

Required Findings

The following is a list of the required findings as set forth in Chapters 3, 4, 21, 30 and 37 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. Chapter 3 – Findings for Initial Environmental Checklist:
3.3.2. Mitigated Finding of No Significant Effect

- (a) The proposed project could have a significant effect on the environment but, due to the listed mitigation measures that have been added to the project, the project could have no significant effect on the environment and a mitigated finding of no significant effect shall be prepared in accordance with Rules of Procedure Section 6.7.

The TRPA Governing Board certified the Boulder Bay Community Enhancement Program Project EIS in April 2011 for the previously approved project, including a Finding of No Significant Effect. An Initial Environmental Checklist (IEC) was completed for this plan revision to analyze the impacts that could result from the revised project.

The IEC included supporting documentation including LSC Transportation's (LSC) VMT Analysis (February 15, 2023), LSC's Transportation Impact Study (March 13, 2023), and HBA's Scenic Quality Evaluation (October 14, 2022). Based on the information submitted in the Initial Environmental Checklist (IEC), the proposed project, as conditioned in the draft permit, is consistent with the certified EIS and will not have a significant effect on the environment. TRPA has prepared a finding of mitigated no significant effect as required by the Rules of Procedure, Section 6.7.

2. Chapter 4 – Required Findings:

- (a) The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

The project is located in the Crystal Bay Tourist Regulatory Zone ("CB Tourist Zone") of the recently adopted Tahoe Area Plan (TAP) which replaced the North Stateline Community Plan (NSCP) which was in effect when TRPA originally approved the project. While the TAP replaced the NSCP, the CB Tourist Zone largely mirrors the former NSCP governing land use in Crystal Bay, including the list of permissible uses. The project's uses have not changed and are permissible in the CB Tourist Zone. These uses include hotel, motel and other transient dwellings (A), multiple-family dwellings, employee housing (S), gaming (A), food and beverage (A), general retail (S) and passive recreation / linear public facilities (A). Special use findings were made for the approved project for the MFD and employee housing uses. Although general retail has always been a component, special use findings were not specifically made for that use in the approved project. Special use findings are included herein for general retail.

The revised project reduces density by 157 units compared to the approved project which was within the maximum permissible density. The revised project reduces the number of hotel units from 275 to 134 (includes 22 lock-off units) and decreases the number of residential units from 59 to 43 which includes the previously constructed 18 units in the building that fronts Highway 28. This results in a net reduction of 157 units, a 47 percent reduction in density. This results in a net reduction of 157 units, a 47 percent reduction in density. There is no change to the approved gaming (10,000 square feet), commercial (18,700 square feet) or employee housing components (38 total bedrooms – 28 provided onsite in 14 units and 10 provided offsite). The revised project complies with the density standards.

The revised project eliminates the internal driveway (Boulder Way) and reduces the size of Building F to expand the public plaza in the middle of the development and add a guest arrival area between Buildings D and E. These revisions allow for an outdoor programmable plaza and include preservation of a collection of mature pines creating a “grove”: an amphitheater nestled into the grade change to reduce vertical terracing toward the hotel (Building D), opportunities for year-round events (concerts, plays, etc.), retail focused inward rather than outward toward SR 28, a central gathering place open to the public as well as to guests and residents of the approved project.

The revised project is consistent with the approved project’s height and massing, and the number of buildings, land coverage and provision of open space remain unchanged.

Based on the foregoing, the revised project is consistent with and will not adversely affect implementation of the Regional Plan.

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

Soil Conservation: The revised project does not increase land coverage over that originally approved and will mitigate excess land coverage consistent with the approved project. The developer recorded a deed restriction against the project area permanently retiring 35,340 sf of banked land coverage in partial satisfaction of the excess coverage mitigation requirement. The draft permit includes a condition that requires the mitigation of additional excess coverage.

Water Quality: One of the environmental improvements of the original project that qualified the project as a CEPP project was the increased benefits to water quality. The approved project included water quality treatment that exceeded the required minimum the water quality treatment standard which is to treat the runoff from the 20-year, one-hour storm. The approved project and the revised project will treat runoff from the 50-year, one-hour storm event on-site through a series of collection systems, infiltration and detention basins, drop inlets, pre-treatment vaults, underground infiltration vaults and underground piping to intercept runoff generated in the project area. The revised project water quality treatment plan uses a better design and technology to achieve water quality treatment and long-term operations and maintenance than the system included in the approved Project and studied in the EIS.

