



Tahoe Regional Planning Agency
Governing Board Members and TRPA Staff
PO Box 5310
Stateline, NV 89449

September 2, 2008

Sent via e-mail to Project Contact: David Landry (dlandry@trpa.org)

**Subject: Notice of Preparation of Draft Environmental Impact Statement (EIS)
for the Boulder Bay Community Enhancement Program Project.**

Dear Governing Board Members and TRPA staff,

We would like to thank you for the opportunity to comment on the Notice of Preparation (NOP) for the Boulder Bay CEP Project (hereafter "Project") and extended comment period. As we have stated in the past, we are concerned with the extent of proposed development under the CEP program, and believe that the CEP program should at most, include one or two small 'demonstration' projects aimed at testing new and unique development concepts for their ability to help achieve thresholds. However, TRPA has approved the reservation of extensive allocations and commodities for several very large redevelopment projects, including the proposed Project. Because the new Regional Plan update has been delayed well beyond 2007, these large scale projects are being reviewed under the existing Regional Plan (well recognized as inadequate and out of date). Therefore, we reiterate our concerns with the CEP program as it has proceeded and associated review of projects of this magnitude under the existing Regional Plan.

We have reviewed the NOP for this Project and have many concerns with the proposal, including the scale of the Project relative to its location and the impacts it will create, as well as the failure of the NOP to identify all relevant issues. Further, the document is inconsistent in its presentation of information compared to information contained in CEP application materials. Finally, we are concerned with the lax references to 'possible' or undefined environmental benefits from a project applying under the CEP program and the seemingly minimal "extras" being included in the project. CEP projects are to be held to a much higher environmental standard. As it is described in the NOP, we feel this project fails to meet such a higher standard at this time. We provide the following comments and questions to guide the information and analyses conducted in the EIS.

Please feel free to contact Jennifer Quashnick at (530) 577-4233 or jqtahoe@sbcglobal.net or Michael Donahoe at (775) 588-5466 or donahoe@charter.net if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Donahoe".

Michael Donahoe
Conservation Co-Chair,
Tahoe Area Sierra Club

A handwritten signature in black ink, appearing to read "Ron Grassi".

Ron Grassi, Esq. (Retired)
Conservation Co-Chair,
Tahoe Area Sierra Club

A handwritten signature in black ink, appearing to read "Jennifer Quashnick".

Jennifer Quashnick
Environmental Consultant,
Tahoe Area Sierra Club

I. Density:

Density increases proposed by this project are one of the biggest factors that will affect the environment, both aesthetically and due to the adverse impact on traffic and other thresholds. The project proposes to add substantial new development, including 11 new structures, 252 *additional* Tourist Accommodation units (using the numbers on page 5¹) and 374 new parking spaces (p 5).

Page 4 of the NOP states that the CEP program is seeking to “...*enhance the quality of life for residents...*”

- The EIS must explain how adding another 1,000 to 2,000 people, hundreds of additional vehicles (to the project area as well as the entire North Shore), more air and water pollution, more noise, more light pollution and reducing the amount of open space by half will “enhance the quality of life” for residents in the area.

The project repeatedly references the intent to become a “destination resort.”

- The EIS must define what a “destination resort” is.
 - This term is often associated with ski resort communities or other areas where a primary activity, often an outdoor/recreational activity, is the main ‘draw’ for visitors. Building a ‘village’ next to or within such destinations is intended to provide accommodations for people so they need not drive from their hotel/timeshare/etc. to the ‘destination’ activity but rather, can enjoy a pedestrian friendly experience (including the secondary activities – such as restaurants and retail establishments that are included in these ‘villages’) [see definition in next bullet]. For example, the redevelopment at Stateline in South Lake Tahoe serves as a ‘destination resort’ for Heavenly Ski Resort. Other typical ‘destination resorts’ include Vail, CO, Aspen, CO, Park City, UT, etc. Once a visitor arrives, they need not leave until they are ready to leave the destination itself.
- The online “Wikipedia Encyclopedia”² defines destination hotel (resort) as:

“A **destination hotel** is a place of lodging whose inherent location and amenities attract visitors regardless of the route needed to arrive or the areawide features of interest...Destination hotels are also called **destination lodgings** and **destination resorts**. Considerable academic and business analysis has been conducted in the field of destination hotels.^[1] In the *Arnold Encyclopedia of Real Estate* a destination hotel is characterized as a place of lodging not chosen for convenience and not chosen for people in transit to other areas.^[2]

The following typically are characteristics of a destination hotel:

- Amenities which are quite complete and self-contained
- Upscale nature of the lodging operation

¹ Existing TAUs: 114. Proposed TAUs on page 5: 366. This translates to an additional 252 TAUs.

² http://en.wikipedia.org/wiki/Destination_resort

- Distinctive characteristics of the building, gardens or adjacent natural feature
- Activity set which makes leaving the property unnecessary”

Does the proposed project meet this definition? Given the lack of basic amenities such as groceries, pharmacies/”drug stores”, etc., are amenities “*quite complete and self-contained?*” Will using typical “Rustic Tahoe” architecture create a building characteristic that is “*distinctive?*” (In fact, the current architecture appears to be more distinctive than that which is proposed). Finally, and of high importance in terms of traffic and environmental impacts, does the proposed project “*contain an ‘activity set’ which makes leaving the property unnecessary?*” The NOP does not describe an ‘activity set’ that would appear to meet this definition.

- In summary, what is the “destination” that people are coming to this project for? There is no ski resort at Crystal Bay. There is no major boat launch for a draw such as the Tahoe Queen or M.S. Dixie. We know that gambling is not longer a primary ‘draw’ for most people. So what exactly is the ‘destination’ that will draw people to Crystal Bay, such that they will purchase timeshare/condo units, stay in a motel, etc., and leave their cars parked during their stay while they enjoy their ‘primary’ and ‘secondary’ activities on foot?
 - It simply does not make sense that people would come to this area and stay overnight merely to shop at the village ‘retail’ shops or visit the health and wellness center. These activities are often a secondary activity people do (e.g. dinner) after they enjoy the primary activity (e.g. skiing) which drew them to the specific location.
- We are concerned that without this ‘primary activity’ people will still use their vehicles to go to the true ‘draws’ in the North Lake Tahoe area (e.g. Diamond Peak/Mt. Rose/Northstar ski resorts, Sand Harbor, Kings Beach public beaches, etc.), and therefore this will merely provide more accommodations for more people who will drive to the Basin and then drive around within the Basin.

II. Development allocations and transfers:

Development per the North Stateline Community Plan (NSCP):

The EIS must identify the number of existing bonus and other development units left to be used per the NSCP and how many of those units each alternative would require. Where the project may use all or almost all of the bonus units, is TRPA certain this is the most beneficial use of those remaining units? Are there other potential future projects that would require some of these units? What other areas within the NSCP could utilize these units and would impacts be less and environmental benefits better if used elsewhere?

