MEMORANDUM

July 28, 2005

To: TRPA Hearings Officer

From: TRPA Staff

Subject: Clay Fisher Land Capability Challenge; 986 Tyner Way, Incline Village
Nevada, Washoe County APN: 125-172-06

Proposed Action: The applicant, Clay Fisher requests that the TRPA Hearings Officer review and approve the proposed Land Capability Challenge for the affected parcel.

Staff Recommendation: The staff recommends that the Hearings Officer approve the land capability challenge on a portion of the parcel changing the land capability class from 2 to 4.

Background: The subject parcel is shown as land capability classes 1a on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places the parcel within the UmF (Umpa very stony sandy loam, 30 to 50 percent slopes) soil map unit. The UmF soil map unit is consistent with the D-2 (Headlands, moderate hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock.

A land capability verification was never conducted on this parcel. A land capability challenge was filed on December 4, 2003 to confirm the soil series and land capability for the parcel.

Findings: This parcel is 13,902 square feet (.31 acre) in size and is located at 986 Tyner Way in Incline Village. The parcel is mapped within geomorphic unit D-2 (Headlands, moderate hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was completed by TRPA Staff, and this report was prepared. Given the size of the parcel in question, one representative soil profile was described (see Attachment A). After multiple office meetings and visits to the parcel the previously classified soils on APN: 125-172-06 were determined to be consistent with the JwE (Jorge-Tahoma very stony sandy loams, 15 to 30 percent slopes) soil map unit, which is associated with land capability class 4, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at (775) 588-4547 ext. 275.

Attachments

7/28/05 HEARINGS OFFICER ITEM B
SOIL INVESTIGATION FOR
WASHOE COUNTY APN: 125-172-06, 986 Tyner Way, Incline Village

INTRODUCTION
A soil investigation was conducted on Washoe County APN: 125-172-06. This parcel is 13,902 square feet (.31 acre) and located at 986 Tyner Way in Incline Village. A land capability verification was never conducted on this property.

A land capability challenge was filed with TRPA on December 4, 2003 to determine the appropriate land capability class for this parcel based on an onsite soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as land capability class’s 1a on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places the majority of the parcel within the UmF (Umpa very stony sandy loam, 30 to 50 percent slopes) soil map unit. The UmF soil map unit is consistent with the D-2 (Headlands, moderate hazard lands) geomorphic unit classification. The Umpa soil formed in residuum derived from andesitic bedrock. This parcel is on a south-facing slope. The natural grade ranges from 18 to 25 percent. The natural vegetation is Red fir with an understory of prostrate manzanita and bitterbrush.

PROCEDURES
One soil pit was dug on this parcel, mechanical excavation. After examination of the pit, the soil was described in detail as representative of the soils on that portion of the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One soil series was identified on the parcel in question. The soils on the property are generally deep and well drained. The soil is characterized as having a brown stony loamy coarse sand surface layer over brown and light yellowish brown gravelly loamy coarse sand subsoil. This soil is similar to the Tahoma soil series listed in the Soil Survey for the Lake Tahoe Basin, and would properly fit the JwE (Jorge-Tahoma very stony sandy loams, 15 to 30 percent slopes). The JwE soil map unit is in land capability class 4, under the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visits, the soils on APN: 125-172-06 were determined to be consistent with the JwE (Jorge-Tahoma very stony sandy loams, 15 to 30 percent slopes) soil map unit, associated with land capability class 4, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 19740.

Tim Hagan
Senior Planner / Soil Scientist
Representative Soil Profile:

Soil Classification: Sandy skeleta, mixed, frigid, Ultic Haploxeralf
Soil Series: Tahoma variant
Hydrologic Group: B
Drainage Class: well drained

Oi     Jeffrey pine litter.

A1     0 to 5 inches; brown (10YR 5/3) very gravelly sandy loam, dark brown (10YR 3/3) moist; moderate fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine roots; many very fine and fine interstitial pores; 25 percent gravel, clear smooth boundary.

A2     5 to 15 inches; very gravelly sandy loam, brown (10YR 5/3) dark brown (10YR 3/3) moist; weak fine granular structure; soft, very friable, nonsticky and nonplastic; many very fine and fine, common roots; common very fine and fine interstitial pores; 15 percent gravel; 15 percent stones; gradual smooth boundary.

Bt1    15 to 26 inches; very gravelly loamy coarse sand, brown (10YR 5/3), dark yellowish brown (10YR 3/4) moist; moderate medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; common fine and medium and few coarse roots; common fine and medium tubular pores; 25 percent gravel; 15 percent stones; gradual wavy boundary.

Bt1    26 to 38 inches; light brown (7.5YR 6/2) gravelly loamy coarse sand, dark brown (7.5YR 4/4) moist; moderate medium subangular blocky structure; hard, friable, slightly sticky and slightly plastic; common fine and medium and few coarse roots; common fine and medium tubular pores; common moderately thick clay films on ped faces and pores; 25 percent gravel, 15 percent stones; gradual wavy boundary.

C      38 to 60 inches; pinkish gray (7.5YR 6/2) gravelly sandy clay loam, light yellowish brown (10YR 6/4) moist; moderate medium subangular blocky structure; very hard, firm, sticky and plastic; common fine and medium roots; common fine and medium tubular pores; 25 percent gravel; 15 percent stones; clear smooth boundary.
MEMORANDUM

July 28, 2005

To: TRPA Hearings Officer
From: TRPA Staff
Subject: Ben Wadsworth Land Capability Challenge, 5914 Korbleau Lane CA, Placer County APN:116-030-01.

Proposed Action: The applicant, Mr. Ben Wadsworth requests that the Hearings Officer review and approve the proposed Land Capability Challenge on the affected parcel.

Staff Recommendation: The staff recommends that the Hearings Officer approve the land capability challenge for the parcel changing the land capability from class 1c to class 6.

Background: The subject parcel being challenged is shown as land capability class 1c on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the Sm (Stony colluvial land) miscellaneous map unit. The Sm miscellaneous map unit is consistent with the D-1 (Toe Slope Lands, low hazard lands) geomorphic unit classification. The Sm miscellaneous map unit is classified as a non-soil designation. The genesis for this type of setting formed geologically in colluvium derived from latite and andesite.

A land capability verification was never conducted on this property. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: The parcel is mapped within geomorphic unit the D-1 (Toe Slope Lands, low hazard lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was conducted by TRPA staff. Based on two soil pits, a representative soil profile was described (see Attachment A). After the visit to APN:116-030-01 the soils were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775-588-4547 (ext. 275).
SOIL INVESTIGATION FOR
PLACER COUNTY APN: 116-030-01, 5914 Korbleau Lane CA

INTRODUCTION
A soil investigation was conducted on APN: 116-030-01 in Placer County. A land capability verification was never conducted by TRPA staff on this parcel.

ENVIRONMENTAL SETTING
The parcel being challenged is shown as land capability class 1c on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the Sm (Stony colluvial land) miscellaneous map unit. The Sm miscellaneous map unit is consistent with the D-1 (Toe Slope Lands, low hazard lands) geomorphic unit classification. The Sm miscellaneous map unit is classified as a non-soil designation. The genesis for this type of setting formed geologically in colluvium derived from latite and andesite. This parcel is on an east facing slope. The natural slopes associated with this part of the property are between 12 to 15 percent.

PROCEDURES
One soil pit was dug on this parcel. After examination of the profile, the soil was described in detail as representative of the soils on the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One soil series was identified on this parcel. The soil on this parcel is generally deep and well drained. This soil is characterized as having a very thin (< 1”) sparse surface mantle of organic matter over a dark brown very stony sandy loam surface horizon. The subsoil is comprised of a very stony brown sandy clay loam to a depth of greater than 60 inches. This soil would be most accurately described as a phase of the Jorge soil series. These soils are non-skeletal members of Hydrologic Group B. The Jorge soils have an argillic horizon within the control section and exhibit textures that are described as gravelly to stony sandy loams and clay loams. Therefore, the soils on the property are most properly assigned to the JwD (Jorge-Tahoma very stony sandy loam, 2 to 15 percent slopes) soil map unit and are assigned to land capability class 6.

CONCLUSION
Based on the results of the site visit, the soils on APN: 116-030-01 is interpreted to be a extremely stony phase analog to the Jorge soils. Based on slope and previously cited characteristics, the soil on the affected parcel would be assigned to land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

Tim Hagan, Senior Planner / Soil Scientist
Representative Soil Profile:

Soil Classification: Loamy-skeletal, mixed, frigid, Ultic Haploxeralf
Drainage Class: Deep, well drained,
Hydrologic Group B

Oi 3 to 0 inches; needles and duff.

A1 0 to 9 inches; Grayish brown (10YR 5/2) very stony sandy loam, dark brown (10YR 3/3) moist; moderate fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 5 percent gravel, 50 percent cobbles, 40 percent stones; clear smooth boundary.

A2 9 to 17 inches; yellowish brown (10YR 5/3) very stony sandy loam, dark brown (10YR 4/3) moist; moderate, medium subangular structure; hard, friable, slightly sticky and slightly plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; common clay films on ped faces and lining pores; 10 percent gravel, 30 percent stones, 40 percent cobbles; clear wavy boundary.

A3 17 to 24 inches; brown (10YR 6/3) stony sandy clay loam, dark brown (10YR 4/3) moist; moderate, medium subangular structure; hard, friable, slightly sticky and plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 10 percent gravel, 35 percent stones; clear wavy boundary.

Bt1 24 to 38 inches; brown (7.5YR 5/4) gravelly sandy clay loam, dark brown (7.5YR 4/4) moist; moderate, medium subangular structure; hard, friable, slightly sticky and plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; 25 percent gravel, 35 percent cobbles; clear wavy boundary.

Bt2 38 to 60 inches; yellowish brown (10YR 5/6) coarse sandy clay loam, dark yellowish brown (10YR 4/6) moist; moderate, medium subangular structure; hard, friable, slightly sticky and plastic; common fine, medium and coarse roots; many very fine and fine tubular pores; common clay films on ped faces and lining pores; 10 percent gravel, 20 percent stones; gradual wavy boundary.
MEMORANDUM

July 28, 2005

To: TRPA Hearings Officer

From: TRPA Staff


Proposed Action: The applicants, Naresh and Saroj Goyal request that the TRPA Hearings Officer review and approve the proposed Land Capability Challenge for a portion of the affected parcel.

Staff Recommendation: The staff recommends that the TRPA Hearings Officer approve the land capability challenge for the parcel, changing the land capability class for a portion of the parcel from Inville-Class 6 to an un-named soil also classified as class 6.

Background: The subject parcel is shown as land capability class 6 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the IsC (Inville stony coarse sandy loam, 2-9 percent slope). The IsC soil map unit is consistent with the E-2 (Outwash, Till and Lake deposits / moderate hazard lands) geomorphic unit classification. The Inville soil formed in residual deposits derived from extrusive igneous (andesite and latite) sources.

Land capability verification was never conducted on this particular parcel. A land capability challenge was filed to confirm the soil series and land capability for the parcel.

Findings: This littoral parcel is 16,224 square feet (0.37 acres) in size and is located at 682 David Way, Incline Village Nevada. The parcel is mapped within E-2 (Outwash, Till and Lake deposits / moderate hazard lands) geomorphic unit on the TRPA Geomorphic Map of the Lake Tahoe Basin. TRPA staff conducted the soils investigation and prepared this report. Based on one soil pit, and several auger samples representative soil profiles were described (see Attachment A). After visits to the parcel on July 12, 2005, the soils on APN:122-194-25 were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at 775 -588-4547 (ext. 275).

Attachment: - Soil investigation
SOIL INVESTIGATION FOR
WASHOE COUNTY APN: 122-194-25, 682 David Way, Incline Village Nevada

INTRODUCTION
A soil investigation was conducted on Washoe County APN: 122-194-25 on July 12, 2005. This parcel is approximately 16,224 square feet (0.37 acres) in size and is located on 682 David Way, Incline Village Nevada.

A land capability verification was never conducted by TRPA staff on this particular parcel. A land capability challenge was filed with TRPA on November 1, 2004 to determine the appropriate land capability class for this parcel based on an on-site soil investigation.

ENVIRONMENTAL SETTING
This parcel is shown as Inville soil associated with land capability class 6 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places this parcel within the IsC (Inville stony coarse sandy loam, 2-9 percent slope) and 1b / SEZ map units. The IsC soil map unit is consistent with the E-2 (Outwash, Till and Lake deposits / moderate hazard lands) geomorphic unit classification. The Inville soil formed in residuum derived from extrusive igneous (andesite and latite) sources. This parcel is on a southwest-facing slope. The natural grade ranges from 11 to 14 percent.

PROCEDURES
Several auger samples were retrieved on this parcel. After examination, the soils were described as being representative of those on a portion of the parcel. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One unnamed soil series was identified on this parcel. A portion of the soils on this parcel can be characterized as being moderately deep to deep and somewhat excessively well drained. The unknown soil is derived from residuum. It can be physically described as having a very thin (< 1") surface mantle of organic matter over a brown to dark brown loamy coarse sand surface layer. The subsoil is comprised of yellowish brown to dark brown very gravelly loamy coarse sand to a depth of greater than 50 inches. This soil is dissimilar to any of the soil series listed in the Soil Survey for the Lake Tahoe Basin. Therefore, the soils on a portion of this parcel are appropriately described as an un-named soil classified appropriately as class 6 per Table 4 (page 20) of the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soils on a portion of APN 122-194-25 were determined to be most accurately characterized as moderately deep, mixed glacio-fluvial and lacustrine sediments derived mainly from andesitic sources. Therefore, this property is most appropriately assigned to land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore assigned 30% allowable coverage.
Representative Soil Profile:

Soil Classification (1999) Sandy, mixed, frigid, Dystric Haploxerept
Soil Series: Unknown
Hydrologic Group: A
Drainage Class: Somewhat excessive

Oi 1 to 0 inches; Jeffrey pine needles and duff.

A1 0 to 8 inches; grayish brown (10YR 5/2) loamy coarse sand, very dark grayish brown (10YR 3/2) moist; moderate fine granular structure; soft, loose, nonsticky and nonplastic; many very fine and fine roots, few coarse roots; many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.

AB 8 to 20 inches; yellowish brown (10YR 5/4), loamy coarse sand, dark yellowish brown (10YR 3/4) moist; weak fine granular structure; soft, loose, nonsticky and nonplastic; few coarse roots; many very fine and fine roots, many very fine and fine interstitial pores; 10 percent gravel; clear smooth boundary.

Bw1 20 to 41 inches; brown (7.5YR 5/4) gravelly loamy coarse sand, dark brown (7.5YR 3/4) moist; single grain; slightly hard, very friable, nonsticky and nonplastic; common very fine, medium and coarse roots; many very fine and fine interstitial pores, 15 percent gravel gradual smooth boundary.

Bw2 41 to 50+ inches; light brown (7.5YR 6/4) very gravelly loamy coarse sand, dark brown (7.5YR 4/4) moist; single grain; slightly hard, very friable, nonsticky and nonplastic; common very fine, medium and coarse roots; many very fine and fine interstitial pores; 20 percent gravel gradual smooth boundary.
TAHOE REGIONAL PLANNING AGENCY

HEARINGS OFFICER STAFF SUMMARY

Project Name: Robinson 5-Unit Multi-Family Condominium Subdivision

Application Type: Residential - Subdivision

Applicant: Craig Robinson

Applicant's Representative: Gary R. Taylor

Agency Planner: Jeanne McNamara, Senior Planner

Location: 900 Village Boulevard, Incline Village, Washoe County, Nevada

Assessor's Parcel Number / File Number: 132-232-12 / 20050293

Staff Recommendation: Staff recommends approval of the project based on this staff summary and the evidence contained in the project record. The recommended conditions of approval are contained in the attached Draft Permit.