Specifically, the revised project proposes the use of a network of interrelated storm water conveyance and Tahoe Maximum Daily Load treatment strategies appropriate for urban infill regions. The system designed for the Plan Revision includes three components: CDS™ Hydrodynamic Separator, Stormwater Management StormFilter and Corrugated Metal Pipe (CMP) Stormwater Detention and Infiltration.

The CDS™ Hydrodynamic Separator is first in line and captures debris, sediment and hydrocarbons from stormwater runoff and is sized for the 50-year, 1 hour storm event. The Stormwater Management StormFilter, second in line, is comprised of media-filled cartridges that trap particulates and absorb pollutants from stormwater runoff. It is also designed to capture the 50-year, 1 hour storm event. The last stormwater treatment component, the CMP is perforated for captured runoff to infiltrate the soil and is sized to detain the 100-year, 1 hour storm event.

CDS™ is used to meet Total Maximum Daily Load (TMDL) requirements for stormwater quality control, inlet and outlet pollution control, and as pretreatment for filtration, detention and infiltration. StormFilter is used to trap particulates and adsorb pollutants such as total suspended solids, hydrocarbons, nutrients, metals and other common pollutants. Finally, CMP is perforated to infiltrate the soil to treat captured stormwater runoff naturally. In total, the revised project includes a system that meets or exceeds the stormwater plan included in the approved project. In addition, the approved project EIS discusses the need for long-term water quality monitoring to ensure treatment levels are met and maintained. The revised project proposes to reconfigure water quality treatment facilities from the approved project to improve accessibility of those facilities for long-term operations and maintenance.

EIP Project No. 732 (Placer County Stateline Water Quality / Brockway Residential Project), a water quality improvement project located in California immediately east of the state line has been completed.

Transportation: The revised project's significant reduction in hotel units will reduce daily vehicle trips and VMT compared to the Approved Project. LSC's VMT Analysis (February 2023) documents that the revised project will reduce VMT by up to 4,497 compared to the approved project studied in the EIS (Table 7).

Scenic: The configuration of the new buildings remains substantially the same in the revised project, but there are slight changes to footprint size, placement and architectural design. According to the HBA Scenic Analysis Report, dated Oct. 14, 2022, the revised project's structures are nevertheless consistent with building design, location and massing analyzed in the EIS. With protection of certain existing trees and additional vegetative screening of Building A as viewed from southbound SR 28, the revised project does not result in new scenic quality impacts to Roadway Unit 20D or require modifications to the existing mitigation measures included in the EIS.

During the review of the proposed revised project staff requested the applicant address a condition of approval included in the original project permit (Condition 5.F) which states:

“The Permittee shall erect story poles and/or helium balloons as a means of confirming the accuracy of the proposed maximum building heights depicted in the photo-simulations in the FEIS for TRPA review and approval. Photos of the erected story poles and/or helium balloons shall be taken from the same vantage points as the photo-simulations and superimposed onto the photo-simulations. The accuracy of the erected story poles/helium balloons and superimposed images shall be certified by a licensed surveyor, architect and/or engineer.”

Staff requested the condition be addressed during the evaluation of the revised project to further ensure the proposed project is consistent with the scenic analysis in the EIS *prior* to making a recommendation on the proposed project. Staff and the applicant completed the evaluation required by the condition on December 8, 2022 and confirmed the revised project simulations accurately depict their proposed location and heights and viewed from the roadway and Lake Tahoe.

As a result of the revised project, the scenic quality threshold improvement scores identified in the 2009 DEIS will also be realized with the revised project. Specifically, Roadway Unit 20D will see a 1.5-point improvement to the threshold rating which will raise the overall Roadway Travel Route Threshold Rating from 13.5 to 15. No impacts or improvements to the scenic shoreline units will occur due to the projects very limited visibility from those units.

