

FINDINGS FOR SHOREZONE PROJECTS

I. INTRODUCTION & PURPOSE OF THIS DOCUMENT

The Tahoe Regional Planning Compact requires TRPA to make findings before taking certain actions, including approval of projects. In addition, the Regional Plan package, including the Goals and Polices, Code of Ordinances, and Plan Area Statements, set forth other findings that must be made. This document is intended to assist applicants in locating and making the required findings for their specific project. Written findings rationale is an application checklist item, meaning findings are required at time of application submittal.

II. HOW TO USE THIS DOCUMENT

This document lists all required findings for shorezone projects, organized by Code chapter and subsection. The applicant must read through the findings (Section IV in this document) to determine which pertain to their specific project. Not all findings will be applicable to every project. It is suggested to copy and paste the applicable findings into a separate document and provide a written response and rationale for making the findings beneath. Examples are provided in Section III of this document. The rationale must include a detailed explanation of how the project meets the required finding. Simply restating the finding is not acceptable.

III. SAMPLE FINDINGS

Finding 22.7 The impacts of the coverage and disturbance are fully mitigated through means including, but not limited to, the following:

- i. Application of best management practices; and
- ii. Restoration, in accordance with Section 22.7.3, of land in Land Capability Districts 1a, 1c, 2, and 3 in the amount of 1.5 times the area of land in such districts coverage or disturbed for the project beyond that permitted by the coefficients in Subsection 30.4

<u>Rationale:</u>	Temporary best management practices (BMPs) will be implemented during construction including sediment barriers and vegetation protection fencing. Permanent BMPs will include revegetation over the entire area disturbed by the project. The project is not adding coverage or new disturbance to the area. Therefore, it is not required to provide 1.5 times the amount of restoration needed. This project will be restoring the proposed disturbed area on a 1 to 1 basis.
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Finding 21.2.1.B 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.

Rationale: The proposed project complies with all design standards to ensure that the project will not be injurious or disturbing to persons or property in the area, or the welfare of the region. The project will include temporary and permanent best management practices to protect land, water, and air resources. Elements of the project include solid fencing on the north, west, and south side of the property to screen the corporation yard activities and noise from the adjacent properties. Landscaping will be installed along the street frontage to reduce visibility of the project from Venice Drive. Exterior lighting will be used for security purposes only and will be directed downward with cutoff shields to reduce offsite light and glare. Hours of operation will be limited to weekdays and daylight hours.

Finding 30.4.4.A The relocation is to an equal or superior portion of the parcel.

Rationale: The project area has been verified as Land Capability Classes 1b, 4, and 5. Coverage relocation will occur within the Class 1b district with a net reduction due to coverage retirement mitigation requirements. The proposed project will consolidate coverage in the areas adjacent to the buildings. No coverage will be relocated from Class 4 or Class 5 into Class 1b.

IV. FINDINGS FOR SHOREZONE PROJECTS

Chapter 3: Environmental Documentation

Finding 3.2.2.A The proposed project could not have a significant effect on the environment and a finding of no significant effect shall be prepared in accordance with Rules of procedure Section 6.6.

Finding 3.2.2.B The project could have a significant effect on the environment but, due to the listed mitigation measures that have been added to the project, the project could have no significant effect on the environment and a mitigated findings of no significant effect shall be prepared in accordance with Rules of Procedure Section 6.7

Finding 3.2.2.C The proposed project may have a significant effect on the environment and an environmental impact statement shall be prepared in accordance with this chapter and Rules of procedure, Article 6.

Chapter 4: Required Findings

Finding 4.4.1.A: 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.

Finding 4.4.1.B: The project will not cause the environmental threshold carrying capacities to be exceeded.

Finding 4.4.1.C: Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V (d) of the Tahoe Regional Planning Compact.

