

**TRPA
APC
PACKETS**

**APRIL
1994**

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION
NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on Wednesday, April 13, 1994, at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. The agenda for said meeting is attached hereto and made a part of this notice.

April 4, 1994

By: 

R. J. Nicelle
Agency Counsel

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Tahoe Valley and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office, and the North Lake Tahoe Chamber of Commerce.

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

North Tahoe Conference Center
8318 North Lake Boulevard, Kings Beach, California

April 13, 1994
9:30 a.m.

All items on this agenda are action items unless otherwise noted.

AGENDA

- I. CALL TO ORDER AND DETERMINATION OF QUORUM
- II. APPROVAL OF AGENDA
- III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Advisory Planning Commission on an agenda item not listed as a Public Hearing or a Planning Matter item, or on any other issue, may do so at this time. However, public comment on Public Hearing items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. DISPOSITION OF MINUTES

V. PUBLIC HEARING AND RECOMMENDATIONS

- A. Amendment of Chapter 64, Grading Standards, Relating to Limitations on Depth of Excavation and Other Minor Amendments 1-8
- B. Amendment of Plan Area Statement 111, Tahoe Island, Special Area #2, to Allow as a Special Use Nursery, General Merchandise Stores, and Outdoor Retail Sales 9-21
- C. Amendment of Map Showing Need for Water Quality Improvements Pursuant to Requirements of Chapter 37, Individual Parcel Evaluation System, Section 37.10.A., Installation of Water Quality Improvement in Vicinity of Parcel 22-38

VI. PLANNING MATTERS

- A. Status Report on Washoe County Regional Open Space Plan

VII. ADMINISTRATIVE MATTERS

- A. Conflict of Interest and Disclosure Rules
- B. Quorum and Vote-Required Rule

39-42

VIII. REPORTS

- A. Executive Director
- B. Legal Counsel
- C. APC Members

IX. ADJOURNMENT

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Senior Planner Andrew Strain presented the staff summary in which the City of South Lake Tahoe Redevelopment Agency proposes to amend TRPA Code of Ordinances Chapter 22, Height Standards, to allow additional building height for buildings within the City's Redevelopment Plan. Related amendments are proposed to the City's adopted Redevelopment Demonstration Plan for consistency purposes (noticed for Governing Board action).

(Mr. Hansen abstained from participating in this item because his employer, Heavenly, was involved with the Park Avenue Project.)

Ms. Beronio asked for clarification on several of the height standard definitions, and Mr. Strain explained them in detail.

Ms. Woodbeck expressed her concern that the Code amendment was intended for special height districts general for the Basin, yet the numbers required to make the findings for these districts were derived from a specific location, i.e., the South Shore, as opposed to a general numerical finding.

Mr. Combs questioned whether the environmental analysis that had been done for this amendment essentially took the place of an environmental review for subsequent projects that were presented. Mr. Strain replied no; that further environmental review would be required. Additionally, the project would not necessarily be guaranteed the heights presented in the amendment.

Ms. Mary Gilanfarr, Executive Director of the Tahoe Sierra Preservation Council and speaking as a member of the Tahoe-Truckee Regional Economic Coalition Infrastructure Task Force, commended the TRPA staff for taking on the difficult task of amending the Height Standards Code of Ordinance. Ms. Gilanfarr remarked that she wanted to remind the staff that height ordinance applied to both residential, small business uses, as well as major redevelopment and major capital investments in the Basin.

Mr. Richard Shaw, a participant in the preparation of the environmental document, as well as the organization and the amendments of the Code, expressed his opinion on the proposed amendment and thanked the TRPA staff for their involvement, energy and input in the meetings they participated in.

Ms. Judith Van Klug, Redevelopment Manager for the South Tahoe Redevelopment Agency, expressed her regrets that Mr. Kerry Miller wasn't able to attend the meeting and was pleased with a unified proposal that both the Redevelopment Agency and the TRPA staff could support. Ms. Van Klug also thanked the TRPA staff for all their hard work and effort in reaching a conclusion that would facilitate redevelopment in the area, while protecting the scenic resources.