Air Quality: Consistent with the approved project, the revised project will realize long-term benefits resulting from the replacement of existing buildings with more efficient buildings. Importantly, the revised project’s significant reduction in hotel units will reduce daily vehicle trips and VMT compared to the approved project. LSC’s VMT Analysis (February 2023) documents the revised project will reduce VMT by up to 4,497 compared to the Approved Project studied in the EIS.

Vegetation: The revised project does not alter the conclusions of the EIS or require any mitigation measures.

Noise: The revised project does not alter the conclusions of the EIS or require additional mitigation measures.

Recreation: Due to the reduction in density, the revised project will reduce the demand for recreational services compared to the approved project. The revised project maintains the amount of open space in the approved project. The park component of the approved project was completed at the northern end of the project area and consists of approximately 1.5 acres with parking, seating, trails and interpretive kiosks.

A condition of approval requires the permittee to enter into an agreement with Placer County Parks and Recreation to participate in the removal of refuse at Speedboat Beach and the immediate area which is also a condition of the approved project. A condition of approval also requires the permittee to provide a shuttle to an area ski resort during the winter ski season and to also provide a beach access shuttle service.

The project meets the provisions of the TRPA Code of Ordinances, and TRPA staff has completed the “Article V(g) Findings” in accordance with Chapter 4, Subsection 4.3 of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. Based on the TRPA Initial Environmental Checklist (IEC), the proposed project, as conditioned in the draft permit, will not cause any environmental threshold carrying capacity to be exceeded.

- (c) Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TPRA Compact, the project meets or exceeds such standards.

The revised project will not alter federal, state, or local air or water quality standards currently in place. Therefore, the strictest standards will continue to be attained, maintained, or exceeded pursuant to Article V(d) of the Tahoe Regional Planning Compact. The revised project will comply with all temporary and permanent air and water quality BMP requirements which will prevent any adverse impacts to federal, state, or local air and water quality standards.

3. **Chapter 21 – Permissible Uses**
21.2.2. Special Uses

- (a) The project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and surrounding area in which it will be located.

The revised project reduces the number of hotel units from 275 to 134 (includes 22 lock-off units) and decreases the number of residential units from 59 to 43 which includes the previously constructed 18 units in the building that fronts Highway 28. This results in a net reduction of 157 units, a 47 percent reduction in density. The project also includes 14 units of onsite employee housing, 10,000 sf of gaming area, 18,700 sf of commercial floor area, and traditional resort amenities. Of the 18,700 sf of CFA, approximately 4,200 sf consists of general retail space. General retail falls within “general merchandise stores” as defined in TRPA Code Table 21.4-A which is a special use in the Crystal Bay Tourist Zone.

The Crystal Bay Tourist Zone is a Town Center where environmentally beneficial redevelopment is encouraged and density should be concentrated. More specifically, Policy LU2-2 of the Washoe County Tahoe Area Plan (WCTAP) provides that retail and restaurant uses should be concentrated throughout the Crystal Bay Tourist Zone. The project’s 18,700 sf of CFA is devoted to retail and restaurant uses consistent with Policy LU2-2. The WCTAP also calls for walkable and bikeable Town Centers. Having retail onsite and at street level will help achieve that goal. Given the size and mixed-use nature of the project, general merchandise stores is appropriate for the parcel.

Based on the foregoing, the project is of a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and the surrounding area in which it is located.

- (b) The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners; and

The adopted EIS concludes the project, including the required mitigation measures, will not have any of the effects enumerated above. The approved project included 18,700 sf of CFA, but 4,200 sf of retail space (a special use) was not specified in the EIS. Adding a general retail use to the mixed-use project, which consists of gaming, hotel rooms, residences, food and beverage and onsite resort amenities in the Crystal Bay Town Center, will not injure or disturb the health, safety, enjoyment of property or general welfare of persons or property in the area. The project includes measures to protect the natural resources of the project site and surrounding areas.

- (c) The project to which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable planning area statement, community plan, and specific or master plan, as the case may be.

The Crystal Bay Tourist Zone is a Town Center where environmentally beneficial redevelopment is encouraged and density should be concentrated. More specifically, Policy LU2-2 of the WCTAP provides that retail and restaurant uses should be concentrated throughout the Crystal Bay Tourist Zone. The project's 18,700 sf of CFA is devoted to retail and restaurant uses consistent with Policy LU2-2. The WCTAP also calls for walkable and bikeable Town Centers. Having retail onsite and at street level will help achieve that goal. General retail use is consistent with the area's gaming, tourist and other commercial uses. As a result, the project to which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable planning area statement.

