MEMORANDUM

Date: September 22, 2011

To: TRPA Hearings Officer

From: TRPA Staff

Subject: Shoreline Protective Structure, 1270 & 1278 West Lake Blvd., Placer County, California, Assessor’s Parcel Number (APN) 083-202-011,012, TRPA File Number ERSP2011-0777.

Requested Action: Hearings Officer action on the proposed project and related findings based on this Staff Summary and the Draft Permit (Attachment A).

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 proposed project involves construction of a new sloping rock revetment designed to protect the eroding bank. The rock revetment, consisting of 12” to 36” boulders, will absorb and dissipate wave energy and will protect a failed bank. The proposed revetment is to be designed as sloping and permeable. There will also be vegetation planted within pockets of the revetment to help stabilize leaning cedar and pine trees. This project will improve water quality thresholds by reducing the erosion of the existing bluff.

Construction access will occur from land, and will be limited to the defined construction access route within the project area, as conditioned with the permit. During construction, temporary BMP’s will be in place. Upon restoration of the backshore bluff, the area will be revegetated in accordance with the TRPA approved landscape plan.

Site Description: The subject site is located at 1270 & 1278 West Lake Blvd., Tahoe City, California. Existing improvements include a single family residence, decks, asphalt stairs and walkways accessing the street to the North and metal stairs leading to the beach. The property is well vegetated with trees and native understory. The project area is located in Tavern Heights Plan Area Statement (PAS #171), a residential Plan Area, and Shorezone Tolerance District 7. Surrounding land uses are primarily single family residential dwellings. The project area contains verified Land Capability Class 3 and 5 soils on...
the level upland portion of the property, and Land Capability Class 1b in the backshore area between the top of the bluff and the high water line of Lake Tahoe. The project area is mapped as Spawning habitat on the TRPA Fisheries Habitat Map.

**Issues:** The primary issues associated with the retaining wall and rock revetment include:

1. **Land Use:** The proposed project is located within the Tavern Heights Plan Area (PAS 171), Placer County. Shoreline Protective Structures are a Special Use requiring Hearings Officer review per Chapter 4, Appendix A, of the TRPA Code.

2. **Land Coverage:** There is no additional coverage proposed with this project.

3. **Construction Methodology and BMPs:** Access to the site will be via land and all appropriate temporary BMPs installed.

4. **Scenic Quality and Landscaping:** The proposed project is visible from Scenic Shoreline Unit Number 14, which is currently not in attainment with the established scenic threshold. The applicant will need to design the rock structure to incorporate vegetation consistent with the requirements of Chapter 30 of the TRPA Code of Ordinances.

5. **Vegetation Resources:** A site visit on September 12, 2011 did not detect any clusters of Tahoe Yellow Cress.

These issues are summarized in the following Staff Analysis.

**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. **Land Use:** The proposed project is located in the Tavern Heights Plan Area (PAS 171), where Shoreline Protective Structures are a Special Use. As such, the project requires Hearings Officer review per Chapter 4, Appendix A, of the TRPA Code. Special Use Findings have been addressed below.

C. **Plan Area Statement:** The project is located in Plan Area Statement #171 – Tavern Heights. The Land Use Classification is Residential and the Management Strategy is Mitigation. The constructed shoreline structure is accessory to the primary residential use on the property and will reduce erosion of the existing bank. Agency staff has reviewed the Tavern Heights PAS and has determined that the project is consistent with
the applicable planning statement, planning considerations and special policies. The proposed use, Shoreline Protective Structures, is listed as a Special Use.

D. **Shorezone Tolerance District:** The subject parcels are located in Shorezone Tolerance District 7. Projects within Shorezone Tolerance District 7 require that access to the shoreline shall be restricted to stabilized access ways which minimize the impact to the backshore.

E. **Land Coverage:** Assuming a project area size of 94,705 square feet, the total allowable land coverage for this site has been identified as 9,288 square feet. The existing on-site verified coverage is 18,909 square feet. The project area contains verified Land Capability Classes 1b in the backshore, 3 and 5 in the upland area. The project area currently contains 9,619 square feet of excess land coverage. A portion of the excess coverage will be mitigated through this project.

F. **Construction Methodology and BMPs:** Access will be from the land side via the existing paved driveway on the North parcel. Access will be by rubber-tired equipment over designated corridors protected by wood chip surfaces. Access route and the staging area of imported and excavated materials and all construction equipment shall be notated on the approved site plan. Construction staging area will be limited to an existing land covered or disturbed area.

BMP measures will be located downslope of the construction site. Temporary BMPs shall include: two layers of erosion control filter fencing, double layer of filter fabric below the temporary construction area, erosion control and vegetation protection fencing surrounding all stockpiles, and vegetation protection around all trees on the property. A turbidity curtain shall be installed and maintained during all phases of construction.

G. **Vegetation Resources:** The project area shoreline had a site inspection conducted for Tahoe Yellow Cress on September 12, 2011 and there were no clusters observed.

A 42” leaning Cedar tree will be topped as part of this project. The TRPA Vegetation Specialist was consulted, and the tree is dying and may be removed or topped.

H. **Scenic Quality and Landscaping:** The parcel is located in Shoreline Unit #14, which is in non-attainment. TRPA approved a baseline scenic assessment for the project area in TRPA File #20030104STD. The visible area allowed for shoreland structures in the project area is not to exceed 1,964 square feet for compliance with a minimum Composite Contrast Rating of 27. The approved visible area for this project area is 1,540 square feet. The pocket planting of vegetation within the revetment will provide some screening.
Required Findings: The following is a list of the required findings as set forth in Chapters 6, 18, 50, 54, and 55 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, Scenic Quality Public Service and Facilities, or Implementation sub-elements of the Regional Plan. This project is intended to promote environmental conservation. The project as conditioned conforms with, and will promote implementation of all applicable 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.*

   The project as conditioned, will comply with all applicable air and water quality standards for the region. The project as designed is expected to enhance the air and water quality values of the site through improved shoreline stability and reduced erosion.

2. **Chapter 18 – Special Use Findings.**

   (a) *The project, and the related use, is of such a nature, scale, density, intensity and type to be appropriate for the project area, and the surrounding area.*
Based on the analysis contained in the administrative record and the IEC, the proposed project is an appropriate use for the project area. The proposed color, texture and materials of the shoreline protective structure will be compatible with the existing conditions of the slope and surrounding shoreline.

(b) The project, and the related use, will not injure or disturb the health, safety, environmental quality, enjoyment of property, or general welfare of persons or property in the neighborhood, or in the Region.

The proposed project is designed to inhibit further erosion of the bluff and associated water quality impacts. The project as designed will enhance the scenic and water quality values of the project area shoreline. The project includes BMPs for protection of soil and vegetation. Therefore the project, as conditioned, is not expected to cause any significant impacts on the environment or to other property owners in the vicinity or region.

(c) The project, and the related use, will not change the character of the neighborhood, detrimentally affect or alter the purpose of any applicable plan area statement, community, redevelopment, specific, or master plan.

The proposed project will help stabilize the bank and improve the protection of the shoreline. The project is not expected to affect or change the character of the neighborhood, and is not expected to affect or alter the purpose of PAS 171, as a permissible use. The project as designed and conditioned is compatible with, and will not adversely affect the surrounding residential character of the neighborhood. The project design will include natural earthen materials and native vegetative screening to enhance scenic threshold values for the project area.

3. Chapter 50.3 – Shorezone Findings:

(a) Significant Harm: The project will not adversely impact littoral processes, fish spawning habitat, backshore stability, or on-shore wildlife habitat, including waterfowl nesting areas.

Ground disturbance for the proposed shoreline protective structure will occur landward of the high water line of Lake Tahoe (elevation 6,229.1 feet above mean sea level). The proposed rock revetment will improve littoral processes by absorbing and dispersing wave energy, as opposed to the wave energy the eroding the existing bank. This project will enhance the stability of the backshore bluff and will protect the shoreline from erosion. The project includes temporary BMPs for protection of soil, vegetation and water quality. The project area is mapped as spawning fish habitat and supports small boulders and rocks.
(b) Accessory Facilities: There are sufficient accessory facilities to accommodate the project.

The proposed retaining wall and rock revetment is accessory to the primary residence.

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

Shoreline protective structures are a permissible use in the applicable Plan Area Statement. The proposed rock revetment as designed and conditioned will not be incompatible with existing shorezone and lakezone uses in the immediate vicinity.

(d) Use: The use proposed in the foreshore or nearshore is water dependent.

The project is located in the backshore, and not in the foreshore or nearshore. The proposed use, shoreline protective structure, will armor the backshore of the project area from wave run up.

(e) Hazardous Materials: Measures will be taken to prevent spills or discharges of hazardous materials.

No hazardous materials are anticipated to be used for construction of the shoreline protective structure. Construction equipment will be located on a barge. Emergency cleanup materials (booms, etc.) will be readily available on site.

(f) Construction: Construction and access techniques will be used to minimize disturbance to the ground and vegetation.

Construction access will occur via land to minimize disturbance. Access to and from the shoreline for construction purposes, including staging of construction materials and equipment will be limited to the authorized locations of the approved site plan. The project will include temporary BMPs for protection of soil, vegetation and water quality.

(g) Navigation and Safety: 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 location of construction activities, within the backshore of the project area will not affect navigation or create a threat to public safety within Lake Tahoe.

(h) Other Agency Comments: 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 the project.
All agencies will be consulted as part of the approval process. Further, the project has been conditioned for compliance with the regulations of all applicable agencies having jurisdiction over the project.

4. **54.13.A Shoreline Protective Structure Findings:**

(a) **Structures in the backshore or environmental threshold values will be enhanced by the construction and maintenance of the protective structures.**

The project as designed is expected to enhance the stabilization and resistance of the backshore bluff to future erosion. The project design will include natural earthtone materials and native vegetative screening to enhance scenic threshold values for the project area.

(b) **The protection of structures in the backshore or the enhancement of environmental threshold values more than offset the adverse environmental effects of the construction and maintenance of the shoreline protective structures.**

Through the proposed project design, the benefits of the project in preventing future erosion are expected to more than offset any potential adverse impacts during construction.

(c) **Each protective structure has been designed to be sloping and permeable; provided, however, that this finding is not necessary if TRPA concurrently makes the findings required under Subparagraph 54.13.B(1).**

The project as illustrated on the site plans (Attachment C) has been designed to be sloping and permeable in accordance with Chapter 54 development standards of TRPA Code.

(d) **Each protective structure has been designed so that backshore erosion on adjacent properties will not be accelerated as a result of the erection of the protective structure.**

The shoreline protective structure has been designed to avoid acceleration of backshore erosion on adjacent properties. The wall will be joined to an existing wall to the east.

5. **55.4.C Findings for Erosion Control and Similar Projects:**

(a) **The project, program, or facility is necessary for environmental protection.**
The project is construction of a shoreline protective structure to prevent further erosion of the slope and to maintain existing natural shoreline vegetation. The proposed shoreline protective structure is designed to inhibit further degradation of the bank and associated water quality impacts.

(b) There is no reasonable alternative, which avoids or reduces the extent of encroachment in the backshore.

The proposed design, as conditioned, will have less than significant environmental impacts and will have the minimum backshore encroachment necessary for the project.

Required Actions: 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:

A. Draft Permit
B. Location Map
C. Proposed Plans
DRAFT PERMIT

PROJECT DESCRIPTION: Shoreline Protective Structure APN: 083-202-011,012

PERMITTEE(S): Thorson Hayes Family Trust / Title Services Trust FILE #ERSP2011-0777

COUNTY/LOCATION: Placer County / 1270 & 1278 West Lake Blvd.

Having made the findings required by Agency ordinances and rules, the Hearings Officer approved the project on September 29, 2011, subject to the standard conditions of approval attached hereto (Attachment S and Q) and the special conditions found in this permit.

