

## 4.1 LAND USE

### ENVIRONMENTAL SETTING

The project area lies within Washoe County and is located within the jurisdictional boundaries of the Tahoe Regional Planning Agency (TRPA). The applicable land use policies of each of these agencies, as they pertain to the project area, are described below.

#### Existing Uses

The project area includes the Biltmore property located in Crystal Bay, Nevada. The 16.26-acre project area is bound by SR 28 to the East, Southeast and South, Stateline Road to the West, and Wassou and Lakeview Road to the Northwest. The project area also includes the Crystal Bay Motel and Biltmore overflow parking parcels located immediately east of SR 28 from the Tahoe Biltmore. The Crystal Bay Club Casino and Jim Kelly's Nugget Casino border the project area to the South, across SR 28. The project area includes the contiguous parcels with Assessor Parcel Numbers (APNs) 123-042-01, 123-042-02, 123-052-02, 123-052-03, 123-052-04, 123-053-02, 123-053-04, 123-054-01, 123-071-04, 123-071-34, 123-071-35, 123-071-36 and 123-071-37, and current Washoe County right of way (ROW) for parts of Wassou Road, Reservoir Road, Stateline Road, and Lakeview Avenue (Figure 2-2). The Stillwater Cove multifamily residential condominium development is located across SR 28 from the northern end of the project area. Commercial Buildings, Residential housing units and open forest are located to the west, north and east of the project area. The project area is located primarily within the North Stateline Community Plan boundary.

Approximately 16.26 acres (708,285 square feet) comprise the project area on 13 distinct parcels. These parcels include an old firehouse and the former Tahoe Mariner site that once contained the Tahoe Mariner Hotel and Casino with three gaming facilities, an office, and blighted motels, all of which were demolished by 2000. This site was subject to four settlement agreements signed by the previous property owners, TRPA and the State of California (the most recent agreement signed in 2001 was not signed by the State of California). The original settlement resolved a dispute between TRPA and North Shore-Tahoe Properties on TRPA's ability to approve a 147-unit hotel and casino 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. Existing open space deed restrictions on the Tahoe Mariner site apply to parcels 123-071-34 and 123-071-37, which are the northernmost and southernmost parcels within the Tahoe Mariner site. The existing Settlement Agreement establishes 4.78 acres of open space, which includes 1.27 acres for potential park use by Washoe County consistent with the dedication to open space.

The project site slopes approximately 80 feet in elevation from the highway frontage at SR 28 to the north end of the project area at Stateline and Lakeview Roads. TRPA verified land coverage within the project area is 56.4 percent (399,884 square feet) and includes 77,076 square feet of Class 1a land coverage and 322,808 square feet of Class 4 land coverage (Appendix D). This land coverage includes 70,229 square feet of banked land coverage on the former Tahoe Mariner site (Sierra Park parcels).

The Boulder Bay project area currently consists of: the 95,407 square foot, four-story (76 foot tall) Tahoe Biltmore Lodge and Casino; six hotel cottage units (totaling 14,206 square feet); a two-story administrative building; two vacant buildings that were formerly hotel cottage units; several surface parking lots; a storage building that was formerly the Horsebook Casino; the 7,389 square foot Crystal

Bay Motel and 5,717 square foot office building; and the former Sierra Park parcels that comprise the previous site of the Tahoe Mariner (Figure 2-3).

Existing tourist accommodation units of use which are available in the project area include 132 TAUs (including 95 existing in the Tahoe Biltmore Hotel and Casino, 18 which are banked on the former Tahoe Mariner site and 19 existing in the Crystal Bay Motel). The project area also contains six existing residential units (RUs) (including two banked on the back parking lot, three banked on the former Tahoe Mariner site and one in the Crystal Bay Motel). Tourist accommodation units of use currently in operation include 111 TAUs [92 for the Tahoe Biltmore and 19 for the Crystal Bay Motel].

TRPA verified commercial floor area (CFA) for the project area is 56,322 square feet, of which 29,744 square feet is certified for gaming use by the Nevada Tahoe Regional Planning Agency (NTRPA). However, the current amount of commercial floor area, gaming area, and accessory space in use within the project area will be maintained, including 18,089 square feet of CFA, 22,400 square feet of gaming, and 39,603 square feet of accessory space such as laundry and maintenance rooms, meeting space, and retail space. Existing parking in the Boulder Bay project area includes 296 surface spaces associated with the Tahoe Biltmore, 31 surface spaces associated with the Crystal Bay Motel and office building, and 55 surface spaces associated with the overflow parking lot.

### **North Stateline Community Plan Proposed Land Uses**

NSCP proposed land uses for the project area are shown in Figure 2 of the NSCP. Proposed land uses included in the NSCP include a strip of Commercial along the SR 28 and Stateline Road frontages, Tourist behind the Commercial uses, and Open Space on the northern most portion of the project area between SR 28 and Wassou Road.

## **REGULATORY SETTING**

A land use impact is defined as a physical change in the existing land uses. A land use impact is considered significant if it is inconsistent with the following planning documents:

- TRPA Regional Plan for the Lake Tahoe Basin;
- TRPA Plan Area Statements or Community Plans; or
- Washoe County Comprehensive Plan land use designations or zoning.

The agencies combine to regulate forms of land use in the project area and their respective regulatory setting is disclosed below. A third agency, NDOT will regulate encroachment in the SR 28 right-of-way by permit.

### **Tahoe Regional Planning Agency Regional Plan**

TRPA does not have an environmental threshold for land use. However, land use policy is outlined in the Regional Plan and is incorporated into this environmental document by reference. The Regional Plan (July 1987) consists of the *Regional Goals and Policies Plan*, which sets the basic direction of the Regional Plan, environmental threshold carrying capacities, the Regional Transportation and Air Quality Plan, the Scenic Quality Improvement Program, Code of Ordinances, and Plan Area Statements, which address the policies, regulations, and programs associated with specific areas. The Code establishes the TRPA regulations that are required to implement the policies set forth in the Regional Goals and Policies Plan. Portions of the Code of particular importance to land use and the potential impacts of this project

are discussed in detail in the regulatory setting. Together, these components represent an integrated plan that is intended to attain and maintain the environmental thresholds established for the Lake Tahoe Basin.

