

**TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS**

NOTICE IS HEREBY GIVEN that on Wednesday, October 22 and Thursday, October 23, 2003, commencing at 8:45 a.m. and 9:30 a.m., respectively, the **Governing Board** of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the Tahoe Regional Planning Agency, 128 Market Street, Stateline, Nevada.

PLEASE NOTE THAT EXECUTIVE DIRECTOR FINALISTS WILL BE INTERVIEWED ON WEDNESDAY, OCTOBER 22, 2003 AND REGULAR BOARD BUSINESS WILL BE CONDUCTED ON THURSDAY, OCTOBER 23, 2003. THE AGENDA IS ATTACHED HERETO AND MADE A PART OF THIS NOTICE.

Governing Board Committee Items Are Action Items Unless Otherwise Noted.

NOTICE IS FURTHER GIVEN that on Tuesday, October 21, 2003, commencing at 9:30 a.m. until 5:00 p.m. at the Tahoe Regional Planning Agency, the TRPA **Executive Director Selection Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Interviews of semi-final candidates; 3) Selection of final candidates; and 4) Member comments. (Committee: Chair - Slaven, DeLanoy, Sevison, Smith, Yount).

NOTICE IS FURTHER GIVEN that on Thursday, October 23, 2003, commencing at 8:30 a.m., at the same location, the TRPA **Operations Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Monthly statements; 3) Approval of restatement of retirement plan to comply with federal requirements; 4) Discussion and recommendation on time limitations for public comment at Governing Board meetings; 5) Discussion of policies regarding public comment on proposed projects; 6) Resolution Allocating FY 2003/2004 Local Transportation Funds (\$185,825) to El Dorado County for Transit Services; 7) Resolution Allocating FY 2003/2004 State Transit Assistance (\$38,512) to El Dorado County for Transit Services; 8) Resolution Allocating FY 2003/2004 Local Transportation Funds (\$540,561) to the City of South Lake Tahoe for STAGE Transit Services; 9) Resolution Allocating FY 2003/2004 State Transit Assistance (\$40,497) to the City of South Lake Tahoe for STAGE Operating Assistance; 10) Resolution Allocating Unapportioned Local Transportation Funds (\$21,627) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance; 11) Resolution Allocating Apportioned, Unallocated Local Transportation Funds (\$20,617) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance; 12) Resolution Allocating Carryover State Transit Assistance (STA) (\$13,953) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance; 13) Resolution Allocating FY 2003/2004 Local Transportation Funds (\$68,000) to the Tahoe Regional Planning Agency for Planning and Administration of the Transportation Development Act Program; and 14) Member comments. (Committee: Chair - Perock, Aldean, Holderman, Sevison, Smith).

NOTICE IS FURTHER GIVEN that on Thursday, October 23, 2003, commencing at 8:30 a.m., at the same location, the TRPA **Legal Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Agency Counsel performance evaluation (closed session) 3) Request by Agency Counsel for salary increase; 4) Discussion of potential and pending litigation (closed session); 5) Clifford

Dean Anderson, Resolution of Enforcement Action (see Consent Calendar); and 6) Member comments. (Committee: Chair - Waldie, DeLanoy, Quinn, Slaven, Swobe, Yount).

NOTICE IS FURTHER GIVEN that on Friday, November 7, 2003, commencing at 9:00 a.m. until noon at the TRPA OFFICE at 128 Market Street, off Kingsbury Grade, (Douglas County, Nevada) the TRPA **Local Government Committee** will conduct a meeting. The agenda will be as follows: 1) Public interest comments (no action); 2) Discussion of programs and Code amendments to assist in the construction of moderate cost housing in the Region; 3) Discussion on Code amendments pertaining to secondary residential units; and 4) Member comments. (Committee: Chair - Cole, Solaro, Sevison, Aldean, Galloway, Smith).

October 14, 2003

A handwritten signature in black ink, appearing to read "Jerry Wells". The signature is fluid and cursive, with the first name "Jerry" and last name "Wells" clearly distinguishable.

Jerry Wells
Acting Executive Director

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
GOVERNING BOARD

Tahoe Regional Planning Agency
128 Market Street.
Stateline, Nevada

Wednesday , October 22, 2003
8:45 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

**WEDNESDAY
OCTOBER 22, 2003**

AGENDA

- I. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)
- II. APPROVAL OF AGENDA (5 minutes) Page 3
- III. SELECTION OF EXECUTIVE DIRECTOR
 1. Questions by public panel of final candidates (8:45 a.m. – 12:00 p.m.)
 2. Interviews of final candidates by Governing Board (1:30 p.m.)
 3. Public comment on final candidates
 4. Selection of top candidate
 5. Delegation to negotiate salary and other employment terms of Executive Director
- IV. CONTINUATION OF REGULAR BOARD MEETING TO THURSDAY,
OCTOBER 23, 2003

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Tahoe Regional Planning Agency
128 Market Street.
Stateline, Nevada

Thursday, October 23, 2003
9:30 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

**THURSDAY
OCTOBER 23, 2003**

- I. PLEDGE OF ALLEGIANCE (5 minutes)
- II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)
- III. PUBLIC INTEREST COMMENTS – **All comments are to be limited to no more than five minutes per person.**

Any member of the public wishing to address the Governing Board on any Agenda item not listed as a Project Review, Public Hearing, TMPO, Appeal or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, Appeal and Planning Matter items will be taken at the time those agenda items are heard. The Governing Board is prohibited by law from taking immediate action on or discussing issues raised by the public that are not listed on this agenda.

- IV. APPROVAL OF AGENDA (5 minutes) [Page 4](#)
- V. APPROVAL OF MINUTES (5 minutes) [Page 9](#)
- VI. CONSENT CALENDAR (see agenda, packet pages 6 and 7, for specific items)
(5 minutes)
- VII. REPORTS
 - A. Executive Director Status Report (10 minutes)
 - 1. Monthly Status Report on Project Activities [Page 107](#)
 - 2. TTD/C Monthly Status Report [Page 115](#)

3. Progress Report on Forest Fuels Resolution

4. Progress Report on Shorezone EIS

B. Legal Division Monthly Status Report (5 minutes)

VIII. PLANNING MATTERS

A. Workshop on the Public Process Needed for Pathway
2007 Regional Plan update (90 minutes)

[Page 119](#)

IX. PUBLIC HEARINGS (Time Certain 1:00 p.m.)

A. Amendment to Chapter 22, Height, to Allow Additional
Height for Certain Public Services Buildings (30 min.)

[Page 121](#)

B. Amendment to Code Chapter 91 and Related Chapters
to Allow Consideration of Biofuel Facilities (45 minutes)

[Page 143](#)

X. ADMINISTRATIVE MATTERS

A. Best in the Basin Awards (11:30 a.m. time certain)

B. Agency Counsel Performance Evaluation
(closed session)

C. Request by Agency Counsel for Salary Increase

D. Approval of Time Limitation for Public Comment
at Governing Board meetings

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Operations Committee

B. Legal Committee

C. Local Government Committee

XII. REPORTS

A. Governing Board Members (5 minutes)

XIII. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	<u>Page</u>
1. September 2003 Financial Statement	Receipt	
2. Clifford Dean Anderson, Resolution of Enforcement Action, 798 North Shore Blvd., Placer County APN 112-180-36, TRPA File No. 20031110	Approval	17
3. Incline Elementary School Plan Revision, Southwest Corner of Northwood Blvd. And Village Blvd., Washoe County APN 132-012-05, TRPA File No. 20030768	Approval with Conditions	23
4. Gregory and Sara Skinner, Pier Extension 227 Drum Road, El Dorado County APN 016-300-09, TRPA File No. 20030053	Approval with Conditions	31
5. Marc Gordon, Pier Extension, 4550 North Lake Blvd., Placer County APN 091-165-01, TRPA File No. 20030373	Approval with Conditions	47
6. Restatement of Retirement Plan to Comply with Federal Requirements	Approval	71
7. Resolution Allocating FY 2003/2004 Local Transportation Funds (\$185,825) to El Dorado County for Transit Services	Approval	79
8. Resolution Allocating FY 2003/2004 State Transit Assistance (\$38,512) to El Dorado County for Transit Services	Approval	83
9. Resolution Allocating FY 2003/2004 Local Transportation Funds (\$540,561) to the City of South Lake Tahoe for STAGE Transit Services	Approval	87
10. Resolution Allocating FY 2003/2004 State Transit Assistance (\$40,497) to the City of South Lake Tahoe for STAGE Operating Assistance	Approval	91
11. Resolution Allocating Unapportioned Local Transportation Funds (\$21,627) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance	Approval	95
12. Resolution Allocating Apportioned, Unallocated Local Transportation Funds (\$20,617) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance	Approval	97

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|-----|--|----------|-----|
| 13. | Resolution Allocating Carryover State Transit Assistance (STA) (\$13,953) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance | Approval | 99 |
| 14. | Resolution Allocating FY 2003/2004 Local Transportation Funds (\$68,000) to the Tahoe Regional Planning Agency for Planning and Administration of the Transportation Development Act Program | Approval | 103 |

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

Four of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

- (1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.
- (2) For approving a project, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.
- (3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Article III(g) Public Law 96-551

Tahoe Regional Planning Agency Governing Board Members:

Chair David A. Solaro, El Dorado County

Vice-Chair Wayne Perock, Nevada Department of Conservation Appointee

Shelly Aldean, Carson City Board of Supervisors Member
Hal Cole, City of South Lake Tahoe
Drake DeLanoy, Nevada Governor's Appointee
Jim Galloway, Washoe County
Dean Heller, Nevada Secretary of State
Reed Holderman, California Assembly Speaker's Appointee
Tom Quinn, California Governor's Appointee
Larry Sevison, Placer County
Ronald Slaven, California Governor's Appointee
Tim Smith, Douglas County
Coe Swobe, Nevada At-Large Member
Jerome Waldie, California Senate Rules Committee Appointee
Stuart Yount, Presidential Appointee

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

North Tahoe Conference Center
Kings Beach, California

September 24, 2003

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Solaro called the September 24, 2003, regular meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:35 a.m. and asked Board member Swobe to lead in the Pledge of Allegiance.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. Smith, Mr. Waldie, Mr. DeLanoy, Mr. Heller, Mr. Cole,
Ms. Aldean, Mr. Slaven, Mr. Perock, Mr. Holderman,
Mr. Galloway, Mr. Swobe, Mr. Sevison, Mr. Solaro, Mr. Yount
Members Absent: Mr. Quinn

III. PUBLIC INTEREST COMMENTS

Mr. John Falk, Government Affairs Director for the Tahoe Sierra Board of Realtors, commented on the postponement until October of the Board's consideration of the vacation rental issue and requested the Board direct staff to formally suspend its interpretation of the pertinent code provisions. The current interpretation placed numbers of real estate transactions in limbo. There was room to work together to make the code much more definitive and responsive to existing land use profiles.

Thirty-year Tahoe resident Jim Morris commented on TRPA's application dating back to 1972 of the coverage restrictions outlined in the Bailey land capability document and the focus since then on land coverage as the main source of negative impacts to water clarity. Thirty years was too long a time to use coverage restrictions as the primary strategy to treat the Lake's declining clarity. Since the Lake's continuing problems proved this strategy was not working, TRPA needed to look back at its earlier grandfathering of land coverage provisions. It wasn't fair that he was having to wait eight years before he could develop a lot in the Tahoe Keys subdivision, in spite of the significant subdivision improvements already in place. TRPA's land coverage policy was not supported by science.

Mr. Steve Teshara, Executive Director of the North Lake Tahoe Resort Association, spoke on the make up of the eight-member Executive Director interview panel and expressed concern that there was no business community representative from the North Shore on the panel. This was a serious omission. The Resort Association was the primary North Shore-based organization that partnered with TRPA in implementation of the EIP plan, yet it was not asked to participate in the upcoming interview process.

IV. APPROVAL OF AGENDA

MOVED by Swobe to approve the agenda as discussed (continuance of IXA. Lake Tahoe Cruises plan revision to October; continuance of items XIA. and B. Agency Counsel performance evaluation and salary increase; continuance from the September 23 Executive Director Selection Committee meeting to the lunch break today; continuance of consent calendar item 2 Breznikar pier expansion). MOTION CARRIED.

V. APPROVAL OF MINUTES

MOVED by DeLanoy to approve the August 27, 2003, regular Board meeting minutes as presented. MOTION CARRIED.

VI. CONSENT CALENDAR

MOVED by Sevison to approve the consent calendar. MOTION CARRIED.

(Items approved on the consent calendar: 1. August 2003 Financial Statement; 3. Augmentation for Bureau of Reclamation \$485,000 Grant; 4. Augmentation for New \$35,000 Scenic Shoreland Project Review Applications Contracts; 5. Adoption of FFY 2003/2004 TRPA/TTD Disadvantaged Business Enterprises Program/Goal and Supporting Resolution; 6. Austin/Van Voorhis Multiple-Use Pier Expansion; 850 & 860 West Lake Blvd., Placer County APNs 083-172-09 & 10, TRPA File 20021815; 7. Authorization to Release \$16,855 from the Environmental Education Fund for Shorezone EIS Public Outreach Program. Item 2, Breznikar Family, LLC Pier Expansion Project, Douglas County APN 005-051-26, TRPA File No. 20021247 was continued as noted on the agenda.)

VII. REPORTS

A. Executive Director Status Report

1. Monthly Status Report on Project Activities
2. TTD/Monthly Status Report

Acting Executive Director Jerry Wells noted that staff reports on items 1. and 2. were contained in the packet material.

B. Legal Division Monthly Status Report

Agency Legal Counsel John Marshall provided details on the recent District Court's affirmation of the magistrate judge ruling in the Glenbrook pier case. The Court upheld the finding that, while the pier did not interfere with the recreational easement, the property owners did have access to the community pier and therefore could not meet one of the TRPA-approved conditions. The decision may be appealed to the Ninth Circuit.

VIII. PLANNING MATTERS

- A. Report on the Effectiveness of EIP Projects and Treatment Facilities in Dealing with Runoff

TRPA Water Quality Program Manager Larry Benoit provided a PowerPoint presentation on selected EIP (Environmental Improvement Program) storm water projects, EIP project monitoring, and the effectiveness of various water quality treatment options. He and Acting Deputy Director Carl Hasty responded to questions regarding overall nutrient and sediment sources, the location of monitoring sites relative to these sources, and the process for selecting EIP projects for implementation. Also discussed were available data on impacts to the Lake from forest fires, monitoring of upwelling of nutrients from the Lake's bottom, statistics regarding the Lake's recovery from the Comstock period, and the Agency's efforts on a regional approach to project maintenance and revenue generation. Staff's presentation covered storm water runoff in urban and rural settings, factors of storm water EIP performance (project design, construction, structure maintenance, operational considerations), and specific monitoring results at several sites in the Basin.

This was not an action item.

B. Amendment of Resolution Addressing Dead Tree Removal and Fuels Reduction and Brief Progress Report on Outcomes from the August Fire and Fuel Workshop

TRPA Vegetation Program Manager Mike Vollmer distributed a revised resolution supporting forest fuels reduction and improvement of the forest conditions. The changes included Board direction to staff to draft code amendments to eliminate or modify the prohibition on use of vehicles in Stream Environment Zones (SEZ) for tree cutting and forest fuels reduction. The revised resolution also included direction to staff to treat forest fuel treatment areas in the updated thresholds as an Agency priority or to create a new threshold for fire protection, forest preservation, and elimination of dead trees and other forest fuels in the Basin.

Other modifications that evolved from the Board's discussion on the resolution included a change in the clause 5 reference to Tahoe City and the addition of "private property owners."

In introducing the resolution as amended, Mr. Swobe expressed concern that, since the September 2002 Board adoption of a similar resolution, nothing had been done to alleviate the potential forest fire hazard. The Gondola fire in 2002 served as an example of the need to focus on fire danger as one of the main problems at Lake Tahoe. Staff had done an excellent job last month in bringing experts together to participate in the forest health workshop. A constant thread in the workshop remarks of forest managers and of forester Ralph Osterling was the inability of the appropriate agencies to remove forest fuels from stream zones because of the prohibition on use of mechanized vehicles to cut trees and remove dead wood. If the Federal Government was being asked to fund resource management activities in the Basin, TRPA should not tie the hands of the foresters and fire protection districts to do what needed to be done. The current, absolute prohibition flew in the face of the Agency's mandate to restore the Basin's natural beauty. A catastrophic fire in the Basin would set the lake's clarity back many decades, if not a century. This resolution would serve as a policy statement that TRPA was going to seriously tackle the problems of a potential catastrophic fire.

TRPA REGULAR MEETING MINUTES SEPTEMBER 24, 2003

The Board and staff discussed the effect on other agencies' authorities and jurisdictions should TRPA modify or eliminate SEZ prohibitions and the fact that the most restrictive regulations would control in the permit process. The resolution directed staff to focus on a collaborative effort to achieve agreement with appropriate entities. Modification of the 208 water quality plan and review and approval of the states and EPA may need to occur to accomplish the goal.

Mr. DeLanoy commented on his discussions with Ms. Lisa Moore, Senator Reid's representative at the August meeting, and her suggestion for TRPA and others to create a plan. His proposal, as set forth in the diagram on the third page of the handout, showed TRPA's sole function as a fund-raiser for local fire protection agencies. The intent was for DRI and other experts to meet with local fire authorities to determine what was needed to get the work done on the ground. No more analysis was needed. Staff had prepared maps showing non-Forest Service and non-stream environment zone areas where funding could be used to address the fire hazard.

Mr. Vollmer displayed the maps showing combined values at risk in fire hazard areas, stream zones, land ownerships, and defensible fuels profiles.

The Board discussed the potential for a SMUD co-generation project in the Basin; the importance of addressing the potentially differing views and regulations of other agencies (U.S. Fish and Wildlife, Lahontan, Fish and Game, and others); the range of SEZ issues in addition to the fire hazard concern; the immediate need for the Agency to take a leadership position; and the loss of value in dead trees which had gone untouched and untreated for so long. The Board also discussed advances in mechanized treatment to achieve protection of stream zones; the need to address the effects on stream quality, fisheries, and sediment loads in the tree removal process; and the potential for unexpected consequences from work in these sensitive areas.

Mr. Swobe agreed with Ms. Aldean's suggestion regarding TRPA coordination with other entities and agreed to add to clause 4 "...to coordinate with other appropriate agencies relating to the above prohibition. "

Ms. Sue Norman, acting Forest Service Adaptive Manager and Monitoring and Evaluation Program Leader, asked that TRPA's intent in the resolution allow the Forest Service to conduct a forest health pilot project in an SEZ, using the latest technology to harvest trees and to monitor associated soils and water quality impacts. This would demonstrate whether use of current technology and equipment would result in fewer disturbances than what had occurred in the past. The results of these earlier operations had caused the prohibitions to be instituted in the first place. Healthy SEZs created good fire buffers.

Mr. Mike Chandler, South Lake Tahoe Fire Chief and the representative for the Regional Fire Chiefs, commented on the potential cogeneration pilot project study and the grant from the Forest Service to the South Tahoe High School for installation of a co-generation facility. The Pioneer fire last year showed how a fire moved very slowly through a treated area but moved rapidly in untreated stream zones. Mr. Chandler asked the Board in its consideration to ensure consistency with other agency regulations, to ensure that the future plan be consistent throughout the region, to keep overhead down by focusing work in the field and on the ground, to educate citizens on

what was needed and what was being done, and to treat the urban areas first before moving out into the woods.

Mr. Michael Donahoe, for the Sierra Club, spoke in favor of an SEZ pilot project and asked the resolution be amended to focus first on fuel reduction in the urban interface. He urged that audience members be provided with amended handouts so they could follow along with the Board and staff discussion.

Mr. DeLanoy spoke on the importance of not having staff direct local fire departments and fire agencies on how to conduct their business. All TRPA should do in this process was obtain funding so the experts could aid local fire departments in determining what was needed. Funding was to flow through TRPA to others.

Mr. Vollmer concurred that staff's role was one of leadership, coordination, and facilitation. There were now many experts in the Basin doing the work, and TRPA would not be imposing itself on these entities. With regard to the urban interface, the intent was to start in those areas where the values at risk were the highest. This would facilitate the goals in the rest of the forest as well. Once the Basin communities were fire safe, work could move to the greater forest with more safety.

MOVED by Swobe to adopt the resolution with the amendments (change the Clause 5 reference to Tahoe City; add private property owners to Clause 5; and add to Clause 4 "...and to coordinate with other appropriate agencies relating to the above prohibition.").
MOTION CARRIED.

Deputy Director Carl Hasty suggested to the Board that, in accomplishing the four directives set out in the resolution, the staff would use its discretion in setting out the approach. In laying out the plan, staff would be bringing back to the Board a series of steps and amendments, and time was needed for staff's evaluation of the impact of the amendments. The amendment process could be extremely lengthy. While staff did recognize the Board's desire to make things happen quickly, he did not want staff's hands tied in the accomplishment of needed work and the processing of appropriate amendments.

X. APPEALS

- A. Egidio Sponza, Appeal of Executive Director Administrative Determination, 1037 Tomahawk Trail, Unit 2, Incline Village, Washoe County APN 130-370-02

Assistant Agency Counsel Jordan Kahn summarized Mr. Sponza's appeal of an administrative decision denying a request to revoke a 1993 deed restriction limiting the rental and sale rates of an Incline Village property. As outlined in the staff packet, Mr. Kahn's presentation addressed the history of the property and reasons for the staff recommendation of denial of the appeal and for affirmation of the Executive Director's determination not to allow revocation of the 1993 deed restriction.

Mr. Bob Spitzer, attorney for the current property owner, presented his contention that staff had made an error in its 1993 code interpretation and the placement of conditions

TRPA REGULAR MEETING MINUTES SEPTEMBER 24, 2003

on a duplex to condominium conversion. He also presented his views regarding the timeliness of the appeal filing relative to the date of discovery.

Staff and Mr. Spitzer responded to Board member questions.

MOTION by Galloway to approve the Sponza appeal. MOTION FAILED.

The meeting recessed for a lunch break from 12:30 to 1:35 p.m. The Executive Director Selection Committee met during the lunch recess.

B. Appeal of Personnel Matter

Acting Executive Director Jerry Wells made brief introductory remarks.

MOTION by Galloway to go into closed session. MOTION CARRIED.

The Board met in closed session from 1:35 p.m. to 2:35 p.m., at which time the Board went back into open session.

MOTION by Sevison to approve the appeal as outlined on the agenda. MOTION FAILED.

XI. ADMINISTRATIVE MATTERS – continued

C. Appointment of Nevada and California Lay Members to the Advisory Planning Commission (APC)

Acting Executive Director Jerry Wells noted that the two-year term for Nevada lay member Bob Jepsen expired in June 2003 and the two-year term of California lay member Alan Tolhurst expired in September. Recommendations favoring reappointment of both had come from Carson City and El Dorado County, respectively

MOTION by Perock to approve the Jepsen and Tolhurst lay member appointments to the APC. MOTION CARRIED.

XIII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Operations Committee – nothing new to report

On the matter of the Board's previous discussion on the personnel appeal (Item X.B.), Board member Yount suggested that Mr. Wells send a letter to the appellant regarding an item discussed in the closed session.

B. Legal Committee – nothing new to report

D. Local Government Committee

Committee Chairman Hal Cole summarized the discussions at the September 5 committee meeting and the focus and input by stakeholders on the vacation rental issues. Supervisor Solaro had recommended that TRPA continue the policy of allowing

the issue to be handled at the local level. While this recommendation passed unanimously, all agreed that more figures, data and documentation regarding the extent of the problem were needed before any definition or other code amendments could occur. The matter would come back to the committee at its next meeting on October 3. An ad hoc committee of TRPA staff and stakeholders would bring back recommendations along with supporting documentation for possible changes in code provisions and/or interpretation. The matter would not come to the Board until after that had occurred.

The Board discussed local government v. TRPA enforcement, nuisance and zoning issues, changes over time in defining terms and uses, and the need for data regarding environmental and housing stock impacts.

Chairman Solaro explained that, while the Local Government Committee continued to work on the vacation rental issue, staff would not be placing conditions on permits regarding this matter.

C. Public Outreach/Environmental Education Committee

Committee Chairman Coe Swobe spoke on the importance of the Board's consent calendar approval authorizing release of \$16,855 for the Shorezone EIS public outreach program.

E. Executive Director Selection Committee

Committee Chairman Ron Slaven noted that the Committee had continued its noon meeting to 8:00 a.m. on September 25 to allow more time to review the candidates' returned questionnaires. The Committee would be paring down the number of candidates to five or seven for the October 22 interviews. The intent of the panel session was to see how the candidates reacted in a question and answer session with community representatives; this panel would not be making a recommendation to the Board. The panel included Gary Midkiff, for the business community; Jan Brisco, for homeowners; Jon Paul Harries, for the environment; David Kelly, a local activist; Andrew Strain, for local organizations; Michael Mantell, for the non-local interest; Kay Reed, for the media; and Paul Nielsen, for TRPA staff. People wishing to ask the candidates questions should contact the appropriate panel members.

Mr. Marshall explained that the Board members would be present at but not participate in the panel's morning exercise. This question and answer session was considered a part of the Board meeting and would be followed up in the afternoon by Board interviews.

The Board members spoke on the benefits of televising the interviews on the local access TV channel, even if there was a one- or two-day delay. Mr. Wells agreed to research the cost and possibility.

After more Board discussion on the makeup of the panel, Agency Counsel John Marshall reminded the Board that the next day's committee meeting was the appropriate time to discuss the panel structure. The topic was not on the Board's agenda. The all-day panel and Board interviews were scheduled for Wednesday, October 22; the normal TRPA business agenda would be taken up on Thursday, October 23.

TRPA REGULAR MEETING MINUTES SEPTEMBER 24, 2003

F. Pathway 2007 Committee

Committee member Stuart Yount commented on the scientific benefits learned from Lahontan's September 23 presentation on Total Maximum Daily Load (TMDL).

XIII. REPORTS

A. Governing Board Members – no comments

XIV. ADJOURNMENT – The meeting adjourned at 2:55 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Julie D. Frame". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Julie D. Frame

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (775) 588-4547. In addition, written materials submitted at the meeting may be reviewed at the TRPA office, 128 Market Street, Stateline, Nevada.

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
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MEMORANDUM

October 7, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution of Enforcement Action
Mr. Clifford Dean Anderson
798 North Shore Boulevard, Kings Beach, Placer County, California
Assessor's Parcel Number (APN) 112-180-36

Responsible Parties: Clifford Dean Anderson.

Location: 798 North Shore Boulevard, Kings Beach, Placer County, California, Assessor's Parcel Number (APN) 112-180-36.

Agency Staff: Gretchen Gibson, Associate Environmental Specialist, and Jordan Kahn, Assistant Agency Counsel

Recommendation: Staff recommends that the Governing Board accept the proposed Settlement Agreement (attached as Exhibit A) in which Anderson pays \$5,000 to TRPA and plants (or pays for the planting of) a replacement tree. Pursuant to the Settlement Agreement, TRPA will dismiss the protective lawsuit it filed: TRPA v. Anderson, Eastern District of California Case No. CV-S-03-1745 WBS-JFM.

Alleged Violation Description:

Responding to a complaint of a fallen tree, TRPA Environmental Compliance staff inspected the property located at 798 North Shore Boulevard, Placer County having Assessor's Parcel Number 112-180-36 ("Chism Property") in June 2003. TRPA staff determined that one live Jeffrey pine tree approximately eleven inches diameter at breast height (dbh) had been materially damaged and removed without TRPA review or approval in violation of TRPA regulations.

TRPA staff determined that Anderson completed the tree removal activity independently and without permission from the Chisms. The tree removal resulted in an enhanced view of Lake Tahoe as viewed from the Anderson property (located adjacent to the Chism Property). No other nearby residences (including the Chism residence) experienced better lake views as a result of this tree removal.

The above-described activities violate the following sections of the TRPA Code of Ordinances:

- 71.1 Applicability: One tree was removed without the review and approval of TRPA.
- 71.3 General Standards: The tree removed was alive and greater than six inches dbh and therefore required approval by TRPA.
- 71.4 Minimum Standards For Tree Removal: The minimum standards for tree removal were not met in this case due to the robust health of the tree removed.
- 71.5 Reasons For Tree Removal: The removal of the tree did not meet any of the criteria for permissible tree removal.

Proposed Settlement: TRPA staff recommends that the Governing Board approve the proposed Settlement Agreement (Exhibit A) in which the party agrees to the following:

1. Anderson shall pay TRPA a settlement of \$5,000 to be paid within 30 days of Governing Board approval.
2. Anderson shall either plant one Jeffrey pine tree (minimum height of 12 feet) on the Chism Property or compensate the Chisms for the cost of such restoration no later than December 1, 2003. This restoration work shall be pursuant to a TRPA-approved plan and shall comply with all TRPA requirements.
3. If Anderson fails to comply with all actions required by this Settlement Agreement, Anderson confesses to judgment against him and in favor of TRPA in the amount of \$10,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Anderson also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of \$10,000.
4. TRPA shall release Anderson of all claims arising out of the actions described in this Settlement Agreement.
5. TRPA shall within five business days of receipt of the \$5,000 settlement from Anderson dismiss with prejudice the matter of TRPA v. Anderson, Eastern District of California Case No. CV-S-03-1745 WBS-JFM.
6. This Settlement Agreement shall not be considered an admission of liability by any person in any civil proceeding, nor evidence of liability in any civil proceeding.

