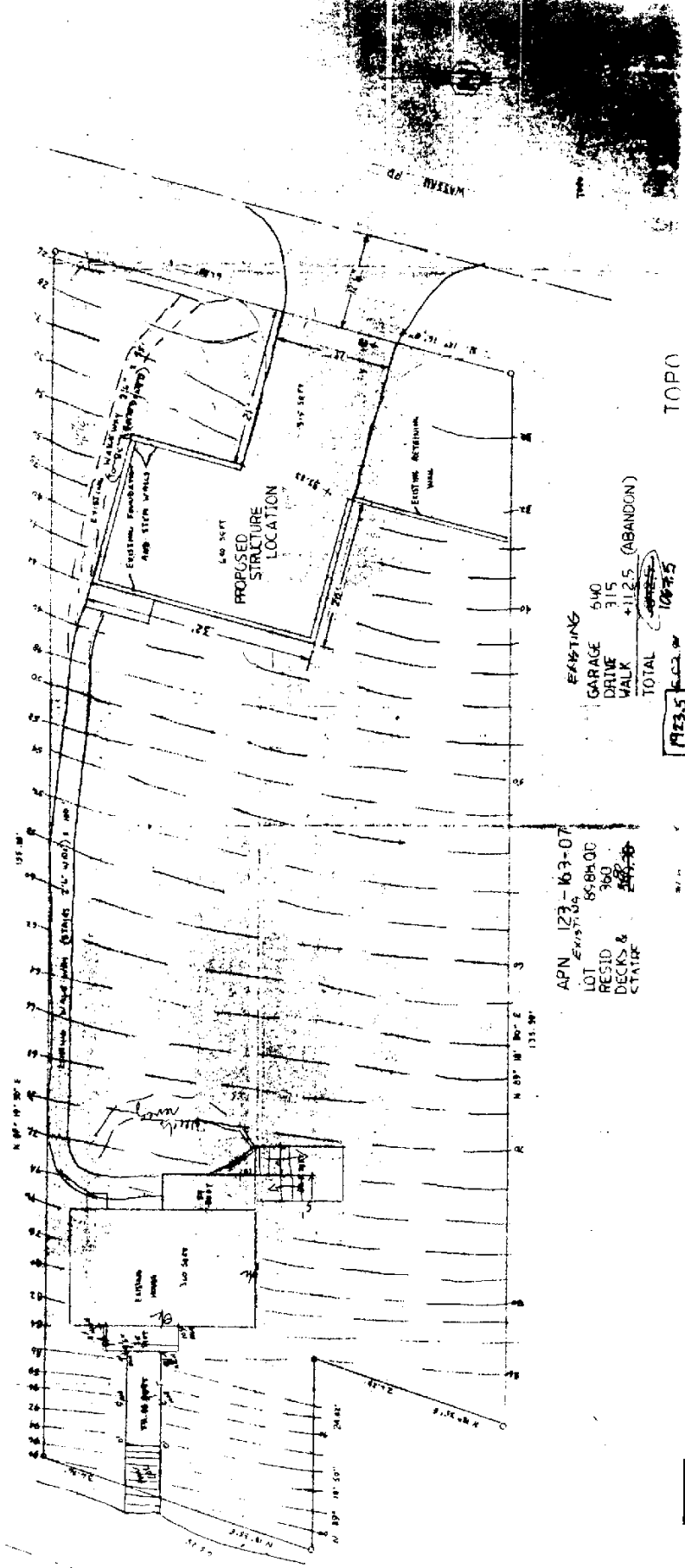
Blacks Law Dictionary defines the following terms:

Inadvertent of Slight Negligence. A slight want of ordinary care."

Simple or Ordinary Negligence. "The omission of that care which a man of common prudence usually takes of his own concerns. A want of that care and prudence that the great majority of mankind exercise under the same or similar circumstances."

Willful or Gross Negligence. "The intentional failure to perform a manifest duty in reckless disregard of the consequences. It means a willful determination not to perform a known duty, or a reckless disregard of the safety or the rights of others, as manifested by the conscious and intentional omission of the care proper under the circumstances."