Since no one else wished to comment on this issue, Mr. Thompson closed the public hearing.

MOTION by Mr. Jepsen to recommend approval of the amendment of Chapter 22, Height Standards and amendments. Seconded by Ms. Beronio. The motion carried with Mr. McDowell opposed and Mr. Hansen abstaining.

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G. Amendment of Chapter 11, Foundations, Relating to Commercial Foundations

Special Projects Attorney Susan Scholley presented the staff summary amending Chapter 11 to extend the deadline for transferring banked commercial floor area from qualifying commercial foundations from July 27, 1994 to July 27, 1996.

(Mr. Hansen returned to the meeting at 10:40 a.m.)

Ms. Jamin asked for clarification on the rationale behind the requirement that an EIS be certified in order for an application to be complete since in most cases, the certification occurred in conjunction with the project approval. Ms. Scholley replied that the Compact required the Agency to take action within 180 days after an application had been completed.

Mr. Combs questioned if a transfer of the commercial floor space would be the only way in which the proposed project could be exercised; another words, a building could not be constructed on the foundation. Ms. Scholley replied that the foundation had been removed, it was a low capability site and had been restored, and consequently the property was restricted from further development.

(Mr. Hansen abstained from participating in this item because his employer, Heavenly, was involved with the Park Avenue Project.)

Mr. Gary Midkiff, representing the applicant, explained in detail the proposal on behalf of the applicant.

Mr. Lew Feldman, representing the Park Avenue proponents, commented that the four other project proponents making up the Park Avenue project anticipated the utilization of the floor area as part of the project. Mr. Feldman was of the opinion that a two-year extension should be granted because it fulfilled the planning objectives that TRPA was attempting to accomplish and would be in the best interests of all the parties involved.

Since no one else wished to comment on this item, Mr. Thompson closed the public hearing.

Mr. Midkiff explained that with regards to mitigation fees, the site had been completely restored, the foundation removed, and the site had been revegetated for over three years so consequently there had been substantial mitigation of the original construction-related impacts. The Park Avenue redevelopment project would, in fact, in and of itself, be assigned as a result of the environmental document and various mitigation requirements. Mr. Midkiff continued that at that time, the overall project would require some mitigation measures. In terms of this particular floor area, his client wasn't prepared to willingly accept a condition that would subject them to additional mitigation fees.

Ms. Beronio commented that the parcel had already been restored, a lot of money had been invested into the project, and consequently supported extending

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the deadline to allow the Park Avenue project to continue.

Mr. Jepsen questioned if a one-year extension would allow the Park Avenue project to go forward, and Ms. Scholley believed that a one-year extension would be adequate to allow the EIS to be completed.

Ms. Jamin was of the opinion that due to the requirement that the EIR/EIS be certified, the two-year request for an extension would be more reasonable.

Ms. Woodbeck questioned whether it would be possible to tie the certification of the EIS to the Park Avenue project as a Code Amendment for commercial foundations and Ms. Scholley replied that would not be her first choice.

MOTION by Ms. Beronio to approve an extension of time for use of the commercial floor area beyond July of 1994 so long as the property was committed to being used in the Park Avenue Redevelopment Project. The extension would be for one-year or certification of the EIS, whichever was later. If the EIS was not certified, the project proponent would have six-months in order to dispose of the property elsewhere. Seconded by Ms. Jamin.

Mr. Thompson commented that he did not agree with the allowance for the continuation for disposal of the property elsewhere; he was of the opinion that the receiving area should be within a community plan area. He believed that tying the project to the certification of the EIS/EIR meant that at some point the Park Avenue project would go forward.

Agency Counsel Rachelle Nicolle was concerned with the statement "if the EIS is not certified within a six-month period, allows them to dispose of the property", because it presumes that there would be a public hearing within a fixed period of time, and then someone would make a decision to accept or reject certification of the EIS. She commented that the possibility exists that no one would come forward with an EIS and the question is raised as to when the six-month period started and ended.