Project Description: The applicant is proposing to subdivide a recently constructed multi-family residential project consisting of five units into five condominium units and a common area. Two of the condominium units will be deed restricted affordable housing as required by the Incline Village Commercial Community Plan.

Site Description: The project is located at 900 Southwood Blvd. in Incline Village at the intersection of Village and Southwood Boulevards. A five-unit multi-family development was recently constructed on the 22,656 square foot parcel. The land capability for the entire parcel has been verified as class 6. Surrounding land uses include professional office buildings, multi-family developments, condominiums, and vacant parcels.

Issues: The proposed involves a special use (single family dwellings) determination and therefore requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. Mixed Use / Affordable Housing: The project is located within the Incline Village Commercial Community Plan. As outlined in the Community Plan Area Statement under Housing, 1.d, single family dwellings are only allowed in the plan area when they are part of a mixed-use development or when they are affordable housing units. Under e., of that same section of the Community Plan, projects can be considered mixed-use if at least 25 percent of the residential units proposed on the site are affordable housing units. The proposed subdivision contains five units, therefore, to meet the mixed-use requirement, the applicant is proposing that two of the units will be deed restricted affordable housing. The TRPA requirements for affordable housing are outlined in Chapter

Hearings Officer / JMc
August 4, 2005

AGENDA ITEM NO. V.D
2 of the TRPA Code of Ordinances which defines affordable housing as residential housing deed restricted to be used exclusively for lower-income households whose income is not in excess of 80 percent of the respective county’s median income.

Required Findings: The following is a list of the required findings as set forth in Chapters 6 and 18 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 implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

   There is no evidence in the file and record showing that the proposed project will have an adverse effect on the Land Use, Transportation, Conservation, Recreation, Public Service and Facilities, or Implementation sub-elements of the Regional Plan.

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

   TRPA staff has completed the “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. Also, the applicant has completed an Initial Environmental Checklist (IEC). 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 checklist and IEC will be made available at the Hearings Officer 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 TPRA Compact, the project meets or exceeds such standards.

   (Refer to paragraph 1.b, above.)

2. Chapter 18 – Special Use Findings:

   (a) The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.

   (b) The project to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land.
water, and air resources of both the applicant’s property and that of surrounding property owners.

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

The project proposes to have five condominium units on this parcel. There are other condominium projects located in the area and the proposed subdivision is similar to other multifamily projects in the area that have been subdivided into condominiums. As such, the proposed subdivision is consistent with surrounding uses and will not alter the character of the neighborhood. A subdivision in itself does not always change the character of a neighborhood as it is a change from one type of residential use to another and does not involve construction as it will use the existing buildings on the property. The applicant was required to apply both temporary and permanent Best Management Practices (BMPs) as a requirement of the construction of the project. As a condition of this subdivision approval, the applicant will be required to submit covenants, conditions, and restrictions (CC&Rs) which include that provisions be made for maintenance of all BMPs located within the common area.

**Required Actions:** Agency staff recommends that the Hearings Officer approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. Approve the findings contained in this staff summary, and a finding of no significant environmental effect.

II. Approve the project, based on the staff summary, subject to the conditions contained in the attached Draft TRPA permit.

**Attachments:**

1. Draft Permit
2. Proposed Subdivision Map
PROJECT DESCRIPTION: Multi-Family Condominium Subdivision

PERMITTEE(S): Craig Robinson

COUNTY/LOCATION: Washoe / 900 Village Boulevard, Incline Village

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on August 4, 2005, subject to the special conditions found in this permit.

This permit shall expire on August 4, 2008 without further notice. 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 RECORDING OF THE SUBDIVISION MAP SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A CITY PERMIT. THE CITY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO RECORDING OF THE SUBDIVISION MAP SHALL COMMENCE UNTIL ALL PRE-RECORDING CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, RECORDING OF THE SUBDIVISION MAP 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. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A CITY 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 ___________________________

/jmc

PERMIT CONTINUED ON NEXT PAGE

Hearings Officer / JMc 
August 4, 2005

AGENDA ITEM NO. V.D
SPECIAL CONDITIONS

1. This permit is for a condominium subdivision of an existing five-unit multi-family development located at 900 Village Boulevard in Incline Village in Washoe County, Nevada. Two of the units will be deed restricted affordable housing as required by the Incline Village Commercial Community Plan.

2. Prior to permit acknowledgement, the following special conditions of approval must be satisfied:

   A. The permittee shall submit two (2) copies of the final subdivision map to TRPA for review and approval.

   B. The permittee shall provide, prior to final recordation, a final mylar map, or a similar document, for the approved subdivision which contains a signature block for TRPA to document regional approval.

   C. The permittee shall submit covenants, conditions, and restrictions (CC&Rs) pursuant to Subsection 43.4.M of the TRPA Code of Ordinances for review and approval prior to permit acknowledgement, which must include the following:

      (1) A requirement that provisions be made for maintenance of all BMPs located within the common area.

      (2) A requirement that all resident vehicle parking must be in the garage or on the driveway serving each unit so that the parked vehicle does not extend into the common access way for the units.

      (3) A requirement that each residence comply with the exterior lighting standards.

      (4) A requirement that all residential units receive home mail delivery.
3. The permittee shall provide to TRPA a copy of the recorded subdivision map and any new Assessor’s Parcel Numbers within 30 days of recordation.

4. Once the permittee has obtained the new Assessor’s Parcel Numbers and legal descriptions, the permittee shall provide the recorded grant deeds for the two units that will be deed restricted affordable housing as defined by the TRPA Code of Ordinances. TRPA will draft the deed restriction and the permittee shall complete and record the deed restriction to ensure that the approved subdivided residential units satisfy all TRPA affordable housing requirements. **Please note that the project security held for the construction of this project under TRPA File #20021998 for $10,000 (posted 9/9/03 under Receipt No. 417332) shall not be released until TRPA receives a copy of the recorded deed restriction or the original recorded deed restriction.**

5. All land outside the footprints of the structures shall be established as common area.

**END OF PERMIT**
August 4, 2005

Gary Midkiff
Midkiff and Associates, Inc.
Post Office Box 12427
Zephyr Cove, Nevada 89448

Dear Mr. Midkiff:

Subject: NOTICE OF CONDITIONAL PERMIT APPROVAL, NEW SINGLE FAMILY DWELLING AS AN ACCESSORY USE TO A CHURCH (PUBLIC SERVICE), 1 ELKS POINT ROAD, DOUGLAS COUNTY, ASSESSOR’S PARCEL NUMBER (APN) 1318-22-001-003 DG, TRPA FILE NUMBER 20050139

Enclosed please find a Tahoe Regional Planning Agency (TRPA) permit and attachments for the project referenced above. TRPA will acknowledge the permit only after all standard and special conditions of approval have been satisfied. Failure to satisfy these conditions of approval will cause unnecessary time delays. TRPA acknowledgement is required prior to application to other reviewing agencies and commencement of construction.

Please schedule an appointment with me to finalize your project. Due to time demands, TRPA cannot accept drop-in or unannounced arrivals to finalize plans. I am usually available for telephone calls and appointments on Mondays, Wednesdays, and Thursdays.

Please note that combined security and mitigation fee payments cannot be accepted. Acceptable ways to post a security are listed in the enclosed handout entitled “Attachment J.”

Please feel free to call me if you have any questions regarding this letter or your permit in general.

Sincerely,

Mike Cavanaugh
Senior Planner
Environmental Review Services

MC/lsl

Enclosures

cc: Our Lady of Tahoe Catholic Church
c/o Ron Alling
Post Office Box 3390
Stateline, Nevada 89448
DRAFT PERMIT

PROJECT DESCRIPTION: New Employee Housing/Public Service  APN 1318-22-001-003

PERMITTEE(S): Our Lady of Tahoe Catholic Church  FILE # 20050139

COUNTY/LOCATION: Douglas County/1 Elks Point Road

Having made the findings required by Agency ordinances and rules, TRPA approved the project on August 4, 2005 subject to the standard conditions of approval attached hereto (Attachment R) and the special conditions found in this permit.

This permit shall expire on August 4, 2008 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:
(1) 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;
(2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT;
(3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. TRPA’S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN 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; AND,
(4) A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

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

MC/Isl
Air Quality Mitigation Fee (1): Amount $2,700.00 Paid ___ Receipt No. _____
Offsite Coverage Mitigation Fee (2): Amount $1,488.50 Paid ___ Receipt No. _____
Excess Coverage Mitigation Fee (3): Amount $_______ Paid ___ Receipt No. _____
Security Posted (4): Amount $3,300.00 Posted _______ Type ____ Receipt No. _____
Security Administrative Fee (5): Amount $_______ Paid ___ Receipt No. _____

Notes:
(1) See Special Condition 3. B, below.
(2) See Special Condition 3. C, below.
(3) Amount to be determined. See Special Condition 3. D, below.
(4) See Special Condition 3. E, below.
(5) $141 if a cash security is posted or $73 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. This permit specifically authorizes the construction of an deed restricted Affordable Residential unit as an accessory use to an existing church (public service).

2. The Standard Conditions of Approval listed in Attachment R.

3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.

A. The site plan shall be revised to include:

   (1) The following revised land coverage calculations:

   (a) Allowable land coverage for each land capability district. See the corrected land coverage number on the approved plans for TRPA file number 20040691. The compacted dirt was not verified as coverage and was to be re-vegetated as a condition of the 1982 TRPA permit.

   (b) Previously mitigated land coverage for each land capability district.
(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) Temporary erosion control structures located downslope of the proposed construction areas.

(4) Vegetation protective fencing around the entire construction site.

B. The permittee shall submit a $2,700.00 air quality mitigation fee. This fee is based on the addition of 10 daily vehicle trip ends at $270.00/trip.

C. The permittee shall submit an offsite coverage mitigation fee of $1,488.50 for the creation of 229 square feet of land coverage in the public right-of-way.

D. The affected property has 3631 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 4 (South Stateline) or by submitting an excess coverage mitigation fee.

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

\[
\text{Estimated project construction cost} \times 0.0125 \div 8
\]

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:

\[
\text{Coverage reduction square footage} \times \text{coverage mitigation cost fee of $12.00 per square foot for Nevada projects. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than $200.00.}
\]

E. The security required under Standard Condition A.3 of Attachment R shall be $3300.00. Please see Attachment J, Security Procedures.

F. The permittee shall submit a landscape/revegetation plan for the project area. The landscape plan shall include the replacement planting of three trees for every one tree removed. All vegetation shall be consistent with the requirements of Chapter 30 of the TRPA Code of Ordinances, including the specification for sizing and species of plants.

G. Permittee shall transfer 2575 square feet of coverage to this parcel. All transferred coverage shall be from land capability class 1, 2, 3, 4, 5, or 6, or have an IPES score of 725 or less; and be located within Hydrologic Area 4 (South Stateline). Note all coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances, and the TRPA Rules of Procedure.

H. Provide color and material samples. The final construction drawings shall have notes indicating conformance to the following design standards for color, roofs, and fences:
(1) **Color:** The color of this structure, including any fences on the property, shall be compatible with the surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within the range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish brown, brown, tan, ochre, and umber.

(2) **Roofs:** Roofs shall be composed of non-glare earthtone or woodtone materials that minimize reflectivity.

(3) **Fences:** Wooden fences shall be used whenever possible. If cyclone fence must be used, it shall be coated with brown or black vinyl, including fence poles.

I. The permittee shall submit three sets of final construction drawings and site plans to TRPA. Show the proposed 6’ chain link fence on the final drawings.

4. Excavation equipment shall be limited to the foundation footprint to minimize site disturbance. No grading or excavation shall be permitted outside of the building footprint.

5. By acceptance of this permit, the permittee agrees that all scenic design and mitigation measures outlined in the approved final plans are hereby included as conditions of project approval and will be implemented as such.

6. The building can be moved to the East without creating any additional coverage and this will preserve the 24” and 36” pine trees proposed for removal. No trees shall be removed other than those shown on the approved final site plan.

7. This approval is based on the permittee’s representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

8. All exterior lighting shall be consistent with TRPA Code of Ordinances, Chapter 30, Section 30.8, Exterior Lighting Standards.

9. All trash storage and enclosures shall be screened from public view in accordance with Subsection 30.5.B (4) of the TRPA Code of Ordinances.

10. 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.

11. The permittee is responsible for insuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.

12. This site shall be winterized in accordance with the provisions of Attachment R by October 15th of each construction season.

END OF PERMIT
TAHOE REGIONAL PLANNING AGENCY
HEARING OFFICER STAFF SUMMARY

Project Name: Our Lady of Tahoe Catholic Church- Addition/Expansion

Application: Public Service-Church-Addition/Expansion

Applicant: Roman Catholic Bishop of Reno,

Applicant’s Representative: Midkiff and Associates, as Agent

Agency Planner: Mike Cavanaugh, Environmental Review Services

Location: 1 Elks Point Road, Round Hill, Douglas County, Nevada

Assessor’s Parcel Number/File Number: APN 1318-22-001-003/20050139

Staff Recommendation: Staff recommends approval of the project based on this staff summary, special conditions contained in the draft permit and the evidence contained in the project record.

Project Description: The Applicant is proposing the construction of a single family residential unit as an accessory use to the existing Our Lady of Tahoe Catholic Church. The unit will serve as the Rectory for the Pastor of the Church. The subject property is located in the Round Hill Community Plan, Special Area #2 (as amended December 2004) and the residential unit is considered as employee housing and will be deed restricted as affordable (income not in excess of 80% of Douglas County’s median income). The Round Hill Community Plan classifies employee housing as a Special Use.

Site Description: The site contains an existing Roman Catholic Church, additional disturbance is primarily in the form of the parking area and access to Elk Point Road. The parcel is not visible from Lake Tahoe or Highway 50. The site is moderately forested and is surrounded by Forest Service property and the a high density timeshare development.

Issues: The proposed project is the addition of a residential unit that will serve as the Rectory for the Church. The Rectory is an accessory use to an existing Catholic Church. The Land Use Designation in the Round Hill Community Plan is Commercial/Public Service. The addition of a Rectory, as employee housing, is a Special Use. In December of 2004 the Governing Board amended the Round Hill Community Plan, Special Area #2, to designate the area as a Preferred Affordable Housing Area. Residential bonus units for affordable housing projects, consistent with Subsection 35.2.E of the TRPA Code of Ordinances may substitute for a development right on the basis of need. The project is taking advantage of an allocation exemption for the affordable unit. Consequently, the unit will be deed restricted as affordable to meet the requirements of...
Staff Analysis:

A. **Environmental Documentation:** TRPA staff has completed the “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 Hearings Officer hearing and at TRPA.

B. **Community Plan:** The project is located within the Round Hill Community Plan, Special Area 2, a Preferred Affordable Housing Area. The Land Use Classification is Commercial/ Public Service and the Management Strategy is Mitigation. Agency staff has reviewed the subject Community Plan and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed use (employee housing) is listed as a Special Use in the Community Plan.

C. **Land Coverage:** The Land Capability Districts located within the project area are 1b, 4 and 7. All coverage for the proposed Rectory will be located within Class 7. The project is consistent with Chapter 20 of the TRPA Code of Ordinances.

D. **Height:** The project is consistent with Chapter 22 of the TRPA Code of Ordinances.

**Required Findings:** The following is a list of the required findings as set forth in Chapters 6 and 18 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 – Environmental Documentation:**

   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 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

/mc
07/25/2005
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 Hearings Officer 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 1b, above.)

2. Chapter 18 – Special Use:

a. The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.

The location of the proposed project is within an existing commercial/public service community plan area. The project is located between Forest Service property and a high density timeshare development. This type of project, affordable housing, is encouraged by the Community Plan

b. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant’s property and that of surrounding property owners.

The applicant will be applying both temporary and permanent Best Management Practices (BMPs) on the parcel to protect the land, water and air resources of the subject property and that of the surrounding property owners. All project design elements shall be in conformance with Chapter 30 of the TRPA Code of Ordinances.