Additionally, given existing environmental conditions, is the 12-year old NCSP adequate anymore? Perhaps the carrying capacity of this area has already been reached, and additional development will irreversibly contribute to the decline of environmental thresholds. This is yet another example of why the Regional Plan EIS should be

completed [and certified/adopted] before large projects such as the proposed project are approved, as well as why TRPA Code states Community Plans should be updated every 5 years (Section 14.7):

“14.7 Maintenance And Modification Of Community Plans: Adopted community plans shall be reviewed by TRPA at five year intervals to determine conformance with approved schedules of development and adequacy of programs, standards, mitigation and monitoring. TRPA may defer approval of projects within community plans, if the review indicates approved goals, targets, and requirements are not being achieved. Community plans may be modified as a result of such reviews as deemed appropriate by TRPA to achieve environmental thresholds or to otherwise improve the community plans. The procedure for modification shall be consistent with this chapter.”

- The EIS should include an assessment of the adequacy of the North Stateline Community Plan. This assessment should follow the same process that a Community Plan 5-year review would follow, including all public processes.

Transfers of development and sending vs. receiving parcels:

If the project proposes to transfer in development rights from another PAS or rather, another watershed and urban area, the EIS should analyze the environmental impacts of that development if used in the area it is being transferred *from* as well as the impacts of transferring it *to* this project. The impacts should then be compared to assess the impacts associated with transferring development from one watershed and urban area to the project area. For example, according to application documents, the project proposes to transfer in development from the South Lake Tahoe (SLT) area. Development in SLT may generate less VMT per allocation since more amenities may be within walking distance or improved public transit, whereas in Crystal Bay, one will have to travel to Kings Beach or Incline Village for ‘basic’ items such as groceries, thus perhaps generating more VMT, or as discussed previously, visitors to the proposed project area will likely travel to recreate, e.g. Diamond Peak, Mt. Rose, etc., since popular visitor recreational opportunities, especially those that would draw visitors to the Basin, are not in Crystal Bay. Another example includes watershed impacts – if the development is coming from an area with less slope, less erosion, and/or better stormwater treatment, the impacts to loading to Lake Tahoe may be less if used in the ‘sending area’ than if used in Crystal Bay, where the land is much more sloped, more disturbed, and more runoff can be expected (the project only proposes to meet a 20 year storm, although data clearly indicate that due to climate change, we can expect more rain on snow events and should be planning for a 100 year storm if we want successful stormwater treatment). Further, as the TMDL indicates, every watershed has a different impact on loading to Lake Tahoe. This must also be taken into account. Finally, are mitigations available in the area transferring the parcel that can better mitigate impacts than if the development is used in Crystal Bay?

What other impacts might result from transferring development from South Shore, a far more urbanized area, to North Shore? Is this appropriate? How will this impact community character?

We also suggest TRPA consider what regulations are being proposed in the new Regional Plan with regards to such development transfers and include such an alternative in the EIS.

Finally, even if additional environmental mitigations are required through the CEP program, this ‘transfer of development process’ is one of the problems with the existing Regional Plan, and one of the reasons we are concerned with CEP projects that rely on this out-dated ‘loophole’ in the existing Code, which we expect will be modified in the new Regional Plan (discussed below).

Transfers of Tourist Accommodation Units (TAUs):

Historically these development rights traded at 1 to 1 and those involved with the original Regional Plan creation did not expect the ‘trading’ would be incomparable in size and use. But unfortunately, developers have been using this ‘loophole’ in the Code to transfer TAUs from a small, relatively minor use to a larger, major use (and size) and TRPA has been approving such ‘transfers’. For example, the “Villas at Harborside” project in Homewood, CA approved by TRPA in spring 2007 used the TAUs from small, 300 square foot motel rooms and transferred them to large, 1,800 square foot homes/timeshares. More recent examples exist as well. Clearly these two uses have a dramatically different amount of coverage, density and use. TRPA staff and Board members have recently had numerous discussions regarding this inequality, and we expect this loophole to be addressed in the new Regional Plan.

- The EIS must analyze the environmental and community impacts from any proposed transfer of TAUs. Analyses must include an alternative based on a comparable transfer (where the size and use of TAUs is the same at the receiving site as the sending site).
- The EIS must compare conditions in the source watershed, and other environmental attributes, to the conditions in the receiving watershed.
- The EIS must compare the ‘impacts’ of the TAUs’ use in the sending and receiving parcel. For example, a TAU located at Stateline, NV in the South Lake Tahoe area is expected to have less intermittent vehicle trips because people can come to this area, park their cars and walk around to most places. That same TAU located in a less urbanized area and/or area with fewer services (i.e. no grocery store) will likely create more trips associated with it because people will have fewer options for walking. Using the grocery store as an example, there is no large grocery store located within walking distance of Crystal Bay. People have to drive to Incline Village or Kings Beach.
- There appears to be no appellate case, nor code or ordinance amendment permitting this “morphing” so that a 300 sq. foot motel unit is transferred and used as a 3,500 sq. foot home. TAUs should trade on an equal square footage basis, such as 300 sq. foot for 300 sq. foot. TRPA must show, through adequate science and technical review (not discussion and speculation) how chapter 6 findings are met by any increase in use of a TAU.

The EIS must also analyze the final number of TAU units, as this has changed several times. For example, in the 2/1/08 CEP brochure, the proposed project lists 360 TAUs (hotel, fractional and restricted whole ownership). The NOP now lists 366.

III. Employee housing:

How many employees will the proposed project employ? Where will they live? How many are expected to have families? Will Placer County once again bear the burden of providing services for people employed on the NV side of the Lake (and the environmental impacts? For example, having to address the added pollution from employee-based VMT, added runoff from vehicle use, etc.) (*see discussion under public services below*)?

More specifically:

- The EIS must analyze the number, type and pay range of existing jobs on the property and the same for jobs resulting from the proposed project. Additionally, what is the expected ‘cost’ (e.g. monthly rent, purchase price, etc.) for workforce housing and how does this compare to the jobs that will result at the project? Will employees of the new “village” be able to afford ‘workforce housing?’ What is the discrepancy between the on-site workforce housing (assuming employees can afford it) and the total number of employees? Where will the ‘additional’ employees live? Is there enough affordable housing?

Since this project will not be close enough to basic amenities (e.g. groceries) to provide pedestrian options for those employees living on site, will other adequate transit options be provided so employees need not drive their vehicles to Kings Beach or Incline Village to shop or obtain other services?

IV. Public Services:

The NOP states “*The EIS will evaluate impacts on power, water treatment and distribution, wastewater collection, solid waste collection and disposal, police services, fire protection services, schools and fire fuel management.*” (p 13).

