



COUNTY OF PLACER

Community Development/Resource Agency

PLANNING SERVICES
DIVISION

Michael J. Johnson, AICP
Agency Director

Paul Thompson, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Agency Director
Community Development/Resource Agency

DATE: June 21, 2011

SUBJECT: **THIRD-PARTY PLANNING COMMISSION APPEAL - MINOR USE PERMIT
MODIFICATION (PMPM 20100263)
TAHOE PADDLE AND OAR
CATEGORICAL EXEMPTION**

ACTION REQUESTED

The Board is being asked to consider an appeal from Dave Ferrari, on behalf of the Ferrari Family, of the Planning Commission's decision to uphold the Zoning Administrator's decision to approve the Modification of the Minor Use Permit for Tahoe Paddle and Oar. The approval allows for the continued use of the Tahoe Paddle and Oar business within the existing Falcon Lodge property in Kings Beach. The approval allows a maximum of 40 kayaks to be displayed on this site based on available parking.

BACKGROUND

On May 18, 2004, Phil Segal of Tahoe Paddle & Oar submitted an application for approval of a Minor Use Permit to allow for the off-site display of a kayak rack (on the Falcon Lodge property) that would be capable of storing 20 kayaks. While the project was approved by the Zoning Administrator and the Planning Commission, the project was appealed to the Board of Supervisors. After considering the appeal, the Use Permit was approved by the Board of Supervisors on December 14, 2004. In March 2005, the Zoning Administrator approved a modification to that Use Permit to allow for off-season (October through April) kayak rentals for guests of the Falcon Lodge and to extend the expiration date to December 14, 2010. That action was not appealed.

On August 3, 2010, the applicant requested a Minor Use Permit Modification to extend the expiration date of the existing entitlement to December 30, 2015. In addition to the time extension, the applicant also requested an increase in the number of kayak rentals to be displayed on the Falcon Lodge property from the 20 that were allowed under the entitlement approved in 2004 to 40 kayaks. The applicant provided a parking plan that supposedly demonstrated the ability to provide sufficient parking for this increase in use. The motel parking currently has a surplus of seven parking spaces (there are 32 spaces at the motel; and the motel use only requires 25 parking spaces). The remaining parking spaces required for the kayak concession would be provided at the main business location for the kayak rental on the north of State Route 28, across the street from the Falcon Lodge property.

The limitation on the expiration date was originally set due to concerns regarding issues experienced with other concessionaires in the vicinity not complying with their conditions of approval, displaying illegal signage, not providing adequate refuse collection, and exceeding the number of watercraft permitted by their entitlement. The Minor Use Permit Modification was temporarily placed on hold because of compliance issues associated with the motel use, not the Tahoe Paddle and Oar business.

Subsequent to the filing of the Minor Use Permit Modification and prior to the Zoning Administrator hearing, the County received a Code Enforcement complaint for the Falcon Lodge. The resolution of that complaint resulted in some delay of the processing of this application. Once the issues at the Falcon Lodge were resolved (all related to the motel use and not the kayak concession), the project was scheduled for hearing.

Project Description

The applicant (Tahoe Paddle and Oar) requests a Minor Use Permit Modification (PMPB 20100263) to change a previous Condition of Approval 5 that expired the entitlement on December 14, 2010. Through this modification, the applicant also requests that this entitlement be allowed to continue until December 30, 2015. The original approval allowed for the storage/display of up to 20 kayaks. This modification requests the approval to allow for a maximum of 40 kayaks to be displayed on the Falcon Lodge site based on available parking.

Zoning Administrator Hearing

The Zoning Administrator heard the Minor Use Permit Modification request on February 2, 2011. Consistent with County protocol, this Minor Use Permit was not presented to NTRAC prior to consideration by the Zoning Administrator. The Zoning Administrator considered reports from the Development Review Committee staff and received oral testimony from the project applicant and the property owner to the west, Dave Ferrari. Written correspondence was also received from Dave Ferrari, Judy Layton, and Theresa Duggan. The correspondence raised concerns of the condition of the Falcon Lodge, the length of time the extension is requested for, and the compliance (or lack thereof) of the Tahoe Paddle and Oar with its previous conditions of approval.

During the public hearing, Mr. Ferrari raised a number of concerns regarding the permit extension. Most of the discussion was related to issues experienced with the Falcon Lodge. A concern was raised about allowing an increased use of the property when there have been so many problems at the site. Mr. Ferrari provided a summary of the calls for service at that location from law enforcement to substantiate his claim.

After considering the public testimony, the Zoning Administrator took action to approve the request to modify the Minor Use Permit (PMPM20100263), subject to modifications to the conditions of approval submitted by the Development Review Committee. One condition that was modified was related to the expiration date. The Development Review Committee recommended approval of the requested modification of the Minor Use Permit, which requested a five year approval. The approval from the Zoning Administrator added language that would require that the Zoning Administrator review the Minor Use Permit in one year and determine that the operation of the kayak concession has been in compliance with the conditions of approval prior to extending the approval for the five years that was requested. This decision would be in writing but would not require a public hearing be held. The purpose of this modified condition was to address the testimony provided in opposition to the project that suggested that the applicant may not be operating within the parameters set by the entitlement. The other condition that was added to the approval required the Falcon Lodge to maintain ten vacant motel rooms. The intent behind this condition was to ensure an adequate

number of available parking spaces for the proposed increased number of kayaks. Mr. Ferrari appealed this decision on February 14, 2011.

North Tahoe Regional Advisory Council (NTRAC)

Prior to the consideration of the appeal by the Planning Commission, the proposed project was presented to the North Tahoe Regional Advisory Council on two separate occasions. The first meeting on March 10, 2011 was scheduled on the NTRAC agenda as a non-action/informational only item. At that meeting, NTRAC expressed concern with the blighted condition of the Falcon Lodge and concerns with the adequacy of parking.

The project was considered a second time by NTRAC at its April 14, 2011 meeting. At that time, NTRAC provided a unanimous recommendation to the Planning Commission to grant the appeal and deny the Minor Use Permit. The discussion during the meeting focused on the condition of the motel as well as the numerous visits to the site from local law enforcement. Council members acknowledged that the issues with this property are not with the kayak concession, but with the motel operation itself. In providing its recommendation for denial, the Council expressed concern that approving the Minor Use Permit could exacerbate some of the existing problems that continue to plague the Falcon Lodge property.

Planning Commission Hearing

The Planning Commission considered the third-party appeal of the Tahoe Paddle and Oar project at a public hearing on May 12, 2011. In a departure from standard County practice, and based upon new information received from NTRAC, staff did not bring forward the Zoning Administrators approval of the project but rather recommended the Planning Commission grant the appeal and deny the Minor Use Permit. This change in recommendation was based upon concerns with the safety of persons drawn to the Falcon Lodge site to rent kayaks, when the motel site has had such a documented history of issues with law enforcement. Staff based its recommendation on the testimony from the public received at NTRAC, the comments and recommendation of the NTRAC members, and the report history received from the Sheriff's Department which documented assaults, theft, arson, probation searches, and drug activity that has occurred at the Falcon Lodge site over the past three year period.

The appellant spoke to the condition of the Falcon Lodge, provided first-hand accounts of the activities at the site, and echoed the recommendation of staff to grant the appeal and deny the Minor Use Permit. The project applicant provided testimony that his kayak rental business was separate from the motel use and spoke to the benefits of his business operation. The Falcon Lodge property owner also spoke and included testimony of the efforts that would be taking place to improve the property. While the Planning Commission acknowledged the poor condition of the Falcon Lodge, the Commission did not come to the conclusion that denying the Minor Use Permit would improve the condition of the motel. After receiving public testimony, the Planning Commission adopted a motion (6:0 with Commissioner Gray absent), to deny the appeal and approve the Tahoe Paddle and Oar Minor Use Permit. In approving the project, the Planning Commission did address the condition of the motel site by directing staff to have the permit return to the Planning Commission in one year for a progress update and to determine whether or not to extend the Minor Use Permit. Although the Commission was cautious to not provide specific direction on what needed to be done to improve the Falcon Lodge property, the Commission was very clear that obvious improvement would be necessary if the Use Permit was to be extended in a year.

APPEAL

On May 23, 2011, an appeal (Attachment A) was filed by Dave Ferrari, on behalf of the Ferrari Family, of the Planning Commission's denial of the Appeal that upheld the Zoning Administrator's

February decision to approve the Minor Use Permit Modification for the Tahoe Paddle and Oar. In addition to referring to the issues raised in the appeal to the Planning Commission, the appellant identified five items in the appeal contending there should be a minimum standard for a property to allow approval of a Minor Use Permit, the numerous calls for service to the Sheriff's Department (reportedly 258 over a three-year period), the contention that the condition of the Falcon Lodge has a negative impact on the business at the Crown Motel, concerns over the adequacy of the parking, and the claim that the Falcon Lodge meets the criteria of a Public Nuisance as the basis of the appeal.

RESPONSE TO APPEAL

As identified above, the appeal submitted identifies five issues as the basis for the appeal. To assure that each of the issues being appealed are properly addressed, a response to each issue is provided below.

Need for Minimum Standards of Operation

The appellant states that there should be a minimum standard of operation and safety that a property must maintain to enjoy the right of a Minor Use Permit. The issue raised by the appellant is that there is a financial gain to the property owner that results from the MUP approval. The rationale provided in the appeal would indicate that, by allowing the MUP, the monies collected from that operation are allowing the kayak business to essentially keep the motel business operating at a significantly lower standard than would otherwise be financially feasible. The Planning Commission acknowledged the issues with the motel, but evaluated the project separate from the motel operations for the purposes of rendering its decision. That being said, the Planning Commission was clear in adopting its motion that noticeable improvement at the site would be required should this business hope to have the MUP extended when it returns in a year for review.

Calls for Service to the Sheriff's Department

Similar to the recommendation provided to the Planning Commission from staff, the appellant focused attention on the reportedly 258 calls for service to the Falcon Lodge from local law enforcement over the past three year period. The appeal further states, as was mentioned during the hearing, that the kayak concession has operated for the past five years and arguably has not had a positive impact on reducing the numbers of calls for service. The Planning Commission acknowledged this argument but dismissed it. One Commissioner went on to state that the majority of the calls for service occurred during the evening hours and not during the business hours for the kayak concession.

Negative Impact of Falcon Lodge

The appellant states that the condition of the Falcon Lodge has a negative impact on their motel business next door, the Crown Resort. The appellant adds that additional evidence will be provided when the appeal is considered. Although this issue was also raised at the Planning Commission, little time was spent discussing the matter. Instead, the Planning Commission asked what impact the Tahoe Paddle and Oar business had on the issues that have occurred at the site. While the County did receive a couple of calls regarding allegations that Tahoe Paddle and Oar was out of compliance with the number of kayaks, no complaint nor notice of violation has been issued in the five years of operation of the previous Minor Use Permit. Furthermore, none of the reports entered into the record from the Sheriff's Department dealt with employees or patrons of the Tahoe Paddle and Oar business.

