TAHOE REGIONAL PLANNING AGENCY
HEARINGS OFFICER STAFF SUMMARY

Project Name: Spieker residence and driveway modification
Application Type: Single Family Residential/Driveway Modification
Applicant: The Spieker 2010 Irrevocable Children’s Trust
Applicant’s Representative: David Shelton
Agency Planner: David L. Landry
Location: 261 Paradise Flat Lane, El Dorado County. California
Project Number/File Number: 017-021-014/ERSP2012-0813

Staff Recommendation: Staff recommends approval of the project based on this staff summary and evidence contained in the project record.

Project Description: This is a proposal for the addition/modification to an existing single-family residential structure. The project will include the addition/modification of additional living space and the reconfiguration of a new paved driveway. The two story residential addition will have a footprint of approximately 1,720 square feet and will be built entirely within Land Capability Class 5. The proposed project involves the construction of a 10 foot wide by 510 foot long driveway to provide access to the single family dwelling, a 2,800 SF addition to the rear of that existing dwelling, as well as permanent best management practices (BMPs) for the entire parcel. Historically, access to this parcel has been provided through two adjacent privately-owned lots. The preexisting driveway access did not meet the surfacing, alignment, turnout and visibility requirements of the Meeks Bay Fire Department nor did it meet TRPA BMP and surfacing requirements. A permanent access easement does not exist and all 3 neighbors agreed that access was temporary and that they would not grant an access easement.

Access to Paradise Flat Lane requires a portion of the driveway be built through a stream environment zone (SEZ). To comply with provisions of the TRPA Code, SEZ restoration at a ratio of 1.5:1 will be required. Compliance with SEZ stream crossing provisions will be discussed in detail in the Findings section of this staff summary.

Site Description: The subject site is approximately 1.8 acres in size (77,167 square feet) and is comprised of land capability class 1b (28,845 square feet) and Land Capability Class 5 (53,322 square feet). The parcel is currently developed with an existing single family dwelling, bunk houses, and a dirt and woodchip driveway and walkways. All existing coverage (8,944 square feet) is located in Land Capability Class 5 lands and was verified in TRPA file LCAP2008-0407. The property is moderately forested and includes a stand of willows located in the stream environment zone portion of the property. The parcel is littoral.
Paradise Flat Lane, a private road, provides access to the parcels located in this area of the subdivision. Paradise Flat Lane is located to the west of the parcel, adjacent to the SEZ.

**Issues:** The proposed project additional coverage in excess of 1,000 square feet in land capability district 1b and therefore requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code.

**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 Hearings Officer hearing and at TRPA.

B. **Plan Area Statement:** The project area is located within the Paradise Flat Plan Area Statement – PAS 147. The Land Use Classification is Residential and the Management Strategy is Mitigation. Agency staff has determined that the project is consistent with the applicable planning statement, planning considerations, and special policies. The proposed driveway is accessory to the existing single family dwelling which is an allowed use in the PAS.

C. **Land Coverage:**

1. **Land Capability District:** The parcel consists of 52,322 square feet of land capability district 5 and 28,845 square feet of land capability district 1b.

2. **Existing Coverage:** TRPA File LCAP2008-0407 verified 8,944 square feet of existing Class 5 coverage.

3. **Base Allowable Coverage:** The parcel has 13,081 square feet of Class 5 base allowable coverage and 248 square feet of Class 1b base allowable coverage.

4. **Proposed Coverage:** Total proposed coverage for the project is 12,177 square feet in Class 5 and 2,513 square feet in Class 1b. All coverage proposed in Class 1b shall be mitigated by the restoration of stream environment lands in a ratio of 1.5 to 1, or 3,368 square feet pursuant to Subsection 30.4.B.(1)(b).

In order to provide appropriate ingress and egress for fire district personnel, the Meeks Bay Fire Department is requiring a turnout and turnaround as part of the proposed driveway. Per a memorandum written by the Lake Tahoe Basin Fire Chiefs and the Tahoe Regional Planning Agency, dated July 23, 2008, the applicant has the choice “…to either make adjustments and build with their remaining base allowable coverage, relocate coverage on-site, or transfer into the property the minimum necessary to comply with health and safety requirements.” There is no remaining base allowable Class 1b coverage, so the applicant will restore coverage per Subsection 30.4.B.(1)(b). However, for the coverage in Class 5 lands, the applicant may either transfer in the coverage, pursuant to TRPA transfer regulations or remove this amount from their base allowable coverage.
5. **Resultant Coverage and Water Quality Mitigation Fees.**