- In a 11/26/07 Memo³ regarding irrigation and water use, Incline Village GID explains: “*...Residential irrigated turf leads to increased fertilizer use, runoff from the fertilizer use negatively affects drinking water quality, and as the water quality declines, the current exemption to provide filtration for drinking water may be threatened. This issue is of major concern to the GID, as filtration requirements would be very expensive to implement...Main approach [to reducing water use] is to reduce the size of irrigated lawns. Recommend low water usage ground cover vegetation such as Mahala mat, thymes, etc. Utilize plant lists in Home Landscaping Guide.*” We hope the project proposes to utilize natural vegetation for the Tahoe Basin – which does not include lawns. Given the expected decrease in water supply, we recommend the project analyze natural, native landscaping.

³ Memo to “Fire Defensible Space / BMP Retrofit Partners” regarding “Information on water usage at Lake Tahoe obtained from Utilities” 11/26/07

- The North Tahoe PUD jurisdiction extends to the stateline in Crystal Bay. In this same memo, they state: *“The utility is concerned about water delivery issues to hydrants used for fire fighting. Under current water demands and current storage capacity, storage tanks must refill overnight in order to meet the typical demands on a summer day...Currently, they are challenged to keep up with demand, and may need to increase storage capacity. The County is currently considering water conservation provisions.”*
 - The NT PUD’s concerns directly affect the increase employee population this project may bring to their district; proximity to the project should also dictate NT PUD’s involvement.
 - The EIS must analyze the impacts of the increased density on water supply and how the increased water demand will be met into the future. This analysis must also include the cumulative demand that may occur from current and possible future projects in the IVGID and NTPUD districts. This should also analyze water issues Basin-wide.

The NOP also states *“the proposed project is not expected to induce or result in the substantial growth of the full-time population in the region, cause a substantial increase in demand for employment opportunities, or cause an increase in other public needs.”* (p 13).

- If this is the position the developer plans to take, the EIS must explain how adding thousands of people to an area, whether they are part time or full time or day visitors/users, will not cause an increase in demand for local services, e.g. police, fire protection, stormwater treatment, health care (accidents and emergencies happen while on vacation), roadways, etc.
- Rather, the EIS should use actual demographic data from North Lake Tahoe (including both the CA and NV side, since many people live in CA and work in NV, and it is expected that employees of the project will do the same) and the demand for local services in order to truly assess the impacts on local services.
- How will the added vehicle use impact the costs associated with ongoing maintenance of all public roadways in the area? Including sand and salt and sweeper operations?
- Will the developer pay taxes that will cover the increased cost of services for both CA and NV? Or will Placer County once again bear the additional burden for a NV side project? (For example, Placer County currently covers services for residents in the Kings Beach area who work in NV but can’t afford to live in NV).

V. Coverage:

The coverage calculations provided with the application to TRPA are misleading. The total numbers include coverage that is banked (thus not existing on the property) and from the public right of ways (ROWs). The impacts of including these numbers are substantial.

We recommend that in order to assess the true *physical* coverage benefits of the project, the EIS include a distinct evaluation of physical coverage. For example, below is a table provided with the calculations spreadsheet. We added a row at the bottom that does not include the banked Sierra Park coverage nor the ROW coverage:

BOULDER BAY COVERAGE SUMMARY

PARCELS

EXISTING	Site Area		Allowable Coverage		Existing Coverage		PROPOSED	Coverage	
	Sq ft	Acr es	Sq ft	Percent age	Sq ft	Per centag e		Sq ft	Percent age
Restaurant 123-052-02	11,880	0.27	2,376	20.0%	11,162	94.0%	Building & Garage Footprints	201,936	35.2%
Side Parking 123-052-03	12,171	0.28	2,434	20.0%	9,407	77.3%			
Casino 123-052-04	143,137	3.29	28,627	20.0%	126,176	88.2%	Site Roads Horizontal Hardscapes	35,982	6.3%
Back Parking 123-053-02	60,903	1.40	10,899	17.9%	51,255	84.2%			
Horsebook 123-054-01	43,232	0.99	6,055	14.0%	22,922	53.0%	Total Parcel NV	302,078	52.7%
Old Firehouse 123-053-04	8,192	0.19	84	1.0%	5,781	70.6%			
Behind Horsebrook 123-071-04	27,892	0.64	279	1.0%	523	1.9%			
Sierra Park Parcels - Banked	266,025	6.11	27,678	10.4%	66,612	25.0%			
Total Parcel NV	573,432	13.16	78,432	13.7%	293,838	51.2%			
Total Parcel without Sierra Park Banked coverage	307,407	7.06	50,754	3.30	227,226	26.20			

As shown by this modification of the table in the last row, the actual existing coverage in the project area is 227,226 sq. ft. The allowable coverage is 50,754 sq. ft. Finally, the proposed coverage is 302,078 sq. feet. This shows the project will actually add 74,852 sq. feet of additional *physical* coverage to the project area and result in coverage that is roughly 6x greater than (or ~600% more than) the amount allowed.

We recognize that the no action alternative would maintain a level of coverage well above the allowed coverage; however, given this is a CEP project, the amount of physical coverage should be substantially decreased in order to receive the CEP allocations. At a minimum, the EIS should analyze a project configuration which reduces the existing *physical* coverage by 10%, 20%, 30% and 50% or more.

Additionally, the proposed project includes some coverage on sensitive lands. We recommend an alternative be included that reconfigures (and minimizes) development to avoid sensitive lands.

Further, the 2/1/08 CEP brochure states “Land capability: Development on Class 4 soil,” yet the Calculations spreadsheet provided with the application lists 15,930 square feet of proposed coverage⁴ in land capability class 1a. Which is it?

⁴ For the project area and not including Right of Way or offsite coverage within the NCSP.

VI. Height:

The proposed project also requests a height increase via the amendment of the North Stateline Community Plan (NSCP) with a special height district (discussed later). Although the NOP does not state the desired height, the 7/19/07 Site Analysis includes discussion of the proposed height. The existing Biltmore building does not conform with height restrictions (at 76'), which would limit height to 48 feet (as determined in the Site Analysis). Per the Site Analysis, the developer appears to be requesting either 73 feet or $\frac{3}{4}$ the height of the trees on the property, which may result in a substantially higher number. However, the 2/1/08 CEP brochure states a height of 85' is needed.

- The EIS must identify the maximum height for all buildings in all alternatives. The EIS must include alternatives that retain the existing Biltmore building and that replace it with a building that is no taller than 48 feet.
- The EIS should consider alternatives with options that are between the allowable height and the proposed height.
- The EIS should disclose the height of trees and associated "3/4 of tree height" requested by the applicant. In fact, this information should have been included in the NOP.

VII. Community Plan & Affordable Housing:

"The [Project] was designed according to guidelines provided by TRPA in the [CEP] program, August 2007, as well as the place based goals and objectives of the [NSCP]."