Adequacy of Parking

The appeal submitted also raises the issue of the adequacy of the parking for the Tahoe Paddle and Oar concession. As discussed in the report to the Planning Commission, the existing Tahoe Paddle

and Oar business, located on the north side of State Route 28, is required to provide a total of 15 parking spaces (5 parking spaces for the retail business and 10 parking spaces for the kayak rentals).

In reviewing the project applicant's current request to increase the number of off-site kayaks (to be located on the Falcon Lodge property) from 20 to 40, staff analyzed the total parking demand for all of the various uses already located on the existing Tahoe Paddle and Oar property (on the north side of State Route 28) as well as on the Falcon Lodge property.

Tahoe Paddle and Oar Property (north side of State Route 28)

Currently, there are 19 parking spaces located on the Tahoe Paddle and Oar property. The available parking on the Tahoe Paddle and Oar property is allocated as follows:

- Tahoe Paddle and Oar Retail operations: 5 spaces provided (5 spaces required)
- Tahoe Parasail operations: 11 spaces provided (11 spaces required)
- Tahoe Paddle and Oar Kayak Rentals: 3 spaces provided (10 space required – additional parking provided on the south side of State Route 28 at the Falcon Lodge property)

Falcon Lodge Property (south side of State Route 28)

Currently, there are 32 parking spaces located on the Falcon Lodge property. The available parking on the property is allocated as follows:

- 20 motel rooms: 20 parking spaces provided (20 parking spaces required)
- 1 manager's unit: 1 parking space provided (1 parking space required)
- 4 long-term rental units: 4 parking spaces provided (4 parking spaces required)
- Tahoe Paddle and Oar Kayak Rentals: 7 spaces provided (10 spaces required, which include the three parking spaces on the north side of State Route 28).

Based upon this analysis of existing available parking, staff has concluded that there is only enough existing parking to accommodate the existing uses on the Falcon Lodge property and the existing 20 kayak rentals – there is not sufficient parking available to allow for any additional off-site kayak rentals. Accordingly, staff can only support the approval of the Minor Use Permit to modify the expiration date, but cannot support the increase in the number of kayaks. While the Planning Commission did not specifically address this issue, further research from staff based upon issues raised by the appellant has concluded that the additional parking spaces identified by the applicant do not exist.

Public Nuisance

The last issue raised in the appeal is the contention that the Falcon Lodge meets the criteria of a Public Nuisance. The record shows a considerable amount of evidence that there have been problems with the Falcon Lodge property with respect to the number of calls received by the Sheriff's Department. As mentioned during the Appeal to the Planning Commission, the reports taken by law enforcement at this property were not related to the Tahoe Paddle and Oar business or its patrons. No portions of the Tahoe Paddle and Oar business, its kayak rack, or patrons have contributed to the issues at the Falcon Lodge site. As such, the County is working to address the issues at the Falcon Lodge property through other means.

CONCLUSION

As detailed in this report, the Planning Commission determined that the proposed project would be appropriate in the current location and that allowing this use would not contribute to the current issues with the Falcon Lodge site. Further, the Planning Commission stated that allowing the kayak

use at the Falcon Lodge site could result in a public safety benefit by not requiring kayaks to be transported across State Route 28.

RECOMMENDATION

Because the Appeal does not identify any new information that was not considered by the Planning Commission in its approval of the Minor Use Permit Modification (with the exception of the increased number of kayaks requested in the modification), staff recommends the Board of Supervisors deny the appeal and uphold the decision of the Planning Commission to allow for the approval of the Minor Use Permit for the Tahoe Paddle and Oar business, based upon the following findings, subject to the attached conditions of approval (Attachment C), which reflect maintaining the original approval for 20 kayaks and the County's standard condition regarding indemnification for challenges to the issuance of the permit:

FINDINGS:

CEQA

1. This project is categorically exempt from the provisions of CEQA per Section 18.36.050 (Class 4)(F)[Minor Temporary Use of Land], of the Placer County Environmental Review Ordinance, October 4, 2001.

MINOR USE PERMIT

1. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan and the North Tahoe General Plan.
2. The establishment, maintenance or operation of the proposed use will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
3. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
4. The proposed project will not generate a volume of traffic beyond the design capacity of all roads and parking areas providing access to the project site.

ATTACHMENTS:

- Attachment A: Appeal Letter dated 05-21-11
- Attachment B: Applicant Response to Appeal dated 05-25-11
- Attachment C: Recommended Conditions of Approval
- Attachment D:
 1. Vicinity Map
 2. Site Plan – Tahoe Paddle and Oar Property
 3. Site Plan – Falcon Lodge Property
- Attachment E: May 12, 2011 Planning Commission Staff Report
- Attachment F: February 2, 2011 Zoning Administrator Staff Report
- Attachment G: Correspondence

cc: Dave Ferrari – Appellant
Phil Segal – Applicant
Michael Johnson – Community Development/Resources Agency Director
Paul Thompson – Deputy Director, Planning Services
Sharon Boswell – Engineering and Surveying Department
Mohan Ganapathy – Environmental Health Services
Scott Finley – County Counsel



PLACER COUNTY PLANNING DEPARTMENT

AUBURN OFFICE
3091 County Center Dr
Auburn, CA 95603
530-886-3000/FAX 530-886-3080
Web page: www.placer.ca.gov/planning

TAHOE OFFICE
565 W. Lake Blvd./P. O. Box 1909
Tahoe City CA 96145
530-581-6280/FAX 530-581-6282
E-Mail : planning@placer.ca.gov

Reserved for Date Stamp
RECEIVED
MAY 23 2011
PLANNING DEPT.
TAHOE

PLANNING APPEALS

The specific regulations regarding appeal procedures may be found in the Placer County Code, Chapters 16 (Subdivision), 17 (Planning and Zoning), and 18 (Environmental Review Ordinance).

-----OFFICE USE ONLY-----

Last Day to Appeal 5/23/11 (5 pm) Appeal Fee \$ 504.00
Letter ATTACHED Date Appeal Filed 5/23/11
Oral Testimony _____ Receipt # 11-0074038
Zoning KINGS BEACH COMMUNITY PLAN (SPA #2) Received by B
Maps: 7-full size and 1 reduced for Planning Commission items Geographic Area EAST

-----TO BE COMPLETED BY THE APPLICANT-----

1. Project name _____

2. Appellant(s) Dave Ferrari
Address P.O. Box 845 Kings Beach Ca 96143
City State Zip Code

3. Assessor's Parcel Number(s): _____

4. Application being appealed (check all those that apply):
 Administrative Approval (AA-_____) Tentative Map (SU B-_____)
 Use Permit (CUP/MUP- PMFM 20100263) Variance (VAA-_____)
 Parcel Map (P-_____) Design Review (DSA-_____)
 General Plan Amendment (GPA-_____) Rezoning (REA -_____)
 Specific Plan (SPA-_____) Rafting Permit (RPA -_____)
 Planning Director Interpretation _____ (date) Env. Review (E IAQ-_____)
 Minor Boundary Line Adj. (MBR-_____) Other: _____

5. Whose decision is being appealed: Placer County Planning Commission

6. Appeal to be heard by: Placer County Board of Supervisors
(sec reverse)

7. Reason for appeal (attach additional sheet if necessary and be specific):
See attached also in point #3, please note the negative effect on our property value & ability to attract investors to our CEF.
(If you are appealing a project condition only, please state the condition number)

Note: Applicants may be required to submit additional project plans/maps.

Signature of Appellant(s) [Signature] Ferrari Investments LLC,
Ferrari Family, Ferraris Crown Road

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PLACER COUNTY ZONING ORDINANCE SECTION 17.60.110

Rulings made by the below are considered by the Planning Commission:

Planning Director (interpretations)

Zoning Administrator

Design/Site Review Committee

Parcel Review Committee - other than road improvements which should be appealed to the Director of Public Works

Environmental Review Committee

Rulings made by the Planning Commission are appealed directly to the Board of Supervisors.

Rulings made by the Development Review Committee are appealed to the hearing body having original jurisdiction

Note: An appeal must be filed within 10 calendar days of the date of the decision. Appeals filed more than 10 days after the decision shall not be accepted by the Planning Department.

For exact specifications on an appeal, please refer to Section 17.60.110 of the Placer County Code.



FERRARI'S CROWN
Family Resort

RECEIVED
MAY 23 2011
PLANNING DEPT.
TAHOE

May 21, 2011

Placer County
Board of Supervisors
Planning Department/CRDA
Appeal of Minor Use Permit (MUP) modification (PMPM20100263)

Supervisors and Placer County Staff,

After a great deal of contemplation, our family has decided to appeal the decision of Placer County Planning Commission.

We are appealing for following reasons.

1. We feel that there must be a minimum standard of operation and safety that a property must maintain to enjoy the right of a Minor Use Permit (MUP). An MUP has a value and a property owner is most often financially compensated for allowing another business to use their property. We believe that the Falcon Lodge is out of compliance in the type of business operation that currently exists and that a review of TOT records will demonstrate this. Allowing an MUP on this property is financially enabling the owner to operate a business that is not in compliance with the zoning of the property and in "shambles" as described by a Placer County Planning Commissioner in the recent hearing.

2. Given that the amount of police calls (258 in 3 years), fire calls, code enforcement complaints, health dept complaints and issues with Placer County social service agencies, we do not believe that Placer County should be inviting more of the general public onto this property by allowing an MUP. We believe that the evidence is clear that in the past 5 years the co-location of Tahoe Paddle and Oar onsite at the Falcon Lodge has not had any positive effect on the operation or condition of the Falcon Lodge and that, in fact, it has gotten worse in both respects.

3. The operation and condition of the Falcon Lodge has a negative effect on our business. (See #2 above) We refer to Falcon Lodge reviews on Tripadvisor.com especially the most recent ones. Trip Advisor is the #1 location that people review in making a decision about where to stay. The Falcon is the #2 place in Kings Beach so those looking at our reviews (Ferrari's Crown Resort) or reviews in the general area are likely to look at the Falcon reviews. We believe the Falcon reviews provide evidence of the negative effect on neighboring residences and businesses. Additional evidence will be provided when appeal is considered.

4. From the information that we have it does not appear to us that the parking plan as submitted for this MUP is accurate especially as it relates to the Dave's Ski Shop property. Currently, we believe there are 17 spaces on this property. County records state the business itself requires 5 spaces. Our information shows that the Jet Ski Parasail operation requires 11 spaces. It would seem that this leaves 1 extra space and for another use. The Tahoe Paddle and Oar MUP, which is part of our appeal, is claiming 12 spaces on the same property according to the map that we have. County staff has informed me that the property will somehow be restriped to the 23 spaces shown in their application but this still leaves the property short parking. I have brought this up in each of my appeals but it never figured in any decision. We do not understand why, when parking is such a well known issue in our community. We also believe that Falcon plan has flaws in ADA parking and in relation to a dumpster location.