This permit shall expire on September 29, 2014, 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 or 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; AND
(3) 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 ________________
Excess Coverage Mitigation Fee (1): Amount $______ Paid_____Receipt No.______

Security Posted (2): Amount $______ Posted_______ Type______ Receipt No.______

Security Administrative Fee (3): Amount $________  Paid _____ Receipt No.______

Notes:
(1) See Special Condition 3.B, below.
(2) See Special Condition 3.D, below.
(3) $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 and is eligible for a county building permit:

___________________________________               _____________________________
TRPA Executive Director/Designee               Date

SPECIAL CONDITIONS
1. This permit specifically authorizes the construction of a shoreline protective structure (SPS) with a sloping rock revetment in the backshore of the subject parcel as illustrated on the approved site plans. The SPS shall not exceed a slope of 1.5 to 1 and the toe of the SPS shall not be cited any further lakeward than the topographic contours at the base of the SPS identified on Sheet C-2 of the approved site plans. Additional vegetative measures include pocket planted to protect leaning trees and enhance scenic quality of the project area. A 42” cedar tree will be trimmed as identified on Sheet C-5 of approved plans. No additional coverage is proposed with this project.

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

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

   A. The site plan shall be revised to include:

      (1) **Temporary BMP Plan** shall be provided illustrating all temporary BMPs for proposed construction, including identification of construction access.
The plan shall detail a double layer of filter fabric fencing installed on the downslope side of the construction area. Vegetative protection fencing shall be identified surrounding the construction access area and backshore bluff construction area, and not more than 12 feet from the upslope side of the construction area. Fencing shall be identified around the dripline of existing trees within the perimeter vegetative protection fencing. All erosion and vegetative protection fencing shall be properly maintained during all phases of construction. A turbidity curtain shall be installed and maintained during all phases of construction. The plan shall identify the access route and the staging area of imported and excavated materials and all construction equipment. Notation shall be included on the plan for the construction staging area to be limited to an existing land covered or disturbed area, and shall not occur in the shorezone of the project area.

(2) Notations for temporary BMPs to include the use of 12” coir logs to stabilize filter fabric fence; notes indicating that there will be no storage of excavated material on site; and indication that the fill material will be disposed of in a TRPA approved location. Include a coir log detail on the detail sheet. \textit{Please Note: Straw bales are no longer acceptable for temporary erosion control or mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the basin.}

(3) Protective fencing for soil and vegetation shall be constructed with metal posts, industry standard mesh fencing, and at least 4 feet tall, unless an alternative protection method is approved by TRPA.


(5) A notation indicating: “Dust control measures shall be in place during construction. Broadcast mulch shall not be permitted as a dust control measure within 30 feet of structures.”

B. The affected property has 8,494 square feet of remaining unmitigated excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within the Tahoe City Hydrologic Transfer Area 8, 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 .0225 (as identified in Table A of Subsection 20.5.A.(3), Chapter 20 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 $8.50 for projects within the Tahoe City Hydrologic Transfer Area 8. 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 construction schedule prior to commencement of construction. This schedule shall identify dates for the following: when installation of temporary erosion control structures and turbidity screens will occur; when construction will start; when installation of all permanent erosion control structures will occur; and the project completion date. The permittee shall provide a copy of the construction schedule for the project file.

D. The security required under Standard Condition A.3 of Attachment S shall be $5,000.00. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

E. The permittee shall submit a restoration landscape/revegetation plan for the project area, including the specification for sizing and species of plants in accordance with the standards required in Sections 30.7 of the TRPA Code of Ordinances for TRPA review and approval.

F. 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 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.

G. The permittee shall submit written construction methodology including location of equipment, staging areas of materials and access pathways as denoted on the site plan.

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

4. All imported rock materials shall be washed clean and free of dirt and organic materials prior to importation to the project site. A certificate is required to demonstrate the rocks are clean.

5. Existing natural features shall be retained and incorporated into the site design to the greatest extent feasible.

6. 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.

7. 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.

8. If groundwater is encountered during slope construction activities, the permittee shall stop work and notify TRPA land capability staff for determination if a Dewatering Plan is required for TRPA approval.

9. It is the permittee's responsibility to receive authorization, and obtain any necessary permits from other responsible agencies for the proposed project.
10. Ground disturbance shall be limited to the minimum necessary for project construction, as authorized with this permit.

11. This site shall be winterized in accordance with the provisions of Attachment S by October 15th of each construction season. All disturbed areas shall be stabilized with a 3-inch layer of mulch or covered with an erosion control blanket.

12. Alteration of existing trees and vegetation that screen shoreland structure is prohibited.

13. All removed material shall be hauled away from the site to a TRPA approved location.

14. Best practical control technology shall be employed to prevent earthen materials from being resuspended as a result of construction activities and from being transported to adjacent lake waters.

15. 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.

END OF PERMIT
MEMORANDUM

To: TRPA Hearings Officer

From: TRPA Staff

Date: Sept 22, 2011

Subject: Shorezone protective structure, 709 Lakeview Avenue, City of South Lake Tahoe, El Dorado County, California, Assessor’s Parcel Number 026-271-28, TRPA File Number ERSP2011-0250

Proposed Action: Hearings Officer action on the proposed project and related findings based on this Staff Summary and the attached Draft Permit. The required actions and recommended conditions are outlined in Section I of this Staff Summary.

Staff Recommendation: Staff Recommends that the Hearings Officer make the required findings and approve the proposed project subject to the special conditions in the draft permit (attached).

Project Description/Background: On August 11, 2011 this project was continued by the Hearings Officer so the applicant could address questions pertaining to the encroachment of shoreline protective structure into the public trust. A letter from the California State Lands Commissions reflecting this concern is included as Attachment E.

This is a proposal for the placement of a new sloping dynamic rock revetment on the lake side of an existing sheet pile retaining wall, designed to protect bearing loads from the existing condominium complex foundation and deck piers from wave action erosion, and the removal and replacement of the wooden deck adjacent to the sheet pile wall. The dynamic sloping revetment is needed because the existing sheet pile wall, approximately 310 feet in length and between 4 and 7 feet tall is failing in several locations. The new rock revetment will reduce the effects of wave action, reduce soil erosion and improve stability along the shoreline. Proposed construction involves keying in large granite boulders 24 inches in diameter on a layer of filter at the base of the sheet pile to prevent undermining from wave action. Smaller 12 to 24 inch boulders will then be placed directly against the sheet pile with smaller 4 to 12 inch rock placed on top of the large boulders at a slope ratio of no more 1:1 and preferably at 1:2. The proposed sloping rock revetment will aid in dissipating wave energy as well as reduce the visual impact of the static vertical sheet pile. The new sloping revetment will not adversely impact littoral processes based on the structures sloping and permeable nature.
The proposed sloping revetment which will use +/- 400 cubic yards of rock infill will be approximately 305 long, 12 feet wide and 6 feet tall. In addition, approximately 35 cubic yards of sand will be removed to accommodate the keying in of rock for the toe of the structure. Sand will also be placed behind existing sheet pile wall, around existing deck footings to replace lost material from previous wave action while approximately 21 cubic yards of material will be removed to accommodate footings for the deck replacement.

The project area is a 52,812 square foot (1.21 acre) lakefront property located on the north side of Lakeview Avenue. The site is currently developed as a 27 unit multi-family residential condominium complex and common area, with a swimming pool, parking, and a wooden boardwalk type deck on the north side of the property. The lake bottom substrate in the project area has been mapped as marginal fish habitat. In 1995 TRPA verified the land capability for this property as larger areas of Class 6 and 7 with smaller areas of Class 2 and Class 1b (SEZ). The project area falls within Shorezone Tolerance District 4 characterized as steep, crumbling cliffs with continuing erosion problems. The vertical sheet pile wall which runs the full length of the property is made of corrugated steel currently rusted and is buckling or being undermined in several locations. The project site is visible from Scenic Shoreline Unit 32 (Al Tahoe) which is currently in attainment. Surrounding land uses consist primarily of non-littoral parcels with single-family residences to the south and a mixture of littoral single and multi-family residences to the east.

**Issues/Concerns:** See Attachment C for a more detailed Staff Analysis

- Fish Habitat
- Soil Erosion and Water Quality
- Scenic Quality
- TYC
- Encroachment into Public Trust

**Regional Plan Compliance:** The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 6, 50, 51, 54 and 55

**Attachments:**

- Required Findings/Rationale (Attachment A)
- Draft Permit (Attachment B)
- Issues/Concerns Discussion (Attachment C)
- Regional Plan Compliance Analysis (Attachment D)
- Letter from California State Lands Commission (Attachment E)
- Plans (Attachment F)
  - Vicinity Map
  - Site Plans
  - Elevations
Required Findings/Rationale (Attachment A)

Required Findings: The following is a list of the required findings as set forth in Chapters Chapters 6, 50, 51, 54 and 55 of the TRPA Code of Ordinances. Following each finding, Agency staff has summarized the evidence on which the finding can be made.

1. Chapter 6 – Threshold-Related 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.

   Land Use: Shoreline Protective Structures are listed as a Special Use accessory to an existing, allowed use located on the same adjoining littoral parcel located within the 099 Al Tahoe Plan Area. Surrounding land uses are made up primarily of single family residential and some multiple family residential uses with accessory shorezone development consisting of piers, backshore decks and terraces to the east, non-littoral single family residences to the south and California Tahoe Conservancy property to the west. The proposed project will not alter land use patterns.

   Transportation: The proposed project will not result in an increase in daily vehicle trip ends (dvte) to the subject parcel or vehicle miles traveled (VMT).

   Conservation: The project is consistent with the Conservation Element of the Regional Plan. The proposed materials and design are consistent with the TRPA Design Review Guidelines. The project area is within Scenic Shoreline Unit 32 (Al Tahoe) which is currently in scenic attainment. The proposed shoreline protective structure will utilize native rock that will allow the structure to blend rather than contrast with the surroundings. Staff anticipates that the scenic quality rating upon successful implementation of the project will improve both the existing condition of the sheet pile as well as the scenic shoreline unit.

   The area is a mapped as marginal fish habitat which consists of a sandy lake bottom which is not suitable for fish spawning.

   It is generally TRPA policy not to approve shoreline protective structures located below the high water line. However, given the need to protect the integrity of the perimeter of the concrete stem wall supporting the condos, the 30”x36” round concrete piers supporting the deck, and the failing static sheet pile wall the design of the 1:2 sloping revetment requires that materials for the structure are be placed below the high water line.

   Tahoe Yellow Cress (*Rorippa subumbellata*) has been observed along the
shoreline near the northeast corner of the property. As a TYC management and construction protection plan has or will be implemented for the protection of the existing TYC population on site, it is anticipated that there will be no impact during the implementation and long-term monitoring of this project.

The applicant shall install all required water quality Best Management Practices (BMPs) on the parcel in accordance with Chapter 25 of the TRPA Code. There are no known special interest animal species or cultural resources within the project area.

**Recreation:** The project is in the vicinity of the Thomas F. Regan memorial Park located to the west and to the east and the Upper Truckee Marsh further to the east and southeast of the project site. The project while not visible from the eastern portion of Regan beach will be visible from the Marsh, the western reaches of the beach and Globin’s pier. However, with the use of native rock materials the project will blend in with the existing natural materials resulting in an overall scenic improvement. The proposed shoreline protective structure will not adversely affect recreational boating or pier access. This project was continued so that questions pertaining to the encroachment into the public trust could be addressed by the applicant. It is thought that the width and placement of the toe of the shoreline protective structure could impede the general public’s access when traveling from Thomas F. Regan memorial Park in the west to the Upper Truckee Marsh area in the east. The Hearings Officer requested that the Applicant investigate a viable solution to this access question by either redesigning the structure or recording an access easement across the property. After lengthy discussions with the applicant’s representative, TRPA, and California State Lands it was agreed upon that the applicant would investigate the possibility of granting an access easement at the rear or of the property.

**Public Service and Facilities:** This project will not require any additional public service facilities.

**Implementation:** The proposed project will not require the transfer of allocations or other development rights. The project will however require review and approvals from other local jurisdictions and agency. To date the project has received approvals from the City of South Lake Tahoe and State of California Department of Fish and Game.

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

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

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 b, above.)

2. Chapter 50 Shorezone Standards:
   
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 new shorezone protective structure will not adversely impact littoral processes based on the structures sloping permeable nature which is dynamic in nature and designed to dissipate wave action. The proposed structure will not impact feed and cover fish habitat as it is located in an area mapped as marginal fish habitat. 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 shoreline protective structure is a permissible accessory use to the upland Residential use. By its very nature the dynamic revetment is designed to protect the integrity of the perimeter concrete stem wall supporting the condominium complex, a primary use, and 30”x36” round concrete piers supporting the wooden deck.