Chapter 30: Land Coverage

30.4.2 Transferred Land Coverage Requirement

Finding 30.4.2.A.2 Linear Public Facilities and Public Health and Safety Facilities

The maximum land coverage for linear public facilities is limited to the minimum amount needed to achieve their public purpose, except as provided for non-motorized public trails in subsection 30.4.6.D.3. Such transfer may be permitted, provided TRPA makes the following findings:

- a. The project complies with required findings for additional public service facilities if required pursuant to Section 50.8.
- b. There is no feasible alternative that would reduce land coverage.
- c. The project, because of its unusual configuration or service requirement, requires special consideration; and
- d. The facility primarily serves the needs of persons other than those who are or will be residents of the lands in question, or the owners of the land in question.

Finding 30.4.2.A.5 Water Quality Control Facilities

Transfers of land coverage for water quality control facilities, such as erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects and similar projects, programs, and facilities, may be permitted the minimum amount of land coverage needed to achieve their purpose provided there is not a reasonable alternative, including relocation, that avoids or reduced the land coverage.

30.4.4 Relocation of TRPA-Verified Existing Land Coverage

Finding 30.4.4.A The relocation is to an equal or superior portion of the parcel or project area, as determined by references to the following factors:

1. Whether the area of relocation already has been disturbed
2. The slope of and natural vegetation on the area of relocation
3. The fragility of the soil on the area of relocation
4. Whether the area of relocation appropriately fits the scheme of use of the property
5. The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of

stream environment zones or backshore

6. The project otherwise complies with the land coverage mitigation program set forth in section 30.6

Finding 30.4.4.B The area from which the land coverage was removed for relocation is restored in accordance with Subsection 30.5.3.

Finding 30.4.4.C. The relocation is not to Land Capability Districts 1a, 1b, 1c, 2, or 3 from any higher numbered land capability district.

Finding 30.4.4.D.1 If the relocation from one portion of a stream environment zone to another portion, there is a net environmental benefit to the stream environment zone.

Finding 30.4.4.D.2 Retirement of land coverage in the affected stream environment zone in the amount of 1.5:1 of the amount of land coverage being relocated within a stream environment zone; or

Finding 30.4.4.D.3 For projects involving the relocation of more than 1,000 square feet of land coverage within a stream environment zone, a finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the stream environment zone and will not negatively affect the quality of existing habitats.

30.5.1 Exceptions to Prohibition in Land Capability Districts 1a, 1c, 2, and 3

Finding 30.5.1.B Land coverage and disturbance for public outdoor recreation facilities, including public recreation projects on public lands, private recreation projects through use of public lands, and private recreation projects on private lands that are depicted or provided for on a public agency's recreation plan, may be permitted in Land Capability Districts 1a, 1c, 2, or 3 if TRPA finds that:

1. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional plan;
3. The project by its very nature must be sited in Land Capability Districts 1a, 1c, 2, or 3, such as a ski run or a hiking trail;
4. There is no feasible alternative that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
5. Restoration, in accordance with subsection 30.5.3, of land in Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zone) in the amount of 1.5 times the area of land in such districts covered or disturbed for the project beyond that permitted by the coefficients in Table 30.4.1-1.

Finding 30.5.1.C

Public Service Facilities

Land coverage and disturbance for public service facilities may be permitted in Land Capability Districts 1a, 1c, 2, and 3 if TRPA finds that:

1. The project is necessary for public health, safety, or environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
3. The impacts of the coverage and disturbance are fully mitigated in the manner prescribed by subparagraph 30.5.1.B.5.

Finding 30.5.1.D

Water Quality Control Facilities

Land coverage and disturbance may be permitted in Land Capability Districts 1a, 1c, 2, and 3 for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities if TRPA finds that:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
3. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to subparagraph 30.4.3.B.5 are met.