Following is a statement of the facts supporting the determination of a violation:

On May 27, 2003 TRPA received a complaint from Anderson's neighbor alleging that a tree on private property had been removed without TRPA approval. TRPA staff inspected the property on June 20, 2003 and observed one tree on the property had been removed. Multiple cuts extending partially into the remaining stump were noted. One of these cuts showed signs of recent cutting with the presence of fresh sap. Additionally, the top of the stump also exhibited similar signs of recent cutting. A third cut approximately eight inches from the base of the stump did not have fresh sap. This cut had an aged, varnished appearance indicating the cut had been made some time before the cuts that exhibited fresh sap. A fracture in the stump

extending from this cut near the base of the tree indicates that this cut caused the tree to lean over.

TRPA staff observed that one tree greater than six inches diameter at breast height ("dbh") had been materially damaged and removed without TRPA review or approval in violation of TRPA regulations. Specifically, one Jeffrey Pine approximately eleven inches dbh had been materially damaged and later cut after it was leaning over due to the material damage that had occurred.

Anderson was interviewed on July 1, 2003 concerning the two cuts in the stump located approximately eight inches from the ground and another cut made approximately halfway between that cut and the top of the stump. Anderson stated that he made both of these cuts to the tree and that they were made on the same day in late May. He stated that he left these cuts in the stump due to running out of fuel for his chainsaw.

Anderson completed the tree removal activity independently and without permission from the Chisms. The tree removal resulted in an enhanced view of Lake Tahoe. No other nearby residences (including the Chism residence) experienced better lake views as a result of this tree removal.

The material damage to the tree on the Chism property constituted a project for which a TRPA permit was required. Neither Anderson nor an agent on his behalf sought or obtained any TRPA permits to materially damage or remove trees on the Chism property. Had Anderson sought a TRPA permit, one could not be issued due to the robust health of the tree prior to material damage.

Anderson was asked by TRPA to execute a waiver of the statute of limitations. When he refused, TRPA filed a protective lawsuit in the Eastern District of California (Case No. CV-S-03-1745 WBS-JFM). Anderson has not yet been served, as the parties have negotiated a proposed resolution of both the violation and the litigation.

Violation Resolution: TRPA staff recommends that the Governing Board accept the proposed Settlement Agreement, through which a replacement tree will be planted and the Agency will receive \$5,000 for the unauthorized tree removal. The proposed Settlement Agreement is consistent with past settlements, and Anderson has agreed in writing to the proposed settlement terms to resolve the alleged violation. The Settlement Agreement is not binding upon the TRPA Governing Board.

Documentary Evidence supporting the determination of a violation includes photographs of the site. These documents are in TRPA's possession and may be reviewed at the TRPA Offices.

The Tahoe Regional Planning Compact Article VI (k) Compliance provides for enforcement and substantial penalties for violations of TRPA ordinances or regulations.

Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed \$5,000 and an additional civil penalty not to exceed \$5,000 per day, for each day on which a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

Required Actions: Agency staff recommends that the Governing Board resolve the alleged violation by making a motion to ratify the proposed SETTLEMENT AGREEMENT (Exhibit A), based on this staff summary and the evidence contained in the record.

If there are any questions regarding this agenda item, please contact Gretchen Gibson at (775) 588-4547, extension 261.

Exhibit A

TAHOE REGIONAL PLANNING AGENCY

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www.trpa.org

P.O. Box 5310
Stateline, Nevada 89449-5310

Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Clifford Dean Anderson (“Anderson”), and the Tahoe Regional Planning Agency (“TRPA”).

This Settlement Agreement represents full and complete compromise and settlement of the certain violations alleged by TRPA, as described below:

Responding to a complaint, TRPA Environmental Compliance staff in June 2003 inspected the real property located at 798 North Shore Boulevard, Placer County, California, having Assessor’s Parcel Number (“APN”) 112-180-36 (the “Chism Property”). TRPA staff found that one live Jeffrey Pine tree on the Chism Property having a diameter at breast height of approximately eleven inches had been materially damaged and felled without TRPA review or approval in violation of TRPA regulations. TRPA staff subsequently determined that Anderson completed the tree removal activity independently and without permission from the Chisms. The tree removal resulted in an enhanced view of Lake Tahoe as viewed from the property owned by Anderson located at 804 North Shore Boulevard, Placer County, California, having APN 112-180-35. No other residences (including the Chism Property) experienced better views as a result of this unauthorized tree removal.

This Settlement Agreement is conditioned upon approval by the TRPA Governing Board. Execution of the agreement prior to Board action shall not be binding on either party in the event that the Board does not authorize settlement on the terms set forth below:

In order to fully resolve the matter, the parties hereby agree as follows:

1. Anderson shall pay TRPA a settlement of \$5,000 to be paid within 30 days of Governing Board approval.
2. Anderson shall either plant one Jeffrey pine tree (minimum height of 12 feet) on the Chism Property or compensate the Chisms for the cost of such restoration no later than December 1, 2003. This restoration work shall be pursuant to a TRPA-approved plan and shall comply with all TRPA requirements.
3. If Anderson fails to comply with all actions required by this Settlement Agreement, Anderson confesses to judgment against him and in favor of TRPA in the amount of \$10,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Anderson also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of \$10,000.

4. TRPA shall to release Anderson of all claims arising out of the actions described in this Settlement Agreement.
5. TRPA shall within five business days of receipt of the \$5,000 settlement from Anderson dismiss with prejudice the matter of TRPA v. Anderson, Eastern District of California Case No. CV-S-03-1745 WBS-JFM.
6. This Settlement Agreement shall not be considered an admission of liability by any person in any civil proceeding, nor evidence of liability in any civil proceeding.

Anderson has read this Settlement Agreement and understands all of its terms. Anderson has executed this Settlement Agreement voluntarily and with full knowledge of its significance. Anderson has been offered the opportunity to review the terms of this Settlement Agreement with an attorney prior to executing the same. Anderson agrees to comply with all applicable TRPA requirements in the future.

Anderson acknowledges TRPA's contention that the above-described activities constitute a violation of TRPA regulations. Anderson agrees to comply with all applicable TRPA requirements in the future.

Signed:

Mr. Clifford Dean Anderson

Date

Jerry Wells, Acting Executive Director
Tahoe Regional Planning Agency

Date

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TAHOE REGIONAL PLANNING AGENCY STAFF SUMMARY

Project Name: Incline Elementary School Plan Revision

Application Type: Public Service/Schools – Kindergarten to Secondary

Applicants: Washoe County School District

Applicants' Representative: Gary Midkiff, Midkiff and Associates, Inc.

TRPA Planner: Theresa Avance, Project Review Division

Location: Southwest corner of Northwood Blvd. and Village Blvd., Incline Village, Nevada

Assessor's Parcel Number/Project Number: 132-012-05 (Washoe County)/STD20030768

Staff Recommendation: Staff recommends that the Governing Board approve the plan revision. The recommended conditions of approval are listed in Section F of this staff summary.

Project Description: The applicants are proposing a plan revision to include six outdoor public address speakers for the recently approved new public elementary school in Incline Village (TRPA File Number 20010875). The original project, approved by the TRPA Governing Board on June 26, 2002, included a mitigation measure for noise impacts that prohibited outdoor speakers in the project design. Approval of this plan revision will allow outdoor public address speakers for the purpose of "all-call" announcements, emergency instruction, and the life-safety alarm. The system would not be used for organized sporting events.

Site Description: The affected parcel has a new public elementary school, which is currently under construction under a previous TRPA permit. The parcel has an average slope of about eight to ten percent sloping south towards Lake Tahoe. A small, step-sided ravine runs through the middle third of the property and divides it into two distinct building sites. A stream environment zone is located in the bottom of the ravine and accepts a seasonal drainage that accepts urban storm water runoff. Except for a few older willow trees, there is very little riparian vegetation in this stream zone area.

The property is well vegetated with native pine, fir, shrub and ground vegetation. There are approximately 346 trees remaining on the property that are larger than 6-inches in diameter at breast height (dbh). Numerous smaller trees are found along the adjacent street and in various locations on the property. The property is marginally visible from the Mount Rose Highway and Diamond Peak Ski Area. Although Lake Tahoe is barely visible from some locations on the site, the property should not be noticeably visible from the Lake due to distance, trees, and line-of-sight angles.

Surrounding land uses include residential condominiums to the north and east, a commercial shopping center to the south, and public service uses to the west (St. Patrick's Episcopal Church) and northwest (Pet Network). Incline High School is located about one-quarter mile to the northwest.

Issues: The proposed project involves a revision to the findings of the original Governing Board approval, and therefore requires Governing Board review. The primary project related issue is the change to the previous noise analysis. Bollard & Brennan, Inc., prepared a noise analysis for the project in September 2001. This analysis studied potential noise impacts to the neighborhood that could result from construction of a new school, including noise impacts from playground areas. This report concluded that total noise expected to be generated by the school, including traffic and playground noise, will not exceed TRPA noise standards established for the affected community plan area (60 CNEL). However, the report does conclude that, "overall increases in background noise and tonal content of the background noise will be noticeable."

A revision to the noise analysis, prepared by Bollard & Brennan, Inc. in August 2003, corrects their earlier recommendation that "no outdoor speakers should be included in the project design" by stating that, "The analysis assumed no outdoor speaker systems should be used for organized play field activities. The analysis did not address the use of speakers for periodic announcements or for providing emergency instruction or alarms." The revised report concluded that, based on the use of the public address system for a total of five minutes for each hour, the maximum noise level may not exceed 70 dB at the nearest property lines. To help minimize the potential annoyance of new noise on adjoining areas, the noise consultants recommend that the following measures be included in the project:

- Noise level measurements should be conducted to determine the volume setting required to ensure that maximum noise levels do not exceed 70 dB at the nearest property lines;
- Organized activities on the play fields should be restricted to between the hours of 8:00 a.m. and 7:00 p.m.;
- Proposed wood fences along the east and south property lines should be constructed so that the mass of the fence is a minimum of 3.5 pounds per square foot. The fence should be constructed to minimize warping and shrinkage. Openings for access should be minimized due to reduced effectiveness as a barrier. Prefabricated wood barriers are available which can be used for this application.

Staff Analysis:

- A. Environmental Documentation: The applicant completed a revised noise analysis to assess the potential environmental impacts of the revised project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the revised noise analysis will be made available at the Governing Board hearing and at TRPA.

- B. Community Plan: The project is located within the Incline Village Commercial Community Plan. The Land Use Classification is Commercial/Public Service and the Management Strategy is Mitigation. Staff has reviewed the subject community plan and has determined that plan revision is consistent with the applicable planning statement, planning considerations and special policies. The existing activity (schools – kindergarten through secondary) is listed as an allowable use.
- E. Required Findings: The following is a list of the required findings as set forth in Chapter 6 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

Chapter 6 Findings:

- 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.

Based on the findings provided on the V(g) Findings checklist, there is sufficient evidence in the project file to make this finding.

- b. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

- c. Wherever federal, state or 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 TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 2, above.)

- F. Required Actions: Agency staff recommends that the Governing Board approve the plan revision by making the following motions and findings based on this staff summary and the evidence contained in the record:
- I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect.
- II. A motion to approve the project, based on the staff summary, and the attached draft TRPA permit.

DRAFT
PERMIT

PROJECT DESCRIPTION: Incline Elementary Plan Revision APN 132-012-15

PERMITTEE(S): Washoe County Schools FILE # 20030768

COUNTY/LOCATION: Washoe/Corner of Northwood Boulevard and Village Drive

Having made the findings required by Agency ordinances and rules, TRPA Governing Board approved the project on October 23, 2003, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit and the conditions contained in the original permit dated June 26, 2002.

This permit shall expire on June 26, 2005 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

TRPA Executive Director/Designee Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) _____ Date _____

PERMIT CONTINUED ON NEXT PAGE

APN 132-012-05
FILE NO. 20030768

Additional Filing Fee ⁽¹⁾: Amount \$ 263.00 Paid _____ Receipt No. _____

Notes:

(1) See Special Condition 2.B, below.

Required plans determined to be in conformance with approval: Date: _____

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

TRPA Executive Director/Designee

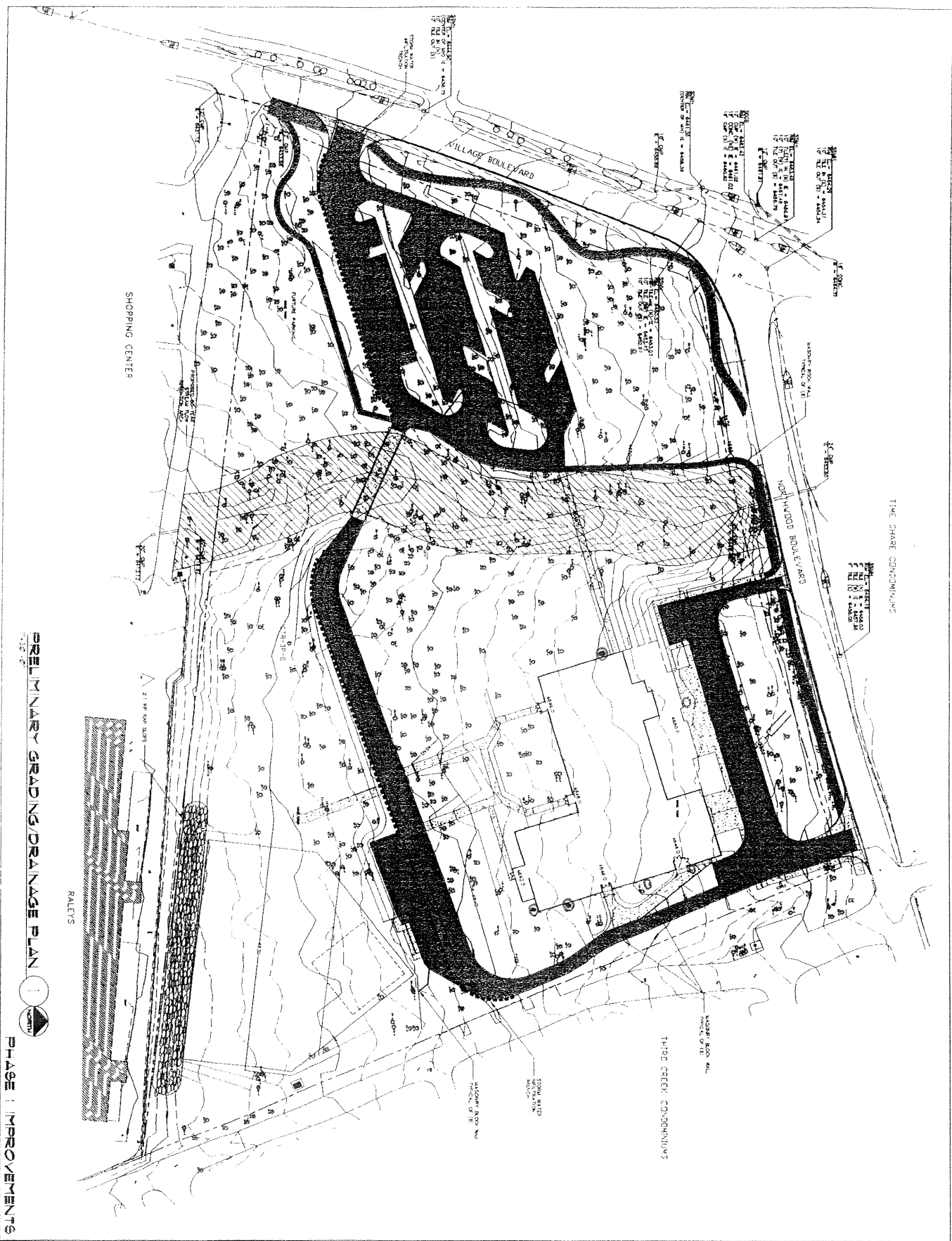
Date

SPECIAL CONDITIONS

1. This plan revision specifically authorizes the addition of six new public address speakers to be placed on the exterior of the building. No more than two speakers shall be placed on the east side of the building facing the Third Creek Condominium Development. The height of the new speakers shall not exceed ten feet above grade. The use of the new speakers shall be limited to periodic student announcements, emergency instruction, and the life-safety alarm. The speakers shall not be used for organized sporting events. The volume of the speakers shall be adjusted so that the noise level shall not exceed 70 dB at the nearest property line. All standard and special conditions and mitigation/monitoring requirements identified in the original permit, except as modified above for public address speakers, shall remain in effect.
2. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
 - A. A site plan shall be provided that includes:
 - (1) The approved Phase I project. All references to Phase II construction shall be deleted from the plans.
 - (2) Location of the proposed exterior public address speakers. No more than two speakers shall be placed on the east side of the building, per Special Condition 1, above.
 - B. The permittee shall submit an additional filing fee of \$263.00 for a major plan revision.
 - C. The permittee shall submit to TRPA three sets of the site plans identified in Special Condition 2.A. of this permit.

3. Prior to school occupancy, noise level measurements shall be conducted to determine the volume setting required to ensure that maximum noise levels do not exceed 70 dB at the nearest property lines. The results of these noise tests shall be submitted to TRPA in the form of a report. The noise tests shall be performed by an independent noise expert not directly affiliated with the school district.

END OF PERMIT



PRELIMINARY GRADING/DRAINAGE PLAN



DITCH MOVEMENTS

DATE	DESCRIPTION
01.10	ISSUED FOR PERMIT
01.10	ISSUED FOR PERMIT
01.10	ISSUED FOR PERMIT
01.10	ISSUED FOR PERMIT
01.10	ISSUED FOR PERMIT

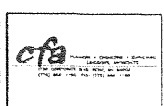
INCLINE VILLAGE ELEMENTARY SCHOOL
 FOR WASHOE COUNTY SCHOOL DISTRICT
 A.P.N. 117 017 09279 SUBDIVISION

29

NORTHWOOD BOULEVARD INCLINE VILLAGE, NEVADA

LUNDAHL & ASSOCIATES
 ARCHITECTS • ENGINEERS • INTERIORS DESIGN

844 836-6100 • 845 N. 3000 NEVADA (702) 348-7777 • FAX (702) 348-0604



TAHOE REGIONAL PLANNING AGENCY

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TAHOE REGIONAL PLANNING AGENCY STAFF SUMMARY

Project Name: Skinner Pier Reconstruction and Modification

Application Type: Shorezone-Pier Reconstruction and Modification

Applicant: Gregory & Sara Skinner

Applicant's Representative: Jan Brisco, Shorezone Consultant

Agency Planner: Elizabeth Harrison, Associate Planner, Project Review Division

Location: 227 Drum Road, Meeks Bay, CA

Assessor's Parcel Number/Project Number: 016-300-09/20030053

Staff Recommendation: Staff recommends approval of the project subject to the recommended conditions of approval contained in this staff summary. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The proposed project includes the rebuild and expansion of an existing pier by approximately 20-feet to the TRPA Pierhead Line. The existing single-use pier is approximately 6.5 feet wide by 82-feet long from the high water elevation 6229.1 (Lake Tahoe Datum). The proposed single-use pier extends 102-feet from the high water elevation 6229.1 (Lake Tahoe Datum) and includes one catwalk sized 3-feet wide by 30-feet long. The first 72-feet of the proposed pier is 6-feet wide and the remaining 30 feet of the pier includes a 10-foot wide bulkhead and a 3-foot wide by 30-foot long catwalk. This permit does not include the authorization or permitting of any buoys nor does it permit the removal of any vegetation.

Site Description: The project area consists of one residence, a parking area and a pier. The project site is in an area mapped and verified as Prime Fish Habitat (Spawning). This property is located in Meeks Bay, California and does not have access to multiple-use facilities. Adjacent land uses include residential development that includes shorezone structures such as piers.

Issues: This project involves the expansion of an existing nonconforming structure (due to its location in Prime Fish Habitat (Spawning) and therefore, the project requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary issues associated with this project are:

1. Fish Habitat: This project is located in a gravelly area verified as Prime Fish Habitat (Spawning). Gravels are typical of an area designated as

spawning habitat. No new areas of gravels will be removed or disturbed for the construction of the proposed pier as the pier will be rebuilt in the same footprint and there are no spawning gravels at the terminus of the pier where the extension is proposed. In addition all construction activity is permitted to take place during the non-spawning season, between July 1 and October 1 only. The applicant will be required to install either caissons and/or a turbidity curtain at the discretion of the TRPA Environmental Compliance Officer to retain sediment suspended as a result of the project construction.

2. Scenic Quality: The proposed project is visible from Scenic Shoreline Unit Number 10, Meeks Bay. This scenic shoreline unit has a score of 9, which is in attainment with TRPA scenic thresholds. The proposed pier extends 102-feet from the high water elevation 6229.1 (Lake Tahoe Datum) and includes no accessory structures.

Shorezone development is reviewed under Level 3 Scenic Mitigation (Subsection 30.15.C(3) of the TRPA Code of Ordinances) and the Interim System for the transfer of scenic mitigation credits (Section 30.15.H of the TRPA Code of Ordinances). The Level 3 Scenic Mitigation system requires that the upland development score a minimum contrast rating score of 21. The contrast rating of the existing upland development has been calculated as 23 and therefore the applicant is not required to implement additional scenic mitigation in the upland to meet Subsection 30.15.C(3) of the TRPA Code of Ordinances.

Section 30.15H (described above) requires the applicant to mitigate the increase in square footage between the existing pier and the proposed pier structure at a ratio of 1:1. The existing and proposed pier are approximately 238 square feet (including the pier deck and pilings) and therefore no mitigation is required.

3. Tahoe Yellow Cress (TYC): The subject property contains habitat suitable for TYC, however, no plants were identified during the site visit conducted by TRPA staff on September 12, 2003. As a special condition of approval a provision will be added that grants access to TRPA to conduct future inspections of the property to track the success of this population. In addition, TRPA requests the applicant allow for potential future TYC Stewardship ventures once the protocol has been established.

Staff Analysis:

- A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) and a Shoreland Scenic Assessment to assess the potential impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC and the Shoreland Scenic Assessment will be made available at the Governing Board hearing and at TRPA.

- B. Plan Area Statement: The project is located within Plan Area Statement 151, Glenridge. The Land Use Classification is Residential and the Management Strategy is Mitigation. The proposed structure (pier) is an allowable accessory structure in the subject plan area statement. Agency staff has reviewed the subject plan area statement and has determined that the project is consistent with the applicable planning statement, planning considerations, and special policies.
- C. Land Coverage:
1. Land Capability Districts: The verified land capability districts for the project area are Classes 1b and Class 3. The project area is 10,578 square feet in size.
 2. Existing Land Coverage:

Class 1b (Backshore)	138 square feet
Class 3	7,951 square feet
Total	8,089 square feet
 3. Proposed Land Coverage:

Class 1b (Backshore)	138 square feet
Class 3	7,951 square feet
Total	8,089 square feet
 4. Total Allowable Land Coverage:

Class 1b (Backshore)	97 square feet
Class 3	540 square feet
Total	637 square feet
 5. Excess Land Coverage:

Class 1b (Backshore)	41 square feet
Class 3	7,411 square feet
Total	7,452 square feet
 6. Land Coverage Mitigation: As a condition of project approval, the applicant will be required to mitigate the excess land coverage based upon the difference between the existing land coverage and the allowable land coverage in the project area in accordance with Subsection 20.5 of the TRPA Code of Ordinances. There is currently 7,452 square feet of excess coverage to be mitigated.
- D. Shorezone Tolerance District: The subject parcels are located within Shorezone Tolerance District 2. Projects proposed within Shorezone Tolerance District 2 must be designed to ensure that stabilized access ways are in place to minimize impact to the backshore and that vegetation in the backshore is maintained to stabilize backshore areas. Currently there is an existing access to the beach that will be utilized for the proposed pier. Therefore, no new disturbance is proposed in the backshore. The backshore of the subject property is vegetated with grasses and shrubs and appears to be relatively stable. The project, as proposed, complies with the shorezone tolerance district standards.

E. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 50, and 52 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. Chapter 6 - Required Findings:

- a. The project is consistent with and will not adversely affect the implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.
- (i) Land Use: The property contains a single-family dwelling and a pier. Single family dwellings are an allowed use within the applicable plan area statement. The project proposes to rebuild and expand an existing allowed accessory use (pier). Surrounding land uses include single family residences.
 - (ii) Transportation: No increase in vehicle trips is expected as a result of this project.
 - (iii) Conservation: The project proposed is located within an area identified as spawning habitat. The lake bottom consists of gravels and some scattered rocks. The proposed project is not expected to negatively impact fish habitat as the pier will be reconstructed within the existing footprint and the expansion of the pier extends outside of areas containing spawning habitat. The applicant will be required, as a condition of approval, to apply permanent and temporary Best Management Practices (BMPs) to the entire project area. In addition the subject parcel is accessed by a private road which has not had BMPs installed. As a special condition of approval, the applicant must provide a BMP Plan and commit to a fair-share contribution to the paving of this road, stabilization of a cut-slope and to the installation of BMPs.

The proposed project is visible from Scenic Shoreline Unit Number 10, Meeks Bay. This scenic shoreline unit has a score of 9, which is in attainment with TRPA scenic thresholds. The proposed pier extends 102 feet from the high water elevation 6229.1 (Lake Tahoe Datum) and includes no accessory structures.

Shorezone development is reviewed under Level 3 Scenic Mitigation (Subsection 30.15.C(3) of the TRPA Code of

Ordinances) and the interim system for the transfer of scenic mitigation credits (Section 30.15.H of the TRPA Code of Ordinances). The Level 3 Scenic Mitigation system requires that the upland development score a minimum contrast rating score of 21. The contrast rating of the existing upland development has been calculated as 23 and therefore the applicant is not required to implement additional scenic mitigation in the upland to meet Subsection 30.15.C(3) of the TRPA Code of Ordinances.

Section 30.15H (described above) requires the applicant to mitigate the increase in square footage between the existing pier and the proposed pier structure at a ratio of 1:1. The existing and proposed pier are approximately 238 square feet (including the pier deck and pilings) and therefore no mitigation is required.

The subject property contains habitat suitable for TYC, however, no plants were identified during the site visit conducted by TRPA staff on September 12, 2003. As a special condition of approval a provision will be added that grants access to TRPA to conduct future inspections of the property to track the success of this population. In addition, TRPA requests the applicant allow for future TYC Stewardship ventures once the protocol has been established. There are no known cultural or historical resources within the project area.

- (iv) Recreation: This project does not involve any public recreation facilities or uses. No comments from the Nevada Department of Wildlife have been received to indicate that this project will adversely affect recreational boating or top-line angling.
 - (v) Public Service and Facilities: This project does not require any additions to public services or facilities.
 - (vi) Implementation: This project does not require any allocations of development.
- b. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B. of the TRPA Code of Ordinances. Staff concurs with all responses contained on said checklist which indicate compliance with the environmental threshold carrying capacities. A copy of the

completed checklist will be made available at the Governing Board hearing and at TRPA.

- c. Wherever federal, state or 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 TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 1.b, above)

2. Chapter 50-Shorezone:

- a. The proposed project will not adversely impact: (1) littoral processes; (2) fish spawning; (3) backshore stability; and (4) on-shore wildlife habitat, including wildfowl nesting areas.

It is not anticipated that the proposed project will have an impact on littoral processes because the proposed pier is built using open pile construction. The project, as proposed, is not expected to negatively impact fish as the pier will be reconstructed within the existing footprint and the expansion of the pier extends beyond areas containing spawning habitat. The project is not anticipated to impact backshore stability as an existing pathway will be utilized to access the proposed pier. The proposed project is not located within an area that is mapped as onshore wildlife habitat nor has the site been shown to be a waterfowl nesting area.

- b. There are sufficient accessory facilities to accommodate the project.

This project involves the expansion of an existing pier for a property containing a residential structure. The residence has a minimum of two on-site parking spaces available and access to the shorezone currently exists to accommodate this project.

- c. The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modification of such existing uses or structures will be undertaken to assure compatibility.

The proposed pier expansion is located within Meeks Bay, California. Surrounding properties contain piers. The proposed pier expansion is therefore compatible with structures and uses within the vicinity of the subject parcel.

- d. The use proposed in the foreshore or nearshore is water-dependent.

The pier is located in the foreshore and nearshore of Lake Tahoe and is water dependent.

- e. Measures will be taken to prevent spills or discharges of hazardous materials.

This approval prohibits the spray painting and the use of tributyltin (TBT). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface water of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

- f. Construction and access techniques will be used to minimize disturbance to ground and vegetation.

The applicant shall not be permitted to store construction materials in the backshore and all construction access shall be from a barge only. The proposed pier will be constructed using the existing pier footprint and therefore no new disturbance in the backshore will be created during construction. The applicant will be required to install either caissons and/or a turbidity curtain at the discretion of the TRPA Environmental Compliance Officer at the time of the pre-construction inspection. No vegetation is permitted for removal for the construction of the pier.

- g. The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters.

This project must receive approval from the California State Lands Commission and the U.S. Army Corps of Engineers. Comments from these agencies were solicited as part of the review of this project and no comments were received.

- h. TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on this project.

This project must receive approval from the California State Lands Commission and the U.S. Army Corps of Engineers.

Comments from these agencies were solicited as part of the review of this project, however, no comments were received. This project was also taken before the Shorezone Review Committee and no comments were received.

4. Chapter 52 - Repairs/Modifications to Existing Structures:

- a. The repair does not increase the extent to which the structure does not comply with the development standards.

The project as proposed complies with all development standards except for its location in Prime Fish Habitat.

- b. The expansion decreases the extent to which the structure does not comply with the development standards and/or improves the ability to attain or maintain the environmental thresholds.

The project, as proposed, complies with all development standards except for its location in Prime Fish Habitat. The project is located in an area mapped and verified as Spawning Habitat which is considered Prime Fish Habitat. The proposed project is not expected to negatively impact fish as the pier will be reconstructed within the existing footprint and the expansion of the pier extends beyond areas containing spawning habitat. The project, as conditioned, will not create a degradation of any of the environmental thresholds.