### ***Goals and Policies***

The Goals and Policies portion of the Regional Plan establishes the foundation for conservation and overall development of the Lake Tahoe Basin and specifically addresses six elements: land use, transportation, conservation, recreation, public services and facilities, and implementation. The *Land Use Element of the Regional Goals and Policies Plan* (TRPA 1986) sets forth the fundamental land use philosophy of the Regional Plan, including: the direction of development to the most suitable locations within the region; maintenance of the environmental, social, physical, and economic well-being of the region; and coordination of the Regional Plan with local, state, and federal requirements. The land use goals are detailed in Chapter 3: Goals and Policies Consistency Analysis Table 3.2-1.

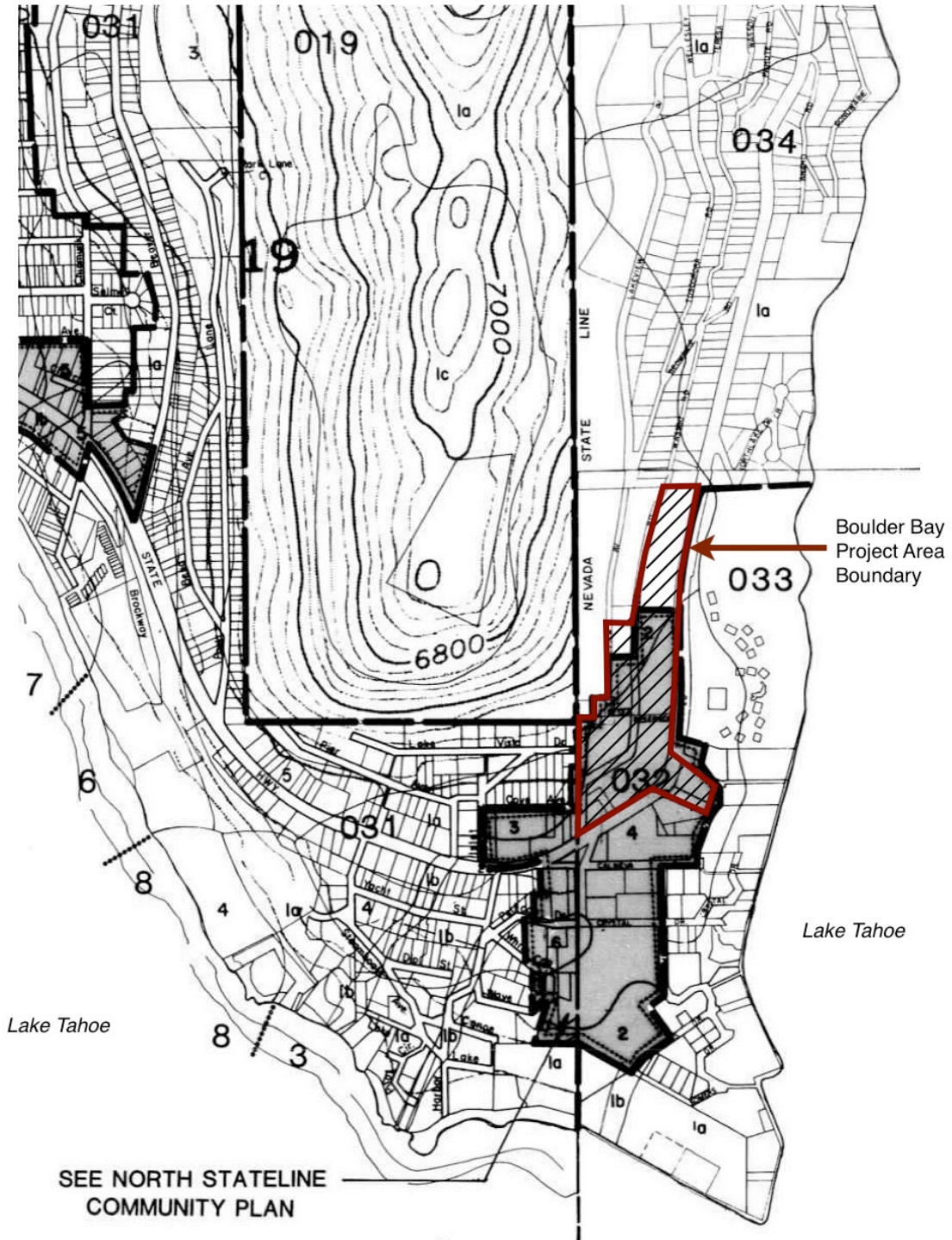
### ***Environmental Threshold Carrying Capacities***

Environmental threshold carrying capacities were established per Resolution 82-11 in order to measure future projects in the basin against the goals established in the TRPA Compact, and are updated every five years with the most recent update occurring in 2006. Thresholds must be attained and maintained by projects and mitigation through avoidance, relocation, compensation, or removal is required for significant impacts to the threshold levels. Threshold carrying capacities have been established for the following: Water Quality, Air Quality, Scenic Resources, Soil Conservation, Vegetation, Fish Habitat, Wildlife Habitat, Noise, and Recreation.

### ***Community Plans and Plan Area Statements***

The Regional Plan is intended to guide decision-making as it affects growth and development within the Lake Tahoe Basin. Each Plan Area Statement (PAS) provides a description of land use for a plan area, identifies planning issues, and establishes specific direction for planning to meet the policy direction of the *Regional Goals and Policies Plan*. Each PAS references a map or maps that identify areas where these specific regulations apply, similar to typical zoning maps. The project site is located within two TRPA Plan Areas (see Figure 4.1-1) as discussed below. These Plan Areas include North Stateline Casino Core (032), also known as the North Stateline Community Plan, and Crystal Bay (034).