4. **Chapter 30 – Land Coverage**
30.4.4. Relocation of Land Coverage

- (a) The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the factors in Subsection 30.4.4.A.1 through 30.4.4.A.6.

The proposed project will relocate existing land coverage from LCD 1a to LCDs 2 and 4. The relocation is to an equal or superior portion of the project area, as the land coverage will be relocated to an area that was previously disturbed (e.g., former Tahoe Mariner site and existing storage areas). The natural vegetation and slopes will be protected during construction. Relocation will be to soils of equal or higher land capability and appropriately fits the scheme of use of the project area. The relocation does not encroach into stream environment zone (SEZ), backshore or setbacks.

- (b) The area from which the land coverage was removed for relocation is restored in accordance with subsection 30.5.3.

The area from which the land coverage is removed for relocation will be restored in accordance with TRPA Code Chapter 30. Restored areas will be landscaped for

guest use, planted with native vegetation for open space or used for storm water treatment. A portion of the relocated land coverage is banked on the former Tahoe Mariner site,

- (c) The relocation shall not be to Land Capability Districts 1a, 1b, 1c, 2, or 3, from any higher numbered land capability district.

Only Class 1a coverage will be relocated within Class 1a and Class 2 areas. Additional Class 1a land coverage will be relocated to Class 4 areas. No land coverage is proposed to be relocated to Land Capability Districts 1a, 1b, 1c, 2, or 3, from any higher numbered land capability district.

5. Chapter 37 – Height

37.7.15. – Findings for Additional Height for Special Projects within North Stateline Community Plan

Additional height may be specified within the North Stateline Community Plan subject to the following requirements:

- A. Any existing buildings within the project area that have non-conforming height prior to the adoption of this ordinance shall be demolished, except when found to be historically significant and then the provisions of Chapter 67 shall prevail.

The existing Tahoe Biltmore Casino is a four-story structure that is 76 feet, two inches in height. Pursuant to the Tahoe Area Plan, the maximum permissible height for the Crystal Bay Tourist Town Center in which the project is located is 56 feet. Accordingly, the Tahoe Biltmore Casino has non-conforming height. As with the approved project, the existing structure will be demolished as part of the revised project.

- B. Land coverage otherwise permissible within the project area pursuant to the Regional Plan shall be reduced by a minimum of ten percent.

As with the approved project, the revised project will reduce existing coverage within the project area and Crystal Bay Tourist Regulatory Zone by approximately 15.8 percent.

- C. To implement pedestrian/transit-oriented development (PTOD), the project shall, at a minimum:

1. Satisfy the factors outlined in subparagraph 11.8.4.C.1;

- a. Access to operational transit within one-half mile walk;

The project will implement an Alternative Transportation Plan which includes transit shelters, a bus and shuttle turnout, financial subsidies to increase public transit service to the site, employee shuttle services, car- and bike-share services onsite, a shuttle for guests, and other alternative transit amenities.

Operational transit exists within the project area, and a shuttle/trolley stop will be

located outside the main hotel entrance as part of the project. This stop will be served by the North Tahoe Express, seasonal trolley services and employee shuttles. Additionally, the current TART stop on the north side of State Route 28 directly adjacent to the site will be expanded per TART standards to accommodate two buses at one time. This, along with the other existing bus bay on the north side of SR 28 just west of Stateline Road, would allow up to three westbound vehicles to be in Crystal Bay at one time.

The Project will provide a subsidy, on monthly transit passes, of 50% or the maximum taxable benefit limit, whichever is greater.

- b. Neighborhood services within one-half mile walk (e.g., grocery/drug stores, medical services, retail stores, and laundry facilities);

Over 20 different services and facilities are located within ½ mile of the project area, and a variety of neighborhood services will be provided on-site including market, retail and dining. The project is located within a two-minute walk of the post office, an urban park and other recreational trailheads.