30.5.2

Exceptions to Prohibition in Land Capability District 1b (Stream Environment Zone)

Finding 30.5.2.A

Stream Crossings. Land coverage and disturbance for projects to provide access across stream environment zones to otherwise buildable sites, if such projects otherwise comply with applicable development standards in Chapter 32: *Basic Services*, may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in the stream environment zone, or that encroachment shall be necessary to reach the building site recommended by IPES; and
2. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

Finding 30.5.2.B

Public Outdoor Recreation

Land coverage and disturbance for public outdoor recreation facilities may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional Plan;
3. The project by its very nature must be sited in a stream environment zone, such as bridges, stream crossings, ski run crossings, fishing trails, and boat launching facilities;
4. There is no feasible alternative that would avoid or reduce the extent of encroachment in the stream environment zone; and
5. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

Finding 30.5.2.C

Public Service

Land coverage and disturbance for public service facilities may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. The project is necessary for public health, safety, or environmental protection;
2. There is no reasonable alternative, including a bridge span or relocation, that avoids or reduces the extent of encroachment in the stream environment zone; and
3. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

Finding 30.5.2.D

Water Quality Control Facilities

Land coverage and disturbance may be permitted in Land Capability District 1b (Stream Environment Zone) for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities if TRPA finds that:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in the stream environment zone; and

3. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to subparagraph 30.4.3.B.5 are met.

Chapter 32: Basic Services

32.3.1

Paved Roads

Finding 32.3.1

TRPA may permit a waiver of this requirement if the agency finds that one of the following criteria is met:

- A. The project is subject to a variance for historically significant structures and districts pursuant to Chapter 67: *Historic Resource Protection*;
- B. The roadway is not designated to be paved by the surface water management plan (Volume I of the 208 Water Quality Plan as amended);
- C. The project is the expansion of a single-family dwelling;
- D. The permittee posts a security with TRPA in an amount equal to 110 percent of the permittee's fair share of the estimated cost of paving the road serving the parcel. TRPA shall apply the procedures established in law by the local jurisdiction to determine a fair share, or in the absence of such procedures, shall adopt a procedure for determining a fair share. This waiver shall not apply to the construction or reconstruction of a commercial, tourist accommodation, or multi-family residential project; or
- E. A program has been established that provides assurance the road will be paved within five years.

32.4.2

Water Supply

Finding 34.2.B

If the above minimum fire flow requirements cannot be met, TRPA may waive the requirements in Table 32.4.2-1, if an alternative fire protection design that adequately complies with the intent of the adopted fire code has been approved by the applicable fire agency.

Chapter 33 Grading and Construction

33.3.1

Seasonal Limitations

Finding 33.3.1.B

TRPA may approve grading after October 15 if TRPA finds either that an emergency exists and the grading is necessary for the protection of public health or safety, or that the grading is for erosion control purposes or protection of water quality.

33.3.6

Excavation Limitations

Finding 33.3.6.A.2

TRPA may approve exceptions to the prohibition of groundwater interception or interference if TRPA finds that:

- a. Excavation is required by the International Building Code (IBC) or local building code for minimum depth below natural ground for above ground structures;
- b. Retaining walls are necessary to stabilize an existing unstable cut or fill slope;
- c. Drainage structures are necessary to protect the structural integrity of an existing structure;
- d. It is necessary for the public safety and health;
- e. It is a necessary measure for the protection or improvement of water quality;
- f. It is for a water well;
- g. There are no feasible alternatives for locating mechanical equipment, and measures are included in the project to prevent groundwater from leaving the project area as surface flow, and any groundwater that is interfered with is rerouted in the ground water flow to avoid adverse impacts to riparian vegetation;
- h. It is necessary to provide two off-street parking spaces, there is no less environmentally harmful alternative, and measures are taken to prevent groundwater from leaving the project area as surface flow;
- i. It is necessary to provide below grade parking for projects that qualify for additional height under subsection **Error! Reference source not found.** or **Error! Reference source not found.** to achieve environmental goals, including scenic improvements, land coverage reduction, and area-wide drainage systems. Measures shall also be included in the project to prevent ground water from leaving the project area as surface flow and that any groundwater, that is interfered with is rerouted into the groundwater flow to avoid adverse impacts to hydrologic conditions, SEZ vegetation, and mature trees; or
- j. It is necessary for a marina expansion approved pursuant to Chapter 14: *Specific and Master Plans*, and the environmental documentation demonstrate that there will be no adverse effect on water quality.

