



September 2, 2008

David Landry
Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89448

Dear Mr. Landry,

Thank you for the opportunity to provide scoping comments regarding the Boulder Bay Community Enhancement Program (CEP) Project. The League to Save Lake Tahoe has a number of concerns regarding the proposed project including amendments to height restrictions, density increases, transportation issues, lack of substantial environmental benefits, CEP status, TAU transfers, inaccuracies within the NOS, and the removal of large trees. It is imperative that the EIS report contain a complete analysis of the project's impact on scenic, air quality, water quality, soils, and vegetation thresholds, as well as cumulative impacts to traffic and associated effects on the above mentioned environmental thresholds.

AMENDMENTS TO HEIGHT ORDINANCES

The proposed amendment change to the code of ordinances regarding height restrictions is unacceptable. The diminishing of height standards, especially of this magnitude, will pose severe impacts to the scenic threshold, not only in this project area, which is currently out of attainment for both roadway and shoreline scenic values, but throughout the entire basin, as the actions of this amendment will open up the flood-gates to other developers and other projects.

The code of ordinances was written and established through a lengthy process which was designed to protect the environmental thresholds. Recently, the TRPA has been quietly amending these ordinances in order to meet developers' needs without assessing the long-term cumulative impacts to the thresholds. By amending the height restriction ordinance to allow for an 86 foot high building and the terrace stepping of additional buildings which will appear to be over 120 feet in height, the TRPA will once again be placing the needs of developers over the protection

of the thresholds and ignoring the mandates of the Compact. The EIS needs to address the cumulative impacts that this potential code change will have on the North Stateline Community Plan (NSCP) area and the entire Lake Tahoe Basin.

DENSITY (AIR QUALITY AND TRAFFIC IMPACTS)

The League is highly concerned with the project's proposed dramatic increase in density. Although the proposed project is not expected to induce or result in the substantial growth of the full time population in the region, the project will result in a significant increase to seasonal population growth. By escalating density without adequately providing appropriate services in the community, this project will have negative effects on air quality standards and traffic by increasing the number of people to travel distances to obtain basic goods and services. Although the project offers a number of retail, dining, and spa opportunities, visitors and residents alike will still have to travel to surrounding towns in order to obtain groceries, fuel, prescriptions, and medical care, as well as, to reach such destinations as ski resorts, beaches, and hiking trails. The Boulder Bay project will increase density without reducing the need to travel to surrounding areas to obtain basic goods, services, and reach recreation sites. Thereby, this project will increase vehicle miles traveled (VMT), and negatively impact air quality standards and traffic. Furthermore, these impacts will not be limited to the North Stateline Community, but will extend to the surrounding communities of Kings Beach, Tahoe Vista, and Incline Village and a full analysis of these impacts should also be included in the EIS. Also, cumulative effects from the project developments in these areas should be analyzed.

Boulder Bay has proposed to implement an intermodal transportation plan. However, this transportation program should be implemented and proven both successful and effective at reducing VMTs and improving air quality before this density laden project is even considered. If Boulder Bay cannot demonstrate that the project's increased density will not have negative impacts to VMTs or air quality, then its CEP status is inappropriate.

Furthermore, the project is not in compliance with the NSCP transportation goal of providing pedestrian and bicycle opportunities into and within the plan area. For example, the proposed project lacks the CP goal of expanding bicycle paths and increasing opportunities for safe bicycling in the Crystal Bay area. The CP states that as a condition of project approval that bicycle racks or secured lockers shall be installed throughout the plan area (NSCP – 9.1.2). The NOP lacks this requirement for project approval and given the substantial impacts to traffic and air quality thresholds the project will create the project should participate in the traffic and air quality mitigation fee program by providing funding for the development of Class II bicycle paths along SR 28 and local streets. The proposed project also lacks the addition of transit shelters (NSCP - 7.1.1), which would encourage ridership and provide for safer/user friendly transit facilities.