   **Base Allowable Coverage Only.** If the applicant decides not to transfer the coverage in, then proposed coverage and fees are as follows:

   Class 5 = 12,177 square feet of coverage

   Class 1b = 2,513 square feet

   The parcel will have 48 square feet of Class 5 base allowable coverage remaining and no Class 1b base allowable remaining. No excess coverage fee is required pursuant to Subsection 30.4.B.(1)(b). A water quality mitigation fee for the creation of 3,233 square feet of land coverage will be assessed at a cost of $1.86 per square foot, or $6,013.38. This amount of land coverage is the difference between the coverage previously verified (8,944 square feet) and the coverage proposed (12,177 square feet).

**Required Findings:** The following is a list of the required findings as set forth in Chapter 4, 21, and 30 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 4 – 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.

   (1) **Land Use:** The proposed driveway will serve an existing single family dwelling. Single family homes are an allowed use in the Paradise Flat Plan Area Statement.

   (2) **Transportation:** The project does not create any additional permanent daily vehicle trip ends (dvte). No significant impacts to Level of Service or Regional or Sub-Regional air quality are anticipated based on the IEC.

   (3) **Conservation:** This project will not adversely affect implementation of the Conservation Element of the Regional Plan. Best Management Practices (BMPs) will capture storm runoff and infiltrate the volume of water onsite. The project will be required to restore SEZ in the amount of 1.5 times the area of stream environment zone which is disturbed by the project. There are no known cultural or historic resources that would be affected by this project.

   (4) **Recreation:** The proposed project should have no effect on the recreational opportunities in the Lake Tahoe Basin.

   (5) **Public Service Facilities:** As a result of the project, the subject parcel shall be adequately served by existing public services and facilities. Paradise Flat Lane is
4

not currently paved, but may be as a condition of the draft permit, per TRPA Code Chapter 32.

(6) Implementation: The project requires no additional development allocations and is consistent with the Implementation Element 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 4, Subsection 4.3 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.

All potential effects are temporary and shall be mitigated through temporary and permanent Best Management Practices. The applicant will meet or exceed all federal, state, or local water quality standards. Upon completion of construction, the projects will have no impact upon water quality standards.

2. Chapter 30.4.5 - Relocation of Land Coverage

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

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

   The areas targeted for coverage relocation are areas of previous disturbance.

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

   The slope is consistent across the site and areas which are targeted for relocated coverage have been previously disturbed and thus natural vegetation will not be disturbed.

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

   The proposed site has Land Capability Class 5 and 1b. Areas targeted for coverage relocation are located in Land Capability 1b where there is no reasonable alternative that avoids or reduces the extent of encroachment in the stream environment zone.

(4) Whether the area of relocation appropriately fits the scheme of use of the property;
The area of relocation fits the scheme of the use of the property in that the relocation will aid in creating a single access point to the single family residence.

(5) The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of stream environment zones or backshore;

The relocation does not increase the extent of the encroachment into stream environment zone in that the relocation is from one point in the SEZ to another.

(6) The project otherwise complies with the land coverage mitigation program set forth in Section 30.6;

Other than the relocation of coverage within the SEZ, the project complies with code subsection 30.6 in that the residential addition will be located with Land Capability Class 5.

(b) The area from which the land coverage was removed for relocation is restored in accordance with Subsection 30.5.3.

The impacts of the land coverage relocation will be fully mitigated through the restoration of stream environment lands at a ratio of 1:1.5 or a total of 3,368 square feet.

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

The relocation is from one portion of the SEZ to another and not to or from a higher land capability

(d) If the relocation is from one portion of a SEZ to another portion, there is a net environmental benefit to the SEZ.

The relocation from one portion of the SEZ to another is an improvement in that relocation will aid in consolidating two driveway points of entry into one with improved BMPs.

3. Chapter 30.5.2 Findings:

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

(1) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the stream environment zone, or that encroachment is necessary to reach the building site recommended by Individual Parcel Evaluation Score (IPES).
The stream environment zone runs north to south across the western portion of the parcel between the existing residence and Paradise Flat Lane. The existing residence is built in high land capability land. There are no other options for on-site access to the existing residence. Primarily because the previous access was never a formalized access and was done on a temporary agreement between the neighbors. The understanding at that time was that the access across the adjoining lots would be terminated upon sale of the subject lot or when the prior owner passes away. The prior owner has passed on and the property has been sold.