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 will compliment other existing shorezone accessory uses in the area, (piers, boathouses, and decks and terraces) by improving overall scenic quality of the shoreline unit as well as the structural integrity to the primary use on site.

d. The use proposed in the foreshore or nearshore is water-dependent.
The proposed shorezone protective structure is located in the Shorezone of Lake Tahoe and by its nature 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 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 TRPA approved points of disposal. No containers of fuel, paint, or other hazardous materials may be stored in the foreshore or nearshore.

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

The applicant shall not store construction materials on the beach or in the backshore. Permanent disturbance to ground and vegetation is prohibited. All construction and grading activities will adhere to the standards found in Chapters 62 and 63 of the TRPA Code of Ordinances. Temporary BMPs will be required to ensure disturbance is minimized.

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 existing sheet pile wall currently encroaches into the lake to an approximate Lake Tahoe datum of 6,225/6,226 which is below the high water elevation of 6,229. While further encroachment into the lake is generally not encouraged by TRPA, the increase encroachment with the proposed sloping dynamic revetment will work to dissipate wave energy which is currently undermining portions of the of the sheet pile wall and eventually the deck and condo foundation. Merely replacing the vertical sheet wall will not help to combat the effect of wave action or improve the scenic quality of this shoreline unit. Although a portion of the structure will be installed below the high-water line of 6,229 in order to dissipate wave energy the proposed location of the protective structure 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.

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.**
The project was taken to the Shorezone Review Committee and received no negative comments from members of the committee. However this project will require all necessary approvals from other local jurisdictions and agencies as a condition of approval.

3. Chapter 51 Special Use Findings — [Required for Shorezone Protection Structures]

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 protective structure addresses both structural/littoral issues as well as scenic issues in a positive fashion. The sloping revetment will be an improvement to the existing shoreline conditions. The scale and design of the structure is appropriate for this already impacted shoreline unit. The permit will be conditioned to require a monitoring plan to ensure that the structure remains structurally sound for a period of no less than 5 years.

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 proposed shoreline protective structure is an accessory use allowed under the Al Tahoe Plan Area Statement (PAS 099). The proposed structure will serve the existing multi-family residential structures by physically supporting and augmenting the failing sheet pile wall and eroding shoreline of the property. As a condition of approval, a long term monitoring plan shall be submitted to TRPA to monitor the effectiveness of the protective structure.

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.

Installation of the proposed shoreline protective structure will not permanently change the character of the neighborhood or detrimentally affect or alter the purpose of the plan area statement. The proposed sloping revetment will provide an improvement to the shoreline and existing structural elements which are currently experiencing eroding wave action. The proposed shoreline structure shall be for the applicant’s property exclusively; APN 026-271-28 and shall be confined to the subject parcel boundaries. The proposed structure will
be designed to run the width of the property and will gradually blend into the existing landscape at either end of the property. The project could change the character of the neighborhood by potentially impeding public access along the shoreline of the property between the CTC property and Regan Beach. It should be noted however that this stretch of shoreline is often inundated with water and/or mud, conditions which currently affect access.

4. **Chapter 54 Shorezone Findings:**

   a. **Structures in the backshore or environmental threshold values will be enhanced by the construction and maintenance of the protection structures.**

   The shoreline revetment has been designed as a dynamic sloping structure, portions of which will be placed below the high water line, keying in large granite boulders 24 inches in diameter at the base of the sheet pile to prevent undermining from wave action, with smaller 12 to 24 inch boulders placed directly against the sheet pile, with smaller 4 to 12 inch rock placed on top of the large boulders at a slope ration of around 1:2.

   b. **The protection of structures in the backshore or the enhancement of environmental threshold values more than offset the adverse environmental effects of the construction and maintenance of the shoreline protective structures.**

   The proposed sloping revetment has been designed as a dynamic sloping structure, placed against an existing sheet pile wall built in 1969, prior to the current shorezone ordinances. The sheet pile is currently highly visible from 300 feet lakeward of high water and is failing in a number of places. The wall currently encroaches into the lake to a lakebed elevation of 6,225. Merely replacing the existing sheet pile vertical wall with a newer sheet pile was will not aid in dissipating wave action and its effects of undermining soil erosion. Further the removal and replacement of the wall would cause more degradation to the shoreline unit as opposed to replacing the existing structure by introducing a more efficient dynamic structure. The sloping revetment will not only improve the scenic quality of the shoreline unit, but will also dissipate wave energy and reduce the effects of erosion and thus improve littoral processes.

   c. **Each protective structure has been designed to be sloping and permeable.**

   The proposed revetment incorporates design and construction standards contained in Chapter 54 of the TRPA Code of Ordinances. The structure will consist of a base rock of 24 inches in diameter keyed in at the toe to a depth of around 16 inches, with smaller 12 inch to 24 inch boulder place against the existing sheet wall at a 1:1 slope. Smaller rocks between 4 and 12 inches in
d. Each protective structure has been designed so that backshore erosion on adjacent properties will not be accelerated as a result of the erection of the protective structure.

The proposed project is designed to increase protection against wave action especially during episodes of high water and help improve littoral processes along this segment of the shoreline. The sloping nature of the structure will aid in counteracting gravitational forces from the sheet pile and foundation from the condo complex. The use of filter fabric at the toe of the structure will aid in reducing of scouring or undermining of the structure. To avoid scour the structures ends will slope into the ground at each property so as not to impact adjacent properties.

5. Chapter 55 Shorezone Findings:

a. The project, program or facility is necessary for environmental protection.

The new sloping revetment is needed to protect the failing sheet wall and to reduce wave energy and scouring in this area designated as having high erosion potential due to its terrain and the type of volcanic soil.

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

There is no reasonable alternative to avoid encroachment into the lake as the previously placed sheet pile wall currently encroaches into the lake and removing it would cause a great deal more disturbance than the placement of rocks for the sloping revetment. Proposed construction involves keying in large granite boulders approximately 24 inches in diameter at the base of the sheet pile on top of a layer of filter fabric designed to prevent undermining from wave action. Smaller 12 to 24 inch boulders will then be placed directly against the sheet pile with smaller 4 to 12 inch rock placed on top of the large boulders at a slope ratio of no more 1:1 and preferably at 1:2. Smaller rock will be placed in all void spaces in areas larger than 1 inch.
Draft Permit, (Attachment B)

PROJECT DESCRIPTION: Shorezone Protective Structure Replacement APN 026-271-28

PERMITTEE: Silverado Title Co. FILE # ERSP2011-0250

COUNTY/LOCATION: CSLT, El Dorado County, 709 Lakeview Avenue

Having made the findings required by Agency ordinances and rules, TRPA Hearings Officer approved the project on September 29, 2011, 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 29, 2014, 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 APPROPRIATE COUNTY PERMIT. TRPA’S ACKNOWLEDGEMENT MAY BE NECESSARY TO OBTAIN A COUNTY 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

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)
Security Posted (1): Amount $________ Type _____ Paid _____ Receipt No.______

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

Shorezone Monitoring Security (3): Amount $5,000 Posted _____ Type _____ Receipt No.______

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

Notes:
(1) Amount to be determined. See Special Condition 3 D., below.
(3) See Special Condition 3 E., below.
(2) (4) $152 if a cash security is posted or $134 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 a new sloping dynamic rock revetment on the lake side of an existing sheet pile retaining wall which was designed to protect bearing loads from the existing condominium complex foundation and deck piers from wave action erosion at 709 North Lakeview Avenue. The dynamic sloping revetment is needed to reduce undermining soil erosion along the sheet pile wall and improve slope stability. The shoreline protective structure will consist of the following components; keying large granite boulders approximately 24 inches in diameter at the base of the toe of the revetment over a layer of filter fabric designed to prevent undermining from wave action, 12 to 24 inch boulders placed directly against the sheet pile at a ratio of 1:1 with smaller 4 to 12 inch rock placed on top of the large boulders at a slope ration of no more 1:2. Smaller rock will be placed or chinked in all void spaces larger than 1 inch in diameter. The modification to temporary BMPs (Best Management Practices); turbidity curtains etc., may be required depending on Lake the level at the time of construction. Additional work will include the removal and replacement of the wooden deck adjacent to the sheet pile wall.
2. No new land coverage shall be created nor is it approved as a result of this permit. No modification or expansion of any additional Shorezone structure or additional disturbance outside of the scope of this permit in the backshore is approved as a result of this permit. Any periodic maintenance may require further review and approval by TRPA.

3. The standard conditions of approval listed in Attachment Q shall apply to this permit.

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

A. The permittee shall revise the site plan to include:

   (1) Notes indicating that there will be no storage of excavated material on site; and fill material will be disposed of in a TRPA approved location.

   (2) Installation of a dual (double thickness) erosion control fence, fiber roll log or similar product, located within 6 feet on the toe of the proposed rock revetment. The filter fabric fence shall be anchored to the exposed lake by gravel bags or alternatively a fiber roll log anchored to the lake bottom with properly installed stakes and wire. The entire length of the filter fabric fence or fiber roll log shall be in direct contact with the exposed lake substrate at all times.

   (3) The location and details of all proposed building and pedestrian lighting. All lighting shall demonstrate conformance to the TRPA Code of Ordinances.

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 demonstrating completion by Oct 15th of each construction season.

C. A written construction methodology which shall include access points, the location of construction equipment and materials staging areas and all temporary BMPs.

D. The permittee shall bring the project area into conformance with a minimum contrast rating score of 21 by implementing scenic BMPs in the shoreland. If the score of 21 cannot be attained, a written strategy shall be provided to TRPA as to how an improvement in the scenic score can be achieved through the introduction of scenic BMPs.
E. The permittee shall submit a rock revetment monitoring plan to consist of:

- An initial 30 day post-construction photo

- Annual post-construction report and photos taken on the anniversary of the installation of the revetment consistent with the same established viewpoints as identified on acknowledged and TRPA stamped plan sets submitted by Sept 15, each year for at least 5 years

Photos submitted will demonstrate that the proposed revetment is adequate to achieve the required performance. A monitoring security shall be held for a minimum of 5 years to ensure that the sloping revetment is functioning as designed and there are no ill effects resulting from such. Any components that fail or show evidence of undermining or erosion shall be repaired at the appropriate time of grading season. By signature of this permit, the permittee agrees that the sloping revetment authorized under this permit shall be monitored and maintained per approved conditions of approval and design specifications.

The permittee shall pay monitoring fees for TRPA staff to review reports and conduct periodic site visits. The applicant agrees to pay to TRPA, reasonable, hourly monitoring costs that will not exceed the costs incurred by the Agency. These costs will be billed to the applicant and shall be submitted to TRPA within 30-days of receipt of the invoice. Fees for monitoring are based on an hourly rate. Rates are subject to change.

Or

The payment of a monitoring deposit prior to acknowledgment of the permit subject to a refund or additional billing may be paid in lieu of TRPA monitoring invoicing. Per TRPA Code Subsection 8.8.B.2, a deposit shall be provided by the permittee in an amount equal to 110% of the material and labor costs of the required restoration/mitigation to ensure success of the proposed restoration/mitigation requirements. Field inspections and administrative costs related to monitoring will be charged against the deposit. Fees for monitoring are based on a reasonable hourly rate. Rates are subject to change.

F. The security required under Standard Condition A.3 of Attachment C 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.
G. A Scenic/Landscape security of $5,000 shall be required. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

H. A rock sample for the proposed shoreline portion of the protective structure shall be submitted to TRPA for review and approval.

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. The permittee shall provide documentation to TRPA supporting that any and all local, state, and Federal regulatory requirements have been satisfied.

6. All areas temporarily disturbed by construction shall be immediately (within 48 hours) reseeded/re-vegetated and mulched.

7. Any and all temporary soil stockpiles shall be appropriately covered with tarps and contained by temporary erosion control fences and/or coir logs with gravel bags.

8. No grading or excavation shall be permitted except as shown on the plans for the proposed shorezone structure.
9. Any and all unused excavated material shall be hauled away from the site to a TRPA approved location. No fills or re-contouring, other than backfill for structures, shall be allowed.

10. Any and all temporary erosion control structures must be maintained until disturbed areas are stabilized or sufficiently re-vegetated. Temporary erosion control structures shall be removed once the site has been stabilized or re-vegetated.

11. All employee temporary construction vehicles shall be parked on existing paved surfaces or existing compacted road shoulders only.

