

# Staff Report 02

## APPLICANT:

Cedar Glen Lodge, LLC, a California limited liability company

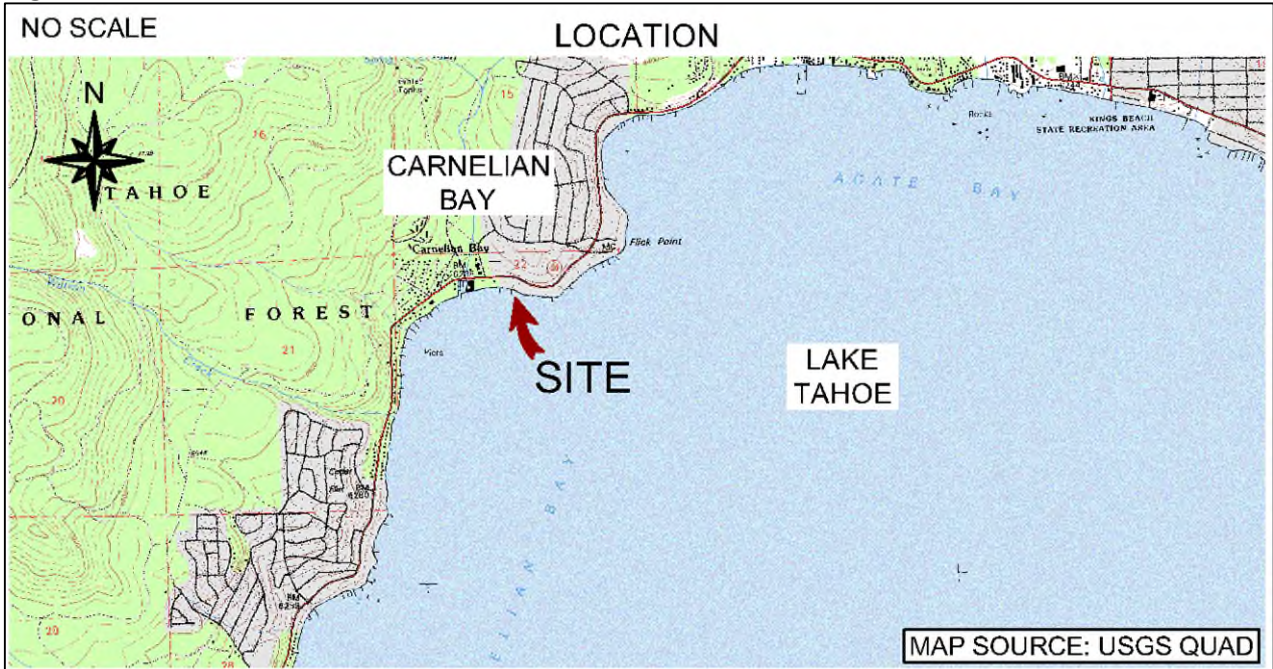
## PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5256 North Lake Boulevard, near Carnelian Bay, Placer County (as shown in Figure 1).