The new owner is a trust, with the same trustee as the neighboring property to the north, but a unique and separate entity and the subject property was purchased as an independent property that was to remain independent.

The previous access was on a wood chip driveway that meandered through trees on the two lots to the north. That access did not meet the surfacing or Best Management Practice requirements of TRPA.

(2) The impacts of land coverage and disturbance are fully mitigated in the manner set forth in Subparagraph 30.4.A(2)(e), with the exception that the restoration requirement in such Subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

The proposed project involves the creation of 2,491 square feet of coverage in Class 1b. This coverage will be fully mitigated by the restoration of stream environment lands in a ratio of 1.5 to 1, or 3,368 square feet of SEZ restoration.

**Required Actions:** Staff recommends that the Hearings Officer take the following actions:

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.
Attachment A - Draft Permit

PROJECT DESCRIPTION: Residential Addition

PERMITTEES: The Spieker 2010 Irrevocable Children’s Trust

COUNTY/LOCATION: El Dorado County / 261 Paradise Flat Lane

Having made the findings required by Agency ordinances and rules, TRPA Hearings Officer approved the project on **August 30, 2012**, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on **August 30, 2015**, 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 TREE REMOVAL, 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 PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

__________________________________________  ______________________________________
TRPA Executive Director/Desigee  Date

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

__________________________________________  ______________________________________
Signature of Permittee(s)  Date

(PERMIT CONTINUED ON NEXT PAGE)
D-R-A-F-T

APN 017-021-14
FILE NO. ERSP2012-0813

Water Quality Mitigation Fee (1): Amount $_______ Paid _____ Receipt No._______

Offsite Coverage Mitigation Fee (2): Amount $_______ Paid _____ Receipt No._______

Security Posted (3): Amount $_______ Type_______ Paid _____ Receipt No._______

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

Notes:
(1) Amount to be determined. See Special Condition 3.C., below.
(2) See Special Condition 3.D., below
(3) Amount to be determined. See Special Condition 3.E., below
(4) $152 if a cash security is posted or $135 of 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 a two story addition to an existing single family residential structure and the building of a reconfigured driveway to access the existing single family home at 261 Paradise Flat Lane, El Dorado County, California. All temporary and permanent BMPs shall be installed as a part of this project.

2. The Standard Conditions of Approval listed in Attachment R shall apply to this permit.

3. Prior to final permit acknowledgement the following conditions of approval shall be satisfied.

   A. The site plan shall be revised to include:

      (1) Clear indication of areas to be re-vegetated.

      (2) Construction staging area.

      (3) Amount of off-site coverage.

   B. The permittee shall submit a projected construction completion schedule to TRPA prior to acknowledgment. Said schedule shall include completion dates for each item of
construction and demonstrating completion by Oct 15th of each construction season.

C. If the permittee selects to use available base allowable coverage for the coverage required by the fire department, a water quality mitigation fee of $6,013.38 will be required. This fee is based on the creation of 3,233 square feet of land coverage at $1.86 per square foot.

D. The permittee shall pay an Offsite Coverage Mitigation fee of $6,409 for the creation of 754 square feet of land coverage in the public right-of-way at $8.50/sf.

E. The security required under Standard Condition A.3 of Attachment R and Section 8.8 of the TRPA Code of Ordinances shall be determined upon the permittee’s submittal of required Best Management Practices plan and related cost estimate. The security shall be equal to 110 percent of the cost estimate. The security shall also be no less than $5,000. Please see Attachment J, Security Procedures for appropriate ways to post the security and for calculation of the required Security Administrative Fee.

F. The permittee shall provide proof of restoration of 3,368 square feet of stream environment zone.

G. The permittee shall provide proof that the parcel is served by a paved road, unless waived by Section 32.3.1.C.

H. The permittee shall submit construction methodology that provides information on how the construction of the road will limit disturbance to the SEZ. Any additional permanent disturbance to the SEZ caused by installation of the driveway shall be required to be mitigated by SEZ restoration at a ratio of 1.5 to 1 prior to return of permit security.

I. The permittee shall provide (3) three sets of the final plans for TRPA acknowledgement.

4. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of any TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

Included within the Permittee’s indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA’s attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. Permittee shall also pay all costs, including attorneys’ fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action
subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

5. Any and 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.

6. Temporary erosion control structures must be maintained until disturbed areas are stabilized. Temporary erosion control structures shall be removed once the site has been stabilized.