Chapter 35: Natural Hazard Standards

30.5.4.2

Prohibition of Additional Development, Grading, and Filing of Lands Within the 100-Year Floodplain

Finding 35.4.2.A

Public Outdoor Recreation Facilities

TRPA may permit additional public outdoor recreation facilities within the 100-year floodplain if TRPA finds that:

1. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional Plan;
3. The project by its very nature must be sited in a floodplain and is in accordance with the Guidelines Regarding Public Outdoor Recreation Facilities and Activities Which Create Additional Land Coverage or Permanent Disturbance and Which By Their Very Nature Need Not Be Sited in Sensitive Lands (1a, 1b, 1c, 2, 3 or SEZs), Water Quality Management Plan for the Lake Tahoe Region, Volume I, Table 16, dated November 1988;
4. There is no feasible alternative that would reduce the extent of encroachment in a floodplain; and
5. The impacts on the floodplain are minimized.

Finding 35.4.2.B

Public Outdoor Recreation Facilities

TRPA may permit additional public service facilities within the 100-year floodplain if TRPA finds that:

1. The project is necessary for public health, safety, or environmental protection;
2. There is no reasonable alternative, including spans, that avoids or reduces the extent of encroachment in a floodplain; and
3. The impacts on the floodplain are minimized.

Finding 35.4.2.C

Floodplain Crossing

TRPA may permit projects to effect access across a 100-year floodplain to otherwise buildable sites if such projects comply with applicable development standards in Chapter 32: *Basic Services*, and if TRPA finds that:

1. There is no reasonable alternative that avoids or reduces the extent of encroachment in the floodplain; and
2. The impacts on the floodplain are minimized.

Finding 35.4.2.D

Water Quality Control Facilities

TRPA may permit erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities within a 100-year floodplain if TRPA finds that:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative that reduces the extent of encroachment in the floodplain; and

3. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 30.4.3.B.5 are met.

Chapter 61: Vegetation and Forest Health

61.1.4

Old Growth Enhancement and Protection

Finding 61.1.5.B

Before tree-related projects and activities are approved by TRPA, TRPA shall find, based on a report from a qualified forester, that the project or activity is consistent with this chapter and the Code. TRPA may delegate permit issuance to a federal, state, or other qualified agency through a memorandum of understanding.

Finding 61.1.7.G

Tree Removal for Solar Access

TRPA may approve the removal of healthy trees provided TRPA finds that the trees unreasonably impede the operation of a solar energy system and that the solar energy system is properly located so as to minimize the need for tree removal.

Chapter 63: Fish Resources

66.3.2

Stream Habitat

Finding 63.3.2.A

Artificial modifications to stream channels, or other projects, activities, or uses in stream environment zones that may physically alter the natural characteristics of the stream shall not be permitted unless TRPA finds that such actions avoid significant adverse impacts to the fishery or are otherwise allowed under the Code.

Chapter 66: Scenic Quality

66.3.7

Additional Visual Magnitude

Finding 66.3.7.A

Public Outdoor Recreation

For public outdoor recreation uses that are subject to subsection 50.9.3, PAOT allocations, additional square footage of visual magnitude may be permitted if TRPA finds that:

1. The project is a necessary part of a long-range plan for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional Plan;

3. There is no reasonable alternative that would avoid or reduce the extent of visual magnitude; and
4. The additional square footage is mitigated pursuant to subsection 66.3.8 below; or
5. If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

Finding 66.3.7.B

Public Service Facilities

For public service uses, additional square footage of visual magnitude may be permitted if TRPA finds that:

1. The project is necessary for public health, safety or environmental protection;
2. There is no reasonable alternative that would avoid or reduce the extent of visual magnitude; and
3. The additional square footage is mitigated pursuant to subsection 66.3.8 below; or
4. If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements: Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