5. We believe the Falcon Lodge meets the criteria of a Public Nuisance. We refer to Placer County's own code enforcement files dating back to 2002 and the comments and vote taken at the North Tahoe Regional Advisory Council.

6. We also refer to the information provided in our previous appeal to the Planning Commission.

Thank you for your time,

Sincerely,



Dave Ferrari
For the Ferrari Family
Ferrari's Crown Resort.
Ferrari Investments LLC.

May 25, 2011

TO: Steve Buelna, Placer County Planning Department
FROM: Phil Segal, Tahoe Paddle & Oar
REGARDING: MUP/APPEAL(S)

Thank you for informing me of the current appeal (filed by Dave Ferrari) of the Placer County Planning Commission decision to approve my MUP and deny the previous appeal (filed by Dave Ferrari) of the Placer County Zoning Administrators decision to approve my MUP.

I have paid the required traffic mitigation fees cancelled the payment due to the appeal(s) and have paid them once again. Due to the current appeal, please have my payment for the traffic mitigation fees refunded.

I have had numerous conversations with Dave Ferrari. I have asked why he is so opposed to any positive improvement at the Falcon Lodge. I expressed my sincere desire to clean up the Falcon Lodge and make our neighborhood a better place. I explained my improvement plan to do so and how the revenue generated from the MUP would be used.

I'm at a loss to understand why Dave is trying so hard to undermine all positive attempts made to improve the Falcon Lodge. Due to his current appeal we have cancelled the scheduled paving, sealing and striping of the property as well as starting the exterior cosmetic work.

This ongoing MUP approval-Appeal denial process has created a greater impact to the Crown Motel with us transporting our customer kayaks on Brockway Vista than to the Falcon Lodge. The Ferrari appeal(s) do not make any practical sense.

There must be a "special circumstance" that can be considered during this process. I have been granted the MUP twice. The appeal(s) being filed by Dave Ferrari are getting to the point of being frivolous and bordering on harassment.

We have submitted action plans that start the improvement process and will continue to improve the neighborhood.

The Ferrari concern(s) are the Falcon Lodge customers and not the MUP. He needs to pursue the proper forum to address that concern not the MUP to operate a kayak operation.

I have owned and operated Tahoe Paddle & Oar, a business located in Placer County that has survived for 26 years, of which 14 years have been in the same location in Kings Beach. I'm an employer of 8 people, a community supporter, member of the North Tahoe Business Association, the North Lake Chamber of Commerce, and the

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Tahoe Resort Association. Without business(s) we will end up like the town of Bodie, California.

I



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, Agency Director

PLANNING
SERVICES DIVISION

Paul Thompson, Deputy Director

FINAL CONDITIONS OF APPROVAL
MINOR USE PERMIT MODIFICATION - PMPM 20100263 TAHOE PADDLE AND OAR

1. Minor Use Permit PMPM 2010 0263 is hereby approved to allow for the off-site display and rental of up to 20 kayaks on the Falcon Lodge property (APN 090-072-028) located on the south side of State Route 28 in the Kings Beach Planning Area. This approval is for a one-year period (to June 21, 2012). Prior to this expiration date, staff shall present a progress report to the Planning Commission regarding the physical condition of the Falcon Lodge property, specifically as it relates to improvements that have occurred at the property over the previous year. Should the Planning Commission conclude sufficient improvements have been made to the Falcon Lodge property warrant the extension of PMPM 2010 0263, the Planning Commission may consider extending the Minor Use Permit for an additional four-year period.
2. The applicant shall maintain a minimum of 15 parking spaces for the proposed kayak rentals. (Eight parking spaces at the Tahoe Paddle and Oar property and seven parking spaces at the Falcon Lodge property)
3. The applicant shall be required to obtain a Business License for the proposed rental/demonstration activities.
4. The applicant shall comply with any conditions imposed by CDF or the serving fire district.
5. Employees and equipment of this operation shall not block Brockway Vista right-of-way for safety access.
6. The applicant shall be prohibited from transporting, by any method other than vehicular transport, kayaks and similar equipment across State Route 28 during the hours of 8 a.m. - 5 p.m.
7. This Minor Use Permit does not grant any right for the applicant to use State property or North Tahoe Public Utility District owned, controlled or managed property for any purpose.
8. No food sales are allowed for this use.
9. The applicant shall be prohibited from using this location as a storage site for the kayaks. The applicant shall be required to have an employee present at the site when the kayaks and/or rack are present at this location.
10. This project will be subject to the payment of traffic impact fees that are in effect for the Tahoe Fee District, pursuant to applicable Ordinances and Resolutions. The applicant is

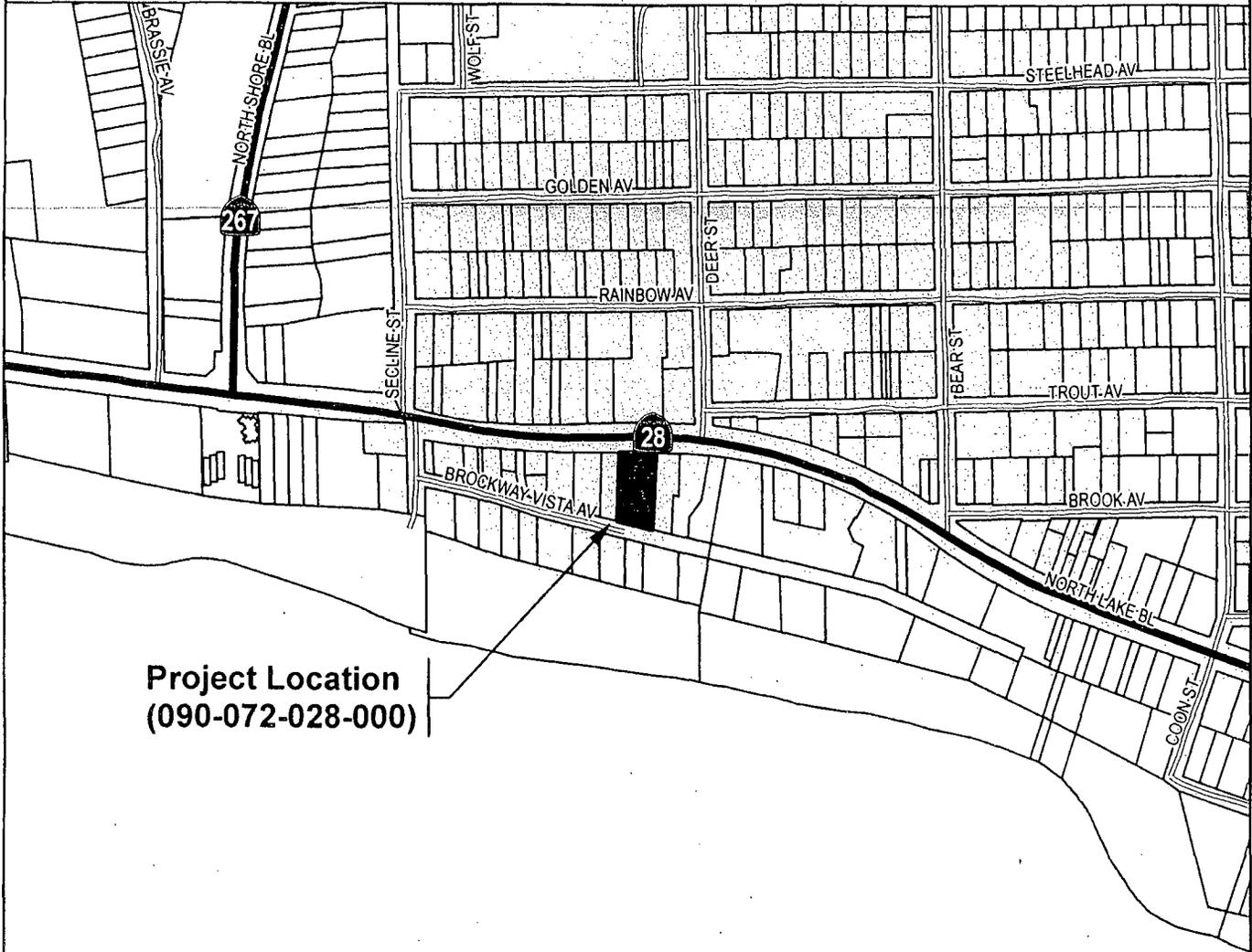
notified that the following traffic mitigation fee(s) will be required and shall be paid to Placer County DPW **no later than July 1, 2011**:

County Wide Traffic Limitation Zone: Article 15.28.010, Placer County Code

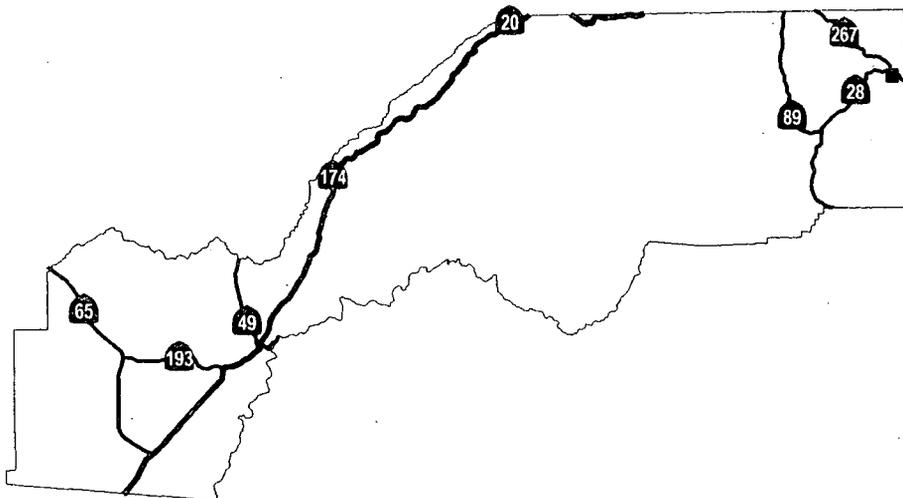
The current total combined estimated fee is \$9,547.07. The fees were calculated based on seasonal hours of operation of April 15th thru October 15th, 9:00 AM to 4:30 PM, with limited (occasional) winter use. If the hours of operation changes and/or number of kayaks permitted increases, then additional fees may apply. The actual fees paid will be those in effect at the time the payment occurs.

11. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer, the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorneys fees awarded by a certain development project know as the Tahoe Paddle and Oar Minor Use Permit Modification. The applicant shall, upon written request of the County, pay or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating to the approval of the Project. Upon request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provision of this condition.