- c. Good pedestrian and bike connections;

The plan revision contains a network of sidewalks and walkways to encourage pedestrian access throughout the project area and beyond. The project proposes over 7,000 linear feet of pedestrian and multi-use paths on-site with connections to existing walkways serving the core area of the Area Plan Town Center. Bicycle Lanes will be improved along the SR 28 frontage on both sides of the highway and will connect with the new Kings Beach Class 2 bicycle lanes at the State Line. Specifically, the plan will include approximately 2,000 linear feet of Class 2 bike lanes along State Route 28 per AASHTO guidelines with five feet wide lanes where curb/gutter are present and four feet wide lanes along the roadway without curb/gutter.

- d. Opportunities for residential infill (at densities greater than eight units per acre) or infill with mixed uses; and

Based on a request from Placer County during the Project approval hearings, the Project will provide 28 of the workforce housing bedrooms onsite in two-bedroom units located in buildings G or H. The Project will provide a minimum of 10 bedrooms in offsite infill locations within a 10-mile radius of the project site. The developer will purchase the offsite bedrooms in one- and two-bedroom configurations located in pre-existing infill housing in the vicinity of the project site. The units may be single family, duplexes or condominiums. Each property will be refurbished to specific quality and sustainability standards developed according to the local jurisdictional requirements.

The Plan Revision provides 14 workforce housing units two-bedroom units) in Building G and maintains the TRPA permit condition for the approved Project to secure offsite housing units within 10 miles of the project area to provide a minimum of 10 additional bedrooms. The selection of the offsite housing will be

coordinated with Placer County Community Development Department staff and refurbished and deed restricted as affordable housing.

The project proposes tourist accommodations at 40 units per acre and residential units at 15 units per acre.

- e. Public facilities adequate to service increased demand from the addition of multi-family units (e.g., public schools, urban or developed recreation sites, government services, and post offices).

The EIS evaluated impacts on power, water treatment and distribution, wastewater collection, solid waste collection and disposal, law enforcement services, fire protection services, schools, and communications. A discussion of emergency evacuation is also included in this section. Mitigation measures are included in Public Services and Utilities section (PSU-1A, 1B, 1C, and 1D and PSU-3A, 3B) to ensure that the Project coordinates with service providers during final project design, construction and special events to ensure public safety.

The Plan Revision, which involves a substantial reduction in tourist accommodation units, would not alter the conclusions of the EIS, nor require any additional protections.

- 2. Include and integrate major transit facilities, sidewalks, bike lanes and associated facilities;

The project will implement an Alternative Transportation Plan which includes transit shelters, a bus and shuttle turnout, financial subsidies to increase public transit service to the site, employee shuttle services, car- and bike-share services onsite, a shuttle for guests, and other alternative transit amenities.

The project will provide a shuttle/trolley stop located outside the main hotel entrance. This stop will be served by the North Tahoe Express, seasonal trolley services and employee shuttles. Additionally, the current TART stop on the north side of State Route 28 directly adjacent to the site will be expanded per TART standards to accommodate two buses at one time. This, along with the other existing bus bay on the north side of SR 28 just west of Stateline Road, would allow up to three westbound vehicles to be in Crystal Bay at one time.

The Plan Revision contains a network of sidewalks and walkways to encourage pedestrian access throughout the project area and beyond. The plans submitted to TRPA include over 7,000 linear feet of sidewalks and walkways.

- 3. Provide circulation connections and linkages between private open spaces, public spaces and recreational opportunities (for example, streetscapes, alleys, easements, parks) and commercial, residential, tourist uses both on and off-site;

The Approved Project's internal driveway (Boulder Way) has been eliminated and the size of Building F has been reduced to expand the public plaza (the "Grove") in the middle of the development and add a guest arrival area between Buildings D and E.

These revisions allow for an outdoor programmable plaza and include preservation of a collection of mature pines creating a “grove”, an amphitheater nestled into the grade change to reduce vertical terracing toward the hotel (Building D), opportunities for year-round events (concerts, plays, etc.), retail focused inward rather than outward toward SR 28, a central gathering place open to the public as well as to guests and residents of the Approved Project.

4. Provide alternative parking strategies (which may include shared parking, parking structures, or underground parking);

To increase the incentives to utilize public transportation and eliminate passenger vehicle trips, the approved project reduced the proposed parking to equal the Fehr & Peers Transportation Study minimum parking demand calculation of 460 spaces. The Plan Revision proposes 413 total spaces. The Plan Revision includes underground parking.