Figure 4.1-1 TRPA Plan Area Map



**Plan Area 032 – North Stateline Casino Core (North Stateline Community Plan)**

The majority of the site is located within the North Stateline Community Plan (NSCP). The 1996 Community Plan identifies most of the project site as “tourist” and states that environmental values should be restored at the Tahoe Mariner site and it should be integrated into the community through complete, comprehensive site restoration and reuse of the site through one or more of the following uses: casino/hotel, employee housing, public service, and open space. The area north of the former Tahoe Mariner site is shown as open space on the NSCP Land Use Concept map.

Goals listed in the Community Plan (detailed in Chapter 3: North Stateline Community Plan Consistency Analysis Table 3.2.2) focus on rehabilitating existing gaming developments through the creation of family-oriented destination resorts. Goal NSCP 1.2 requests that residential uses be buffered from commercial and tourist uses through the use of site design, landscaping, vegetation and screening. Specifically, Policy 1.2.1 requires that non-residential and employee housing projects provide buffering from existing surrounding residential uses. In addition, retail and employee housing land uses are encouraged to reduce dependency on transit and vehicle travel.

According to the Community Plan Table 1, the existing development and additional growth allocations for the Community Plan area are as follows:

	<u>Existing</u>	<u>Additional</u>
Residential Units	6	50
Tourist Accommodation Units	431	45
Commercial Floor Area (square feet)	50,000	19,616

The Community Plan also allows for 45 bonus tourist accommodation units (TAU) and 50 residential bonus units to be used for affordable or employee housing. In order to use these bonus TAUs and residential units (e.g., ERUs), matching units from existing development must be transferred to the project in accordance with Chapter 35 of the TRPA Code of Ordinances. In addition, the Community Plan also allows existing and/or banked development to be transferred into the Community Plan area.

The Community Plan classifies the project area as a tourist land use, with a redirection management strategy. It is also a transfer of development rights (TDR) receiving area, a scenic restoration area, a preferred affordable housing area and multi-residential incentive program area, and is eligible for redevelopment plans. The Planning Statement for this area establishes,

“The North Stateline plan area should be strengthened as a family-oriented destination resort. More emphasis should be placed on the outdoors and on human-scale design. More priority should be given to pedestrians. This can be achieved through increasing the amount of green space, placing sidewalks and benches throughout the plan area, and reducing emphasis on the auto. A pedestrian-oriented main street connecting the casinos will also help create a pedestrian friendly environment and increase opportunities to be outdoors. Providing a range of entertainment and recreational activities for families, as well as needed support services such as child care, will improve the area's competitive advantage in the resort market. Improvements proposed by the plan will help create a

sense of place, one which is unique to North Stateline and which promotes a resort setting. This will be achieved primarily through architecture and site planning. Architecture and design should identify North Stateline; signs should become secondary.”

The Community Plan also states that land coverage reduction should be pursued at the Tahoe Biltmore site through consolidation of parking into structures, removal of asphalt, and landscaping. Land use policy 2 establishes that buffers should be used between commercial (non-residential and employee housing) and adjacent residential uses through site design, landscaping, vegetation and screening.

Permissible land uses include hotel/motel/transient dwelling units, restaurants, gaming, personal services, single-family homes, and day-use recreational areas. Special uses include employee and multi-family dwelling units, timeshares (hotel design), recreation services, privately owned assembly/entertainment, and participant sports facilities.

### ***Plan Area 034 – Crystal Bay***

A small portion of the northernmost project area is located within the Crystal Bay PAS 034. Plan Area 034 is classified as a residential land use with a mitigation management strategy. Areas with this management strategy can accommodate additional development if the impacts are fully mitigated and the land is capable of withstanding the use (Chapter 13, TRPA Code of Ordinances). Mitigation for all on-site and off-site impacts is required. The Planning Statement for this area establishes, “This area should continue to be residential, maintaining the existing character of the neighborhood.”

Special policies for this area state that it is a high priority area for land coverage removal and site restoration and due to the sensitivity of the area and public safety issues due to avalanche danger, all further development is considered a special use. Construction within Plan Area 034 would require a special use finding from TRPA. Only riding/hiking trails and resource management activities are listed as allowable land uses. Public Service uses and Single-family residences are listed as a special uses.

### ***TRPA Bonus Units***

TRPA Code Subsection 33.4.A(3) describes how TRPA allocates the development of additional tourist accommodation units. Code Subsection 33.4.A(3) states that TRPA shall allocate the remaining TAU bonus units to projects within community plans in accordance with Chapter 35.

Bonus units for both multi-residential and tourist accommodation units are governed through Chapter 35 of the Code of Ordinances. Subsection 35.2 establishes policies for granting multi-residential bonus units within plan areas allowing multi-residential uses. These units are granted based on limits established in the plan area, mitigation measures, and type of unit (affordable, moderate-income). While the plan area provides a specific pool of bonus units, the number of units granted for a project depends on the type of unit and the type of mitigation that is proposed. Different types of mitigation result in various levels of points awarded. One residential bonus unit may be approved for every ten points achieved by a project. In addition, scores are improved by a factor of 1.5 if the project is within a community plan and by a factor of 2 if the project is proposing affordable employee housing. Points are awarded as detailed in TRPA Code Section 35.2.D.

Residential bonus units can be earned without mitigation for affordable or moderate-income housing based on need per Code of Ordinances Subsection 35.2.E.

TRPA Code Subsection 35.2.F details the requirements for bonus unit substitutions. A bonus unit may be assigned for each TAU converted to a residential use if each of the four conditions are met when proposed in accordance with the unit of use conversion provisions of Code of Ordinances Subsection 33.7.E.