- c. The project complies with the requirements to install BMPs as set forth in Chapter 25:

All permanent BMPs will be required to be installed as a condition of project approval. The BMPs will be required to be designed to capture stormwater runoff associated with a 20-year/1 hour storm event consistent with Chapter 25 of the TRPA Code of Ordinances. Temporary BMPs such as caissons or a turbidity curtain will be required to be installed at the discretion of the TRPA Environmental Compliance during the pregrade inspections to retain the suspended sediment during pier construction. In addition the as a special condition of approval, the applicant must commit a fair-share contribution to the stabilization of a cut-slope and to the installation of BMPs on Drum Road which is a private road used to access the subject property.

- d. The project complies with the design standards in Section 53.10:

As a special condition of approval, the applicant will be required to submit color and material samples in compliance with Section 53.10 that are compatible with the surrounding environment (gravelly beach).

- e. The structure has not been unserviceable for more than five years.

The existing structure projects beyond the high-water elevation (6229.1 Lake Tahoe Datum) and has been serviceable for more than five years.

- F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record.
 - I. A motion based on this staff summary, for the findings contained in this staff summary, and a finding of no significant environmental effect.
 - II. A motion to approve the project, based on the staff summary, subject to the conditions contained in the attached Draft TRPA Permit:

Attachments:
Conditional Permit
Site Plan Map with Elevation Drawings

-D-R-A-F-T-
PERMIT

PROJECT DESCRIPTION: Pier Expansion

APN: 016-300-09

PERMITTEE(S): Gregory and Sara Skinner

FILE #20030053

COUNTY/LOCATION: El Dorado/227 Drum Road

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on October 22, 2003 subject to the standard conditions of approval attached hereto (Attachment R) and the special conditions found in this permit.

This permit shall expire on October 22, 2006 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED.

TRPA Executive Director/Designee

Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee _____

Date _____

/eh

PERMIT CONTINUED ON NEXT PAGE

DRAFT
APN: 016-300-09
FILE NO. 20030053

Excess Coverage Mitigation Fee (1): Amount \$ _____ Paid _____ Receipt No. _____
Shorezone Mitigation Fee (2): Amount \$ 600 Paid _____ Receipt No. _____
Security Posted (3): Amount \$ _____ Posted _____ Type _____ Receipt No. _____
Security Administrative Fee (4): Amount \$ _____ Paid _____ Receipt No. _____

Notes:

- (1) Amount to be determined. See Special Condition 3.C., below.
- (2) See Special Condition 3.D., below.
- (3) Amount to be determined. See Special Condition 3.E., below.
- (4) \$139 if a cash security is posted, or \$72 if a non-cash security is posted.

Required plans determined to be in conformance with approval: Date: _____

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

1. The approved project includes the rebuild and expansion of an existing pier to the TRPA Pierhead Line. The existing single-use pier is approximately 6.5-feet wide by 82-feet long from the high water elevation 6229.1 (Lake Tahoe Datum) and includes no accessory structures. The approved single-use pier will extend 102-feet from the high water elevation 6229.1 (Lake Tahoe Datum) and includes no accessory structures. The first 72-feet of the approved pier is 6 feet wide and the remaining 30-feet of the pier includes a 10-foot wide bulkhead and a 3-foot wide by 30-foot long catwalk. As a shorezone application, the approved project has been reviewed under Level 3 scenic mitigation which requires a minimum contrast rating of 21. That approved project is also subject to Section 30.15.H, which requires the applicant to mitigate the new square footage associated with the proposed pier at a ratio of 1:1. The existing contrast rating for the upland has been calculated to be 23. In addition, the visual square footage of the existing and approved pier is approximately 238 square feet and therefore no scenic mitigation is required for this project. This permit does not include the authorization or permitting of any buoys nor does it permit the removal of any vegetation.
2. The Standard Conditions of Approval listed in Attachment S shall apply to this permit.

3. Prior to permit acknowledgement, the following conditions of approval must be satisfied:
 - A. The site plan shall be revised to include:
 - (1) The installation of infiltration trenches below roof driplines that are not protected by hard cover or vegetation and infiltration facilities sized to capture runoff from the driveway. The permittee shall submit calculations demonstrating that the proposed infiltration trenches and infiltration facilities are sized and designed accordingly for the slope and soil type of the property and will capture and infiltrate a 20-year/1 hour storm event.
 - (2) A note indicating: "All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices. Application of a mulch may enhance vegetative establishment."
 - (3) A note indicating that no vegetation or trees will be removed as part of the construction of the pier.
 - (4) A note indicating that the fire pit area located on the beach will be restored and the use discontinued.
 - B. The permittee shall submit three (3) sets of final construction drawings and site plans to TRPA that are revised to show the approved pier length of 102-feet, the correct location of the pierhead line and the removal of the shaded area of boatslip that was not recognized as an existing structure during the review of the project.
 - C. The affected property has 7,452 square feet of excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within Hydrologic Transfer Area 6 or by submitting an excess coverage mitigation fee.

To calculate the amount of excess coverage to be removed, use the following formula:

Estimated project construction cost multiplied by 0.02 divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

Coverage reduction square footage (as determined by formula (1) above) multiplied by the coverage mitigation cost fee of \$12.00 per

square foot for Nevada projects. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than \$200.00.

- D. The permittees shall submit a shorezone mitigation fee of \$600 for the construction of 20 feet of new pier (assessed at \$30/foot). This mitigation fee may be adjusted dependent on the final project approved by the Governing Board.
- E. The security required under Standard Condition A.3 of Attachment S shall be determined upon the permittee's submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures for appropriate methods to post a security and for calculation of the required security Administrative Fee. In no case shall the security be less than \$5,000.
- F. The permittee shall submit color and material samples for the pier in accordance with Section 53.10 of the TRPA Code of Ordinances for TRPA review and approval. The colors/materials must be compatible with the surrounding environment (gravel beach). In addition, elevation drawings shall be revised to include notations that all the ancillary features of the pier shall be painted a dark brown or black color and shall be non-reflective. All painting activities shall occur prior to installation and offsite of the subject property.
- G. The permittee shall submit a construction schedule to TRPA. This schedule shall identify dates for the following: When construction will start; when construction slash and debris will be removed; when installation of all permanent erosion control structures will occur; and when construction will be completed. Any changes to the submitted construction schedule must be submitted to TRPA for review and approval.
- H. The permittee shall provide details regarding any pier lighting that is proposed to be installed on the pier (if applicable) for TRPA review and approval. Acceptable lighting can include "Turtle GH 0406" produced by *Nightscaping* or an equivalent.
- I. The permittee shall provide a landscape plan and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances for TRPA review and approval. Fertilizer use in the backshore is prohibited.
- J. The permittee shall provide a BMP Plan for Drum Road that includes a cost estimate prepared by a qualified professional to install Best Management Practices (BMPs) for the entire stretch of Drum Road (including at minimum the installation of drainage improvements and slope stabilization) and an agreement, signed by all property owners with access from Drum Road, to provide a fair-share cost contribution for the

BMP improvements required for this roadway. The submittal of detailed plans for the installation of the BMPs is not required prior to acknowledgement, however, the cost estimate must include details of the types of practices and materials to be used in addition to labor and maintenance costs. Drum Road is located within a Priority 1 watershed which was required to have BMPs fully implemented by October 15, 2000 and therefore this roadway is currently not in compliance. The installation of BMPs for the entire roadway shall be completed no later than October 15, 2004.

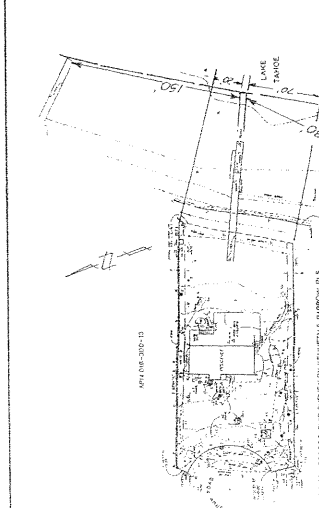
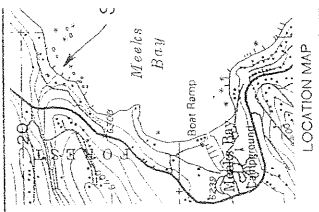
- K. The permittee shall submit a plan to remove and restore the 636 square feet of land coverage that was not verified as legal existing in the TRPA Site Assessment completed by El Dorado County of July 17, 2003.
4. The use of wood preservatives on wood in contact with the water is prohibited and extreme care shall be taken to insure that wood preservatives are not introduced into Lake Tahoe. Spray painting and the use of tributyltin is prohibited.
 5. Disturbance of the lake bed materials shall be kept to the minimum necessary for project construction.
 6. Primary construction access to the shorezone structures shall be from a barge. Disturbance of the lake bed materials shall be kept to the minimum necessary for project construction.
 7. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin is prohibited. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal.
 8. No containers of fuel, paint, or other hazardous materials may be stored on the pier.
 9. The trees and other vegetation on this parcel shall be considered as scenic mitigation and shall not be removed or trimmed. Any such removal or trimming shall constitute a violation of project approval.
 10. Prior to security return, the permittee shall submit post-construction photos within 30 days of the project completion date, demonstrating any resultant impacts to scenic quality is viewed from 300 feet from shore looking landward and the lake bottom conditions as viewed from the subject parcel.
 11. Any normal construction activities creating noise in excess to the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 A.M. and 6:30 P.M.
 12. A turbidity curtain or caissons may be required to be installed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. The TRPA Environmental Compliance

Inspector has the discretion to indicate which technology (if any) shall be used at the time of the pregrade inspection.

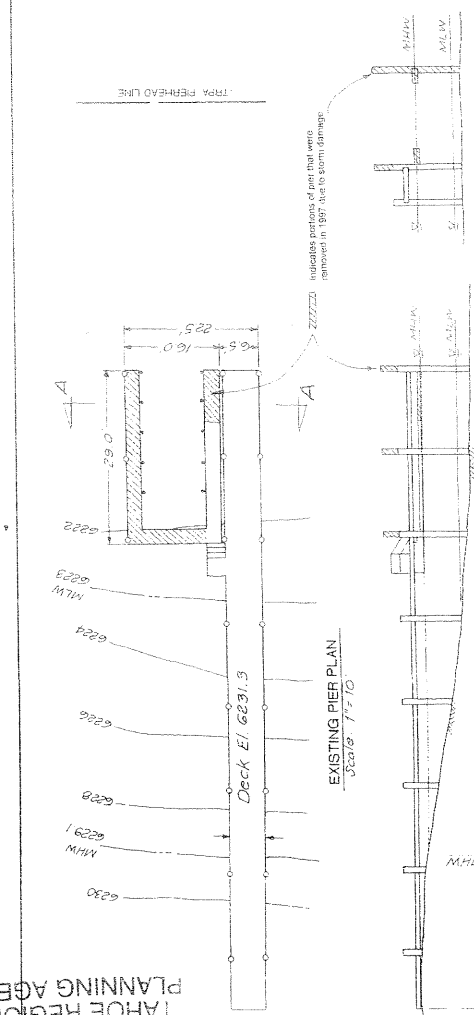
13. All construction activity shall take place during the non-spawning season, between July 1 and October 1.
14. This structure shall not extend beyond the pierhead line as indicated on official TRPA maps (20 feet lakeward of the high-water line for this property).

END OF PERMIT

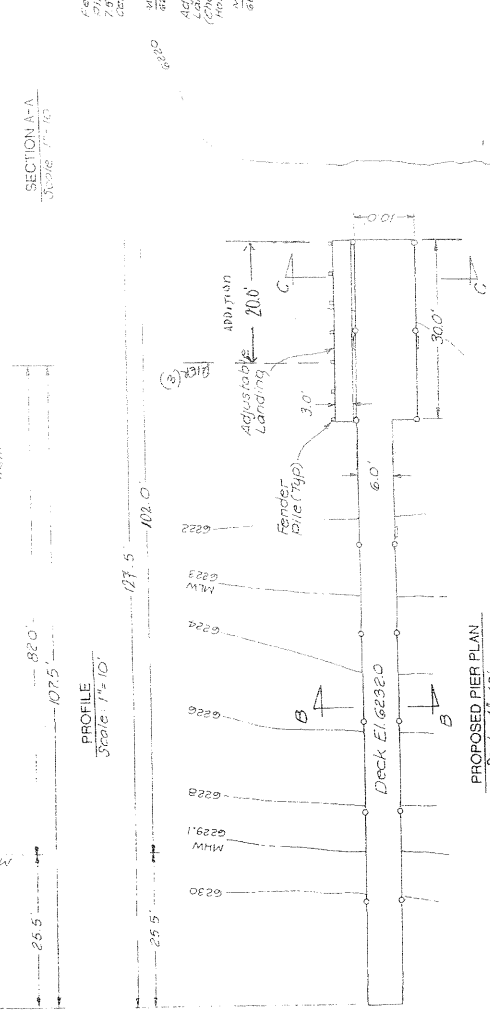
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TAHOE REGIONAL
PLANNING AGENCY



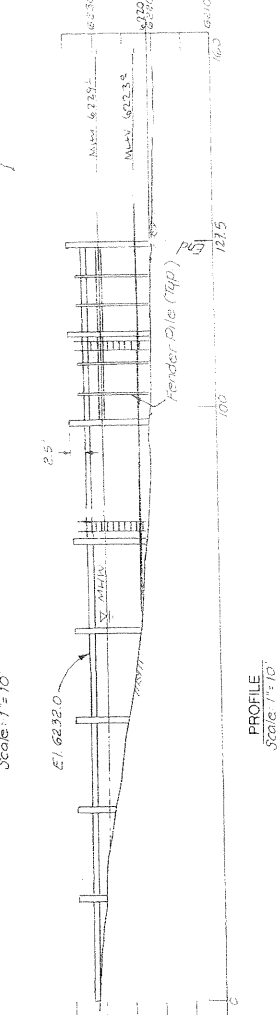
APN 016-300-09
VICINITY MAP
Not to Scale



EXISTING PIER PLAN
Scale: 1" = 10'



PROFILE
Scale: 1" = 10'



PROPOSED PIER PLAN
Scale: 1" = 10'

PROJECT NARRATIVE

THE EXISTING TIMBER PIER IS TO BE DEMOLISHED BY WATER DREDGING AND EQUIPMENT. MATERIAL WILL BE REMOVED BY OWNER AND TAKEN TO AN APPROVED DISPOSAL LOCATION.

THE CONTRACTOR SHALL TAKE CARE TO KEEP DECKERS OUT OF THE PIER AND SHALL HAVE NETS AND/OR OTHER SAFETY DEVICES INSTALLED TO PREVENT FALLS FROM THE PIER. EXISTING TIMBER PILES WILL BE LEFT OUT OF LEVEL WITH THE BOTTOM, OR PULLED, AND CONTRACTOR SHALL HAVE TURBIDITY PREVENTION MATERIAL ON SITE IF REQUIRED. IF BOTTOM SANDS ARE EXPOSED, THEY SHOULD NOT BE REMOVED. IT SHOULD NOT SETTLE OUT QUICKLY.

ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE OVERWATER CONSTRUCTION PERMITS. ALL NEW PIER SHALL BE OVERWATER CONSTRUCTION. ALL NEW PIER SHALL BE BARGE MOUNTED EQUIPMENT.

POWER SUPPLY TO THE DECK SHALL BE PROVIDED BY THE OWNER. THE CONTRACTOR SHALL PROVIDE ALL NECESSARY ELECTRICAL MATERIALS AND THE LIGHTING CIRCUITRY.

DECK BOARDS WILL BE SPACED TO ALLOW FOR THE INSTALLATION OF 2" x 4" FASCIA. THE DECK BOARDS WILL BE SPACED TO ALLOW FOR THE INSTALLATION OF 2" x 4" FASCIA. THE DECK BOARDS WILL BE SPACED TO ALLOW FOR THE INSTALLATION OF 2" x 4" FASCIA.

PARTICULAR NOTE SHOULD BE MADE OF THE TRPA CONSTRUCTION PERMIT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE TRPA.

1. CONTRACTOR SHALL HAVE THE APPROVED TRPA PERMIT, STAMPED PLANS ON SITE AT ALL TIMES DURING CONSTRUCTION.
2. CONTRACTOR SHALL COMPLY WITH THE TRPA SPECIAL APPROVAL STANDARD CONDITIONS OF APPROVAL SET FORTH IN THE PERMIT.
3. CONTRACTOR SHALL CONTACT TRPA FOR A PRE-CONSTRUCTION MEETING AFTER HAVING OBTAINED ALL NECESSARY PERMITS AND APPROVALS.

OWNER
GREGORY S. AND SARAH SHRINE
1800 S. HIGHLAND AVENUE
FARGO CITY, CA 95145
775-833-1701 530-525-7722

PROJECT ENGINEER
EARL G. HAGADORN, P.E.
EARL G. HAGADORN & ASSOCIATES
POST OFFICE BOX 1800
FARGO CITY, CA 95145
530-525-6862

DATE 06/01/2003
SCALE
FOR SCHEMATIC APPROVAL
APPROVAL AS NOTED
BY [Signature]

PROPOSED SINGLE FAMILY PIER REPLACEMENT
227 DRUM ROAD EL DORADO COUNTY APN 016-300-09

EARL G. HAGADORN, P.E.
CONSULTING CIVIL ENGINEER
1800 S. HIGHLAND AVENUE
FARGO CITY, CA 95145
(530) 525-6862 FAX 525-0398

PROJECT NO. 016-300-09
DATE: 06/01/2003
SHEET NO. 1 OF 1
CHECKED BY: [Signature]
DATE: 06/01/2003
SCALE: 1" = 10'

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
Stateline, Nevada
www.trpa.org

P.O. Box 5310
Stateline, Nevada 89449-5310

Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

TAHOE REGIONAL PLANNING AGENCY STAFF SUMMARY

Project Name: Marc Gordon

Application Type: Shorezone

Applicant: Marc Gordon, Owner, Abbey O'Keefe & Leah Kaufman, Kaufman Planning, Agents

Agency Planner: Brenda Hunt, TRPA Project Review Division

Location: 4550 North Lake Boulevard, Placer County, CA

Assessor's Parcel Number / File Number: 091-165-01/20030373

Staff Recommendation: Staff recommends approval of the proposed project based on this staff summary and evidence contained in the project record. The required actions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to remove, relocate, and expand an existing pier. The relocated and expanded pier is proposed to meet the five-foot setback requirements for existing structures. The pier is proposed to extend approximately 93-feet from the highwater line to a lakebed Elevation 6219 LTD, an expansion of 38-feet in length. The pier is proposed to be six feet wide to the pierhead and have a single-piling design. The pierhead is proposed to be 10-feet by 45-feet, and be supported by double-pilings. A 3-foot by 42-foot adjustable catwalk and one 6000-pound low-level boatlift shall be attached to the pierhead. No pilings or railings are proposed to extend above the pier deck. The pier will be a dark gray in color to match the rocky shoreline backdrop. Please note that the pier will be moved an additional 6 feet to the North to ensure the project will not impact existing on-site vegetation. This change has not been indicated on the attached existing site plans. Please refer to Exhibits A, B, and C for site and design plans.

Site Description: The lake-bottom substrate in the project area has been mapped and verified as prime fish habitat, feeding and escape cover, and is composed of cobbles and rocks. The upland project area is 5,495-square feet and contains a single-family dwelling built in 1961. The existing structure is located in the backshore and cantilevers over the highwater line. The shorezone is developed with an existing 55-foot pier with a small dingy lift. This structure is located within approximately two feet of the property line. The residence is located in the shoreland and is subject to the Shoreland Scenic Ordinances. The project area is composed of Land Capability Districts 2 (JwF), and 1b (Be) backshore. The backshore boundary has been verified by TRPA. The project is visible from Scenic Shoreline Travel Unit 18 (Cedar Flat) and Scenic Roadway Unit 17 (Cedar Flat). Neither of these units is in attainment with the Scenic Threshold. The proposed pier extension, however, is not visible from the highway due to the steep slope and residential structures. Please refer to Exhibit A - site plan.

Issues: This project involves the expansion of an existing non-conforming pier structure. The main point of non-conformance is that the structure is located in prime fish habitat, and therefore, requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. Additionally the existing pier is located within approximately two

10/9/03
/BH

CONSENT CALENDAR ITEM NO. 5

feet of the property boundary and is a rock crib design. These non-conforming features have been corrected with the proposed relocated and expanded pier. The primary issues associated with this project are prime fish habitat, scenic quality, the application of appropriate best management practices, and adjacent property owner support.

- A. Fish Habitat: The project is located in prime fish feeding and escape cover habitat. As a condition of approval, the applicant is required to submit a fish habitat restoration plan. The plan shall indicate the restoration plans for the removal of the existing pier (pilings and rock cribs) and the methods to be used to limit further disturbance to the existing prime fish habitat during the placement of the proposed pier. The proposed pier will reduce the amount of pilings required and the removal of the existing structure will provide a total net restoration of 76.9-square feet of fish habitat.
- B. Scenic Quality: The proposed project is visible from Scenic Shoreline Unit 18, Ward Creek, which is currently not in attainment with the established Scenic Threshold. TRPA staff is continuing to work with the applicant's representative to develop a scenic mitigation package that is consistent with the recommendations for improving the scenic quality identified in the Scenic Quality Improvement Program (SQIP) and the Shoreland Scenic Ordinances. The draft permit is conditioned to ensure the proposed project will result in an incremental improvement in the scenic quality of the project area.

The project was reviewed under Level 3 of the Shoreland Scenic Ordinances, TRPA Code Section 30.15.C (3), which requires the shoreland project area to have or exceed a contrast rating score of 21. The application was received prior to the Shoreland Ordinance effective date; therefore, an in-house Baseline Scenic Assessment was completed concurrently with the project. The composite shoreland project area received a 23 for a contrast rating score. The additional visual mass created by the extension of the pier length is 110-square feet. The applicant will be required to utilize the Transfer of Scenic Mitigation Credits (Interim System), TRPA Code Section 30.15.H. The pier is in a Shoreline Travel Route that is currently not in attainment, the additional visual mass must be mitigated at a ratio of 1:1.5. As a condition of approval, the applicants must reduce the visible mass within the shoreland, or the Scenic Unit, by 165-square feet. One option to reduce visible mass on-site would be to plant vegetation. The existing single-family dwelling represents an interesting challenge for vegetative screening due to the soil conditions and the fact that the structure is partially located in the backshore and cantilevers over the highwater line. The planting of additional trees and shrubs should focus on the perimeter of the existing residence and the vegetation used shall be appropriate for the backshore type and conditions. The site of the removed pier and concrete access will be replanted with indigenous vegetation thereby improving the natural appearance of the backshore. The applicants are working with professional engineers and landscapers to create an integrated design that will provide the screening required, stabilize the backshore area, and provide the proper water quality/erosion control measures. TRPA's approval of this plan shall be a condition of permit acknowledgement.

- C. Best Management Practices (BMPs): The project parcel is in Land Capability Class 2 and 1b, and is in a BMP Priority 3 area. The slope is fairly steep and there is evidence of erosion on site, and the roofline extends over the highwater line of Lake Tahoe. The existing conditions require water quality remediation. As stated above, the applicant's representatives are working with engineering and landscaping professionals to create an

integrated plan that will provide an overall benefit to the Scenic, Water Quality, Soil and Vegetation Thresholds. The draft permit has been conditioned to ensure the applicant provides this plan for TRPA review and approval prior to permit acknowledgement.

- D. Adjacent Property Owner Issues: To date, staff has received three letters of support from neighboring property owners. The letters of support are attached as Exhibits D, E, & F.

Staff Analysis:

- A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC), a baseline scenic assessment, and a visual simulation in order to assess the potential environmental impacts of the project. The design of the project was revised post submission of the visual simulation, therefore, the simulation is no longer an accurate depiction of the project, but is still an important part of the project record. No significant environmental impacts were identified and staff has concluded that the project, as conditioned, will not have a significant effect on the environment. A copy of the completed IEC, the baseline scenic assessment contrast rating score sheet, and the visual simulation will be made available at the Governing Board hearing and at TRPA.
- B. Plan Area Statement: The project is located within Plan Area Statement 014 - Cedar Flat. The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed use (pier) is an allowable accessory structure in the Plan Area Statement and single-family dwellings are an allowed use. The planning considerations include the need to include proper BMP and alleviate erosion in steep shorezone areas.
- C. Land Coverage:

<u>PROJECT AREA LAND COVERAGE CALCULATIONS</u>								
<u>Land Cap. District</u>	<u>Area</u>	<u>Percent Allow. Land Cov.</u>	<u>Base Allow. Land Cov.</u>	<u>Existing Land Cov.⁽¹⁾</u>	<u>Existing Excess Land Cov.</u>	<u>Prop. Land Cov.</u>	<u>Change from Existing</u>	<u>Prop. Excess Land Cov.</u>
1b	1,299	1%	13	609	596	597	-12 ⁽²⁾	584
2	4,196	1%	42	1956	1914	1956	0	1914
Total	5,495		55	2,565	2,510	2,553	-12	2,498⁽³⁾

- (1) Existing land coverage was verified by TRPA with this application
 (2) Proposed Banked Land Coverage
 (3) Excess Land Coverage Mitigation: The applicant will be required to mitigate the excess land coverage in accordance with Chapter 20 of the TRPA Code of Ordinances.

Please note that the stairwell access point to the pier will be revised by the applicant and the land coverage location in the backshore may change. Any new disturbance will be mitigated at 1.5 times the area of land disturbed in the backshore (See Sections 2.a (5) and 6.a below). Proposed coverage calculations will be revised accordingly prior to acknowledgement.

- D. Shorezone Tolerance District: The subject parcel is located within Shorezone Tolerance District 4. Projects within Shorezone Tolerance District 4 must ensure stabilization and the least environmental impact to the backshore (See Draft Permit Condition 3.A (1)). Permitted development or continued use maybe conditioned upon installation and maintenance of vegetation to stabilized backshore areas and protect existing cliffs from accelerated erosion (See Draft Permit Condition 3.B). Pedestrian access to the backshore is limited to stabilized access ways. The project, as conditioned, complies with the shorezone tolerance district development standards (See Shorezone Findings-Chapter 53 below).
- E. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 20, 50, 52, 53 and 55 of the TRPA Code of Ordinances. Following each finding, agency staff has briefly summarized the evidence on which the finding can be made.
1. Chapter 6 Findings:
 - 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.
 - (1) Land Use: The project area contains a single-family dwelling, which is listed in the Cedar Flat Plan Area Statement as an allowed use. The proposed project involves the relocation and reconstruction of an allowed accessory structure (pier) and is consistent with the Land Use Element of the Regional Plan. Surrounding land uses consist of residential properties with accessory shorezone development consisting of piers. The proposed project will not alter any land use patterns.
 - (2) Transportation: The proposed pier will serve the homeowners of the affected parcel and, as such, will not result in an increase of daily vehicle trip ends (dvte) to the subject parcel or vehicle miles traveled (VMT).
 - (3) Conservation: The project, as conditioned, is consistent with the Conservation Element of the Regional Plan. The project area received a contrast rating score of 23, exceeding the required 21 for a Level Three review in Chapter 30 of the TRPA Code of Ordinances. The project triggers the Transfer of Scenic Mitigation Credits Interim System (Section 30.15.H) and the draft permit is conditioned to ensure an additional 165 square feet of visual mass will be screened under these provisions. The proposed colors and design are consistent with the TRPA Design Review Guidelines and the applicant shall submit a landscaping plan that will mitigate adverse scenic impacts. This project will not result in the obstruction or degradation of any TRPA identified scenic vistas or views open to the public. Staff conducted a Tahoe Yellow Cress (*Rorippa subumbellata*) survey on September 12, 2003. No plants were found. The draft permit is conditioned to ensure the

applicant submit a prime fish habitat restoration plan that focuses on the restoration of fish habitat associated with the removal of the existing pier, and methodology for limiting any additional habitat disturbance during the construction of the proposed pier. There are no known special interest animal species or cultural resources within the project area.

- (4) Recreation: This project does not involve any public recreation facilities or uses. The proposed pier will be similar in length to adjacent existing piers and will not extend beyond the TRPA pierhead line or lakebed Elevation 6219 LTD. By remaining consistent with existing neighboring development, the proposed pier will not adversely affect recreational boating or top-line angling. The proposed pier will be at least 90-percent open, which will allow small craft to pass under it depending on Lake water levels.
- (5) Public Service Facilities: This project does not require any additions to public services or facilities.
- (6) Implementation: The proposed project does not require any allocations of development.

- b. The project will not cause the environmental threshold carrying capacities to be exceeded.

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at the TRPA.

- c. Wherever federal, state or 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 TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 1.b, above.)

2. Chapter 20 - Land Coverage Relocation Findings:

- a. The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:

- (1) Whether the area of relocation already has been disturbed;

The area in which the coverage is to be relocated to is already partially disturbed. Land coverage to be relocated in 1b consists

of 55-square foot concrete pad which will be removed. The land coverage will be relocated to provide the open stairs and decking access to the new pier. The relocated stairs will be located in a superior location to the existing concrete pad as they are further away from the lake.

(2) The slope of and natural vegetation of the area of relocation;

The slope in the area where coverage is to be relocated is equal to the area where coverage will be removed. No natural vegetation will be disturbed as part of this coverage relocation. The area where coverage will be removed will be stabilized. The applicant is proposing to relocate the pier to meet the required TRPA setbacks and to avoid damage to an existing fir tree.

(3) The fragility of the soil on the area of the relocation;

The conditions of the soil in the area in which land coverage will be relocated consists of the same shale rock where the land coverage will be removed. The location of the coverage may be less vulnerable as it is further from the Lake.