090-072-028-000 Vicinity Map



**Project Location
(090-072-028-000)**



Map Extent

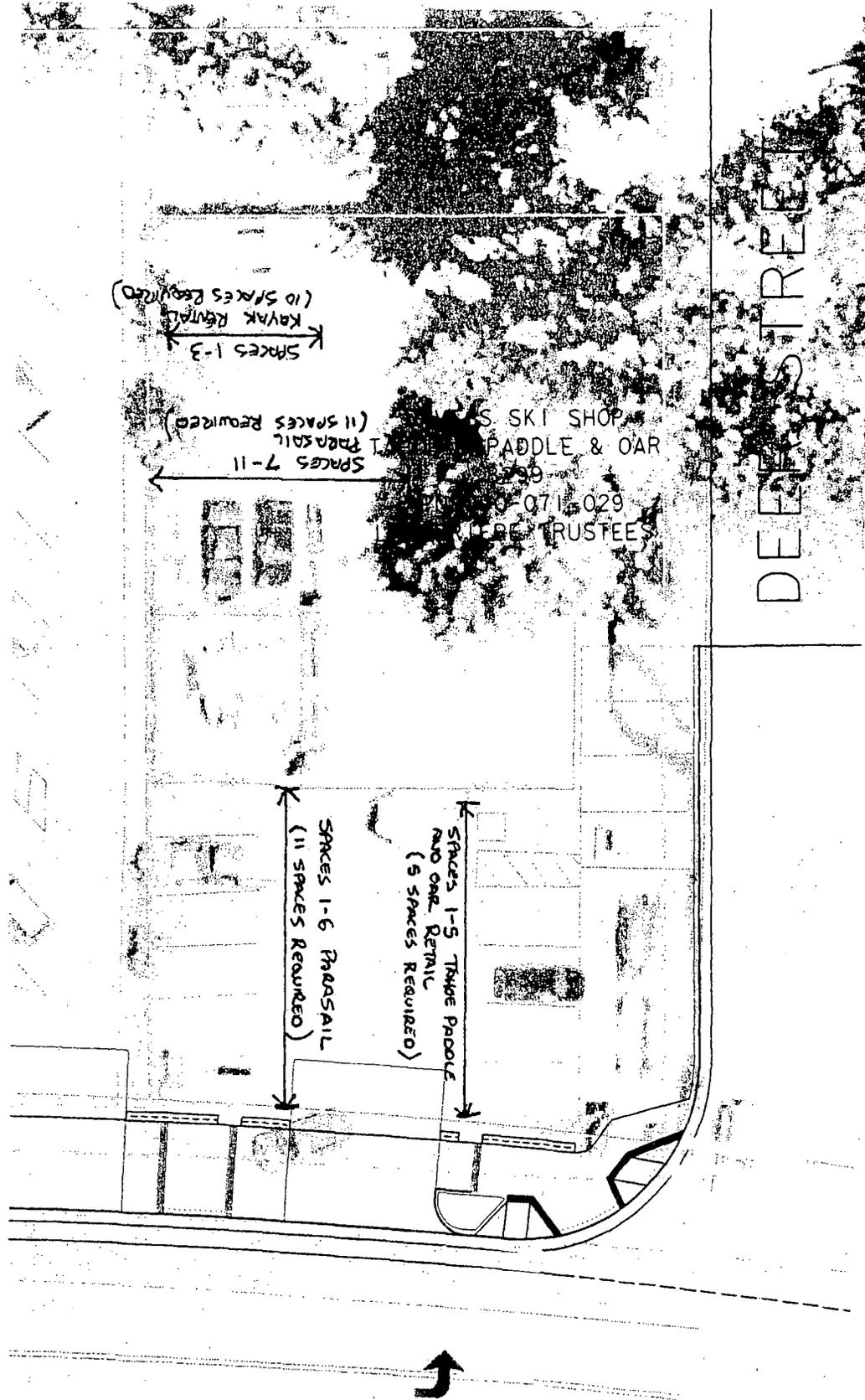
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ATTACHMENT B

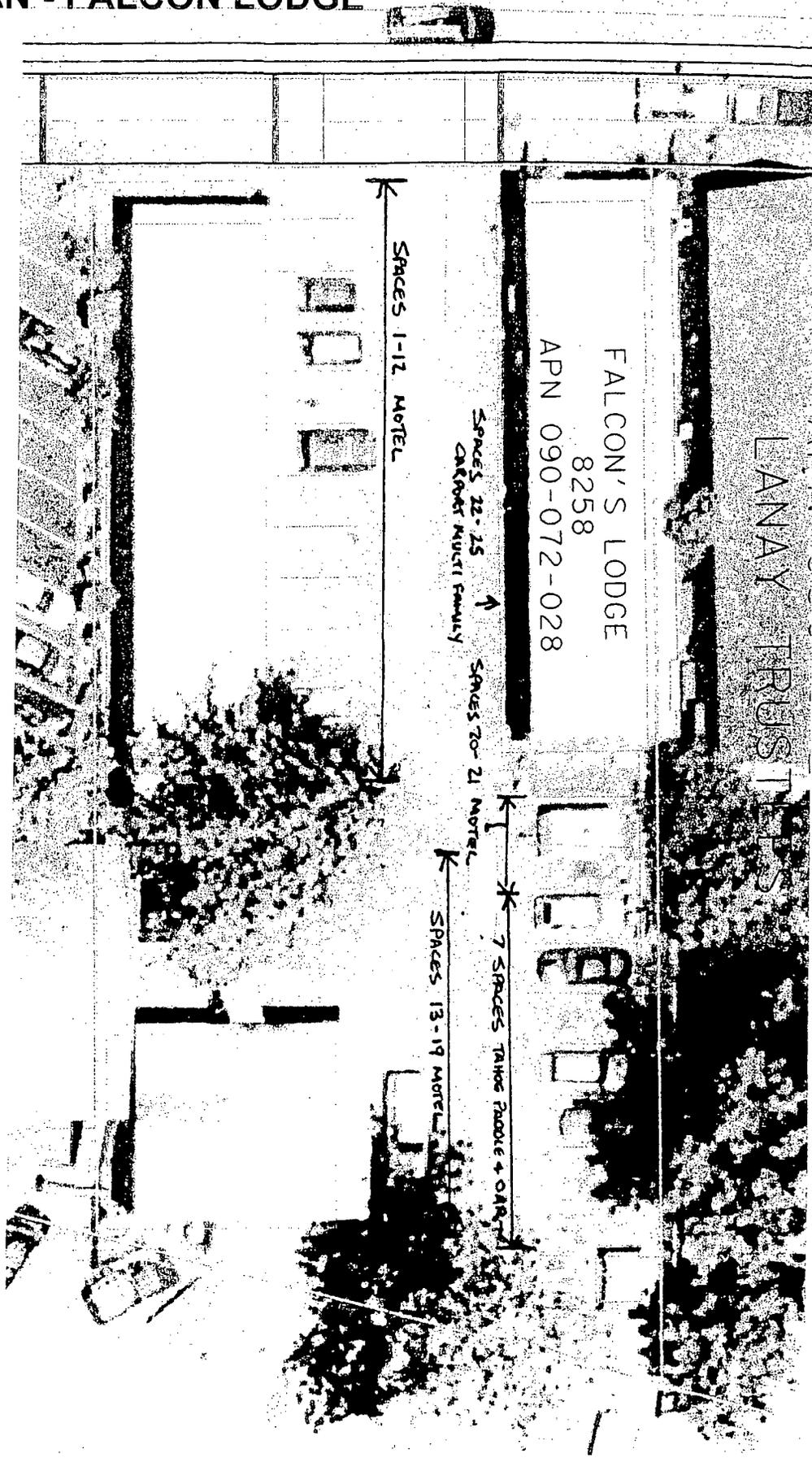
ATTACHMENT D-1

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SITE PLAN - TAHOE PADDLE AND OAR



SITE PLAN - FALCON LODGE





COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

Planning Services
Division

Paul Thompson
Deputy Director of Planning

HEARING DATE: May 12, 2011

ITEM NO.: 2

TIME: 10:20 am

TO: Placer County Planning Commission

FROM: Development Review Committee

DATE: May 12, 2011

SUBJECT: Third-Party Zoning Administrator Appeal – Minor Use Permit (PMPM 2010 0263)
Tahoe Paddle and Oar
Categorically Exempt – 18.36.060 Class 4F

COMMUNITY PLAN AREA: Kings Beach

GENERAL PLAN DESIGNATION: Entry Commercial / Plan Area Statement 029–Special Area 2

STAFF PLANNER: Steve Buelna, Supervising Planner

LOCATION: The project site is located at 8258 North Lake Boulevard, within the existing Falcon Lodge property, in the Kings Beach area.

APPLICANT: Tahoe Paddle and Oar – Phil Segal

APPELLANT: Ferrari Investments LLC, Dave Ferrari

PROPOSAL: The applicant (Tahoe Paddle and Oar) requests a Minor Use Permit Modification (PMPB 20100263) to change a previous Condition of Approval 5 that expired the entitlement on December 14, 2010. Through this modification, the applicant also requests that this entitlement be allowed to continue until December 30, 2015. The original approval allowed for the storage/display of up to 20 kayaks. This modification requests the approval to allow for a maximum of 40 kayaks to be displayed on this site based on available parking.

CEQA COMPLIANCE:

This project is categorically exempt from the provisions of CEQA per Section 18.36.060 (Class 4) (F)[Minor Temporary Use of Land]), of the Placer County Environmental Review Ordinance, October 4, 2001. The proposed use is a minor temporary use of land having no permanent

effects on the environment as it is a couple kayak racks that will be removed when the use is no longer present at this site.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:

Public notices were mailed to property owners of record within 300 feet of the project site. Community Development/Resource Agency staff and the Departments of Public Works, Environmental Health, Air Pollution Control District, the Airport Land Use Commission and the North Tahoe Regional Advisory Council (NTRAC) were transmitted copies of the project plans and application for review and comment. All County comments have been addressed and conditions have been incorporated into the staff report. No public comments have been received.

SITE CHARACTERISTICS:

The subject property is the current site of the Falcon Lodge, a commercial motel property located on the south side of North Lake Boulevard (SR28) in the Kings Beach area. This site is approximately 20,000 square foot in size, relatively level, and is for the most part occupied by either structure or paving. The Falcon Lodge contains 24 guest rooms, one manager's unit, and 31 parking spaces. Across the street (north) from this location is the primary operation for Tahoe Paddle and Oar, an outdoor recreation store.

EXISTING LAND USE AND ZONING:

	<u>LAND USE</u>	<u>ZONING</u>
SITE	Motel	West Entry Commercial
NORTH	Commercial	West Entry Commercial
SOUTH	Residential & State Beach	West Entry Commercial
EAST	Commercial	West Entry Commercial
WEST	Motel	West Entry Commercial

BACKGROUND/PROJECT DESCRIPTION:

On May 18, 2004, Phil Segal on behalf of Tahoe Paddle & Oar submitted an application for approval of a Minor Use Permit to allow for the display of a kayak rack that would be capable of storing 20 kayaks. While the project was approved by the Zoning Administrator and the Planning Commission, the project was appealed to the Board of Supervisors. After considering the appeal, the Use Permit was approved by the Board of Supervisors on December 14, 2004. In March 2005, the Zoning Administrator approved a modification to that Use Permit to allow for off-season (October through April) kayak rentals for guests of the Falcon Lodge and to extend the expiration date to December 14, 2010. That action was not appealed.