Finding 66.3.7.C

Tourist Accommodation and Commercial Projects in Commercial and Public Service Plan Areas and Tourist Accommodation Plan Areas

Additional square footage of visual magnitude may be permitted for projects in Commercial and Public Service Plan Areas, if TRPA finds that:

1. The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5;
2. There is no reasonable alternative that would avoid or reduce the extent of visual magnitude; and

3. The additional square footage is mitigated pursuant to subsection 66.3.8 below; or
4. If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements: Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

Finding 66.3.7.D

Residential Uses Other Than Single-Family Dwelling

Additional square footage of visual magnitude may be permitted for projects, if TRPA finds that:

1. The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5;
2. There is no reasonable alternative that would avoid or reduce the extent of visual magnitude; and
3. The additional square footage is mitigated pursuant to subsection 66.3.8 below; or
4. If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements: Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

Chapter 67: Historic Resource protection

67.7

Projects Relating to Historic Resources

Finding 67.7.3

Demolition

Historic resources shall not be demolished, disturbed, or removed unless TRPA finds that:

- A. The action will not be detrimental to the historic significance of the resource;
- B. The action is pursuant to a recovery plan approved by the applicable state historic preservation officer; or

- C. It is the only feasible alternative to protect the health and safety of the public.

67.8 Exceptions For Historical Structures and Districts: To encourage the protection, maintenance, or rebuilding of sites, structures, or districts designated as a historic resource, TRPA may grant exceptions to certain provisions of this Code to allow reconstruction or repairs.

Finding 67.8.1 Exceptions may be granted if TRPA finds that:

- A. The site, structure, or district is designated as a historic resource; and
- B. The reconstruction, modification, or repair is in the public interest.

Chapter 80: Review of Projects in the Shorezone & Lakezone

80.3.2 Findings for All Projects

Finding 80.3.2.A: TRPA must analyze the required environmental findings pursuant to Chapter 3, Environmental Documentation. In addition, such environmental findings must demonstrate that the project will not adversely impact: (1) littoral processes; (2) fish spawning; (3) backshore stability; or (4) on-shore wildlife habitat, including wildfowl nesting areas.

Finding 80.3.2.B TRPA must find that there are sufficient accessory facilities to accommodate the project.

Finding 80.3.2.C: TRPA must find that the project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modifications of such existing uses or structures will be undertaken to assure compatibility.

Finding 80.3.2.D: TRPA must find that the proposed use in the lakezone, nearshore, foreshore, or lagoon is water-dependent.

Finding 80.3.2.E: TRPA must find that measures will be taken to prevent spill or discharges of hazardous materials.

Finding 80.3.2.F: Construction and access techniques will be used to minimize disturbance to the ground and vegetation.

Finding 80.3.2.G: TRPA must find that the project will not adversely impact navigation or create a threat to public safety pursuant to the determination of agencies with jurisdiction over the navigable waters in the Basin.

Finding 80.3.2.H: TRPA must find that it has solicited comments from those public agencies having applicable jurisdiction over the lakezone, shorezone, and lagoon, and that all comments received from such agencies were considered prior to taking action on the project.