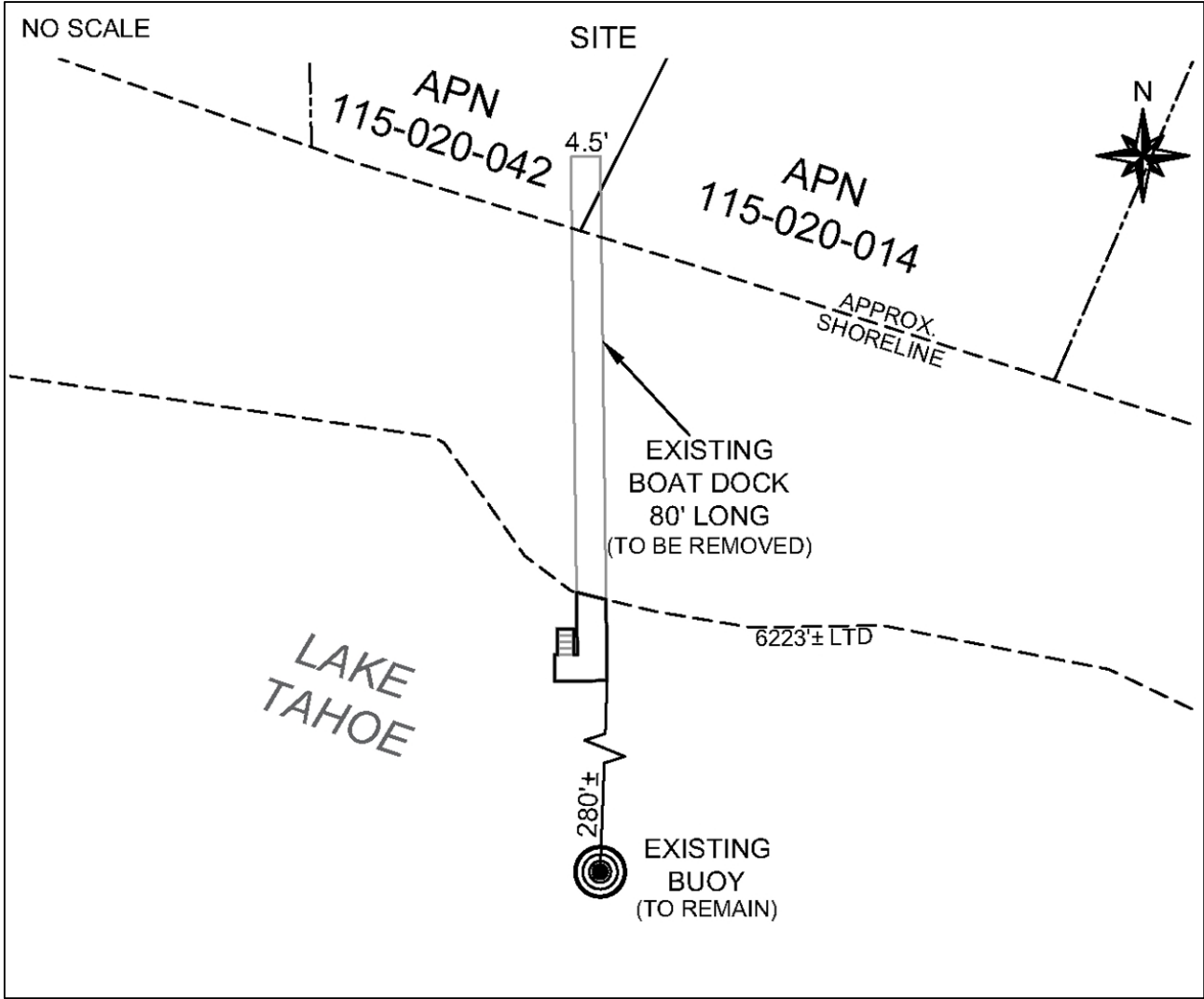
Figure 1. Location



**AUTHORIZED USE:**

Use of one existing mooring buoy and removal of an existing pier (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

10 years, beginning October 17, 2024.

**CONSIDERATION:**

\$273 per year, with an annual Consumer Price Index adjustment; and \$683 for the unauthorized occupation of state land for the period prior to October 17, 2024.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges that a permit or registration from the Tahoe Regional Planning Agency (TRPA) may be required for the Authorized Improvements and failure to obtain a permit or registration from TRPA and maintain compliance with that permit or registration may result in TRPA imposing civil penalties and will constitute a breach of the lease.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public's right of access for navigation, fishing, and Public Trust consistent recreational uses.
- Lessee shall provide photographs of the construction area before and after removal of the pier; and restore the land to its natural condition. Removal of the pier can begin upon Lessee's receipt of all required approvals and permits from the appropriate regulatory bodies and must complete the removal no later than December 31, 2024.

**STAFF ANALYSIS AND RECOMMENDATION:**

---

**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, section 2000 and 2003.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On October 19, 2012, the Commission authorized the issuance of a General Lease – Recreational Use to Leland C. Nelson and Lois M. Nelson, Trustees of the Leland C. and Lois M. Nelson Trust dated January 25, 1990, for continued use and maintenance of an existing pier and one mooring buoy ([Item 6, October 19, 2012](#)). That lease expired on October 18, 2022.

On April 19, 2022, ownership interest of the upland parcel was transferred to FAE Holdings 548162R, LLC. Lessee did not notify staff of the sale of the upland parcel nor sign a lease quitclaim deed. On October 6, 2022, ownership interest in the

upland parcel was then transferred to Cedar Glen Lodge, LLC, a California limited liability company (Applicant), again without notification to staff. The Applicant is applying for issuance of a General Lease – Recreational Use for the use of one existing mooring and the removal of an existing pier. The mooring buoy was registered with TRPA on January 19, 2024 (Registration No. 11195).

Although the previous lease had rent-free status pursuant to Public Resources Code section 6505.5, staff recommends that the Commission accept compensation in the amount of \$683 for the existing pier and mooring buoy from when the upland ownership transferred to the Applicant, through October 16, 2024, the day preceding the proposed new lease. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, ensuring the State is protected.

On July 11, 2024, the Applicant obtained a conditional permit No. ERSP2023-1766 from TRPA authorizing the demolition and banking of the existing pier structure located at 5256 North Lake Boulevard in Carnelian Bay, Placer County. As a result of the demolition, a pier development right will be banked on the subject property.

The pier demolition will be conducted via a barge from the lake complying with all TRPA-identified measures and best management practices, such as working within identified work windows, installing turbidity curtains, implementing spill prevention measures, and disposing of the removed pier at a TRPA-approved disposal facility. A front loader or similar equipment will be stored on the barge for the demolition. At no time during construction shall any equipment be stored/staged along the shoreline. Vehicular access from the upland to the shoreline shall be prohibited as this project area is located in Shorezone Tolerance District 6. The pier removal will be completed by December 31, 2024.

The existing mooring buoy is privately owned and maintained and facilitates recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land. (Pub. Resources Code, § 6503.5.)

The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights.

The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-

consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

### **CLIMATE CHANGE:**

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms are increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to [California's Fourth Climate Change Assessment](#), released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and drier summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable storm events and winds. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in

areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Improvements authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to high wind events and damaging waves.

### **CONCLUSION:**

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, nor for the remaining term of this lease; is consistent with the common law Public Trust Doctrine; and is in the best interest of the state.

### **OTHER PERTINENT INFORMATION:**

---

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may not remove the pier. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. **Existing Mooring Buoy:** Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

**Pier Removal:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

## **APPROVAL OBTAINED:**

---

- Tahoe Regional Planning Agency

## **APPROVALS REQUIRED:**

---

- U.S. Army Corps of Engineers
- Lahontan Regional Water Quality Control Board
- California Department of Fish and Wildlife

## **RECOMMENDED ACTION:**

---

It is recommended that the Commission:

### **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301 and Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the use of the existing mooring buoy and the removal of the pier will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

### **AUTHORIZATION:**

1. Accept compensation from the Applicant for the unauthorized occupation of State land for an existing pier and mooring buoy in the amount of \$683 for the period prior to October 17, 2024.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 17, 2024, for a term of 10 years, for the use of one existing mooring buoy and removal of an existing pier; annual rent in the amount of

\$273, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.