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

The proposed project is in conformance with and encouraged by the Round Hill Community Plan, as amended. All design standards will be in conformance with the Chapter 30 of the TRPA Code of Ordinances.

Required Actions: Agency staff recommends that the Hearings Officer take the following actions:

/mc
07/25/2005
I. Approve the findings contained in the staff summary, and a finding of no significant environmental effect.

II. Approve the project, based on the staff summary, subject to the conditions contained in the attached draft permit.

/mc
07/25/2005
Project Name: Multiple Family Dwelling, 12 Units New Construction, Moderate-Income Housing

Application Type: New Development, Multi-Family Residential

Applicant: Falcon Capitol, LLC

Applicant’s Representative: Rick Angelocci

Agency Planner: Jason Ramos, Associate Planner

Location: 222 Incline Ct., Washoe County, Nevada

Assessor's Parcel Number / File Number: 132-232-02/File No. 20050571

Staff Recommendation: Staff recommends approval of the project based on this staff summary and the evidence contained in the project record. The recommended conditions of approval are contained in the attached Draft Permit.

Project Description: The applicant is proposing to construct an apartment complex consisting of 12 new moderate-income housing units. Three separate two-story structures are proposed each consisting of four units. Each unit will be approximately 950 square feet in size. The buildings will have gabled roofs with shingle and resawn cedar siding. All of the proposed units will contain two bedrooms, a bathroom, a laundry facility, and private storage space. The upper floor units will include decks, and the lower floor units will include patios. The site design will include a community picnic and play area, landscaping, 12 carport parking spaces and 12 uncovered parking spaces, and permanent BMPs for the project area. The project is also subject to road frontage improvements adjacent to the front property lines of the parcel along Incline Way and Incline Court, to be implemented by Washoe County. The project will utilize existing residential units of use to be transferred from APN 129-280-20.

The project proposes 17,488 square feet of on-site land coverage, of which, 6,973 will be transferred to the project parcel. The project will require 511 square feet of off-site coverage to connect the proposed driveway beyond the front property line onto Incline Way. The project will also require the construction of road frontage improvements along Incline Way and Incline Court, which is expected to require approximately 2,592 square feet of land coverage based on a preliminary estimate. See the Staff Analysis for further discussion.

The project serves to complete condition 3(M.) of the Incline Creek Estates project, which required the replacement of 20 moderate-income or affordable housing units. The Incline Creek Estates project was approved on April 4, 2005, by TRPA as a staff level action, and condition 3(M.) stipulates the following:

**Condition of Approval 3(M.):** The permittee is obligated to mitigate the housing impacts by constructing 20 moderate-income or affordable housing units. As TRPA has already issued a permit for 8 moderate-income housing units (Permit No. 20030795), the permittee shall be authorized to construct up to 38 of the proposed market-rate housing.
units upon acknowledgement of this permit. The permittee shall not be authorized to commence construction of the remaining 20 market-rate housing units until after all 20 moderate-income or affordable housing units are constructed and certified for occupancy.

The eight-unit Northwood Apartment project approved by the TRPA Governing Board on October 27, 2004, satisfies the requirement for eight of the required 20 moderate-income or affordable housing units. This project serves to complete the remaining 12 units, as moderate-income units.

The project area is located in Plan Area Statement 045, Incline Village Commercial Community Plan, and the proposed multi-family use is designated as a Special Use.

Site Description: The project parcel is undeveloped and consists of 35,051 square feet. The dominant existing vegetation within the parcel consists of a Jeffrey pine and White fir overstory, and a manzanita understory. From the northeast corner to the southeast corner of the parcel, there is approximately 10 feet of existing soft coverage along the shoulder of Incline Court. From the northeast corner to the northwest corner of the parcel, the soft coverage adjacent to the shoulder of Incline Way ranges from approximately six to eight feet. There is a small section of soft coverage adjacent to the northeast corner of the parcel, that is approximately four to five feet in width.

The entire parcel is located within the Class 6 Land Capability District as part of the IsC Inville Soils Mapping Unit, with an observed slope of 2 to 9 percent. The base allowable coverage is 30% of the parcel area, which equates to 10,515 square feet. However, since the project occurs within a community plan, total allowable coverage is 50% of the parcel area pursuant to Subsection 20.3.B(3) of TRPA Code, which equates to 17,525 square feet. There is no existing coverage on-site. The nearest stream environment zone (SEZ) is located on the north side of Incline Way, at the intersection of Incline Way and Incline Court. From the intersection, the SEZ flows eastbound along the north side of Incline Way away from the project parcel, and does not have a hydraulic connection with the project parcel.

Existing uses that surround the project parcel include retail and warehouse manufacturing type commercial uses. Attachment 3 identifies the surrounding land uses. Undeveloped parcels are adjacent to the northeast and west sides of the project parcel. Southwest Gas Company is located along the south rear property line of the project parcel, which includes an administration building and a storage yard for gas equipment supplies. The Southwest Gas construction supervisor characterizes the operations of the storage yard as having no significant on-site hazards, and as generating a minimal amount of noise during the hours of worker activity.

The parcel directly southwest of the project parcel contains a mixed use of retail and warehouse manufacturing type commercial uses. The warehouse uses associated with these businesses does include some indoor power tool noise. During a site visit by staff during business hours, overall noise was considered to be minimal at the warehouse locations, and negligible from the project parcel.

Other business office and warehouse manufacturing uses exist at the end of the cul-de-sac of Incline Court, which includes North Shore Woodworkers. Although some indoor power tool noise and work truck related noise (loading and unloading activity) is expected, overall noise at this location was observed by staff to be minimal, and negligible from the project parcel.
Incline Business Park is located directly east of the project parcel and consists primarily of retail commercial uses, including North Tahoe Motor Sports. North Tahoe Motor Sports does include some outside display of power equipment and motorbikes on the backside of the building.

The parcel is located at the intersection of Incline Way and Incline Court as a corner, double-frontage parcel. The project area is located within the Incline Village Commercial Community Plan, and is designated as an Industrial Service Area through the Land Use Element of the Community Plan. The project parcel is further designated by Washoe County as having a General Plan land use designation and zoning district designation as General Commercial. In accordance with TRPA standards, the project area is located within Community Plan Area Statement 045, Incline Village Commercial Community Plan.

Issues: The proposed involves a special use, and therefore requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code. The primary project related issues are:

1. **Noise**: As discussed in the site description section, the proposed residential use will be surrounded by some existing commercial uses that are expected to generate a measurable level of short-term, periodic noise associated with business related traffic, warehouse manufacturing uses (i.e., power tools), and demonstration of retail related motor equipment.

2. **Land Coverage**: The project is located within a community plan area and resides on high capability land, which allows a substantial amount of land coverage within the parcel. Pursuant to Section 20.3.B(3) of TRPA Code, the project parcel is allowed a maximum of 50% land coverage. Of the total allowable land coverage of 17,525 square feet, the project proposes 17,488 square feet of land coverage within the parcel. An additional 511 square feet of land coverage will be required off-site to connect the driveway beyond the front property line to Incline Way. The project is also subject to off-site road frontage improvements along Incline Way and Incline Court. Construction of the road frontage improvements is expected to require approximately 2,592 square feet of land coverage based on a preliminary estimate. See the Staff Analysis for further discussion.

3. **Moderate-Income Housing**: The apartment units are required to be deed restricted as moderate-income housing. The units will be limited to households that earn not more than 120% of median family income for Washoe County. Median family income for Washoe County is $63,700, and 120% of median family income equates to $76,440 for a family of four. This figure is used as an annual income limit for moderate-income households, and is updated annually by the Department of Housing and Urban Development at the beginning of each calendar year.

Staff Analysis:

A. **Environmental Documentation**: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental 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 will be made available at the Governing Board hearing and at TRPA.
B. **Plan Area Statement:** 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 the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed activity (Multiple Family Dwelling) is listed as a special use.

C. **Noise:** As discussed in the site description section, the proposed residential use will be surrounded by some existing commercial uses that are expected to generate a measurable level of short-term, periodic noise associated with business related traffic, warehouse manufacturing uses (i.e., power tools), and potential demonstration of retail related motor equipment.

However, the noise generated from these uses is expected to substantially occur during normal business hours (8:00 A.M. to 5:00 P.M.) Monday through Friday. The warehouse manufacturing uses are expected to occur indoors from considerable distance at off-site locations. Any potential noise generated by the demonstration of motor equipment associated with North Tahoe Motorsports from the adjacent Incline Business Park, is expected to be of an occasional, short-term, periodic nature. Due to the surrounding commercial uses, Incline Way and Incline Court are expected to receive steady amounts of traffic during normal business hours, which is expected to generate the most persistent type of noise at the project site.

Due to the short-term, periodic nature of these types of surrounding commercial uses, the proposed residential use is not expected to experience noise levels that exceed the Plan Area Statement noise standards for the Community Plan. The applicable noise standards required by Community Plan Area Statement 045 are indicated in Table 1:

<table>
<thead>
<tr>
<th>Noise Level Descriptor</th>
<th>Daytime (7 a.m. - 7 p.m.)</th>
<th>Nighttime (7 p.m. - 7 a.m.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hourly Leq, dB</td>
<td>55</td>
<td>45</td>
</tr>
<tr>
<td>Maximum Level, dB</td>
<td>75</td>
<td>65</td>
</tr>
</tbody>
</table>

Each of the noise levels specified above should be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

The Noise Sub-element of the Incline Village Commercial Community Plan indicates that the existing noise levels were modeled as part of the EIS for the Community Plan, which determined that the area is in threshold attainment. The parcels adjacent to the north and west property lines of the project parcel are expected to remain as open space, to prevent further commercial encroachment. The Washoe County Planning Department is expected to require a solid decorative wall or fence along the southern property line of the parcel, from the western most corner to within 10 feet of the front property line. The wall or fence is expected to serve as a condition of approval for the County Special Use Permit, which is expected to assist with the buffering of noise from the surrounding area.
commercial uses. Finally, the project parcel property lines are proposed to be substantially surrounded by tree and shrub landscaping species, including existing trees to further buffer the noise levels of the surrounding uses.

D. Land Coverage:

1. Land Capability District:

   The land capability district for the project parcel is Class 6, which allows an allowable base coverage of 10,515 square feet of coverage. The total project area is 35,051 square feet.

2. Land Coverage Calculations:

   **Table 2. Land Coverage Calculations**

<table>
<thead>
<tr>
<th>Land Capability District</th>
<th>Project Parcel Area (Sq. Ft.)</th>
<th>Percent Allowable Coverage</th>
<th>Percent Total Allowable Coverage</th>
<th>Base Allowable Coverage (Sq. Ft.)</th>
<th>Proposed Coverage On-Site (Sq. Ft.)</th>
<th>Total Allowable Coverage On-Site (Sq. Ft.)</th>
<th>Proposed Off-Site Coverage (Sq. Ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>35,051</td>
<td>30%</td>
<td>50% (See Note)</td>
<td>10,515</td>
<td>17,488</td>
<td>17,525</td>
<td>511</td>
</tr>
</tbody>
</table>

Note: Subsection 20.3.B(3) of TRPA Code allows a maximum of 50% land coverage for multi-residential uses within Community plans.

**Subsection 20.3.B(3) Tourist Accommodation Facilities, Multi-Residential Facilities (Five or More Units), Public Service Facilities, and Recreation Facilities Within Community Plans**: The maximum land coverage (base coverage plus transferred coverage) allowed on a parcel for tourist accommodation facilities, multi-residential facilities of five units or more, public service facilities, and recreation facilities is limited to 50 percent of the project area, provided the parcel is located within a community plan approved pursuant to Chapter 14. Such land coverage may be used only on the project area located within land capability districts 4 through 7, inclusive, referred to in Subsection 20.3.A. Subdivisions into parcels of 4 or less residential units, shall not be eligible for the maximum permitted under this subparagraph.

Total allowable coverage within the project parcel is 17,525 square feet, and the total proposed on-site coverage is 17,488 square feet. Of the total proposed amount of on-site coverage, 6,973 square feet will be transferred to the parcel. Since the project parcel consists entirely of Class 6 land capability land, the parcel is eligible to receive transferred land coverage from any land capability class. A separate permit application will be required to process the transfer of coverage, and to ensure compliance with all TRPA related land coverage transfer standards.
The driveway will require 511 square feet of off-site coverage to connect to Incline Way. The Site Design Chapter of the Signage, Parking, and Design Standards and Guidelines for the Community Plans of Washoe County document requires construction of road frontage sidewalks along Incline Way and Incline Court, which is expected to require approximately 2,592 square feet of land coverage based on a preliminary analysis. The document requires the following road frontage improvements associated with land coverage:

**Frontage Improvements in Community Plan Areas:** Projects with frontage along Incline Way, Incline Court, Tanager, Enterprise, Oriole Way, Cal Neva Drive, and Stateline Road, shall provide the following improvements on the frontage:

(a) **Six feet wide minimum concrete sidewalks measured from the curbline.**

(b) **Pedestrian street lights 12 feet high, 50 feet on center, or low level lights 25 feet on center.**

(c) **Building setbacks a minimum 10 feet from the property line.**

(d) **Six inch vertical concrete curbs or as specified by Washoe County or Placer County.**

(e) **Street trees planted 50 feet on center or pockets of shrubs planted 25 feet on center or a combination, both subject to an approved landscape plan (minimum area of shrub pockets to be defined).**

The document further stipulates that specifications for the construction of the sidewalks shall be established by Washoe County through approved area-wide improvement plans. The Washoe County Planning Department is currently processing the County Special Use Permit for the proposed project, and as a condition of approval, is expected to require the installation of the required street improvements along Incline Way, or pay an in-lieu fee to the County. See Condition 3.E. for further discussion.

Since the County has not identified Incline Court as a desired pedestrian route, but a sidewalk is required as part of the Community Plan, the County is expected to require the installation of the required street improvements along Incline Court as a condition of approval for the Special Use Permit.

3. **Coverage Mitigation:**

A water quality mitigation fee of $16,193.10 shall be paid to TRPA. This fee is based on the creation of 10,515 square feet of on-site land coverage at a rate of $1.54/Sq ft. The additional 6,973 square feet of land coverage will be transferred to the property, and is not subject to a water quality mitigation fee.

As a condition of approval for this permit, the applicant shall provide an estimate of the total amount of land coverage required for the road improvements along Incline Way and Incline Court. The area between the front property line and the edge of pavement along both road frontage property lines, has substantially sufficient existing soft coverage to accommodate the road frontage.
improvements and the driveway connection to Incline Way. The final site plans shall show all existing soft coverage adjacent to the property lines along Incline Way and Incline Court, including the road frontage improvements along Incline Court. All new coverage created in addition to the soft coverage areas, shall be subject to an off-site coverage mitigation fee of $12.00 per square foot.

E. **Building Height**: Three individual buildings are proposed for the project. Allowable and proposed building heights are described in the table below:

<table>
<thead>
<tr>
<th>Building No.</th>
<th>Roof Pitch</th>
<th>Building Cross Slope</th>
<th>No. of Stories</th>
<th>TRPA Code Max Allowable Height</th>
<th>Proposed Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6:12</td>
<td>6.5%</td>
<td>2</td>
<td>32 feet-9.5 inches</td>
<td>31 feet-8 inches</td>
</tr>
<tr>
<td>2</td>
<td>6:12</td>
<td>7%</td>
<td>2</td>
<td>32 feet-11 inches</td>
<td>30 feet-6 inches</td>
</tr>
<tr>
<td>3</td>
<td>6:12</td>
<td>7.5%</td>
<td>2</td>
<td>33 feet-0.5 inches</td>
<td>31 feet-6 inches</td>
</tr>
</tbody>
</table>

F. **Transportation and Air Quality**: 

1. **New Daily Vehicle Trip Ends**: 

   In accordance with TRPA’s published trip table (October 1995), apartment units each create 6.47 trips per day. For a 12-unit apartment complex, the project is expected to generate 77.64 new daily vehicle trip ends. This is considered an insignificant increase in traffic in accordance with Section 93.2.C of TRPA Code, and a traffic analysis is not required for the project. This section of Chapter 93 is presented below:

   **Section 93.2.C Insignificant Increase**: An insignificant increase is an increase of 100 or fewer daily vehicle trips, determined from the Trip Table (Subsection 93.2.H) or other competent technical information.