12. All rock material (gravel, cobble, and/or boulders) imported to the site for use in the shoreline construction area shall be thoroughly washed and shall be free of any silt and clay material. The permittee shall submit certification from a qualified professional that all the imported rock is free of minus #200 sieve material, prior to placing the material into the shoreline protection structure.

13. Disturbance to lakebed materials shall be kept to the minimum necessary for construction.

14. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the waters of the Lake Tahoe Basin is prohibited. All surplus construction waste materials shall be removed from the project and deposited in a TRPA approved sites.

15. 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.

16. Grading and excavation is prohibited at any time of the year during periods of precipitation and for the resulting period of time when the site is covered with snow or is saturated, muddy or unstable.

17. This site shall be winterized in accordance with the provisions of Attachment Q by October 15th of each construction season. All disturbed areas shall be stabilized with a 3-inch layer of mulch or covered with an erosion control blanket.

END OF PERMIT
Issues/Concerns Discussion (Attachment C)

A. **Land Use:** No issue

B. **Plan Area Statement:** No issue

C. **Fish Habitat:** No issue as the lake bottom substrate for this project area is composed of sand and has been mapped and verified as marginal fish habitat.

D. **Soil Erosion:** The project area lies within Shorezone Tolerance District 4 characterized as steep, crumbling cliffs with continuing erosion problems. The remedy for this problem was to install vertical corrugated steel, sheet pile wall which is currently failing. In terms of dissipating the erosive wave action, this type of structure is inefficient.

E. **Scenic Quality:** The proposed project is visible from Scenic Shoreline Unit 32 Al Tahoe which is currently in attainment with the established scenic threshold. In addition the Plan Area Statement for this area Al Tahoe 099 identifies that the shoreline is eroding and has poor public access.

F. **Tahoe Yellow Crest (TYC):** A TYC survey was conducted on September 27, 2010. TYC was observed at 2 different locations, adjacent to the north eastern property boundary. As a condition of approval, a TYC Management Plan will need to be maintained to protect the existing population within the project area.

G. **Encroachment into the Public Trust:** It is thought that the width and placement of the toe of the shoreline protective structure could impede public access for individuals traveling from Thomas F. Regan memorial Park in the east to the Upper Truckee Marsh area to the west. It was suggested by the Hearings Officer that an access easement be provided for general public use.
Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) to assess the potential impacts of the project. Some potential environmental impacts were identified and staff has concluded that these impacts are temporary in nature and when mitigated will have less than a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

Plan Area Statement: The project is located within the Al Tahoe (099) in which Shoreline Protective Structures are a special use allowed as an accessory structure to an existing allowed use. The Land Use Classification is Residential and the Management Strategy is Redirection. The project site is located within Shorezone Tolerance District 4.

Fish Habitat: This project site is located within an area mapped as marginal fish habitat. TRPA has reviewed the subject parcel in relationship to the configuration of the shoreline structure and has determined that the proposed placement of revetment material below high water line will not adversely impact the area or littoral processes but rather improve them. As a condition of approval the proposed dynamic sloping revetment structure shall not extend further than is absolutely necessary to achieve a 1:1 slope ratio for the new structure.

Soil Erosion: The project area lies within Shorezone Tolerance District 4 characterized as steep, crumbling cliffs with continuing erosion problems. The proposed sloping revetment incorporates both design and construction standards contained in Chapter 54 of the TRPA Code of Ordinances which are designed specifically to combat the effects of soil eroding wave action. To combat the eroding wave action, the rock revetment will contain elements that will dissipate wave action, combat undermining at the structure’s toe by keying in large boulders and filter fabric and reduce the chance of failure by “chinking”, smaller openings in the structure to protect the interior space from additional adverse conditions increased protection against wave action during episodes of high water. The applicant will be required to submit a long term monitoring plan for the sloping rock which demonstrates that the toe and other components of the revetment are structurally sound. The applicant will also be responsible for maintaining sand replenishment along the toe of the new structure.

Scenic Quality: The proposed project is visible from Scenic Shoreline Unit Number 32 Al Tahoe which is currently in attainment with the established scenic threshold. While the introduction of the new sloping rock revetment will result in a visual improvement to the shoreline unit, a separate baseline scenic assessment was not performed for the proposed for the revetment structure. A baseline scenic assessment was completed for the existing residential shoreland structure which yielded a score contrast rating score of 14 or a visible allowable of 260 square feet. The total visible façade square footage may be increased by 7.5% for each additional 10 feet of linear lake frontage over 100
feet and is there allowed a total of 650 square feet of allowable visible mass. For the construction of the proposed structure additional scenic mitigations are required per the following; **Level 3**: Non-repair projects on structures adjacent and lakeward of the shoreland. The mitigation requirements for this level shall be the implementation of scenic BMPs in the shoreland. The BMPs shall bring the project area into conformance with a minimum contrast rating score of 21 except where:

- (a) it is physically impossible to attain a score of 21 through application of scenic BMPs; or
- (b) the cost of the scenic BMPs required to increase the baseline contrast score to 21 exceeds ten percent of the cost of the project; and
- (c) if the project is not required to bring the project area into conformance as a result of subparagraphs (a) and (b) above, the applicant shall attain the highest possible score.

**F. Tahoe Yellow Cress (TYC):** On September 27, 2010 a TYC survey was conducted along the entire beach area fronting the Chateaux Du Lac condominium complex. TYC was observed at two locations within the project area near the property’s eastern property boundary. A TYC management plan was implemented to protect the existing TYC population on site. In addition, the sloping rock revetment has been designed to avoid TYC populations and steps have been taken to avoid the TYC during construction using wooden protective structures as depicted in Attachment E, page D1, detail 5/D1.

**G. Encroachment into the Public Trust:** Due to the width and placement of the toe of the shoreline protective structure it is believed that public access along the shoreline between Thomas F. Regan memorial Park located to the east and the Upper Truckee Marsh area to west could be impeded. The Hearings Officer requested that the Applicant investigate a viable solution to this access question by either redesigning the structure or recording an access easement across the property. After lengthy discussions with the applicant’s representative, TRPA, and California State Lands it was agreed upon that the applicant would investigate the possibility of granting an access easement at the rear or of the property. However the applicant’s representative reported back that the Chateaux Du Lac Homeowners Association is not willing to provide an access easement across their property for public use due to a previous lawsuit resulting from an injury which occurred on the Chateaux Du Lac.
Dear Mr. Gordon:

SUBJECT: Chateaux Du Lac Homeowners Association – Protective Structure Replacement Project and Application for a General Lease – Recreational Use for an Unauthorized Existing Pier in Lake Tahoe, Adjacent to 709 Lakeview Avenue, near South Lake Tahoe, El Dorado County

This letter is to advise that staff of the California State Lands Commission (Commission) has reviewed the project description and proposed plans you provided for Chateaux Du Lac Homeowners Association (Association) shorezone protective structure replacement project.

According to the plans, the proposed sloping rock revetment as part of the protective structure project will occupy land within the State-administered Public Trust easement below the high water mark at elevation 6228.75 feet, Lake Tahoe Datum. The proposed structures and related construction activities should not block or otherwise prohibit the public from passing and re-passing across the Public Trust easement. Staff believes that a portion of the existing walkway and sheet pile retaining wall may encroach below the high water mark. Commission staff is concerned that the public access is and will be impaired particularly during periods of high water and requests a plan how the Association will provide for public passage along the shore within the easement.

In addition, the plans show an existing pier adjacent to the Association’s upland parcel and located on State-owned sovereign land under the leasing jurisdiction of the Commission. A review of our records indicates that the pier has not been authorized by the Commission. Therefore, the Association is required to obtain a lease from the Commission for the use of this land.
Enclosed is the Commission's lease application. We encourage the Association to submit an application as soon as possible to allow sufficient time to complete the application process, conduct any required environmental review, and negotiate a lease. The lease application is also available on our website at www.ssic.ca.gov.

The Association should complete all sections of the application and return it to me, along with an application processing fee in the amount of $3,025, which is the estimated Minimum Expense Deposit plus an additional $25 Filing Fee, made payable to the State Lands Commission. The Commission is required to recover all costs associated with processing the lease application. The Filing Fee and Minimum Expense Deposit must be submitted with the application. Upon receipt of the application and fees, the Association will be provided a reimbursement agreement. An executed reimbursement agreement to cover the Commission staff cost to process this transaction is required as part of a complete application.

In addition to the items requested above, the following information should be provided with the application:

1. Current photographs of the pier. The photographs should show the pier from the shore looking lakeward and photographs of each side showing the full length of both sides of the pier. Please indicate the date when the photographs were taken.

2. A site plan drawing showing detailed dimensions of the pier in relation to the boundaries of the development and lakefront properties. The drawing must identify the location of the low water mark, elevation 6223 feet, Lake Tahoe Datum (LTD) and the approximate distance lakeward from the high water mark, elevation 6228.75 feet, LTD.

3. A detailed description of when the pier was built and copies of permits for the pier from the Tahoe Regional Planning Agency and the U.S. Army Corps of Engineers.

4. A copy of the Association by-laws and any amendments; the operating policies and procedures and/or rules and regulations.

5. A list of the officers and directors of the Association and a copy of the document giving authority to execute the lease on behalf of the Association.

6. A list of all members of the Association which must include each assessor's parcel number, lot number and addresses. Included on the list should be all commonly owned lots in the Association as well as vacant lots.
7. A copy of the most current ownership-vesting document (grant deed) for the common area littoral parcel.

After review of the submitted application, the Association may need to provide supplemental information and/or additional clarification as the application process progresses as required by law and the Commission's application requirements.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me at (916) 574-1869 and by e-mail at ninette.lee@slc.ca.gov.

Sincerely,

Ninette Lee
Public Land Manager

Enclosure

Cc (without enclosure):

Chateaux Du Lac Homeowners Association

David Landry
Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89449-5310

Kristine Hansen
U.S. Army Corps of Engineers
300 Booth Street
Reno, NV 89509-1381

Tobi Tyler
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150-7747

Sandi Jacks
California Department of Fish and Game
1701 Nimbus Road
Rancho Cordova, CA 95670
Site Plan

Area of Sloping Revetment
Area of Sheet Pile Wall

Aerial Photograph
Condominium Complex and Sheet Pile Wall looking north
Condominium Complex and Sheet Pile Wall and Rail looking south
Elevation

Sloping Revetment
Construction Detail
MEMORANDUM

Date: September 22, 2011

To: TRPA Hearings Officer

From: TRPA Staff

Subject: Land Capability Challenge, Heavenly Valley Limited Partnership, 3860 Saddle Road, El Dorado County, CA; Assessor’s Parcel Number: 030-370-04, TRPA File LCAP2010-0210.

Proposed Action: The applicants, Heavenly Valley Limited Partnership, request that the TRPA Hearing’s Officer review and approve the proposed Land Capability Challenge on the subject parcel.

Staff Recommendation: The staff recommends that the TRPA Hearings Officer approve the land capability challenge for the subject parcel, whereby changing the Bailey Land Capability from Classes 2 (CaE), 4 (CaD) and 1b to Classes 4 (CaD) and 6 (EbC). In addition, the staff recommends that the TRPA Hearings Officer approve a man-modified determination of Class 1b to Class 6.

Background: This land capability challenge specifically reviews the developed portion of the subject parcel, known as the California Base Lodge, which includes the lodge, other buildings, parking lots, and the ski lift loading areas. The area being challenged is shown on TRPA Land Capability Overlay Maps as Bailey Land Capability Classes 4, 2 and 1b (SEZ). The Soil Conservation Service Soil Survey of Tahoe Basin Area, California-Nevada (Rogers, 1974) places the subject parcel within the following map units: Cagwin-Rock outcrop complex, 5 to 15 percent slopes (CaD) and Cagwin-Rock outcrop complex, 15 to 30 percent slopes (CaE). The parcel is designated as part of the C-1 and C-2 geomorphic units classifications (Granitic foothills and moderately dissected weakly glaciated lands, moderate and high hazard lands, respectively). Both soil types are derived of granitic bedrock. The 1b land, identified by TRPA mapping, was too small to be mapped by the SCS soil survey.