EXHIBIT A



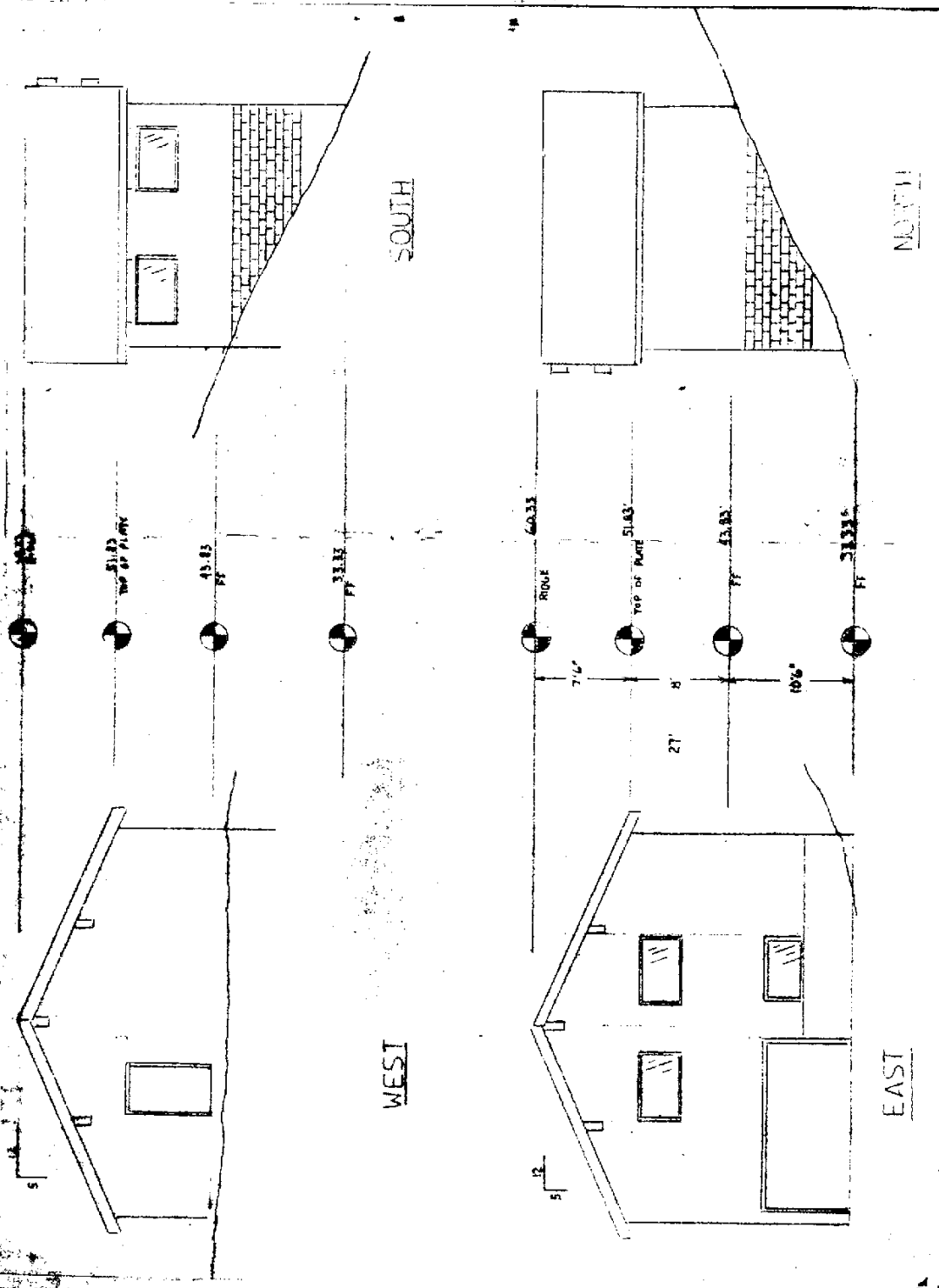
TOPO

EXISTING	
GARAGE	540
DRIVE	315
WALK	+112.5 (ABANDON)
TOTAL	967.5
	1087.5
	1923.5

APN 123-163-07
 LOT EXISTING 85,840.00
 RESID 300
 DECKS & STAIRS 262.50

EXHIBIT B

3/16" = 1'