2. **Appliance emissions**: 

   Only one TRPA approved wood heater is proposed for the project. A TRPA approved gas fireplace is proposed for each of the 12 residential units. The applicant shall provide documentation of emission standards for these appliances, to ensure compliance with TRPA emission standards.

3. **Parking**: 

   The Site Design Chapter of the Signage, Parking, and Design Standards and Guidelines for the Community Plans of Washoe County document requires one parking space per two beds, and half a parking space per bedroom for multi-family dwellings. The project proposes 12 residential units with two bedrooms
each. Based on one bed per bedroom, staff has calculated the minimum parking requirement for the project at 24 parking spaces. The site plans for the project provide 24 parking spaces.

4. **Air Quality Mitigation:**

The project is subject to an air quality mitigation fee of $20,962.80 based on the addition of 77.64 daily vehicle trip ends generated by the project, at $270.00/trip.

G. **Site Disturbance and Vegetation Removal:** Due to the substantial amount of allowable land coverage pursuant to Chapter 20 of the Code, including landscaping and water quality improvements proposed for the project, a substantial amount of natural vegetation removal will be required within the project parcel. The parcel is 35,051 square feet, and the total area of site disturbance associated with land coverage, landscaping, and water quality improvements is expected to be approximately 24,599 square feet, which is approximately 70% of the parcel area. However, as shown on Attachment 2, the landscaped areas and grass swale detention basin area will be revegetated with TRPA approved species. The landscaping and grass swale areas account for approximately 7,111 square feet of the parcel, which is approximately 20% of the parcel area. The project is expected to result in the removal of 10 mature trees, consisting of Jeffrey pine and White fir trees with a DBH of 6 inches or greater, and several smaller trees. One Jeffrey pine with a DBH of 30 inches is identified on the site plans, which will be retained within the parcel. All remaining trees with a DBH of 6 inches or greater, will be protected with fencing set a minimum of one foot beyond the drip line of the tree crown.

H. **Density:** Community Plan Area Statement 045 requires a density of 15 units per acre for multi-family uses. The parcel size is 35,051 square feet, which allows a maximum of 12 units. The project proposes a total of 12 units, as shown on the site plans.

**Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18, 20, 22, and 64 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 hasbriefly 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 implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.**

   As discussed in the Staff Analysis section and the Initial Environmental Checklist, there is no evidence in the file and record showing that the proposed project will have an adverse effect on the Land Use, Transportation, Conservation, Recreation, Public Service and Facilities, or Implementation sub-elements of the Regional Plan.

   (b) **The project will not cause the environmental threshold carrying capacities to be exceeded.**

   TRPA staff has completed the “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. Also, the applicant has completed an Initial Environmental Checklist (IEC). 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 checklist and IEC will be made available at the Hearings Officer 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 TPRA Compact, the project meets or exceeds such standards. (Refer to paragraph 1.b, above.)

2. Chapter 18 – Special Use Findings:

(a) The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.

The proposed multi-family residential use is located within the Incline Village Commercial Community Plan, and the parcel area is designated as an Industrial Service Area through the Land Use Element of the Community Plan. The project parcel is further designated by Washoe County as having a General Plan land use designation and zoning district designation as General Commercial.

The project parcel is located on gradually sloped high capability land, which is expected to adequately accommodate the scale, density, and intensity of the proposed use, without causing adverse environmental impacts within the project vicinity.

Land use activities to the west and south of the project parcel consist of retail and warehouse manufacturing type commercial uses. Parcels adjacent to the north and west property lines of the project parcel, are expected to remain as open space. The adjacent parcel to the north is Forest Service land. The allowable land coverage development rights for the parcel to the west have been retired according to the applicant.

As explained in the Chapter 6 Findings, the proposed residential use is not expected to experience noise levels in excess of the applicable noise standards from the nearby commercial uses, and will benefit from the adjacent open space parcels to prevent further commercial encroachment.

Although the dominant surrounding land use within the project vicinity consists of commercial uses, the project is allowed as a special use at the proposed location. Further, the proposed residential use has potential to serve as workforce housing to the surrounding businesses.

(b) The project to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken
reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant’s property and that of surrounding property owners.

See response to Finding 2(a).

(c) 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.

See response to Finding 2(a).

3. Chapter 20 – Land Coverage Findings:

(a) The land coverage relocation is to an equal or superior portion of the parcel or project area.

The project does not propose the relocation of land coverage within the parcel pursuant to Section 20.5.C of the Code. The entire parcel is located within the Class 6 Land Capability District.

(b) The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

See Finding 3(a).

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

See Finding 3(a).

4. Chapter 22 – Height Findings:

(a) 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.

The proposed height of the residential structures will not extend above the existing forest canopy. The existing forest canopy of the mature conifers at the project site, are substantially taller than the proposed building heights.

(b) When outside a community plan, the additional height is consistent with the surrounding uses.

The project is not subject to special height exceptions, and is subject to and consistent with the height standards of Table A in Chapter 22 of the TRPA Code. Therefore, the proposed height of the residential structures is expected to be consistent with the surrounding uses.
(c) 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.

The proposed residential structures are not expected to interfere with existing views within the area. See Finding 4(b) for further explanation.

(d) The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height as calculated in Subsection 22.7(8) of the TRPA Code.

For Building 1, 90 percent of the maximum proposed building height is 28.49 feet. The maximum height at any corner of two exterior walls of the building does not exceed 20 feet.

For Building 2, 90 percent of the maximum proposed building height is 27.94 feet. The maximum height at any corner of two exterior walls of the building does not exceed 19 feet.

For Building 3, 90 percent of the maximum proposed building height is 28.35 feet. The maximum height at any corner of two exterior walls of the building does not exceed 20 feet.

5. Chapter 64 – Excavation Findings:

(a) A soils/hydrologic report prepared by a qualified professional, whose proposed content and methodology has been reviewed and approved in advance by TRPA, demonstrates that no interference or interception of groundwater will occur as a result of the excavation.

TRPA has reviewed the Soils/Hydrologic Scoping Report prepared for the project site, and has approved the depth of the proposed excavation to 10 feet below ground surface. The approved excavation depth is not expected to interfere or intercept groundwater.

(b) The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to Subsection 65.2.E, including root systems and hydrologic conditions of the soil.

The project site plans provide engineered drawings to require all remaining mature trees to be protected with drip-line fencing, in accordance with Chapter 65 of TRPA Code and the Handbook of Best Management Practices. The project is also subject to all other applicable standards for protection of roots and hydrologic conditions of the soil.

(c) Excavated material is disposed of pursuant to Section 64.5 and the project area’s natural topography is maintained pursuant to Subparagraph 30.5.A(1); or if groundwater interception or interference will occur as demonstrated by a soils/hydrologic report prepared by a qualified professional, the excavation can be made as an exception pursuant to Subparagraph 64.7.A(2) and measures are included in the project to maintain groundwater flows to avoid adverse impacts to
SEZ vegetation, if any would be affected, and to prevent any groundwater or subsurface water flow from leaving the project area as surface flow.

The project is expected to have an excess of 59 cubic yards that will be disposed of at a TRPA approved location in accordance with the standards of Section 64.5 of the Code. Since the project occurs within the Incline Village Commercial Community Plan, the project is subject to and consistent with the design standards of the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County. See Finding 5(a) for further explanation.

**Required Actions:** Agency staff recommends that the Hearings Officer approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. Approve the findings contained in this staff summary, and a Finding of No Significant Environmental Effect.

II. Approve the project, based on the staff summary, subject to the conditions contained in the attached Draft TRPA permit.

**Attachments:**

1. Draft Permit
2. Site Plan and Building Elevations
3. Project Vicinity Map
Attachment 1

-D-R-A-F-T-

PERMIT

PROJECT DESCRIPTION: 12-Unit New Multi-Family Dwelling

APN: 132-232-02

PERMITTEE(S): Falcon Capitol, LLC

FILE #20050571

COUNTY/LOCATION: Washoe County/Incline Village Commercial Community Plan

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on Date of hearing, subject to the standard conditions of approval attached hereto (Attachment R, Q, S or other) and the special conditions found in this permit.

This permit shall expire on Date permit expires (usually 3 years from date of hearing) 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/CITY BUILDING PERMIT. THE COUNTY/CITY 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/CITY 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 ______________________

/jmc

PERMIT CONTINUED ON NEXT PAGE
Air Quality Mitigation Fee (1): Amount $20,962.80 Paid _____ Receipt No. ______
Excess Coverage Mitigation Fee (1): Amount $ _____ Paid _____ Receipt No. ______
Water Quality Mitigation Fee (2): Amount $16,193.10 Paid _____ Receipt No. ______
Offsite Coverage Mitigation Fee (3): Amount $ Undetermined Paid _____ Receipt No. ______
Security Posted (4): Amount $______ Posted _________ Type _____ Receipt No. ______
Security Administrative Fee (5): Amount $______ Paid _____ Receipt No. ______

Notes:
(1) See Special Condition 3.D., below.
(2) Amount to be determined for off-site coverage. See Special Condition 3.F., below.
(3) Amount to be determined. See Special Condition 3.G., below.
(4) $141 if a cash security is posted, or $73 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. This permit specifically authorizes a 12-unit multi-family housing complex, at 222 Incline Court, Washoe County. The 12 units will be housed within three separate detached buildings, and will be deed restricted as moderate-income housing. The project will result in a maximum on-site land coverage amount of 17,488 square feet, and 511 square feet of off-site coverage for a driveway connection to Incline Way. As a requirement of the Incline Village Commercial Community Plan and Washoe County standards, the project is also required to provide road frontage improvements along Incline Way and Incline Court, subject to the specifications of Washoe County. A total estimate of off-site land coverage for the required road improvements (i.e., sidewalks, etc.) shall be provided pursuant to Condition 3. D. of this permit, and shall be subject to an off-site coverage mitigation fee for all new coverage created in addition to the existing soft coverage along the road frontage property lines.

2. The Standard Conditions of Approval listed in Attachment R 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) A designated snow storage area within the project area, adequately sized to store snow removed from parking, driveway, and pedestrian access areas, or have arrangements by means of recorded easements or equivalent arrangements to remove and store accumulated snow off-site.

(2) Details of the proposed play equipment area. Any land coverage created by this structure shall be accounted for in the land coverage calculations.

(3) Washoe County is expected to require the installation of the required road frontage improvements along Incline Court as a condition of approval for the County Special Use Permit. This permit is subject to all road frontage improvements required by the County Special Use Permit, and the Site Design Chapter of the Signage, Parking, and Design Standards and Guidelines for the Community Plans of Washoe County document, as described in the Staff Analysis section of this staff summary. All road frontage improvements along Incline Court shall be shown on the final site plans for this permit. The final site plans shall identify any areas where new coverage will be created in addition to the existing soft coverage areas along the property line adjacent to Incline Court.

If the applicant chooses to construct the road frontage improvements along Incline Way, then all improvements shall be shown on the final site plans for this permit. The final site plans shall identify any areas where new coverage will be created in addition to the existing soft coverage areas along the property line adjacent to Incline Way. All conditions as stated above shall apply to the improvements along Incline Way.

(4) All existing soft coverage between to the edge of pavement and the front property lines along Incline Way and Incline Court shall be shown on the final site plans.

(5) Washoe County is expected to require the installation of a solid wall or fence along the southern property line of the parcel, from the western most corner to within 10 feet of the front property line as a condition of approval for the County Special Use Permit. The wall of fencing shall be shown on the final site plans for this permit.

(5) Any site plan revisions required by Washoe County or any other agency shall be shown on the final site plans for this permit.

(6) An irrigation plan, drawn at a scale identical to the required site plan, shall include at a minimum:
   a. Location, size, and specification of water source(s), water mains, meter(s), valves, and the controller;
   b. Temporary or permanent water irrigation systems;
   c. Specifications of irrigation equipment identified by the manufacturer’s name and equipment identification number; and
   d. An approved backflow prevention device is required on all landscape irrigation systems.
e. The irrigation system shall comply with all applicable irrigation standards identified in the Landscaping Chapter of the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.

(7) A revised landscaping/planting plan to include at a minimum:

a. Existing vegetation, natural features and site improvements on adjoining properties within 10 feet of the property line;

b. A plant list, which includes the identification of existing plants, the quantity of proposed plants, existing plants to remain, number of proposed trees, number of existing trees to be preserved, and the amount of turf. The species of turf proposed for the play area shall be identified and included on the TRPA Recommended Plant List. The species Pauite orchardgrass proposed for the drainage swale is not included on the TRPA Recommended Plant List; an alternate species on the TRPA Recommended Plant List shall be used instead;

c. For the parking spaces along the Incline Way property line, a landscaped berm and/or decorative wall or fence shall be provided within all required yards adjacent to the parking or loading area.

d. Mounds of earth used for planting shall not exceed horizontal to vertical slopes of two to one (2:1);

e. Any tree planted within five feet of publicly maintained curbing, pavement, or sidewalks shall install a root control barrier as prescribed by the County. Landscaping for a private development may be placed in a public right-of-way subject to the issuance of a valid encroachment permit.

f. Planting areas with trees within parking and loading areas shall be at least eight feet wide at the base of the tree in all directions;

g. Ground cover or mulch shall be used in all planting areas. Turf is not allowed in parking lot tree planters;

h. Shrubs shall be a minimum of three gallon pot size, where upright shrubs have a minimum height of 18 inches and minimum spread of 18 inches; and, spreading shrubs have a minimum spread of 18-24 inches.

i. Living ground cover shall be planted to achieve a minimum planting area coverage of 50 percent within one year of installation, and shall achieve 100 percent coverage within three years of installation;

j. Turf areas shall be provided at a minimum of 50 percent of the required landscaping area in a practical configuration for recreational uses, and shall be balanced with other landscaping materials;
k. A minimum three inch layer of organic mulch material, such as pine needles, shall be installed in all planting areas except turf areas and meadow planted areas;

l. Landscaping, irrigation, and screening shall be completely installed prior to release of security. The security required under Standard Condition A.3 of Attachment R shall be equal to 110 percent of all required Best Management Practices required for the project, but not less than $5,000. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

m. A qualified designated representative of the individual or firm, which prepared the plans, shall conduct a final field inspection prior to release of the security. It shall be unlawful to occupy the premises unless the required landscaping, irrigation, and screening is installed in accordance with these regulations, or a faithful performance bond, or other satisfactory guarantee of completion insuring the faithful performance of all work, is accepted by the TRPA.

n. The grass swale detention basin shall be revised to be shown as vegetated on the landscaping plan, for consistency with the grading plan.

o. The landscaping design shall comply with all applicable standards identified in the Landscaping Chapter of the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.

(8) A revised erosion control plan showing the following:

a. Vegetation protective fencing around the entire construction site. The fencing shall be redesigned to be no more than 12 feet from any footprint, driveway, or area of approved disturbance. Trees located within the construction area that are to be retained shall be individually protected by fencing.

b. The grass swale detention basin shall be designed to minimize disturbance to the existing trees and understory vegetation located in the proposed area.

c. All tree 6 inches DBH or greater shall have protective fencing placed a minimum of one foot beyond the dripline of the tree crown. A revised note shall be provided on the Erosion Control Plan, and further described on Sheet C3 of the site plans.

d. Existing vegetation and ecological communities shall be protected and preserved to the extent possible.

