

MULTI-FAMILY DWELLING PROJECT FINDINGS

I. OVERVIEW

The Tahoe Regional Planning Compact requires certain findings to be made before the Tahoe Regional Planning Agency (TRPA) can take certain actions, including project approval. The Regional Plan (which includes the Goals and Policies, Code of Ordinances, and local plans) sets forth which findings must be made. This document is intended to assist applicants in locating and making the required findings for their specific project. Written findings with a rationale are an application checklist item, meaning findings are required at time of application submittal.

For any questions regarding information within this packet, please call 775-589-5333 to speak with a permitting technician.

II. HOW TO USE THIS DOCUMENT

This document lists all required findings for multi-family residential 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

Rationale:

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.

Finding 37.7.1:

When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7. Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

Rationale:

The Property is visible from a distance of 300 feet from the highwater mark of Lake Tahoe. The additional height will not cause any part of the building to extend above the forest canopy or any ridgeline as shown in the attached photo. The photo is marked with the proposed height of the addition and clearly shows the forest canopy to be higher than the proposed building addition. The property is not located on a ridgeline. The project proposed additional height for a 5:12 pitch greater than that specified in Table A. A Visual Magnitude analysis was completed for this project and is not increased beyond that permitted for the structures on the shoreland as set forth in subparagraph 30.15.E. See attached visual magnitude analysis.

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. MULTI-FAMILY DWELLING REQUIRED FINDINGS

An applicant is required to provide a written explanation for how the project complies with the following findings at the time of application submittal. The chapters and section numbers listed below are in reference to the [TRPA Code of Ordinances](#).

CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES

Finding 2.2.3:

Special Provisions: The following special provisions apply to certain projects:

- C. **Buildings Damaged or Destroyed by Fire or Other Similar Calamity:** Buildings damaged or destroyed by fire or other similar calamity may be repaired or rebuilt, except as prescribed by Chapter 35: *Natural Hazard Standards*, in areas of identified avalanche or mass instability danger, and except as set forth in Chapters 80-86, inclusive, in the shorezone, with no requirement for excess coverage mitigation or height reduction, by fee or otherwise. Repair or

reconstruction shall be in substantial conformance with the original structure, with no increase in floor area, land coverage, height, or volume.

2. Findings: TRPA may approve such projects provided TRPA determines that:
 - a. The repair or reconstruction does not increase the extent to which the structure does not comply with the site development provisions; and
 - b. There is no increase in height, floor area, land coverage, or volume of the structure.

CHAPTER 3: ENVIRONMENTAL DOCUMENTATION

- Finding 3.3.2: Findings for Initial Environmental Checklist: Based on the information submitted in the IEC, and other information known to TRPA, TRPA shall make one of the following findings and take the identified action:
- 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;
 - B. The proposed 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 finding of no significant effect shall be prepared in accordance with Rules of Procedure Section 6.7; or
 - 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 the 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 21: PERMISSIBLE USES

- Finding 21.2.2.A: 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 surrounding area in which it will be located.
- Finding 21.2.2.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 the surrounding property owners; and
- Finding 21.2.2.C: The project which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable

planning area statement, community plan, and specific or master plan, as the case may be.

Finding 21.5.2:

Changes, Expansions, or Intensifications of Existing Uses: Expansions and intensifications of existing uses or changes in uses, to the extent permitted by this chapter, shall be subject to the requirements for a permit set forth in Chapter 2: *Applicability of the Code of Ordinances*. Modifications, expansions, and other changes to structures shall be governed by other provisions of this Code and also are subject to the requirements of Chapter 2.

B. Special Uses

Uses identified as special uses and for which the required findings pursuant to subsection 21.2.2 have been made by TRPA may be changed, expanded, or intensified subject to subsection 0. Special uses for which the required findings have not been made may not be changed, expanded, or intensified except in accordance with subparagraph 21.5.2.C.

C. Nonconforming Uses

Uses identified as nonconforming shall not be expanded intensified beyond the use existing on the effective date of the Regional Plan. A nonconforming use may not be changed unless the new use conforms to the use regulations set forth in the Code. Expansions of structures containing a nonconforming use shall not be permitted. Modifications may be permitted only when TRPA finds that the modifications do not increase the extent of nonconformity. Such approval shall occur through direct TRPA review, through the conformance review process for Area Plans, or through Memoranda of Understanding with public agencies.

CHAPTER 30: 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.

<u>Finding 30.4.4.D.1</u>	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.
<u>Finding 30.4.4.D.2</u>	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
<u>Finding 30.4.4.D.3</u>	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.
<u>30.5.1</u>	<u>Exceptions to Prohibition in Land Capability Districts 1a, 1c, 2, and 3</u>
<u>Finding 30.5.1.C</u>	<p>Public Service Facilities</p> <p>Land coverage and disturbance for public service facilities may be permitted in Land Capability Districts 1a, 1c, 2, and 3 if TRPA finds that:</p> <ol style="list-style-type: none"> 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.
<u>Finding 30.5.1.D</u>	<p>Water Quality Control Facilities</p> <p>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:</p> <ol style="list-style-type: none"> 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.
<u>30.5.2</u>	<u>Exceptions to Prohibition in Land Capability District 1b (Stream Environment Zone)</u>
<u>Finding 30.5.2.A</u>	<p>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: <i>Basic Services</i>, may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:</p> <ol style="list-style-type: none"> 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.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.