(4) Whether the area of relocation appropriately fits the scheme of use on the property;

The applicant is proposing to relocate the land coverage to ensure the proposed pier will meet the required TRPA setbacks and to avoid damage to an existing fir tree. The existing non-conforming rock crib pier will be removed and the proposed pier will be an open pile pier that will involve less overall land coverage and disturbance than the existing pier. The land coverage relocation, therefore, 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 protection of SEZ's and backshore;

All land coverage is being relocated within Class 1b (backshore). There is no relocation of land coverage from a higher class to a lower class. The relocated coverage will be slightly farther from the lake and will be reduced by 12-square feet. The existing concrete in the backshore will be removed and replaced by open stairs and open decking. In accordance with Subsection 55.4.D of the TRPA Code of Ordinances, the applicant will be required to restore an area of land in the backshore in the amount of 1.5 times the amount of land in the backshore to be covered.

- (6) The project otherwise complies with the land coverage mitigation set forth in Section 20.5; and

The permit is conditioned to ensure the project complies with the provisions of Section 20.5 of the TRPA Code of Ordinances. (See Draft Permit Condition 3.H.)

- b. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.5.

Pursuant to Subsection 55.6 of the TRPA Code of Ordinances, a condition of approval requires restoration of the area where the existing pier and concrete access is being removed to be restored using species listed on the TRPA-approved plant list as species appropriate for the backshore type and site conditions.

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

The project does not propose the relocation of land coverage from a higher land classes to a lower class. All relocation will occur within land class 1b (backshore).

3. Shorezone Findings (Chapter 50):

- a. The proposed project will not adversely impact: (1) littoral processes; (2) fish spawning; (3) backshore stability; and (4) on-shore wildlife habitat, including wildfowl nesting areas.

The proposed project will improve littoral processes because the project involves the removal of a rock crib structure and the proposed replacement with a structure that is at least 90-percent open. The proposed project is located in an area mapped and verified as prime fish habitat (feeding and escape cover) and will not adversely impact fish spawning. The existing backshore is in a partially unstable condition. As a condition of approval, the proposed access to the relocated pier will be designed to ensure the backshore remains stable and will not accelerate erosion. The draft permit has also been conditioned to ensure the backshore is stabilized (See Section D – Shorezone Tolerance District). The proposed pier shall be moved 6-feet to the north of the currently proposed location in order to ensure the protection of vegetation in the backshore. The area from where the pier is to be relocated from will be revegetated and stabilized. The proposed project is not located within an area that is mapped as on-shore wildlife habitat nor has the site been shown to be a waterfowl nesting area.

- b. There are sufficient accessory facilities to accommodate the project.

The project area contains a single-family dwelling that provides sufficient access, parking and sanitation facilities to accommodate the project. The pier will only be used by the property owners and their guests.

- c. The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modification of such existing uses or structures will be undertaken to assure compatibility.

The project is compatible with existing shorezone accessory uses (piers and buoys) in the vicinity. The proposed pier will not extend beyond the TRPA pierhead line, or lakebed Elevation 6219 Lake Tahoe Datum, whichever is more restrictive.

- d. The use proposed in the foreshore or nearshore is water-dependent.

The pier is located in the foreshore and nearshore of Lake Tahoe and is, by its nature, water-dependent.

- e. Measures will be taken to prevent spills or discharges of hazardous materials.

This approval prohibits the use of spray painting and the use of tributyltin (TBT). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

- f. Construction and access techniques will be used to minimize disturbance to ground and vegetation.

The applicant shall not be permitted to store construction materials on the beach or in the backshore. Permanent disturbance to ground and vegetation is prohibited. The construction of the pier will be accomplished from the lake by barge.

- g. The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters.

The proposed pier will not extend beyond lakebed Elevation 6219 LTD, or TRPA pierhead line, whichever is more restrictive. The U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers has indicated they plan to issue a General Permit 16 for this project and that no safety or navigation impacts have been identified. The project is not located beyond 350-feet (measured

from the Highwater Mark, 6229.1 LTD). Therefore, it is located outside the general permitting jurisdiction of the U.S. Coast Guard.

- h. TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on this project.

This project must receive approval from the California State Lands, Lahontan Regional Water Quality Board, California Fish and Game, and the U.S. Army Corps of Engineers. The project was brought to the Shorezone Review Committee and the agencies comments were considered. Both California State Lands and Lahontan have issued their approvals. California Fish and Game and the United States Army Corp of Engineers intend to issue their permits pending TRPA project approval. None of the agencies indicated that they had concerns regarding the proposed project.

4. Shorezone Findings (Chapter 52):

- a. The expansion decreases the extent to which the structure does not comply with the development standards and/or improves the ability to attain or maintain the environmental thresholds.

The proposed pier will be an open piling design and will meet all of TRPA's development standards except for location in prime fish habitat. TRPA staff has inspected the subject parcel and has determined that the proposed project will not adversely impact fisheries and the removal of the existing rock crib pier will provide a net gain of 76.9-square feet of restored fish habitat. The removal of the existing structure will also improve natural littoral processes. The project will not cause additional degradation of any of the other environmental thresholds (Finding 1.b above). The proposed pier project is located within Scenic Shoreline Unit 18 – Cedar Flat, which is not in attainment with TRPA scenic quality thresholds. The applicants are proposing a scenic mitigation package that will result in an incremental improvement in the scenic quality of the project area.

- b. The project complies with the requirements to install Best Management Practices (BMPs) as set forth in Chapter 25.

All of the required temporary and permanent BMPs will be installed as a condition of approval. The applicants are working with engineering and landscaping professionals to create an integrated plan that will ensure overall benefits to water quality, soil conservation and backshore revegetation/stabilization (See Draft Permit Condition 3. B)

- c. The project complies with the design standards in Section 53.10.

Consistent with TRPA Code Section 53.10, the color of the new pier will be compatible with the surroundings. Conditions of approval will ensure that earth tone colors are used on the new pier and the specific colors must be reviewed and approved by TRPA prior to acknowledgement of the permit.

- d. The structure has not been unserviceable for more than five years.

The existing pier remains serviceable.

5. Shorezone Findings (Chapter 53):

- a. 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.

The project has been conditioned to ensure the access stairway to the pier are designed appropriately. The project also requires the revegetation / restabilization of the backshore. (See Section D above, and the Draft Permit Condition 3.A.1.)

6. Shorezone Findings (Chapter 55):

- a. The amount of land coverage proposed is the minimum necessary to provide access to the structure or use and the impacts of the coverage and disturbance are mitigated in the manner prescribed below.

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:

See Section 4.b above.

- (2) Restoration in accordance with Subsection 20.4.C 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 the allowable base land coverage in the backshore.

See Section 2 above.

- F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and evidence contained in the record:
- I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect for the project.
 - II. A motion to approve the project based on this staff summary subject to the conditions contained in the attached draft permit:

List of Exhibits

- A: Site Plan
- B: Pier Elevations
- C: Pier and Access Details
- D: Letter of Support – Rebecca L. Rygh
- E: Letter of Support – Wayne & Linda Stahmer
- F: Letter of Support – Mike Gemperle

DRAFT PERMIT

PROJECT DESCRIPTION: Existing Pier Relocation and Expansion APN: 091-165-01

PERMITTEE: Marc Gordon

FILE NO. 20021605

COUNTY/LOCATION: 4550 North Lake Boulevard, Placer County

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on October 23, 2003, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on October 23, 2006, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of driving the pier pilings and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action, which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE HAVE ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT.

TRPA Executive Director/Designee

Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee: _____ Date _____

PERMIT CONTINUED ON NEXT PAGE

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
Stateline, Nevada
www.trpa.org

P.O. Box 5310
Stateline, Nevada 89449-5310

Phone: (775) 588-4547
Fax (775) 588-4527
Email: trpa@trpa.org

D-R-A-F-T

APN: 091-165-01
FILE NO. 20021605

Excess Coverage Mitigation Fee⁽¹⁾ Amount _____ Paid _____ Receipt No. _____

Shorezone Mitigation Fee⁽²⁾ Amount \$1,640 Paid _____ Receipt No. _____

Security Posted⁽³⁾ Amount \$ _____ Posted _____ Receipt No. _____ Type _____

Security Administrative Fee⁽⁴⁾ Amount \$ _____ Paid _____ Receipt No. _____

Notes:

- (1) Amount to be determined. See Special Condition 3.H, below.
- (2) See Special Condition 3.I, below.
- (3) Amount to be determined. See Special Condition 3.J, below.
- (4) \$139 if cash security is posted, or \$72 if non-cash security is posted. See attachment "J"

Required plans determined to be in conformance with approval: Date: _____

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date:

TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the removal of an existing rock crib pier and the restoration of the prime fish habitat in that area. Additional the permit authorizes the replacement, relocation and expansion of the existing pier. The replacement pier shall not exceed 93- feet in length (as measured from the highwater line), at shall not exceed the TRPA Pierhead line or lakebed Elevation 6219 Lake Tahoe Datum (LTD), whichever is more restrictive. The pier shall meet the 5-foot setback line requirements for existing structures. The pier deck shall be supported by single-pilings and be no higher than Elevation 6232 LTD and no greater than six feet in width. The pierhead shall measure 45-feet by 10 feet. An additional 42-feet by 3-feet adjustable catwalk and one 6000-pound low level boatlift will be attached to the pierhead. The boatlift forks shall not exceed 10-feet in width. Low-level turtle type lights shall be used to illuminate the pier deck only. This permit authorizes no railings, pilings, or other structures above the pier deck.
2. The Standard Conditions of Approval listed in Attachment S shall apply to this project.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.

- A. The site plan shall be revised to include:
- (1) The revised location and detail of the stairway access to the pier between approximately elevation 6239 feet and 6232 feet Lake Tahoe Datum for TRPA review and approval. The proposed pier access location shall be appropriately designed to cause the least possible alteration to the natural backshore. The location and design shall ensure erosion of the backshore bank/cliff is not accelerated and the need for mechanical stabilization of the backshore is unnecessary. The detail of the proposed stairway/ramp access shall contain proposed materials, anchorage points and all stabilization requirements.
 - (2) The following revised land coverage calculations:
 - (a) Allowable land coverage for each land capability district including backshore area.
 - (b) The existing and proposed land coverage for each land capability district and coverage type, including backshore areas.
 - (c) The excess land coverage in each land capability district including the backshore area.
 - (3) Double filter fabric fencing located downslope of the proposed construction areas. *Please Note: Straw bales are no longer preferred for temporary erosion control and straw is no longer a recommended mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the basin. The use of alternatives to straw bales, such as pine needle bales, filter fabric, coir logs and pine needle or wood mulches for erosion control purposes is strongly encouraged.*
 - (4) Vegetation protective fencing around the entire construction site located in the backshore. Where a tree exists within the construction area, the vegetation protection fencing must be placed beyond the drip-line of the outermost branches.
 - (5) TRPA approved low-level lighting (turtle-type) details for the pier as per Standard 54.4 Guideline 6 in the TRPA Design Review Guidelines.
 - (6) The area and amount of land to be restored in the backshore per Condition 11.
- B. A Best Management Practices Plan shall be submitted for TRPA review and approval. The plan shall include, but not be limited to, all permanent erosion control measures and infiltration calculations required to bring the existing residence into conformance with Chapter 25 of the TRPA Code of Ordinances, the planting design, methodology and maintenance requirements for restabilization of the backshore area in accordance with Section 53.8.B & 55.6 of the TRPA Code of Ordinances, and the Planning Considerations outlined in Plan Area Statement 014-Cedar Flat.

- C. The landscaping plan shall be revised to include the screening of an additional 165-square feet of the upland structure. Vegetation shall be planted to screen the residence to mitigate the visual mass of the proposed pier. The final landscaping plans shall be submitted for TRPA review and approval and include a fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances. An integrated BMP, backshore restoration and scenic mitigation implementation and maintenance plan may be acceptable if all required elements are included.
- D. Elevations of the residence shall be submitted which indicate the vegetation type, location and amount to be used for screening for TRPA review and approval. The elevations shall show the 165-square feet of vegetation screening to be achieved within five years growth.
- E. A fish habitat restoration plan shall be submitted for TRPA review and approval that details the process for rehabilitating the fish habitat after the removal of the existing pier. The plan shall include the temporary best management practices to be used, the methodology for the removal of the pier (including the pilings and the rock cribbing, the redistribution of the crib rocks (only if native to Lake Tahoe), the disposal location for the debris, and the restoration of the fish habitat in these areas.
- F. Color samples shall be submitted to TRPA for review and approval. The pier pilings, structural steel, and catwalk shall all be a flat dark gray in color. The decking shall be 'trex' type and shall be dark gray in color to match the rocky shoreline backdrop.
- G. The permittee shall submit a construction schedule prior to commencement of construction. This schedule shall include, but not be limited to, dates for the following items:
 - (1) Installation of temporary erosion control structures
 - (2) Removal of the existing pier
 - (3) Removal of construction slash and debris
 - (4) Construction on the proposed pier
 - (5) Installation of all permanent erosion control measures
 - (6) Installation of the landscaping for backshore stabilization and screening mitigation (165 square feet)
 - (7) Completion of construction
- H. The permittee shall mitigate 2,553-square feet of excess land coverage located on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area 9, Agate Bay. This amount is based on the previous unmitigated excess coverage.

To calculate the amount of excess coverage to be removed, use the following formula:

- (1) Estimated project construction cost multiplied by the fee percentage factor 0.0100 divided by the mitigation factor of 8. If you choose this

option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

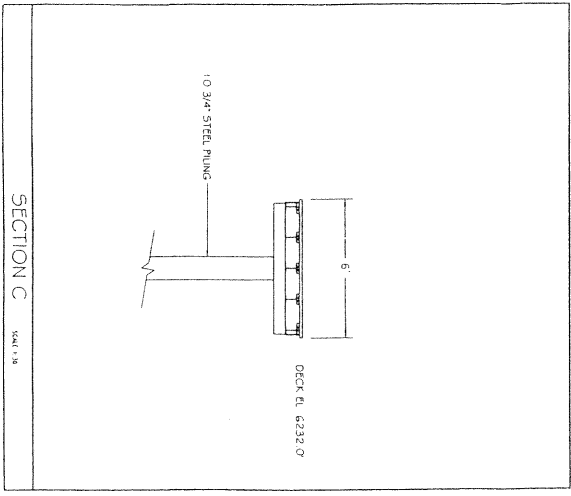
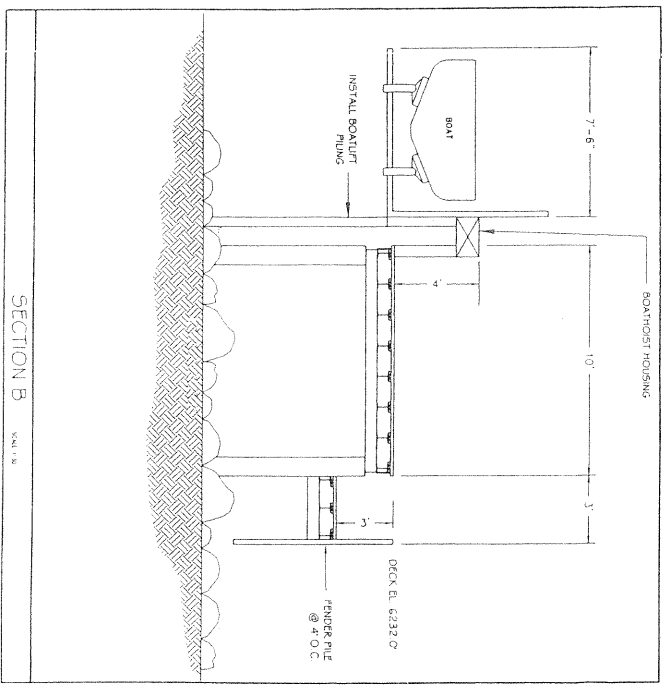
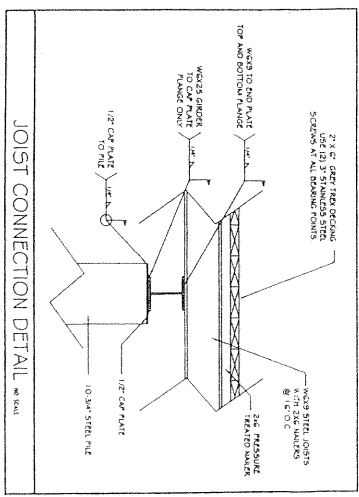
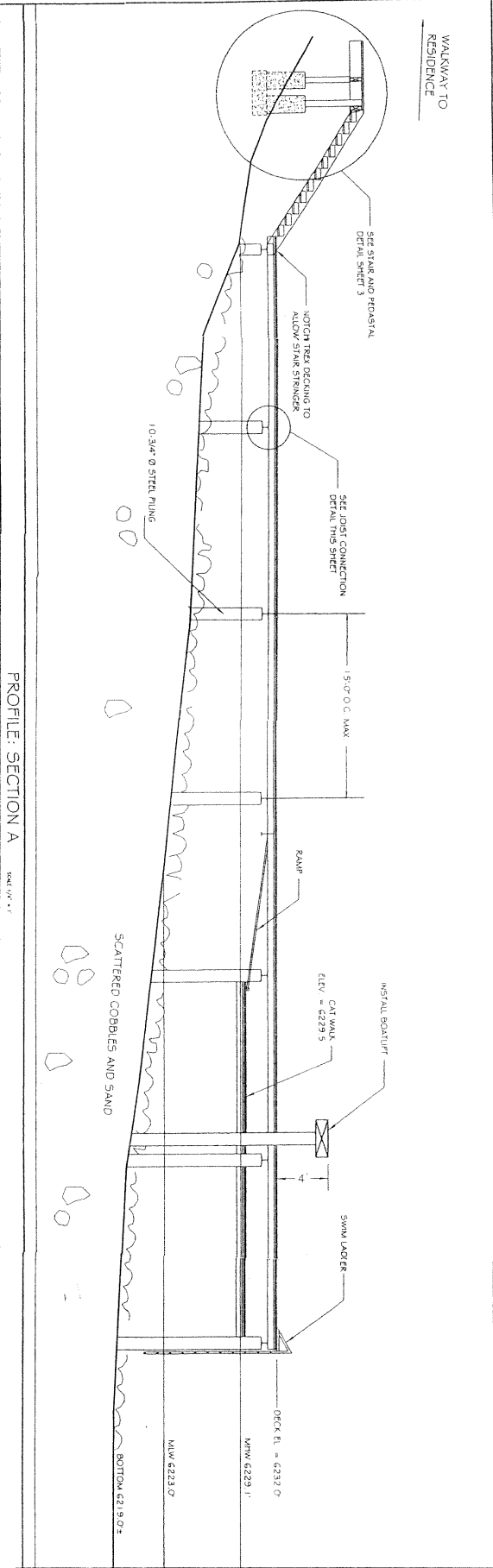
An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

- (2) Coverage reduction square footage (as determined by formula (1) above multiplied by the coverage mitigation cost fee of \$6.50 per square foot for California projects. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than \$200.00.
- I. The permittee shall submit a pier mitigation fee of \$1,640 for the construction of 38 additional feet of pier (assessed at \$30/linear foot) and one low-level boat lift (assessed at \$500).
- J. The security required under Standard Condition A.3 of Attachment S shall be determined upon the permittee's submittal of a required Best Management Practices plan and related cost estimate. In no case shall the security be less than \$5,000. Please see Attachment J, Security Procedures for appropriate methods to post a security and for a calculation of the required Security Administrative Fee.
- K. The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.
4. The use of wood preservatives on wood in contact with the water is prohibited and extreme care shall be taken to insure that wood preservatives are not introduced into Lake Tahoe. Spray painting and the use of tributyltin are prohibited.
5. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction.
6. Best practical control technology shall be employed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. At the TRPA inspector's discretion, the permittee shall install caissons while pile driving to prevent resuspension of lakebed sediments during construction.
7. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin is prohibited. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal.
8. All pier construction access shall be from Lake Tahoe via barge. Vehicular access to the shoreline is prohibited. In addition, storage of materials and equipment within the backshore is prohibited.
9. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

10. The permittee shall restore a portion of Land Capability District 1b in the backshore in the amount of 1.5 times the amount of land in the backshore to be covered beyond that which is allowed (13 square feet), in accordance with Chapter 55.4.D of the TRPA Code of Ordinances.
11. Prior to return of the posted security, the permittee shall submit post-construction photos demonstrating any resultant impacts to scenic quality as viewed from 300 feet from shore looking landward and to lake bottom conditions as viewed from the subject parcel.
12. All existing trees and shrubs on this parcel between the lake and the residence were used to calculate the baseline contrast rating score and shall be considered as scenic mitigation. These trees and shrubs shall not be removed or trimmed without prior written TRPA approval. Any such removal or trimming shall constitute a violation of project approval.
13. By acceptance of this permit, the permittee agrees that all scenic design and mitigation measures outlined in the project site plan, and the amendments made to the best management practices and landscaping plan are hereby included as conditions of project approval and will be implemented as such.
14. By acceptance of this permit, the permittee agrees that the allowable visible area for all future development on the shoreland of the subject parcel shall maintain the 165-square feet mitigation to account for the pier extension.

END OF SPECIAL CONDITIONS

WALKWAY TO RESIDENCE



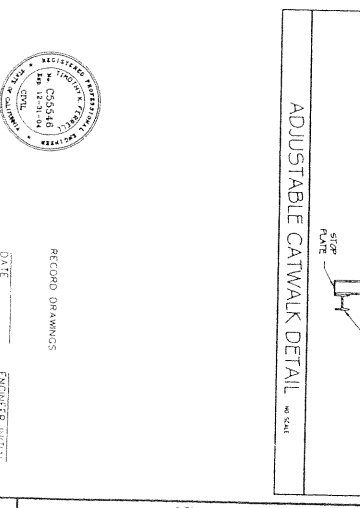
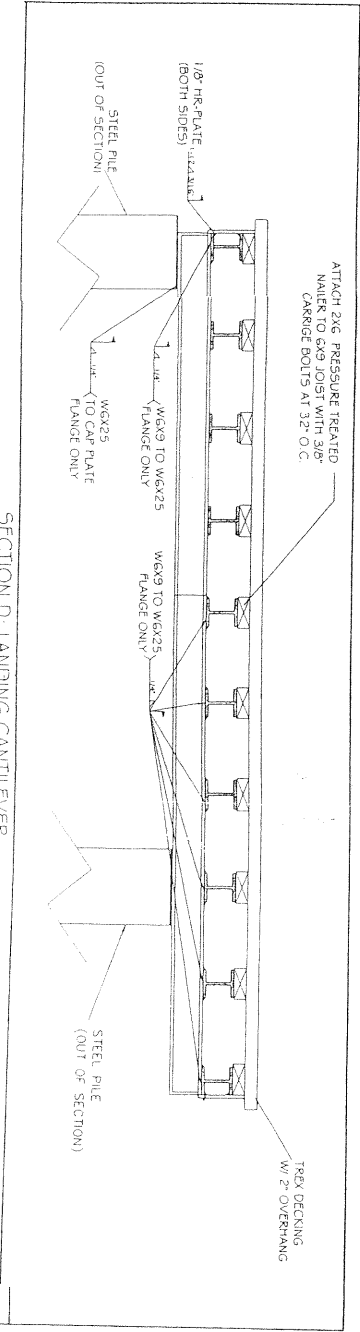
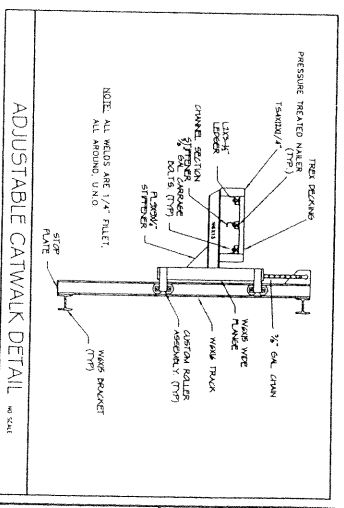
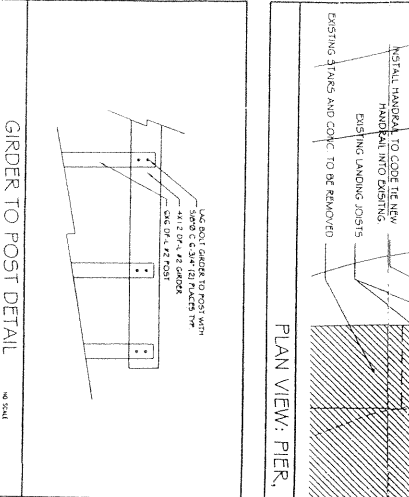
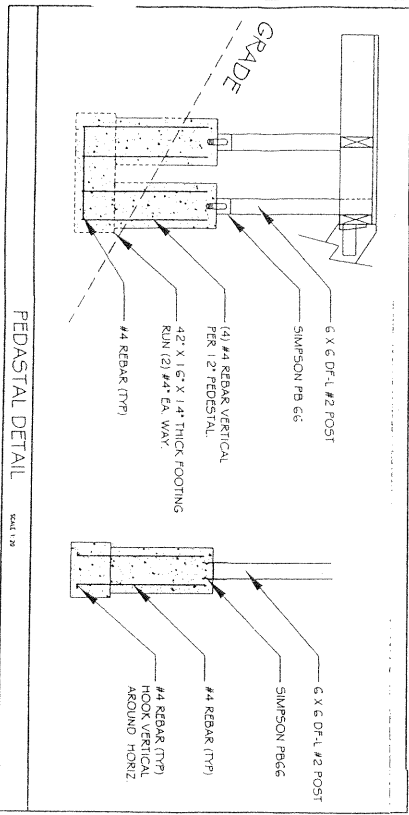
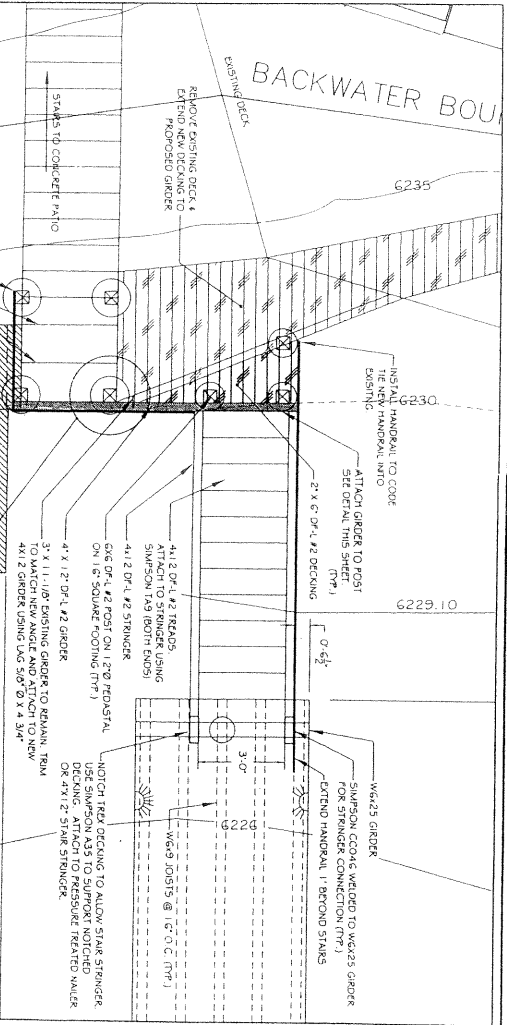
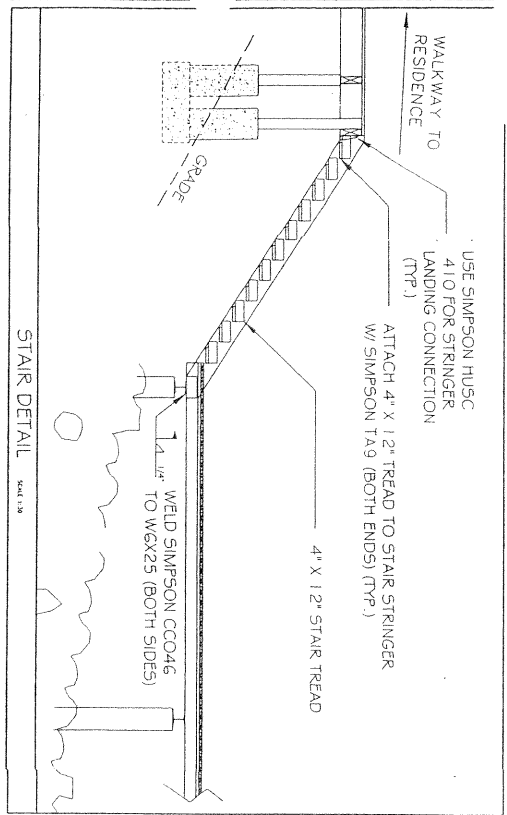
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PIER RELOCATION PROJECT
DETAILS - CROSS SECTION
MR. AND MRS. MARC GORDON
4550 NORTH LAKE BLVD.
091-165-001
CALIFORNIA

Ferrell C E ngin'g
65
C.A.C. 1546447-0287 P.O. Box 951, Tamar Valley, CA 94148
PH: 530 546 2733 FAX: 530 546 6556

Leah Kaufman
PLANNING & CONSULTING SERVICES
Post Office Box 253 C Coronado Bay, California 96149
9506-14-002

COMP. _____ DESIGN _____
DRAWN BY _____ PRJ. ENG. _____
WORK ORDER _____
SCALE _____
HORIZONTAL: AS NOTED
VERTICAL: _____
CAD: _____ DATE: AUGUST 1, 2003



PIER RELOCATION PROJECT
DETAILS - CROSS SECTION
 MR. AND MRS. MARC GORDON
 4550 NORTH LAKE BLVD.
 091-165-001
 CALIFORNIA

Ferrell C E Engineering
 CA #C 55446 NY #12927
 P.O. Box 90, Tahoe Valley, CA 96148
 530.546.2132
 530.546.0556
 66

Leah Kaufman
 PLANNING & CONSULTING SERVICES
 Post Office Box 252 □ Corralito Bay, California 95440
 530.546.4402

DATE: AUGUST 1, 2003
 SCALE: HORIZONTAL: AS NOTED
 VERTICAL: 1/8\"/>



RECORD DRAWINGS
 ENGINEER INITIAL
 DATE

9/4/03

Dear Mrs Hunt,

Mr. Gordon has discussed his project with me several times. I am in full support of what he is planning for his pier. My property is next door at 4546 N. Lake.