(9) A lighting plan demonstrating how exterior lighting will be shielded or hooded to direct light downward. All exterior lighting shall comply with the standards of the Exterior Lighting Chapter of the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.
(10) A revised sheet C3, detail plan or separate documentation, providing the following:

a. Infiltration calculations for the dripline trenches and grass swale detention basin to accommodate the volume from a 20-year, one hour storm event.

b. Culvert sizing calculations demonstrating that the driveway culvert can accommodate the volume of a 10-year, 24-hour storm event.

c. The height of the erosion control fencing shall be at least 48 inches high and shall be constructed of metal posts, and either orange construction fencing or metal mesh fencing also at least 48 inches high.

d. The height of the trash enclosure fencing shall be revised to not exceed 6 feet, for consistency with Sheet A1 and C3 of the site plans.

B. A letter of authorization from the applicable public utility district for all basic service requirements applicable to Chapter 27 of TRPA Code, including minimum fire flow standards in accordance with Section 27.3.B., Table 27-1.

C. Excess fill material shall be disposed of as follows:

1. Temporary stockpiling all or some of the topsoil on the site for use on areas to be revegetated.

2. Disposal of the material at a location approved by TRPA, or

3. Export of the materials outside the region.

D. A water quality mitigation fee of $16,193.10 shall be paid to TRPA. This fee is based on the creation of 10,515 square feet of on-site land coverage at a rate of $1.54/Sq ft. The permittee shall provide an estimate of the total amount of off-site coverage required for the road frontage improvements along Incline Way and Incline Court, including the driveway connection to Incline Way. All new off-site coverage created in addition to the existing soft coverage areas adjacent to the road frontage property lines, shall be subject to an off-site coverage mitigation fee of $12.00 per square foot. See Condition E. for further explanation.

E. The Washoe County Planning Department is expected to require the installation of the required street improvements along Incline Way, or pay an in-lieu fee to the County. The in-lieu fee will be deposited in the Incline Village Commercial Community Plan account for future improvements within the plan area. The in-lieu fee will be based on 125% of the cost for design, inspection, materials, and labor for installing the street improvements in accordance with County standards. If the applicant chooses to pay the in-lieu fee, the applicant shall submit a detailed estimate to Community Development for the County Engineer's review and approval. If accepted, the applicant shall pay a fee of 125 percent of the approved estimate prior to obtaining a Certificate of Occupancy. Regardless of whether the permittee chooses to pay the in-lieu fee or construct the required road improvements, all new off-site coverage created by the road improvements is subject to an off-site coverage mitigation fee pursuant to Condition D above.
Since the County has not identified Incline Court as a desired pedestrian route, but a sidewalk is required as part of the Community Plan, the County is expected to require the installation of the required street improvements along Incline Court as a condition of approval for the County Special Use Permit. All road frontage improvements along Incline Court shall be shown on the final site plans for this permit. All new off-site coverage created by the road improvements is subject to an off-site coverage mitigation fee pursuant to Condition D above.

F. The permittee shall submit a $20,962.80 air quality mitigation fee. This fee is based on the addition of 77.64 daily vehicle trip ends at $270.00/trip.

G. The security required under Standard Condition A.3 of Attachment R shall be equal to 110 percent of all required Best Management Practices required for the project, but not less than $5,000. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

H. Through one or more separate permit applications, the permittee shall transfer a total of 6,973 square feet of coverage to the project parcel. Since the parcel consists entirely of Class 6 land capability land, the parcel is eligible to receive transferred land coverage from any land capability class. All of the transferred land coverage shall be located within Hydrologic Transfer Area 1. All coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances, and the TRPA Rules of Procedure.

I. Through a separate permit application, the permittee shall apply for the existing residential units of use from APN 129-280-20, to be transferred to the project parcel for the 12 proposed multi-family units.

J. The permittee shall complete and record a deed restriction (to be prepared by TRPA) that ensures that the approved residential units satisfy all TRPA moderate-income housing requirements. A copy of the recorded deed restriction shall be provided to TRPA prior to acknowledgement of this permit. The residential units shall be used exclusively by permanent residents with an income not in excess of 120 percent of Washoe County median income.

K. No trees shall be removed (other than those shown on the approved site plan) or trimmed for view enhancement purposes without prior TRPA written approval as per the conditions of the Landscape and Revegetation Plan.

L. This approval is based on the permittee’s representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

M. All trash storage and enclosures shall be screened from public view in accordance with the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.

N. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground. Roofs, including mechanical equipment and skylights, shall be constructed of non-glare finishes that minimize reflectivity. The project is
subject to all applicable screening and glare standards of the Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.

O. 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.

P. The permittee is responsible for insuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.

Q. This site shall be winterized in accordance with the provisions of Attachment R by October 15th of each construction season.

R. The permittee shall submit a projected construction completion schedule to TRPA prior to commencement of construction. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.

S. The permittee shall submit three sets of final construction drawings and site plans to TRPA.

T. By acceptance of this permit, the permittee agrees that any of the remaining native trees that fail due to the project construction, or within five years of project completion, shall be replaced in substantially the same location by a healthy specimen of the same or similar species.

U. By acceptance of this permit the permittee agrees to participate in a Landscape and Revegetation Monitoring Plan that will implement the following measures designed to provide reasonable assurance as to the success of the proposed Landscape Plan. The property will be monitored by a qualified individual or company ("Monitor") to evaluate and ensure the success of the Landscape and Revegetation Plan. The permittee shall provide a security to TRPA in an amount equal to 110% of the total costs of landscaping the subject properties. The measures to be implemented are as follows:

1. The Monitor shall submit annual reports to the TRPA Scenic Program Manager no later than October 31st of each year through 2007.
2. Each submission shall contain, at a minimum, 5 photographs of the property.
3. Each submission shall analyze, in detail, the success of the Landscape and Revegetation Plan.
4. Each submission shall describe in detail the actions taken to remedy any identified loss of vegetation on the property consistent with the approved Landscape and Revegetation Plan. Such remediation shall include, but not limited to, the replanting of vegetation placed on the property based on the Landscaping Plan.
5. The Monitor shall be available, with reasonable notice, to discuss the progress of the Landscaping Plan with the TRPA Scenic Program Manager.
6. In order to assure the success of the Landscape and Revegetation Plan, no trees not already designated on the site plan, may be removed without prior TRPA approval.
7. The Landscape and Revegetation Monitoring Plan conditions shall be in full force and effect for five years after project completion.
V. Excavation equipment shall be limited to the foundation footprint to minimize site disturbance. No grading or excavation shall be permitted outside of the approved disturbance areas.

W. No grading or excavation shall be permitted except as shown on the plans.

X. All waste resulting from the saw-cutting of pavement shall be removed using a vacuum (or other TRPA approved method) during the cutting process or immediately thereafter. Discharge of waste material to surface drainage features is prohibited and constitutes a violation of this permit.
MEMORANDUM

To: Hearings Officer and other interested parties
From: Brenda Hunt, Associate Planner II, ERS
Date: 7/27/05
Subject: APN: 017-041-17/ Plan Revision to 19990015

**Project Description:** The project is a plan revision to the previously approved single piling floating pier (TRPA File # 19990015). The project was previously approved at the September 26, 2005, Hearings Officer public hearing. The project is to revise the pier to a fixed 130 x 6 feet single-piling fixed pier, with a 10 x 45 feet pierhead and a 3 x 45 feet adjustable catwalk. The pier is being revised at the request of the Tahoe Regional Planning Agency to be a fixed pier as studies conducted on floating piers have indicated that there is a potential for the floating structure to cause littoral drift problems, especially in sandy areas, during periods of low water. No other substantive changes are proposed.

**Location of Subject Parcel:** 8801 One Ring Road, El Dorado County, CA.

**Applicant:** Bill and Michelle Green, Owners; Jerusha Hall, Hall Environmental & Jen Mader, Planning Solutions, Agents

The revised staff summary is attached to this memo. All revisions are made in **bold italics**.
Project Name: Green New Floating Pier and Two Mooring Buoys

Application Type: Shorezone

Applicant: Bill and Michelle Green, Owners; Jerusha Hall, Hall Environmental & Jen Mader, Planning Solutions, Agents

Agency Planner: Brenda Hunt, Associate Planner II

Location: 8801 One Ring Road, El Dorado County, CA

Assessor's Parcel Number / File Number: 017-041-17/19990015

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 build a new single piling 130 ft. long/6 ft. wide fixed pier, with a 10 x 45 feet pierhead and a 3 x 45 feet adjustable catwalk. No pilings or railings are proposed to extend above the pier deck. Downcast tortoise style lighting will be placed on the pier deck. The application also includes the removal and reconstruction of an existing flume structure, and the placement of two new mooring buoys.

Site Description: The upland project area is 18.1 acres and has approximately 220 feet of shoreline. The upland area (Green Camp) is undergoing a renovation and rebuild (TRPA File #: 980432). The site contains native forest and riparian vegetation, including a population of the Tahoe Yellow Cress. The shorezone contains a flume at the outlet of Rubicon Creek that dates back to at least the 1940’s based on photographic evidence, with verbal evidence dating to the 1920’s. The lake-bottom substrate in the project area is sandy and has been mapped and verified as marginal fish habitat. The parcel is composed of Land Capability District 1b (backshore and SEZ), 2, 3, and 5 and is visible from Scenic Shoreline Travel Unit (8), Rubicon Point, and Scenic Roadway Unit (4), D.L. Bliss State Park. The proposed project, however, is not visible from the highway unit.

Issues: This project involves the building of a new pier and the placement of two new buoys and, therefore, requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. Additionally, the shorezone contains a non-conforming structure (the flume) that currently acts as a barrier to upstream fish migration. Tahoe Yellow Cress has also been identified on this adjacent to both sides of the flume. The primary issues associated with this project are scenic quality, fisheries and the protection of existing native vegetation.

The proposed project is visible from Scenic Shoreline Unit Number 8, which is not currently in attainment with the established scenic threshold. The project is visible from DL Bliss State Park Beach and is located within the sandy shoreline of Paradise Flat, an identified TRPA scenic resource. The TRPA staff has worked with the applicant’s representative to develop a scenic mitigation package that improves the scenic quality of the unit and is consistent with the recommendations identified in the Scenic Quality Improvement Program (SQIP). The applicant has proposed to mitigate the scenic impacts by constructing a floating pier, as opposed to a fixed pier structure. The backshore area will be enhanced with additional native vegetation suitable for the backshore type and conditions. These plantings will also help to screen existing and proposed upland structures. The proposed project involves the removal and reconstruction of an existing flume structure to allow the passage of fish upstream. This structure will be
The existing flume has a concrete base along the entire length and will be reconstructed to contain pools and riffles which fish can pass through more easily.

Approximately 62 Tahoe Yellow Cress (*Rorippa subumbellata*) plants were found in the summer of 2001 in the backshore area near and adjacent to the flume. The population was re-surveyed on July 18, 2005 and still occurs in the protection zones as indicated on the draft construction site plans. The applicants have submitted a preliminary protection and monitoring plan for the Tahoe Yellow Cress population. Two trees over 6 inches in diameter, currently adjacent to the flume, are slated for removal. The permit will be conditioned to ensure the protection of the Tahoe Yellow Cress and the remaining existing vegetation.

Staff Analysis:

A. **Environmental Documentation**: The applicant has completed an Initial Environmental Checklist (IEC), provided a preliminary Tahoe Yellow Cress Protection Plan, and have submitted a visual simulation in order to assess the potential environmental impacts of the project. 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 Preliminary Tahoe Yellow Cress Protection Plan, and the visual simulation will be made available at the Hearings Officer hearing and at the TRPA offices.

B. **Plan Area Statement**: The project is located within Plan Area Statement Number 147 (Paradise Flat). The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed uses (pier and buoys) are allowable accessory structures in the Plan Area Statement and single-family dwellings are an allowed use. The applicant is currently in the process of building the TRPA approved Green Camp, a single-family residence, which is considered the primary use on the parcel.

C. **Land Coverage**: (See Attachment B: Land Coverage Table)

   1. **Land Capability District**: The land capability districts of the project area include classes 5, 2, 3, and 1b (backshore and SEZ). The total project area is 18.1 acres.

   2. **Total Allowable Land Coverage**: 71,503 square feet

   3. **Total Existing Land Coverage**: 49,650 square feet

   4. **Proposed Land Coverage**: 60 square feet

   5. **Excess Land Coverage Mitigation**: The applicant will be required to mitigate the excess land coverage within the project area in accordance with Chapter 20 of the TRPA Code of Ordinances.

D. **Shorezone Tolerance District**: The subject parcel is located within Shorezone Tolerance District 7. Projects within Shorezone Tolerance District 7 must ensure stabilization and the least environmental impact to the foreshore and backshore. Vehicle access to the shoreline is not permitted and pedestrian access to the shoreline is limited to stabilized access ways. The project, as conditioned, complies with the Shorezone Tolerance District Development Standards.

E. **Required Findings**: The following is a list of the required findings as set forth in Chapters 6, 20, 50, 51, 52, 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 proposed project involves the construction of a new pier and placement of two new buoys, which are allowed accessory structures to the primary allowed use (Single Family Dwelling). The project 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. Lester Beach located within D. L. Bliss State Park, is two parcels to the south. 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 proposed colors and design for all the structures are consistent with the TRPA Design Review Guidelines. The applicant has proposed a landscaping plan that will mitigate potential adverse scenic impacts to the views from the Lake and Lester Beach (D. L. Bliss State Park). The existing flume at the mouth of Rubicon Creek has been identified as an impediment to upstream fish passage. The applicant has redesigned the flume to allow fish to access the upper reaches of Rubicon Creek more readily. A fish migration monitoring plan must be submitted as a condition of the permit. Tahoe Yellow Cress (*Rorippa subumbellata*) has been identified on the parcel. A preliminary protection plan has been submitted for TRPA review. The permit will be conditioned to ensure a finalized protection and monitoring plan are submitted and implemented as part of the project. The applicant will install the required Best Management Practices (BMPs) on the parcel, in accordance with Chapter 25 of the TRPA Code. No shorezone structures were listed as being of historical significance according to a letter from Daniel Abeyta of the California Office of Historic Preservation dated August 31, 1998. TRPA Cultural Resources maps identify a Washoe Indian Special Function site in the vicinity of the project area. A Timber Harvesting Plan dated 9/27/97 and a letter dated November 10, 1997 indicate that there are approximately 10 archeological resource sites on the subject property. These sites have been recorded in a Confidential Archaeological Addendum. The permit will be conditioned to ensure that the proposed project will not impact these resources.

   (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. By remaining consistent with existing development, the proposed pier will not adversely affect recreational boating or top-line angling.

   (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 Hearings Officer 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.

The proposed project will require that 121 square feet of coverage be relocated in the SEZ or the backshore to allow access to the pier. All relocated land coverage is being relocated within Class 1b (backshore/SEZ). There is no relocation of land coverage from a higher class to a lower class. 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.

b. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

Restoration will be undertaken pursuant to Subsection 55.6 and 20.4.C. of the TRPA Code of Ordinances. All restoration activities will use species listed on the TRPA-approved plant list as species appropriate for the backshore/SEZ site conditions.

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

No land coverage is proposed to be relocated from a higher land class to a lower class. All relocation will occur within land class 1b (backshore/SEZ).

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.

(1) The proposed project will not have an impact on existing littoral processes. The proposed pier is a single-piling floating pier that will be not less than 90 percent open. The flume structure will be rebuilt in the existing location and will not change the existing littoral processes.
(2) The proposed project is located in mapped and verified marginal fish habitat. Rubicon Creek is discussed in both the original TRPA fisheries threshold evaluations and the PAS 147 as having a dam structure that impedes fish access to the creek. The rebuild of the flume, as proposed, will result in an increase in fish spawning in Rubicon Creek. The pier and two mooring buoys will not adversely impact fish spawning.