<u>80.3.3</u>	<u>Additional Findings for Special Use Projects</u>
<u>Finding 80.3.3.A</u>	The project, and the related use, is of such a nature, scale, density, intensity, and type to be appropriate for the project area, and the surrounding area.
<u>Finding 80.3.3.B</u>	The project, and the related use, will not injure or disturb the health, safety, environmental quality, enjoyment of property, or general welfare of the persons or property in the neighborhood, or in the Region.
<u>Finding 80.3.3.C</u>	The project, and the related use, will not change the character or the neighborhood, detrimentally affect or alter the purpose of any applicable plan area statement, community, redevelopment, specific, or master plan.
<u>80.3.4</u>	<u>Additional Findings for Public Outdoor Recreation facilities</u>
<u>Finding 80.3.4.A</u>	The project is a necessary part of the agency’s long range plans for public outdoor recreation.
<u>Finding 80.3.4.B</u>	The project is consistent with the recreational element of the goals and policies.
<u>Finding 80.3.4.C</u>	The project, by its very nature, must be sited in the backshore.
<u>Finding 80.3.4.D</u>	There is no feasible alternative that avoids or reduces the amount of land coverage or disturbance proposed in the backshore.
<u>80.3.5</u>	<u>Additional Findings for Public Service facilities</u>
<u>Finding 80.3.4.A</u>	The project is necessary for public health, safety, or environmental protection.
<u>Finding 80.3.4.B</u>	There is no reasonable alternative that avoids or reduces the amount of land coverage or disturbance in the backshore.
<u>80.3.6</u>	<u>Additional Findings for Coverage or Disturbance in the Backshore</u>
<u>Finding 80.3.6</u>	The amount of land coverage is the minimum that is necessary when all Thresholds are taken into consideration to provide access to an approved or an existing structure or use located in the nearshore or foreshore.

Chapter 81: Permissible Uses and Structures in the Shorezone & Lakezone

<u>81.3.2</u>	<u>Special Uses</u>
<u>Finding 81.3.2.A</u>	The project to which the use pertains, is of such a nature scale, density, intensity, and type to be an appropriate use for the parcel on which, and surroundings area in which, it will be located.
<u>Finding 81.3.2.B</u>	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 in the region.

Finding 81.3.2.C The applicant has taken reasonable steps to protect the land, water, and air resources of both the applicant’s property and that of surrounding property owners.

Finding 81.3.2.D The project to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable plan area statement, community, redevelopment, specific, or master plan as the case may be.

Chapter 83: Shorezone Tolerance Districts and Development Standards

83.8 Shorezone Tolerance Districts 2 & 3- Development Standards

Finding 83.8.2.B Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to accelerate or initiate backshore erosion.

83.9 Shorezone Tolerance Districts 4 & 5- Development Standards

Finding 83.8.2.B Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to require the cliff area to be mechanically stabilized or that the project will not accelerate cliff crumbling, beach loss or erosion.

83.10 Shorezone Tolerance Districts 6, 7, 8- Development Standards

Finding 83.10.2.A Vehicular access to the shoreline shall not be permitted except where TRPA finds that such access will not cause environmental harm.

Chapter 84: Development Standards Lakeward of High Water in the Shorezone and Lakezone

84.4.3.B Additional Standards for Single-Use Piers- Development Standards

Finding 84.4.3.B.2.b Piers shall extend no further lakeward than elevation 6,219 feet Lake Tahoe Datum or the pierhead line, whichever is more limiting, except as provided under (c) below. Up to an additional 15 feet in length lakeward may be permitted if:

(i) the project applicant demonstrates that the additional length is necessary for the functionality of the pier, and

(ii) the average grade of the lake bottom beneath the additional pier length is a minimum of three percent

Finding 84.4.3.B.2.i Pier decks shall not extend above elevation 6,232.0 feet, Lake Tahoe Datum, as depicted in figure 84.4.3-4. Pier decks may extend up to elevation 6,234.0 feet in limited situations where TRPA finds that the additional height is necessary for safety reasons, local wave characteristics that represent a real threat to the integrity of the structure, or to provide lateral public access.

84.4.3.C. Additional Standards for Multiple-Use Piers- Development Standards

Finding 84.4.3.C.2.h Pier decks shall not extend above elevation 6,232.0 feet, Lake Tahoe Datum. Pier decks may extend up to elevation 6,234.0 feet in limited situations where TRPA finds that the additional height is necessary for safety reasons or that local wave characteristics that represent a real threat to the integrity of the structure, or to provide lateral public access.

84.4.3.D Additional Standards for Public Piers- Development Standards

Finding 84.4.3.D.a Pier length shall be limited to no more than 600 feet lakeward of elevation 6,229 feet Lake Tahoe Datum. Additional length may be granted by TRPA to accommodate public health and safety facilities or waterborne transit.