Tourist accommodation bonus units may be approved within an adopted community plan and when at least one existing TAU is transferred. The number of awarded units are subject to the limits established in the community plan and may only be awarded within a community plan that allows this type of land use. The number of units awarded are subject to a point system in which one unit is awarded for every ten points matched by a transfer from Land Capability Districts 4 through 7, for every seven points from Land Capability Districts 1a, 1c, 2, or 3, and for every five points from Land Capability District 1b or SEZ. Points are earned through mitigation as detailed in TRPA Code Subsection 35.3.D.

### **Washoe County Comprehensive Plan**

The 2006 Washoe County Comprehensive Plan Land Use Element provides additional guidance for the project area in addition to and in support of the North Stateline Community Plan, adopted by Washoe County in 1996. The Land Use Element of the 2006 Comprehensive Plan contains goals for future land uses in the County. These goals include: abiding by sustainable growth practices, ensuring land use compatibility and incorporating mixed-uses, providing for a range of housing choices and interconnected streets, guiding growth toward areas where infrastructure is already available, supporting the economic base, valuing natural resources and public lands, maintaining public access to and acquire and manage open space, and promoting an interconnected trail network.

In addition, the Comprehensive Plan - Tahoe Area Plan limits timeshare locations to only those areas designated as tourist commercial, such as Plan Area 032 (North Stateline Community Plan), and requires development performance standards to promote uniform planning and design.

### **Tahoe Mariner Settlement Agreement**

A settlement agreement (see Chapter 2 for more details) exists between the TRPA and the property owner for the Tahoe Mariner Site. The 2001 agreement includes provisions for the preservation of open space and the dedication of three lots for three single-family residences. Specifically, the agreement states that open space shall be dedicated on 1.27 acres of the property identified as area "A" and transferred to Washoe County for park purposes consistent with open space as shown below in Figure 4.1-2. Further, the property owner is to restore approximately 1.02 acres identified as area "B" and dedicate and preserve as open space the northern 2.49 acres of the site identified as area "C". Therefore, the agreement requires the preservation of 4.78 acres of total open space (including potential developed park space) on the former Tahoe Mariner Site. The agreement also states that the remaining portions of the property (Lots 1, 2, and 3) shall be used for residential purposes, with a maximum density of three units. The former Tahoe Mariner site has banked development rights and land coverage available for transfer to other parcels.

A copy of the proposed amendment to the settlement agreement is included in Appendix M. The existing Settlement Agreement must be amended to allow the development proposed by Boulder Bay in Alternatives C and D.

## EVALUATION CRITERIA WITH POINTS OF SIGNIFICANCE

Boulder Bay must obtain permits from NDOT, Washoe County, TRPA and Incline Village General Improvement District and comply with the conditions contained therein. Based on the TRPA Guidelines, a project impact is considered significant if conditions presented in Table 4.1-1 are met.

**Table 4.1-1**

### Evaluation Criteria with Point of Significance - Land Use

<b>Evaluation Criteria</b>	<b>As Measured by</b>	<b>Point of Significance</b>	<b>Justification</b>
LU-1. Will the Project be consistent with the land use plan or zoning plan, or land use goals, policies, and provisions of the TRPA Regional Plan, Code of Ordinances, or Plan Area Statement, or Washoe County Comprehensive Plan?	Goals, policies and standards	Inconsistent with more than 0 goals, policies or standards	Washoe County Comprehensive Plan TRPA Regional Plan Land Use Element TRPA Code of Ordinances Chapters 18-20, 33, 35 TRPA PAS 034 NSCP (PAS 032)
LU-2. Will the Project be consistent with adjacent land uses or expand/intensify existing non-conforming uses?	Acres of land use converted that are not consistent with adjacent land use	Greater than 0 acres of inconsistent land use	TRPA PAS 034 NSCP (PAS 032) TRPA Code of Ordinances Chapter 18
LU-3. Will the Project be consistent with NDOT encroachment permit conditions?	NDOT encroachment conditions	Inconsistent with NDOT encroachment conditions	NDOT

Source: Hauge Brueck Assoc. 2009



## ENVIRONMENTAL IMPACTS AND RECOMMENDED MITIGATION

**IMPACT:** LU-1: Will the Project be consistent with the land use plan or zoning plan, or land use goals, policies, and provisions of the TRPA Regional Plan, Code of Ordinances, or Plan Area Statement, or Washoe County Comprehensive Plan?

Analysis: *Significant Impact; Alternative A*

Alternative A will not result in any land use changes and will maintain the existing Tahoe Mariner Settlement Agreement which protects open space and allows for three residential units to be built in the future. The three residential units are not proposed for construction under Alternative A, even though they are allowed under the Settlement Agreement. However, as documented in Chapter 3, Alternative A does not support the goals of the North Stateline Community Plan, which seeks to renovate the area to improve visual consistency and visitors amenities found in family-oriented resorts. Therefore, this impact is considered to be a significant.

Mitigation: No mitigation is available.

After

Mitigation: *Significant and Unavoidable Impact; Alternative A*

Under Alternative A, there would be no modifications to the existing site structures, parking, and landscaping. As a result, the project area would continue to be inconsistent with goals and policies found in the TRPA Regional Plan and NSCP. Therefore, this impact is considered to be significant and unavoidable.

Analysis: *Significant Impact; Alternative B*

Alternative B will convert existing hotel units to hotel-design timeshare units (less than 10% with kitchens) and will maintain the existing Tahoe Mariner Settlement Agreement that protects open space and allows for up to three residential uses to be built in the future. Nevada TRPA regulations allow for modification to the Tahoe Biltmore structured gaming housing without the issuance of a TRPA permit because the conversion of hotel units to hotel-design timeshare units would occur without changing the existing structure. Like Alternative A, Alternative B does not include the redevelopment of existing site facilities and does not support the goals of the NSCP. Therefore, this impact is considered to be significant.