Sincerely,

Beverly L. Ryan

415-789-0277

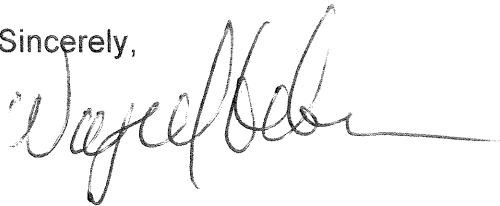
9/4/03

Ms. Brenda Hunt
Shorezone Program Manager
Tahoe Regional Planning Agency
P. O. Box 1038
Zephyr Cove, NV 89448

Dear Ms. Hunt,

We would like to recommend that you approve a pier replacement and extension for our neighbor, Marc Gordon at 4550 N. Lake Blvd., Carnelian Bay. We feel that the proposed replacement pier would be more attractive, blend in with the environment and be safer than the existing one.

Sincerely,



Wayne & Linda Stahmer
4530 N. Lake Blvd.
Carnelian Bay, CA 95945

September 25, 2003

RECEIVED

OCT 01 2003

TAHOE REGIONAL
PLANNING AGENCY

Ms. Brenda Hunt (Shorezone Planning Manager TRPA),

I am writing in regard to the pier replacement and extension project on the Gordon Family property, located at 4550 North Lake Boulevard. My family owns the property, located at 4560 North Lake Boulevard, directly north of the Gordons. I am very much in favor of this project. It would be to the communities benefit if the TRPA board approved the replacement and extension of the pier.

The existing pier is not only unsightly and unsafe, but it is also unusable in most years. If the pier is not replaced the next good storm just might take care of its removal. The replacement of the pier would also be an aesthetic enhancement to our neighborhood.

In speaking to Mr. Gordon, he discussed the numerous surveys conducted and the plans made to improve the site. I believe the pier will not have a negative affect of the lake. In fact with the considerable improvements made to the surrounding area there will probably be a net positive affect on the lake.

Once again I feel that the community would best be served if the TRPA board would approve this project. I would be more than happy to answer any questions or provide further comment.

Sincerely,



Mike Gemperle
10218 Lander Avenue
Turlock, CA, 95380.
(209) 667-2651
(209) 667-4518

TAHOE REGIONAL PLANNING AGENCY

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Stateline, Nevada
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Stateline, Nevada 89449

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MEMORANDUM

October 23, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution to Restate Retirement Plan in Compliance with Federal Regulations

Proposed Action: Adoption of a resolution which restates the TRPA Retirement Plan.

Staff Recommendation: Staff recommends that the Governing Board review the amendments, make the required findings, and adopt the attached resolution.

Operations Committee Recommendation: The Governing Board Operations Committee will report on their recommendation at the time this agenda item is heard by the full Board.

Discussion: The Tahoe Regional Planning Agency Retirement Plan is a Defined Contribution Prototype Plan and Trust administered by DailyAccess.Com. DailyAccess.Com has amended the prototype plan in compliance with federal laws and regulations that have been enacted over the past several years. Section 401 (b) of the Internal Revenue Code has allowed plan sponsors to defer adopting plan amendments until 2003. TRPA, as the Plan Sponsor for the Tahoe Regional Planning Agency Retirement Plan, must approve the restated Defined Contribution Prototype Plan and Trust to properly execute the plan document. Amendments to the Plan include:

- Forced distribution threshold is increased from \$3,500 to \$5,000
- Threshold for spousal consent to distributions raised from \$3,000 to \$5,000
- Favorable treatment of participants called to active military duty
- Age 70 ½ distributions not required for non-owners until retirement

The restated plan also includes an amendment to add the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). See attached Exhibit A.

Budget Issues: There is no change to the budget as a result of this approval.

Required Action: A motion to approve the attached resolution.

If there are any questions regarding this agenda item, please contact Michele Chouinard, Human Resources Manager, (775) 588-4547.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-

RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY
AMENDING THE TAHOE REGIONAL PLANNING AGENCY RETIREMENT PLAN

WHEREAS, the proposed amendments to the Tahoe Regional Planning Agency (TRPA) Retirement Plan are necessary and desirable to promote, and are reasonably related to the public health, safety and general welfare of the Tahoe Region; and

WHEREAS, the proposed amendments comply in all respects, procedural and substantive, with the Tahoe Regional Planning Compact, the Regional Plan, ordinances and rules of the TRPA, and are necessary to effectuate and implement same; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, that the Tahoe Regional Planning Agency Retirement Plan be amended to be compliant with federal laws and regulations and includes the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA);

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency on this 24th day of October, 2003.

Ayes:

Nays:

Abstentions:

Absent:

David Solaro, Chairman
Tahoe Regional Planning Agency

**EGTRRA
AMENDMENT TO THE
DAILYACCESS.COM, INC.
STANDARDIZED AND NONSTANDARDIZED
PROTOTYPE PLANS**

EXHIBIT A to Consent Item 6

**ARTICLE I
PREAMBLE**

- 1.1 Adoption and effective date of amendment. This amendment of the plan is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). This amendment is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this amendment shall be effective as of the first day of the first plan year beginning after December 31, 2001.
- 1.2 Adoption by prototype sponsor. Except as otherwise provided herein, pursuant to Section 5.01 of Revenue Procedure 2000-20 (or pursuant to the corresponding provision in Revenue Procedure 89-9 or Revenue Procedure 89-13), the sponsor hereby adopts this amendment on behalf of all adopting employers.
- 1.3 Supersession of inconsistent provisions. This amendment shall supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of this amendment.

**ARTICLE II
SPONSOR ELECTIONS**

2.1 Vesting Schedule for Matching Contributions

If there are matching contributions subject to a vesting schedule that does not satisfy EGTRRA, for participants who complete an hour of service in a plan year beginning after December 31, 2001, the following vesting schedule will apply to all matching contributions subject to a vesting schedule:

If the plan has a graded vesting schedule (i.e., the vesting schedule includes a vested percentage that is more than 0% and less than 100%) the following will apply:

Years of vesting service	Nonforfeitable percentage
2	20%
3	40%
4	60%
5	80%
6	100%

If the plan does not have a graded vesting schedule, then matching contributions will be nonforfeitable upon the completion of 3 years of vesting service. The vesting schedule set forth herein will only apply to matching contributions made in plan years beginning after December 31, 2001 (the prior vesting schedule will apply to matching contributions made in prior plan years).

- 2.2 **Exclusion of Rollovers in Application of Involuntary Cash-out Provisions (for profit sharing and 401(k) plans only).** If the plan is not subject to the qualified joint and survivor annuity rules and includes involuntary cash-out provisions, rollover contributions will be excluded in determining the value of the participant's nonforfeitable account balance for purposes of the plan's involuntary cash-out rules.
- 2.3 **Suspension period of hardship distributions.** If the plan provides for hardship distributions upon satisfaction of the safe harbor (deemed) standards as set forth in Treas. Reg. Section 1.401(k)-1(d)(2)(iv), then, the suspension period following a hardship distribution shall only apply to hardship distributions made after December 31, 2001.
- 2.4 **Catch-up contributions (for 401(k) profit sharing plans only):** The plan permits catch-up contributions (Article VI).
- 2.5 **For target benefit plans only:** The increased compensation limit (\$200,000 limit) shall apply to years prior to 2002.

**ARTICLE III
VESTING OF MATCHING CONTRIBUTIONS**

- 3.1 Applicability. This Article shall apply to participants who complete an Hour of Service after December 31, 2001, with respect to accrued benefits derived from employer matching contributions made in plan years beginning after December 31, 2001.
- 3.2 Vesting schedule. A participant's accrued benefit derived from employer matching contributions shall vest as provided in Section 2.1 of this amendment.

**ARTICLE IV
INVOLUNTARY CASH-OUTS**

- 4.1 Applicability and effective date. If the plan provides for involuntary cash-outs of amounts less than \$5,000, this Article shall apply for distributions made after December 31, 2001, and shall apply to all participants. However, regardless of the preceding, this Article shall not apply if the plan is subject to the qualified joint and survivor annuity requirements of Sections 401(a)(11) and 417 of the Code.
- 4.2 Rollovers disregarded in determining value of account balance for involuntary distributions. For purposes of the Sections of the plan that provide for the involuntary distribution of vested accrued benefits of \$5,000 or less, the value of a participant's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code. If the value of the participant's nonforfeitable account balance as so determined is \$5,000 or less, then the plan shall immediately distribute the participant's entire nonforfeitable account balance.

**ARTICLE V
HARDSHIP DISTRIBUTIONS**

- 5.1 Applicability and effective date. If the plan provides for hardship distributions upon satisfaction of the safe harbor (deemed) standards as set forth in Treas. Reg. Section 1.401(k)-1(d)(2)(iv), then this Article shall apply for calendar years beginning after 2001.
- 5.2 Suspension period following hardship distribution. A participant who receives a distribution of elective deferrals after December 31, 2001, on account of hardship shall be prohibited from making elective deferrals and employee contributions under this and all other plans of the employer for 6 months after receipt of the distribution.

**ARTICLE VI
CATCH-UP CONTRIBUTIONS**

Catch-up Contributions. All employees who are eligible to make elective deferrals under this plan and who have attained age 50 before the close of the plan year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the plan implementing the required limitations of Sections 402(g) and 415 of the Code. The plan shall not be treated as failing to satisfy the provisions of the plan implementing the requirements of Section 401(k)(3), 401(k)(11), 401(k)(12), 410(b), or 416 of the Code, as applicable, by reason of the making of such catch-up contributions.

**ARTICLE VII
INCREASE IN COMPENSATION LIMIT**

Increase in Compensation Limit. The annual compensation of each participant taken into account in determining allocations for any plan year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). If this is a target benefit plan, for purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited to \$200,000. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

**ARTICLE VIII
PLAN LOANS**

Plan loans for owner-employees or shareholder-employees. If the plan permits loans to be made to participants, then effective for plan loans made after December 31, 2001, plan provisions prohibiting loans to any owner-employee or shareholder-employee shall cease to apply.

**ARTICLE IX
LIMITATIONS ON CONTRIBUTIONS (IRC SECTION 415 LIMITS)**

- 9.1 Effective date. This Section shall be effective for limitation years beginning after December 31, 2001.
- 9.2 Maximum annual addition. Except to the extent permitted under Article XIV of this amendment and Section 414(v) of the Code, if applicable, the annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of

EGTRRA – DailyAccess.Com, Inc. Sponsor Amendment

- (a) \$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or
- (b) 100 percent of the participant's compensation, within the meaning of Section 415(c)(3) of the Code, for the limitation year.

The compensation limit referred to in (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

**ARTICLE X
MODIFICATION OF TOP-HEAVY RULES**

- 10.1 Effective date. This Article shall apply for purposes of determining whether the plan is a top-heavy plan under Section 416(g) of the Code for plan years beginning after December 31, 2001, and whether the plan satisfies the minimum benefits requirements of Section 416(c) of the Code for such years. This Article amends the top-heavy provisions of the plan.
- 10.2 Determination of top-heavy status.
 - 10.2.1 Key employee. Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than \$130,000 (as adjusted under Section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the employer, or a 1-percent owner of the employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with Section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.
 - 10.2.2 Determination of present values and amounts. This Section 10.2.2 shall apply for purposes of determining the present values of accrued benefits and the amounts of account balances of employees as of the determination date.
 - a. Distributions during year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an employee as of the determination date shall be increased by the distributions made with respect to the employee under the plan and any plan aggregated with the plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."
 - b. Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual who has not performed services for the employer during the 1-year period ending on the determination date shall not be taken into account.
- 10.3 Minimum benefits.
 - 10.3.1 Matching contributions. Employer matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of Section 416(c)(2) of the Code and the plan. The preceding sentence shall apply with respect to matching contributions under the plan or, if the plan provides that the minimum contribution requirement shall be met in another plan, such other plan. Employer matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of Section 401(m) of the Code.
 - 10.3.2 Contributions under other plans. The employer may provide, in an addendum to this amendment, that the minimum benefit requirement shall be met in another plan (including another plan that consists solely of a cash or deferred arrangement which meets the requirements of Section 401(k)(12) of the Code and matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met). The addendum should include the name of the other plan, the minimum benefit that will be provided under such other plan, and the employees who will receive the minimum benefit under such other plan.

**ARTICLE XI
DIRECT ROLLOVERS**

- 11.1 Effective date. This Article shall apply to distributions made after December 31, 2001.

- 11.2 Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.
- 11.3 Modification of definition of eligible rollover distribution to exclude hardship distributions. For purposes of the direct rollover provisions of the plan, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.
- 11.4 Exclusion of after-tax employee contributions. For purposes of the direct rollover provisions in the plan, a portion of a distribution that consists of after-tax employee contributions which are not includible in gross income shall not be considered an eligible rollover distribution. The plan does not allow the acceptance of rollover contributions consisting of after-tax employee contributions

ARTICLE XII ROLLOVERS FROM OTHER PLANS

Rollovers from other plans. The employer, operationally and on a nondiscriminatory basis, may limit the source of rollover contributions that may be accepted by this plan.

ARTICLE XIII REPEAL OF MULTIPLE USE TEST

Repeal of Multiple Use Test. The multiple use test described in Treasury Regulation Section 1.401(m)-2 and the plan shall not apply for plan years beginning after December 31, 2001.

ARTICLE XIV ELECTIVE DEFERRALS

- 14.1 Elective Deferrals - Contribution Limitation. No participant shall be permitted to have elective deferrals made under this plan, or any other qualified plan maintained by the employer during any taxable year, in excess of the dollar limitation contained in Section 402(g) of the Code in effect for such taxable year, except to the extent permitted under Article VI of this amendment and Section 414(v) of the Code, if applicable. Any maximum limitation imposed on an Employee's salary reduction agreement by an adoption agreement election is hereby revoked effective January 1, 2002. Participants may defer up to the maximum amount allowed under Sections 402(g) and 415 of the Code subject to any federal or state tax withholding requirements.
- 14.2 Maximum Salary Reduction Contributions for SIMPLE plans. If this is a SIMPLE 401(k) plan, then except to the extent permitted under Article VI of this amendment and Section 414(v) of the Code, if applicable, the maximum salary reduction contribution that can be made to this plan is the amount determined under Section 408(p)(2)(A)(ii) of the Code for the calendar year.

ARTICLE XV SAFE HARBOR PLAN PROVISIONS

Modification of Top-Heavy Rules. The top-heavy requirements of Section 416 of the Code and the plan shall not apply in any year beginning after December 31, 2001, in which the plan consists solely of a cash or deferred arrangement which meets the requirements of Section 401(k)(12) of the Code and matching contributions with respect to which the requirements of Section 401(m)(11) of the Code are met.

ARTICLE XVI DISTRIBUTION UPON SEVERANCE OF EMPLOYMENT

- 16.1 Effective date. This Article shall apply for distributions and transactions made after December 31, 2001, regardless of when the severance of employment occurred.
- 16.2 New distributable event. A participant's elective deferrals, qualified nonelective contributions, qualified matching contributions, and earnings attributable to these contributions shall be distributed on account of the participant's severance from employment. However, such a distribution shall be subject to the other provisions of the plan regarding distributions, other than provisions that require a separation from service before such amounts may be distributed.

This amendment is hereby adopted by the prototype sponsor on behalf of all adopting employers on December 18, 2001.

Sponsor Name: **DailyAccess.Com, Inc.**

By: Robert A. McKendry
Director of Administration & Compliance

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 8, 2003

To: TRPA Governing Board
From: TRPA Staff
Subject: Resolution Allocating FY 2003-2004 Local Transportation Funds (\$185,825) to El Dorado County for Community Transit Services

Proposed Action: To adopt the attached resolution (Attachment A) approving the release of FY 2003-2004 Local Transportation Funds (\$185,825) to El Dorado County for community transit services.

Staff Recommendation: Staff recommends that the Governing Board approve the attached resolution (Attachment A) approving the release of FY 2003-2004 Local Transportation Funds (\$185,825) to El Dorado County to cover operating costs of public transit services during fiscal year 2003-2004.

Discussion: As the designated Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region, TRPA has the responsibility to administer the funds provided by the Transportation Development Act (TDA). Local Transportation Funds (LTF) are allocated by the RTPAs for use in the counties based upon the priorities set by the TDA.

The first priority for the use of LTF monies is to support the RTPA's cost of administering the TDA program. The second priority allows up to three percent of the TDA funds to be allocated to the RTPAs for transportation planning and programming purposes. The third priority for the use of these funds allows a portion to be set aside for bicycle and pedestrian facilities. After these priorities, claims may be filed by transit operators for operating costs or capital requirements; by cities and counties for transit services provided under contract; or by cities and counties for streets and roads, if no unmet transit needs which are reasonable to meet exist in the claimant's jurisdiction.

Staff recommendations for the allocation of FY 2003-2004 LTF monies are based on TDA rules and regulations, and on the objectives of the TRPA Regional Transportation Plan Goals and Policies.

FY 2003-2004 LTF Apportionment

As required by the TDA, the El Dorado County auditor notified TRPA that LTF monies in the amount of \$815,085 were apportioned for allocation in the El Dorado County portion of the Tahoe Region for FY 2003-2004. These monies are available to both the City of South Lake Tahoe and the unincorporated portion of the El Dorado County, within the Tahoe Region.

Following the priorities set by the TDA, TRPA, acting as the RTPA, has allocated LTF monies for its costs of administering the TDA programs in the Region. These costs are prorated to the City of South Lake Tahoe, El Dorado County, and Placer County. TRPA has also allocated a portion of the available LTF monies for its transportation planning and programming activities.

FY 2003-2004 Local Transportation Fund El Dorado County	
Total Estimated LTF:	\$ 815,085
• TRPA Planning Funds:	(22,000)
• TRPA Administrative Costs:	(15,400)
AVAILABLE LTF FOR ALLOCATION:	\$777,685.00

JURISDICTION	POPULATION	% TOTAL POPULATION	APPORTIONMENT
El Dorado County:	10,506	30.491	\$237,124
City of South Lake Tahoe:	23,950	69.509	\$540,561
Totals:	34,456	100.00%	\$777,685.00

As shown above, El Dorado County is entitled to \$237,124 from the FY 2003-2004 allocation of LTF. The claim, however, is only for \$185,825. The County wishes to leave the remaining \$51,299 in the LTF account for use by the County at a later date.

PROPOSED USE OF FY 2003-2004 LTF	APPORTIONMENT
El Dorado County Transit Services:	\$185,825.00
Hold in Trust Account for El Dorado County:	\$ 51,299.00
FY 2003-2004 LTF Allocation to El Dorado County:	\$237,124.00

TRPA received a claim from El Dorado County to fund transit services in the unincorporated portion of El Dorado County, within the Tahoe Region. The LTF claim submitted by the County includes funding for transit programs only. The TDA regulations also require the submittal of certain information along with the claim. TRPA cannot process the claim without this information. TRPA received the accompanying information required by the Transportation Development Act, and so can process the claim.

Pursuant to El Dorado County's request, TRPA staff is requesting that \$185,825 in Local Transportation Funds (LTF) be released to El Dorado County to cover operating costs of public transit services during fiscal year 2003-2004.

Staff has reviewed the claim submitted by El Dorado County and has determined that the claim is consistent with TDA rules and regulations. The services to be provided through the use of these monies are also consistent with the TRPA Regional Transportation Plan - Air Quality Plan. The approval of this claim will serve to meet identified transit needs that currently exist in the unincorporated portion of El Dorado County in the Tahoe Region.

Requested Action: Adopt the attached resolution approving the release of \$185,825 in FY 2003-2004 LTF to El Dorado County.

If you have any questions or comments regarding this agenda item, feel free to contact Bridget Cornell at (775) 588-4547. Thank you.

/bkc

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003- ____

A RESOLUTION APPROVING THE ALLOCATION OF FY 2003-2004
LOCAL TRANSPORTATION FUNDS (\$185,825) TO EL DORADO COUNTY
FOR TRANSIT SERVICES

WHEREAS, the Tahoe Regional Planning Agency (TRPA) is designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the Tahoe Region; and

WHEREAS, as the Regional Transportation Planning Agency, TRPA is given the responsibility for administering the TDA Local Transportation Fund for the Tahoe Region; and

WHEREAS, the RTPA received a claim from El Dorado County for \$185,825 to be taken from the El Dorado County Local Transportation Fund for Fiscal Year 2003-2004 to fund public transit services in the unincorporated area of El Dorado County in the Tahoe Region; and

WHEREAS, the claim submitted by El Dorado County was reviewed by the RTPA and found to be consistent with the Transportation Development Act Rules and Regulations; and

WHEREAS, the claim was reviewed by the RTPA and found to be consistent with the TRPA Regional Transportation Plan - Air Quality Plan.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that \$185,825 in the current FY 2003-2004 Local Transportation Fund allocation be released to the County of El Dorado for public transit operating expenses within the Tahoe Region during FY 2003-2004.

PASSED AND ADOPTED this 23rd day of October 2003 by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
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Email: trpa@trpa.org

MEMORANDUM

October 8, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution Allocating FY 2003-2004 State Transit Assistance (\$38,512) to El Dorado County for Transit Services

Proposed Action: To adopt the attached resolution (Attachment A) approving the release of FY 2003-2004 State Transit Assistance (STA) funding to El Dorado County in the amount of \$38,512 for transit services.

Staff Recommendation: Staff recommends the TRPA Governing Board adopt the attached resolution (Attachment A).

Background: TRPA was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Lake Tahoe Region. Under this designation, TRPA is responsible for the administration of the Transportation Development Act (TDA) funds that are made available to support public transportation services. There are two sources of funds provided by the TDA: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund.

The STA fund program was created under Chapter 161 of the Statutes of 1979 (SB 620). Funds from the program are derived from the statewide sales tax program. The money is appropriated to the Secretary of Business, Transportation and Housing Agency for allocation by formula to each RTPA. Staff recommends the allocation of STA funds based on the TDA Rules and Regulations and the objectives of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. A total of \$121,490 is available for eligible claimants within the Tahoe Region, which has historically been equally split between the City of South Lake Tahoe and Placer County. This is the first year that El Dorado County is an eligible claimant for the STA. It was decided that for the first year, the STA would be equally divided between the three claimants.

Discussion: El Dorado County processed its claim prior to being notified of the revised available STA. An STA claim has been received from El Dorado County in the amount of \$38,512 (which is consistent with the original estimate) and will be used for transit services in the unincorporated portion of El Dorado County, within the Lake Tahoe Region. TRPA staff has reviewed the claim submitted by the County. The claim is consistent with the Transportation Development Act Rules and Regulations, and is consistent with the goals and Policies of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. The findings of Subsection 6754(a) and (b) have been made, as identified in the attached Resolution.

If there are any questions or comments regarding this agenda item, please contact Bridget Cornell at (775) 588-4547.

Attachment: Resolution

/bkc

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-_____

A RESOLUTION APPROVING THE ALLOCATION OF FY 2003-2004
STATE TRANSIT ASSISTANCE FUNDS (\$38,512)
TO EL DORADO COUNTY FOR TRANSIT SERVICES

WHEREAS, the Tahoe Regional Planning Agency is designated by the State of California as the Regional Transportation Planning Agency for the California portion of the Lake Tahoe Region, and is responsible for allocating State Transit Assistance (STA) for the Tahoe Region; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of the Regional Transportation Planning Agency for public transportation purposes; and

WHEREAS, there are STA funds in the amount of \$121,490 for FY 2003-2004 available for eligible claimants in the Tahoe Region; and

WHEREAS, TRPA has received an application for STA funds from El Dorado County to provide operational assistance to the South Tahoe Area Ground Express (STAGE) transit system for service in the Tahoe Region; and

WHEREAS, the required findings of Article 5, Section 6754 of the Transportation Development Act Rules and Regulations have been made as follows:

Subsection 6754 (a)

1. The claimant's proposed expenditures are in conformance with the Regional Transportation Plan.
2. Fares charged by the transit claimant are sufficient to meet farebox ratio requirements applicable to the claimant.
3. The claimant is making full use of federal funds available under Urban Mass Transportation Act of 1964, as amended.
4. The sum of the claimant's allocations from LTF and STA funds do not exceed the amount the claimant is eligible to receive.
5. Priority consideration was given to claims to offset reductions in federal operating assistance and unanticipated increased costs for fuel, to enhance existing public transportation services, and to meet high priority regional public transportation needs.

Subsection 6754(b)

1. The operator has made a reasonable effort to implement any recommended productivity improvements.
2. The operator is not precluded from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.
3. The claimant has submitted certification that the claimant is in compliance with Section 1808.1 of the Vehicle Code.

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, that FY 2003-2004 STA funds in the amount of \$38,512 be released to El Dorado County to provide for operating assistance of the STAGE system.

PASSED AND ADOPTED this 23rd day of October, 2003, by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 8, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution Allocating FY 2003-2004 Local Transportation Funds
(\$540,561) to the City of South Lake Tahoe for STAGE Operations

Proposed Action: To adopt the attached resolution (Attachment A) approving the allocation of Local Transportation Funds (LTF) in the amount of \$540,561 to the City of South Lake Tahoe for operating expenses of the South Tahoe Area Ground Express (STAGE) transit system during the 2003-2004 fiscal year.

Staff Recommendation: Staff recommends the Governing Board approve the attached resolution (Attachment A).

Discussion: As the designated Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region, TRPA has the responsibility for administering the funds which are provided by the Transportation Development Act (TDA). TDA provides two sources of funds, which are intended to support and develop transportation services. These funds are the Local Transportation Fund (LTF) and the State Transit Assistance Fund (STA).

TDA legislation (SB325) provides a source of financial support for public transportation by allowing counties to impose a one-quarter percent sales tax. The revenue collected from the tax is returned to the county of origin to be redistributed on a population basis. These funds are deposited in a local transportation fund. RTPAs administer these funds within their areas of jurisdiction. Local transportation funds are allocated by the RTPAs for use in the counties based upon the priorities set by the TDA.

The first priority for the use of LTF monies is to support the RTPA's cost of administering the TDA program. The second priority allows up to three percent of the TDA funds to be allocated to the RTPAs for transportation planning and programming purposes. Third priority for the use of these funds allows a portion to be set aside for bicycle and pedestrian facilities. After these priorities, claims may be filed by transit operators for operating costs or capital requirements; by cities or counties for transit services provided under contract; or by cities and counties for streets and roads, if no unmet transit needs which are reasonable to meet exist in the claimant's jurisdiction.

Staff recommendations for the allocation of FY 2003-2004 LTF monies are based on TDA rules and regulations, and on the objectives of the TRPA Regional Transportation Plan Goals and Policies.

2003-2004 LTF Apportionments

As required by the TDA, the El Dorado County auditor notified TRPA that LTF monies in the amount of \$815,085 were apportioned for allocation in the El Dorado County portion

of the Tahoe Region in FY 2003-2004. These monies are available to both the City of South Lake Tahoe and El Dorado County.

Following the priorities set by the TDA, TRPA, acting as the RTPA, has allocated LTF monies for its costs of administering the TDA programs in the Region. These costs are prorated to the City of South Lake Tahoe, El Dorado County, and Placer County. TRPA, acting as the RTPA, also has allocated a portion of the available LTF monies for its transportation planning and programming activities.

FY 2003-2004 LTF monies available for allocation in El Dorado County are as follows:

FY 2003-2004 Local Transportation Fund El Dorado County	
Total Estimated LTF:	\$ 815,085
• TRPA Planning Funds:	(22,000)
• TRPA Administrative Costs:	(15,400)
AVAILABLE LTF FOR ALLOCATION:	\$777,685.00

JURISDICTION	POPULATION	% TOTAL POPULATION	APPORTIONMENT
El Dorado County:	10,506	30.491	\$237,124
City of South Lake Tahoe:	23,950	69.509	\$540,561
Totals:	34,456	100.00%	\$777,685.00

The City of South Lake Tahoe has filed a claim for LTF monies in the amount of \$540,561 for operating expenses of the City's STAGE transit system for the 2003-2004 fiscal year.

Staff has reviewed the claim submitted by the City of South Lake Tahoe and finds that the claim is consistent with TDA rules and regulations. The services to be provided through the use of these monies are also consistent with the TRPA Regional Transportation Plan. The approval of this claim will serve to meet identified transit needs that currently exist in the City of South Lake Tahoe's portion of the Tahoe Region.

If you have any questions regarding this agenda item, please contact Bridget Cornell at (775) 588-4547.

Attachment: Resolution.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-- _____

A RESOLUTION APPROVING THE ALLOCATION OF FY 2003-2004 LOCAL
TRANSPORTATION FUNDS TO THE CITY OF SOUTH LAKE TAHOE (\$540,561)

WHEREAS, the Tahoe Regional Planning Agency (TRPA) was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the Tahoe Region; and

WHEREAS, as the RTPA, TRPA has the responsibility for allocating the Local Transportation Fund for the Tahoe Region; and

WHEREAS, the amount of Local Transportation Funds available for allocation during FY 2003-2004 to the City of South Lake Tahoe is \$540,561; and

WHEREAS, TRPA, sitting as the RTPA, has received a claim from the City of South Lake Tahoe for \$540,561 from the Local Transportation Fund for operating expenses of the STAGE system during FY 2003-2004; and

WHEREAS, the claim submitted by the City of South Lake Tahoe was reviewed and found to be consistent with the Transportation Development Act Rules and Regulations; and

WHEREAS, the provision of public transportation services by the City of South Lake Tahoe is consistent with TRPA Regional Transportation Plan Goals and Policies.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, that \$540,561 from the Local Transportation Fund be released to the City of South Lake Tahoe for operating expenses during FY 2003-2004 of the STAGE transit system, with a portion of the funds to be set aside for the STAGE triennial performance audit.