7. Any normal construction activity creating noise in excess of 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.

END OF PERMIT
Project Name: Finney Single Family Residential Rebuild

Application Type: Single Family Residential

Applicant: John and Jeanette Finney

Applicant’s Representative: Ogilvy Consulting

Agency Planner: Wendy Jepson, Senior Planner

Location: 1715 Lakeshore Boulevard (SR28), Washoe County, NV

Project Number/File Number: ERSP2012-0757 / 130-331-06

Staff Recommendation: Staff recommends approval of the project based on this staff summary and evidence contained in the project record.

Project Description: The proposed project includes the demolition of a single family residence and garage, and construction of a new residence and garage connected by an elevated covered and conditioned breezeway. On the lake-side of the parcel, a lap pool, renovation to the existing deck and a new planting area will be constructed. The project will utilize and relocate existing verified coverage and, although the overall square footage of the new residence will increase over the existing, due to the height of the elevated walkway and the number of stories proposed, overall the coverage will be reduced. Fourteen trees less than 24 inches in diameter will be removed. Best management practices include a metal slotted drain along the front of the paved driveway to capture storm water runoff and channel it into two infiltration galleries; gutters will channel storm water from the roof into four additional infiltration galleries, and drip line infiltration trenches on the north side. A shoreland scenic analysis has been conducted for the lakefront parcel, and a scenic simulation was prepared to analyze impacts to the scenic roadway unit.

Site Description: This lakefront property is in the Rocky Point subdivision, located on State Route 28 in Incline Village, within the East Shore Plan Area Statement (055). Single family dwellings are special uses in the plan area. It is visible from and located within Shoreline Scenic Unit 23, Crystal Bay, a non-attainment area, and Roadway Unit 26, Sand Harbor, which is in attainment. The approximately one-quarter acre lot contains land capability districts 1b and 2, is long, narrow (187 by 55 feet) and fairly steep with a slope across the building section of approximately eighteen (18) percent. The existing two-story residence and garage were constructed in 1949. TRPA evaluated the structure’s historic significance, land coverage and land capability. No historic significance was identified, and 4,714 square feet of existing land coverage was verified in land capability districts 1b and 2. Demolition was authorized subject to a qualified exempt approval although at this writing the building has not been demolished.

Issues: The primary project related issues are:
- Reduced setback from roadway. TRPA Code of Ordinances Section 36.5.4, Setback Standards, requires a 20’ minimum building setback from the right of way for parcels abutting scenic roadways. TRPA may approve a reduced setback if the setback is approved by the local jurisdiction and if TRPA finds that the project will not cause a decrease in the numerical rating assigned to the roadway unit.

- Scenic Quality. As the new construction will be visible from both a scenic roadway unit and scenic shoreline unit, simulations and a scenic analysis of the lakefront development have been prepared to evaluate the potential impacts to scenic quality.

- Grading and construction techniques. This project area contains steep slopes and sensitive soils classifications, and a proposed pool that will be constructed partially in the previously disturbed backshore area.

**Staff Analysis:**

A. **Environmental Documentation:** The applicant has completed rational for the required findings, which are detailed below. TRPA staff has completed a project review conformance checklist and V (g) findings to evaluate the project’s impacts on the thresholds, and a copy of the completed checklist will be made available at the Hearings Officer hearing and at TRPA.

B. **Plan Area Statement:** Plan Area Statement 055, East Shore, lists single family residential as a special use. Although the site has been used for single family residential since the existing building was constructed in 1949, special use findings have not been made prior to this report. The project will satisfy the requirements of those findings.

C. **Land Coverage:** This project complies with land coverage requirements of the TRPA Code of Ordinances.

D. **Height:** This project complies with height requirements of the TRPA Code of Ordinances.

**Required Findings:** The following is a list of the required findings as set forth in Chapter 4, 21, 30, 33, 36, 37 and 84 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 4 – 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.**

      Based on the findings provided and the Article 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.**

      TRPA staff has completed the “Project Review Conformance Checklist and Article V (g) Findings” in accordance with Chapter 4, Subsection 4.3 of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying
capacities. 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 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.

All potential effects are temporary and shall be mitigated through temporary and permanent Best Management Practices. The applicant will meet or exceed all federal, state, or local water quality standards. Upon completion of construction, the projects will have no impact upon water quality standards.