(3) The project, as conditioned, will not adversely impact backshore stability. All disturbed areas will be restored and revegetated with appropriate native species for the backshore site conditions. Temporary BMPs and vegetation protection fencing will be required to ensure existing backshore vegetation, including Tahoe Yellow Cress (*Rorippa subumbellata*), is protected during the reconstruction of the flume. The TRPA Forester has approved the removal of two trees that have grown up next to the existing flume walls. Access to the proposed pier will be from a fixed ramp located on the sandy beach partially above MHW (6229.1’).

(4) With exception to fisheries and Tahoe Yellow Cress mentioned above, 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 is located in the shorezone of a property that has existing residential use. The pier and buoys 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 and two mooring buoys will not extend beyond the TRPA pierhead line.

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 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 and placement of the buoys will be
accomplished from the lake by barge. The construction of the flume will require a small bobcat to access the backshore. Landing pads will be used, in conjunction with other temporary BMPs and vegetation protection, to delineate access across the backshore and to ensure the sandy areas are not undermined. Other measures may be required by the TRPA Compliance Officer as appropriate. The permit will be conditioned to ensure the construction methodology is consistent with the Swanson Hydrology and Geomorphology Report (Rubicon Creek Draft Flume Enhancement Plan) dated February 12, 2002. Prior to permit acknowledgement, a final Flume Enhancement Plan will be required.

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 the TRPA pierhead line. The U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers have completed a preliminary review of the project and commented that no safety or navigation impacts have been identified.

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, Lahontan Regional Water Quality Board, California Fish and Game, and the U.S. Army Corps of Engineers. The project was taken before the Shorezone Review Committee in April 1999, June 2002 and July 2005. Additional comments were solicited from the listed agencies as part of the review of this project. California State Lands have requested further information on the Tahoe Yellow Cress Protection Plan prior to approval of the project. The Corp indicated that they had no concerns regarding the proposed project. No other comments were received from other agencies.

4. Shorezone Findings (Chapter 51):

a. The modifications to the existing non-conforming use do not increase the extent of nonconformity.

The existing flume is a non-conforming use according to the TRPA Code. The proposed reconstruction and modification of the existing flume structure will not increase the extent of nonconformity, nor will it bring the structure more into conformity. The proposed structural modifications, pursuant to Section 79.2.B (4), will provide a pool and riffle system through the bottom of the flume as opposed to the existing flat concrete base. This proposed design should provide for an increase in the passage of fish upstream. The reconstruction will use color materials that comply with the Design Standards set forth in Section 53.10. A of the Code, to better match the surrounding sandy beach.

5. Shorezone Findings (Chapter 52):

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

See 4.a above.
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.

See 4.a above.

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

All of the required BMPs will be installed as a condition of approval.

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

Consistent with TRPA Code Section 53.10, the color of the reconstructed flume will be compatible with the surroundings. Conditions of approval will ensure that earth tone colors are used on the flume 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 three years.

The existing flume has been maintained and serviceable since it was built prior to the 1940’s.

F. Required Actions: Agency staff recommends that the Hearing Officer take the following action:

I. Approve the findings obtained in the staff summary, and a finding of no significant environmental effect.

II. Approve the project based on the staff summary, subject to the conditions contained in the attached draft permit.
PERMIT

PROJECT DESCRIPTION: Green New Floating Pier and Two Mooring Buoys

APN: 017-041-17 FILE NO. 990015

PERMITTEES: Michele and Bill Green

COUNTY/LOCATION: 8801 One Ring Road/El Dorado County

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on September 26, 2002, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on September 26, 2005, 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
Excess Coverage Mitigation Fee (1): Amount $ _____ Paid _______ Receipt No. ________

Shorezone Mitigation Fee (2): Amount $4,900 Paid _______ Receipt No. ________

Security Posted (3): Amount $10,000 Posted _______ Receipt No. _______ Type ________

Security Administrative Fee (4): Amount $ _______ Paid _______ Receipt No. ________

Security Posted (5): Amount $5,000 Posted _______ Receipt No. _______ Type ________

Security Administrative Fee (6): Amount $ _______ Paid _______ Receipt No. ________

Notes:
(1) *Amount to be determined. See Special Condition 3.B, below.
(2) See Special Condition 3.C, below.
(3) See Special Condition 3.D, below.
(4) $139 if cash security is posted, or $72 if non-cash security is posted. See attachment “J”
(5) See Special Condition 3.E below.
(6) $144 if cash security is posted, or $74 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-acknowledgment conditions of approval as of this date:

TRPA Executive Director/Designee __________________________ Date __________________________

SPECIAL CONDITIONS

1. This permit specifically authorizes the building of a new single piling fixed pier. The pier shall extend to the pierhead line or 120 feet in length (as measured from MHW 6229.1’ Lake Tahoe Datum), whichever is more restrictive. The pier shall include a 10 X 6 feet ramp/extension landward of highwater. The pier shall also have a 10 x 45 feet pierhead and a 3 x 45 feet adjustable catwalk. Downcast tortoise style lighting to cast light on the pier deck only is authorized on the pier deck. This permit authorizes no railings above the pier deck. Two mooring buoys are also authorized by this permit. The pier and the mooring buoys shall be placed a minimum of 20 feet inward of the TRPA setback lines for APN: 017-014-17. Additionally, the permit authorizes the removal and reconstruction of the existing flume at the outlet of Rubicon Creek into Lake Tahoe as per the Rubicon Creek Draft Flume Enhancement Plan dated February 12, 2002.

2. The Standard Conditions of Approval listed in Attachments Q and S, where applicable, 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 following revised land coverage calculations:
       a. Allowable land coverage for each land capability district including the backshore area.
       b. Existing land coverage calculations consistent with the land coverage approved by the TRPA on February 26, 1999 (TRPA File No. 980432).
       c. Proposed land coverage calculations for each land capability district including the backshore area.
       d. Previously mitigated land coverage for each land capability district, including the backshore area.

   (2) The location of not less than 25.5 sq. ft. of Land Capability District 1b to be relocated and restored to provide the 17 sq. ft. of coverage required in the backshore (1b) for access to the pier.

   (3) A corrected, to scale, drawing of the pier, which is consistent with the 121 sq. ft. coverage calculations required within the backshore.

   (4) The buoy locations shall be revised to be within the required 20 ft setback lines per Chapter 54 of the Code of Ordinances and placed in front of the proposed pier in the northern portion of the parcel.

   (5) The location of all existing vegetation to be protected and/or removed within the project area, including the location of the Tahoe Yellow Cress population on the parcel.

   (6) The location of the vegetation protection fencing for the Tahoe Yellow Cress population.

   (7) Detail of flume construction, including the location and measurements (depth, length, and width) of the sandbag diversion, dewatering pipe, and dewatering basin.

   (8) The ingress and egress of construction traffic to and from the staging area for the construction of the flume.

   (9) The location of the landing mats to be used during the reconstruction of the flume.

   (10) TRPA approved low level lighting details for the pier as per Standard 54.4 Guideline 6 in the TRPA Design Review Guidelines.

   (11) 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.”

   (12) All required permanent Best Management Practices (BMP’s) for the entire project area.

   (13) Temporary erosion control structures 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.

(14) Vegetation protective fencing around the entire construction site. Where a tree exists within the construction area, the vegetation protection fencing must be placed beyond the drip-line of the outermost branches.

(15) Parking barriers, wood bollards, to restrict parking to approved parking surfaces only.

B. The permittee shall mitigate 7047 square feet of excess land coverage on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area Number 1, Incline. This amount is based on the previous unmitigated excess coverage (7047 sq. ft.).

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 0.0012 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.

C. The permittee shall submit a pier mitigation fee of $4,900 for the construction of 130 feet of new pier (assessed at $30/linear foot) and a two mooring buoys (assessed at $500 each).

D. The security required under TRPA Code Section 8.8 shall be $10,000. Please see Attachment J, Security Procedures for appropriate methods to post a security and the required Security Administrative Fee.

E. The applicant is also the owner of APN: 017-041-018. The two mooring buoys currently located off APN: 017-041-018 have not been permitted by the TRPA and must be removed as a condition of this permit. Please supply written documentation and photographs for TRPA review and approval verifying the structures have been removed or submit documentation that an application has been filed with TRPA within 90 days of permit approval to place the buoys in a buoy field off APN: 017-041-17. A $5,000 security shall be submitted at the time of acknowledgement to ensure the buoy application process is completed.
F. **This condition shall be deleted @ 8/04/2005 Hearings Officer as it does not apply to the revised pier design.** The pilings shall be a maximum height of elevation 6233.1 feet, which is four feet above the maximum deck height at MHW 6229.1 Lake Tahoe Datum. If additional height is necessary for safety reasons, or the local wave characteristics represent a threat to the integrity of the structure, the applicant shall submit for TRPA review and approval, written justification to allow the pilings to be extended. In no case shall the pilings be extended to allow the deck to be higher than elevation 6234 feet.

G. The landscape plan shall be revised to ensure it meets scenic mitigation requirements, but does not impact the existing Tahoe Yellow Cress population. All landscaping shall be revegetated in accordance with the TRPA Handbook of Best Management Practices and the Tahoe Yellow Cress Conservation Strategy. No lawn or turf grass shall be permitted in the backshore area. The final landscape plan shall be reviewed and approved by TRPA prior to permit acknowledgement.

H. The final construction drawings shall have notes indicating conformance to the following design standards for color:

1. **Color:** The color of this structure, including any fences on the property, shall be compatible with the surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within the range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish brown, brown, ochre, and umber.

I. Final pier and buoy construction drawings shall conform to all the applicable design standards of Section 54.4.B. and 54.6.B, TRPA Code of Ordinances, and all other applicable TRPA design standards.

J. The permittee shall submit a construction schedule prior to commencement of construction. This schedule shall identify dates for the following: when installation of temporary erosion control structures and caissons will occur; 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.

K. The permittee shall submit a Final Tahoe Yellow Cress Protection and Monitoring Plan to be reviewed and approved by the TRPA.

L. The permittee shall submit a Final Rubicon Creek Flume Enhancement Plan which includes a fish migration monitoring plan to be reviewed and approved by the TRPA.

M. The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.

4. The TRPA Cultural Resource Maps identify a cultural resource in the vicinity of the subject parcel. If any historic or prehistoric ruins or monuments or objects of antiquity are discovered, all grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall immediately cease and shall not recommence until a recovery plan, prepared by a qualified professional, at the cost of the applicant, is approved by the TRPA. TRPA will coordinate with the appropriate local, state or federal entities, including Tribal Nations, to determine whether the site should be nominated as a
historic resource. The property owner shall provide protection for the discovered material thing this period.

5. The permittee shall restore a portion of Land Capability District 1b in the backshore or SEZ in the amount of 1.5 times the amount of land in the backshore to be covered.

6. Prior to construction of the flume, the project engineer may revise the Rubicon Creek dewatering methodology and process at the discretion of the TRPA Environmental Compliance Officer. Revisions may include, the use of a turbidity curtain be considered based on Lake elevations, length of construction, volume of water within Rubicon Creek, and weather patterns.

7. Excavation equipment shall be limited to the foundation footprint of the flume to minimize site disturbance. No grading or excavation shall be permitted outside of the flume footprint unless approved by TRPA.

8. 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.

9. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction.

10. 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 re-suspension of lakebed sediments during construction.

11. 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.

12. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

13. All construction activity shall take place during the non-spawning season, between July 1 and October 1. An additional second winter construction window for the portions of the pier located below highwater, Elevation 6292.1 LTD, may be opened between November 15 and April 1 while the permit is considered active. Authorization of the second winter construction window is subject to TRPA review and approval, and shall be based on the permittee’s submittal of advice from an appropriately qualified professional regarding whether the in-stream and in-lake water temperatures are still appropriate for spawning. If the water temperatures are appropriate for spawning during the proposed winter window, the construction window shall be reduced accordingly.

14. Prior to return of the posted security, the permittee shall submit post-construction photos demonstrating any resultant impacts to scenic quality as viewed 300 feet from shore looking landward, from the shore at Lester Beach (D.L. Bliss State Park) looking north, and to lake bottom conditions as viewed from the subject parcel.

15. All existing trees on this parcel between the lake and the residence shall be considered as scenic mitigation and shall not be removed or trimmed without prior written TRPA approval. Any such removal or trimming shall constitute a violation of project approval.
16. By acceptance of this permit, the permittee agrees that all scenic design and mitigation measures outlined in the scenic analysis are hereby included as conditions of project approval and will be implemented as such.

17. No trees shall be removed other than those shown on the approved site plan without prior written approval from the TRPA.

18. Unless otherwise approved by the TRPA Environmental Compliance Officer, all pier construction access shall be from the lake, via barge. Vehicular access to the shoreline is prohibited for construction of the pier. In addition, storage of materials and equipment within the backshore is prohibited.

19. The permittee shall display a TRPA Buoy Identification Tag for each permitted buoy at all times. Upon placement of the two mooring buoys, the permittee shall tag the buoys and contact the TRPA Environmental Compliance Officer to schedule a site inspection to allow the structures to be mapped with a Global Positioning device.

20. This approval is based on the permittee’s representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

21. 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.

22. The permittee is responsible for insuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.

23. This site shall be winterized in accordance with the provisions of Attachment Q by October 15th of each construction season.

END OF SPECIAL CONDITIONS
TAHOE REGIONAL PLANNING AGENCY

HEARINGS OFFICER STAFF SUMMARY

Applicants: Melvin B. Lane Trust, Joan F. Lane Trust

Application Type: Shorezone

Applicant’s Representative: Shelton & Associates, Dave Shelton, Agent

Agency Staff: Brenda Hunt, Associate Planner II, ERS

Location: 181 Paradise Flat, El Dorado County ("subject parcel")

Assessor’s Parcel Numbers/Project File Number: 017-021-22 and 23 (formerly 017-021-05) / 20040044

Staff Recommendation: Staff recommends approval of the Draft Permit attached for two mooring buoys offshore from the subject properties based on this staff summary and evidence contained in the project record.

Project Description: This project proposes the placement/relocation of two existing mooring buoys offshore from the subject property. These mooring buoys will be considered new shorezone structures as TRPA records indicate that no previous TRPA or other governmental permits have been issued for the buoys. No other physical modifications to the subject property are proposed in relation to this application.

Site Description: The project area is within the shorezone of APN 017-021-22 & 23 (formerly 017-021-05), which is currently owned by the Melvin B. Lane Trust & the Joan F. Lane Trust, and was legally subdivided, pursuant to TRPA File # 980525. Under that approval, a project area was created for the purposes of shorezone structures, and a deed restriction was recorded to authorize only one pier and two buoys. The location of the buoys was not assigned to either new parcel; therefore, each parcel will be authorized one buoy under this single application. Between the two parcels, there is a total of approximately 250 linear feet of shoreline from which to project two buoys. The current locations of the buoys do not conform to the TRPA’s Code of Ordinances and are not considered legally existing structures. This shorezone is mapped as Marginal Fish Habitat. See Exhibit A for a site plan showing the location of the existing buoys.

Issues: The proposed project involves the placement of new structures (mooring buoys) within the Shorezone and therefore requires a Hearings Officer public hearing in accordance with TRPA Code of Ordinances, Chapter 4, Appendix A. The main issue relating to this project proposal is scenic quality.