- This statement is confusing. The NSCP was adopted in 1996; TRPA implemented the "place-based process" in 2006-2007. These are two separate processes. The NSCP does not currently include the goals and objectives obtained through TRPA's place-based process.
- The EIS should list the input gathered from the public during the place based process and identify how the proposed project (and each alternative) addresses each goal/public desire. The same must be done for the Goals listed in the NSCP.

Affordable housing (or lack thereof):

A common theme expressed by the public during the North Lake Tahoe (NV side) place based planning meetings included affordable housing, multi-use/mixed use and shared parking, and "granny flats" (www.pathway2007.org).

Further, the NSCP states: "*Kings Beach community leaders are concerned that a large percentage of casino employees, who work in Incline Village/Crystal Bay, live in Kings Beach. There is relatively little affordable housing in the Washoe County portion of the basin (and almost none of that exists in the North Stateline community plan area), while there is a large amount in the Placer County portion. Casino employees residing in Placer County utilize the County's services including education, social services, medical services and housing. Placer County and California absorb the social expenses, while Washoe County and Nevada receive the gaming revenue. Kings Beach leaders*

recommend improving the existing situation by developing additional affordable housing in Washoe County. The Incline Village Commercial Community Plan recommends developing affordable or employee housing within its boundaries.”

- How does the proposed project support the need for more affordable housing in this area? The project proposes a total of 421 units; of this number, 21 (or only 5%) are “market rate” (which is not “affordable” housing), 34 (only 8%) are “on-site workforce” housing and there are no affordable housing units. Based on the proposed project description, it does NOT support the need for affordable housing in this area and thus is inconsistent with the NSCP. The EIS must explain why the project does not include more affordable and middle-income housing (and specifically in NV, as dictated by the NSCP). Additionally, we recommend TRPA explain plans to bring affordable housing to the Nevada side of this area, per the NSCP. Finally, the EIS should analyze alternatives which include affordable housing.
- Also, the NOP states that the average size of the ‘workforce housing’ is 835 square feet. This is a relatively small home for a family. The EIS should discuss the demographic data of anticipated employees and those who are likely to live in these homes. Will they be adequate for workers with families? Or will this discriminate against those workers with families who require more space?

The Initial Environmental Checklist filled out by the application is checked “no” for the following items: *“Will the proposal have an unplanned effect upon, or result in a need for new or altered government services in any of the following areas: fire protection, police protection, schools, parks or other recreational facilities, maintenance of public facilities, including roads and other governmental services?”*

- The EIS must explain how adding 1,000 to 2,000 people or more to this confined area will NOT affect fire protection, police protection, maintenance of public facilities including roads, and other governmental services (e.g. medical)?
- How will adding more employees to the area (without providing adequate affordable housing) not affect these services as well as schools, parks and other recreational facilities?
- How will cutting in half the existing open space NOT have an effect on “parks or other recreational facilities?” How will bringing in 1,000-2,000 more people NOT impact available facilities?

VIII. Historic Resources/Structures:

According to the NSCP 2.5: *“Buildings or structures which are determined to be of historical significance are encouraged to be reused and incorporated into site plans.”* (p 2-5). The NSCP further states that *“Prior to approving the removal or demolition of structures, TRPA shall review and approve a historic property inventory which has been prepared by a qualified professional.”*

Page 12 of the NOP states *“the potential for cultural or historic resources to be located within the project area and the potential for disturbance of known and/or undiscovered cultural or historic resources due to implementation of the project will be analyzed.”*

The area also holds historical value. The NSCP states: *“History of Crystal Bay: In 1926, Robert Sherman, a wealthy San Franciscan, purchased a large amount of real estate which included the area of Crystal Bay. He had a dream to turn the area into the Cal-Neva subdivision. His first project was construction of a granite lodge to entertain his guests. The Cal Neva Lodge became nationally known and attracted such stars as Judy Garland, Will Rogers and, in later years, Frank Sinatra.”*

- The EIS analysis must include the historic property inventory required in the NSCP section 2.5. This review must assess the history of the Tahoe Biltmore building itself, not just the probability of historical resources on the property. The review must include historical research into the construction of the Biltmore, uses over the past ~80 years, important/known visitors and other historical events. Specifically, the EIS must analyze all aspects identified in Code Chapter 29.5.

The EIS must, where alternatives propose to demolish the Tahoe Biltmore, provide substantial evidence that the proposed demolition meets the requirements in Code section 29.6.C:

29.6.C Demolition: Historic resources shall not be demolished, disturbed, or removed, unless TRPA finds that:

- (1) The action will not be detrimental to the historic significance of the resource;
- (2) The action is pursuant to a recovery plan approved by the applicable state historic preservation officer; or
- (3) It is the only feasible alternative to protect the health and safety of the public

IX. Open Space:

The applicant identifies *“over 4 acres of public park and open space”* in the project description (p 5). However, on page 6, the NOP states *“A two-acre public space in the form of a pedestrian village will run through the project and will include walkways, street furniture, lighting and information kiosks/directories”* and the 2/1/08 CEP brochure confirms that the pedestrian village is being ‘counted’ as open space by including the *“village center with retail, dining”* in the total 4.1 acres of “open space.” Currently, per the Mariner Settlement Agreement, there are 4.78 acres of deed-restricted undeveloped open space. In addition to the 0.68 acre reduction of ‘open space,’ there is quite a difference between undeveloped forested open space and “open space” that is located within a highly developed, commercial/retail “pedestrian village.” This is not an ‘equal’ relocation of the “open space” and it is misleading to imply otherwise by lumping these two different types of uses into one ‘category.’

Generally, the term “open space” has been applied to park-like areas (or in Tahoe, undeveloped forested areas, perhaps with some pedestrian and biker trails), where there are no buildings and no coverage. In fact, TRPA (Chapter 18) defines open space as: *“Land with no land coverage and maintained in a natural condition or landscaped condition consistent with Best Management Practices, such as, deed restricted properties and designated open space areas.”*

- Clearly this definition does not include a ‘pedestrian village’ amidst tall buildings, shops and timeshare/condo units.

The EIS must distinguish between these different types of land use and accurately identify ‘open space.’ If 2 acres of the 4.1 acres called ‘open space’ in the NOP are the “pedestrian village” (as stated in the NOP), then this means that only 2.1 acres of true “open space” will result from the proposed project. This is more than a 50% reduction in public open space from existing conditions.

We recommend the proposed project maintain the full 4.78 acres of undeveloped “open space” (as defined in Chapter 18) where it currently exists. The proposed development on the Mariner parcels (which requires the Settlement Agreement to be amended) will place development on top of currently accessible natural open space, and leave behind, as undeveloped ‘open space,’ land which is basically too steep to be accessible for use by the public. (In fact, the Plan Amendment Package states as much on page 2: “*All three subject parcels are vacant. Parcels 123-071-36 & 37 have frontage to State Route 28 and Wassou Rd in Crystal Bay but neither are accessible because of slope constraints.*”). A mere look at one of the topography maps shows clearly just how sloped these parcels are. Currently, areas of APN 123-071-36 that would be built upon provide far less sloped ‘public open space’ that can more easily be accessed by the public.