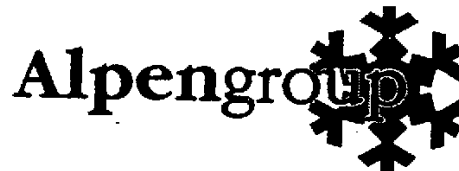


ELEVATIONS

AVALANCHE ASSESSMENT
FOR
APN# 123-163-07
CRYSTAL BAY, NEVADA

Prepared for
Mr. John Entner
Crystal Bay, Nevada

by



DESIGN & PLANNING RELATED DISCIPLINES
FOR ALPINE ENVIRONMENTS

P.O. BOX 3538
LAKE TAHOE, NEVADA
89449
702-588-6952

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EXHIBIT C

AVALANCHE ASSESSMENT
FOR
APN# 123-163-07
CRYSTAL BAY, NEVADA

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RECEIVED

FEB 6 1992

TAHOE REGIONAL
PLANNING AGENCY

III. CONCLUSIONS

The '86 avalanche cycle demonstrated the potential for major avalanching in throughout the Sierra. In this area the Third Creek slide path is potentially the most dangerous. The upper portions of this avalanche zone can be expected to yield avalanches that fall with regularity to the upper confluence of the Third Creek drainages that lie beneath Rose Knob Peak. The February '86 avalanche has now removed timber from the lower elevations of Third Creek which had provided some degree of inhibition for avalanche movement before this event.

The scenario of the February 86' avalanche cycle could occur again A "normal" Sierra snowpack existed, generally strong, but with the usual number of weaknesses, both near the surface and deep in the pack. Moderate to heavy snowfall had been occurring at the starting zone levels for some six days prior to the events. Winds were from the normal west to southwest direction during the storm and were frequently strong. Temperatures were fluctuating, alternating periods of rain and snow were observed below 2400m (7300 ft.), with one brief period of rain reported as high as 2700m (8300 ft.). With the exception noted, precipitation was almost exclusively in the form of snow above approximately 2500m (7500 ft.); but the snow at the higher elevation was periodically very warm and moist and of very high density (water content of 20% and greater, 60% was common). The storm period yielded substantial, but not record, new snow amounts at observation sites; but much of the snow was of very high density. It seems reasonable to assume there was a correlation between the warm snow/cold now periods at higher elevations with the rain/snow periods at the lower levels. A significant amount of destruction occurred during this period at least two high elevation ski lift sites and at some of the relatively few populated sites at those elevations. At lower elevations, where the majority of subdivided and more heavily populated areas are, numerous destructive avalanches did occur; but these were generally confined to well-recognized slidepaths and none of those observed ran to an unusually low alpha angle.

This suggests that the particular combinations of wind, temperature fluctuations, snow densities, and perhaps snow crystal types that occurred at the higher elevations all combined to impart strength to the new snow sufficient to allow it to remain in place in the starting zones until massive amounts accumulated followed by widespread, massive releases, many of which were observed on February 18th. These great masses of snow-in-motion probably encountered and entrained layers of very wet snow in their lower tracks and runout zones. This combination had apparently not been achieved for many years prior to these events.

If the wind-temperature-snow regime that dominated at the higher elevations during this period had extended itself downward some 200m (600 ft.) or 300m (900 ft.), to the levels of the lower starting zones, the cycle of unusual events could well have extended into the more heavily populated zones. In this

instance, areas such as the Lake Tahoe Basin, Alpine Meadows, and Squaw Valley, plus many other populated areas in the Sierra Nevada, could have been affected.

The proposed project is not within the current Avalanche Influence Zone (AIZ) of the Crystal Bay Slide Path. The project area is to the west of those lots that are considered candidates for evacuation during avalanche activity, although many dwellings in this area may be evacuated under the avalanche cycles that were mentioned above.

IV. RECOMMENDATIONS

The results of the field investigation has led to the conclusion that Mr. Entner's proposed project is not within the current Avalanche Influence Zone of the Crystal Bay Avalanche Path. There are no engineering mitigation recommendations that would be appropriate for this project. One must, however, realize that in the mountain environment of this project area, it is impossible to predict all of the natural hazards that may present themselves. It is not in the scope of this assessment to identify or map all natural hazards in this Plan Area Statement.

The entire AIZ of the Crystal Bay Avalanche Path should be addressed at some time in the future by the Tahoe Regional Planning Agency's Chapter 28, Natural Hazard Standards Ordinance, so that the burden of responding to Planning Area Statement #034, will not fall upon the individual property owner ⁴.