On August 3, 2010, the applicant requested a Minor Use Permit Modification to extend the expiration date of the existing entitlement to December 30, 2015. In addition to the time extension, the applicant also requested an increase the number of kayaks from the 20 that were allowed under the entitlement approved in 2004 to 40 kayaks. The applicant provided a parking plan that demonstrates the ability to provide sufficient parking for this increase in use.

The motel parking provides a surplus of six parking spaces (31 spaces at the motel, and the motel use generates the need for 25 parking spaces). The remaining 14 parking spaces required for the kayak concession (kayak concessions are expected to provide one space for every two kayaks, for a total of 20 spaces for this operation) would be provided at the main business location for the kayak rental across the street.

The limitation on the expiration date was originally set due to concerns regarding issues experienced with other concessionaires in the vicinity. The Minor Use Permit Modification was temporarily placed on hold because of compliance issues associated with the motel use, not the Tahoe Paddle and Oar business.

Subsequent to the filing of the Minor Use Permit Modification and prior to the Zoning Administrator hearing, the County received a Code Enforcement complaint for the subject property. The resolution of this complaint resulted in some delay of the processing of the application. Once the issues at the site were resolved (all related to the motel use and not the kayak concession), the project was scheduled for hearing.

ZONING ADMINISTRATOR HEARING:

The Zoning Administrator heard the Minor Use Permit Modification request on February 2, 2011 (Attachment D). At that hearing, the Zoning Administrator considered reports from the Development Review Committee staff and received oral testimony from the applicant Phil Segal and the property owner to the west, Dave Ferrari. Written correspondence was also received from Dave Ferrari, Judy Layton, and Theresa Duggan. The correspondence raised concerns of the condition of the Falcon Lodge, the length of time the extension is requested for, and the compliance (or lack thereof) of the Tahoe Paddle and Oar with their previous conditions of approval.

The proposed Modification is to allow the business to operate for the next five years and to increase the approval to allow for a total of 40 kayaks. During the public hearing, the appellant raised a number of concerns for this permit extension. Most of the discussion was related to issues experienced with the hotel use. A concern was raised about allowing an increased use of the property when there have been so many problems at the site. Mr. Ferrari provided a summary of the calls for service at that location from law enforcement to substantiate his claim.

The Zoning Administrator considered the testimony and took action to approve the request to modify the Minor Use Permit (PMPM20100263), subject to the findings and conditions of approval submitted by the Development Review Committee (Attachment A). The Zoning Administrator modified two of the conditions of approval from the recommendation contained in the staff report. One condition that was modified was related to the expiration date. This condition approved the Minor Use Permit for one year with the ability to extend that approval for a total of five years if there were no issues with compliance during the first year. This was to address the concerns related to the applicant complying with the conditions of approval. The other modified condition limited the room rental of the Falcon Lodge to ten motel rooms. The intent behind this condition was to ensure an adequate number of available parking spaces for the proposed increased number of kayaks. Mr. Ferrari appealed this decision on February 14, 2011. (See Attachment E).

NORTH TAHOE REGIONAL ADVISORY COUNCIL MEETINGS:

On two occasions, the appeal of the Tahoe Paddle and Oar Minor Use Permit was presented to the North Tahoe Regional Advisory Council. The first meeting on March 10, 2011 was scheduled on the NTRAC agenda as a non action/informational only item and NTRAC offered the following comments on the pending appeal:

- A comment was provided that it is unfortunate that a positive activity such as kayaking is caught in the middle of issues with a blighted property such as the Falcon Lodge. A council member commented that most individuals in the area are aware of the undesirable activities that occur at this property.
- It is unfortunate that a third-party (Tahoe Paddle and Oar) is held hostage for the difficulty with the compliance process.
- Various NTRAC members commented on concerns of so little parking in this area and perhaps the cumulative impacts of the various concessionaires in the area should be reviewed. "The County should take a global look at the issue."
- A comment was received that raised a concern that, without the Use Permit, persons would be "dragging" kayaks across State Route 28 and the beach.

The continuance of this appeal provided an opportunity for this project to return to NTRAC as an action item. On April 14, 2011 the NTRAC provided a unanimous recommendation to the Planning Commission to grant the appeal and deny the Minor Use Permit. The discussion during the meeting focused on the condition of the motel as well as the numerous visits to the site from local law enforcement. Council members acknowledged that the issues with this property are not with the kayak concession, but with the motel operation itself. In providing their recommendation for denial, the Council expressed concern with the increased use of this property by approval the Minor Use Permit.

LETTER OF APPEAL:

On February 14, 2011, the County received a third-party appeal from Dave Ferrari, appealing the Zoning Administrator's approval of the Minor Use Permit for Tahoe Paddle and Oar. A copy of the appeal is attached (Attachment E). As set forth in the submitted letter, the basis for the appeal is as follows:

1. Lack of compliance with previous conditions of approval;
2. Lack of Lakefront ownership;
3. Current operation of Falcon Lodge;
4. Need for Excessive numbers of visits from law enforcement;
5. Zoning Administrator's decision to limit rooms in unenforceable;
6. Zoning Administrator's position that the permit will better the situation at the Falcon Lodge is inaccurate;
7. Kayak rentals are not the highest and best use of the property;
8. Request the permit restrict access off Brockway Vista Avenue;
9. The parking proposed is not adequate;

ANALYSIS:

The issue of primary concern that has been repeatedly raised is the numerous calls for service for law enforcement to the motel at the project location. The record shows that, over the past three-year period, the Placer County Sheriff has received more than 258 calls to respond to incidents at the Falcon Lodge property. The summary of these calls for service include assaults, physical fights, drug activity, theft, threats, and probation searches. Similar to the discussion at NTRAC, staff is concerned with the approval of an additional use at this site that would draw persons to a location which has a documented history of issues with law enforcement. As such, staff cannot recommend that the Planning Commission make the finding that the proposed use would not be detrimental to the health, safety, peace, comfort and general welfare of the public, as approval of this project would be encouraging persons to enter a site that has been shown to contain an excessive amount of illegal activities and/or need for law enforcement presence. Staff cannot support increased use of this site when the potential for unknowing persons to be harmed exists.

It would not be staff's desire to make a recommendation that would deter or prohibit business from occurring within the County. As discussed at the NTRAC meeting, staff agrees that kayak rental is a positive activity for this area. Because the primary Tahoe Paddle and Oar business is located almost directly across the street from the proposed project location, it is staff's position that the action by the Planning Commission to deny the Minor Use Permit will not result in a significant impact on the ability of Tahoe Paddle and Oar to conduct their business. The kayak rental can be conducted from the Tahoe Paddle and Oar store location on the north side of State Route 28. Although a concern has been raised with the transporting of kayaks across the highway, staff has concluded that there are other options available to the public and Tahoe Paddle and Oar that are safe to gain access to Lake Tahoe (such as the Conference Center Parking, State Beach parking, or Coon Street Boat Launch) that do not require access through a potentially dangerous location such as the Falcon Lodge site.

RECOMMENDATION:

Based on the recommendation of the North Tahoe Regional Advisory Council and staff being unable to make the finding that the project will not pose a safety concern, staff recommends the Planning Commission grant the appeal and deny the Minor Use Permit.

FINDINGS FOR DENIAL**MINOR USE PERMIT MODIFICATION - PMPM 20100263 TAHOE PADDLE AND OAR****CEQA COMPLIANCE:**

Because this project will be disapproved, CEQA does not apply. CEQA Guidelines Section 15270; see also, CEQA Guidelines section 15061(b)(4) (project which will be rejected is exempt from CEQA review).

FINDINGS FOR DENIAL OF MINOR USE PERMIT:

1. The use of the property would not be consistent with applicable policies and requirements of the Placer County General Plan Policy 5.B.1 that states, "the County shall encourage development of private recreation facilities to reduce demands on public agencies." Because the proposed use would attract additional persons to a location that already has a documented history of excessive calls for service to the Placer County Sheriff's Office, the approval of this use could increase the demand on public agencies, contrary to the policies of the Placer County General Plan.
2. The establishment, maintenance or operation of the proposed use would, under the circumstances, be detrimental to the health, safety, peace, comfort and general welfare of the public, as approval of this project would result in additional activities and public presence on a property that has been shown to require an excessive amount of law enforcement presence.
3. Based upon the foregoing, the Planning Commission is unable to make the findings required by Placer County Code section 17.58.140(A) for approval, and the request for modification of PMPM 20100263 is denied.

Respectfully submitted,



Steve Buelna
Supervising Planner

ATTACHMENTS:

- Attachment A – Zoning Administrator Conditions of Approval
- Attachment B – Vicinity Map
- Attachment C – Site Plan
- Attachment D – Zoning Administrator Staff Report
- Attachment E – Ferrari Appeal
- Attachment F - Correspondence

cc: Ferrari Investments LLC- Appellants
Phil Segal, Tahoe Paddle & Oar - Applicant
Sharon Boswell - Engineering and Surveying Department
Mohan Ganapathy - Environmental Health Services
Scott Finley - County Counsel
Michael Johnson - Planning Director
Subject/chrono files



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, Agency Director

**PLANNING
SERVICES DIVISION**

Paul Thompson
Deputy Planning Director

Date: February 2, 2011
Time: 1:30 pm

DATE: January 25, 2011

TO: Zoning Administrator

FROM: Planning Department

SUBJECT: PMPM 2010 0263 – Modification to Use Permit for Outdoor Display and Outdoor Recreation Concessions

APPLICANT: Tahoe Paddle & Oar

STAFF PLANNER: Steve Buelna

ZONING: PAS- 029 - Kings Beach Commercial / Special Area #2

LOCATION: 8258 North Lake Boulevard in the Kings Beach area.

APN: 090-072-028

PROPOSAL:

Applicant requests a Minor Use Permit Modification to change the condition of approval number 5 (five) that expires this entitlement on December 14, 2010. Through this modification, the applicant requests this entitlement be allowed to continue until December 30, 2015. The approval allowed for the storage/display of up to 20 kayaks. This modification requests the approval allow for a maximum of 40 kayaks to be displayed on this site based on available parking, modifying condition of approval number 1 (one).

CEQA COMPLIANCE:

This project is categorically exempt from the provisions of CEQA per Section 18.36.060 (Class 4)(F)[Minor Temporary Use of Land], of the Placer County Environmental Review Ordinance, October 4, 2001.

BACKGROUND:

The subject property is the current site of the "Falcon Lodge", a commercial property located on the south side of Hwy 28 in the Kings Beach area. This site is approximately 20,000 sq. ft. in size, relatively level, and is for the most part occupied by either structure or paving. The Falcon Lodge contains 24 guest rooms, one manager's unit, and 31 parking spaces. Across the street (north) from this location is Tahoe Paddle and Oar, an outdoor recreation store.