X. Environmental Thresholds and other environmental concerns:

The EIS must evaluate the impacts of the project on all thresholds (some discussed specifically in this section), as well as other environmental concerns included below. As a CEP project, the project should provide net gains for all environmental thresholds and concerns.

Water Quality/Lake Clarity:

Article I (b) of the Compact states: “(b) ... *to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.*”

The EIS must analyze the impacts of the project on all thresholds. Further, because this is a CEP project, the EIS must show how the proposed project provides benefits above those required by the existing Regional Plan.

Specific to water quality, the project proposes to reduce overall coverage, but at the same time, to add hundreds to thousands more people to this area. Humans can not visit this area without causing impacts. As discussed in the transportation section of this letter, even if the project could reduce vehicle use in the vicinity of the project, it would still be expected to increase VMT associated with people coming to and from the area. This will mean more runoff from all impacted roadways, more resuspension of road dust that will float its way into the Lake (or add to the runoff into the Lake), etc.

Deicing materials in parking garage:

Also, there will be more parking spaces. This will require more deicing in the winter months. Even if snow doesn't fall directly on lower levels of the parking garage, it may melt during the day and freeze at night. With the owners sand and salt the parking garage? Or will there be built in heating under the pavement? If more deicing agents will be used, the impacts to water quality must be analyzed (as well as to vegetation).

Stormwater Treatment:

The project proposes to treat up to a 20-year, 1 hour storm (p 7). Research regarding the impacts of climate change shows that we can expect heavier rain events, with more rain and less snow. This means our stormwater treatment facilities will have to be able to handle more water than currently designed. Either we increase our structures now so they can handle a 100 year storm (a level often recommended), or we see more sediment and nutrients entering Lake Tahoe. TRPA should require better-than-minimum stormwater treatment; since this is proposed as a CEP project, it is well within TRPA's right to require this 'net benefit' upgrade.

The project suggests that stormwater exceeding the capacity of the treatment system (based only on a 20 year 1 hour storm – see previous discussion) will run either into a California Stateline Road parcel project or to treatment facilities located on the Crystal Bay motel parcel. The EIS must assess where all stormwater will be treated – either/or guesses are simply insufficient and will not allow for the necessary technical analyses required by the EIS.

Transportation/Traffic and Air Quality:Traffic Study:

The project applicant provided a limited traffic study with the CEP application. The study surprisingly concludes that the project will reduce traffic, including peak hour traffic. However, the study fails to address all potential traffic impacts: *“This study is not intended to fully address all transportation issues that would be necessarily addressed in an Environmental Impact Statement (EIS), such as impacts on intersections beyond the immediate project area, but rather focuses on the specific transportation issues raised by the proposal at the project site.”*

- As the consultant states, the study does not assess impacts beyond the project area. Because, as discussed previously, the project might reduce interim vehicle trips for people once they arrive, the project increases density and thereby increases the number of people who will be coming to the destination. These people will be coming by vehicle. There is no other option (anyone who might take a boat to Crystal Bay would represent such a negligible proportion of visitors that it likely does not warrant consideration as a transportation option in this assessment). Therefore, the additional ~1,000-2,000 people will arrive via highway 28 – most likely coming through Kings Beach from highway 80. What are the impacts of these hundreds of added vehicles, during peak hours (i.e. most people arrive on Friday night and leave on Sunday afternoon) to other intersections along these ingress/egress routes? What are the cumulative impacts of possible future development (e.g. the other North Lake Tahoe CEP projects) in

combination with these additional vehicles to these roadways? What are the impacts considering the recent Kings Beach Commercial Core Improvement EIS and possible projects on the highway through town? What are the impacts of this additional VMT on air and water quality, noise, safety, etc.?

- The EIS must include a comprehensive traffic analysis for all alternatives based on the most recent information available (where necessary data are not available, the developer should collect the needed data) as well as the final specifications in each alternative analyzed (since the project plans have frequently changed).
- Additionally, the assumptions used in the traffic analysis have been made without benefit of appropriate demographic data (demand for project/services, anticipated users, etc., as discussed throughout these comments). The developer should collect appropriate data first, then provide the traffic consultant with assumptions based on such data.

Emergency Evacuation:

This project will add more vehicles to an already limited roadway system and put more people in a potentially dangerous situation should a fire break out, or some other event require evacuation. There is just one 2-lane roadway serving Crystal Bay. If one side is closed, everyone will be forced into the other direction. The highway simply can not handle this level of traffic and we should be careful to add to it.

Transportation program and mitigations:

The NOP refers to vague “plans” for transportation programming, including “*both stand alone new services as well as partnerships to expand existing transit services. Furthermore, the program plans for additional strategies to encourage increased use of transit and non-motorized travel modes.*” (p 7).

- The EIS must analyze what these ‘new services’ are specifically, as well as the expected ridership (including peak and non peak ridership), hours of operation, coordination with other transit services, and plans to support ongoing funding of said ‘new’ services. The quantitative analysis should show the expect ‘deferred’ vehicle trips and VMT and how the services will be assessed to ensure they are meeting expectations. For example, if project impacts are to be ‘mitigated’ based on 90% ridership, but as implemented, ridership is merely 50%, what will the developer change to meet that 90% ridership goal (or the equivalent reduction in VMT and vehicle trips represented by that 40% difference?). Far too often, plans for ‘ongoing transit’ or ‘new services’ end up canceled or significantly reduce when ridership is lower than expected – if those services were required as mitigation for a project or planning document, and they are shut down, the mitigation is no longer in effect and terms of the project’s approval no longer being met. The developer must adequately ensure that all mitigation will be ongoing and will meet targeted requirements. If they are not met, the developer must have a plan to ensure they are.

- Additionally, we see the word “encourage” increased use of transit and non-motorized travel modes quite often. The EIS must explain what this means, and prove that such ‘encouragements’ will mitigate traffic. For example, paid parking is often referred to as a means to discourage vehicle use; however, often, people simply find somewhere nearby to park (i.e. using the casino parking lots at Stateline on the South end of the Basin), which can then create additional impacts somewhere else (for example, parking on unpaved areas). “Encouragement” should not be considered ‘mitigation’ unless it is enforceable and can be shown to effectively reduce vehicle use.

Transportation, Parking and Circulation:

The NOP states “*Long term traffic generated by the proposed project will also be discussed...[in the EIS]... ‘if applicable,’ the analysis will also discuss potential transportation benefits...that may result from project implementation....*” (p 12).