84.4.3.F Expansion or Modification of Existing Piers

Finding 84.4.3.F.1 Modification of a conforming pier. An existing pier that conforms to the applicable development standards set forth in the Section may be modified if the modification results in a new environmental benefit and is consistent with the applicable development standards set forth in this Section.

Finding 84.4.3.F.2 Modification of a non-conforming pier. An existing pier that does not conform to the applicable development standards set forth in the Section may be modified provided all of the following conditions are met:

- a. The modification results in a new environmental benefit;
- b. The modification brings the structure into greater compliance with applicable development standards set forth in this Section; and
- c. The modification does not increase the degree of nonconformance with any applicable development standard set forth in this Section.

84.6.3.D Boat Ramps

Finding 84.6.3.D.2 Existing marina boat ramps may be reconstructed, relocated, or modified according to the following provisions:

- a. Marina boat ramps may be relocated on the same parcel if the relocation is determined to improve water access during periods of low lake levels, all impacts are mitigated to the maximum extent, and the development standards listed in subsection 84.6.3.A are met; and
- b. Marina boat ramps may be extended lakeward in order to operate during period of low lake levels, provided the applicant demonstrates such extension is feasible and shall be the minimum necessary to provide reasonable access, down to elevation 6,220 feet Lake Tahoe Datum.

84.6.3.E Piers

Finding 84.6.3.E.2 Permanent Extension of Existing Piers. Permanent lakeward extension of existing piers at marinas may be permitted, subject to the following provisions:

- a. The pier shall serve the public;
- b. The proposed pier extension shall not have detrimental impacts to navigation;
- c. All impacts associated with pier extension shall be mitigated;
- d. An existing marina pier may be extended 15 feet lakeward if the substrate slope within the additional length is a minimum of three percent. Additional extensions may be allowed if the average substrate slope in the area being extended is a minimum of three percent; and
- e. The total length of the pier shall not exceed 1,000 feet.

84.7 Shoreline Protection Structures

Finding 84.7.1.A.1 Structures in the backshore or environmental threshold values will be enhanced by the construction and maintenance of the protective structures

Finding 84.7.1.A.2 The protection of structures in the backshore or enhancement of environmental threshold values more than offset the adverse environmental effects of the construction and maintenance of the shoreline protective structures;

Finding 84.7.1.A.3 Each protective structure has ben designed to be sloping and permeable; provided, however, that this findings is not necessary if TRPA concurrently makes the findings required under (B) below; and

Finding 84.7.1.A.4 Each protective structure has been designed so that backshore erosion on adjacent properties will not be accelerated as a result of the erection of the protective structure.

Finding 84.7.1.B.1 Sloping permeable revetments are the preferred design for shoreline protective structures. Bulk heads, gabions, and other vertical revetments shall not be permitted unless, in addition to the findings under (A) above, TRPA finds that;

- a. A sloping permeable revetment is not feasible; and
- b. The alternative structure will not cause significant erosion or modification to the foreshore.

84.7.2 Jetties, Breakwaters, and Rock Cribs

Finding 84.7.2.B.2 No jetty or breakwater shall be a solid or nearly solid structure unless the applicant demonstrates that the structure will not interfere with littoral processes, cause shoreline erosion, or harm water quality ort clarity; and

- a. The structure is a necessary part of an approved marina project; or
- b. The structure is necessary to protect the safety of persons using a public boat launching facility.

Finding 84.7.2.B.3 The size, number, and locations of openings shall be sufficient to void interference with littoral drift, shoreline erosion, harm to underlying land, and

harm to water quality and clarity.

84.8.3

Retaining Walls and Erosion Control

Finding 84.8.3.A

Retaining walls and erosion control structures shall be constructed with natural stone arranged in a natural pattern without hard outlines or straight edges and shall be laid back at a natural angle of repose. Vertical walls and all other materials shall be prohibited except in the case of emergency where no practical alternative exists, as determined by TRPA.