Alternative B includes construction of one single-family dwelling unit within Plan Area 034 – Crystal Bay pursuant to the Tahoe Mariner Settlement Agreement. The unit would be designed in accordance with design guidelines and standards regarding residential land development. Potential impacts to traffic, natural resources (e.g., land coverage), scenic quality, population, and utilities are discussed in their respective chapters of this EIS; however, from a land use perspective, single-family dwellings are a special use in Plan Area 034 and will require TRPA Code Section 18.1.B(1-3) findings for approval. The single family dwelling findings are as follows for Subsection 18.1.B(1-3):

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

*The single family home will be designed to reflect the allowable scale and style as established in the TRPA Design Guidelines. Since it is located at the northern end of the project area, away from the casino and towards other area residences, the nature*

*of the unit is appropriate for the site. The site topography separates the home from adjacent residential areas up slope of the site.*

2. 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 the land, water and air resources of both the applicant's property and that of surrounding property owners.

*As stated above, the scale, appearance and intensity of the unit will be designed to reflect both TRPA regulations and guidelines as well as the general neighborhood. The addition of one residential unit located near other existing residential units and buffered from Highway 28 and adjacent land uses with landscaping would not disturb the general welfare of persons or property in the neighborhood or region. Once designed, the unit will incorporate necessary features and measures to protect resources.*

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

*Since other residential units are located in PAS 034, and nearby parcels contain residential units, the overall character of the neighborhood would not change. The location of the unit away from the casino area would not alter the purpose of the adjacent community plan area. Site topography provides a buffer from the potential single-family home and adjacent homes up slope.*

Since the single-family home will be located on the northern end of the project area and away from the casino area, and will be designed in accordance with TRPA design guidelines, its construction will not conflict with the surrounding uses, will not create unsafe conditions for adjacent uses, and will be in character with surrounding uses in the Plan Area. Once the unit is designed and submitted for proposal, detailed findings based on the unit design will be made. Alternative B includes construction of two single-family dwelling units in the NSCP. Single-family dwellings are an allowable use in the NSCP, but will still require both TRPA and Washoe County permits for approval. Impacts associated with the single-family homes on other environmental issues are addressed in the applicable Chapters of this EIS (e.g., scenic resources, land coverage).

The proposed hotel design timeshare use in Alternative B is a special use in the North Stateline Community Plan. Of the 111 existing hotel units within the project area, 19 will be retained as hotel units (Crystal Bay Motel) and 92 associated with the Tahoe Biltmore will be converted to hotel design timeshare units. Hotel design timeshare units require that less than 10 percent of the units have kitchens. The timeshare use findings are as follows for Subsection 18.1.B(1-3):

*1. The proposed hotel-design timeshare units would be located within the existing structure resulting in no visual change. In addition, the capacity of the units would remain the same, resulting in little change to the intensity of use. Since the general use of the timeshare unit is similar to that of a hotel use and since it would be located in the casino core area which attracts tourists, the nature, scale, density, and intensity are appropriate at this location.*

*2. As stated under Finding 1, the use would be similar to the existing use and no change to the outside structure would occur. BMPs would be implemented to improve the site and better protect natural resources.*

3. *The purpose of the NSCP is to accommodate tourists and feature facilities attractive for tourism as a destination resort area (NSCP page 1-2). Timeshares attract tourists and reflect the destination resort amenities of the community plan.*

In summary, since the proposed hotel design timeshare units will be located in existing buildings and will be similar to the existing hotel units in use, differing primarily by how the units are occupied, the proposed timeshare use will not conflict with the surrounding uses because they result in little change in how the site is used, will not create unsafe conditions for adjacent uses, and will not alter the character of surrounding uses in the Community Plan Area. However, based on inconsistencies with NSCP goals and policies documented in Chapter 3, this impact is considered to be significant.

Mitigation: No mitigation is available.

After

Mitigation: *Significant Impact; Alternative B*

Under Alternative B, the existing Biltmore hotel and casino would be remodeled, but the exterior structures, parking, and landscaping would remain. As a result, the project area would continue to be inconsistent with goals and policies found in the TRPA Regional Plan and NSCP. Therefore, this impact is considered to be significant and unavoidable.

Analysis: *Less than Significant Impact; Alternative C*

Alternative C proposes unpaved walking trails within Plan Area 034 – Crystal Bay. No building footprints will be located in the Plan Area 034 portion of the project area as shown in Chapter 2 (Figure 2-4). Allowable land uses in this plan area include riding and hiking trails. Therefore, this use is consistent with allowable uses in Plan Area 034.

The remainder of the project area is located within the North Stateline Community Plan Area. The recreational day-use portion of the park and open space area is proposed to be located within the North Stateline Community Plan. Recreational day use is an allowable use in the NSCP.

Alternative C proposes 59 residential market rate and 14 affordable multi-family dwelling units. Although hotel, gaming, restaurant, recreational day-use, single-family homes, and personal services are allowable uses within the NSCP, multi-family housing is a special use that will require TRPA findings pursuant to Code Section 18.1.B (1-3). Section 18.1.B(1-3) findings are listed above under Alternative B.