PASSED AND ADOPTED this 23rd day of October 2003 by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 8, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution Allocating FY 2003-2004 State Transit Assistance (\$40,497) to the City of South Lake Tahoe for STAGE Operating Assistance

Proposed Action: To adopt the attached resolution (Attachment A) approving the release of FY 2003-2004 State Transit Assistance (STA) funding to the City of South Lake in the amount of \$40,497 for operational support of the South Tahoe Area Ground Express (STAGE) transit system.

Staff Recommendation: Staff recommends the TRPA Governing Board adopt the attached resolution (Attachment A).

Background: TRPA was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Lake Tahoe Region. Under this designation, TRPA is responsible for the administration of the Transportation Development Act (TDA) funds that are made available to support public transportation services. There are two sources of funds provided by the TDA: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund.

The STA fund program was created under Chapter 161 of the Statutes of 1979 (SB 620). Funds from the program are derived from the statewide sales tax program. The money is appropriated to the Secretary of Business, Transportation and Housing Agency for allocation by formula to each RTPA. Staff recommends the allocation of STA funds based on the TDA Rules and Regulations and the objectives of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. A total of \$121,490 is available for eligible claimants within the Tahoe Region, which has historically been equally split between the City of South Lake Tahoe and Placer County. This year both El Dorado and Placer Counties will be eligible for STA in addition to the City. The other claims will be acted on separately.

Discussion: The City of South Lake Tahoe has submitted a claim for STA funds in the amount of \$40,497 for operational support of the STAGE public transit system operated on the South Shore of the Lake Tahoe Region. TRPA staff has reviewed the claim submitted by the City. The claim is consistent with the Transportation Development Act Rules and Regulations, and is consistent with the goals and Policies of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. The findings of Subsection 6754(a) and (b) have been made, as identified in the attached Resolution.

If there are any questions or comments regarding this agenda item, please contact Bridget Cornell at (775) 588-4547.

Attachment: Resolution

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-_____

A RESOLUTION APPROVING THE ALLOCATION OF FY 2003-2004
STATE TRANSIT ASSISTANCE FUNDS (\$40,497)
TO THE CITY OF SOUTH LAKE TAHOE
FOR STAGE OPERATING ASSISTANCE

WHEREAS, the Tahoe Regional Planning Agency is designated by the State of California as the Regional Transportation Planning Agency for the California portion of the Lake Tahoe Region, and is responsible for allocating State Transit Assistance (STA) for the Tahoe Region; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of the Regional Transportation Planning Agency for public transportation purposes; and

WHEREAS, there are STA funds in the amount of \$121,490 for FY 2003-2004 available for eligible claimants in the Tahoe Region; and

WHEREAS, TRPA has received an application for STA funds from the City of South Lake Tahoe to provide operational assistance to the South Tahoe Area Ground Express (STAGE) transit system for service in the Tahoe Region; and

WHEREAS, the required findings of Article 5, Section 6754 of the Transportation Development Act Rules and Regulations have been made as follows:

Subsection 6754 (a)

1. The claimant's proposed expenditures are in conformance with the Regional Transportation Plan.
2. Fares charged by the transit claimant are sufficient to meet farebox ratio requirements applicable to the claimant.
3. The claimant is making full use of federal funds available under Urban Mass Transportation Act of 1964, as amended.
4. The sum of the claimant's allocations from LTF and STA funds do not exceed the amount the claimant is eligible to receive.
5. Priority consideration was given to claims to offset reductions in federal operating assistance and unanticipated increased costs for fuel, to enhance existing public transportation services, and to meet high priority regional public transportation needs.

Subsection 6754(b)

1. The operator has made a reasonable effort to implement any recommended productivity improvements.
2. The operator is not precluded from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.
3. The claimant has submitted certification that the claimant is in compliance with Section 1808.1 of the Vehicle Code.

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, that FY 2003-2004 STA funds in the amount of \$40,497 be released to the City of South Lake Tahoe to provide for operating assistance of the STAGE system.

PASSED AND ADOPTED this 23rd day of October, 2003, by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 9, 2003

To: TRPA Governing Board
From: TRPA Staff
Subject: Resolution Allocating Unapportioned Local Transportation Funds (LTF) (\$21,627) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance

Proposed Action: To adopt the attached resolution (Attachment A) allocating previously unapportioned El Dorado County Local Transportation Funds (LTF) (\$21,627) to the City of South Lake Tahoe that will be used for FY 2002-2003 STAGE operating expenses.

Staff Recommendation: Staff recommends that the Governing Board adopt the attached Resolution (Attachment A) allocating previously unapportioned El Dorado County Local Transportation Funds (LTF) (\$21,627) to the City of South Lake Tahoe that will be used for FY 2002-2003 STAGE operating expenses.

Discussion: As the designated Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region, TRPA has the responsibility for the administration of funds provided by the Transportation Development Act (TDA). LTF funds are allocated by the RTPAs for use in the counties based upon the priorities set by the TDA.

After being notified of an accrued balance in both the Local Transportation Fund (LTF) and State Transit Assistance (STA), TRPA adopted two resolutions that began allocating portions of both those balances to the City of South Lake Tahoe. Upon submitting the instructions to the County, TRPA was notified by the El Dorado County Auditor-Controller's Office that the level of funding that was requested in those actions was not available. The approved funds were to be used for STAGE operating expenses for FY 2002-2003.

In order to correct the previous actions, TRPA has worked with the Auditor-Controller's Office to determine the level of funding that is available in each of these accounts for each jurisdiction. The attached resolution (as well as the enclosed two additional actions) is consistent with the level of funding that is currently available to the City

Staff has reviewed the claim submitted by the City and has determined that the claim is consistent with TDA rules and regulations. The services to be provided through the use of these monies are also consistent with the TRPA Regional Transportation Plan - Air Quality Plan. The approval of this claim will serve to meet identified transit needs that currently exist in the unincorporated portion of El Dorado County in the Tahoe Region.

If you have any questions or comments regarding this agenda item, feel free to contact Bridget Cornell at (775) 588-4547.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003- ____

A RESOLUTION ALLOCATING UNAPPORTIONED LOCAL TRANSPORTATION
FUNDS (\$21,627) TO THE CITY OF SOUTH LAKE TAHOE
FOR FY 2002-2003 STAGE OPERATING EXPENSES

WHEREAS, the Tahoe Regional Planning Agency (TRPA) is designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the Tahoe Region; and

WHEREAS, as the Regional Transportation Planning Agency, TRPA is given the responsibility for administering the Transportation Development Act (TDA), which includes allocating Local Transportation Funds (LTF) and State Transit Assistance (STA) to claimants within the Tahoe Region; and

WHEREAS TRPA has worked with the El Dorado County Auditor-Controller's office to determine what levels of funding have accumulated in the LTF and STA accounts; and

WHEREAS, the City of South Lake Tahoe has submitted a claim to requesting that \$21,627 be allocated from the unapportioned balance that has accrued in the El Dorado County Local Transportation Fund (and available to the City) for transit operating expenses; and

WHEREAS, the claim submitted by the City of South Lake Tahoe was reviewed by the RTPA and found to be consistent with the Transportation Development Act Rules and Regulations, and was also found to be consistent with the TRPA Regional Transportation Plan - Air Quality Plan.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that \$21,627 be allocated to the City of South Lake Tahoe from the unapportioned balance that has accrued in the El Dorado County Local Transportation Fund (and available to the City) for transit operating expenses.

PASSED AND ADOPTED this day 23rd day of October 2003 by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

David Solaro, Chairman
Tahoe Regional Planning Agency

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MEMORANDUM

October 9, 2003

To: TRPA Governing Board
From: TRPA Staff
Subject: Resolution Allocating Apportioned, Unallocated Local Transportation Funds (LTF) (\$20,617) to the City of South Lake Tahoe for FY 2002-2003 STAGE Operating Assistance

Proposed Action: To adopt the attached resolution (Attachment A) allocating Apportioned, Unallocated Local Transportation Funds (LTF) (\$20,617) to the City of South Lake Tahoe that is being held by El Dorado County and available to the City, to help fill in a shortfall in funding that has resulted during FY 2002-2003.

Staff Recommendation: Staff recommends that the Governing Board adopt the attached resolution (Attachment A) approving the programming of El Dorado County Local Transportation Funds (\$20,617) from a previously apportioned but unallocated balance held by the County Auditor Controller's Office that will be used to towards FY 2002-2003 STAGE operating expenses.

Discussion: As the designated Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region, TRPA has the responsibility for the administration of funds provided by the Transportation Development Act (TDA). LTF funds are allocated by the RTPAs for use in the counties based upon the priorities set by the TDA.

After being notified of an accrued balance in both the Local Transportation Fund (LTF) and STA, TRPA adopted two resolutions that began allocating portions of both those balances to the City of South Lake Tahoe. Upon submitting the instructions to the County, TRPA was notified by the El Dorado County Auditor-Controller's Office that the level of funding that was requested in those actions was not available. The approved funds were to be used for STAGE operating expenses for FY 2002-2003.

In order to correct the previous actions, TRPA has worked with the Auditor-Controller's Office to determine the level of funding that is available in each of these accounts for each jurisdiction. The attached resolution (as well as the enclosed two additional actions) is consistent with the level of funding that is currently available to the City

Staff has reviewed the claim submitted by El Dorado County and has determined that the claim is consistent with TDA rules and regulations. The services to be provided through the use of these monies are also consistent with the TRPA Regional Transportation Plan - Air Quality Plan. The approval of this claim will serve to meet identified transit needs that currently exist in the unincorporated portion of El Dorado County in the Tahoe Region.

If you have any questions or comments regarding this agenda item, feel free to contact Bridget Cornell at (775) 588-4547.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003- ____

A RESOLUTION ALLOCATING APPORTIONED, UNALLOCATED LOCAL
TRANSPORTATION FUNDS (\$20,617) TO THE CITY OF SOUTH LAKE TAHOE FOR
FY 2002-2003 STAGE OPERATING EXPENSES

WHEREAS, the Tahoe Regional Planning Agency (TRPA) is designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the Tahoe Region; and

WHEREAS, as the Regional Transportation Planning Agency, TRPA is given the responsibility for administering the Transportation Development Act (TDA), which includes allocating Local Transportation Funds (LTF) and State Transit Assistance (STA) within the Tahoe Region; and

WHEREAS TRPA has worked with the El Dorado County Auditor-Controller's office to determine what levels of funding have accumulated in the LTF and STA accounts; and

WHEREAS, the City of South Lake Tahoe has submitted a claim to requesting that \$20,617 be allocated from the previously apportioned but unallocated balance in the El Dorado County Local Transportation (that is available to the City) to make up for a shortfall in funding for the South Lake Tahoe transit program; and

WHEREAS, the claim submitted by the City of South Lake Tahoe was reviewed by the RTPA and found to be consistent with the Transportation Development Act Rules and Regulations, and was also found to be consistent with the TRPA Regional Transportation Plan - Air Quality Plan.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that \$20,617 be allocated from the previously apportioned but unallocated balance in the El Dorado County Local Transportation Fund that will be used to cover a shortfall in funding for the South Lake Tahoe transit program.

PASSED AND ADOPTED this day 23rd day of October 2003 by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 9, 2003

To: TRPA Governing Board
From: TRPA Staff
Subject: Resolution Allocating Carryover State Transit Assistance (STA) (\$13,953) to the City of South Lake Tahoe for STAGE Operating Assistance

Proposed Action: To adopt the attached resolution (Attachment A) approving the programming of El Dorado County Carryover State Transit Assistance (STA) (\$13,953) to the City of South Lake Tahoe to be used for FY 2002-2003 operating assistance for the South Tahoe Area Ground Express (STAGE) transit system.

Staff Recommendation: Staff recommends that the Governing Board adopt the attached Resolution (Attachment A) approving the programming of El Dorado County State Transit Assistance (STA) (\$13,953) so the City of South Lake Tahoe from the carryover STA balance held by the County Auditor Controller's Office which will be used towards operating expenses of STAGE for FY 2002-2003.

Discussion: As the designated Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region, TRPA has the responsibility for administering funds provided by the Transportation Development Act (TDA). Local Transportation Funds (LTF) and State Transit Assistance (STA) funds are allocated by the RTPAs for use in the counties based upon the priorities set by the TDA.

After being notified of an accrued balance in both the Local Transportation Fund (LTF) and STA, TRPA adopted two resolutions that began allocating portions of both those balances to the City of South Lake Tahoe. Upon submitting the instructions to the County, TRPA was notified by the El Dorado County Auditor-Controller's Office that the level of funding that was requested in those actions was not available. The approved funds were to be used for STAGE operating expenses for FY 2002-2003.

In order to correct the previous actions, TRPA has worked with the Auditor-Controller's Office to determine the level of funding that is available in each of these accounts for each jurisdiction. The attached resolution (as well as the enclosed two additional actions) is consistent with the level of funding that is currently available to the City.

Staff has reviewed the claim submitted by the City and has determined that the claim is consistent with TDA rules and regulations. The services to be provided through the use of these monies are also consistent with the TRPA Regional Transportation Plan - Air Quality Plan. The approval of this claim will serve to meet identified transit needs that currently exist within the City of South Lake Tahoe.

If you have any questions or comments regarding this agenda item, feel free to contact Bridget Cornell at (775) 588-4547.

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-_____

RESOLUTION ALLOCATING CARRYOVER STATE TRANSIT ASSISTANCE (STA)
(\$13,953) TO THE CITY OF SOUTH LAKE
FOR FY 2002-2003 STAGE OPERATING EXPENSES

WHEREAS, the Tahoe Regional Planning Agency is designated by the State of California as the Regional Transportation Planning Agency for the California portion of the Lake Tahoe Region, and is responsible for allocating State Transit Assistance (STA) for the Tahoe Region; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of the Regional Transportation Planning Agency for public transportation purposes; and

WHEREAS, TRPA has been informed that a carry over balance has accrued in the STA fund that is held by the El Dorado County Auditor-Controller; and

WHEREAS, the enclosed request is consistent with the level of funding that is currently available to the City; and

WHEREAS, TRPA has received an application from the City for the release of funds from the STA carry over balance in the amount of \$13,953; and

WHEREAS, the City is proposing to use the STA funds to offset a shortfall in STA funds that occurred during FY 2002-2003 to provide supplemental operating assistance for the South Tahoe Area Ground Express (STAGE) transit system; and

WHEREAS, the required findings of Article 5, Section 6754 of the Transportation Development Act Rules and Regulations have been made as follows:

Subsection 6754 (a)

1. The claimant's proposed expenditures are in conformance with the Regional Transportation Plan.
2. Fares charged by the transit claimant are sufficient to meet farebox ratio requirements applicable to the claimant.
3. The claimant is making full use of federal funds available under Urban Mass Transportation Act of 1964, as amended.
4. The sum of the claimant's allocations from LTF and STA funds do not exceed the amount the claimant is eligible to receive.
5. Priority consideration was given to claims to offset reductions in federal operating assistance and unanticipated increased costs for fuel, to enhance existing public transportation services, and to meet high priority regional public transportation needs.

Subsection 6754(b)

1. The operator has made a reasonable effort to implement any recommended productivity improvements.
2. The operator is not precluded from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.
3. The claimant has submitted certification that the claimant is in compliance with Section 1808.1 of the Vehicle Code.

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that \$13,953 be allocated to the City of South Lake Tahoe from the balance that has accrued in the El Dorado County STA fund balance to provide for operating assistance of the STAGE system.

PASSED AND ADOPTED this 23rd day of October, 2003, by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

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MEMORANDUM

October 8, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution Allocating FY 2003-2004 Local Transportation Funds (\$68,000) to the RTPA for Planning and Administration

Proposed Action: To review the proposed Local Transportation Fund (LTF) allocation and approve the attached resolution (Attachment A) allocating \$68,000 to TRPA for administration, planning, and programming costs of the Transportation Development Act (TDA) Program for FY 2003-2004.

Staff Recommendation: Staff recommends that the TRPA Governing Board approve the attached resolution (Attachment A).

Discussion: The Transportation Development Act (TDA) sets priorities for the use of Local Transportation Funds. Article 3, Section 99233 of the TDA identifies these priorities. The first priority for the use of LTF monies is to compensate the Regional Transportation Planning Agencies for their costs of administering the TDA programs. Planning agencies are allowed to claim such funds as are necessary to administer the LTF program. The second priority use for LTF monies is to provide up to three percent of the apportioned monies for planning and programming activities of the RTPAs.

The allocation of LTF monies to the RTPA for administrative costs is prorated to both El Dorado and Placer Counties. The total El Dorado County apportionment includes the LTF apportionment for the City of South Lake Tahoe. Staff has determined that a total of \$28,000 is required to administer the TDA program during the current fiscal year. Of this amount, \$8,000 is needed for the completion of TDA required reports and audits, and \$20,000 is required to cover TRPA staff activities in administering this program. A total of \$15,400 is to come from the El Dorado County apportionment for FY 2003-2004 and \$12,600 from the Placer County apportionment for FY 2003-2004.

The required amount for planning and programming purposes is \$40,000 from FY 2003-2004 LTF monies. This amount is approximately 2.7 percent of the total apportionment of LTF monies to the Tahoe Region. Of this amount, \$22,000 is to be allocated from the El Dorado County apportionment, and \$18,000 is to be allocated from the Placer County apportionment.

Requested Action: Adopt the attached resolution allocating \$28,000 from the LTF to TRPA (acting as the RTPA) for costs of administering the TDA program, and an additional \$40,000 or 2.7 percent of the LTF, to support a portion of the transportation planning and programming activities. These monies shall be derived from El Dorado County's LTF (including the City of South Lake Tahoe) and Placer County's LTF apportionments as follows:

FY 2003-2004 LOCAL TRANSPORTATION FUND	
• TDA Administration Allocations:	
El Dorado County	\$15,400
Placer County	12,600
Subtotal	\$28,000.00
• RTPA Planning and Programming Allocations	
El Dorado County	\$22,000
Placer County	18,000
Subtotal	\$40,000.00
TOTAL ALLOCATION:	\$68,000.00

If you have any questions regarding this agenda item, please feel free to contact Bridget Cornell at (775) 588-4547.

Attachment: Resolution

TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 2003-

A RESOLUTION APPROVING THE ALLOCATION OF
FY 2003-2004 LOCAL TRANSPORTATION FUNDS (\$68,000) TO THE RTPA

WHEREAS, the Tahoe Regional Planning Agency (TRPA) was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Tahoe Region; and

WHEREAS, as the Regional Transportation Planning Agency, TRPA was given the responsibility for allocating the Local Transportation Fund (LTF) for the Tahoe Region; and

WHEREAS, the Transportation Development Act (TDA) has set priorities for the allocation of Local Transportation Funds (LTF) for support of administrative costs for the TDA programs and for the planning and programming process.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency that FY 2003-2004 Local Transportation Funds be allocated to the RTPA for the administration of the TDA program and for the conduct of the RTPA's planning and programming activities as follows:

County	Planning/ Programming	Administration	Total
El Dorado County	\$ 22,000	\$ 15,400	\$37,400.00
Placer County	18,000	12,600	30,600.00
Subtotal	\$40,000.00	\$28,000.00	\$68,000.00

PASSED AND ADOPTED this 23rd day of October 2003 by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Solaro, Chairman
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY

128 Market Street
 Stateline, Nevada
www.trpa.org

P.O. Box 5310
 Stateline, Nevada 89449-5310

Phone: (775) 588-4547
 Fax (775) 588-4527
 Email: trpa@trpa.org

Date: October 10, 2003

To: TRPA Governing Board

From: Jerry Wells, Acting Executive Director

Prepared By: Lyn Barnett, AICP, Chief Project Review Division
 Mike Cavanaugh, Senior Planner, Project Review Division
 Kathy White, Planning Technician, Project Review Division

Subject: TRPA Application Status Report
 September 1, 2003 through September 30, 2003

Projects Reviewed by Staff and Governing Board

<u>Work Element</u>	<u>Application Type</u>	<u>El Dorado</u>	<u>Placer</u>	<u>Washoe</u>	<u>Douglas</u>	<u>CSLT</u>	<u>TOTAL</u>
1000	Residential	1	2	0	4	0	7
1011.01/09	SFDA /Rebuild	0	2	5	3	1	11
1011.06/07	SFDA Plan Revision	0	1	0	2	0	3
1012.00	NSFD	0	1	0	1	0	2
2000	Tourist	0	1	0	1	0	2
3000	Commercial	0	0	2	1	0	3
4000	Public Service	3	3	4	1	4	15
5000	Recreation	0	0	0	0	1	1
6000	Resource Management	0	1	0	0	0	1
7000	Shorezone	0	5	0	1	1	7
8010	Lot Line Adjustment	1	1	1	0	1	4
8020	Administrative Dtr.	0	0	0	1	0	1
xxxx.02	Appeal	0	0	0	0	1	1
xxxx.03	Banking	0	1	0	1	2	4
xxxx.12	Signs	0	0	2	2	0	4
xxxx.14	Transfer	5	3	0	2	4	14
xxxx.15	Verification	0	2	0	0	5	7
xxxx.17	Soils/Hydro	1	0	2	1	2	6
xxxx.18	Subdivision	0	0	1	1	0	2
9011	Redevelopment	0	0	0	0	1	1
SSA	Shoreland Scenic Assess.	1	0	0	0	1	2
SA	Site Assessments	0	1	5	3	19	28
APP	LCV/LCC/IPES	7	2	6	3	24	42
TOTAL ALL PROJECTS		19	26	28	28	67	168

Projects Received by TRPA

<u>Work Element</u>	<u>Application Type</u>	<u>El Dorado</u>	<u>Placer</u>	<u>Washoe</u>	<u>Douglas</u>	<u>CSLT</u>	<u>TOTAL</u>
1000	Residential	0	1	0	0	1	2
1011.01/09	SFDA/Rebuild	0	4	0	5	0	9
2000	Tourist	0	0	0	1	0	1
4000	Public Service	1	1	4	0	2	8
5000	Recreation	0	0	0	0	1	1
7000	Shorezone	0	1	0	0	0	1
8010	Lot Line Adjustment	0	1	0	0	0	1
xxxx.14	Transfer	2	0	0	0	3	5
xxxx.17	Soils/Hydro	1	1	2	0	3	7
xxxx.22	BMP Retrofit	0	0	2	2	0	4
9011	Redevelopment	0	0	0	0	1	1
SSA	Shoreland Scenic Assess.	0	1	0	0	1	2
SA	Site Assessments	0	1	6	2	12	21
APP	LCV/LCC/IPES	0	13	5	4	20	42
TOTAL		4	24	19	14	44	105

Projects by Work Element

	<u>IN</u>	<u>OUT</u>
1000 Residential	11	23
2000 Tourist	1	2
3000 Commercial	0	3
4000 Public Service	8	15
5000 Recreation	1	1
6000 Resource Management	0	1
7000 Shorezone	1	7
8000 Administrative Projects	17	43
9000 Redevelopment	1	1
SSA Scenic Assessments	2	2
SA Site Assessments	21	28
RGN Plan Amendments	0	0
LCV-LCC-IPES	42	42
TOTAL	105	168

Total TRPA workload as of September 1, 2003	456
Total projects received by TRPA in September, 2003	105
Total projects reviewed by TRPA in September, 2003	168
TRPA workload as of September 30, 2003	393
TRPA workload on September 30, 2002	471
Permits acknowledged in August, 2003	51

September Project Activity Highlights

- Staff approved a modification to an existing potable water booster station on Cornelian Street in Meyers for the South Tahoe Public Utility District (STPUD). This modification will provide reliable water pressures for neighborhood domestic water consumption and fire protection. Water pressures in parts of Meyers have been affected by the recent abandonment of certain wells due to groundwater contamination by the fuel additive MTBE. This project received expedited review from TRPA.
- Staff approved an expansion of the STPUD Elks Club well building in Meyers. This project is needed to improve well pumping reliability and potable water treatment for the community. This project received expedited review from TRPA.
- Staff approved the replacement of aging snow making water lines at Heavenly Ski Area that were at risk for failure. This project also included replacement of noisy snow making guns with quieter fan guns consistent with the Heavenly Master Plan noise reduction program. This project received expedited review from TRPA because failure of the water lines could cause significant soil erosion that might not be easily detectable under snow.
- Staff approved the subdivision of land in Crystal Bay into two parcels to convey one of the parcels to Washoe County for potential development of a future public park.
- Staff issued a permit to the Lakeside Park Mutual Water District in South Lake Tahoe to replace old water lines that are at risk for failure. The existing potable water lines also cannot provide adequate flows for fire protection and created a risk to public health and safety for this reason. This project received expedited review from TRPA.
- Staff issued a permit to the Tahoe Park Water Company in Sunnyside for a new community water well. This well is required to meet EPA and California Department of Health requirements for potable water delivery and replaces an unfiltered and non-compliant lake water intake line. This project received expedited review from TRPA.

- Staff approved a meadow restoration project in an area along Polaris Creek in Placer County for the California Tahoe Conservancy. This project removes fill soil in the stream zone and allows a portion of the meadow to once again function in a natural condition. Stream environment zone restoration is a high priority for TRPA.
- Staff approved the installation of four temporary air quality monitoring stations near the shore of Lake Tahoe that will be used for TMDL development and atmospheric deposition modeling in a cooperative effort with the California Air Resources Board.
- In September, staff allocated a significant amount of time to consulting with other agencies on how to repair thunderstorm damage to erosion control facilities currently under construction in the Region. Several erosion control projects were damaged this summer from heavy rains in July and August. Erosion control staff also continued their work on planning and design of erosion control projects planned for the Lake Tahoe Basin in 2004 and beyond.
- In September, staff worked with a private property owner to conduct an experimental reclamation of a parcel near the Lake Tahoe Airport in El Dorado County. The affected parcel was previously disturbed by placement of contaminated fill soil and construction refuse such as broken concrete and other materials. This experiment successfully restored the parcel to a higher land capability soil type and will allow for improved hydrologic function and re-growth of natural vegetation.
- In September, staff successfully reduced the Agency's total application workload by processing more applications than the number of applications it received during the month. The total number of pending applications is now lower than at any time during the last eighteen months. This has been achieved even though the number of applications submitted to the Agency for review remains at a near record level.

Emergency Permit

The following emergency permit was issued by TRPA in September. This permit is being reported to the Government in accordance with Article 5.20(d) of the TRPA Rules of Procedure.

- Sue Novasell – Excavation necessary to connect a private residence to a public water system to replace a failing private well. 3080 Elf Lane, Christmas Valley, El Dorado County. The TRPA Environmental Compliance Division issued a verbal emergency permit (with conditions of approval) on September 26, 2003. A formal application for the project will be submitted in accordance with Article 5.20(c) of the Rules of Procedure.

PROJECT REVIEW APPLICATIONS

Due to high seasonal workload these projects have exceeded 120 days. Absent any significant issues staff will take action during the month of October.

<u>APN</u>	<u>Applicant</u>	<u>Application Type</u>	<u>Days Complete</u>
090-262-04	Turpin	Residential	121
115-060-09	Nakazato	Shorezone	124
032-312-07	Kosmides	Commercial	130
001-070-16	Fein	Administrative	130
094-273-12	Berlogar	Residential	132
016-300-09	Skinner	Shorezone	133
003-180-12	Alexander	Residential	137
011-121-17	Feldman	Residential	139
123-190-10	Isaacson	Residential	139
001-070-28	Postmistress	Residential	139
092-155-05	Page	Residential	145

The following projects have been previously reported. Absent any significant issues staff will take action during the month of October.

007-480-12	Schilling	Administrative	161
127-030-18	Sierra Bouquet	Administrative	157
023-393-17	Barton Hosp	Administrative	141
091-165-01	Gordon	Shorezone	143
130-010-08	Incline GID	Public Service	187
029-332-01	So. Tahoe Redev.	Administrative	188
016-081-28	Hutchens	Residential	190
117-140-07	Reviglio	Administrative	214

LAND CAPABILITY AND IPES APPLICATIONS:

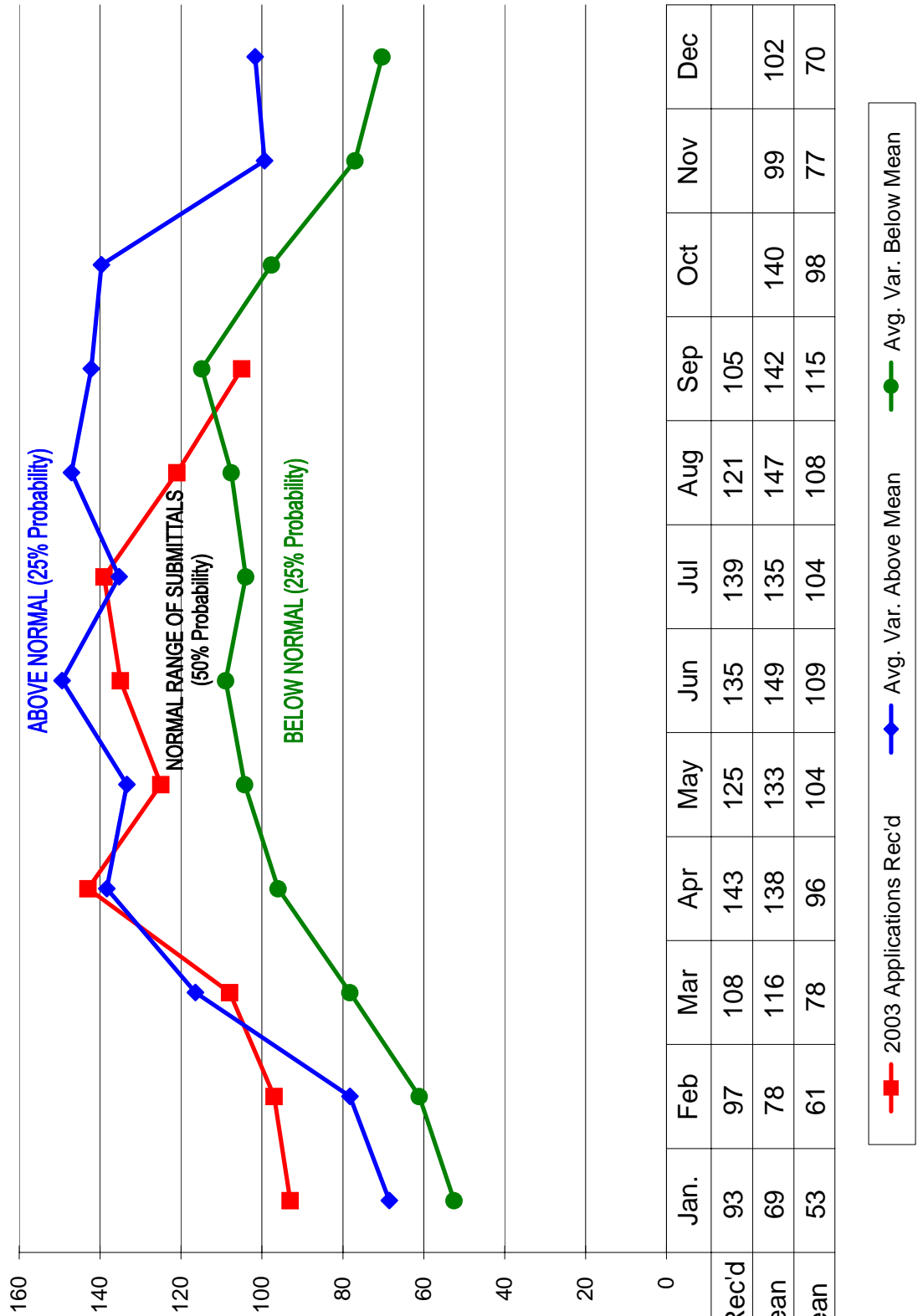
There are no Land Capability or IPES applications that have been complete for more than 120 days.