5. Be a mixed use development;

The project includes a mix of primary residential, tourist accommodation, commercial and gaming uses along with various accessory uses.

6. Orient building facades to the street; and

Buildings G and H include commercial land uses and are oriented towards SR 28, including pedestrian amenities like walkways, covered entry areas, landscaping, and activated spaces for gathering.

7. Implement landscaping and hardscaping that enhance the scenic quality of the area and whenever possible, improve the scenic ratings per the adopted Scenic Quality Improvement Program and Technical Appendices (SQIP). This shall include improvements that:

a. Blend vegetation to accentuate and provide visual breaks in building façades and rooflines, for example, with the use of low-lying shrubs and various sized trees;

All proposed vegetation conforms to the TRPA guidelines and approved species list. The project has significant grade change which provides opportunity for terraced landscape replicating the surrounding landscape in Tahoe. These terraced areas also provide an opportunity for visual breaks in the building facades utilizing planting. The planting areas will incorporate native tree plantings including aspens, firs, cedars, and native pines, to accentuate and screen buildings facades and rooflines.

b. Enhance and emphasize pedestrian circulation routes with special design features that physically separate pedestrians from the flow of traffic or bike lanes, or provide direction. Features may include, garden beds, landscape planters, bollards, benches, sculpture/artistic elements, and/or other street furniture; and

Along State Route 28, pedestrians will be separated from vehicle traffic by an average of 8 feet of landscape planters. Bike lanes will also be provided along SR 28 to create a safer experience for cyclists passing through the Crystal Bay area. A series of boulder and bench seating will be provided along major pedestrian

circulation routes. A main design feature of the development will be the internal promenade (pedestrian only) that serves as the spine of the property, connecting patrons to retail spaces, event spaces, Sierra Park, and the hotel itself. Art sculptures, gardens, seating areas and water features will be placed throughout the promenade and major pedestrian routes.

- c. Provide appropriate screening for any street level parking areas by balancing the need to screen vehicles from view and provide a safe pedestrian environment.

Parking is provided underground.

- D. New structures along State Route 28 shall be set back from the travel route edge of pavement a minimum of 40 feet and stair-stepped upslope, providing a transition of height across the site (See Figure 37.7.15-A). Additional height for new structures satisfying these requirements may be permitted as follows:

1. The maximum permissible height for structures with a minimum set back of 40 feet from the State Route 28 edge of pavement shall be 58 feet.

TRPA recognizes the need to allow additional height to achieve the goals in the Washoe County Tahoe Area Plan and the CEP. This is achieved by varying setbacks, creating a variety of roof pitches and creating building articulation. Proposed building heights do not exceed the height of the existing Tahoe Biltmore and require SR 28 setbacks of at least 180 feet for the tallest structures. Buildings have been designed to stairstep up the hill as viewed from SR 28 (e.g., only two- and three-story buildings are placed along SR 28) to reduce visible impact. As shown in Plan Sheet A0.41, Buildings G and H are set back more than 40 feet from SR 28. Heights for Buildings G (41'6") and H (57'10") comply with the 58 foot height limit.

2. The maximum permissible height for structures with a minimum set back of 60 feet from the State Route 28 edge of pavement shall be 67 feet.

As shown in Plan Sheet A0.41, Buildings C and F are set back more than 60 feet from SR 28. Heights for Buildings C (67') and F (54'10") comply with the 67-foot height limit.

3. The maximum permissible height for structures with a minimum set back of 180 feet from the State Route 28 edge of pavement shall be 75 feet.

As shown in Plan Sheet A0.41, Buildings B, D and E are set back more than 180 feet from SR 28. Heights for Buildings B (75'), D (75') and E (70'1") comply with the 75 foot height limit.

- E. The project shall result in an increase in the scenic threshold travel route rating for Roadway Unit 20D, North Stateline Core.