On May 18, 2004, Phil Segal submitted an application on behalf of Tahoe Paddle & Oar (Applicant) to allow for the display of a kayak rack that would be capable of storing 20 kayaks. Several appeals were filed, however the use permit was approved by the Board of Supervisors on December 14, 2004. In March, 2005 the Zoning Administrator approved a modification to this use permit to allow for off-season (October - April) kayak rentals for guests of the Falcon Lodge and to extend the expiration date to December 14, 2010.

ANALYSIS:

The applicant has requested to extend the expiration date of the existing entitlement to December 30, 2015. In addition to the time extension, the applicant is requesting to increase the number of kayaks from the 20 that were allowed under the entitlement approved in 2004 to 40 kayaks. The applicant has also provided a parking plan that demonstrates the ability to provide sufficient parking for this increase in use.

The limitation on the expiration date was originally set due to concerns regarding issues experienced with other concessionaires in the vicinity. This request was placed on hold temporarily, but due to compliance matters with the hotel use, not the Tahoe Paddle and Oar business. Staff has concluded that extending the approval for this use as well as the increase to the number of kayaks would not be inconsistent with the surrounding uses.

RECOMMENDATION:

Staff recommends approval of the requested modification extending the approval to December 30, 2015 (PMPM 2010 0263), subject to the attached set of findings and recommended conditions of approval.

FINDINGS:

CEQA COMPLIANCE:

This project is categorically exempt from the provisions of CEQA per Section 18.36.050 (Class 4)(F)[Minor Temporary Use of Land], of the Placer County Environmental Review Ordinance, October 4, 2001.

MINOR USE PERMIT FINDINGS:

1. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan and the North Tahoe General Plan.
2. The establishment, maintenance or operation of the proposed use will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.

3. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.

4. The proposed project will not generate a volume of traffic beyond the design capacity of all roads providing access to the project site.

ATTACHMENTS:

-
- | | |
|----------------|---------------------------------------------------------------------------|
| Attachment 1 - | Recommended Conditions of Approval – Planning Service Division |
| Attachment 2 - | Recommended Conditions of Approval – Engineering and Surveying Department |
| Attachment 3 - | Recommended Conditions of Approval – Environmental Health Department |
| Attachment 4 - | Project Plans |

RECEIVED

APR 05 2011

CDRA

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Of Counsel:
Lori J. Gualco
Annie R. Embree
Darren P. Trone, P.C.

April 4, 2011

VIA HAND DELIVERY

Placer County Planning Commission Members
3091 County Center Drive, Suite 140
Auburn, CA 95603

Re: Third Party Zoning Administrator Appeal – Minor Use Permit
Tahoe Paddle & Oar (PMPM 2010 0263)
Categorically Exempt 18.36.060 Class 4F

Dear Chairperson Johnson & Members of the Planning Commission:

This firm represents Phil Segal and his company, Tahoe Paddle & Oar, the applicant for the Minor Use Permit ("MUP") referred to above, in connection with the appeal of the issuance of that permit by Ferrari Investments, LLC and its principal, Dave Ferrari. Pursuant to the MUP, Mr. Segal seeks to operate a display rack for the storage and rental of 40 kayaks on the southeast corner of the Falcon Lodge property in Kings Beach. We request that the commission deny the appeal and approve the MUP subject to the conditions listed in the Staff Report, as modified by the Alternative Parking Plan submitted by the applicant to the planning department on March 18, 2011. A copy of the Alternative Parking Plan is enclosed herewith as Exhibit "A".

I have reviewed the Development Review Committee's Staff Report dated March 17, 2011 for this matter. The report addresses the nine issues raised by appellant Dave Ferrari in his appeal. The main issue raised by the Staff Report is whether the applicant can identify an alternative parking solution that does not require the Falcon Lodge to hold rooms vacant. The Alternative Parking Plan (Exhibit "A") does just that.

My client and I believe that it is important to place this entire matter in proper perspective. The appellant, Ferrari Investments LLC, and its principal David Ferrari, are the owners of the neighboring Crown Motel. The Crown Motel property runs a competing kayak concession pursuant to MUP-2720, which has been in operation since September 2001. In August 2003, the operator of the Crown Motel's kayak concession, Ben Shaff (Tahoe Time Kayaking) proposed expanding his operation by permitting kayak rentals not only to guests of the Crown Motel but also to public walk-in patrons. A copy of the planning department's Staff Report to the Zoning Administrator dated August 15, 2003 relative to Mr. Shaff's 2003 proposal is enclosed herewith as Exhibit "B".

ATTACHMENT G

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The Shaff 2003 proposal permitted the rental of up to 20 kayaks from the Crown Motel property, which resulted in an 11 space parking requirement for that type of use. However, the applicant only had 9 available spaces for the kayak rental. That lower number was approved pursuant to a variance request (VAA-4191) on the basis that the two separate uses of the property (motel and kayak uses) are not likely to overlap. It was staff's opinion "that it is not likely in the Tahoe area for motel guests to stay around the motel during the day when the kayak use would occur." Fair enough; then the same rationale should apply to Mr. Segal's application.

Pursuant to the Alternative Parking Plan (Exhibit "A"), however, there are a sufficient number of spaces to comply with the parking requirements without the need for a variance, like the one granted to Mr. Shaff. Moreover, as a practical matter, it is likely that at least some of the motel patrons at the Falcon Lodge (just like the motel patrons at the Crown Motel) will make use of some of the kayaks available for rent on the Falcon Lodge property. Bottom line: there is more than sufficient parking for Mr. Segal's Kayak operation under the Alternative Parking Plan without the need to limit room rentals at the Falcon Lodge.

With the foregoing in mind, I will now address the other issues raised by the appellant.

1. More than the allowed number of kayaks have been stored at the site. My client has complied with the previous conditions of approval. No more than 20 kayaks have been stored on site. The current MUP will permit him to increase that number to 40 kayaks.
2. Lack of Lakefront Ownership. There is a public beach between the Falcon Lodge property and Lake Tahoe. Patrons of the beach and other members of the public are Mr. Segal's customers and have the legal right to access the beach through the Falcon Lodge property.
3. Current operation of the Falcon Lodge. While Mr. Segal concedes that the appearance of the Falcon Lodge units themselves is less than desirable, his operation of Kayak rentals from the rear portion of the property is unrelated to that issue. Mr. Ferrari concedes in his February 12, 2011 letter to the Planning Department in support of his appeal that Mr. Segal's current operation is conducted in an "orderly manner". That will not change.
4. Need for an excessive number of visits from law enforcement. None of the law enforcement visits were related to Mr. Segal's Kayak concession.
5. Zoning Administrator's decision to limit rooms is unenforceable. Mr. Segal concurs and has developed the Alternative Parking Plan (Exhibit "A") which eliminates the need to limit room occupancy.
6. The Zoning Administrator's position that the permit will better the situation is inaccurate. Since the number of rooms available for rent will not be reduced under the Alternative Parking Plan (Exhibit "A"), the interest in attracting new motel patrons will not be reduced either. Thus, the issuance of the MUP will in no way worsen the condition of the Falcon Lodge. As indicated in the Staff Report, it would be inherently unfair to condition the issuance of Mr. Segal's MUP on upgrading the appearance of the motel, especially where the only objecting party (Mr. Ferrari) has a direct interest in the competing kayak rental operation next door.

7. Kayak rentals are not the highest and best use of the property. As noted in the Staff Report, the County Code expressly permits outdoor recreation concessions in this area with the approval of an MUP.

8. Request to prohibit access of kayak operation off Brockway Vista Ave. Brockway Vista is a public right of way, ensuring safe access to the south eastern portion of the Falcon Lodge property, where the kayak concession has and will continue to operate with the approval of the MUP. To block access via Brockway Vista would create more traffic problems on SR28, as access from Tahoe Paddle and Oar would then be limited through the Falcon Lodge driveway.

9. Adequacy of parking. The Alternative Parking Plan (Exhibit "A") provides for the required parking without the need for a variance, like the one that was granted to Mr. Ferrari's kayak concessionaire in 2003. Moreover, under the new plan, all rooms at the Falcon Lodge will be available for lodging.

Issuance of the MUP to Mr. Segal will enhance the safety of the kayak-using members of the public who choose to rent kayaks from Tahoe Paddle and Oar. Continued operation on the Falcon Lodge property will minimize the number of kayakers who might otherwise attempt to carry kayaks across SR28. Mr. Segal operates his Kayak business on the Falcon Lodge property in an "orderly manner" as acknowledged by Mr. Ferrari, the appellant.

Based on the foregoing Mr. Ferrari's appeal should be denied and the MUP for Mr. Segal's business should issue subject to the Alternative Parking Plan submitted to the Planning Department by Mr. Segal on March 18, 2011. Thank you for your attention and consideration of this very important matter.

Respectfully submitted,

FRANK LAW GROUP, P.C.

By: 
David E. Frank

DEF/jmv

Encls.

cc: Client

Dave Ferrari

Steve Buelna

Fred Hodgson

Exhibit "A"

March 18, 2011

TO: Steve Buelna, Supervisor Planner

FROM: Phil Segal, Tahoe Paddle & Oar

REGARDING: MINOR USE PERMIT MODIFICATION (PMPM 20100263) ALTERNATIVE PARKING PLAN

As recommended in your Staff Report, the following is the alternative parking plan to accommodate the required MUP Parking requirement without encumbering rental rooms at the Falcon Lodge:

The Falcon Lodge has #33 parking spaces (not including #12 existing non-conforming) on the property.

#25 parking spaces are allocated to the Falcon Lodge.

8 parking spaces are allocated for the MUP.

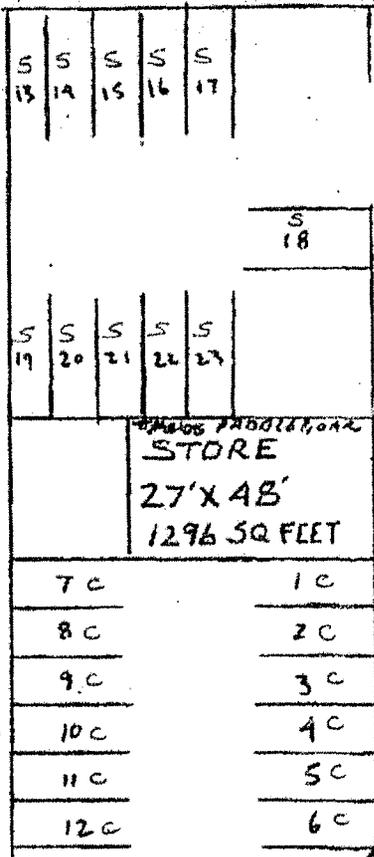
Tahoe Paddle & Oar has #23 parking spaces on the property

11 parking spaces are allocated to the property.

12 parking spaces are allocated for the MUP.