Ms. Beronio amended her motion by proposing that after the July 27, 1994, deadline, the applicant would have either two years upon certification of the EIS for the project or upon transfer of the commercial floor area to the Park Avenue project, whichever occurred first. If the project was not certified, then the applicant would have six-months after whichever of the above two events occurred first to complete a transfer application to an area within a community plan.

Ms. Woodbeck questioned whether it would be better to leave the deadline at two years instead of with the contingency of two years or certification of an EIS or earlier

Ms. Beronio agreed to the modification of her motion.

Ms. Beronio withdrew her motion and the subsequent modifications, along with Ms. Jamin withdrawing her second motion.

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MOTION by Ms. Woodbeck to amend Chapter 11 to extend the deadline for transferring banked commercial floor area from qualifying commercial foundations from July 27, 1994 to July 27, 1996, along with the restriction. Second by Mr. Haen.

The motion carried on the following votes:

Ayes: Mr. Jepsen, Mr. Ruben, Ms. Baldrice, Mr. Barham,
Mr. McDowell, Ms. Beronio, Mr. Lawrence, Mr. Haen,
Ms. Woodbeck, Mr. Combs, Mr. Thompson, Ms. Jamin
Nays: None
Abstain: Mr. Hansen
Absent: Mr. Hust, Mr. Dodds, Mr. McCurry, Mr. Poppoff,
Mr. Joiner, Mr. Brooks

(Mr. Hansen returned to the Commission)

B. Amendment of Chapter 91, Regarding Oxy-Fuels

Assistant Transportation Planner Bridget Mahern presented the staff summary recommending approval of an amendment to Chapter 91 of the Code of Ordinances, relating to the use of oxygenated fuels in the Region. The amendment will be implementing an element of the 1992 Regional Transportation Plan - Air Quality Plan (TRP-AQP), and a requirement of the 1991 TRPA Threshold Evaluation.

Since no one wished to comment on this item, Mr. Thompson closed the public hearing.

MOTION by Ms. Baldrice recommending that the Governing Board adopt an amendment to Chapter 91 of the Code of Ordinances, relating to the use of oxygenated fuels in the Region. Seconded by Mr. Barham. The motion carried unanimously.

C. Amendment of Chapter 4, Project Review and Exempt Activities to Adopt MOU Between TRPA and the Kingsbury General Improvement District to Exempt Certain Activities from TRPA Review

Deputy Director Jerry Wells presented the staff summary proposing an amendment to Chapter 4 of the Code of Ordinances to exempt certain activities of the Kingsbury General Improvement District (KGID) from TRPA review.

Ms. Baldrice commented that since the TRPA Historic Resource Map was not modified very often, the danger exists of demolishing historic structures as part of this process because of the lack of means to identify them before the exempt activity took place. She suggested that for this, future and amended MOUs, language be added stating "demolition of structures under 45-years in age be exempt".

Mr. Wells replied that the Code exempts the demolition of structures under 50 years of age.

Since no one wished to comment on this item, Mr. Thompson closed the public

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hearing.

MOTION by Mr. Ruben to approve staff's proposal to amend Chapter 4 of the Code of Ordinances to exempt certain activities of the Kingsbury Grade Improvement District (KGID) from TRPA review. Seconded by Ms. Beronio with the amendment that staff revisit the issue regarding the demolition of structures for future and present MOUs and modify the language. The motion carried unanimously.

- E. Amendment of Plan Area Statement Boundary Between Plan Areas 045, Incline Village Commercial, and 046, Incline Village Residential, to Move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046

Senior Planner Andrew Strain presented the staff summary proposing to amend the adjacent plan area boundary between 045 and Plan Area 046, Incline Village Residential, to move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046

Ms. Nancy Sjurksen, representing Sierra Planning, commented that she was not specifically involved with the project but supported staff's decision recommending transferring APN 127-023-05 to Plan Area 046.