- The use of “if applicable,” “potential” and “may” is of great concern. Existing regulations would require that traffic impacts be less than significant. However, CEP projects are supposed to provide ‘extra’ net environmental gains. “Less than significant” is unacceptable for a CEP project. The idea that transportation improvements are merely “probable” rather than guaranteed makes no sense. A net reduction in traffic/vehicle trips/etc. should be a requirement of every CEP project. We suggest the EIS analyze how this net reduction *will* be achieved, and that it be a requirement of any proposed project.

Page 3 of the 3/13/08 “*Plan Area Statement and Map Amendment 032 – North Stateline Community Plan*” states “*Vehicle miles traveled (VMT): The development produced 36,418 VMT and the proposed project produces 24,192 VMT. This is a 51% reduction in the VMT for the project.*”

- As discussed previously, the traffic analysis does not include traffic impacts beyond the project’s boundaries. Therefore, a full analysis of the impacts to all areas in the Basin is needed before developer can draw any conclusions regarding traffic/VMT impacts. For example, the VMT generated by drawing more people to the Lake Tahoe Basin may result in substantial additional VMT above the existing levels in Kings Beach. Code chapter 91 does not limit the assessment of vehicle impacts to the project boundary or even close vicinity, but instead requires ALL impacts to be considered.

The same page also states: “Vehicle trips (DVTE): The proposed development will increase the DVTE from 5,220 to 5,313, this is an increase of less than 2% and the project will mitigate the additional DVTE by payment of Air Quality Mitigation fees.”

- As stated above, the traffic consultant states that more analysis is needed to account for all traffic impacts from the project. Thus, the developer can not draw conclusions about vehicle trips. We assume any proposed mitigations will rely on the final comprehensive traffic analysis that should be completed as part of the EIS.

- TRPA's one-time air quality mitigation fee program is inadequate. This has been recognized as part of the Pathway 2007 evaluation process, and TRPA is considering changes to the mitigation program for the new Regional Plan. While this project is being proposed under the existing Regional Plan, this project is being proposed through the CEP program, and thus must be held to a higher standard. First, "less than significant" is not good enough. There must be a net benefit to transportation from this project. Second, a one time air quality mitigation fee is also inadequate to address ongoing impacts, and as such, will not mitigate the long term impacts of this project. We suggest the developer explore the newer options being discussed for the new Regional Plan and work with TRPA and other jurisdictions to identify true, ongoing mitigation that can be supported in the long run.
- The EIS must show how any proposed mitigation will provide site-specific mitigation to this area and all affected communities (e.g. if a mitigation fee is paid, how will this specifically mitigate added *ongoing* impacts to Crystal Bay, Kings Beach, Incline Village, etc.?)

The CP amendment document states 635 as the total number of proposed parking spaces. The 2/1/08 CEP brochure says 810. The NOP now proposes 670. Which is it?

Regarding trip generation, the EIS must identify the expected trip generation of all uses (including timeshare/condo, housing units, retail/pedestrian village, health and wellness center*, convention and meeting space* and casino use). Trip generation should also include trips made by visitors and residents/employees to obtain basic amenities (e.g. groceries). Other questions:

- Will the health and wellness center be specifically and only for use by those who own/rent units on the property? Or will this be a community facility, where people from other parts of the Basin will come and use the center?
- The convention center may draw both overnight users and conferences/seminars/etc. in the Tahoe Basin that employ primarily day trip guests. The EIS must assess expected use (and user demographic data) since this will affect traffic and other aspects.

Air Emissions: Air Quality and Global Warming

Air Quality Standards:

As part of the Regional Plan Update, TRPA is proposing to adopt California's more stringent air quality standards (for ozone and particulate matter) so they apply to the entire Basin – and thereby provide Nevada residents in the Basin with the same level of protection as those on the California side. Although this has not been adopted yet, because this is a CEP project, this should be one of those 'extra net benefits.' As such, we recommend that where more protective, the Placer County air quality requirements for emissions be applied to this project (e.g. maximum allowable tons per day).

Further, the project must provide a net reduction in all air pollutants. Where the area lacks current (e.g. within last 2 years) data (Incline Village data for some pollutants may

be acceptable), measurements must be taken to obtain data to assess existing conditions and impacts of the proposed project on air quality (which as mentioned, should be positive).

Greenhouse Gas Emissions:

Global warming is a fact, and is already impacting the Lake Tahoe Basin. Our need to reduce greenhouse gas emissions is a nationally (and globally) recognized need and responsibility. Although the equivalent of CA's AB32 law has not been passed on the NV side of the Lake, nor by TRPA, the EIS should analyze greenhouse gas emissions associated with the project, including those from increased VMT (both outside of and in the vicinity of the project area) and vehicle trips. In fact, this project is expected to increase VMT (and thus emissions) on the California side of the Basin (e.g. Kings Beach/highway 267) as well as on major routes in California (e.g. Interstate 80). Given California's extensive efforts to reduce GHG emissions in the state, this certainly warrants an evaluation of such impacts.

We also repeat our request of TRPA to require all projects consider their greenhouse gas emissions (and include such regulations in the new Regional Plan). The CEP program is one place to start.

Scenic:

The CP amendment document states: "*The obstruction of any scenic vista or view open to the public: The project is located to the west of State Route 28 in Crystal Bay. There is no scenic vista, public recreation area or bicycle trail to the west of the project so there will be no vistas impacted.*"

- We recommend the EIS consider alternatives which provide improved views of Lake Tahoe from the public undeveloped "open space."
- We recommend the EIS analyze the impacts on scenic quality from various areas of Lake Tahoe, including substantial distances away.
- What are the proposed setbacks for buildings from highway 28? What will their scenic impact be? The EIS should analyze alternatives with setbacks at variable distances from highway 28 (ranging up to perhaps 75 to 100 feet).

Noise:

The additional traffic associated with visitors coming to and from Crystal Bay will create additional noise. The layout of the buildings may also affect the way noise impacts occur. Finally, simply adding more people to an area will create more noise. The EIS must assess existing noise levels (if existing noise measurements in the project area are not already available, they should be measured prior to completion of the noise section in the EIS so that a baseline is available; measurements shall include a statistically valid number of samples taken over a 24 hour period as well as hourly during peak use periods in the summer and winter months). Because this is a CEP project, the EIS analysis must show how noise will be *reduced* by the project.

Vegetation:

In addition to those aspects discussed in the NOP, the EIS must assess the number and size of all trees to be removed, and consider alternatives which protect larger trees (e.g. those around 20" dbh and greater) and as much native vegetation as possible.

XI. Tahoe Mariner Settlement Agreement:

If this agreement is valid (and it has been so treated for many years), and limits future development to no more than 3 single family residences, then on what legal basis would TRPA decide to "amend" it and instead allow even more massive development?

Specifically, *"The original settlement resolved a dispute of TRPA's ability to approve a tourist redevelopment project on the former Tahoe Mariner site. Subsequent amendments to this settlement agreement have been developed in order to accommodate the changing needs of new property owners."* (p 4).