Subparagraph 18.5.B(1) of the Code, which addresses changes, expansions or intensifications of existing uses, also states,

*“Uses identified as special uses and for which the required findings pursuant to subsection 18.1.B have been made by TRPA, may be changed, expanded or intensified subject to subsection 18.1.B. Special uses for which the required findings have not been made may not be changed, expanded or intensified except in accordance with subparagraph 18.1.B(3).”*

Special use findings are required for the 59 market rate and 14 affordable multi-family dwelling units proposed in Alternative C. The 14 affordable multi-family dwelling units would not be exclusive to employees of the Boulder Bay Resort, but would be available to all persons in need of affordable housing. Special use findings for the 59 multi-family dwelling units proposed under Alternative C can be made because multi-family housing is consistent with the tourist, commercial and gaming uses currently located within the project area and surrounding community plan area. Although there are no multi-family units currently on the site, the Stillwater Cove condominiums are located across SR 28

(lakeside of SR 28) from the project area within PAS 033. The 24 market rate multi-family housing units proposed in Building A on the north end of the project area adjacent to SR 28 is consistent with the housing densities included in the Stillwater Cove condominium development. The remaining 35 multi-family housing units included in Alternative C would be located in the top floors of Buildings D and E, which also include gaming and hotel uses. Multi-family housing units (e.g., penthouse condos) are consistent with the NSCP allowable hotel and gaming uses proposed for Buildings D and E.

The vision of the NSCP is to create a family-oriented destination resort. Multi-family condominium units may be more attractive to many families than standard studio hotel rooms because they offer kitchens, family gathering areas, and more privacy. NSCP Goal 1.1 states “create a more complete, family oriented destination resort area”. This goal will be met by providing a variety of housing accommodations in the project. The multi-family residential use is consistent with the purpose of the community plan (Finding 3) and is consistent with the existing adjacent land uses near Stillwater Cove and the family oriented park and near the swimming pool and children’s play area (Finding 1). These residential units and the project site include design features to protect natural resources and safety and include mitigation measures, where necessary. The mitigation measures would protect resources and maintain public safety as required under Finding 2. TRPA Code of Ordinances Subsection 14.3.A states that multi-family units should be located within a community plan area as community plans encompass areas with concentrated commercial and tourist use.

The NSCP includes goals and policies to provide affordable housing (NSCP Policy 1.4.2, Goal 4.1, policies 4.1.2, 4.1.5, 5.2.2, and Goal 13.7). Alternative C proposes 14 affordable multi-family housing units (up to 38 bedrooms) in Buildings G and H along SR 28, above the proposed ground floor commercial use (see Figure 2-4 in Chapter 2). The inclusion of affordable housing units in the top floors of the commercial buildings is consistent with the existing and proposed uses in the project area and places the affordable housing units close to the area work center and to other services required by the residents.

In addition to the multi-family housing units, Alternative C proposes 300 hotel units, an increase of 189 hotel units over existing conditions within the project area. The increased number of hotel units and proposed multi-family housing will increase the density within the project area. However, as shown below, the proposal is consistent with allowable density regulations established in the TRPA Code of Ordinances. TRPA Code of Ordinances Subsection 21.4.B establishes the maximum allowable densities for a mixed-use project. Alternative C uses category F for the density analysis because it includes 3 or more uses in the project area. Category F is documented in Code Subsection 21.4.B(2)(f) and states that “the project proponent shall designate, as part of the project application, the portion of the project area to be devoted to the residential, tourist, or developed recreational use, and the maximum density in the table in Section 21.3, or as established in an applicable plan area statement, community plan, master plan, redevelopment plan, or specific plan, shall be applied to that portion of the project area.” TRPA has determined that Category F is applied to the portion of the project area located within the NSCP boundary and that project area lands located outside of the NSCP cannot be used for the density calculation. As a result, 12.20 acres of the project area located within the NSCP are available for assignment to the uses included in Alternative C. Table 4.1-2 provides a breakdown of the allowable density for Alternative C. Based on the amount of land area available within the NSCP for the proposed uses, the number

of hotel units and multi-family residential units proposed for Alternative C is consistent with the allowable density.

In addition to the 15 units per acre allowed for multi-family dwelling units, the proposed affordable housing use is eligible for a density bonus of 25 percent. TRPA Code Section 21.3.B states that Affordable housing projects may be permitted to increase the density permitted in the table or the applicable plan area statement, community plan, master plan, redevelopment plan, or specific plan, whichever is less, by 25 percent, provided TRPA finds that: (1) the project, at the increased density, satisfies a demonstrated need for additional affordable housing; and (2) the additional density is consistent with the surrounding area. As discussed in Impact SPH-2 in Chapter 4.11, Socioeconomics, Population and Housing, the project will increase employment in the service and hospitality sector, and as a result, will increase demand for affordable housing. The 25 percent density bonus translates into three additional affordable housing units. The addition of three affordable housing units will not increase density to the point that it would be inconsistent with surrounding development.

**Table 4.1-2**

Alternative C Allowable Density Calculation

Land Use	NSCP Project Area (acres)	Maximum Density <sup>1</sup>	Multiplier <sup>2</sup>	Permissible Density	Mixed Use Units <sup>3</sup>
Tourist Accommodations (Hotel)	7.50	40.00	1.00	40.00	300
Multi-family dwelling (Whole Ownership)	3.93	15.00	1.00	15.00	59
Multi-family dwelling (Affordable Housing)	0.77	15.00	1.25	18.75	14
	<b>12.20</b>				<b>373</b>

Source: TRPA Code Chapter 21 and Boulder Bay, 2009

- 1 Maximum density is defined in TRPA Code Subsection 21.3 and the NSCP (page A-14).
- 2 The multiplier for Multi-family dwelling (Affordable Housing) includes a 25% density bonus as allowed by Code Section 21.3.B (assuming the necessary findings can be made)
- 3 Calculated by multiplying the project area assigned to the use by the permissible density.

Alternative C proposes a conference and meeting center (21,253 square feet), health and wellness spa space (19,089 square feet), fitness center (9,860 square feet), and hotel retail, restaurant and bar (5,180 square feet) as accessory uses under the proposed hotel and casino development. One goal of the Boulder Bay Resort is a reduction of existing gaming area and expansion of conference/meeting and health and wellness (spa) facilities, uses that are common at destination hotel resorts. The square feet of accessory space proposed under Alternative C does not include restaurants or retail units associated with the pedestrian village, but does include dining facilities, bars, lobbies, and retail space associated with the hotel, casino and spa/meeting center. Accessory uses also include the daycare facility as well as lobbies, administrative offices, maintenance and service rooms associated with each building. Alternative C results in 89,187 square feet of accessory use or 16 percent of the total resort square footage.