Visual simulations were completed from TRPA designated scenic resource locations and indicate that the project would improve travel route ratings along SR 28 and maintain travel route ratings from the Lake Tahoe shoreline. The Boulder Bay Permit issued by TRPA in 2011 (Section 5.F) includes a requirement to complete a balloon study to confirm the accuracy of the scenic simulations used in the EIS analysis. 3dFX Design and Hauge Brueck Associates completed the balloon study and published the results on January 3, 2023. The balloon

study was completed for three viewpoints used in the EIS analysis. In each case, the balloon lines up closely to the roofline of the subject building in the corresponding photo-simulation. As such, the balloon study confirms the accuracy of the maximum building heights depicted in the photo-simulations prepared for the project EIS (2011) and subsequent Plan Revision application (2022).

Under the Plan Revision the configuration of the new buildings remains substantially the same but there are slight changes to footprint size, building height, placement and architectural design. According to the HBA Scenic Analysis Report, dated Oct. 14, 2022, the Plan Revision structures are nevertheless consistent with building design, location and massing analyzed in the 2009 DEIS. With protection of certain existing trees and additional vegetative screening of Building A as viewed from southbound SR 28, the proposed Plan Revision does not result in new scenic quality impacts to Roadway Unit 20D or require modifications to the existing mitigation measures included in the EIS. The scenic quality threshold improvement scores identified in the 2009 DEIS (Table 4.5-6) should also be realized with the Plan Revision.

F. The project shall retain and treat the 50-year one-hour storm utilizing on-site and offsite systems incorporating best available technologies.

Like the approved project, the Plan Revision would also exceed TRPA Code requirements for stormwater capture and treatment (NCE, Overall BMP Plan, Sheet C3.0). The system designed for the Plan Revision includes three components: CDS™ Hydrodynamic Separator, Stormwater Management StormFilter and Corrugated Metal Pipe (CMP) Stormwater Detention and Infiltration. Two detention locations are proposed to capture and treat stormwater and shown on sheet C3.0. One is located below building F (hotel) just above building H and captures runoff from zone 1. The other is located below building F (hotel) just above building G and captures runoff from zone 2. Both locations are in close proximity to each other and provide easy access for maintenance equipment within the pedestrian/emergency vehicle corridor.

The CDS™ Hydrodynamic Separator is first in line and captures debris, sediment and hydrocarbons from stormwater runoff and is sized for the 50-year, 1 hour storm event. The Stormwater Management StormFilter, second in line, is comprised of media-filled cartridges that trap particulates and absorb pollutants from stormwater runoff. It is also designed to capture the 50 year, 1 hours storm event. The last stormwater treatment component, the CMP is perforated for captured runoff to infiltrate the soil and is sized to detain the 100-year, 1 hour storm event. According to NCE application materials, the proposed system uses better technology and a higher level of water quality treatment than the system included in the approved Project and studied in the EIS.

EIP No. 732 was completed in 2014 on APN 090-305-016, the “California Parcel.” It involves an off-site water quality project designed to the 50-year, one-hour storm event.

G. The project shall implement TRPA designated EIP Projects within the NSCP.

Prior to the original project approval, the developer contributed to Phase One of the Nevada Utility Undergrounding Project (EIP No. 970). The developer completed EIP No. 732 in 2014 on APN 090-305-016, the “California Parcel.” It involves an off-site water quality project designed to the 50-year, one-hour storm event.

H. The project shall achieve a reduction in vehicle miles traveled.

The Plan Revision would reduce development. The reduction in total number of hotel and residential units would reduce Project related daily vehicle trips and VMT when compared to existing conditions. At the site access points, the plan revision would result in a net reduction of 537 daily one-way vehicle-trips (or a 13-percent reduction) over the Baseline Biltmore use (LSC, 3/23/23, Table 3). LSC Transportation Consultants (February 2023) also documents that the Plan Revision would reduce VMT by 2,234 compared to the baseline conditions for the existing Biltmore site, and up to 4,497 when compared to the approved Project studied in the EIS (Table 7).

Pursuant to the TRPA permit, five years after buildout of the project, TRPA shall engage a qualified traffic consultant to monitor peak traffic volumes and provide traffic monitoring results and underlying information. If the traffic monitoring reveals daily vehicle trips exceed 2,915 daily trips, the developer shall offset the increase in trips by permanently retiring existing development rights, either onsite or offsite.