2. Chapter 21 – 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 project does not propose any change in use and the parcel will remain single-family residential. The property is bound by existing residential uses to the north and south, and across State Highway 28 to the east.

The new residence and garage will be constructed largely over the footprint of the existing residence and garage, keeping the size of the footprint approximately the same as the existing residence. The new residence is taller than the existing residence but due to the large specimen trees and vegetation located at the site, in addition to the steep slope of the lot, the proposed structure will not extend beyond the forest canopy as viewed from Lake Tahoe. The similar size of the existing and proposed structures in addition to the coverage reduction ensures that the rebuilt residence and garage will be of appropriate nature, scale, density and intensity for the parcel and surrounding area.

(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 new residence and garage will be built to current building code requirements and updated BMP’s will be installed to meet water quality requirements. These improvements and the continuation of the established residential use will not 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.

(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 will maintain the established residential use, which will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable plan area statement.

3. **Chapter 30.4.5 - Relocation of Land Coverage**

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

   (1) **Whether the area of relocation already has been disturbed:**

   The subject project proposes to relocate 91 square feet of coverage within the Class 1b Backshore while maintaining 605 square feet of existing coverage. Of the proposed relocated 1b coverage, 68 square feet is proposed to be built on existing deck poles and located over existing boulders. Construction will require minimal to no disturbance. The remaining 23 square feet is will be located within areas that have been previously disturbed. The relocated land coverage would be mitigated at a 1.5:1 ratio.

   The project also proposes to relocate approximately 1,443 square feet of coverage within the Class 2 land capability district. The majority of this area of the new relocated coverage was previously disturbed by the original construction of the residence, continual use of the property, and landscape enhancements over many years.

   (2) **The slope of and natural vegetation on the area of relocation:**

   In the area of relocated 1b coverage, the shoreline and location of the deck consists of large boulders with little to no vegetation, and slopes steeply to the lake.

   The area of Class 2 relocated coverage is on a fairly steep slope with existing native vegetation, mainly small trees less than 14 inches in diameter that will be removed.

   (3) **The fragility of the soil on the area of relocation:**

   In the area of relocated 1b coverage, the shoreline and location of the deck consists of large boulders with little to no soil.

   The area of Class 2 relocated coverage is to areas with Class 2 soils. Temporary and permanent BMP’s will ensure the stability of the soil during and after construction.

   (4) **Whether the area of relocation appropriately fits the scheme of use of the property:**

   The relocated 1b land coverage fits the scheme of use of the property simply by repairing the existing deck and creating a safer layout allowing for are new railing and additional area for maneuvering along the deck. The relocation is at the furthest lakeside point of the existing deck, and would be at a higher elevation than the existing deck and therefore located further from the lake in its elevation. The
relocated class 2 will primarily be for the garage, which is being realigned to be a safer distance from the roadway.

(5) The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of stream environment zones or backshore;

A portion of the relocated 1b land coverage would further encroach into the backshore of Lake Tahoe. Because the relocated Class 1b land coverage creates further backshore encroachment, and this encroachment is not an equal or superior portion of the parcel, as special condition is included in the permit to remove the 68 square feet of additional coverage in the backshore that was intended to be utilized as new decking.

(6) The project otherwise complies with the land coverage mitigation program set forth in Section 30.6;

The relocated 1b area will be offset with the retirement of 46 square feet of coverage within the backshore and a total of 137 square feet of restored Class 1b area.

(b) The area from which the land coverage was removed for relocation is restored in accordance with Subsection 30.5.3.

All areas of removed coverage will be restored in accordance with subsection 30.5.3 of the TRPA Ordinance.

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

No coverage is being relocated from a lower land capability district to higher.

(d) If the relocation is from one portion of a SEZ to another portion, there is a net environmental benefit to the SEZ.

A total of 91 square feet of Class 1b coverage is being relocated. Per the 1.5:1 mitigation requirement, 46 square feet of Class 1b coverage will be permanently retired, and a total of 137 square feet of relocated/retired coverage will be restored.

4. Chapter 33.3.6 – Grading

(a) A soils/hydrologic report prepared by a qualified professional, which 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;
A waiver to the requirement to conduct a subsurface investigation was approved on January 20, 2010 and an excavation depth was approved to 6233.75msl for the residence and to 6250 msl for the garage.