TRPA Code of Ordinances Subsections 18.2, 18.2.A, and 18.2.E defines accessory uses allowed by TRPA.

18.2 Accessory Uses: Accessory uses shall be regulated pursuant to the regulations applicable for the primary use upon which the accessory use is dependent. No project or activity pursuant to an accessory use may be permitted without a related primary use, existing or approved, on the same parcel.

18.2.A Accessory Use Defined: An accessory use is defined as a use, building, or other facility customarily a part of any primary use; that is clearly incidental and secondary to the primary use; that does not change the character or the intensity of the primary use; and that does not operate independent of the primary use. Additional criteria for determining commercial accessory uses for noncommercial primary uses are found in subparagraph 33.3.A(1)(b). Examples of accessory uses and related major categories of primary uses are as follows:

18.2.A(2) Tourist Accommodation: Accessory uses such as garages, parking lots, swimming pools, tennis courts, bars and restaurants, equipment rental, maintenance facilities, laundries, gymnasiums, coin operated amusements, meeting rooms, managers quarters, child care facilities, emergency facilities, employee facilities other than housing, secondary residence, restricted gaming (Nevada only) and other uses listed in the definition of primary use as accessory.

18.2.E Determination Of Accessory Use: Accessory uses not listed as accessory by example above may be considered accessory upon a finding by TRPA that the use is accessory based on the criteria in Subsection 18.2.A above.

As noted above under Code Subsection 18.2.A, TRPA must also make the findings included in Code Subsection 33.3.A(1)(b) for accessory uses proposed under Alternative C. Under the Subsection 33.3.A(1)(b) criteria an accessory use has no separate entrance or parking, is not separately advertised, is compatible with the size and patronage of the primary use, is used during the same season as the primary use, does not generate additional vehicle trips, and is principally for service or repair rather than sales. The NSCP states the following regarding accessory uses, “Any project or use that creates additional commercial floor area requires an allocation of commercial floor space, measured in square feet. An exception is that when additional commercial floor area is accessory to a non-commercial primary use, a commercial floor area allocation is not required. An example would be a coffee shop in a hotel.” (NSCP, page 7-12).

The proposed conference/meeting space and health and wellness center (spa) will be used by Boulder Bay hotel guests. The proposed tourist accommodation units (hotel rooms), gaming and multi-family residential units are the primary uses included in the Boulder Bay project. According to the Alternative C project description, the conference/meeting and health and wellness (spa) uses will be accessed through the hotel and casino lobby spaces, will utilize the hotel and casino parking, will not operate independent of the hotel and casino facility, and will not be advertised separate from the hotel facility. The accessory uses will be used during the same season as the hotel and casino uses (yearly) and will not generate additional vehicle trips because their use was considered when developing the trip generation rate for the hotel rooms. The proposed meeting rooms and fitness center (gym space) are listed under the examples of accessory uses in Code Section 18.2.A(2), but the proposed health and wellness center (spa) use is not listed as an example. To conclude that the health and wellness center (spa) is also an accessory

use to the primary tourist accommodation use, TRPA must determine that the spa use is similar to the conference/meeting space and is an incidental and secondary use to the proposed hotel, does not change the character or intensity of the primary use, and that it does not operate independent of the primary use (per Code Subsection 18.2.E). Upon making this determination, the proposed conference/meeting space, health and wellness spa space, fitness center, and hotel restaurant and bar uses would not be included in the commercial floor area calculation, which would decrease from 56,322 square feet to 30,715 square feet under Alternative C.

The following discussion presents a comparison between the accessory uses proposed under Alternative C and the square footage of accessory uses typically found in “Resort Conference Centers” as defined by the book *Hotel Design Planning and Development, Rutes, Penner and Adams* and two comparable Lake Tahoe Region resorts. According to *Hotel Design Planning and Development*, the resort conference centers vary in size; in the 1990s most new properties had approximately 300-400 rooms in order to support the recreational infrastructure, but more recent projects have only 150-200 traditional hotel guestrooms but include nearby timeshare rental units. The resort centers usually have somewhat less meeting space than do executive centers, but offer more food and beverage choices and substantially larger recreational facilities.

Table 4.1-3 compares the amount of accessory space typically provided by a resort conference center according to *Hotel Design Planning and Development*, the amount of space proposed in Alternative C, and the amount of accessory space provided by two comparable resorts in the Lake Tahoe Region (Hyatt Regency Lake Tahoe and Resort at Squaw Creek). Table 4.1-3 demonstrates that guestroom space proposed for Alternative C is greater than standard hotel design practices (measured by percent of total development area) and that accessory space proposed for Alternative C is less than standard hotel design practices defined in *Hotel Design Planning and Development*. Alternative C proposes less public area and meeting/conference area than comparable resorts, but proposes a greater amount of spa space. This is consistent with the Resort’s objective to provide a broader range of wellness and health programs to its guests.

Alternative C’s consistency with applicable TRPA Regional Plan, NSCP, and Washoe County Goals and Policies is analyzed in Chapter 3. The Chapter 3 consistency analysis demonstrates that Alternative C is consistent with applicable goals and policies for the project area.

In summary, the uses proposed in Alternative C are consistent with NSCP and Plan Area land use direction for the project area, and with Code Subsection 18.2.A regarding accessory uses for tourist accommodation units. Should the TRPA Board determine that the health and wellness spa use does not meet the findings necessary to support an accessory determination, additional commercial floor area available within the project area would be required to accommodate Alternative C. However, with either finding, the health and wellness use would be consistent with the planning direction for the NSCP project area. Therefore, this impact is considered to be less than significant.