MOTION by Mr. Jepsen to accept staff's recommendation amending Plan Area Statement Boundary between Plan Areas 045, Incline Village Commercial, and 046, Incline Village Residential to Move Washoe County APN 127-023-05 from Plan Area 045 Into Plan Area 046. Seconded by Ms. Baldrica. The motion carried unanimously.

Recessed for lunch at 11:57 p.m.

(Messrs. Lawrence and Barham left the meeting at 12:10 p.m.)

Meeting reconvened at 1:10 p.m.

- D. Draft EIS for the U.S. Forest Service East Shore Timber Harvest, Washoe and Douglas Counties and Carson City, TRPA File #580-103-94, (No Action)

Senior Planner Lyn Barnett presented the staff summary requesting input and comments on the technical adequacy of the Draft Environmental Impact Statement (EIS) for the U.S. Forest Service East Shore Timber Harvest. Mr. Barnett also introduced Mr. Paul Neilsen, a TRPA staff member who had been helping him review the document.

Mr. John Swanson, Fire and Timber Staff Officer for the Forest Service, introduced members of his staff who have been working with him on this project. Mr. Swanson gave a brief summary of the document, including the identified environmental impacts of the proposed project. Additionally, he presented a slide show of the forest showing the dead trees which was a direct result of the prolonged drought, insects and diseases.

Mr. Combs questioned if there was a market for the material derived from the

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timber harvest and would it likely serve regional mills. Mr. Swanson replied that at this time there was so little timber harvesting being conducted that the market and price were very good. In terms of serving the regional mills, the last regional mill in Camino recently announced they would be shutting down within 30 days.

Ms. Baldrice complimented the Forest Service for their efforts in identifying archaeological and historic sites and to evaluate them properly. She looked forward to working with the Forest Service in attempting to expedite the project along.

Mr. Thompson questioned whether trees reached a point where they ceased having an economical value and were still standing and how would the material be disposed of. Mr. Swanson replied that they do reach a point where they lose value, and in order to dispose of the material, the Forest Service would build into the contract that material which was no longer utilizable for saw logs, would have to be brought to the landing area next to roads and stacked. The public would then be encouraged to remove the material as firewood. If the material was still standing but so rotten that it wouldn't hold together once it fell over, the logger would either not be forced to fall the tree or be required to fall it and leave it on the ground unless it caused an environmental impact.

Ms. Jamin commented that in the preferred method for timber harvesting, more prescribed burning had been proposed and she questioned whether concerns regarding air quality, particularly visibility, had been addressed and in what ways. Mr. Swanson replied that air quality issues had been addressed that included a well developed air quality description analysis of consequences in the EIS.

Senior Planner Lyn Barnett commented that this item would be going to the Governing Board this month for comments. If the project stayed on schedule, this item would be presented to the APC and then back to the Governing Board for certification in May.

Mr. Thompson questioned if there had been significant public comment on the project at this point and Mr. Barnett replied no.

Since no one wished to comment on this item, Mr. Thompson closed the public hearing.

Mr. Thompson thanked the Forest Service for a good presentation.

Mr. Barnett mentioned that an errata sheet was being distributed and if anyone cared to receive a copy, a sign up sheet was being passed around.

- F. Amendment of Plan Area 111, Tahoe Island, Special Area #2, to Allow as a Special Use Health Care Services, Nursery, and Outdoor Retail Sales

Associate Planner Coleen Shade presented the staff summary proposing amendment of Plan Area Statement 111, Tahoe Island, to Modify Special Area #2

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to allow Health Care Services, Nursery and Outdoor Retail Sales as a special use, City of South Lake Tahoe. In addition, a staff-initiated amendment is also proposed to rectify an override made when an amendment to Plan Area Statement 111 came before the board in April 1993.