The previous submitted parking plan(s) designate the parking available at both the Falcon Lodge property and Tahoe Paddle & Oar.

N



DEER STREET (CTR. OF STREET)

S = STORE PARKING SPACES # 11
C = MUP PARKING SPACES # 12

Exhibit B

HIGHWAY 28

45' 45' CTR. OF STREET

TAHOE PADDLE & OAR
PARKING PLAN
APN 090. 071 029
8299 NORTH LAKE BLVD.

SCALE 1/32" = 1'

Exhibit "B"

**MEMORANDUM
PLACER COUNTY
PLANNING DEPARTMENT**

Date: Aug. 21, 2003

Time: 9:30 am

DATE: August 15, 2003

TO: Zoning Administrator

FROM: Planning Department

SUBJECT: MUP-2720 (Mod.) – Use Permit for Outdoor Display and Outdoor
Recreation Concessions
VAA-4191 - Variance to Parking Requirements

APPLICANT: Ben Shaff for Tahoe Time Kayaking

STAFF PLANNER: Steve Buelna

ZONING: PAS- 029 - Kings Beach Commercial / Special Area #2

LOCATION: 8200 North Lake Boulevard in the Kings Beach area.

APN: 090-073-007

PROPOSAL:

Applicant requests approval of a modification of their use permit to remove Condition 3, which would allow their business to rent to public walk-in patrons. The applicant also requests a variance to the parking to allow for 9 parking spaces to be provided where 11 would otherwise be required.

CEQA COMPLIANCE:

This project is categorically exempt from the provisions of CEQA per Section 18.36.060 (Class 4)(F)[Minor Temporary Use of Land] and Section 18.36.070 (Class 5)(A)(1)[Minor alterations in land use limitations] of the Placer County Environmental Review Ordinance, October 4, 2001.

BACKGROUND:

The subject property is the current site of the "Crown Motel", located on the south side of Hwy 28 in the Kings Beach area. This site is approximately 10,300 sq. ft. in size, relatively level, and is for the most part occupied by either structure or paving.

In September of 2001, the applicants were approved a Minor Use Permit to allow for outdoor concessions of kayaks. This permit allowed for the rental of up to 20 kayaks, but limited the rentals to the patrons of several of the surrounding motels.

ANALYSIS:

In the past couple of years, the applicants explain that they have frequently been forced to turn non-motel patrons away. Many of these people happen to be visitors of the State Beach that is located to the west of this business location. Although, at this point, the applicants have no intentions of advertising, they would like to have the ability to offer their services to beach users other than just the motel patrons.

When this project was proposed in 2001, the service was intended to be limited to the patrons of the nearby motels. At that time, it was determined that the project would have adequate parking, as the potential kayakers would have already been accounted for in the motel parking calculations. Now that the applicant would like to remove this condition that limits kayak rentals to the motel patrons, staff must evaluate the parking demand that could be generated by this operation.

The North Tahoe General Plan states that the parking requirements for this type of use should be determined on a case by case basis. Staff estimates the rental of non-motorized watercraft to generate a parking demand of 1 parking space for every 2 kayakers and 1 space per employee. This business has the potential to rent up to 20 kayakers and has, at most, 1 employee at any given time. This results in a requirement for 11 spaces for this type of use. The applicant explains that parcel 090-072-009 contains 6 motel units, 1 employee housing unit, and 16 parking spaces. The motel use for this site generates a need for a total of 7 parking spaces (1 space per unit and 1 space per employee). This allows the applicant to have 9 spaces available for the kayaking rental, where 11 would otherwise be required. As a result, the applicant has included in this application a variance request to the number of required parking spaces.

Typically, staff is not able to support a variance to the number of required parking spaces. However, in this case, this particular property has two separate uses that are not likely to overlap. It is staff's opinion that it is not likely in the Tahoe area for a motel guest to stay around the motel during the day when the kayak use would occur. Staff has conducted several visits to the site during different parts of the week when heavy tourist traffic occurred. On all occasions, the applicant's site contained available parking spaces (even with a "No Vacancy" sign being displayed). Furthermore, there is still a number of the motel guests that are likely to make use of the kayak rental. As stated earlier, the applicant does not have intentions of advertising to bring customers in. Rather, the applicant would like to be able to make his kayakers available to those who are already at the beach. As a result of all of these factors, staff is of the opinion that the proposed modification and variance would not have a negative impact on the surrounding properties.

RECOMMENDATION:

Staff recommends approval of the requested modification to the minor use permit (MUP-2790) and the requested variance (VAA-4191), subject to the attached set of findings and recommended conditions of approval.

FINDINGS:

CEQA COMPLIANCE:

This project is categorically exempt from the provisions of CEQA per Section 18.36.050 (Class 3)(B)[Multi-Family Residential Structure] and (Class 5)(A)(1)[Minor alterations in land use limitations] of the Placer County Environmental Review Ordinance, October 4, 2001.

MINOR USE PERMIT FINDINGS:

1. The proposed use is consistent with applicable policies and requirements of the Placer County General Plan and the North Tahoe General Plan.
2. The establishment, maintenance or operation of the proposed use will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of people residing in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
3. The proposed project or use will be consistent with the character of the immediate neighborhood and will not be contrary to its orderly development.
4. The proposed project will not generate a volume of traffic beyond the design capacity of all roads providing access to the project site.

PROJECT FINDINGS: VARIANCE

1. There are special circumstances applicable to this property, specifically the overlapping uses on the site and the nature of the proposed business, which would make the strict application of Chapter 17.60.100(D) (Action on a variance), Placer County Code, result in depriving the property of privileges enjoyed by other property in the vicinity under identical zoning classification.
2. The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zone district.
3. The variance does not authorize a use that is not otherwise allowed in the zoning district.
4. The granting of the variance does not, under the circumstances and conditions, applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.
5. The variance is consistent with the Placer County General Plan and the North Tahoe General Plan.
6. The variance is the minimum departure from the requirements of the ordinance necessary

to grant relief to the applicant, consistent with Chapter 17.60.100(D) (Action on a variance), Placer County Code.

RECOMMENDED CONDITIONS:

1. The modification of Minor Use Permit (MUP-2720) removes the previous Condition 3 that limited the use of the non-motorized vessels to the tenants of Ferrari Crown, Golderest, Falcon Lodge, Sun & Sand, and Big 7 Resorts. All other conditions of this MUP shall apply.
2. The Variance (VAA-4191) approves a reduction in the number of required parking spaces and allows the applicant to maintain 9 spaces for the proposed use, where 11 would otherwise be required.
3. The applicant shall comply with any conditions imposed by CDF or the serving fire district.
4. This approval shall expire on September 1, 2005 unless exercised by that date by the display of such equipment on the site.

t:\cmd\cmdpl\steve\VA items\use permit\Faloe Time Kayaking

APRIL 15, 2011

TO: Placer County Planning Department, North Tahoe Regional Advisory Council, Placer County Planning Commission

FROM: Fred Hodgson, Owner, Falcon Lodge and Phil Segal, Tahoe Paddle & Oar

REGARDING: MUP PMPM 2010 0263

Regarding MUP PMPM 2010 0263:

I would like to respond to the concerns expressed from Dave Ferarri and the North Tahoe Regional Advisory Council regarding the current condition of the Falcon Lodge and my proposal to improve the condition of the property and improve the visual environment of the neighborhood with the financial help from the revenue generated from the MUP.

Our plan is to establish an improvement fund of \$4,000 per year at the Falcon Lodge with the revenue generated from the MUP/ Kayak Rental Operation. The funds would be earmarked for specific annual improvements on the property; exterior painting, driveway paving, sealing and striping etc.

This is a positive move in the right direction that will benefit for everyone.

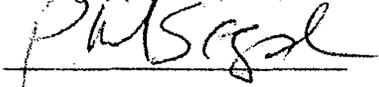
Sincerely,

Fred Hodgson



Date 4-18-11

Phil Segal, Tahoe Paddle & Oar



Date 4.18.11

From: Ron Miller [mailto:rmillerco@cmc.net]
Sent: Thursday, May 12, 2011 7:19 AM
To: Placer County Planning
Subject: FW: Falcon Lodge, Kings Beach

Attention Mr. Michael Johnson,
Good morning.

Unfortunately I cannot be at this morning's meeting due to a previously schedule meet out of State.
My staff notice I originally stated the incorrect name of the Falcon...Hotel vs. Lodge; my apologizes. I have corrected my e-mail to your Agency.
I see this morning's meeting as a critical and necessary step for the Kings Beach community...the region and the County.

Thank you,
Ron Miller

From: Ron Miller [mailto:rmillerco@cmc.net]
Sent: Tuesday, May 10, 2011 1:46 PM
To: 'planning@placer.ca.gov'
Subject: Falcon Lodge, Kings Beach

This correspondence is to express my deep and long term concerns regarding the Falcon Lodge in Kings Beach. It is my strong request that your agency take immediate action(s) to resolve the known and unknown problems that have existed and do currently exist in and around the Falcon.

My Company has been involved in and around Kings Beach and the region for over 20 years including development projects with Safeway, Old Brockway and the Ferrari Family along with Placer County. We are strongly committed to the redevelopment of Kings Beach and the region along with helping local businesses be successful. Personally, I have over 30 years of experience in and around the area.

My concerns regarding the Falcon are based on first-hand experiences witnessing the daily activities that have and do take place there along with a property that has physically declined rapidly for the past 7 to 9 years. Additionally, the conditions in and around the Falcon have had numerous and reoccurring negative issues on our Company's and our clients efforts to move redevelopment activities forward and to conduct daily business.

We have had repeated concerns expressed to us from world-class development organizations and their people as to their reservations to get involved in a project or community where the conditions of the Falcon are allowed to exist...and continue to exist without tangible actions to correct being in place.

Lake Tahoe and Kings Beach are very unique and special in the eyes and life's of many! I ask your agency to step up to the plate and help the community and people of the community deal with a long-term, known issue within Kings Beach...The Falcon Lodge.

Please let me know if I may be of assistance to your agency regarding this issue or future opportunities in your County.

Respectfully,
Ron Miller

Ron Miller and Company
PO Box 3376
Sunriver, Oregon 97707
(541) 350-8339 Oregon office
(916) 804-8865 California office

May 11, 2011

To Whom It May Concern:

First let me say that I am pro business, but what we have here is not business vs government but business vs business because of a failure of government.

The Falcon Lodge would not exist in Incline Village, or Tahoe City, or Serene Lakes, because of something called community awareness. We have, even in Kings Beach, vestiges of that.

Kings Beach welcomes business, just about any business that will provide jobs, and enhance the welfare and environment of our community, but we close the door to those that come to degrade our community...and that is what the Falcon Lodge is doing. Other business people should be aware of this if they have any eyes to see with - and join the community in not supporting them if the county is unwilling or unable to put a stop to this degradation.