- This agreement was made with the understanding that the previous owners could sell their associated development commodities, which they have been doing; in exchange, development was removed and the property would be limited to 3 single family homes and would otherwise provide for 4.78 acres of open space for the public on the parcels noted in the agreement. In other words, private benefits were received based on the agreement that public benefits would be maintained. How can TRPA make the findings to amend this agreement to allow more development? How can TRPA justify breaking this promise to the public that development would be limited to 3 homes?
- If a legally binding settlement agreement that resulted in this deed restriction can be 'reversed' simply because the new property owners want it, then what is the point of making such agreements? Not only would this go against the reasons for the Mariner Settlement Agreement, but it would also set a very dangerous precedent related to every other deed-restricted parcel in the Lake Tahoe Basin.

In fact, for example, TRPA's proposed "mitigation" for new piers in the proposed Shorezone Ordinances package (to be voted on in September) includes deed restrictions on lakefront property to prevent future structures. If TRPA is willing to simply change deed restrictions on development to "accommodate the changing needs of new property owners", how can the public trust project approvals that rely on deed-restricting parcels? How can TRPA use this as mitigation for development if it can be reversed so easily?

- How will this reversal affect future negotiations with property owners, where it is in the interest of the environment and the public to limit development in a given area? If an owner sees that TRPA has negotiated an agreement like the Mariner Settlement only to later reverse it and allow more development for future owners, how likely are the owners to be willing to settle for reduced development? It seems that the future legal implications could be substantial, as could the environmental and social impacts if TRPA's ability to negotiate for the protection of land is compromised.

- The California Attorney General's office would have to sign off on any amendment. Have they agreed? Has TRPA contacted them yet?

In summary, the EIS must include a full history of this Settlement, what the conditions and outcomes were, any subsequent actions that have been taken related to the Settlement agreement and properties, and the basis for this proposal. The EIS must also analyze laws with regards to revising this deed restriction and the cumulative impacts Basin-wide of TRPA's willingness to amend a deed-restriction that limited development.

XII. Community Plan Amendments:

Page 2 of the 3/13/08 "*Plan Area Statement and Map Amendment 032 – North Stateline Community Plan*" submitted to TRPA states: "*The proposal involves the addition of three parcels that are directly connected to the existing Community Plan. When the existing Community Plan was adopted these three parcels were not included and therefore this proposal is to fix this mistake.*"

- Please explain why this is a "mistake" including documentation from TRPA explaining how the Community Plan (CP) boundaries were determined, why these properties were originally left out of the CP boundaries (why this decision is considered a "mistake" and if so, why TRPA has not previously sought to 'fix' this 'mistake'), and how findings can be made to expand the CP boundaries to include these parcels.

Page 3 states "*Vehicle miles traveled (VMT): The development produced 36,418 VMT and the proposed project produces 24,192 VMT. This is a 51% reduction in the VMT for the project.*"

- Refer to transportation comments.

The CEP amendment document states: "Existing storm drain system: The proposed project will install and maintain on-site BMP's." (p 4)

- However, the NOP states that stormwater exceeding the capacity of the treatment system will run either into a California Stateline Road parcel project or to treatment facilities located on the Crystal Bay motel parcel. So which is it? Will stormwater be treated by on-site facilities or will the developer rely on other offsite facilities?

The document also states: "Transportation facilities, including roads, highways, bike trails, and transit systems: No impact beyond capacity is proposed." (p 4). Additionally, page 5 discusses whether findings can be made to support the NSCP amendment. Page 5 includes: "(2) ...The Boulder Bay project proposes tourist accommodation, commercial uses, and day use recreation which are currently permissible. This is consistent with the Community Plan... The proposed project will result in a net reduction of 12,226 VMT, which is a reduction of over 51%. The project will not cause the environmental threshold carrying capacities to be exceeded"

- The NSCP does not allow timeshare residential. Therefore, the proposed project is NOT consistent with the NSCP and this rationale is incorrect.
- As previously discussed, until a full traffic analysis has been completed, the developer can draw no conclusions with regards to transportation impacts. We assume a revised proposed Code Amendment would be completed once the EIS analyses are completed based on the final proposed project specifications.

Page 6 of the CP amendment package states: *“The project proposes to create a Special Height District in the North Stateline Community Plan. This TRPA Code amendment will create a Special Height District which will allow a 55 foot maximum height within the first 50 feet along the highway (State Route 28) frontage.”*

- The EIS must identify the boundaries of the proposed special height district, and the cumulative impacts of the Code amendment.
- The EIS must also identify the height of all proposed buildings. According to the 2/1/08 CEP brochure, the developer proposes to increase height from the existing (non-conforming) height of 76 feet to 85 feet. What other variations of lesser to greater height with distance from highway 28 exist? What the impacts of various configurations?

Page 8 states: *“The parcels being included in the Community Plan have been previously deed restricted as Open Space and will remain as such in the future proposed project.”*

- If this is true, then why does the NOP state that amendments are needed to the Mariner Settlement Agreement (which per the NOP’s information, would house more than the 3 single family units provided for by the Agreement)?
- Why is open space (as defined in Chapter 18) being reduced from 4.78 acres to 2.1 acres?

XIII. Community Enhancement Program (CEP) Project:

This is supposed to be a CEP project, resulting in net gain threshold improvements (above those required by the existing Code). The EIS must specifically identify the existing requirements and the additional benefits provided by the project for all thresholds.

- Additionally, improvements do not have to be bound by the existing thresholds categories – and should not. Recent science indicates that existing thresholds do not encompass the full suite of environmental parameters we must consider. One example includes the need to reduce greenhouse gases, as discussed previously. Another example includes the need to reduce atmospheric particulate matter and phosphorous loading to Lake Tahoe. Additionally, the TMDL may not be finalized yet, but the information gathered for the TMDL is valid, and tells us that ~72% of the sediment going into Lake Tahoe comes from urban areas. However,

we have also learned that the existing settling ponds and other techniques we've installed to reduce particles aren't sufficient. Many ponds may reduce the larger particles entering the Lake, but fail to reduce the fine sediments that are most responsible for the loss of clarity.

- The EIS must examine all current parameters of concern, many of which have already been identified in Pathway 2007 documents. The proposed project should achieve net reductions for all parameters of concern, not just those based on existing thresholds.
- The CEP program was also intended to 'test' new development concepts for their ability to help achieve thresholds. The EIS must identify what "new" concepts are being proposed (including the evidence supporting the anticipated benefits of these new concepts) and how the project will help attain all of TRPA's thresholds (for all alternatives analyzed). The EIS should also include actions TRPA and the developer will take if 'new' concepts are not successful.