Mr. Haen questioned if there were 11 parcels in Special Area #2 and Ms. Shade replied yes, and that six of the parcels were undeveloped.

Mr. John Fellows, owner of the property in question, commented that he wanted to avoid spot zoning of the parcel but had not come up with an idea on how to do that. He was of the opinion that the West entry to South Lake Tahoe on a tourist level was as important as any entry from the East or South.

Ms. Woodbeck commented that it would be advantageous if a map of the existing uses, along with the entire plan area statement, were presented.

MOTION by Mr. Haen to amend Plan Area Statement 111, to modify special area #2 to allow health care services. Also, modify special area #2 to allow nursery and outdoor retail sales as a special use only in those areas adjacent to Highway 89 with the previous commercial use. Seconded by Mr. Combs.

Ms. Baldrice requested more information on how many parcels had been formally commercial if that had not yet been determined before she voted on the motion. She suggested that the applicant get together with the TRPA staff to obtain more additional information and then bring the item back to the APC.

Mr. Thompson disposed of the motion on the floor by taking a vote of APC members unless Mr. Haen withdrew his motion. Mr. Haen declined to withdraw his motion.

Ms. Shade commented that there had not be a commercial use on the property since 1986 and that was a special permit for storage of road equipment.

The motion failed on the following votes:

Ayes: Mr. Haen, Mr. Combs
Nays: Mr. Ruben, Mr. Hansen, Ms. Baldrice, Mr. McDowell,
Ms. Beronio, Ms. Woodbeck, Mr. Thompson, Mr. Jepsen,
Ms. Jamin
Abstain: None
Absent: Mr. Hust, Mr. Barham, Mr. Dodds, Mr. McCurry, Mr. Poppoff,
Mr. Joiner, Mr. Lawrence, Mr. Brooks

MOTION by Ms. Baldrice to permit health care use facilities within special area #2 of Plan Area Statement 111, and requested staff to work with Mr. Fellows in bringing this item back to the APC with a proposition to resolve the other issues. Seconded by Mr. Hansen.

Ms. Jamin requested that part of the proposition to resolve the other issues be the ability to use the structure for the sale of arts and crafts.

MOTION by Ms. Baldrice to modify her previous motion to permit health care

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facilities within special area #2 to include only those parcels that front the East Side of Tahoe Keys Boulevard. Seconded by Mr. Hansen. The motion carried unanimously.

VII. REPORTS

A. Executive Director

Executive Director David Ziegler inadvertently failed to ascertain that the parking issue was put on the agenda. He distributed a hand out that described the parking issue process that needed to be followed in order to develop a parking ordinance.

Mr. Ziegler announced that this would be his last APC meeting. Deputy Director Jerry Wells announced that Mr. Ziegler's going away party was scheduled for March 23, 1994.

Mr. Thompson inquired about the status of Mr. Ziegler's replacement and Mr. Ziegler replied that 8 semi-finalists had been named and interviews, which are open to the public, were being held on March 17th at the TRPA offices. The second round of interviews were scheduled for March 24th.

B. Legal Counsel

R. J. Nicolle, Agency Counsel, announced that the Memorial Services for Gary Owen were being held on March 12th in Carson City. Ms. Nicolle, Susan Scholley and Tom Susich, Mr. Owen's partner, were in the process of dividing up the cases that Mr. Owen was handling. Mr. Owen was involved in several cases being heard before the 9th Circuit Court of Appeals which were now being handled in house. Mr. Susich would be handling the Summary Judgment Motion in the Suitum v. TRPA case.

C. APC Members

Mr. Combs commented that the Tahoe City Community Plans had been adopted by the TRPA Governing Board and Placer County Board.

Ms. Jamin thanked Mr. Ziegler for all his work and wished him well in the future. She suggested that the APC prepare a resolution for Mr. Ziegler and present it at his going away party.