COMPLIANCE DIVISION

There are no applications that are currently under review and have been complete for more than 120 days.

Table 1

2003 TRPA Application Trend Predicted and Actual Application Submittals Based on Mean Deviations from a Six-Year Mean



	Jan.	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2003 Applications Rec'd	93	97	108	143	125	135	139	121	105			
Avg. Var. Above Mean	69	78	116	138	133	149	135	147	142	140	99	102
Avg. Var. Below Mean	53	61	78	96	104	109	104	108	115	98	77	70

■ 2003 Applications Rec'd
 ◆ Avg. Var. Above Mean
 ● Avg. Var. Below Mean

Table 2

TRPA Project Application Workload - 18-Month Period

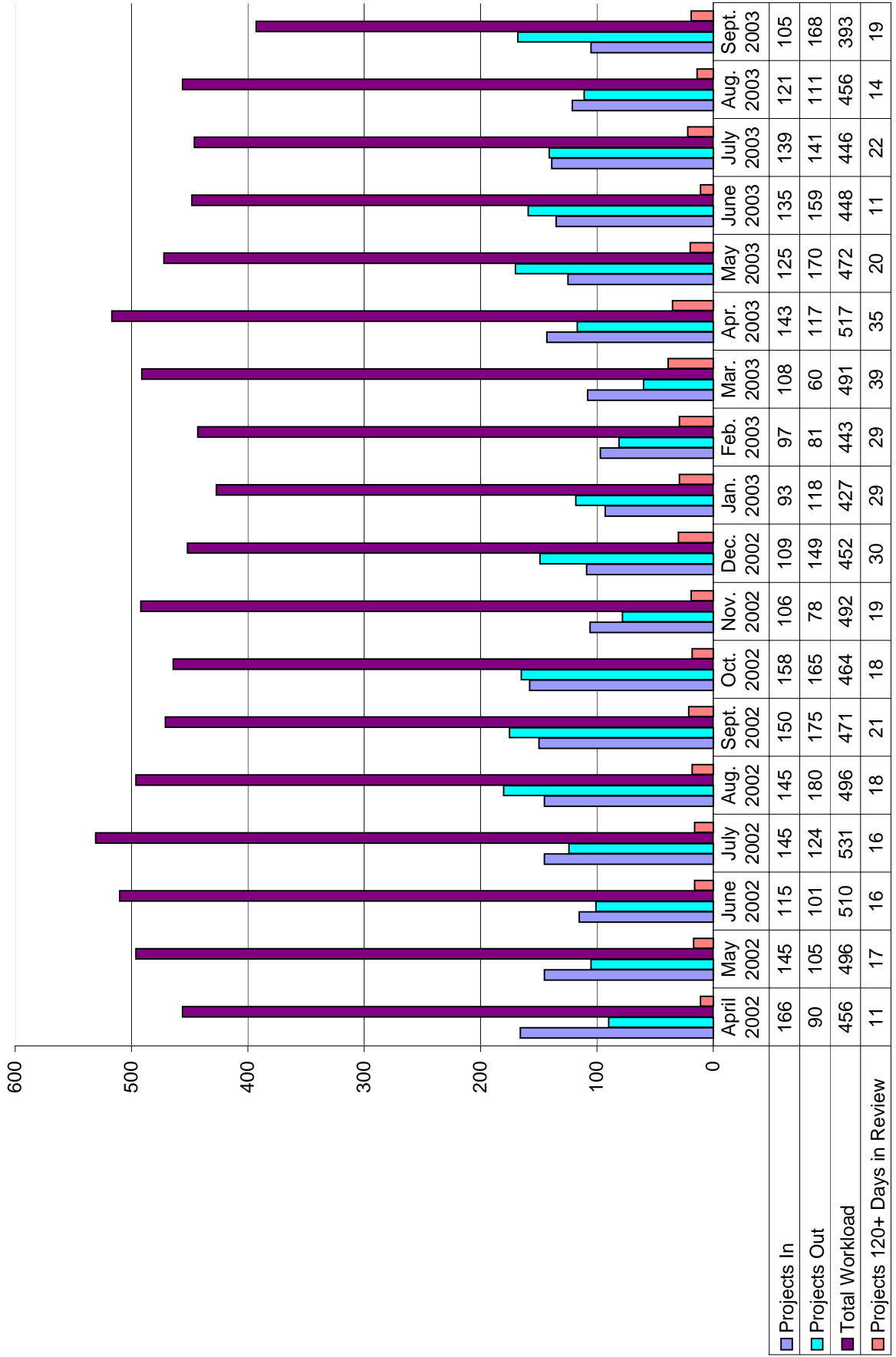
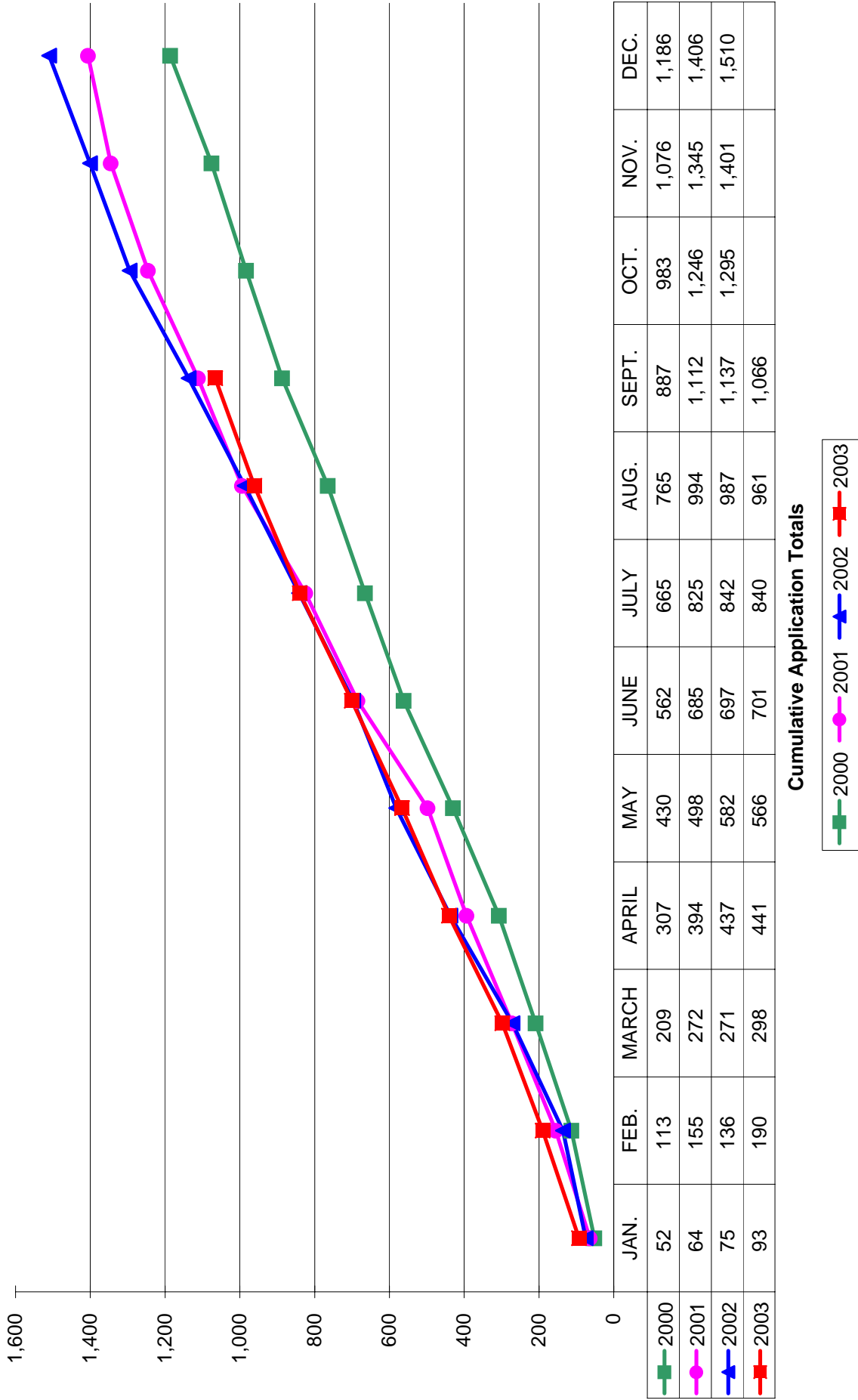


Table 3

**Four-Year Trend in TRPA Application Submittals
Calendar Years 2000, 2001, 2002 and 2003**





October 10, 2003

TO: Tahoe Metropolitan Planning Organization
Governing Board

FROM: TRPA Staff

SUBJECT: Executive Director Report on the Tahoe Transportation District/Tahoe
Transportation Commission October 10, 2003 Meeting

Proposed Action: Review of the attached TTD/TTC Agenda and Action Report for the October 10, 2003 regular Meeting of the Board.

Staff Recommendation: Seek clarification as necessary.

If there are any questions regarding this agenda item, please contact Richard Wiggins at (775) 588-4547, x 271.

**TAHOE TRANSPORTATION DISTRICT (TTD)
AGENDA**

Tahoe Regional Planning Agency

SIERRA ROOM

128 Market Street
Stateline, NV 89449

October 10, 2003

9:00 a.m.

(775) 588-4547 x 271

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

I. CALL TO ORDER AND GENERAL MATTERS

- A. Roll Call and Determination of Quorum for TTD and TTC.
- B. Approval of Agenda for October 10, 2003. (Pages 1 –3)
- C. Approval of Minutes from September 12, 2003. (Pages 4 – 9)

- II. PUBLIC INTEREST COMMENTS** – All comments are to be limited to no more than five minutes per person. The Board is prohibited by law from taking immediate action on or discussing issues raised by the public that are not listed on this agenda.

III. BOARD MEMBER COMMENTS

IV. EXECUTIVE DIRECTOR COMMENTS

- B. Washington D.C. Trip Report

V. CONSENT CALENDAR

- A. FY 2003/04 TTD Budget Amendment. (Page 10 & Attachment)
- C. Approval of Placer County Request for Transmission Repair to North Shore TTD Owned Trolley. (Page 11)

VI. TAHOE TRANSPORTATION DISTRICT (TTD) MATTERS

To create an integrated, regional transportation network for Tahoe's residents and visitors which is convenient, attractive, and a positive experience; one which achieves environmental thresholds, and provides sound mobility options for all.

- A. Discussion and Possible Action Regarding TTD Strategic Plan.
- B. Discussion and Possible Action Regarding Transit Level Of Service (TLOS) Jurisdictional Reports under TRPA Chapter 33. (Pages 12 – 14)

- C. Placer County Report on Usage of FY 2003/2004 Transportation Development Act Funds. (Page 15 & Attachment)
- D. Report and Discussion on TART 5 Year Plan, Technical Memo #2. (Page 16)
- E. Staff Reports and Informational Items
 - 1. Blue Go Marketing and Operations Report
 - 2. TDA Activity Report
 - 3. Review of Agenda Items for TTD Meeting Scheduled November 21, 2003 (@ NTCC)

Adjournment as TTD, Convene as Tahoe Transportation Commission

VII. TAHOE TRANSPORTATION COMMISSION (TTC) MATTERS

- A. Staff Reports and Informational Items.
 - a. Transportation Public Outreach Strategic Plan Workshop Report
 - b. Regional Transportation Improvement Program Status Report
 - c. Origin and Destination (O & D) Report.
 - d. Review of Agenda Items for TTC Meeting Scheduled November 21, 2003 (@ NTCC)

Adjournment of the Tahoe Transportation Commission

The next regular meeting of the **Tahoe Transportation District** and the **Tahoe Transportation Commission** will be held Friday, November 21, 2003 beginning at 9:00 a.m., at the Offices of the North Tahoe Conference Center, Kings Beach, CA. Meetings are held on the second Friday of each month pending unforeseen circumstances, upon those unforeseen circumstances, the meeting will be rescheduled for the following Friday.)

ACTION REPORT
TAHOE TRANSPORTATION DISTRICT/COMMISSION
REGULAR BOARD MEETING
October 10, 2003

<u>ITEM</u>	<u>ACTION</u>
EXECUTIVE DIRECTOR REPORTS	
A. Washington D.C Trip Report	Received
 <u>CONSENT CALENDAR</u>	
A. FY 2003/2004 TTD Budget Amendment.	Approved W/discussion
B. Approval of Placer County Request for Transmission Repair To No. Shore TTD Owned Trolley.	Approved
 <u>Tahoe Transportation (TTD) Matters</u>	
A. Discussion and Action Regarding TTD Strategic Plan.	Approved
B. Discussion and Action Regarding Transit Level of Service (TLOS) Jurisdictional Reports Under TRPA Chapter 33.	Received
C . Placer County Report on Usage of FY 2003/2004 Transportation Development Act Funds.	Received
D. Report and Discussion on TART 5 Year Plan, Technical Memo #2	Received
E. Reports and Informational Items.	Received
 <u>Tahoe Transportation Commission (TTC) Matters</u>	
A. Staff Reports and Informational Items	Received

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MEMORANDUM

October 15, 2002

To: Governing Board

From: TRPA Staff

Subject: Workshop on the Public Process Needed For Pathway 2007, the Regional Plan Update

Proposed Action: In preparation of presenting a business plan, including a public outreach strategy and process, for Governing Board approval this winter for revision of the Regional Plan package, TRPA staff has placed this item on the Governing Board Agenda for an orientation workshop. No action is required at this time.

This item typically would have been heard first by the Governing Board's Pathway 2007 Committee. Given the three day nature of this month's meeting, and the need for this item to stay on calendar, it is instead being brought to the full Board. Additional presentation and discussion will occur at the committee level in future months before the business plan is brought to the full Board for action.

Staff asked Dave Ceppos from the Center for Collaborative Planning (CCP) to assist us in this presentation. The Center is currently under a contract with the U.S. Army Corps of Engineers to assist in the design and implementation of a collaborative public outreach strategy for the inter-agency Pathway 2007.

The agenda for the presentation, tentatively, is as follows:

- Overview and Status Report on Pathway 2007 – Carl Hasty
- Overview and orientation on elements needed for a successful public outreach and participation process – Dave Ceppos
- Status Report on the Development of the Pathway 2007 Public Outreach Strategy – Dave Ceppos
- Comments/Discussion

If you have any questions or would like to discuss this item please contact Carl Hasty, or Coleen Shade at 775-588-4547.

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MEMORANDUM

October 15, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment to Plan Area Statement 094, Chapter 22, Height Amendment, Tahoe Truckee Unified School District

Proposed Action: The applicant, Tahoe-Truckee Unified School District (TTUSD), proposes to amend Chapter 22, Height, of the TRPA Code of Ordinances to allow additional height, up to a maximum of 56 feet, for certain public service buildings. See Attachment A, for the applicant's proposed language amendment.

Staff Recommendation: Staff recommends that the Governing Board conduct the public hearing as noticed and, based on its outcome, adopt the staff's proposed amendment which amends Chapter 22, Height to grant additional height, up to a maximum of 56 feet provided the applicant incorporates community design features in the design (See Attachment B, Exhibit 1).

Advisory Planning Commission (APC) Recommendation: The Advisory Planning Commission (APC) heard and took action on this item at their regularly scheduled meeting on October 8, 2003. The APC voted 9-2 to recommend adoption of staff's proposed amendments with APC modifications (See Attachment B, Exhibit 2).

APC Discussion At the October APC meeting, staff gave a presentation on the proposed height amendment and discussion ensued on the merits of the amendment. Staff was questioned on the restrictive nature of this amendment and why would only public service uses, classified as schools, be allowed the additional height up to 56'. Staff responded that this has been the normal procedure for these types of amendments that allow additional height beyond that permitted in Table A of Chapter 22, which provides for a maximum height of 42'. It has been the practice to limit the applicability of an ordinance to those structures that can demonstrate that the additional height is truly needed for the function of the building and that the additional height benefits an environmental threshold. Additionally, if the ordinance were written to apply to all public service uses, that would result in potentially 23 additional public services use type buildings that could apply for additional height up to 56'. In analyzing the public service use list, it is staff's opinion that some uses should not qualify for such height benefits. Staff also responded that a focused environmental analysis has not been prepared for allowing additional height for all public service uses. Two members of the APC voted 'no' on this matter because of similar concerns. They stated that the environmental analysis has not been prepared and that previous height amendments have just focused on a specific use.

Staff was asked if the height amendment could include other public service uses, but not all that are listed in Chapter 18. Staff responded that this is possible and could be modeled similar to height allowances for recreation uses. Chapter 22 allows additional

height for recreation uses but limits its applicability to only 5 primary uses out of a possible 22.

The APC also recommended that subparagraph 22.4.A(5)(b) of the proposed ordinance be amended to strike the “roof pitch” from the menu of community design features. This was based on the assumption that the design of the school could not achieve a roof pitch, so why include that as a community design feature in the ordinance. Although staff did not respond directly to this question, it is staff’s recommendation that the pitched roof feature remain in the ordinance, because the proposed ordinance is applicable throughout the Tahoe Region and may be used by other school districts in the future. Although a full roof pitch may not be feasible for the Tahoe Truckee Unified School District project, it may be feasible for future projects.

Background: The Tahoe-Truckee Unified School District (TTUSD) has submitted a Regional Plan amendment to TRPA that proposes to amend Chapter 22 of the TRPA Code to allow additional height for certain public service buildings. The proposal would facilitate a design that meets today’s standards for handicapped access and a Heating, Ventilation, and Air Conditioning (HVAC) system that allows for housing and circulating large numbers of people in snow country; however, the designed height exceeds the allowed height.

The district is proposing to reconstruct the High School/Middle School located at 2945 Polaris Road in Tahoe City (See Attachment C, Location Map). The existing building is a two-storied structure that stair-steps up a slope approximately 4%, has 107,598 square feet of land coverage, and 154,467 square feet of enclosed space on two floors. The proposed project is comprised of two major building components: (1) the modernization of existing auditorium, dining commons, gymnasium, auto shop, and library spaces and (2) the demolition, relocation, and reconstruction of the classroom and administrative facilities.

The most significant underlying issue that has led to this design is the inadequacy of the existing HVAC system. Therefore, a top priority for this proposal was to construct a HVAC system with a high level of individual climate control in each classroom without interfering with the classroom environment. To accomplish this, a central, constant air volume system was selected. The constant air volume (CAV) system requires large mechanical plants that, of necessity, must be centrally located in the facility it is serving.

The large volume of air being supplied and exhausted requires a significant amount of wall space to provide adequate louver area with direct access to outside air and to provide enough height to allow the louver areas to be clear of snow during winter conditions. Because of these design elements the resulting structure exceeds TRPA height allowances.

Discussion and Issues: The primary issues with this project and the subsequent Code amendment are the inconsistency with the height limitations for the new building and the overall project area and with the community design threshold. Firstly, the project as proposed would result in a structure that exceeds the height limitations outlined in the Code. The plans submitted to TRPA illustrate a building with a flat roof. Based on this design and a 4% cross-slope the maximum height permitted is 25’-0”. Applying additional height findings for public service buildings to the proposed design would result in an additional 14 feet resulting in a permitted height of 39’-0”. As designed, the

proposed structure is 52'-6" (39'-6" for the building and 13'-0" for the structure that contains the HVAC system). This exceeds TRPA height limitations by 13'-6". The applicant has stated in a report that the need to exceed the height limitations is driven by design constraints and the proposed design was picked since it best meets the needs of the school district and its students.

A second issue is the resulting non-conformance height for the whole project area as a result of the proposed design. The school district previously has used a Code provision that allowed an addition of a gym up slope of the existing buildings. The Code provision allowed the structure to be treated as a separate structure when calculating height even though it was physically connected to the existing building. Generally, the Code would treat all structures (existing and proposed) as one for the purpose of calculating height. Subsequently, the district is proposing to add a new structure to be located down slope of the existing building. Since all the structures are to be connected the Code treats all the buildings as one overall structure and requires that the height be measured from a common low point, which in this case would occur at the front of the new building. This results in the existing structures located up hill to become non-conforming. See Attachment D, Cross-Section of Proposed Project.

The third issue is the proposed design's inconsistency with the adopted Community Design Threshold. As proposed the design is a complex of large boxes with flat roofs, similar to the so called "big box" retail stores or office complexes found in urban cities. It is staff's opinion that the use of flat roofs is inconsistent with the Community Design Threshold (See Attachment E, 3D Simulation of Proposed Additions). Staff believes that it is feasible to design such a structure with design elements that meets the intent of the Community Design Threshold. Some of these elements include adding a pitch roof, dormers, and articulating the façade. Examples of large public service buildings that have successfully included such elements in their design include the Lake Tahoe Community College, the Lake Tahoe Middle School, and the new United States Forest Service Building. The inclusion of such design elements, particularly the addition of a pitch roof, would benefit the applicant because a greater baseline height would be permitted. For example: If the proposed building was designed with a 5:12 pitch roof (as opposed to a flat roof) the resulting height permitted would be 31'-0", 6 feet more than the flat roof scenario. Application of the additional height findings and the permitted height would increase that to 42'-0".

Amendments to TRPA's height ordinance for public service and recreational type uses are not unique. Past amendments include the ski lodge for Heavenly Resort to allow for additional height up to 56 feet for snow loading purposes and to meet the Community Design Threshold. In that case Heavenly needed additional height in order to design a roof pitch that would span a very large space. The Lake Tahoe Community College also requested an amendment, which was approved, to allow additional height for an auditorium to span large spaces and to allow space for mechanical and lighting equipment. In the case of the college, the roof pitch met the intent of the Community Design Threshold (See Attachment F, Photo Inventory). These amendments are driven, in part, because TRPA height ordinances generally are designed for smaller, single family and commercial structures and not for very large buildings. It may be feasible to design a large structure to meet the height standards; but in many cases it does not meet the needs of the applicants or could be in direct conflict with other standards. In all previous cases, the height ordinance did not meet applicants' needs and an amendment was proposed and eventually approved. However, in the two previous cases, the

applicants were attempting to maximize height by using a pitch roof, which is consistent with the goals of the Community Design Threshold.

Staff has had discussion with the School District regarding the design of the structure and the addition of a roof pitch. The District has safety concerns with pitch roofs and the potential impact of snow. Although it is possible to design a roof that prevents snow from sliding and designing appropriate fall out areas, the unpredictability of the student body's circulation pattern is still a concern to the District. Staff is sensitive to issues of safety, however, feel that it is still possible to design such a large structure to meet the intent and goal of the Community Design Threshold.

Therefore, staff is proposing to write Code language similar to past amendments allowing additional height for public service and recreation buildings under very restrictive circumstances and requiring design elements to be included in order to achieve additional height. The proposed language will amend existing rules for additional height for public service uses. The current standards limit the maximum additional height to 42 feet. The proposed amendment will allow additional height up to 56 feet, provided certain findings can be made. The findings that must be made include that the public services use is classified as a school, pursuant to Chapter 18; the structure cannot be seen from Lake Tahoe (shoreline scenic threshold travel routes), from designated scenic highway corridors (roadway threshold travel routes), from designated bikeways and recreation sites identified in the Lake Tahoe Scenic Resource Evaluation 1993; the additional height permitted is required for the building to function properly; that the maximum height will not exceed the existing tree canopy cover; and that the resulting design includes community design features such as pitched or articulated rooflines, use of earthtone colors and landscaping.

The amendment can only be applied when TRPA makes specific findings related to the proposal for additional height, which are contained in Section 22.7, and when the applicant demonstrates that the required height plays a major role as a design constraint. The findings are: 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 or ridgeline; 2) the building has been designed for minimize interference with existing views; 3) the function of the structures requires a greater height; 4) the additional height is the minimum necessary to implement the project and there are no feasible alternatives requiring less height; and 5) the maximum height at any corner of two exterior walls of the building is no greater than 90 percent of the maximum building height. In addition to the specific findings, any proposed project must be consistent with the Community Design Sub-element of the Goals and Policies, which requires the building height to be limited to two stories and compatible with the natural, scenic, and recreational values of the Region.

The proposed amendment is consistent with the TRPA Goals and Policies. The amendment will foster compatible designs with the natural, scenic, and recreational values of the Region, limit building height to two stories, and limit building height to ensure that it does not project above the forest canopy, ridge lines, or otherwise detract from the viewshed.

Findings: Prior to amending Chapter 22, Height, TRPA must make the following Findings.

Chapter 6 Findings

1. Finding: 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 amendment to Chapter 22, Height, will not adversely affect implementation of the Regional Plan. Staff's proposed amendment is consistent with the Regional Plan and TRPA plans and programs. The amendment will foster compatible designs with natural, scenic, and recreational values of the Region, limit building height to two stories, and limit building height to ensure that it does not project above the forest canopy, ridge lines, or otherwise detract from the viewshed. The policies are listed in the Community Design section of the TRPA Goals and Policies and are incorporated into the amendment.

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

Rationale: The amendment will not cause the environmental thresholds to be exceeded. Scenic Threshold standards will be maintained through the restrictive nature of the amendment. The amendment requires the siting of the building to result in a structure not to exceed the existing tree canopy. The building cannot be visible from Lake Tahoe or from designated scenic roadways to use the provisions of the amendment. In addition, the provisions require that the project implement design elements that achieve Community Design Thresholds in order to obtain additional height.

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

Rationale: Any project that may come forth due to this provision will be required to meet air and water quality standards as set forth in the TRPA Compact.

4. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

5. Finding: 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: See findings 1 and 2 above.

Ordinance 87-8 Findings

1. Finding: That the amendment is consistent with the Compact and with the attainment or maintenance of the thresholds.

Rationale: See Chapter 6 Findings. The amendment is consistent with the Compact and with attainment or maintenance of the thresholds. Although the amendment will provide additional height to certain buildings, it is written in such a way as to maintain the environmental thresholds. The amendment requires that buildings be sited so that they are not visible from Lake Tahoe and designated scenic roadways and not to project above the existing tree canopy; therefore, it will not have a direct impact on the Scenic Resource Threshold. To maintain and attain the policy directive of the Community Design Threshold and encourage design that is compatible with the natural environment of Lake Tahoe, the ordinances require the application of design elements to achieve additional height.

2. Finding: One or more of the following.

- a) There is demonstrated conflict between provisions of the Regional Plan Package and the conflict threatens to preclude attainment or maintenance of thresholds;
- b) That legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code;
- c) That technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code;
- d) That 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;
- e) That implementation of the provision sought to be amended has demonstrated to be impracticable or impossible because of one or more of the following reason:
 - 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.
- f) That the provision to be amended has 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.

Rationale: Finding c) is the most appropriate. TRPA height ordinances do not work well for buildings that require large roof spans, which are common for public service building such as schools. In addition, the school district is constrained by other mandates determined by the State in providing a safe learning environment. This amendment will provide more flexibility when designing a building to cover large spans while maintaining the scenic and community design thresholds.

Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) and proposes a Finding of No Significant Effect (FONSE). Staff has reviewed the Checklist and agrees with the FONSE, with the proposed language authored by staff for the application of design elements to ensure that large structures such as these are compatible with the Community Design Threshold. This impact can be mitigated through Code language restrictions that require the applicant to include design elements in the building in a manner that is compatible in the Tahoe Basin.

Requested Action: Staff requests that the Governing Board take the following actions:

1. Motion to make the required findings:
 - a) Make a Finding of No Significant Effect (FONSE); and
 - b) Make the Chapter 6 and Ordinance 87-9 findings.
2. Motion to adopt the implementing Ordinance.

Staff will begin this item with a brief presentation. Please contact John Hitchcock at (775) 588-4547, or via email at jhitchcock@trpa.org, if you have any comments regarding this item.