XIV: Other Alternatives:

In addition to suggestions throughout this letter, we suggest the EIS include alternatives that:

- Include a much smaller project (with far less density), which retains the historical Tahoe Biltmore building, removes coverage, creates a more pedestrian friendly location and does not modify the Mariner Settlement Agreement.
- Would be allowed under the existing Regional Plan (with no amendments and outside of the CEP process). This will also help evaluate the 'net benefits' associated with the project's application to be a CEP project.
- Page 4 states: "*The existing Tahoe Biltmore is not in compliance with the current TRPA Code of Ordinances and Standards including BMPs and building height standards.*"
 - The No Action alternative should be based on the property being brought into compliance with the BMPs, since this is currently required (beneficial impacts from any other existing requirements [that are currently not being met] should also be incorporated into the no action alternative). To allow otherwise would mean TRPA has decided it will not enforce existing regulations.

XV. Cumulative Impacts:**Environmental impacts in vicinity of project area:**

There has been much discussion regarding the potential for redevelopment of another project ‘across highway 28’ – the Crystal Bay Club/Tahoe Nugget area. In fact, information provided to TRPA for the CEP application⁵ includes information from both areas. We feel the EIS must perform an in depth analysis of the potential cumulative impacts of other possible projects in the area. However, the applicant can not rely on other possible projects for mitigating the potential impacts of the proposed project.

Cumulative impacts to North Lake Tahoe:

Further, there are numerous proposed projects, both under the CEP and otherwise, proposed for the North Lake Tahoe area (including, but not limited to, Kings Beach, Tahoe Vista, etc.). All of these projects will have cumulative impacts on the north shore, with emphasis on increased traffic. Several of these proposed projects appear to focus on drawing people, and their vehicles, to one location and allowing them to then park at that location and walk around or use public transit during their stay. While, if successful, this may reduce vehicle trips made *during* a visitor’s stay (for example, between their arrival and departure to Lake Tahoe), these projects will still result in increased traffic from those vehicles being driven to and from the site for their stay (for example, vehicles driven over highway 267 through Kings Beach and over to Crystal Bay). The cumulative effects of this must be assessed.

Linkages to other North Lake Tahoe projects:

If the developer is affiliated with the other CEP projects in Kings Beach/on the CA side of North Lake Tahoe and intends to link these projects in any way, the EIS must disclose this affiliation and analyze the cumulative impacts of any linkage, including any rearrangement or transfer of development rights/allocations. Such a linkage would also dictate a CEQA analysis. However, the developer can not rely on other potential projects to mitigate impacts of the proposed project.

XVI. Leadership in Energy and Environmental Design (LEED):

We applaud the efforts of the developer to achieve greater LEED certification than required by TRPA (though we question why TRPA would not have higher standards for CEP projects regardless). The NOP states that the developer plans to ‘self-score’. Please explain what this means.

Also, why is the silver level proposed? Why not platinum? We request the EIS include an analysis of a project which meets platinum certification as well, and detail the differences between these different levels.

⁵ For example, the “Boulder Bay site analysis 7/19/07.”

XVII: Additional Questions:

We have several questions regarding statements included in the NOP's "Project Objectives" discussion (p 4).

"The proposed project has been designed to replace the existing facilities, which are substantially past their life cycle, with new structures..."

- The EIS must explain what is meant by "substantially past their life cycle." In other words, are these structures unsafe? Unusable? If so, why are they currently in use?

"The existing Tahoe Biltmore is not in compliance with the current TRPA Code of Ordinances and Standards including BMPs and building height standards."

- The EIS must explain what sections of the Code the Biltmore does not comply with. Of those sections, which would be grandfathered and which must be completed now (regardless of whether a new project were completed)? For example, the excess height may be 'grandfathered' such that TRPA would not require the building to be remodeled if no project were proposed; however, TRPA does require BMPs be completed on all developed parcels, which would apply to all parcels in the project area.

"[new structures]...that are based on the specific vision and goals outlined in the North Stateline Community Plan (NSCP) adopted by TRPA and Washoe County."

- So the public can understand this reference, the EIS must list the vision and goals in the NSCP and then specifically what components of the proposed project meet those visions and goals and how.

"[the project will]...contribute to the long term economic vitality of the region."

- Given TRPA's 2006 findings that casino business in the Tahoe Basin has dropped, the addition of more Indian casinos in California, the impacts of high gas prices on travel to the Basin, and the clear inability of numerous businesses to afford the retail space at the Stateline NV/CA "Village" – which is much larger and served by a much greater number of tourists than expected at Crystal Bay – the EIS must assess all demographic and other relevant data (where necessary data are not available, the developer must obtain the data, whether through performing surveys or other means, and it must be objective and scientifically valid) and provide the supporting evidence supporting the following assumptions:
 - there is a clear demand for these additional services;
 - there are adequate retail businesses to house the new retail stores;
 - there are adequate clientele to support all businesses (with emphasis on locally-owned small businesses, since this was repeatedly stated by the public as highly important during the place-based process); and

- all supporting (existing and anticipated) user demographic information (e.g. those who will purchase units, rent units, shop, use the other services provided by the proposed “village”, gamble, etc.), their home towns, status of existing stay in Lake Tahoe (e.g. full time, part time, weekender, 2nd homeowner, etc.), demand by users to purchase the new units, where these users will come from [since this clearly has potentially significant traffic impacts on the ingress/egress routes to North Lake Tahoe]), etc.
- The EIS should analyze the establishment of a retail rent/purchase “cap” to support locally-owned small businesses’ ability to reside in this new Village. This is similar to affordable housing, where maximum allowable rent or purchase costs are required to make the retail space affordable. The EIS should also analyze the affordability of such local businesses without a rent cap (in other words, if space rental is based on ‘market value’ or higher). Economically and environmentally, it would be ideal if small business owners could afford to also live at the project site.
- The EIS must analyze how current economic trends (failing housing market and foreclosures, job loss, increased gas and food prices, etc.) may impact the demand for this type of new “village.” Will it have enough ‘business’ to support the ongoing improvements?
- The EIS must state what required mitigation relies on ongoing actions or contributions by the owner of the property. And/or by those renting/purchasing units, commercial space, etc.
 - Of that mitigation, the DEIS must analyze the ongoing costs and other requirements for the owner to meet those requirements.
 - What mitigation requirements may not be met if the owner can not afford ongoing costs? What are the environmental impacts of not meeting those mitigation requirements?

The NOP states that “*The State of Nevada responsible and trustee agencies may also use this EIS, as needed, for subsequent discretionary actions...*”

- What other environmental disclosure laws will these other agencies have to meet?
- What other regulations will these other agencies have to meet, and will they be analyzed as part of the EIS?
- Is there an expectation that the EIS will be NEPA-compliant?
- The EIS must list the other permits the developer must obtain, and any other regulations (beyond TRPA’s) that must be met. If the document is intended to serve as the environmental analysis for other agencies, then alternatives based on other agencies’ requirements must also be analyzed.