(b) The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to subsection 33.6.5: Tree Removal, including root systems and hydrologic conditions of the soil. To ensure the protection of vegetation necessary for screening, a special vegetation protection report shall be prepared by a qualified professional identifying measures necessary to ensure damage will not occur as a result of the excavation;

Fourteen trees that are fourteen inches and less in diameter are proposed to be removed in order to construct the project. A special permit condition requires a report detailing the protection necessary for trees to be retained for screening and the impacts of the construction on those plants.

(c) Excavated material is disposed of pursuant to subsection 33.3.4: Disposal of Materials, and the project area's natural topography is maintained pursuant to subparagraph 36.5.1.A. If groundwater interception or interference will occur as demonstrated by a soils/hydrologic report prepared by a qualified professional, then the excavation can be made as an exception pursuant to subparagraph 33.3.6.A.2, provided measures are included in the project to maintain groundwater flows to avoid adverse impacts to SEZ vegetation and to prevent any groundwater or subsurface water flow from leaving the project area as surface flow.

A special permit condition requires that the disposal location for excavated materials be identified in the grading plan.

5. Chapter 36.5.4- Design Standards

(a) TRPA may approve building setbacks less than 20 feet if the reduced setback is approved by the appropriate local jurisdiction and TRPA finds that the project shall not cause a decrease in the numerical ratings assigned to the roadway unit, including the scenic quality rating of the individual resources within each unit, as recorded in the 1982 Scenic Resources Inventory and shown in Tables 13-3 and 13-8 of the Study Report for the Establishment of Environmental Threshold Carrying Capacities, October 1982. The criteria for rating scenic quality as identified in the study report cited herein shall be used to determine if a project will cause a decrease in the numerical rating.

The proposed project has an existing garage built in 1967 under a Washoe County Building Permit that is approximately 11 feet from the right-of-way and within the 20-foot setback from the right-of-way of SR 28. Due to the steep slope of the lot and rocky conditions it is necessary to locate the garage as far up-slope as possible. The proposed garage is approximately 15 feet from the right-of-way, increasing the setback from the scenic corridor. The new garage will be constructed with natural stone façade and dark wood accents replacing the existing monotone garage. With a similar mass as the existing garage as viewed from the scenic travel route and an increased setback from existing conditions, the project will not cause a decrease in the numerical rating.
assigned to the roadway unit. A simulation, prepared to analyze the impact of the proposed structures from the roadway, confirms this finding.

6. Chapter 37- Height

(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 structure will be visible from Roadway Unit 26, Sand Harbor and Shoreline Unit 23, Crystal Bay. The proposed project height of 40’6” will not extend above the forest canopy or ridgelines. Scenic analysis from both the roadway and the lake have assessed the project’s impacts and confirmed that the project meets this finding.

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

The proposed residence is consistent with the surrounding uses. The proposed residence and garage are consistent with the recently reconstructed residence directly to the north. The design of the garage roof with the gable running parallel to SR 28 reduces the visible height of the garage and is lower than the recently approved neighboring garage to the North. To the south the development is limited due to public lands. However to the north is the Mill Creek Plan Area that contains multiple residences of similar height.

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

The proposed residence has a maximum proposed height is 40’-6”. The northwest corner of the lakefront façade is 26’-8” or 64% of the maximum building height. Since the garage and residence are connected by enclosed breezeway they considered one structure and therefore only require this finding to be made for the highest corner of the entire structure.

7. Chapter 84- Filling and Dredging

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

The proposed plantings are in a similar location of an existing planter within the backshore. The minimal fill associated with the planting of the proposed aspens in the backshore will be greatly offset by the long-term benefits of the trees. The location of the proposed trees is currently either concrete patio or backfill behind a deteriorating
retaining wall. The removal of the concrete patio will allow for more infiltration within the backshore. The new trees and associated root systems will help to stabilize the existing subgrade within the backshore and reduce potential erosion. Aspens are also associated with nitrogen-fixing bacteria in the soil, which helps to naturally fertilize the surrounding area eliminating the need for additional fertilizer. The additional pervious area, soil stabilization and natural fertilizing benefits of the aspen will be beneficial to the existing shorezone conditions and water quality.