I. Prior to approving additional height, TRPA shall make Findings 1, 3, 6, 8, and 9 of Section 37.7.

Finding 1. When viewed from major arterials, scenic turnouts, public recreation areas, or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7, Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

The Plan Revision is visible from SR 28, a major arterial, but will not extend above a ridgeline or the forest canopy as can be seen from 300 feet lakeward of high water. The tree canopy height within the project area averages 100 feet, which is greater than the height of any proposed building. From some SR 28 viewpoints immediately adjacent to Buildings G and H (closer than 300 feet), the proposed buildings would partially block views of the ridgeline located west of the project area, but not to the same extent that the existing Biltmore structure currently blocks views of the ridgeline. Building setbacks and placement proposed for Buildings G and H in the proposed project would maintain a majority of existing ridgeline views through the project area. The tallest buildings will be set back over 180 feet from SR28.

Finding 3. With respect to that portion of the building that is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.

The approved height amendment includes a requirement that the additional height be a maximum of 75 feet or three-fourths of the tallest trees within the project area, whichever is lower. The proposed project height is limited to 58 feet for structures located a minimum of 40 feet from SR28, 67 feet for structures located a minimum of 60 feet from SR28 and 75 feet for structures located a minimum of 180 feet from SR28. In addition, the project is required to implement landscaping that enhances the scenic quality of the area

and is required to increase the scenic threshold travel route rating for Roadway Unit 20D of the North Stateline area.

Under the Plan Revision, the configuration of the new buildings remains substantially the same but there are slight changes to footprint size, height of two buildings, placement and architectural design. According to the HBA Scenic Analysis Report, dated Oct. 14, 2022, the plan revision structures are nevertheless consistent with building design, location and massing analyzed in the 2009 DEIS. With protection of certain existing trees and additional vegetative screening of Building A as viewed from southbound SR 28, the proposed plan revision does not result in new scenic quality impacts to Roadway Unit 20D or require modifications to the existing mitigation measures included in the EIS. The scenic quality threshold improvement scores identified in the 2009 DEIS (Table 4.5-6) should also be realized with the Plan Revision.

Finding 6. The building that is permitted additional building height is located within an approved community plan or Ski Area Master Plan that identifies the project area as being suitable for the additional height being proposed.

The project is located within the Tahoe Area Plan which replaced the North Stateline Community Plan. This area contains buildings, including the existing Tahoe Biltmore Casino and Sign within the project area and the Cal-Neva tower, which exceed existing TRPA height limits. The Area Plan identifies the project area as being suitable for additional height, and the proposed heights are less than the existing Biltmore building.

Finding 8. The maximum building height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.

The proposed buildings include architectural features that break up the majority of vertical exterior walls, and the maximum height at any corner of two exterior walls of any building will not be greater than 90 percent of the maximum building height.

Finding 9. When viewed from a TRPA scenic threshold travel route, the additional building height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.

The project is not visible from scenic turnouts, public recreation areas, or the waters of Lake Tahoe as viewed from a distance of 300 feet. As shown in Figure 4.5-3 of the FEIS, the closest public recreation areas are too far away to discern any changes proposed by the project because of intervening vegetation and/or topography.

Although the project is located within a scenic travel route, there are no identified scenic resources for Roadway Unit 20 or Shoreline Unit 23 within the vicinity of the project site that would be affected (see FEIS Figures 4.5-1 and 4.5-2). Views of the lake from SR 28

would not be affected as documented above under Finding 1. The project is located upslope from both SR 28 and Lake Tahoe, with intervening topography, vegetation and structures that block views to Lake Tahoe from most areas. Areas at the northern end of the project area where existing lake views are available will be maintained as park and open space. Removal of the Crystal Bay Motel will increase filtered views to the Lake from SR 28. Views from SR 28 of the ridgeline above SR 28 (to the west) will not be reduced under the Plan Revision as documented above under Finding 1. Building A will change currently disturbed open space associated with the former Tahoe Mariner to more urban residential uses, increasing the amount of man-made features visible from SR 28. However, mitigation measures (SR-1A and SR-1B) have been proposed to reduce the visibility of Building A to improve existing travel route ratings. Under the Plan Revision, additional vegetation will be implemented to further screen Building A.