The land capability challenge area was developed prior to February 10, 1972 as evident in the 1970 aerial used for the 1974 soil survey. This aerial, along with additional aerials provided by the applicant, show the parking lot was already constructed, the base lodge...
built, and the ski lift loading areas established. Drill logs provided by the applicant show fill material ranging from 2 to 12 feet thick. With the exception of the ski lift loading area, perimeter landscaping, and a vegetated slope between the upper and lower parking lots, the study area is either developed with buildings or paved with asphalt.

**Findings:** TRPA staff and their subcontractor (Terra Science, Inc.) conducted several site visits to the land capability challenge area in October 2010. Staff and subcontractor observed fill material in the unpaved ski lift loading area (3 backhoe pits). In addition, staff and subcontractor saw fill material and underlying native soils at multiple locations in the parking lot when borings were drilled. Some of the buried native soils exhibited SEZ soil characteristics; however, the buried soils were largely disturbed (intermixed with fill material) and modified by subsurface ground water flow created by the fill material.

The applicant determined estimated slopes for the study area using a 1952 topographic map, and aerial photograph analysis (including stereo paired aerials). Additional analysis included evaluation of adjacent slopes on undeveloped or partially developed lands to the north, west and east. The slope mapping identified the 15 percent slope break further south than mapped by SCS in the 1974 soil survey. A similar analysis of drill samples, topography map and stereoscopic aerials was used by the applicant to refine the boundary of the SEZ in the northwest corner of the parking lot. Specifically, the SEZ boundary was refined to an inverted hammer-shaped polygon the extended from the Saddle Road/Wildwood Avenue intersection to the small parking area immediately north of the California base lodge and administrative offices. A mapping unit of Elmira gravelly loamy coarse sand (EbC), 0 to 9 percent slopes was mapped around this SEZ polygon. After the site visits, soil pit/drill sample observations, and review of the applicant’s report, TRPA staff and subcontractor concur with these analyses.

TRPA staff and subcontractor also agree that the SEZ was filled 5 to 12 feet deep prior to 1972. It is not known when the subject area was paved, but the degree of fill material was sufficient to eliminate SEZ at this location. The applicant has provided substantial explanation, in accordance with TRPA Code of Ordinances, to support the conclusion that the SEZ cannot be feasibly restored; would not affect adjacent SEZs, and it could be mitigated offsite. Consequently, TRPA staff and subconsultant concur with the man-modified determination for the SEZ; thus, the 1b land should be re-classified as Class 6 (same as EvC).

TRPA’s subcontractor, Terra Science, Inc., compiled a technical memorandum that provides additional detail and related discussion. If you have questions on this agenda item, please contact Mike Cavanaugh, at 775-589-5209.
Attachment A: Technical memorandum from Phil Scoles (Terra Science, Inc.), subcontractor soil scientist for TRPA.

Attachment B: Proposed land capability site map (from R.J. Poff report)
MEMORANDUM

Date:  August 12, 2011
To:  Mike Cavanaugh, TRPA Planning Branch
From:  Phil Scoles, RPSS, Senior Soil Scientist
Re:  California Base Lodge, Heavenly Limited Partnership
     Land Capability Challenge, Cagwin CaE to CaD and EbC
     LCAP2010-0210 for APN 30-370-04
     3860 Saddle Road; South Lake Tahoe, El Dorado County, CS

Site Conditions and Landscape Setting

The subject parcel (APN 30-370-04) is situated on a north by northwest sloping hillside, near the south terminus of Ski Run Boulevard. The study area is the California Base Lodge for Heavenly Mountain Resort (aka Heavenly Valley ski area). The Longitude and Latitude of the California Base Lodge is 38.934806 deg. North and the latitude; -119.940478 deg. West. Adjacent land uses are mostly residential, both single family and multi-family dwellings, in addition to open space and ski areas.

The site is situated on the lower slopes of the steep hillside that forms the south by southeast side of the Lake Tahoe basin (also known as the Carson Range). Within the site, the south edge (base of steep hillside) has a few outcrops of granitic bedrock and areas of very shallow depth to bedrock. Based on historical mapping, the site was designated in the 1974 Bailey land classification report as “C-1” geomorphic designation for granitic foothills and “C-4” for moderately dissected glaciated lands (i.e. steeper lands). The site is mapped by the 1974 Soil Survey of Lake Tahoe Basin, California and Nevada as Cagwin-Rock Outcrops, 5 to 15 slopes (Class 4 as per Bailey Land Classification), and Cagwin-Rock Outcrops, 15 to 30 percent slopes (Class 2). In addition, TRPA has mapped a Stream Environment Zone (SEZ) in the northwest corner of the subject study area.

The overall landscape of the California Base Lodge is highly modified, consisting of multi-level parking lots, ski lodge, administrative offices, maintenance buildings, medical facilities, ski lift and gondola loading, and related ski resort uses. The vast majority of the landscape has been excavated, filled, graded or a combination of these conditions. The escarpment between the upper and lower parking lot appears steeper than 30 percent slope, but that area is relatively small compared to the overall study area. While some of this escarpment contains willows (suspect of SEZ conditions), the escarpment is composed of fill material (5 to 12 feet thick), it is used for snow storage,
and it is artificially drained. Aside from parking lots, buildings and associated ski area features, the natural ground cover consists of pine, white fir, serviceberry, rabbit brush, gooseberry, prostrate ceanothus, and duff/pine needles. The site currently has slopes ranging from 1 percent (parking lots) to more than 20 percent slopes (extreme south edge, above ski lift loading area).

Methods and Procedures

In October 2010, R.J. Poff & Associates (herein R.J. Poff) conducted a soils investigation for the above-referenced file to determine if soil conditions matched the previously mapped soils types. Soil conditions were observed at three locations using a backhoe and three locations using a bucket auger. The backhoe dug locations provided a thorough examination of the soil profiles immediately south of a tall retaining wall – this is an area that was historically scalped, then filled with many feet of soil. The auger holes allowed rapid verification of similar soil profiles (south of the retaining wall) along the south edge of the study area. In addition, numerous core samples were evaluated from within the parking lot areas (not practicable for backhoe pits considering the inconsistent fill material underneath).

The field investigation by TRPA subcontractor Terra Science, Inc. (senior soil scientist Phil Scoles) coincided with the R.J. Poff field investigation on October 12 and 13, 2010. The field visits involved detailed examination of three soil profiles, several drilling core samples, review of aerial photographs, and examination of adjacent parcels to the east, west, north and northwest. The equipment used in the field investigation included: backhoe, Montana sharpshooter shovel, bucket auger, soil sieve, tape measure, Munsell soil color charts, water bottles (to moisten soil), clipboard, note paper, digital camera, and hand towel.

In January 2011, R.J. Poff compiled a draft technical report, including soil descriptions, narrative text and maps. On behalf the Vail Resorts Development Co./Heavenly Valley Limited Partnership (applicant), this report was submitted to TRPA as a Land Capability Challenge (LCC). The draft report was reviewed and commented on by Phil Scoles (subcontractor for TRPA) and Heather Beckman (Land Capability Program Manager). The comments were incorporated in the final report, completed by R.J. Poff on April 18, 2011. The final report was submitted to TRPA on June 13, 2011.

Findings

The investigation found that soil conditions differed from those mapped by the 1974 Soil Survey of Lake Tahoe Basin, California and Nevada. The observed soil conditions resembled excavated and filled versions of the Cagwin series (same series as mapped by the 1974 soil survey). These soils, prior to filling and grading in the 1960s and early 1970s, were mostly less than 15 percent (hence, flatter than mapped). Lastly, the historic extent of SEZ was considerably smaller than currently mapped. The following summarizes the finding of each of the backhoe pits:
Soil pit no. 1A (as designated by R.J. Poff) was dug somewhat parallel to the tall retaining wall that separates the ski lift loading area and the upper parking lot. The pit location is within the area originally mapped CaE. This pit exposed over 60 inches of fill material, including soil, rock and wood fragments (see Appendix D of R.J. Poff report). The sources of the fill material are not known, but the soil composition suggests that the material was imported from a nearby source. While somewhat compacted, the fill material appears moderately permeable and lacking a water table in the upper 60 inches. That is, the fill material does not form a restricting layer. As noted in the R.J. Poff report, a small amount of soil redox features were observed around the buried wood fragments, which accelerated reducing conditions when wetted. Based on the historical aerials and topography maps (prior to ski resort construction), the natural slopes were less than 15 percent; thus, it qualifies as Class 4 (20 percent coverage) in accordance with the Bailey land classification system.

Soil pit no. 1B was situated mostly south by southeast of Soil pit 1A and west of the magic carpet beginners ski machinery. This pit also contained fill material somewhat similar to pit 1A, but only to a depth of 24 inches. The underlying soil profile suggests that 8 to 10 inches of the native Cagwin soil was excavated prior to filling. Unlike pit 1A, this location had a water table at approximately 30 inches below existing grade (secondary SEZ indicator). The soil immediately above and below the observed water table has numerous redox concentrations (mottles), which disappears below 35 inches. This pattern of redox features is atypical and infrequently occurs under natural circumstances. It is likely the redox concentrations formed as a consequence of excessive water introduced by snowmaking. The ski lift loading areas, as well as the adjacent ski runs, receive significant quantities of created snow, since these lower elevations melt snow more frequently (than higher elevations). Thus, the redox features are not a reliable indicator of natural wetness. Although this location has one secondary indicator, it does have a total of three secondary indicators – hence it does not qualify as SEZ. Based on the field observations and historical aerials, the historic soil condition at this location best resembles Cagwin soil, 5 to 15 percent slopes (CaD), which is Bailey Class 4 (20 percent land coverage).

Soil pit no. 1C was the last backhoe pit dug and it was situated just east of the magic carpet ski machinery. It was somewhat similar to Soil pit no. 1B, except it had about 14 inches of fill material. The buried soil also appeared to have a natural topsoil (or portion thereof) under the fill material. This location did not have any root-restricting layers above the paralithic horizon, which started at a 39-inch depth. Evidence of a seasonal water table was limited to a narrow horizon immediately above the paralithic layer near the bottom of the pit. This narrow layer had depleted soil colors, but no redoximorphic concentrations (iron mottles). The lack of redox concentrations, along with the depleted layer, indicates that groundwater likely moves across the top of the paralithic horizon, but does not accumulate. The lack of riparian or hydrophytic vegetation immediately east of the location (where undisturbed) corroborates this conclusion. That is, the pines, white firs, serviceberry, rabbit brush, gooseberry and...
The analysis also concluded the west portion of the parking lots was a combination of Elmira gravelly loamy coarse sand, 0 to 9 percent slopes, and SEZ in the lowest elevations. The Elmira soil, as observed on the adjacent parcel to the north, is a deep, sandy soil that is well drained with gentle slopes. The Elmira soil is considered Class 6 (30 percent land coverage). The SEZ portion of the west parking area was evident on the historical aerial photographs and currently exists on adjacent land immediately to the northwest. All SEZ lands, unless determined otherwise under man-modified procedures, are Class 1b (1 percent land coverage).

Man-Modified Determination for SEZ Land

The R.J. Poff report includes sufficient detail about the historic condition of the SEZ area to constitute a man-modified determination, as specified in TRPA Code of Ordinance Chapter 20.2.F (2). That is, the report describes existing and historic soil characteristics, as revealed by drilling core samples, historic aerial photographs, and correlation to downgradient and offsite SEZ conditions. Specifically, the report documents (via historic aerial photographs) that the subject SEZ was filled and graded prior to February 10, 1972. The report also discusses the hydrologic conditions of the SEZ that is buried under the west portion of the parking lot. While the report did not discuss the erosion hazard, it is not necessary under this circumstance where the SEZ has been filled over 5 to 12 feet deep and paved at the surface. And as a paved surface, there was no relevant vegetation to evaluate. The nearby escarpment (between the upper and lower parking lots) that supports several willows was not considered to be SEZ because
it is composed of fill material; it is used for snow storage (hence adding seasonal moisture), and it is artificially drained (curtain drain at base of slope).

As per Chapter 20.2.4 (3), the R.J. Poff reports provides sufficient explanation that the SEZ cannot be feasibly restored; that redevelopment of this area would not increase erosion/water quality problems, nor adversely impact adjacent sensitive lands; and that mitigation opportunities are available offsite for losses caused by the land modification. This memorandum concurs with the detailed discussion on this matter, as presented in Section 6.3 of the R.J. Poff report. Thus, the buried SEZ qualifies as Class 6 land (30 percent land coverage), which is the surrounding land capability to the west, south and east.