TRANSFER OF TOURIST ACCOMMODATION UNITS

One of the major allowances for density increases for this and other projects is the use of transferred TAUs. The League is concerned with the environmental impacts from the transfer of TAUs that have no coded regulation regarding size and number of bedrooms. This problem is by no means unique to the Boulder Bay project and needs to be addressed immediately by TRPA and then inform the new Regional Plan. Currently a 300 square foot motel room unit can be transformed into a 4000 square foot 4 bedroom unit causing a density increase from 2 people to 8 or more people per unit, not to mention a 1000% plus increase in visual footprint per unit. This dramatic increase in density will have profound effects on traffic, VMTs, air quality, and the scenic threshold throughout the entire basin. The TRPA needs to amend the code to limit the square footage on transferred TAUs and require a one to one bedroom ratio on transfers. For this project specifically, the TRPA needs to evaluate the environmental impacts of Boulder Bay's transferred TAUs size increases.

The League is concerned that this project does not follow the NSCP list of permissible uses in relation to the TAUs that the Boulder Bay project is proposing. Under the current Community Plan, timeshare TAUs (fractional ownership) can only be of the hotel/motel design. Under Chapter 18 of the TRPA Code of Ordinances the definition of a timeshare (hotel/motel design) is the following: a right to exclusively use, occupy or possess a tourist accommodation unit of a hotel/motel design without kitchen units, according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three years. The NOP appears to state that the majority of fractional units will be of the timeshare-residential design that includes the use of kitchens in the units.

Furthermore, 109 out of 141 of the TAUs are expected to be imported from South Shore to North Stateline. The EIS needs to address the effects that this shift in location of TAUs will have upon North shore communities.

ENVIRONMENTAL BENEFITS

Based upon TRPA Code, a demonstration project needs to be illustrating substantial environmental benefits according to Chapter 33.3.D.3a. Although the Boulder Bay project does propose some environmental enhancements, these improvements are not comparable with the magnitude of this project nor the goals of the CEP. If Boulder Bay does not establish projects with momentous and irrefutable environmental benefits than its status as a CEP project should be reconsidered.

Not only are the environmental improvements comparably insubstantial, but the improvement plans are lacking in detail and definition. For example, it is unstated where the location of the expected 40 TAU of stream restoration will occur, the exact types of water quality treatment that will be put in place around the project, and details on pedestrian pathways. The EIS should contain more details on these improvement elements so the true environmental gains or impacts of this project can adequately analyzed.

Although the NOP includes four additional alternatives, none of these include substantial environmental benefits. The League would like to see an alternative proposed with significant improvements to the environment that would make qualification as a CEP appropriate.

CEP STATUS

As mentioned above, the League believes that with the project's impacts to density, air quality, and traffic, along with a lack of substantial environmental improvements, designation as a CEP project is unfitting according to TRPA's Code of Ordinances. Currently, projects are being rewarded by TRPA with CEP status that are visible contrary to the code. This needs to be remedied immediately. The League resubmits prior letters regarding this issue as Attachments B and C in this document.

NOP INCONSISTENCIES

Throughout the NOP there are noticeable errors in the calculations of units-of-use in relation to the TAU's and residential units that the project proposes, as well as the calculations of how many units the project actually needs. Another concern is that the NOP does not address the 34 onsite employee housing units as residential units. Under TRPA Code of Ordinances, Chapter 18, employee housing units are defined as residential units owned and maintained by public or private entities for purposes of housing employees of said or private entity. The employee housing units need to be included with the 21 market rate residential units (condominiums) that the project proposes.

The League is concerned that the acreage and coverage shown on the proposed site plan of 15.6 acres may be inaccurate as this area assumes portions of the road have been abandoned. This assumption needs to be verified with an accurate delineation of the land area.

SUMMARY

Due to the amendments to height restrictions, density increases, transportation issues, and the removal of large trees it is imperative that the EIS report contain a complete analysis of the project's impact on scenic, air quality, water quality, soils, and vegetation thresholds, as well as impacts to traffic and associated effects on the above mentioned thresholds. Please see Attachment A for picture representations of project issues.

Thank you for the opportunity to provide scoping comments regarding the Boulder Bay CEP Project. Please do not hesitate to contact the League to Save Lake Tahoe with comments or questions.

Sincerely,

Nicole Gergans
Program Advocate
League to Save Lake Tahoe
955 Emerald Bay Rd.
South Lake Tahoe, CA 96159
530-541-5388
nicole@keptahoebblue.org

ATTACHMENT A

Photo A – Demonstration of the small Tourist Accommodation Units currently located on the Boulder Bay site.

Photo B – Demonstration of severe water quality issues currently located on site and the need for extreme environmental improvements.

Photo C – Demonstration of how current units blend into the trees.