Attachments: A. Applicant's Proposed Code Language
B. Adopting Ordinance, with Exhibit 1, Proposed Code Language and Exhibit 2, APC Recommended Code Language
C. Location Map
D. North Tahoe Middle School/High School Cross-Section
E. 3D Model of Proposed Project
F. Photo Inventory of Other Public Service Buildings

Applicant's Proposed Code Language Amendment

New language is double underlined in blue; language to be deleted is struck-through in red.

Chapter 22 HEIGHT STANDARDS

22.4 Additional Height For Certain Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 in accordance with the following provisions and if TRPA makes the specified findings.

22.4.A Additional Height For Public Service, Tourist Accommodation, and Certain Recreation Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 for buildings whose primary use is public service, tourist accommodation, downhill ski facilities, cross county skiing facilities or whose primary recreation use is participant sports facilities, recreation centers, or sport assembly as follows:

- (3) Additional Height For Public Service and Certain Recreation^{ss} Buildings Which Are Not Visible From Lake Tahoe and Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased by up to eight feet, but not to exceed a maximum of 42 feet, if the building will not be visible from Lake Tahoe and the building is not located within a TRPA designated Scenic Highway Corridor pursuant to Chapter 30, provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7. An additional two feet, not to exceed a maximum of 42 feet, may be earned if the building meets the criteria and findings set forth above and is not visible from a TRPA designated Scenic Highway Corridor pursuant to Chapter 30.

For projects including additions, modifications and/or reconstruction of all or a portion of public school buildings, which also serve the surrounding community by providing its facilities for recreational, theater, and other community service activities, additional height not to exceed a maximum total of 56 feet may be permitted if TRPA determines that the additional height is required to avoid an increase in coverage and maximizes the energy efficiency of the structure, and findings (1), (3), (4), (7) and (8) as set forth in Section 22.7 can be made.

^{ss} Amended 3/28/01

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2003 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE CODE OF ORDINANCES OF THE TAHOE REGIONAL PLANNING AGENCY; CHAPTER 22, HEIGHT, ALLOWING ADDITIONAL HEIGHT FOR CERTAIN PUBLIC SERVICE BUILDINGS, AND PROVIDING FOR OTHER MATTERS PROPERLY REALATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00

Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending Chapter 22, Height, allowing for additional height for certain public service buildings, in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.
- 1.40 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact, and the findings required by Section 2.40 of Ordinance 87-8. As to the Ordinance 87-8 findings, the Board finds that those findings were supported by a preponderance of the evidence in the record
- 1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of Chapter 22, Height, of the TRPA Code of Ordinances and Rules of Procedures

2.10 Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Chapter 22 as set forth on Exhibit 1, dated September 30, 2003, which attachment is appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

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

Section 4.00 Effective Date

The provisions of this ordinance amending Chapter 22, Height, of the TRPA Code of Ordinances shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held October 28, 2003 by the following vote:

Ayes:

Nays:

Abstentions:

Absent

David Solaro, Chairman
Tahoe Regional Planning Agency

New language is double underlined in blue; language to be deleted is ~~struck-through~~ in red.

Chapter 22

HEIGHT STANDARDS

22.4 Additional Height For Certain Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 in accordance with the following provisions and if TRPA makes the specified findings.

22.4.A Additional Height For Public Service, Tourist Accommodation, and Certain Recreation Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 for buildings whose primary use is public service, tourist accommodation, certain recreation uses which includes, downhill ski facilities, cross county skiing facilities or whose primary recreation use is participant sports facilities, recreation centers, or sport assembly as follows:

- (1) Additional Height With Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the following findings in Section 22.7: findings (1), (2), and (3) for tourist accommodation buildings; findings (1), (3), and (2) or (4) for public service buildings; and findings (1), (2), (3), (4), and (7) for the recreation uses identified in 22.4.A: and.
- (2) Additional Height For Reduced Land Coverage: The maximum heights specified in Table A may be increased for reductions in the amount of land coverage otherwise permitted within a project area pursuant to Chapter 20. The maximum heights may be increased by one foot for each onsite reduction in land coverage equal to five percent of the base allowable coverage, or existing land coverage, whichever is greater, up to a limit of four additional feet, but not to exceed a maximum height of 42 feet, if TRPA makes findings (1), (2), (3) and (5) as set forth in Section 22.7: and.
- (3) Additional Height For Public Service and Certain Recreation^{§§} Buildings Which Are Not Visible From Lake Tahoe and Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased by up to eight feet, but not to exceed a maximum of 42 feet, if the building will not be visible from Lake Tahoe and the building is not located within a TRPA designated Scenic Highway Corridor pursuant to Chapter 30, provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7. An additional two feet, not to exceed a maximum of 42 feet, may be earned if the building meets the criteria and findings set forth above and is not visible from a TRPA designated Scenic Highway Corridor pursuant to Chapter 30: or.

^{§§} Amended 3/28/01

(4) ~~Additional Height For Certain Recreation Buildings Within Adopted Ski Area Master Plans Which Are Not Visible From Lake Tahoe And Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors:~~ The maximum heights specified in Table A may be increased if the buildings are identified in an adopted ski area master plan and the buildings are not visible from Lake Tahoe and which are not located within or are not visible from designated scenic highway corridors and designated bikeways and recreation sites identified in the Lake Tahoe Scenic Resource Evaluation, and provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7. Additional height shall be calculated as follows:

(a) The maximum height in Table A may be increased by up to 14 feet, but not to exceed a total building height of 56 feet, provided that the project proponent demonstrates that expected snow depths in the area of the building site make the additional height necessary for the function of the building. The amount of additional height shall not exceed the 10-year average snow depth as reported by the National Resource Conservation Service (NRCS) for that area or as reported by the applicant using a similar method as the NRCS.

(b) An additional 10 feet, not to exceed a total building height of 56 feet, may be earned if the project proponent demonstrates additional height is needed to maintain roof pitch in excess of 4:12[§]; ~~or,~~

(5) Additional Height For Public Service Buildings: The maximum heights specified in Table A may be increased if the buildings are classified as Schools pursuant to Chapter 18 and the buildings are not visible from Lake Tahoe and which are not located within or are not visible from designated scenic highway corridors and designated bikeways and recreations sites identified in the Lake Tahoe Scenic Resource Evaluation, and provided TRPA makes findings (1), (3), (4), (7), (8), and (10) as set forth in Section 22.7. Additional height shall be calculated as follows:

(a) The maximum height in Table A may be increased by up to 14 feet, but not to exceed a total building height of 56 feet, provided that the project proponent demonstrates that the additional height is necessary for the proper function of the building.

(b) Additional height beyond that set forth above may be earned up to a maximum total building height of 56 feet, provided that the new structure incorporates community design features such as pitched roofs, articulated facades, articulated roof planes and the use of earthtone colors consistent with the Design Review Guidelines

[§] Amended 12/16/98

22.7 List Of Findings: The findings required in this chapter are as follows:

- (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.
- (2) When outside a community plan, the additional height is consistent with the surrounding uses.
- (3) With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.
- (4) The function of the structure requires a greater maximum height than otherwise provided for in this chapter.
- (5) That portion of the building which is permitted the additional height, is adequately screened, as seen from major arterials, the waters of lakes, and other public areas from which the building is frequently viewed. In determining the adequacy of screening, consideration shall be given to the degree to which a combination of the following features causes the building to blend or merge with the background.
 - (a) The horizontal distance from which the building is viewed;
 - (b) The extent of screening; and
 - (c) Proposed exterior colors and building materials.
- (6) The building is located within an approved community plan, which identifies the project area as being suit able for the additional height being proposed.
- (7) The additional height is the minimum necessary to feasibly implement the project and there are no feasible alternatives requiring less additional height.
- (8) The maximum 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. This standard shall not apply to an architectural feature described as a prow.
- (9) When viewed from a TRPA scenic threshold travel route, the additional height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.
- (10) The building is no more than two stories in height.**

New language is double underlined in blue; language to be deleted is ~~struck-through~~ in red.

22.4 Additional Height For Certain Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 in accordance with the following provisions and if TRPA makes the specified findings.

22.4.A Additional Height For Public Service, Tourist Accommodation, and Certain Recreation Buildings: TRPA may approve building heights greater than those set forth in Section 22.3 for buildings whose primary use is public service, tourist accommodation, certain recreation uses which includes, downhill ski facilities, cross county skiing facilities or whose primary recreation use is participant sports facilities, recreation centers, or sport assembly as follows:

- (1) Additional Height With Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the following findings in Section 22.7: findings (1), (2), and (3) for tourist accommodation buildings; findings (1), (3), and (2) or (4) for public service buildings; and findings (1), (2), (3), (4), and (7) for the recreation uses identified in 22.4.A: and,
- (3) Additional Height For Reduced Land Coverage: The maximum heights specified in Table A may be increased for reductions in the amount of land coverage otherwise permitted within a project area pursuant to Chapter 20. The maximum heights may be increased by one foot for each onsite reduction in land coverage equal to five percent of the base allowable coverage, or existing land coverage, whichever is greater, up to a limit of four additional feet, but not to exceed a maximum height of 42 feet, if TRPA makes findings (1), (2), (3) and (5) as set forth in Section 22.7: and,
- (3) Additional Height For Public Service and Certain Recreation^{§§} Buildings Which Are Not Visible From Lake Tahoe and Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased by up to eight feet, but not to exceed a maximum of 42 feet, if the building will not be visible from Lake Tahoe and the building is not located within a TRPA designated Scenic Highway Corridor pursuant to Chapter 30, provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7. An additional two feet, not to exceed a maximum of 42 feet, may be earned if the building meets the criteria and findings set forth above and is not visible from a TRPA designated Scenic Highway Corridor pursuant to Chapter 30: or,
- (4) Additional Height For Certain Recreation Buildings Within Adopted Ski Area Master Plans ~~Which Are Not Visible From Lake Tahoe And Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors~~: The maximum heights specified in Table A may be increased if the buildings are identified in an adopted ski

^{§§} Amended 3/28/01

area master plan and the buildings are not visible from Lake Tahoe and which are not located within or are not visible from designated scenic highway corridors and designated bikeways and recreation sites identified in the Lake Tahoe Scenic Resource Evaluation, and provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 22.7. Additional height shall be calculated as follows:

- (c) The maximum height in Table A may be increased by up to 14 feet, but not to exceed a total building height of 56 feet, provided that the project proponent demonstrates that expected snow depths in the area of the building site make the additional height necessary for the function of the building. The amount of additional height shall not exceed the 10-year average snow depth as reported by the National Resource Conservation Service (NRCS) for that area or as reported by the applicant using a similar method as the NRCS.
- (d) An additional 10 feet, not to exceed a total building height of 56 feet, may be earned if the project proponent demonstrates additional height is needed to maintain roof pitch in excess of 4:12[§]; or,

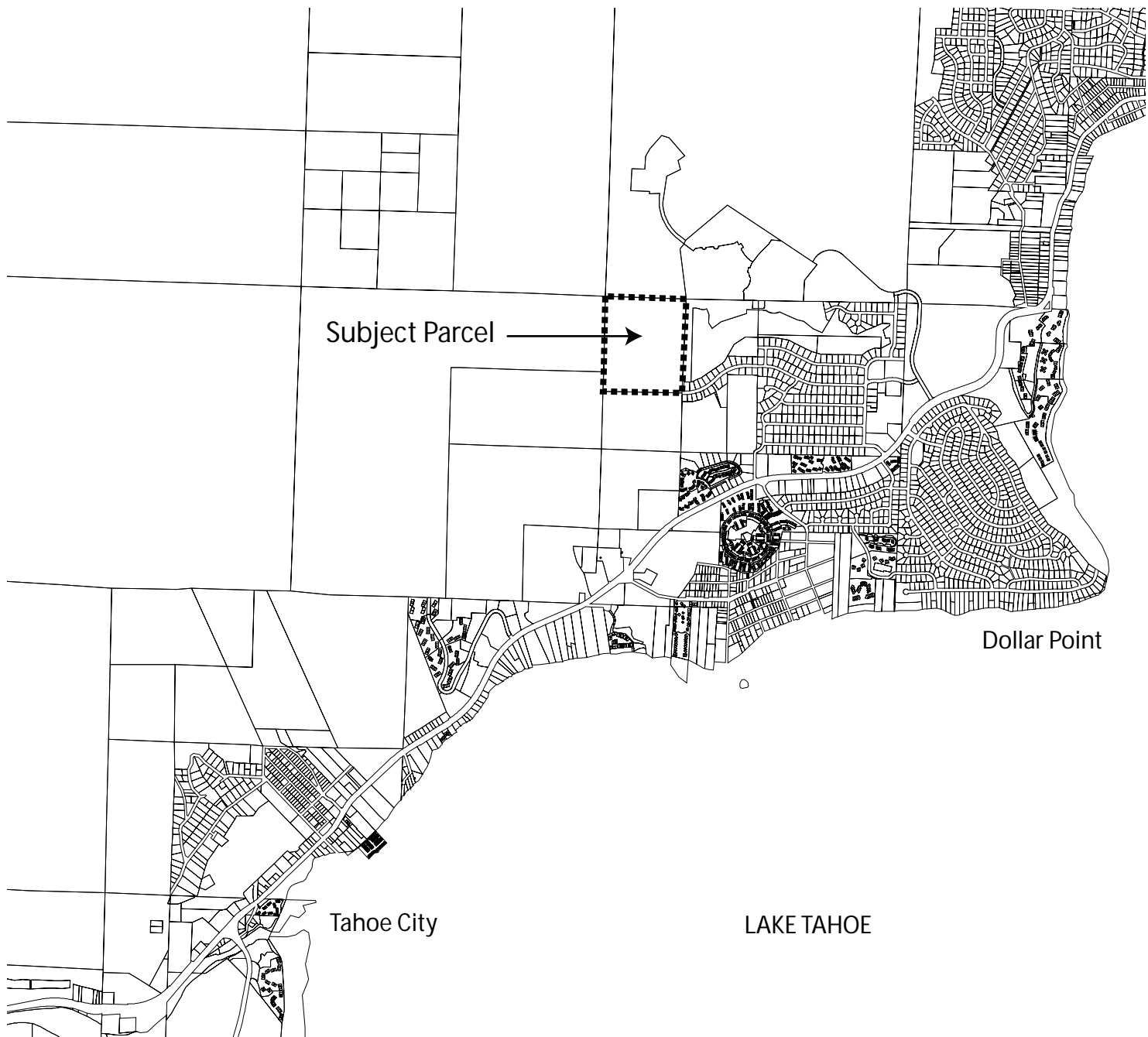
(6) Additional Height For Public Service Buildings: The maximum heights specified in Table A may be increased if the buildings are classified as Schools pursuant to Chapter 18 and the buildings are not visible from Lake Tahoe and which are not located within or are not visible from designated scenic highway corridors and designated bikeways and recreations sites identified in the Lake Tahoe Scenic Resource Evaluation, and provided TRPA makes findings (1), (3), (4), (7), (8), and (10) as set forth in Section 22.7. Additional height shall be calculated as follows:

- (a) The maximum height in Table A may be increased by up to 14 feet, but not to exceed a total building height of 56 feet, provided that the project proponent demonstrates that the additional height is necessary for the proper function of the building.**
- (b) Additional height beyond that set forth above may be earned up to a maximum total building height of 56 feet, provided that the new structure incorporates community design features such as articulated facades, articulated roof planes and the use of earthtone colors consistent with the Design Review Guidelines**

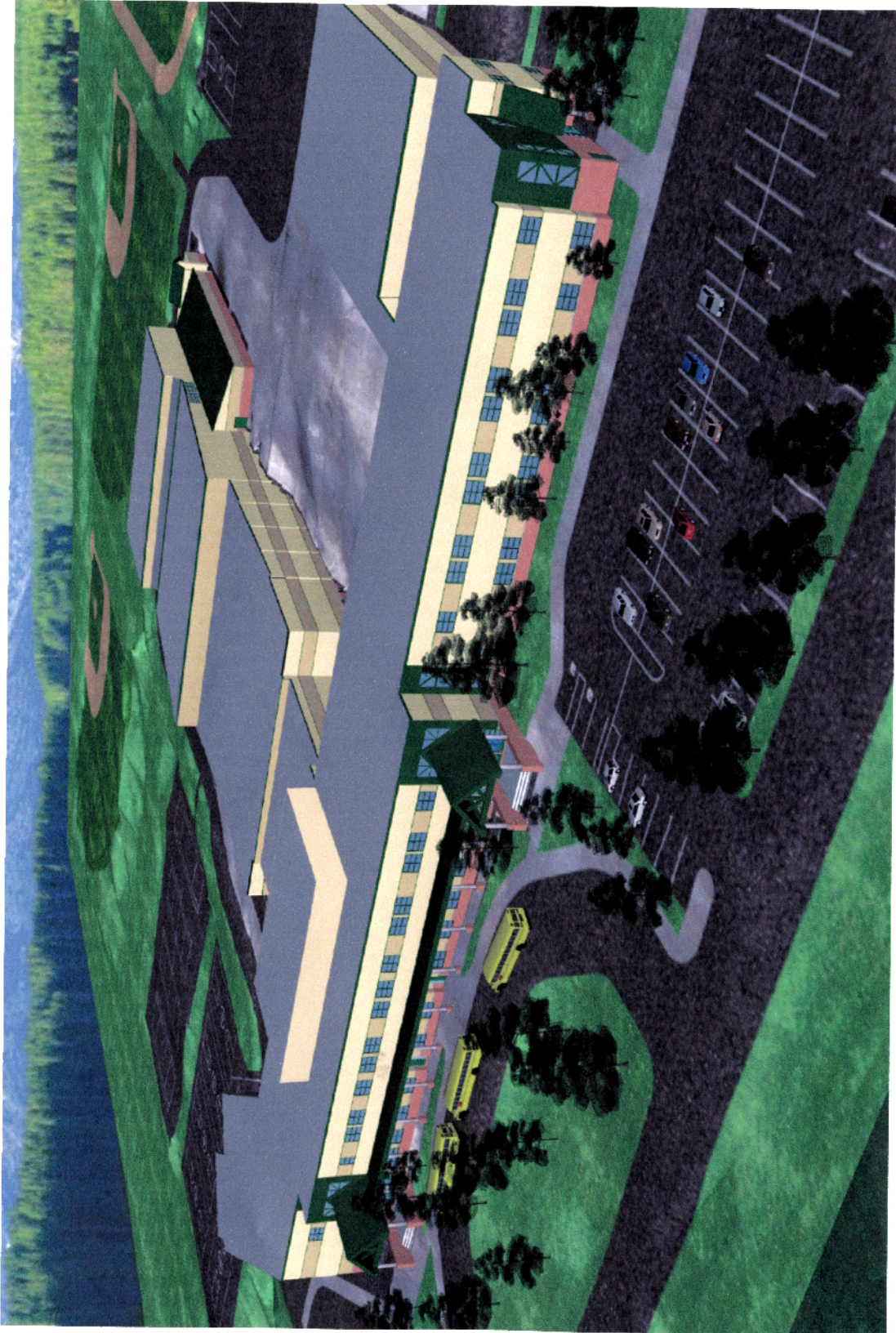
[§] Amended 12/16/98

22.7 List Of Findings: The findings required in this chapter are as follows:

- (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.
- (2) When outside a community plan, the additional height is consistent with the surrounding uses.
- (3) With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.
- (4) The function of the structure requires a greater maximum height than otherwise provided for in this chapter.
- (5) That portion of the building which is permitted the additional height, is adequately screened, as seen from major arterials, the waters of lakes, and other public areas from which the building is frequently viewed. In determining the adequacy of screening, consideration shall be given to the degree to which a combination of the following features causes the building to blend or merge with the background.
 - (a) The horizontal distance from which the building is viewed;
 - (b) The extent of screening; and
 - (c) Proposed exterior colors and building materials.
- (6) The building is located within an approved community plan, which identifies the project area as being suit able for the additional height being proposed.
- (7) The additional height is the minimum necessary to feasibly implement the project and there are no feasible alternatives requiring less additional height.
- (8) The maximum 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. This standard shall not apply to an architectural feature described as a prow.
- (11) When viewed from a TRPA scenic threshold travel route, the additional height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.
- (12) [The building is no more than two stories in height.](#)



North Tahoe Middle School / High School Reconstruction



LAKE TAHOE COMMUNITY COLLEGE



FOREST SERVICE BUILDING



SOUTH LAKE TAHOE MIDDLE SCHOOL



TAHOE REGIONAL PLANNING AGENCY

128 Market Street
Stateline, Nevada
www.trpa.org

P.O.Box 5310
Stateline, Nevada 89449

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Email: trpa@trpa.org

MEMORANDUM

October 15, 2003

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment to Code Chapter 91 and Related Chapters to Allow Consideration of Biofuel Facilities

Proposed Action: Staff is proposing to amend Chapter 91, Air Quality Control, Chapter 18, Permissible Uses, and Chapter 2 Definitions, of the Code of Ordinances to allow the consideration of biofuel facilities for material that would be burned within the basin as part of normal vegetation management (see Attachment A, Exhibits 1, 2, and 3 for proposed language changes).

Staff Recommendation: Staff is recommending that the Governing Board conduct a public hearing, and adopt the proposed amendments.

APC Recommendation: This item was reviewed at the September APC meeting. The APC recommended that this item be brought back in October; and requested that the staff address the issues of 1) Project Review; 2) tonnage limit on fuel supply; and 3) clarification of the language for pile burning verse prescribed burning. These changes were made and presented at the October APC meeting. At that meeting, the APC accepted the tonnage limit and the language change about pile burning. Staff was asked to find a method to consider all biofuel facilities as special uses. Therefore, staff is proposing additional language to Chapter 18 to treat all biofuel facilities as special uses.

Discussion: A two-year study was completed in August 2003 that evaluated using forest waste products to generate either electricity or heat. This study was conducted by the Nevada Tahoe Conservation District with assistance from McNeil Technologies, Inc. TRPA along with the other land management agencies participated in the technical review committee. The technology and the amount of forest material that could be used in this process were the focus of the study. The only forest products considered for this analysis were byproduct materials from vegetation management to reduce the threat of forest fires within the Tahoe Region.

The results of this report demonstrated that there is a large quantity of material that is available for diversion from pile and broadcast burning. In addition, the new technology that is available for electrical and heat generation is very efficient and is much cleaner than pile or broadcast burning and past biofuel technologies.

TRPA's air quality standards govern the installation of stationary sources of air pollution. Today's current technologies, while quite clean (i.e. there will be no visible smoke), will not conform to our current standards. However, the diversion of material from dirty

open-air pile burning to a clean burning biofuel facility which results in a net reduction of smoke emissions in the basin, was not considered in TRPA's Code of Ordinance.

The proposed amendment will allow for the consideration of biofuel facilities within the Tahoe Region, provided the following:

- There is a 90% or greater reduction of particulate matter compared to pile burning on a per dry ton basis.
- There is a 40% or greater reduction of Nitrogen Oxide compared to pile burning on a per dry ton basis.
- No fuel is imported into the Region.
- A reasonable analysis of future available biofuels shows that all of the supply of the biofuel will come from diversion of forest treatment programs.

These conditions on all biofuel facilities, staff feels, will further the intent of the thresholds and the Goals and Policies to reduce emissions. Staff has further amended Chapter 18 to clarify the status of biofuel facilities within TRPA's land use regulatory system.

Effect on TRPA Workload: This amendment to the Code of Ordinances may result in two or three additional projects over a five-year period, and should not have a significant impact to the workload at TRPA.

Impacts of any specific project will be documented during the permitting process.

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

A. Chapter 6 Findings:

1. Finding: 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 regional plan through the goals and policies focus on the reduction of air pollution. This amendment will reduce the total amount of air pollution by diverting material that would be burned in open air piles into cleaner burning biofuels electric and heating systems.
2. Finding: That the project will not cause the environmental thresholds to be exceeded.
Rationale: This amendment reduces the total amount of air pollution within the Region, and therefore will not cause the environmental thresholds to be exceeded.
3. Finding: 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(d) of the Compact, the project meets or exceeds such standards.

Rationale: TRPA standards are the highest standards and this amendment, while providing exemption to TRPA's stationary standard, will not violate other standards.

4. Finding: 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: This amendment will help the attainment of these standards by reducing air pollution.

5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See rationale for Finding 4 above.

Environmental Documentation: The staff completed the Initial Environmental Checklist for the proposed action. Staff recommends that a Finding of No Significant Effect (FONSE) be made based on the Initial Environmental Checklist.

Requested Action: Staff requests that the Governing Board take the following actions:

1. Motion to make the required findings:
 - a) Make a Finding of No Significant Effect (FONSE); and
 - b) Make the Chapter 6 findings.
2. Motion to adopt the implementing Ordinance.

Contact Coleen Shade at 775•588•4547, or via email at cshade@tpa.org, if you have any comments regarding this item.

Attachment: Attachment A, Adopting Ordinance, with Exhibits 1-3, Proposed Language Changes to Code Chapters 91, 18, and 2

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2003 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CODE OF ORDINANCES, CHAPTER 91, AIR QUALITY CONTROL, CHAPTER 18, PERMISSIBLE USES, CHAPTER 2, DEFINITIONS AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00

Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinances Chapters 91, 18, and 2 in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.
- 1.40 Prior to the adoption of this ordinance, the Governing Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact.
- 1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00

Amendment of the Code of Ordinances Chapter 91

Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Chapter 91 as set forth on Exhibit 1, dated October 15, 2003, which attachment is appended hereto and incorporated herein.

Section 3.00 Amendment of the Code of Ordinances Chapter 18

Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Chapter 18 as set forth on Exhibit 2, dated October 15, 2003, which attachment is appended hereto and incorporated herein.

Section 4.00 Amendment of the Code of Ordinances Chapter 2

Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Chapter 2 as set forth on Exhibit 4, dated September 2, 2003, which attachment is appended hereto and incorporated herein.

Section 5.00 Interpretation and Severability

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

Section 6.00 Effective Date

The provisions of this ordinance amending the Code of Ordinances shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held October 22, 2003, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

David Solaro, Chairman
Tahoe Regional Planning Agency

New language is underlined in blue.

Chapter 91

AIR QUALITY CONTROL

91.5 New Stationary Source Review: Emissions from new stationary sources in the Region shall be limited as follows:

91.5.E Exemption: The following activities are exempt from the prohibitions of Subsection 91.5.B....

(3) Biofuel Facilities:

- (a) The facility is designed to reduce the amount of pile burning through diversion of in-basin material to the facility;
- (b) There will be a net reduction in Volatile Organic Compounds, Sulfur Dioxide, and Carbon Monoxide on a per dry ton basis of biofuel as compared to the emissions that would be generated if material were burned in piles, and these pollutants will meet Table II of section 91.5.B, using standard calculation methods;
- (c) The facility accepts no biofuel that is imported into the Region;
- (d) Material for the biofuel facility shall come from the diversion of material intended for pile burning from forest treatment programs, and cumulative demand shall not exceed 19,000 tons per year.
- (e) There will be a net reduction in Nitrogen Oxide emissions of greater than 40% as compared to the emissions that would be generated if material were burned in piles burning. The emissions calculations will follow EPA methodologies;
- (f) There will be a net reduction of 90% or greater in emissions of Particulate Matter Less than 10 Microns as compared to the emissions that would be generated if material were burned in piles or in broadcast burning. The emissions calculations will follow EPA methodologies; and
- (g) Emissions generated by dual-fueled systems must conform to section 91.5 A through D when operating with fuels other than biofuels.

New language is underlined in blue.

Chapter 18

PERMISSIBLE USES

18.1.B Special Uses: Uses listed in applicable plan area statements, community plans, redevelopment plans, or specific or master plans as "special" ("S") may be determined to be appropriate uses for the specified area, and projects and activities pursuant to such uses found to be appropriate may be permitted. To allow a special use, TRPA shall conduct a public hearing according to the procedures in the TRPA Rules of Procedure. Before issuing an approval, TRPA shall, make the following findings:

- (1) 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.
- (2) The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.
- (3) The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

18.2 Accessory Uses: Accessory uses shall be regulated pursuant to the regulations applicable for the primary use upon which the accessory use is dependent. No project or activity pursuant to an accessory use may be permitted without a related primary use, existing or approved, on the same parcel.

18.2.H Accessory Biofuel Facilities: Biofuel facilities, which are considered an accessory use, may be permitted by TRPA under the special use provisions of Section 18.1.

18.4 Definitions of Uses: The uses listed in the Table of Primary Uses in Section 18.3 are defined in this section. Uses accessory to the uses listed in the Table of Primary Uses are also defined and, to the extent practicable, listed in this section. Certain of the terms employed in defining the uses in this section may be defined in Chapter 2.

Pipelines and Power Transmission: Transportation facilities primarily engaged in the pipeline transportation of refined products of petroleum such as gasoline and fuel oils; natural gas; mixed, manufactured or liquified petroleum gas; or the pipeline transmission of other commodities. Power transmission includes facilities for the transmission of electrical energy for sale, including transmission and distribution facilities; not including offices or service centers (classified in "Professional Offices"), equipment and material storage yards (classified under "Storage Yards"), distribution substations (classified under "Public Utility Centers"), power plants (classified under "Power Generating Plants"). Outside storage or display is included as part of the use.

New language is underlined in blue.

Power Generating: Establishments engaged in the generation of electrical energy for sale to consumers, including biofuel facilities, hydro facilities, gas facilities, and diesel facilities. Biofuel facilities accessory to a primary use are not included in the definition of Power Generating. Transmission lines located off the site of the power plant are included under "Pipelines and Power Transmission." Electrical substations are included under "Public Utility Centers." Outside storage or display is included as part of the use.

New language is underlined in blue.

Chapter 2 DEFINITIONS

Biofuel Facilities: Facilities that combust or gasify forest and other plant materials in a manner that, in combination with other systems, generates electrical energy for use or distribution or generates heat for distribution within a building or facility.

Any heating unit that meets the definition of a woodheater is not considered a biofuel facility.