III. PENDING MATTERS - None

IX. RESOLUTIONS - None

X. ADJOURNMENT - The meeting adjourned at 3:10 p.m.


Sue Mikanovich
Clerk to the Commission

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This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (702) 588-4547. In addition, any documents submitted at the meeting may be reviewed at the TRPA office, 308 Dorla Court, Elks Point, Nevada.

TAHOE REGIONAL PLANNING AGENCY

308 Dorla Court
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MEMORANDUM

March 31, 1994

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Proposed Amendment of Chapter 64, Grading Standards,
Relating to Limitations on Depth of Excavation

Proposed Action: Amend Chapter 64 of the TRPA Code of Ordinances to permit excavations in excess of 5 feet where it is demonstrated that the excavation will not result in interference or interception of groundwater. The proposed amendments are located in Attachment A. The added language is underlined and the deleted language is stricken.

Staff Recommendation: Staff recommends that the Advisory Planning Commission conduct a public hearing, and if appropriate, recommend adoption of the proposed amendments to the Governing Board.

Description and Discussion: Currently, except in limited circumstances, the TRPA Code limits the depth of excavations to 5 feet or less for foundation walls. The four exceptions to this limitation are: 1) there are no feasible alternatives to locating mechanical equipment; 2) the basement is part of a passive solar structure; 3) the basement is necessary to provide two offstreet parking spaces; or 4) the project is part of a redevelopment project processed under Chapter 15 of the Code. Experience has shown that a majority of the projects reviewed do not qualify for any of the above exceptions. The depth limitation of 5 feet has been in place since adoption of the 1987 Regional Plan. This limitation has proven to be counter-productive and ineffective in allowing for scenically improved design and land use. Prior to 1987, the TRPA Code did not contain depth limitations on excavations.

The proposed Code amendments will limit the depth of excavation by prohibiting the interference or interception of groundwater. Any project which proposes excavation in excess of 5 feet must demonstrate through the preparation of a soil/hydrologic report that no interference or interception of the groundwater will occur as a result of the excavation. The Code amendments further provide that the content and methodology to be used in the required soil/hydrologic report be pre-approved by TRPA staff. The proposed amendments will not alter the environmental controls currently in place. Height would still be calculated from natural ground elevation.

Staff believes that the proposed Code amendments will provide for greater flexibility in the design of projects, while still providing adequate environmental protection. Allowing for excavations in excess of 5 feet will provide the opportunity for project proponents to design projects so that certain unsightly project components, such as parking, can be located underground.

3/31/94

AGENDA ITEM (Y/C)

1

Environmental Documentation: Staff has completed an Initial Environmental Checklist (IEC) for the amendment and proposes a Finding of No Significant Effect (FONSE) based on the descriptions of the identified impacts and the mitigation measures proposed to mitigate the impacts.

Required Findings: The following findings must be made prior to adopting the proposed amendments:

A. Chapter 6 Findings:

1. The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code, and other TRPA plans and programs.

Rationale: The existing five-foot excavation limitation is not discussed in the TRPA Goals and Policies. The two policies relating to grading in the Goals and Policies consist of grading in inclement weather and grading within a 100-year flood plain. The proposed amendments will not alter the current regulations in the TRPA Code of Ordinances pertaining to these issues. The prohibition of interception of ground water will still remain in place with the current exceptions (i.e. public health and safety, water well, etc...) remaining the same.

2. The project will not cause the environmental thresholds to be exceeded.

Rationale: The Environmental Threshold Carrying Capacities for the Lake Tahoe Region relate to surface runoff infiltration into the groundwater and discharges to groundwater. The proposed amendments will not alter the current regulations relating to these two concerns. Interception of groundwater will still be prohibited unless currently allowed by the TRPA Code of Ordinances.

3. Wherever federal, state and local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the Compact, the project meets or exceeds such standards.

Rationale: Project applicants utilizing the proposed Code amendments must continue to implement the Regional Plan package, including maintenance of applicable air and water standards. The proposed excavation amendment would only be permissible if the applicant has provided evidence that groundwater would not be intercepted.