Photos D and E – Demonstration of the proximity of the project to the lake and therefore, the need for irrefutable environmental protections.



(Photo A)



(Photo B)



(Photo C)



(Photo D)



(Photo E)

ATTACHMENT B



Tahoe Regional Planning Agency Governing Board Members
128 Market Street,
Stateline, NV 89449

Re: CEP process

The following comments are submitted on behalf of the League to Save Lake Tahoe, a membership-based non-profit organization dedicated to protecting and restoring the environmental quality, scenic beauty and low-impact recreational opportunities in the Tahoe Basin. We appreciate the opportunity to make comments on the Community Enhancement Program.

We support the concept of rewarding redevelopment projects that go farther than other projects to offer substantial environmental benefits. Incentive-based planning has the potential for project planners to design and implement truly exceptional projects, and is commendable. However, we are concerned that the CEP process does not go far enough to define or demand “substantial environmental benefits” as tied to incentives.

Community Enhancement Program Criteria

As stated in the Tahoe Regional Planning Agency’s Code of Ordinances, Chapter 33.3.D.3a, “The program goals are to promote major projects that result in the construction of threshold-related environmental improvements, to promote transfer of development that results in substantial environmental benefits...” In Chapter 33.3.D.3c, the criteria for inclusion in the special projects pool are vague and undefined. Criteria include providing substantial environmental benefits, providing excess mitigation, and assisting in threshold attainment, and working with EIP projects, the same concepts stated as the goals of the program. The Lake

Tahoe Community Enhancement Program document, dated August 2007, does not provide more specific or defined environmental criteria for inclusion or advancement in the process.

The League to Save Lake Tahoe strongly believes that CEP criteria needs be more clearly defined, and that the vague language of the process has resulted in somewhat lackluster projects. What is meant by ‘substantial environmental benefit’ and ‘excess mitigation’ should be clearly qualified and quantified. Program criteria could include LEED or equivalent certification, on-site water retention and treatment facilities sufficient to deal with a 100-year storm event, acres of SEZ restoration, etc. Because the TRPA is allocating commodities that other projects do not have access to, they have the right to demand and clearly identify specific design features that could result in “substantial environmental benefit.”

CEP projects

The Community Enhancement Program has been billed as a competition. However, it is a competition where the standards are not clearly defined and where no one emerges as a winner. The distribution of commodities should be directly related the achievement of explicitly defined environmental criteria that result in quantifiable increases towards threshold attainment. For example, commercial floor area allocations should be preferentially awarded to projects that exceed clearly defined program criteria.

Both the TRPA Executive Director and staff have publicly stated that none of the nine CEP projects are a “home run” in terms of the environmental benefits they provide. Yet, all nine projects are slated to receive nearly the entire amount of commodities they requested. A 7.05% reduction was applied across the board to the requested allocations. If projects fail to demonstrate exceptional environmental benefits or provide them to a lesser degree compared to other projects, they should receive proportionally less commodities.

TRPA staff has stated that the next step in the CEP process is for TRPA to draft letters to applicants. According to the Community Enhancement Program Status Report found in the January 2008 Governing Board Packet, “the letters will identify specific weaknesses in each pre-application and make specific recommendations to strengthen the environmental benefits of each

proposal.” Were the recommendations based solely on existing features of the proposal, or did TRPA staff go beyond to recommend that projects incorporate, for example, green building standards if they were not proposing to do so? It seems that ‘specific recommendations’ should have been made as part of the initial program criteria, not at this late date.

Additionally, CEP projects need to offer much greater levels of environmental benefits compared to other projects. The Beach Club of Lake Tahoe, which is not a CEP project, incorporates several laudable elements, including silver LEED certification and the restoration of two acres of SEZs.

Summary

The allocation of reserved commodities as incentives should apply to only those projects that offer outstanding environmental benefits based on defined standards. The entire CEP process would be strengthened if program criteria were explicitly stated, with examples given. This would result in more exceptional projects deserving of preferential commodities allocations. We urge the TRPA Governing Board to work with staff to demand that CEP projects must offer truly substantial, quantifiable environmental benefits if they are to be rewarded by increased CFA allocations.

Please do not hesitate to contact us with questions or additional comments.

Thank you,
Sarah Curtis
Program Advocate
League to Save Lake Tahoe
530.541.5388

ATTACHMENT C



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