A. Scenic Analysis:
The project is located in TRPA Shoreline Travel Unit 8, Rubicon Point which is currently not in attainment with scenic threshold standards. The project was reviewed under Level 3 of the Shoreland Scenic Ordinances, TRPA Code

8/04/05
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Section 30.15.C (3). A baseline scenic assessment was completed and a score of 22 was verified for APN: 017-021-22, and a score of 23 was verified for APN: 017-021-23. These scores exceed the required 21 contrast rating score. The applicant will be required to utilize the Transfer of Scenic Mitigation Credits (Interim System), TRPA Code Section 30.15.H. The visual mass of the buoy (.5 sq. ft.) and the standard boat (60 sq. ft.), as measured in the water, equals 60.5 square feet. Due to the project being located in a scenic unit which is not in attainment, mitigation shall be applied at 1 to 1.5 times the base amount which totals 91 square feet of scenic mitigation for each parcel. The Draft Permit has been conditioned to ensure that the visual mass within the shoreline each subject parcel within the Scenic Unit is reduced by a total of 91 square feet to mitigate for one mooring buoy with a standard sized boat attached for each parcel. This mitigation will be provided through deed restrictions that will run with each parcel that reduce the potential total allowed visual mass based on a composite contrast rating of each parcels upland structures located within the shoreline to be reduced by 91 square feet.

Staff Analysis:

A. **Environmental Documentation**: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environment 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 will be made available at the Hearings Officer Hearing and at TRPA.

B. **Plan Area Statements**: The project is located within the Plan Area Statement Number 147, Paradise Flat. The Land Use Classification is Residential, and the Management Strategy is Mitigation6. Single-family dwellings are considered an allowed use within this Plan Area Statement. The mooring buoys are allowed structures when associated with an allowed use. Agency Staff has reviewed the Plan Area Statement and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies.

C. **Shorezone Tolerance District**: The subject parcel is located within Shorezone Tolerance District 7. The standards in Shorezone Tolerance District 7 require access to buoys to be designed to cause the least possible environmental harm to the foreshore and backshore. Any access to the shorezone shall be along stabilized access, any shorezone erosion shall be stabilized with vegetation to protect against accelerated erosion. Access will not change as result of this project and any existing erosion in the backshore will be stabilized with vegetation. This project, as conditioned, complies with the Shorezone Tolerance district standards.

Required Findings: The following is a list of the required findings as set forth in Chapters 6 and 50 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 for the placement of the two mooring buoys on the subject property, or has briefly summarized the evidence on which the finding can be made.
1. **Chapter Six 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 proposed project involves the placement of two mooring buoys offshore of two privately owned subject parcels (one buoy per parcel). The project is consistent with the goals and policies of the Regional Plan in that it: a) directs the amount and location of new land use appropriately; b) promotes the use of the waters of the Region for water-dependent outdoor recreation; and c) is conditioned to protect the scenic and natural qualities of Lake Tahoe and the surrounding area. The project is an allowed use within the Paradise Flat Area Statement and is consistent with the permissible uses outlined in the Shorezone Chapters of the TRPA Code. The Land Use Designation in this area is residential. The mooring buoys are accessory structures to the Single Family Dwellings existing on the parcels. The placement of two mooring buoys is also consistent with the TRPA Code of Ordinances, Chapter 54, Mooring Buoy Location Standards. Section 54.6 specifically states a maximum of two mooring buoys may be permitted per littoral parcel. These parcels were previously one parcel (APN: 017-021-05), which was authorized to be subdivided (TRPA File # 980525). A condition of subdivision required the subsequent parcels to be deed restricted for shorezone structures as if the parcels had not been subdivided. Therefore, the project proposes one buoy to be placed in the shorezone of each parcel. The permit has been conditioned to require that the placement of the two mooring buoys is consistent with the location, design and construction standards outlined in TRPA Code Section 54 for each parcel.

   (2) **Transportation:** The proposed mooring buoys will not result in an increase of daily vehicle trip ends (dvte) to the subject parcel.

   (3) **Conservation:** The project is consistent with the fisheries, shorezone, and scenic subelements of the Conservation Element of the Regional Plan in that a) it is located in TRPA mapped marginal fish habitat; and will not impact prime fish habitat areas b) the use is water dependent (two mooring buoys) and access to the buoys will be via boat from an established access point in the backshore (a pier), the beach, or public boat ramp facility. The project does not propose any new access to the backshore areas; c) a scenic analysis has been completed to ensure the project impacts have been properly mitigated. Access to the proposed
mooring buoys will be consistent with the Shorezone Tolerance district development standards (see Staff Analysis Section C for additional information). The proposed color and design of the buoys are consistent with the TRPA Design Review Guidelines and will be conditioned to comply with Section 54.6 of the TRPA Code. This project will not result in the obstruction or degradation of the scenic vista or view open to the public. The project is located within a ¼ mile of a known Osprey site (See Exhibit B). The project has been conditioned to ensure that the project does not impact Osprey nesting.

(4) Recreation: This project does not require any additions to public recreational facilities. The project will provide private recreational opportunities for the single family dwellings on the parcels.

(5) Public Service Facilities: The proposed 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 Hearings Officer hearing and at the TRPA offices.

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 V9g) of the TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 1.b, above.)

2. Chapter 50 – Required Shorezone Findings:

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

The proposed project will not have an adverse impact on littoral processes because the mooring buoys will be placed consistent with Section 54.6 of the TRPA Code. The mooring buoys are proposed to be located in marginal fish habitat; therefore there
shall be no impact spawning habitat. Access to the proposed mooring buoys shall be consistent with the Shorezone Tolerance district development standards. Also see Findings in 1.a(3).

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

The placement of one mooring buoy off each of the subject privately owned littoral parcels, is consistent with the use of the property.

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, as conditioned, is compatible with existing lake and shorezone uses and structures in the vicinity. The surrounding Shorezone uses consist of piers and buoys.

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

The buoys are located lakeward of the high water mark of Lake Tahoe and are water dependent.

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

The conditions of this approval prohibit the discharge of hazardous waste materials including petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of Lake Tahoe. The design and construction of the mooring buoys must comply with the TRPA Code, Section 54.6B which adheres to the US Army Corp of Engineers or Coast Guard standards. No containers of fuel, paint, or other hazardous materials may be stored in the shorezone or backshore areas.

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

This approval requires that two previously unauthorized mooring buoys be relocated to comply with the TRPA Code. Buoy placement shall be done in a manner consistent with the TRPA Code, Section 54.6.

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 mooring buoys, as conditioned, will not adversely impact navigation or create a threat to public safety. The U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers have completed a preliminary review of the project and have not identified any safety or navigation impacts.

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 and the U.S. Army Corps of Engineers. Comments from these agencies, and those agencies who are members of the Shorezone Review Committee, were solicited as part of the review of this project. California State Lands have issued leases for four buoys. This is inconsistent with TRPA’s rules and regulations. The inconsistency has been brought to the attention of the CA State Lands Commission. To date, the applicant has not received approval from the US Army Corps of Engineers for their buoys.

Required Actions: Agency Staff recommends that the Hearings Officer approve the project as modified by taking the following actions based on this staff summary and the evidence contained in the record.

I. Approve a finding of no significant environment effect, based on this staff summary and evidence contained in the project file, for the findings contained in this staff summary.

II. Approve the project, based on the staff summary, subject to the special conditions set forth in the attached Draft Permit.

Attachments and Exhibits:

Attachment A: Project Site Plan
Attachment B: Osprey Nest Location
DRAFT PERMIT

PROJECT DESCRIPTION: Two Mooring Buoys

APNs: 017-021-22 & 23

PERMITTEE(S): Melvin B. Lane Trust & Joan F. Lane Trust

FILE #: 20040044

COUNTY/LOCATION: El Dorado County / 181 Paradise Flat Drive

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on August 4, 2005, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on August 4, 2008 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of placement of the mooring buoy block. 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 SHALL COMMENCE UNTIL:

1) 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;

2) All pre-construction conditions of approval are satisfied as evidenced by TRPA’s acknowledgement of this permit;

3) The permittee obtains a county/city building permit. TRPA’s acknowledgement may be necessary to obtain a county/city building permit. The county/city permit and the TRPA permit are independent of each other and may have different expiration dates and rules regarding extensions; and

4) A TRPA pre-grading inspection has been conducted with the property owner and/or the contractor.

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 __________________

/bh

PERMIT CONTINUED ON NEXT PAGE

8/04/05 AGENDA ITEM V.H

/BH
Security Posted (1): Amount $2000  Posted_______ Type______ Receipt No._____

Security Administrative Fee (2): Amount $_______ Paid _____ Receipt No. ______

Notes:
(1) See Special Condition 3.E, below.
(2) $141 if a cash security is posted, or $73 if a non-cash security is posted. Please note there is no interest paid on securities.

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

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

TRPA Executive Director/Designee  Date

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SPECIAL CONDITIONS

1. This permit specifically authorizes the relocation of two existing mooring buoys in Lake Tahoe offshore of the subject properties (APNs: 017-021-22 & 23). One buoy will be located within the shorezone of each APN. This permit does not waive the requirement for mitigation fees and/or the requirement for Best Management Practices (BMP’s) to be placed on the upland development of the subject parcel. However, the implementation of BMP’s has been addressed as a part of the pier project (TRPA File Number 20010709 for APN: 017-021-05 which is the parent parcel for APNs: 017-021-02 & 23). No additional mooring buoys within the shorezone of the subject parcels shall be authorized. No changes to land coverage are authorized by this permit.

2. The standard conditions 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 following land coverage calculations based on the most recent TRPA stamped project plans:

         (a) Lot area above high-water line

         (b) Allowable land coverage for each land capability district including backshore area.

8/04/05
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(c) Existing land coverage for each land capability district, including backshore areas.

(d) Previously mitigated land coverage for each land capability district, including backshore area.

(2) TRPA 20-foot setback lines per TRPA Code Section 54.6.A(4).

(3) A note stating that the mooring buoys will be relocated by a barge.

(4) The location and details of the relocated mooring buoys. The mooring buoys shall conform to the location and design standards stated in Section 54.6 of the TRPA Code of Ordinances, and all other design standards. At no time shall the two mooring buoys extend beyond 350 linear feet from the high water line (6,229.1 LTD) of the subject property, or be located outside the TRPA setback lines.

(5) Location of all recorded easements inherent to the property or resulting from this project.

(6) 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 appropriate mulch may enhance vegetative establishment.”

B. Pursuant to Subsection 30.15.H(5) of the TRPA Code, the applicants shall record a TRPA approved-to-form deed restriction on each parcel (APNs: 017-021-22 & 23) reflecting the scenic mitigation requirements for the authorized shorezone development of one buoy to be located in the shorezone of both of the affected properties. The scenic mitigation shall consist of 91 square feet (60.5 square feet per buoy with a standard boat x 1.5 because the project is located within a scenic unit that not in attainment) to be reduced from each parcels potential allowed visible area. TRPA shall draft the deed restrictions. Please provide the most recent grant deeds, with recording information, for both of the subject parcels to allow TRPA to prepare the deed restriction. A copy will be provided to the applicant with the conditional permit.

C. The subject parcel is within ¼ mile of a known Osprey nesting site. The permittee shall retain an independent and qualified wildlife biologist to survey the property for any nesting raptor species, specifically Bald Eagle, Osprey and Northern Goshawk. The biologist shall provide a detailed report to TRPA describing the methodology used and report any nesting raptor species detected during the course of the survey. The proposed methodology for the survey shall be submitted to the TRPA Wildlife Program Manager prior 3 weeks prior to the acknowledgement of the permit for review and approval. The report shall detail any recommendations (such as limitations on noise during the nesting season, etc.) to ensure that nesting in this vicinity is not compromised by the project.
D. Provide evidence that the security for TRPA File #: 20010709 has been returned and the erosion control best management practices (BMPs) for both properties (APNs: 017-021-22 & 23) have been completed.

E. The security required under Standard Condition A.3 of Attachment S shall be $2000. Please see Attachment J, Security Procedures for appropriate ways to post a security and to determine the required security administration fee.

F. The permittee shall submit three sets of final construction drawings and site plans to TRPA.

4. Prior to the commencement of construction, a Tahoe Yellow Cress survey shall be conducted by a qualified agency representative. This survey shall be conducted when the plant is visible, between June 15 and September 30. If any Tahoe Yellow Cress plants are located within the project area, a site-specific management plan shall be submitted for TRPA review and approval. The management plan shall include but not be limited to the following: 1) methods used during construction for protection of the species and the habitat and also protection measures to be utilized long term. Construction methods must include vegetation fencing to prevent vehicular disturbance, pedestrian disturbance and storage of equipment on the beach. 2) The management plan shall also provide permission to TRPA and the other affected agencies in the Tahoe Basin to conduct yearly inspections of the property to evaluate the population’s viability. 3) The property owner may volunteer to take part in the TYC Stewardship program once it has been established.

5. The permittee shall display a Red (Residential) TRPA Buoy Identification Tag for each permitted buoy at all times. Upon placement of the two mooring buoys, the permittee shall tag the buoys and contact the TRPA Environmental Compliance Officer to schedule a site inspection to allow the structures to be mapped with a Global Positioning device.

6. Disturbance of the lakebed materials shall be kept to the minimum necessary for relocation of the two mooring buoy blocks.

7. Gravel, cobble, and or small boulders shall not be disturbed or removed to leave exposed sandy areas, before, during or after construction.

8. Spray painting and the use of tributyltin is prohibited.

9. By accepting this permit, the permittee acknowledges that permits for this project may also be required from other regulatory agencies, including, but not limited to, the US Army Corp of Engineers and the California State Lands Commission.

END OF SPECIAL CONDITIONS

8/04/05
/BH
TAHOE REGIONAL PLANNING AGENCY

HEARINGS OFFICER STAFF SUMMARY

Applicants: Brembil, LLC

Application Type: Shorezone

Applicant’s Representative: Shelton & Associates, Dave Shelton, Agent

Agency Staff: Brenda Hunt, Associate Planner II, ERS

Location: 171 Paradise Flat, El Dorado County (“subject parcel”)

Assessor’s Parcel Numbers/Project File Number: 017-021-26/ 20040443 Plan Revision

Staff Recommendation: Staff recommends approval of the Draft Permit attached for two mooring buoys offshore from the subject property based on this staff summary and evidence contained in the project record.

Project Description: This project proposes the placement/relocation of two existing mooring buoys offshore from the subject property. These mooring buoys will be considered new shorezone structures as TRPA records indicate that no previous TRPA or other governmental permits have been issued for the buoys. The applicant is required to apply for the buoys per a previously authorized pier permit (TRPA File # 20010237). This project also includes the authorization of the addition of turtle-type lighting on the pier, and changes to the scenic mitigation package previously approved with the pier permit. The lighting shall be modified to ensure light illuminates on the pier decking only. The unauthorized lights that currently exist on the pier illuminate 360 degrees. These shall be removed and replaced with lights that illuminate a maximum of 180 degree onto the pier deck only. No lighting shall be placed to illuminate the waters of Lake Tahoe. The permittee shall also remove all other unauthorized structures located on the pier including, but not limited to, the storage box, bench and the railings. No other physical modifications to the subject property are proposed in this application.

Site Description: The project area is within the shorezone of APN 017-021-26 which is currently owned by Brembil, LLC. The property contains a single-family dwelling, a guest house, and a pier. The buoys, currently located within the shorezone of the subject parcel, are not considered legally existing structures. This shorezone is mapped as Marginal Fish Habitat.

Issues: The proposed project involves the placement of new structures (mooring buoys) within the Shorezone and therefore requires a Hearings Officer public hearing in accordance with TRPA Code of Ordinances, Chapter 4, Appendix A. The main issues relating to this project proposal are scenic quality and diligent pursuit of the project.

8/04/05

AGENDA ITEM V.I

/BH
A. Scenic Analysis:
The project is located in TRPA Shoreline Scenic Unit 8, Rubicon Point which is currently not in attainment with scenic threshold standards. The project was reviewed under Level 3 of the Shoreland Scenic Ordinances, TRPA Code Section 30.15.C (3). A baseline scenic assessment was completed and a contrast rating score of 26 was verified for the Shoreland of this parcel, which exceeds the required 21 contrast rating score. The potential allowable visible area for a score of 26 is 1365 square feet. The scenic assessment verified the baseline visible area for the property to be 1112.8. The balance 252.2 square feet is the residual potential allowable visible area remaining on the parcel. The scenic mitigation requirements (vegetative screening) for the pier were not included in the baseline scenic assessment because they had yet to be planted. Based on the permitted landscaping plan, approximately 134 square feet of scenic mitigation was required. This would reduce the residual potential allowable visual mass for 252.2 – 134 square feet to a total of 118.2 square feet rounded down to 118 square feet.