FOOTNOTES

- (1) *Avalanche Hazard Report*: Penniman, Dick; Snowbridge Associates, Truckee, California, February 1986.
- (2) *Avalanche Hazard Study*: Wilson, Norman; Truckee, California, June 1986.
- (3) *Avalanche Hazard Map*: Frutiger, Hans; Galena Basin, Washoe County, Nevada; November 1983.
- (4) *Personal Communication*, Lev, Peter; Little Cottonwood Canyon, Utah; January 1988.
- (5) *Field Investigation*, von Allmen, Beat; Alpentechn, Salt Lake City, Utah; July 1990.
- (6) *Personal Communication*, Washoe County Sheriff's Office; Incline Village, Nevada, August 1989

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
MEMORANDUM

(702) 588-4547
Fax (702) 588-4527

February 19, 1992

To: TRPA Governing Board

From: TRPA Staff

Subject: Lopez, Resolution of Enforcement Action, SFD Overheight Violation,
1947 Marconi, Tahoe Keys, El Dorado County APN 22-241-26

Based upon this staff summary, TRPA staff recommends the Governing Board accept a negotiated settlement between Connie and Robert Lopez (hereinafter Lopez) and the Tahoe Regional Planning Agency (hereinafter TRPA).

The proposed settlement represents full and complete settlement of the violations alleged by TRPA as described below.

Construction of an approved single family dwelling at 1947 Marconi in the Tahoe Keys of South Lake Tahoe two feet, two inches taller than the approved maximum height of twenty-five feet.

A show cause hearing on this matter was continued from the October, 1991 Governing Board meeting to allow Lopez and TRPA staff to explore settlement possibilities. A summary, including the Notice of Violation, staff analysis, and details of continuing settlement efforts was included in the January, 1992 Governing Board Packet. Lopez and TRPA staff, after considerable effort have agreed upon a settlement to this matter, contingent upon Governing Board approval. The proposed settlement is comprised of these elements:

Lopez shall modify the structure to conform with TRPA Code of Ordinances. The modification shall be the construction of a mansard roof on and attached to the structure.

Lopez shall not cause the garage and workshop area of the structure to be converted to living space and shall execute and cause to be recorded a covenant running with the land expressing that limitation.

Lopez shall pay to TRPA a sum of ten thousand dollars.

TRPA shall release Lopez from any and all claims which it may have as a result of the alleged violations.

Staff believes the proposed settlement is appropriate and consistent with past settlements. The structure will be modified, the large first floor area will be deed restricted to eliminate a gain from the increased height, and a substantial penalty will be paid.

If you have any questions in regard to this agenda item, please contact Steve Chilton at (702) 588-4547.

2/19/92
SWC:jsd

CONSENT CALENDAR ITEM 2

11

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

(702) 588-4547
Fax (702) 588-4527

MEMORANDUM

February 11, 1992

To: TRPA Governing Board

From: TRPA Staff

Subject: Wilson, Resolution of Enforcement Action, 225 Observation Court
Placer County, APN 93-370-02

Based upon this staff summary, TRPA staff recommends the Governing Board approve a negotiated settlement between Thomas Wilson (hereinafter Wilson) and the Tahoe Regional Planning Agency (hereinafter TRPA).

The proposed settlement represents full and complete settlement of the violations alleged by TRPA as described below.

Grading past the October 15 deadline, during inclement weather, and tracking soil offsite at 225 Observation Court, in the Dollar Point area of Placer County, Assessor's Parcel Number 93-370-02. This activity violated the grading provisions of the permit conditions of approval.

A Single Family Dwelling Addition Permit on the above parcel was approved on September 16, 1991 and construction of the project began October 3, 1991. On October 29, 1991 during a storm event, a backhoe was placing native, and road base fill within retaining walls for the purpose of elevating natural grade to street level for construction of the approved driveway. TRPA staff directed the backhoe operator to cease the activity and to clean up the site. A Correction Notice was sent to the property owners, Scott and Barbara Bird, on December 16, 1991 and TRPA received a response on January 13, 1992. A staff response and proposed settlement was sent to the Bird's contractor and representative, Wilson on January 16, 1992. During a subsequent meeting between Wilson and TRPA staff, Wilson agreed to pay to TRPA a penalty of \$2,000.00 on or before April 27, 1992 as a resolution to this matter.

Agency staff believes the proposed settlement of a \$2,000 penalty is appropriate to this violation and consistent with past settlements. In accordance with the Guide For Fines (Exhibit A), the degree of violation is a minor, prohibited activity and the nature of the violation is willful or gross negligence.

If you have any questions in regard to this agenda item, please contact Steve Chilton at (702) 588-4547.

2/11/92
BRJ:jsd

CONSENT CALENDAR ITEM 3