Conclusions: Field conditions for the California Base Lodge area did not match the original mapping of Cagwin-Rock outcrop complex, 5 to 15 percent (CaD) and 15 to 30 percent slopes (CaE) and SEZ. While the vast majority of the study was previously filled and graded, historical aerials, buried soils, and adjacent property soils indicate that the land was less steep (under 15 percent slope). Such mapping refinements are common to Land Capability Challenges – this LCC relied upon a variety of field observations, aerials, and old topography maps to validate the proposed re-mapping of the Cagwin boundaries. Consequently, the east portion of the study area, encompassing the east parking lot and loading areas for the ski lifts/gondola, were historically Cagwin, 5 to 15 percent slopes (CaD), Class 4 lands (prior to filling and grading). On the west side of the study area, the soils best resembled the Elmira gravelly loamy sand, 0 to 9 percent slopes (EbC), Class 6 on the higher elevations, and SEZ (Class 1b) in the lower elevations. See R.J. Poff maps (Plate 1 of Appendix A and Plate 1 of Appendix B)

The field study and subsequent analysis also documented that the area of SEZ was smaller than originally mapped. In particular, the report provided documentation and discussion to conclude that the buried SEZ has been filled, graded and paved in a manner that meets TRPA code for a man-modified determination. The surrounding land, as determined by the applicant’s LCC, qualifies for Class 6, so the same designation is appropriate for the man-modified SEZ land within the study area.
MEMORANDUM

To: TRPA Hearings Officer  
From: TRPA Staff  
Date: September 22, 2011  
Subject: Construction of a convenience store and commercial service station, 8755 North Lake Boulevard, Kings Beach, Placer County, California, Assessor’s Parcel Number 090-192-061, TRPA File Number ERSP2011-0418

Proposed Action: Hearings Officer action on the proposed project and related findings based on this Staff Summary and the attached Draft Permit. The required actions and recommended conditions are outlined in Section I of this Staff Summary.

Staff Recommendation: Staff Recommends that the Hearings Officer make the required findings and approve the proposed project subject to the special conditions in the draft permit (attached).

Project Description/Background: This is a proposal for the construction of a two-story convenience store and commercial service station. The project will consist of a 2,837 square foot convenience store building and four fuel pumps, accommodating eight fueling stations, and two 20,000 gallon double walled underground fuel storage tanks located 8755 North Lake Tahoe Boulevard (SR 28), Placer County California. The two-story commercial building will be designed as a log structure and located toward the rear or northeast corner of the project site. The structure will house a convenience store and filling station operation on the ground floor and a manager’s office and space for future retail on the second floor. The site will accommodate a total of 11 parking spaces including one ADA space and one delivery parking. Access into the site will be north off of North Lake Boulevard either via an existing driveway over an existing access easement which goes through the site to the parking facility on Minnow Avenue to the north or a second, new driveway access leading directly toward the ADA parking space in front of the convenience store building. The remaining ten parking spaces will be located perpendicular to the sites western property line. On site improvements will include landscaping, an automatic irrigation system, and installation of permanent Best Management Practices (BMPs). Other amenities will include two electric car charge stations adjacent to the perpendicular parking stalls a bicycle rack, and a meandering sidewalk along the frontage of the property. The proposed maximum for the convenience store is less than 30 feet while the
maximum height for the pump station canopy is less than 25 feet, both of which are less than the allow height of 37 feet 6 inches.

The 18,569 square foot (.43 acre) project site is located on the north side of North Lake Boulevard between Chipmunk and Fox Streets within the Kings Beach Community Plan, Special Area #2. The site which is currently vacant is the previous location of a commercial motel use. The former structures were removed and the site restored in 2005. The site is generally flat with a slope of less than 5% descending from north to south direction. The project site currently contains two easements; an existing access easement leading to the Minnow parking facility and a temporary water line easement near the northeast property line. The project site is visible from Roadway Unit #20 (Tahoe Vista) which is currently in nonattainment. Surrounding land uses consist primarily of commercial uses to the north east and west.

Issues/Concerns: See Attachment C for a more detailed Staff Analysis

- Land Use
- Community Plan
- Commercial Floor Area (CFA)
- Land Coverage/Capability
- Traffic/Parking
- Excavation/Water Quality
- Scenic

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 6, 18, and 20

Attachments:
A. Required Findings/Rationale
B. Draft Permit
C. Issues/Concerns Discussion
D. Regional Plan Compliance Analysis
E. Project Plans
   - Vicinity Map
   - Site Plans
   - Elevations
   - Color Photo
F. Letter of Support
Required Findings/Rationale (Attachment A)

Required Findings: The following is a list of the required findings as set forth in Chapters 6, 18, and 20 of the TRPA Code of Ordinances. Following each finding, Agency staff has summarized the evidence on which the finding can be made.

1. Chapter 6 – Threshold-Related 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 is located within the Kings Beach Community Plan, Special Area #2 East Entry Commercial Area, in which Service Stations are a special use and Food and beverage retail sales which includes convenience stores is an allowed use. There is no evidence that these uses will have an adverse effect on Land Use, or implementation of sub-elements of the Regional Plan as they are preferred to be concentrated within existing commercial development.

   (2) Transportation: Per Code Subsection 93.3.B of the TRPA Code of Ordinances, a traffic analysis was performed for the proposed project which determined that the project would results in more than 200 daily vehicle trips. The traffic analysis determined that the proposed Commercial - eating and drinking retail and service station uses would result in a total of 1,302 daily vehicle trip ends (dvte). It should be noted that this is not an increase in vehicle trips over the previous motel use as it has been more than two years since an active use has been on this project site and any vehicle trips associated with that use have been lost. Based on the number of trips generated, an air quality mitigation fee for these uses will be required as a condition of final permit approval. No significant impacts to Level of Service or Regional or Sub-Regional air quality are anticipated based on the Initial Environmental Checklist (IEC).

   (3) Public Service Facilities: The proposed project will require adequate water, sewer, and electrical service in order to obtain TRPA final approvals. Commitments from local utility providers in the form of letters of commitment or will serve letters have been provided by North Tahoe PUD, North Tahoe Fire Protection District, and the Tahoe Truckee Sierra Disposal Co. As a condition of final approval the applicant will be required to obtain commitments from the local power utility as well.

   (4) Conservation: There is no habitat for TRPA special interest species within or near the project area, and there are no known historic or prehistoric
resources contained on the site. While currently vacant, the project site is
the location of a previous commercial motel use within the Kings Beach. The
new development will provide scenic improvements as required by the
community plan. The final plans will include all of the required water quality
treatment and landscape improvements per Community Plan design
guidelines. This project will not adversely affect implementation of the
Conservation Element of the Goals and Policies.

(5) **Recreation:** The proposed project is not within a recreation area and will
have no effect on the recreational opportunities or demand in the Lake
Tahoe Basin.

(6) **Implementation:** Commercial Floor Area (CFA) is required for this project
pursuant to Chapter 33 of the TRPA Code. TRPA shall allocate 2,897 square
feet of CFA from the Placer County General CFA Pool consistent with County
recommendations. The applicant shall transfer any remaining CFA not
obtained through the allocation process to the site, consistent with the TRPA
Code of Ordinances.

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 6.3.8 of the TRPA Code of Ordinances, and the TRPA Initial
Environmental Checklist (IEC). All responses contained on said checklists indicate
compliance with the environmental threshold carrying capacities although there
were affirmative responses to the potential impacts for daily vehicle trip ends,
new parking and visibility from a federal highway. While the proposed project
could have a significant adverse impact on the environment as indicated in the
TRPA Initial Environmental Checklist (IEC), these impacts can either be mitigation
or their impact reduced to a less than significant level as demonstrated in the
Attachment D – Regional Plan Compliance Analysis. A copy of the completed
checklists will be made available at the Governing Board meeting 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 V(g) of the TRPA 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 project has been designed to fit the site and surrounding neighborhood which consist primarily of commercial uses; car wash, retail outlets etc. The proposed new building is of a size, scale and design appropriate for this Kings Beach commercial neighborhood which has specific setback, landscape and design guidelines which this project meets.

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 proposed project will not be injurious or disturbing to the neighborhood because it has been designed to provide aesthetic improvements; “Old Tahoe” styled architectural elements, building setback and landscaping improvements, state of the art safety measures; doubled wall storage tanks, a spill contingency plan, monitoring system per Title 23 of the California Health and Safety Code. In addition the project will provide, electrical vehicle charging stations, a bicycle rack and permanent BMP installation. These elements are steps designed to protect against injury and to protect the resources of both the applicant's property and that of surrounding properties.

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.

This project will upgrade the aesthetics and visual character of the area consistent with the primary goals of this area as a designated redevelopment area with the Community Plan. The Kings Beach Community Plan recognizes that this area suffers from a disorganized visual character with generally low quality design or unmaintained building structures. The community also notes the importance of retrofitting commercial properties as much as possible to be aesthetically compatible with adjacent land uses. The proposed project substantially advances the goal of aesthetic improvement on the project site.

3. Chapter 20 – Coverage Relocation Findings:
a. The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:

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

The majority of the project area is disturbed and areas targeted for coverage relocation are generally adjacent to existing or proposed building areas, traffic lanes, or in heavily disturbed areas in the central portion of the site targeted for improvements.

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

The site has a fairly consistent downward slope of 5% from the north to the south direction. The vast majority of the site is currently disturbed by past activities and supports little natural vegetation except scattered shrubs and smaller pine and fir trees. The areas of proposed coverage relocation are no more sensitive in terms of slope and vegetation than the areas of existing coverage.

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

The entire site is Land Capability Class 5; the area of coverage relocation is high capability soil and is capable of accommodating the proposed relocation of land coverage.

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

The areas of relocation are adjacent to existing and proposed buildings and improvements which are the most appropriate location for land coverage. The layout of improvements and uses with the proposed project significantly improves upon the current arrangement. Landscaping and re-vegetation at the perimeter of site contributes to the logical scheme which is appropriate for the long term maintenance of the re-vegetated areas.

(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 no encroach into SEZ, setback or backshore zones as the land capability has been verified as Class 5.

(6) **The project otherwise complies with the land coverage mitigation program set forth in Section 20.5.**
Excess coverage will be mitigated in accordance with Section 20.5 as a condition of final permit approval.

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

Any and all areas from which land coverage will be permanently removed will be landscaped and restored in accordance with Code requirements.

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

The relocation of any and all land coverage will be from Class 5 to Class 5.

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

Not applicable because there is no SEZ land coverage relocation proposed.
Attachment B - Draft Permit

PROJECT DESCRIPTION: Construction of New Convenience Store & Service Station  APN: # 090-192-061

PERMITTEE:  Bill Fallon  FILE: # ERSP2011-0418

COUNTY/LOCATION:  Placer County / 8755 North Lake Tahoe Boulevard, Kings Beach, CA

Having made the findings required by Agency ordinances and rules, TRPA Hearings Officer approved the project on September 29, 2011 subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on September 29, 2014 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 PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

____________________________   ______________________
TRPA Executive Director/Designee    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)
Air Quality Mitigation Fee (1): Amount $47,132.40 Paid _____ Receipt No.______

Excess 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) See Special Condition 3.C, below.
(2) See Special Condition 3.D, below.
(3) See Special Condition 3.E, below.
(4) Amount to be determined. See Special Condition 3.F, below.
(5) Amount to be determined. See Special Condition 3.G, below.
(6) $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 and is eligible for a county building permit:

__________________________________  ______________________
TRPA Executive Director/Designee    Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the construction of a new two-story 2,837 square foot convenience store building and four fuel pumps, accommodating eight fueling stations, with an overhead canopy, and two 20,000 gallon double walled underground fuel storage tanks. Other authorized work though this permit includes the installation of the approved light, the free standing monument sign, (not to exceed 14 feet in height), the introduction of landscape elements, BMPs, Parking and driveway improvements and other site improvements. The project is eligible for CFA from the Placer County General CFA Pool consistent with the County recommendation. The applicant shall transfer or
show proof of eligibility for the allocation of CFA required to implement the project. Through this permit approval, TRPA recognizes the banking of 1,409 square feet of Class 5 land coverage on the site.

2. The Standard Conditions of Approval listed in Attachment Q 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) The CFA associated with the new commercial building in accordance with TRPA Code Section 33.3.B.
      