**Required Actions:** Staff recommends that the Hearings Officer take the following actions:

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.
(Attachment A) DRAFT PERMIT

PROJECT DESCRIPTION: Single Family Dwelling Rebuild

APN: 130-331-06

PERMITTEE(S): John and Jeannette Finney

FILE #: ERSP2012-0757

COUNTY/LOCATION: 1715 Lakeshore Blvd., Washoe County, Nevada

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on August 30, 2012, 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 30, 2015 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 TREE REMOVAL, 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 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
--------------------------------------------------------------------------------

PERMIT CONTINUED ON NEXT PAGE
Excess Coverage Mitigation Fee (1): Amount $________ Paid _____ Receipt No.______

Additional Filing Fees (2): Amount $2,026.25 Paid _____ Receipt No.______

Security Posted (3): Amount $________ Type ___ Paid _____ Receipt No. ______

Scenic Security Posted (4): Amount $________ Type ___ Paid _____ Receipt No. ______

Security Administrative Fee (5): Amount $ ________ Paid _______ Receipt No.______

Scenic Security Administrative Fee (5): Amount $ ________ Paid _______ Receipt No.______

Notes:
(1) See Special Condition 3.J., below.
(2) See Special Condition 3.K., below.
(3) See Special Condition 3.L., below.
(4) See Special Condition 3.I.(5), below
(5) $152 if a cash security is posted, or $135 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. _______________________________________

TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit is issued to allow the demolition of a single family residence and garage, and construction of a new residence and garage connected by an elevated covered and conditioned breezeway. On the lake-side of the parcel, a lap pool, modifications to the existing deck and a new planting area will be constructed. New landscaping that includes sod, shrubs and trees will be incorporated around relocated granite boulders and existing native plants in the center of the property between the house and garage. The project will be constructed utilizing existing land coverage.

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 shall be satisfied.

   A. The site plan sheets shall be revised to include:

   (1) Revised coverage calculation table on page SA-2 and associated site plan sheet to include the following modifications:
(a) Verification that all of the coverage associated with the stone patio adjacent to the garage and under the garage decking, as shown on the landscape plan, and the blue stone steps from the street to the lawn area is included in the coverage table.

(b) Remove the notation referencing “occasional parking area” and the double line of blue stone pavers adjacent to south side of the garage and driveway. Bollards, boulders or other parking barrier shall be shown on the site plan to prevent “occasional parking” on this area. Alternatively, if this area is to be used for parking, best management practices shall be installed and the coverage calculations revised to account for the entire parking area as coverage.

2. All existing easements, if any.

3. Construction staging and excavation storage locations.

4. The landscape plan will detail revegetation for the areas where coverage is to be removed. All vegetation shall be consistent with the requirements of Chapter 36 of the TRPA Code of Ordinances, including the specification for sizing and species of plants. The use of fertilizer shall be kept to a minimum and applied in accordance with Section 60.1.8 of the TRPA Code of Ordinances.

5. Indication that the disposal point of the pool drain and backwash will be to the sanitary sewer system. In no case will the pool be drained directly into Lake Tahoe.

6. A note stating that this permit does not approve pier construction or reconstruction of any kind.

B. Provide revised building elevations, height calculations and a roof plan to demonstrate a maximum building height of 40’6”, based on a cross slope of 18 percent with a dominant roof pitch of 10:12 or greater. The existing grade low point will be measured from elevation 6,240.75.

C. Provide a grading plan that includes:

1. Details and cross sections for the actual limits and depth of grading, not to exceed 6233.75 msl for the residence and 6250 msl for the garage, the areas of cut and fill and the amount, the depth of cut and width required for the pool and planting area, and slope stabilization for the areas of cut. Include all existing and proposed finish floor elevation points and contour elevations.

2. Revise the slope of the driveway so that stormwater will flow away from the roadway and install BMP’s to capture that drainage. No fills or recontouring, other than backfill for the cut-retaining structures, is allowed.

3. An evaluation with recommendations as to construction techniques, by a qualified professional, of the effects of the grading on existing trees and impacts to trees to be retained for screening, particularly the 38” pine, 27” pine, and 10” cedar on the north side, and the Chinqu on the south side of the property. Those recommendations will be incorporated into the grading and demolition plans.

4. A TRPA approved location for disposal of excavated material.
D. A detailed construction and demolition plan submitted for TRPA approval that describes the demolition and construction methodology, the phasing and timing, and traffic control measures that will be necessary to control vehicular ingress and egress.