A business that degrades a community should not be supported by the members of that community, and if the county is unwilling or unable to act, then the community itself should at least not support such a business in any way shape or form. Slumlord housing, which attracts drugs, violence and environmental hazards, is not affordable housing. It is detrimental not only to the ecological environment but to the responsible businesses trying to survive around it.

Kings Beach is quickly becoming tired of people coming to our community and setting up a business that turns out to be detrimental to the welfare of our community. These are selfish, ignorant, or misguided people who possess no social conscience and no respect for their fellow citizens, only a lust for their own financial aggrandizement at the expense of any and all around them.

Regina Straver
Board member, North Tahoe Regional Advisory Council

PLACER COUNTY
DATE RECEIVED

MAY 12 2011

PLANNING COMMISSION

by Dave Ferrar

176

Very clean (8) **Check Rates and Availability for Ferrari's Crown Resort**

Reviews you can trust Check-out Adults

81 reviews **Filter traveler reviews** **Show Prices** Expedia.com Travelocity Hotels.com

- Trip type**
- All reviews (81)
 - Business reviews (2)
 - Couples reviews (25)
 - Family reviews (29)
 - Friends reviews (4)
 - Solo travel reviews (3)
- Traveler rating**
- All (81)
 - Excellent (25)
 - Very good (38)
 - Average (9)
 - Poor (5)
 - Terrible (4)

New! Room Tip: Want a great room then you have to pay.

Fort Lauderdale **"As Advertised"**
5 reviews

Date of review: Apr 30, 2011

person found this review helpful

I give this place 2 1/2 stars. The room was clean but small and old. The location was great, right on the beach although our room wasn't but we didn't pay to be on the beach. The continental breakfast was very good with everything you would expect. We arrived at 1 am after flying from miami to sf then driving, yeah a 24 hour day it was. Anyway, we called at 8 and said we would be arriving late, front desk said we will tape the keys, etc to the door then just check in the next morning, they executed that perfectly.

~~We thought Tahoe City was much better and would stay there instead of Kings Beach.~~

Room Tip: Want a great room then you have to pay.

Reviewer ratings for this hotel:

- Value **3**
- Rooms **3**
- Location **4**
- Cleanliness **4**
- Service **5**
- Sleep Quality **4**

Date of stay: April 2011
Visit was for: Leisure
Traveled with: Family with Young Children
Member since: March 29, 2004

Recommended by this reviewer? Yes

Was this review helpful? Yes

Other TripAdvisor sites:

177



NaturaMed
NATURAL FAMILY MEDICINE

Dr Ann Sura

8130 N Lake Blvd
PO Box 368
Kings Beach, CA 96143
PH: 530-546-0400
Fax: 530-546-0401
naturamedtahoe.com

To Whom It May Concern:

May 11, 2011

We are writing to let you know that my husband, Mark, and I support Mr. Dave Ferrari's appeal of the permit for kayak's on the Falcon Lodge Property owned and operated by Mr. Fred Hodgson.

The Falcon Lodge is in desperate need of repair and clean up. It is an eye-sore to all who drive by, walk by and/or live in the area. There are numerous Placer County Sheriff responses to the property every year which pick up significantly in the summer months.

Though we understand the owner's of Tahoe Paddle and Oar wishing to have a rental sight on the lake side of the highway, we believe Mr. Hodgson should be held accountable for cleaning up his property, both physically and with the number of Sheriff Department calls out to the property before reconsideration of the permit.

Thank you for hearing Mr. Ferrari's presentation on this matter.

Ann Sura, ND
8130 N Lake Blvd
Kings Beach, CA 96143

From: Ron Miller [mailto:rmillerco@cmc.net]
Sent: Tuesday, May 10, 2011 1:46 PM
To: 'planning@placer.ca.gov'
Subject: Falcon Lodge, Kings Beach

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Respectfully,

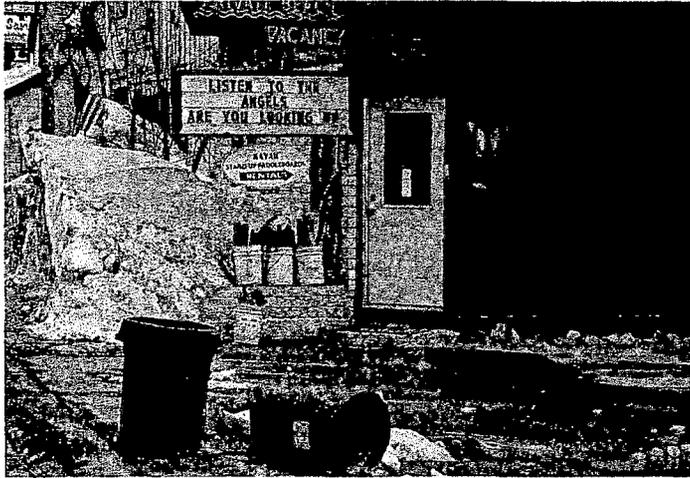
Ron Miller

Ron Miller and Company

PO Box 3376

Sunriver, Oregon 97707

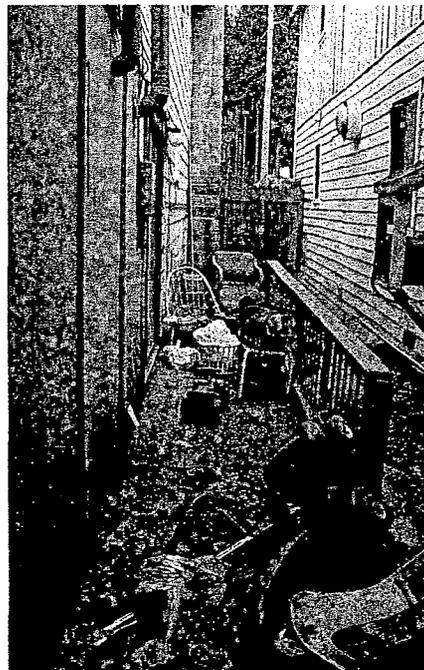
(541) 350-8339 Oregon office (916) 804-8865 California office



View of the Falcon Lodge's office



View of the Falcon Lodge from the Crown Motel



Alley between Falcon (left side) and Java Hut

PLACER COUNTY
DATE RECEIVED

MAY 12 2011

PLANNING COMMISSION

by Dave Ferraro

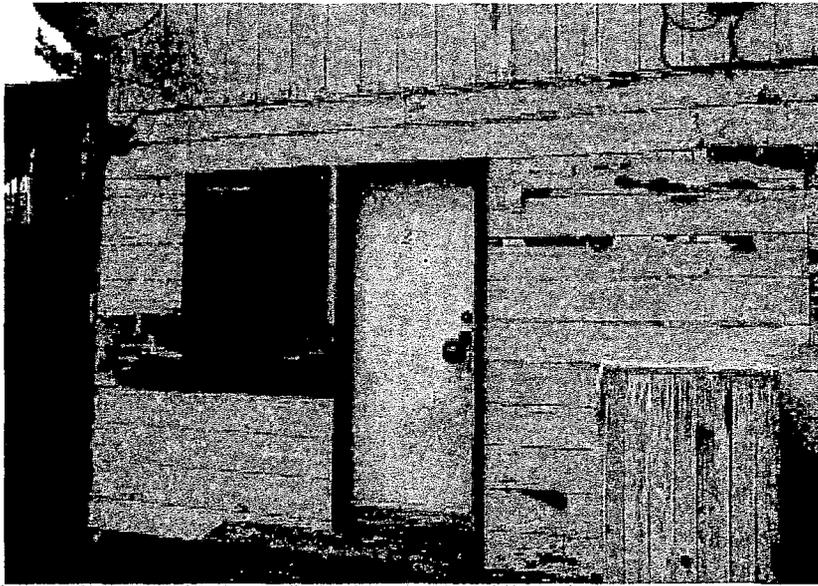


Southerly view from a Crown unit



Northerly view from the same Crown unit
of the Falcon Motel

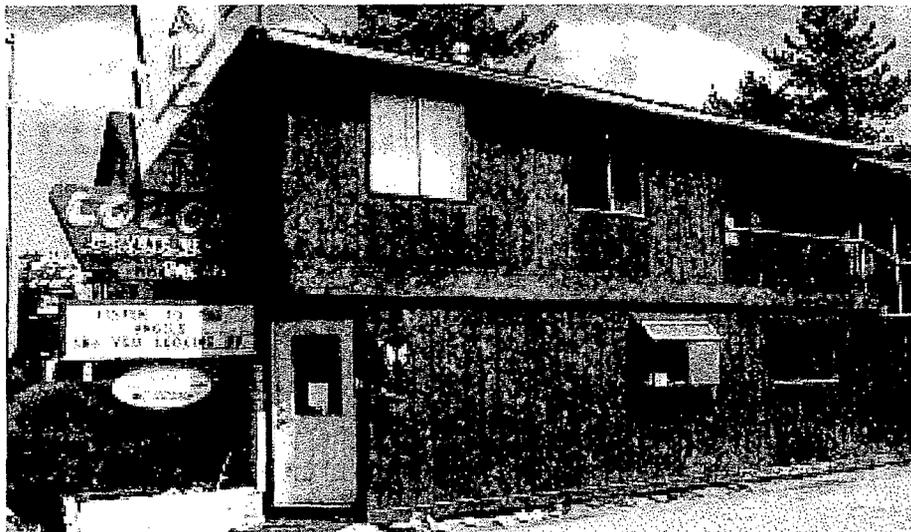
Photos
and captions courtesy
[REDACTED]



Last painted in the 80's?



Trash enclosure is not being used to hide the trash!



Broken window and sign on door announcing the office is now a private residence

**THIRD PARTY PLANNING COMMISSION
APPEAL - MINOR USE PERMIT
MODIFICATION (PMPM 20100263), TAHOE
PADDLE AND OAR, CATEGORICAL
EXEMPTION SUPERVISORIAL DISTRICT 5
(MONTGOMERY)**

Placer County Board of Supervisors

June 21, 2011 11:30 a.m.

Correspondence Received

As of
Rev 06/14/11

June 14, 2011

RECEIVED

JUN 14 2011

CLERK OF THE
BOARD OF SUPERVISORS

TO: Steve Buelna, Placer County Planning Department
FROM: Sue Allen, Rite-Aid, Kings Beach
REGARDING: Tahoe Paddle & Oar - Additional Parking

Tahoe Paddle & Oar is a business located next door to our Rite Aid store in Kings Beach. Their paddlesports business provides a viable economic contribution to the entire Kings Beach business community.

If they are denied a Minor Use Permit to operate their current kayak rental operation (because of insufficient parking) it would have a negative economic impact on all the businesses in Kings Beach.

If additional parking is a condition for their Minor Use Permit, Rite Aid has agreed to provide Tahoe Paddle & Oar additional parking for their customers which includes 3 paved and striped parking spaces behind the store and a 18' X 38' unpaved area on the north portion of the property that is available for additional overflow parking if necessary.

Sincerely,



Sue Allen, Manager
Rite Aid, Kings Beach