      (2) Identification of the equipment, material and machinery staging, and materials storage locations. All construction staging shall be on currently disturbed areas or within the footprint of approved structures/improvements.
      
      (3) A key for the graphic symbols used to depict hardscape and soft materials.
      
      (4) Temporary BMPs down slope of all excavated material storage and work staging areas.
      
      (5) A note indicating: "Dust control measures shall be in place during construction.
      
      (6) Clearly delineate the offsite land coverage to be used for the both driveway entry way in relationship the overall reduction of offsite in the public ROW.

   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. The permittee shall provide calculations stamped by a registered engineer demonstrating that the proposed infiltration facilities are sized accordingly for the slope and soil type of the property and will capture, treat and infiltrate a 20 year/1 hour storm event. Treatment shall include sand/grease/oil separation. The permittee shall also submit a BMP maintenance plan which will allow the BMPs to continue to function as designed for the life of the project. Any failed or damaged BMP improvements shall be corrected in a timely manner.
C. The permittee shall pay an Air Quality Mitigation fee of $47,132.40. This fee is based on the addition of 1302 daily vehicle trip ends at $36.20/trip.

D. The affected property has 9,612 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 9 – Agate Bay (CA side) or by submitting an excess coverage mitigation fee.

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

\[
\text{Estimated project construction cost} \times \text{fee percentage of 1.25% (as identified in Table A of Subsection 20.5.A.(3), Chapter 20 of the TRPA Code of Ordinances)} \div \text{mitigation factor of 8.}
\]

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:

\[
\text{Coverage reduction square footage (as determined by formula above)} \times \text{coverage mitigation cost fee of $8.50 for projects within Hydrologic Transfer Area 9 – Agate Bay (CA side). Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than $200.00.}
\]

E. The permittee shall submit a cost estimate for installation of all permanent BMPs in project area. The security required under Standard Condition 1.2 of Attachment Q shall be 110% of the cost estimate or $25,000.00, whichever is greater. The project security will not be released until all areas disturbed by construction have been stabilized and/or restored. Please see Attachment J, Security Procedures for appropriate methods to post a security and for calculation of the required Security Administrative fee.

F. The permittee shall submit a BMP and water quality monitoring plan and report to assess the effectiveness of water quality devices on the entire property

- An initial pre-construction photo and report of where how water quality treatments will take place.
• An initial 30 day post-construction photo and report of the effective of the BMPs.

• Annual post-construction report of the BMPs with photos taken on the anniversary of acknowledgement of this permit, with the same established viewpoints as the initial 30 day post-construction photos; submitted by July 1 each year for the life of the project.

The permittee must pay monitoring fees for TRPA staff to review reports and conduct periodic site visits. The applicant agrees to pay to TRPA, reasonable, hourly monitoring costs that will not exceed the costs incurred by the Agency. These costs will be billed to the applicant and shall be submitted to TRPA within 30-days of receipt of the invoice. Fees for monitoring are based on an hourly rate. Rates are subject to change.

G. The permittee shall transfer or provide evidence of an approved CFA allocation for the necessary commercial floor area required to implement the project, in compliance with Chapter 33 of the TRPA Code of Ordinances. The necessary amount shall be the correctly calculated for the new building as determined by Condition 3.A (1).

H. The permittee shall

I. If not already done so, the permittee shall consolidate the parcels comprising the project site into one legal lot of record pursuant to applicable county subdivision ordinances and state subdivision laws. The permittee shall provide TRPA with evidence that the necessary documents have been recorded with the Placer County Recorder’s Office. The permittee shall provide TRPA with the new assessor parcel number within 30 days of assignment.

J. The permittee shall provide evidence that configuration of the driveway and the amount on-site parking is adequate for the proposed uses and has been approved by Placer County.

K. The permittee shall provide written evidence that all proposed improvements shown on the project plans within the public right-of-way have been approved by Placer County.

L. The permittee shall submit a fertilizer management plan consistent with Section 81.7 of the TRPA Code of Ordinances for TRPA review and approval.

M. The permittee shall identify the disposal site for excess excavated material generated by the project. All excavated material not utilized on-site shall be disposed of at a TRPA approved location or out of the Tahoe Basin.
N. The permittee shall provide three (3) sets of the proposed 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. As outlined in the TRPA Soils/Hydrologic Resolution Appeal approval dated January 10, 2011, the permittee shall not excavate more than 10 feet below ground surface. If significantly different subsurface conditions are encountered during grading than those interpreted in the Soils/Hydrology report, the permittee is required to notify TRPA immediately. All conditions of the Resolution Appeal shall remain in effect.

6. The permittee shall provide to TRPA for review and approval a dewatering plan which outlines waste water disposal procedures in the event that ground water is encountered during excavation.

7. 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.

8. 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.
9. Business hours shall be limited to 7 AM to 7 PM, fabrication activities shall occur within the buildings and with doors closed during fabrication operations to comply with noise standards in the Community Plan.

10. 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
Issues/Concerns Discussion (Attachment C)

A. Land Use: The proposed Service Station use is a special use while the convenience store, (Commercial – Food and Beverage Retail Sails) is an allowed use. The site is the location of a former motel use and as such will require an approval for a change of use. Further as the project site is currently vacant in order to implement the Service Station project the applicant will need to either obtain an allocation or transfer 2,837 square feet of additional Commercial Floor Area (CFA) to the project site. Projects that are identified as a special use, require the transfer or allocation of floor area of less than 3,000 square feet, and a change in use requires Hearings Officer review and approval per Chapter 4.7.B, Appendix A, of the TRPA Code.

B. Community Plan: The project is located within the Kings Beach Community Plan, Special Area #2 - (East Entry Commercial Area) in Commercial - Retail Food and beverage is an allowed use while Service stations are a special use requiring special use permit. The Land Use Classification is Commercial/Public Service and the Management Strategy is Redirection. Planning Considerations for this area are that commercial development needs to be upgraded and revitalized. Along with the Scenic Roadway Unit 20 and Scenic Shoreline Unit 21 are within this Plan Area being targeted for scenic restoration as identified by the scenic threshold analysis. The Staff Analysis and Required Findings are located in Attachments A and D respectively.

C. Commercial Floor Area (CFA): The proposed project Commercial - Retail Food and beverage is a new use, targeted to create new commercial floor space. As such, the transfer or the allocation of Commercial Floor Area (CFA) is required for the implementation of this project. The maximum amount of commercial floor area available for allocation to new commercial project sites within the preferred community is 40,000 square feet. The applicant will need to provide written confirmation that sources of CFA have been obtain either from private sources or allocated from the County as condition of approval.

D. Land Capability and Coverage: The project site has been identified as being approximately 18,569 square foot (.43 acre) in total area. In October 2004 the land capability for this project site was identified as being mapped Class 5 with an allowable coverage of 25% of the project site or 4,642 square feet. In December 2004 the project site along with the former adjacent parcels now owned by Placer County were verified as having 23,655 square feet of existing land coverage. Of this amount 7,992 square of coverage was used for the construction of the Minnow Avenue parking facility which is owned by Placer County and no longer a part of this project area. The remaining existing land coverage is approximately 15,663 square feet. Based on the Class 5 soil type designation and an allowable percentage of 25%, the current project site is over covered by 84.3%. In order to implement the project as proposed, a minimum of 5% of this coverage must be converted to landscape area per Kings Beach Community Plan.
requirements. The applicant will also be required to pay an excess coverage mitigation fee to mitigate the 9,612 square feet of excess coverage. In addition the permittee shall record a public access easement across the frontage of the property specifically for the meandering sidewalk.

E. **Traffic:** Pursuant to Subsection 93.3.B of the TRPA Code of Ordinances, a traffic analysis is required for any project which results in an increase of 200 daily vehicle trips. It should be noted that it has been more than two years since an active use has been on the proposed North Shore Station site and therefore any vehicle trips associated with the previous Motel use have been lost. As such a traffic analysis is required to establish the baseline volumes of traffic for the proposed eating and drinking retail and service station uses.

F. **Access and Parking:** The total parking requirement for the project per Placer County parking standards is 9 spaces plus one ADA space. The project meets these standards and as such there are no further issues related to parking that need to be addressed.

G. **Excavation:** In January 2011, the Soils Hydrologic – Resolution of Appeal approved an exception to the prohibition of groundwater interception for a maximum excavation depth of no more than 10 feet below ground surface.

H. **Scenic:** The proposed project will be seen from North Lake Tahoe Boulevard (SR 28) a scenic resource; Roadway Unit # 20 Tahoe Vista. The proposed design has taken full advantage of the Community Plan design and landscape requirements to ensure that the project has improved the scenic quality along the roadway unit. There are no further scenic issues needing to be addressed.
Attachment D – Regional Plan Compliance Analysis

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential impacts of the project. Impacts to Transportation and increases in daily vehicle trips, increases in the demand for parking and possibility of changing the quantity of groundwater were identified as potential significant impacts identified in the TRPA IEC. Staff has concluded that the project will not have a significant effect on the environment in these resource categories as a result of mitigation measures and/or exceptions which will render these possible impacts as less than significant. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

B. Plan Area Statement/Community Plan: The project site is located within the Kings Beach Community Plan Special Area #2 (East Entry Commercial Area). The Land Use Classification of the Community Plan is Commercial/Public Service with a Management Strategy of Redirection. This area has also been designated as a Special Designation area; eligible for Redevelopment and Scenic Restoration. Agency staff has reviewed the Community Plan and has determined that the project, as conditioned in the attached permit, is consistent with the applicable planning statement, planning considerations, and special policies and is considered a special use. Special use findings have been addressed in Attachment A of this staff summary.

C. Land Coverage:
In December 2004 TRPA performed a land coverage and unit of use verification for the North Shore Station project area and the area known as the Minnow Avenue Public Parking lot which at that time was considered a combined project area. The results are as follows;

1. Land Capability District: The verified land capability district for the entire combined project area is Class 5 (JhC), (verified October 25, 2004, TRPA File #20040913).

2. Total Existing Land Coverage: 23,655 square foot square feet (84%) and of this, 7,992 square feet was used by Placer County for the construction of the Minnow Avenue Parking lot project which is no longer a portion of this project, leaving 15,633 square feet.

3. Total Allowable Land Coverage: The base allowable land coverage for this site is (25%) of the project/parcel size per land capability Class 5. No additional land coverage would be allowed as this project site/parcels is over covered by 86%, (TRPA File #20040921), TRPA Code Chapter 20. Project within a Community Plan with over 75% coverage are required to
convert 5% of that coverage to landscape areas. Upon completion of this project, 7% of the existing coverage will be converted to landscaped area.

4. **Total Proposed Land Coverage**: The total proposed land coverage for the proposed project will be 14,254 square feet. This is a reduction of 1,409 square feet of coverage which will be banked on site as a result of approval of the draft permit attached. The meandering sidewalk along the frontage of the property when granted a public access easement will require approximately 343 square feet of land coverage to be transferred to the side that will not be credited against the property owner.

D. **Growth Management**: In December 2004 TRPA verified 1 residential unit of use and 11 tourist accommodation units on the site. The TAUs while still banked on the property have been sold but will need a separate transfer application approval to remove them from the site. The residential unit of use will remain banked on the site.

Further in order to implement the project as designed, a total of 2,837 square feet of commercial floor area will need to be transfers or allocated to the project from the Placer County allocation pool and proof of eligibility provided to TRPA for final allocation approval.

E. **Transportation**: The project will result in 1,302 additional daily vehicle trip ends (dvte). As this is an insignificant increase, an air quality mitigation fee is required. The fee is $47,132.4 or (1,302 trips x $36.20) per Chapter 93 of the TRPA Code of Ordinances. The proposed project will not have a significant impact on area traffic, level of service or to regional and sub-regional air quality. This analysis was based on an ITE use category that identifies the service station as the primary use.
Location Map
Elevation
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wifi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

We appreciate that the past blight was removed with the old North Shore Lodge and will be replaced with a beautiful building architecturally befitting the town. As a business and property owner I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy.

John Bergman
Owner - Printart
Homeowner & 26 Year North Shore Resident
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA.

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, Wi-Fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

We appreciate that the past blight was removed with the old North Shore Lodge and will be replaced with a beautiful building architecturally befitting the town. As a business and property owner I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy.