4. The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: Refer to paragraphs 1 through 3, above.

B. Ordinance 87-8 Findings:

Section 2.40 of Ordinance 87-8 requires the following findings prior to Code amendments. The proposed amendment provides for an equal or better means of attainment or maintenance of the thresholds. The required findings and their rationales are:

1. The amendments are consistent with the Compact and with attainment or maintenance of the thresholds.

For the reasons stated in Findings A.1 through A.4 above, the proposed amendment is consistent with attainment or maintenance of the thresholds.

2. One of the following findings:

- a. There is a demonstrated conflict between provisions of the Regional Plan package, and the conflict threatens to preclude attainment or maintenance of thresholds; or
- b. The provision to be amended has been shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan package and complying with the Compact; or
- c. Legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code; or
- d. Technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code; or
- e. The provision to be amended has been shown, through experience and time, to be counter-productive to or ineffective in attainment or maintenance of the thresholds; or
- f. Implementation of the provision sought to be amended has been demonstrated to be impracticable or impossible because of one or more of the following reasons:
 - (1) The cost of implementation outweighs the environmental gain to be achieved;
 - (2) Implementation will result in unacceptable impacts on public health and safety; or
 - (3) Fiscal support for implementation is insufficient and such insufficiency is expected to be a long-term problem.

Staff recommends Finding 2(e) for the following reasons:

The rationales listed under findings A.1 through A.4 above. Staff could find no scientific evidence to support a maximum depth of excavation of 5 feet. The current limitations have been counter-productive and ineffective in allowing for scenically improved design and land use. It has been demonstrated through a project developed under the grading provisions of Chapter 15 that attainment and maintenance can be achieved without a 5 foot limitation on depth of excavation.

Staff will begin this item with a brief presentation. Please contact Paul Pettersen, Kathy Canfield, or Rick Angelocci at (702) 588-4547 if you have any questions or comments regarding this matter.

ATTACHMENT A
PROPOSED AMENDMENT LANGUAGE FOR CHAPTER 64 - GRADING STANDARDS

64/5 Disposal of Materials: The methods of disposal of solid or liquid materials, including soil, silt, clay, sand or other organic or earthen materials shall be reviewed and approved by TRPA. These methods shall include, but are not limited to:

- (a) Temporary stockpiling all or some of the top soil on the site for use on areas to be revegetated;
- (b) Disposal of the material at a location approved by TRPA; or
- (c) Export of the materials outside the Region.

64.6 Cuts And Fills: The following standards shall apply to cutting and filling of earthen material:

64.6.A Cuts: ~~Standards-for-cuts-are:~~

- (1) The maximum cut slope shall be determined on the basis of the risk of soil instability or soil erodibility. ~~---as-shown-by-an-information-report,~~ Additional information, which may include a subsurface soil and geological report, pursuant to Chapter 61, or other available information may be required.
- (2) If the material of the slope is of such composition and character as to be unstable under anticipated conditions, TRPA shall require such measures as are necessary to ensure the stability of the slope. Such measures may include, but are not limited to, reduction of the slope angle and mechanical stabilization of the slope.
- (3) ~~Setbacks--shall-be-as-set-forth-in-Chapter-70--of-the--Uniform--Building-Code--As-a--condition--of-approval;~~ TRPA may impose setbacks as set forth in the Design Review Guidelines.
- (4) Where mechanical stabilization or containment of the slope by other than the use of natural material is employed, conditions of approval may require screening by vegetation.

64.6.B Fills: ~~Standards-for-fills-are:~~

- (1) The maximum fill slope shall be determined on the basis of the risk of instability or soil erodibility. ~~as-shown-by-an-information-report,~~ Additional information, which may include a subsurface soil and geological report pursuant to Chapter 61, or other available information, may be required.
- (2) No organic material, such as vegetation or rubbish, or any other material not capable of proper compaction, or otherwise not conducive to stability, or which has the potential for environmental impact, shall be permitted in fills.