84.8.4

Fences

Finding 84.8.4.B

Fences shall not be placed lakeward of the highwater line, unless TRPA determines that such a location is necessary:

1. To protect the health or safety of the general public or to prevent trespass on private property from adjacent areas of public access in the shorezone, but only if a TRPA-approved signage plan has been proven ineffective to prevent trespass to protect public health and safety and provided such fence is approved by agencies having jurisdiction; or
2. To protect sensitive species or identified cultural resources

84.9

Filling & Dredging

Finding 84.9.2.A

There shall be no fill placed in the lakezone or shorezone, except as otherwise associated with approved bypass dredging, shoreline protective structures, or beach replenishment projects, or otherwise found by TRPA to be beneficial to existing shorezone conditions or water quality and clarity.

Finding 84.9.2.A

New dredging shall be permitted in association with the following facilities only where previous approved uses exist, provided all environmental impacts shall be mitigated:

1. Legally existing marinas within areas previously dredged under the non-degradation standard of Section 94.9.3.F and within areas not previously dredged only where found to be beneficial by TRPA to existing shorezone conditions, water quality, and clarity;
2. Essential public health and safety facility; and
3. Public boat ramps, provided the applicant demonstrates that new dredging shall increase the functionality of the boat ramp.

Finding 84.9.2.C

Maintenance dredging shall be allowed according to the following provisions:

1. The maintenance dredging is located in a facility that has been previously dredged;
2. The applicant demonstrates that dredging is necessary to maintain an existing use; and
3. The maintenance dredging is limited to the previously dredged

footprint.

Chapter 85: Development Standards in the Backshore

Finding 85.5.1

Public Outdoor Recreation

Land coverage and land disturbance may be permitted in the backshore for public outdoor recreation facilities if TRPA finds that:

- A. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
- B. The project is consistent with the Recreation Element of the Goals and Policies;
- C. The project, by its very nature, must be sited in the backshore;
- D. There is no feasible alternative which avoids or reduces the amount of land coverage or disturbance proposed in the backshore; and
- E. The impacts of the coverage and disturbance are mitigated to the extent feasible through means including, but not limited to, the following:
 - 1. Application of BMPs; and
 - 2. Restoration in accordance with subsection 30.5.3 of land in the backshore or a stream environment zone in the amount of 1.5 times the area of land in the backshore covered or disturbed for the project beyond that permitted in Section 85.4.

Finding 85.5.2

Public Service

Land coverage and land disturbance may be permitted in the backshore for public service facilities if TRPA finds that:

- A. The project is necessary for public health, safety, or environmental protection;
- B. There is no reasonable alternative which avoids or reduces the amount of land coverage or disturbance in the backshore; and
- C. The impacts of coverage and disturbance are mitigated in the manner prescribed in subsection 85.5.1.E.

Finding 85.5.3

Erosion Control and Similar Projects

Land coverage and land disturbance may be permitted in the backshore for erosion control projects, habitat restoration projects, forest management programs, wetland rehabilitation projects, stream environment zone restoration projects and similar projects, programs, and facilities if TRAP finds that:

- A. The project, program, or facility is necessary for environmental

protection; and

- B. There is no reasonable alternative which avoids or reduces the extent of encroachment in the backshore.

Finding 85.5.4

Access to Structures or Uses in the Nearshore or Foreshore

Land coverage and land disturbance may be permitted in the backshore to provide access to an approved or legally existing structure or use located in the nearshore or foreshore, provided TRPA finds that the amount of land coverage proposed is the minimum necessary to provide access to the structure or use and the impacts of coverage and disturbance are mitigated in the manner prescribed in subparagraph 85.5.1.E. Land Coverage and land disturbance associated with an approved or legally existing pier, boat ramp, or other shorezone structure may be permitted in the backshore provided that TRPA finds that the amount of land coverage proposed is the minimum necessary for the structure.