Finding 30.6.1: Implementation of Program: Except as otherwise provided by subsection 30.6.2, all projects on parcels or other project areas with unmitigated excess land coverage are subject to the land coverage mitigation program set forth in this section. Projects subject to the program shall reduce land coverage by the amounts specified in subparagraphs 30.6.1.A and B.

D. Excess Land Coverage Mitigation Program Options

In the event land coverage reduction is required, the applicant may choose any of the following options, or combinations thereof, to comply with the requirements of this section.

5. Projects Within Community Plans

Projects that are located within an adopted community plan may rely on the community plan to mitigate excess land coverage provided TRPA makes findings a and b, below. In lieu of findings A and B being made, TRPA may determine that a project complies with the requirements of this subparagraph by making finding c, below:

- a. The project is located within an area for which a community plan, as originally adopted or subsequently amended, includes a program to mitigate the excess land coverage within the area. Such a program shall ensure that coverage mitigation, when measured for individual parcels affected by the program, meets the standards set forth in subparagraphs 30.6.1.A through C. The options available for mitigating excess land coverage under any such program shall be any combination of those options set forth in subparagraphs 1, 2, 3, and 4 above.
- b. There is an irrevocable commitment for the funding necessary to implement the program for mitigating excess land coverage. For purposes of this subparagraph, “irrevocable commitment” shall mean the following:
 - i. The public entity funding the measure or, when necessary, the electorate has made all discretionary decisions required for the issuance of the bonded indebtedness under applicable state law and that only ministerial acts necessary to the issuance of any such bonded indebtedness and the receipt of funds therefrom remain to be completed. Any such funds shall be finally committed to, and available for, expenditure;
 - ii. The application for state and federal grant monies has received approval, and such grant monies are included in a duly enacted state budget or a legislative appropriation or federal authorization and appropriation. Any such funds shall be finally committed to, and available for, expenditure for the excess land coverage mitigation program in accordance with the approved community plan;
 - iii. Where the funding of the program is the responsibility of a person or persons, TRPA shall ensure that the public entity has received sufficient funds or an acceptable security to fully fund the program;
 - iv. The public entity funding the program has received a funded commitment from another public entity as described in a or b above; or
 - v. Any combination of i through iv above.

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

33.3.6 Excavation Limitations

Finding 33.3.6.2

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 37.5.4 or 37.5.9 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 demonstrates that there will be no adverse effect on water quality.

CHAPTER 34: DRIVEWAY AND PARKING STANDARDS

34.3

Driveways

Finding 34.3.2.B:

In the application of subsection 34.3.3 through 34.3.5, inclusive, TRPA shall encourage shared driveways if TRPA finds that the effect is equal or superior to the effect of separate driveways.

Finding 34.3.2.E:

Slopes of driveways shall not exceed the standards of the county or city in whose jurisdiction the driveway is located. Driveways shall not exceed ten percent slope, unless TRPA finds that the construction of a driveway with a ten percent or less slope would require excessive excavation and that the runoff from a steeper driveway shall be infiltrated as requires in Section 60.4, In no case shall the driveway exceed 15 percent slope.

CHAPTER 35: NATURAL HAZARD STANDARDS

35.4.2

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

Finding 35.4.2.C

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: *Basin 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.

CHAPTER 36: DESIGN STANDARDS

36.5.4

Setback Standards (for parcels abutting roadways rated in TRPA's Scenic Resource Inventory)

Finding 36.5.4.2:

TRPA may approve building setbacks less than 20 feet if the reduced setback is approved by the appropriate local jurisdiction and TRPA finds that the project shall not cause a decrease in the numerical ratings assigned to the roadway unit, including the scenic quality rating of the individual resources within each unit, as

recorded in the 1982 Scenic Resource Inventory and shown in Tables 13-3 and 13-8 of the Study Report for the Establishment of Environmental Threshold Carrying Capacities, October 1982. The criteria for rating scenic quality as identified in the study report cited herein shall be used to determine if a project will cause a decrease in the numerical rating.

CHAPTER 37: HEIGHT

Finding 37.5: Additional Height for Certain Buildings: TRPA may approve building heights greater than those set forth in Section 37.4 in accordance with the following provisions and provided that TRPA makes the applicable findings in Section 37.7.

Finding 37.5.5: Additional Building Height for Affordable Housing Projects: The maximum height specified in Table 37.4.1-1 may be increased for affordable housing projects located in special areas designated for affordable housing within the Kings Beach Commercial Community Plan. The maximum height in Table 37.4.1-1 may be increased by up to 15 feet, but not to exceed a total building height of 48 feet, provided that the project incorporates community design features such as pitched roofs, articulated facades, articulated roof planes, and the use of earth tone colors consistent with the Design Review Guidelines, and TRPA makes finding 14 of Section 37.7.

Additional Height for Roof Pitch up to 5:12 (requires Finding 1)

Finding 37.7.1: Finding 1: When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7. Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

Additional Height for Roof Pitch Greater than 5:12 (requires Findings 1, 2, and 8)

Finding 37.7.1: Finding 1: When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7. Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

Finding 37.7.2: Finding 2: When outside a community plan, the additional height is consistent with the surrounding uses.

Finding 37.7.8: Finding 8: The maximum building height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building and point at which the corner of the same exterior wall meets the roof.

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 67: HISTORIC RESOURCE PROTECTION

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.

Finding 67.7.4: Construction, reconstruction, repair, and maintenance of historic resources shall be in accordance with the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

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.