E. The proposed temporary BMP Plan shall be revised to include:

1. Construction and vegetation fencing around the area between the garage and house that is proposed to be undisturbed.
2. Vegetation fencing shall be located around the drip line of all trees that are to remain in place, particularly the 38” pine, 27” pine, and 10” cedar on the north side of the property, and the Chinqu on the south side of the property that are utilized as screening for scenic mitigation. Notation C on BMP-3 will be revised so that there will be no pruning of any tree or shrub providing scenic mitigation.
3. Additional erosion control fencing along the contour between the garage and house.
4. Gravel or pine-needle filled waddles placed among the boulders lakeward of the west side of the house. These erosion control devices will be placed based on approval of the TRPA pre-grade inspector.
5. A notation that turbidity fencing will only be installed at the request of a TRPA inspector.

F. The proposed permanent BMP Plan shall be revised to include:

1. Retention and treatment of stormwater runoff from the driveway so that it does not run into the Highway 28 right of way. Alternatively, revise the slope of the driveway to drain into the parcel, away from the road.
2. Retention of stormwater runoff from the lower deck area adjacent to the lake.

G. Verification of approval from Washoe County for the reduced setback of 20 feet to 15 feet from Highway 28.

H. A copy of the encroachment permit from NDOT for the reconstructed driveway.

I. Scenic Mitigation. The scenic shoreland assessment calculations provided with the project have been revised. Revise the scenic shoreland assessment to reflect these changes and the following additional conditions:

1. Teton Windswept Siding was revised from 7.5YR 4/2 with a score of 15, to 7.5 YR 5/1, with a score of 12. This results in the overall contrast rating score changing from 25 to 24, with a total allowed visible area of **1,035 square feet**. Either revise the contrast scoring and provide an additional 152.7 square feet of building façade screening or, revise the siding color so that it increases the composite score to 25.
2. Lakefront Façade and Visible Area. The existing vegetation on the south side of the new residence does not appear to provide the extent of screening as illustrated for the most lakeward façade. The amount of screening was reduced by 45 square feet. Revise the visible area calculations as follows:
   - **LAKEFRONT FAÇADE:** 1732.0
   - **SCREENED AREA:** 544.3
(3) Provide documentation of the manufacturer, type and reflectivity rating of the glass to be used for the deck glass. The reflection percent shall be no less than 8 percent.

(4) Include the final contrast scoring sheets on the scenic review plan sheets for verification and acknowledgement.

(5) A Scenic Security of $20,000.00 shall be posted and retained for 5 years to ensure that the vegetative screening will perform as depicted.

J. The affected property has **4,612 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 1—Incline or by submitting an excess coverage mitigation fee.

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

   Estimated project construction cost multiplied by the fee percentage of 0.0150 (as identified in Table 30.6.1-2 of Subsection 30.6.1.C.3, Chapter 30 of the TRPA Code of Ordinances) divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

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

Coverage reduction square footage (as determined by formula above) multiplied by the coverage mitigation cost fee of $20.00 for projects within Hydrologic Transfer Area 1, Incline. 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.

K. Submit additional filing fees in the amount of $2,026.25 for the Hearing Officer hearing.

L. The security required under Standard Condition A.3 of Attachment R shall be determined upon the permittee’s submittal of required Best Management Practices plan and related cost estimate and shall not be less than $5000.00. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

M. The permittee shall submit three sets of the final site plan and coverage table to TRPA.

END OF PERMIT
Project:
LAKE TAHOE RESIDENCE
1715 LAKESHORE BLVD.
INCLINE VILLAGE, NV

Owner:
John and Jeannette Finney
1715 Lakeshore Blvd.
Incline Village, NV
(415) 725-2650

TRPA Land Use Consultant:
Wyatt Ogilvy
Land Use & Development Strategies
Suite 17 | Tahoe City, CA 96145
PO Box 1638 | Kings Beach, CA 96143
(530) 583-5889 | Fax: (530) 583-5858

BMP/Geotechnical Engineer:
Marvin E. Davis and Associates Inc.
12000 Old Virginia Road
Reno, NV 89511
(775) 863-9100

Architect:
Edward Breakell, AIA
BAM Design Studio
865 Tahoe Blvd. Suite 112c
Incline Village, NV 89451
(401) 619-0917

Mechanical Engineer:
Mark Schlosser
Sugarpine Engineering, Inc.
PO Box 8430
Truckee, CA 96162
(530) 214-0859

Sheet Index

Design Studio
BAM

Project Site

Vicinity Map