The applicant shall be required to utilize the Transfer of Scenic Mitigation Credits (Interim System), TRPA Code Section 30.15.H. The visual mass of the buoy (.5 sq. ft.) and the standard boat (60 sq. ft.), as measured in the water, equals 60.5 square feet. Due to the project being located in a scenic unit which is not in attainment, mitigation shall be applied at 1 to 1.5 times the base amount which totals 181.5 square feet of scenic mitigation for the parcel. In order to mitigate for the buoys, the applicant is choosing to undertake a combination of planting and reducing the residual potential allowable visual area from the residual 118 to 0. The Draft Permit has been conditioned to ensure that the visual mass of the pier and the buoys will be mitigated within the shoreland of the subject parcel and that the visible area capacity of this parcel has been maximized at this time. The applicant may choose to fully mitigate the shorezone structures through the use of screening or by providing off-site mitigation that reduces the visual mass within the Shoreline Scenic Unit.

B. Diligent Pursuit:
This project is a plan revision to the original pier permit, TRPA File # 20010237. That permits specified expiration date was January 23, 2005; however, the permittee has diligently pursued the project in that the pier has been constructed, and the application for this plan revision (lighting, scenic mitigation changes, and buoys) was submitted at the request of the TRPA Environmental Compliance Inspector, on May 12, 2004, well in advance of the permit expiration date. Therefore, TRPA considers the project to be diligently pursued and is proposing to extend the construction schedule for 1-year from the date the plan revision is approved. Please note that the permit expiration date will remain the same.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environment 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 will be made available at the Hearings Officer Hearing and at TRPA.
B. **Plan Area Statements**: The project is located within the Plan Area Statement Number 147, Paradise Flat. The Land Use Classification is Residential, and the Management Strategy is Mitigation. Single-family dwellings are considered an allowed use within this Plan Area Statement. The mooring buoys are allowed structures when associated with an allowed use. Agency Staff has reviewed the Plan Area Statement and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies.

C. **Shorezone Tolerance District**: The subject parcel is located within Shorezone Tolerance District 7. The standards in Shorezone Tolerance District 7 require access to buoys to be designed to cause the least possible environmental harm to the foreshore and backshore. Any access to the shorezone shall be along stabilized access, any shorezone erosion shall be stabilized with vegetation to protect against accelerated erosion. Access will not change as result of this project and any existing erosion in the backshore will be stabilized with vegetation. This project, as conditioned, complies with the Shorezone Tolerance district standards.

**Required Findings**: The following is a list of the required findings as set forth in Chapters 6 and 50 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 for the placement of the two mooring buoys on the subject property, or has briefly summarized the evidence on which the finding can be made.

1. **Chapter Six 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 proposed project involves the placement of two mooring buoys offshore of a privately owned parcel. The project is consistent with the goals and policies of the Regional Plan in that it: a) directs the amount and location of new land use appropriately; b) promotes the use of the waters of the Region for water-dependent outdoor recreation; and c) is conditioned to protect the scenic and natural qualities of Lake Tahoe and the surrounding area. The project is an allowed use within the Paradise Flat Area Statement and is consistent with the permissible uses outlined in the Shorezone Chapters of the TRPA Code. The Land Use Designation in this area is residential. The mooring buoys are accessory structures to the Single Family Dwelling existing on the parcel. The placement of two mooring buoys is also consistent with the TRPA Code of Ordinances, Chapter 54, Mooring Buoy Location Standards. Section 54.6 specifically states a maximum of two mooring buoys may be permitted per littoral parcel. The permit has been conditioned to require that the placement of the two
mooring buoys is consistent with the location, design and construction standards outlined in TRPA Code Section 54 for each parcel.

(2) Transportation: The proposed mooring buoys will not result in an increase of daily vehicle trip ends (dvte) to the subject parcel.

(3) Conservation: The project is consistent with the fisheries, shorezone, and scenic subelements of the Conservation Element of the Regional Plan in that a) it is located in TRPA mapped marginal fish habitat; and will not impact prime fish habitat areas b) the use is water dependent (two mooring buoys) and access to the buoys will be via boat from an established access point in the backshore (a pier), or public boat ramp facility. The project does not propose any new access to the backshore areas; c) a scenic analysis has been completed to ensure the project impacts have been properly mitigated. Access to the proposed mooring buoys will be consistent with the Shorezone Tolerance district development standards (see Staff Analysis Section C for additional information). The proposed color and design of the buoys are consistent with the TRPA Design Review Guidelines and will be conditioned to comply with Section 54.6 of the TRPA Code. This project will not result in the obstruction or degradation of the scenic vista or view open to the public. The project is located within a ¼ mile of a known Osprey site (See Exhibit A). The project has been conditioned to ensure that the project does not impact Osprey nesting.

(4) Recreation: This project does not require any additions to public recreational facilities. The project will provide private recreational opportunities for the single family dwellings on the parcels.

(5) Public Service Facilities: The proposed 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 Hearings Officer hearing and at the TRPA offices.

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 V9g) of the TRPA Compact, the project meets or exceeds such standards.

(Refer to paragraph 1.b, above.)

2. Chapter 50 – Required Shorezone Findings:

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 not have an adverse impact on littoral processes because the mooring buoys will be placed consistent with Section 54.6 of the TRPA Code. The mooring buoys are proposed to be located in marginal fish habitat; therefore there shall be no impact spawning habitat. Access to the proposed mooring buoys shall be consistent with the Shorezone Tolerance district development standards. Please refer to 1.a(3) above.

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

The placement of one mooring buoy off each of the subject privately owned littoral parcels, is consistent with the use of the property.

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, as conditioned, is compatible with existing lake and shorezone uses and structures in the vicinity. The surrounding Shorezone uses consist of piers and buoys.

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

The buoys shall be located lakeward of the high water mark of Lake Tahoe and are water dependent.

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

The conditions of this approval prohibit the discharge of hazardous waste materials including petroleum products,
construction waste and litter (including sawdust), or earthen materials to the surface waters of Lake Tahoe. The design and construction of the mooring buoys must comply with the TRPA Code, Section 54.6B which adheres to the US Army Corp of Engineers or Coast Guard standards. No containers of fuel, paint, or other hazardous materials may be stored in the shorezone or backshore areas.

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

This approval requires that two previously unauthorized mooring buoys be relocated to comply with the TRPA Code. Buoy placement shall be done in a manner consistent with the TRPA Code, Section 54.6.

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 mooring buoys, as conditioned, will not adversely impact navigation or create a threat to public safety. The U.S. Army Corps of Engineers must also review this project for navigational safety. The U.S. Army Corps of Engineers have completed a preliminary review of the project and have not identified any safety or navigation impacts.

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 and the U.S. Army Corps of Engineers. Comments from these agencies, and those agencies who are members of the Shorezone Review Committee, were solicited as part of the review of this project. To date, the applicant has not received approval from the US Army Corps of Engineers for their buoys.

Required Actions: Agency Staff recommends that the Hearings Officer approve the project as modified by taking the following actions based on this staff summary and the evidence contained in the record.

I. Approve a finding of no significant environment effect, based on this staff summary and evidence contained in the project file, for the findings contained in this staff summary.

II. Approve the project, based on the staff summary, subject to the special conditions set forth in the attached Draft Permit.
List of Exhibits:
Exhibit A: ¼ Mile Osprey Nesting Buffer Zone
DRAFT PERMIT

PROJECT DESCRIPTION: Two Mooring Buoys

PERMITTEE(S): Brembil, LLC

COUNTY/LOCATION: El Dorado County / 171 Paradise Flat Drive

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on August 4, 2005, subject to the standard conditions of approval attached hereto (Attachment S), the special conditions found in this permit, and the conditions contained in the original permit dated

This permit shall expire on January 23, 2005 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of placement of pilings, and structural members of the pier. 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 SHALL COMMENCE UNTIL:

(1) 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;

(2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT;

(3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. TRPA’S ACKNOWLEDGEMENT MAY BE NECESSARY TO OBTAIN 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; AND

(4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

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______________________

/bh   PERMIT CONTINUED ON NEXT PAGE

8/04/05   AGENDA ITEM V.I

/BH
D-R-A-F-T
APN: 017-021-26
FILE NO. 20040443


Security Administrative Fee (2): Amount $_______

Notes:
(1) See Special Condition 3.F, below.
(2) $141 if a cash security is posted, or $73 if a non-cash security is posted. Please note there is no interest paid on securities.

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

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

TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit is a plan revision permit associated with TRPA File # 20010237 and specifically authorizes the placement of turtle type lighting that illuminates the pier decking only. The scenic mitigation for the pier shall also be authorized by this permit. Additionally, the project specifically authorizes the placement/relocation of two previously unauthorized mooring buoys in Lake Tahoe offshore of the subject property (APNs: 017-021-26). All other unauthorized structures located on the pier including, but not limited to, the railing, bench and storage box shall be removed. No changes to land coverage are authorized by this permit.

2. The standard conditions 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 lighting locations and design specifications on the pier.

      (2) TRPA 20-foot setback lines per TRPA Code Section 54.6.A(4).

      (3) A note stating that the mooring buoys will be relocated by a barge.

      (4) The location and details of the relocated mooring buoys. The mooring buoys shall conform to the location and design.
standards stated in Section 54.6 of the TRPA Code of Ordinances, and all other design standards. At no time shall the two mooring buoys extend beyond 350 linear feet from the high water line (6,229.1 LTD) of the subject property, or be located outside the TRPA setback lines.

(5) Location of all recorded easements inherent to the property or resulting from this project.

(6) 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 appropriate mulch may enhance vegetative establishment.”

B. Pursuant to Subsection 30.15.H of the TRPA Code, the applicants are required to mitigate 181.5 square feet of additional visual mass for the buoys as the project is located in an area that is not in attainment with the TRPA scenic thresholds. The applicant is proposing a combination of scenic mitigation for the project that will total the amount required for both the previously authorized pier and the mooring buoys. The two methods proposed shall total 315.5 square feet of scenic mitigation as outlined below.

(1) The landscaping plans shall be revised to include a site plan and elevation that depict the required vegetation for scenic mitigation. The plans shall label the vegetation planted to screen 134-square feet of the upland structures to mitigate for the pier. This amount is based on the previous required mitigation outlined in the original pier permit, TRPA File # 20010237). The 181.5 square feet of scenic mitigation required for the mooring buoys shall also be specified and 63 square feet of additional screening depicted. The remaining 118 square feet of scenic mitigation shall be mitigated pursuant to Item 3.B(2) below. The vegetation shall be planted to screen the perimeter or create visual breaks for the main or guest residences located on APN: 017-021-26. No lawn or turf grass shall be permitted in the backshore area. The landscape plans shall be submitted for TRPA review and approval, and shall include:

a. Identification of existing vegetation (species and size),

b. Revised planting design and planting list,

c. A list of plant sizes at planting (height and aerial extent),

d. A list of plant sizes at five years growth (height and aerial extent),

e. Planting details and specifications,

f. An irrigation and fertilizer management plan in accordance with the standards required in Sections 30.7, 74.2 and 81.7
of the TRPA Code of Ordinances. This plan needs to specifically detail how the landscaping plan is meeting the above Code sections,

g. Notes indicating that no fertilizer will be applied within the TRPA verified Backshore Boundary as indicated per Permit Condition 3.A.2,

h. Notes stating that all vegetation shall be consistent with the requirements of Chapter 30, Chapter 55.6, and Chapter 74.2 of the TRPA Code of Ordinances, including the specification for sizing and species of plants.

i. The proposed plants shall be consistent with TRPA Code Section 55.6 and 74.2, and be chosen from the TRPA approved plant lists as described in Table 1 of the Home Landscaping Guide for Lake Tahoe and Vicinity.

(2) Pursuant to Subsection 30.15.H(5) of the TRPA Code, the applicants shall record a TRPA approved-to-form deed restriction on each parcel (APN: 017-021-26) reflecting the scenic mitigation requirements for the authorized shorezone development of two mooring buoys to be located in the shorezone of the subject parcel. The remaining scenic mitigation (see Item 3.B (1)) shall consist of 118 square feet to be reduced from the parcels potential allowed visible area. By acceptance of this permit, the permittee specifically acknowledges that the visible area capacity of this parcel has been maximized at this time and any additional visible area proposed in the future shall require further review and approval from TRPA. TRPA shall draft the deed restrictions. Please provide the most recent grant deeds, with recording information, for the subject parcel to allow TRPA to prepare the deed restriction and provide a copy to the applicant with the conditional permit.

Alternatively, the permittee may choose to increase the vegetative screening to provide the required scenic mitigation, and/or provide the scenic mitigation off-site within the scenic unit with TRPA review and approval.

C. The subject parcel is within ¼ mile of a known Osprey nesting site. The permittee shall retain an independent and qualified wildlife biologist to survey the property for any nesting raptor species, specifically Bald Eagle, Osprey and Northern Goshawk. The biologist shall provide a detailed report to TRPA describing the methodology used and report any nesting raptor species detected during the course of the survey. The proposed methodology for the survey shall be submitted to the TRPA Wildlife Program Manager prior 3 weeks prior to the acknowledgement of the permit for review and approval. The report shall detail any recommendations (such as limitations on noise during the nesting season, etc.) to ensure that nestling in this vicinity is not compromised by the project.
D. Provide evidence that the security the erosion control best management practices (BMPs) for the property (APN: 017-021-26) have been completed. If evidence cannot be provided, the permittee shall provide a permanent BMP Plan for the property that is consistent with the standards outlined in Chapter 23 of the TRPA Code of Ordinances for TRPA review and approval.

E. The security required under Standard Condition A.3 of Attachment S shall be $2000. Please see Attachment J, Security Procedures for appropriate ways to post a security and to determine the required security administration fee.

F. The permittee shall submit three sets of final construction drawings and site plans to TRPA.

4. Prior to the commencement of construction for the elements of this plan revision an additional Tahoe Yellow Cress survey shall be conducted by a qualified agency representative. This survey shall be conducted when the plant is visible, between June 15 and September 30. If any Tahoe Yellow Cress plants are located within the project area, a site-specific management plan shall be submitted for TRPA review and approval. The management plan shall include but not be limited to the following: 1) methods used during construction for protection of the species and the habitat and also protection measures to be utilized long term. Construction methods must include vegetation fencing to prevent vehicular disturbance, pedestrian disturbance and storage of equipment on the beach. 2) The management plan shall also provide permission to TRPA and the other affected agencies in the Tahoe Basin to conduct yearly inspections of the property to evaluate the population’s viability. 3) The property owner may volunteer to take part in the TYC Stewardship program once it has been established.

5. The permittee shall display a Red (Residential) TRPA Buoy Identification Tag for each permitted buoy at all times. Upon placement of the two mooring buoys, the permittee shall tag the buoys and contact the TRPA Environmental Compliance Officer to schedule a site inspection to allow the structures to be mapped with a Global Positioning device.

6. Disturbance of the lakebed materials shall be kept to the minimum necessary for relocation of the two mooring buoy blocks.

7. Gravel, cobble, and or small boulders shall not be disturbed or removed to leave exposed sandy areas, before, during or after construction.

8. Spray painting and the use of tributyltin is prohibited.

9. The construction schedule for this project is extended until August 4, 2006. By acceptance of this permit, the permittee acknowledges that no further extensions to the construction schedule will be permitted.

10. By acceptance of this permit, the permittee acknowledges that permits for this project may also be required from other regulatory agencies, including, but not
limited to, the US Army Corp of Engineers and the California State Lands Commission.

END OF SPECIAL CONDITIONS