Ralph Norris
Owner - Norris Construction Inc.
Homeowner & 41 Year North Shore Resident

(No Restrictions)
TO: Tahoe Regional Planning Agency

RE: Proposed Gas & Convenience Store
8755 North Lake Blvd,
Kings Beach, CA 96143

9-9-2009

Gentlemen,

This letter is in reference to the proposed gas station and convenience store to be constructed in Kings Beach, CA. I have reviewed the renderings and am of the opinion this proposed business and building will be very beneficial for our downtown core of Kings Beach. The location next to the car wash is ideal and the building itself fits into the Tahoe landscape very nicely.

I have operated a real estate business and owned multiple commercial properties in the main core of Kings Beach since 1975. My office manages over 200 commercial and residential rentals in the Kings Beach area and obviously we have seen the area slowly deteriorate over the years.

We need redevelopment, jobs and business if our area is to prosper in the future and this proposed gas station is a positive first step in that direction.

Sincerely,

David P. Bruening
September 2, 2009

To: The Placer County Board of Supervisors
RE: Proposed North Shore Station, Kings Beach

To Whom It May Concern:

I have had the opportunity review the plans for the proposed North Shore Station and have met with Bill Fallon who is proposing the project. The project would be a welcome addition to Kings Beach, which is in dire need of revitalization. The proposed building will fit in well aesthetically with the mountain theme architecture and will be attractive to a prospective tenant.

In addition, Bill and I have discussed the possibility of linking our two properties since both properties are of compatible use. I hope you will give Bill’s project every consideration. Should you have any questions, feel free to contact me at 775-771-0670.

Sincerely,

[Signature]
Curt Wegener, President
Kings Beach Car Wash

8775 No. Lake Blvd.  ♦  Kings Beach, CA. 96143
P.O. Box 4236 ♦ Incline Village, NV, 89450
(775) 831-1485  (775) 831-7258 FAX
Steve Kastan

From: Dorothy Walsh on behalf of Placer County Board of Supervisors
Sent: Monday, March 02, 2009 12:12 PM
To: Rob Haswell; Steve Kastan
Subject: FW:

F.Y.I.

Dorothy Walsh
Executive Secretary
Board of Supervisors Office
916-787-8950
dwalsh@placer.ca.gov

From: Tim Ferrell [mailto:ferrell@ftcivil.com]
Sent: Monday, March 02, 2009 12:09 PM
To: Placer County Board of Supervisors
Subject:

Placer County; I love the idea of a new gas station going into Kings Beach. At one time there were 7 stations serving this area. Now there are only two stations and neither meets any of the current Placer County codes for parking and access. The Transam is always so busy cars are forced to block traffic in Highway 28 to wait for a chance to fill up.

Currently the two stations have a lock on the gas prices with the price per gallon consistently 50 cents more expensive than Reno prices.

Let's get a new modern station in Kings Beach.

Tim Ferrell
BIG GIRL

From: "Lesley Bruening" <lbruening@sbcglobal.net>
To: "leah kauffman" <leah.kplanning@sbcglobal.net>
Sent: Wednesday, September 09, 2009 9:47 AM
Subject: Fw: lot in kings beach

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On Tue, 9/8/09, Rick Remondini <remondini@sbcglobal.net> wrote:

From: Rick Remondini <remondini@sbcglobal.net>
Subject: lot in kings beach
To: "Lesley Bruening" <lbruening@sbcglobal.net>
Date: Tuesday, September 8, 2009, 5:51 PM

We are homeowners in the Kings Beach grid on Salmon ave near the proposed project. We have lived in Kings beach since 2000 and are not opposed to such a project. We welcome new developement and hope that this one is successful. Rick and Kristen Remondini
To BOS-

Re: North Shore Station, Kings Beach, CA

A gas station provides an important service. Up until recently there were multiple gas stations in Kings Beach. Now there are only two - the others closing for various reasons such as cleanup. This is a state of the art station environmentally and looks nice. It will have all the protections that many other stations may not.

I am not able to use one of the two stations in Kings Beach due to its tight site layout and difficulty accessing the pumps. I also am very cognizant of price and healthy competition is a positive thing. A lot of the time I go to Reno or Trukey because the prices are cheaper.

People getting out of their cars to get gas might also be motivated to purchase goods in the store that are more unique than the other stores are offering. It is my understanding that there will be a coffee house, wi fi and local products offered for sale.

I give my full support to this beautiful addition to Kings Beach.

Christie Brown
Leah K

From: "Trina Padden" <Trina@PaddenProperties.com>
To: <bos@placer.ca.gov>; <skastan@placer.ca.gov>; <jmontgomery@placer.ca.gov>;
    <leah.lkplanning@sbcglobal.net>
Sent: Wednesday, July 08, 2009 5:52 PM
Attach: ATT00155.htm; image001.jpg
Subject: North Shore Station, Kings Beach, CA

Attn: Board of Supervisors, TRPA, NTRAC members and County staff,

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project. This project will be a positive addition to Kings Beach as it is a modern and environmentally sound gas station built to state of the art standards. The architectural statement of real logs with a cabin like feel is a definite asset. I have been here long enough to remember when there were over 7 gas stations in this town and the location adjacent to the car wash is befitting. The other uses proposed for the property- wi-fi- coffee, and gourmet products will provide a community benefit that is currently lacking in this town. We appreciate that the current property owners scraped the prior North Shore Lodge which only added to the blight of the town. As a business and property owner for over 25 years I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy in the coming years.

Best regards,

Trina Padden
Padden Properties
To BOS-

Re: North Shore Station, Kings Beach, CA

After reviewing the preliminary plans I have decided to give my full support to this project. In a time when the Kings Beach area is undergoing significant changes, it is projects like the North Shore station that are a vital part of the redevelopment of the Kings Beach business community. The project as I see it will beautify an area that has been an eye-sore for many years. It will provide a needed service to Kings Beach residents (the availability of inexpensive gas in the basin) as well as create more jobs for the local economy. As a business owner in this community for over 10 years now I can not see a single reason why anyone would not want this project to come from the planning stages to a reality in the near future. Kings Beach is depending on projects such as these to survive and to thrive in the coming years.

Raul Rodriguez
Owner, La Mexicana Market & Taqueria La Mexicana
Dear Leah,

I wanted to express to you, as I have to two NTRAC members who asked, my reasoning in support of the proposed project by Fallon on the site of the Blue View Lodge. First, it is a small scale redevelopment project consistent with the Kings Beach Community Plan. It is also consistent with the National Main Street program as it retains the scale and character of Kings Beach. Some have said that three gas stations are too many for the town, but the TransAm station (old Beacon) is a very old station, is located in the SEZ of Griff Creek, with potential contamination every year. This station should be targeted for purchase by the RDA and restoration of the SEZ with some parking for the public beach area of Secline.

The Fallon project requires no RDA money, and is consistent with the car wash next door. With current design standards it will look beautiful, and be much better for Lake Tahoe and Kings Beach than the TransAm station. Mr. Fallon is the scale of redevelopment that should be encouraged as he is risking his own money and has every incentive to produce a valuable asset in the community. The project meets a real need that exists today and will not be a vacant building with hopes of finding a tenant.

I wish you and Mr. Fallon the best in pursuit of this project.

Sincerely,
David McClure
To: Placer County Board of Supervisors  
From: Bill Radakovitz  

Re: North Shore Station-Kings Beach  

As you all know, Kings Beach is in dire need of economic and aesthetic revitalization. My wife and I have owned a home there for over 13 years and also own commercial property in the center of town (Subway). Any effort to infuse money and resources through new construction, jobs and in general adding to the community this kind of commercial mix would be greatly appreciated. I've seen the plans and am impressed with the thoughtful design and the addition of retail. This project will blend well with the vision you already have to revitalize Kings Beach.  

Sincerely, Bill Radakovitz
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wi-fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

We appreciate that the past blight was removed with the old North Shore Lodge and will be replaced with a beautiful building architecturally befitting the town. As a business and property owner I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy.

Steve Matson
PO Box 2924
KINGSBEACH, CA 96143
546-7968

Steve Matson
Owner - Matson General Contracting
Homeowner & 32 Year North Shore Resident
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wi fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

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[Signature]

Ken James  No. Shore Hardware
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wi fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

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[Signature]

8-27-09

[Name]

[Name]
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wi fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

We appreciate that the past blight was removed with the old North Shore Lodge and will be replaced with a beautiful building architecturally befitting the town. As a business and property owner I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy.

Kings Beach
1st N. Shore Resident
September 8, 2009

To Whom It May Concern:

This letter is in support of the project noted as the North Shore Station (Gas and Convenience Store) that is being proposed by Bill Fallon.

I believe his project is worthy of support because the Kings Beach community in particular, and the North Shore community in total, will benefit from his project.

Kings Beach is located within the Placer County Redevelopment Agency and is going through some dynamic planned changes. One of the projects being proposed is the removal of the Trans Am Gas Station and convenience store located on the corner of Secline Avenue and Highway 28.

Should that happen the community will be left with only one gas station and the demand is far too great for just one gas station. At one point Kings Beach had seven gas stations.

Another benefit I feel that will come about from Mr. Fallon’s project is it is located next to an existing car wash and would therefore, condense similar type businesses, while converting the old Trans Am property back to a pristine beach land. There has been, and still is, considerable concern about the environmental impact that the Trans Am Gas Station has had on that sensitive land and this project will greatly alleviate that concern.

I have known Bill Fallon for approximately 30 years and know of him as a person with great integrity. He has been successfully self-employed during most of that period. Mr. Fallon is a client of mine.

Thank you for your consideration,

Frank F. Mooney
March 25, 2009

Susan Lindstrom, Archeologist
PO Box 3324
Truckee, CA. 96160

RE: Kings Beach Gas Station Project

Dear Ms. Lindstrom,

Thank you for consulting with the Washoe Tribe of Nevada and California on the Kings Beach Gas Station Project. The project is within the ancestral territory of the Washoe Tribe.

After review of your letter regarding the project and based upon the fact the area has experienced previous ground disturbances. I cannot find reason to object to the project and a Finding of No Effect for the project. However, the project site is within one mile to a natural hot spring, which is a very important natural and cultural resource to the Washoe Tribe. Because no archeological surveys were conducted prior to the construction of the present building there may still be archeological resources below the surface. We ask that in the event that any archeological resources are discovered during ground disturbance that an archeologist be consulted with for proper actions to take.

If you have any questions, please call me at (775) 888-0936

Thank you.

Darrel Cruz, CRO/THPO
September 8, 2009

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Thank you for your consideration,

Frank F. Mooney
Steve Kastan

From: Dorothy Walsh on behalf of Placer County Board of Supervisors
Sent: Monday, March 02, 2009 12:12 PM
To: Rob Haswell, Steve Kastan
Subject: FW:

F.Y.I.

Dorothy Walsh
Executive Secretary
Board of Supervisors Office
916-787-8950
dwalsh@placer.ca.gov

From: Tim Ferrell [mailto:ferrell@ftcivil.com]
Sent: Monday, March 02, 2009 12:09 PM
To: Placer County Board of Supervisors
Subject:

Placer County; I love the idea of a new gas station going into Kings Beach. At one time there were 7 stations serving this area. Now there are only two stations and neither meets any of the current Placer County codes for parking and access. The Transam is always so busy cars are forced to block traffic in Highway 28 to wait for a chance to fill up.

Currently the two stations have a lock on the gas prices with the price per gallon consistently 50 cents more expensive than Reno prices.

Let's get a new modern station in Kings Beach.

Tim Ferrell
Attn: To Whom it may concern:

Re: North Shore Station, Kings Beach, CA

I have had the opportunity to review the plans for the North Shore Station mixed use project that includes gas pumps, and a store with coffee loft, wi fi and other local products. This project will be a positive addition to the Kings Beach commercial core as it is a modern and environmentally sound gas station built to state of the art standards. The location adjacent to the car wash is a natural and compatible use.

We appreciate that the past blight was removed with the old North Shore Lodge and will be replaced with a beautiful building architecturally befitting the town. As a business and property owner I give my support to this project and to Bill Fallon for pursuing his vision. Kings Beach needs projects such as this one to revitalize the economy.

Mark Horn
Owner - Horn Masonry Inc.
Homeowner & 37 Year North Shore Resident

(No signature)
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[Signature]
Paul Franklin
Owner - Franklin Builders Inc.
Homeowner & 53 Year North Shore Resident

[No additional text]