Mitigation: No mitigation is required.

**Table 4.1-3**

**Comparison of Boulder Bay Accessory Uses With Standard Hotel Design Practices and Comparable Lake Tahoe Region Resorts**

	<b>Resort Conference Center<sup>1</sup></b>	<b>Boulder Bay Hotel Alternative C   D</b>	<b>Hyatt Lake Tahoe</b>	<b>Resort at Squaw Creek</b>	
<b>Guestrooms</b>	Resort Conference Center: Large to very large rooms, 5-10% suites				
Number of guestrooms	150-400	300	200	422	405
Typical net area (sf per key)	325-375	490	577	NA	450
Gross area (sf per key)	525-625	616	719	NA	719
Total Guest Room Area (sf)	219,600	209,602	159,328	NA	291,000
Percent of Total	45-55%	73%	69%	NA	68%
<b>Public Areas</b>	Resort Conference Center: Average lobby with view over grounds; conference dining, specialty restaurant and recreation dining; entertainment lounge				
Number of restaurants	3	2	2	2	4
Number of lounges	2-3	1	1	2	2
Gross area (sf per key)	90-125	15	22	21	37
Percent of Total	8-12%	2%	2%	4%	4%
<b>Conference Areas</b>	Resort Conference Center: Large ballroom; moderate number of meeting and breakout rooms; amphitheater				
Number of ballrooms	2	2	2	4	2
Number of auditoriums	1	0	0	0	0
Number of meeting rooms	6-15	6	6	7	12
Number of breakout rooms	4-8	2	2	4	4
Gross area (sf per key)	125-190	71	106	118	118
Percent of Total	8-20%	7%	9%	14%	11%
<b>Recreation Areas</b>	Resort Conference Center: Many outdoor facilities; pool; health club/spa				
Gross area (sf per key)	50-200	96	145	47 <sup>2</sup>	25 <sup>2</sup>
Percent of Total	4-15%	10%	13%	6%	2%
<b>Administration/Service</b>					
Gross area (sf per key)	140-190	54	61	NA	NA
Percent of Total	14-17%	6%	5%	NA	NA
<b>Total Gross Area (sf per key)</b>	1,050-1,200	955	1,148	834	1,062
<b>Total Gross Area (sf)</b>		286,601	227,670	351,929	430,000

Source: Hotel Design Planning and Development (2001); Boulder Bay Program; Hyatt Lake Tahoe; Resort at Squaw Creek

1 Facility description for resort conference center accessory uses and square foot values per key as defined by Hotel Design Planning and Development (2001), Tables 6.2 and 6.3.

2 Only includes Spa; no figures available for fitness, kids area, pool, etc.

NA Not Available



Analysis: *Significant Impact; Alternative D*

Alternative D proposes unpaved walking trails within Plan Area 034 – Crystal Bay. No building footprints will be located in the Plan Area 034 portion of the project area. Allowable land uses in this plan area include riding and hiking trails. Therefore, this use is consistent with allowable uses in Plan Area 034.

The remainder of the project area is located within the North Stateline Community Plan Area. The recreational day-use portion of the park and open space is proposed to be located within the North Stateline Community Plan. Recreational day use is an allowable use in the NSCP.

Alternative D proposes 21 residential market rate and 9 affordable multi-family dwelling units. Although hotel, gaming, restaurant, recreational day-use, single-family homes, and personal services are permissible uses within the NSCP, multi-family housing is a special use that will require TRPA findings pursuant to Code Section 18.1.B(1-3). The rationale for the findings required for the 21 market rate and 9 affordable multi-family housing units proposed in Alternative D is similar with the analysis provided above for Alternative C. The multi-family housing units proposed in Alternative D are consistent with the character of the existing community and are a land use that should be located within a community plan area where urbanization is concentrated. The NSCP includes goals and policies to provide affordable housing (NSCP Policy 1.4.2, Goal 4.1, policies 4.1.2, 4.1.5, 5.2.2, and Goal 13.7). In addition, multi-family housing promotes family-oriented tourism by offering more family-friendly accommodations as discussed above for Alternative C.

In addition to the multi-family housing units, Alternative D proposes 160 residential design timeshare units and 200 hotel units. The residential design timeshare units are not a permissible use in the NSCP. Residential design timeshare units include kitchens in more than 10% of the units. The NSCP allows hotel design timeshares (less than 10% of the units with kitchens) under the provisions for a special use, but would require a Community Plan amendment to allow for the approval of Alternative D. Therefore, Alternative D includes a proposed NSCP amendment to add timeshare (residential design) to the list of permissible uses under the provisions for a special use. There are no physical impacts associated with the proposed NSCP amendment to add residential design timeshare use because the residential design timeshare use is nearly identical to the hotel/motel design timeshare use currently allowed in the NSCP (the difference is the ability to include a kitchen in the residential design timeshare units). Based on the definition of the two uses in TRPA Code Chapter 18, the units design can be identical from the outside with the same building height, land coverage, use, etc. For transportation analysis, the two timeshare uses are assigned the same trip generation rate in the Institute of Transportation Engineers (ITE) Trip Generation Handbook (see Chapter 4.8, Transportation).

In order to amend the NSCP to add the timeshare (residential design) use, findings must be made in accordance with Chapters 6, 13, and 14 of the Code of Ordinances. Chapter 6 of the TRPA Code of Ordinances establishes findings required for approval of any project or to amend or adopt TRPA Ordinances, Rules or other TRPA Plans and Programs. To approve any amendment, findings 1 through 3 are required pursuant to Subsection 6.3.A, which states:

- 1 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,

- 2 The project will not cause the environmental threshold carrying capacities to be exceeded, and
- 3 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(d) of the Tahoe Regional Planning Compact, the project meets or exceeds such standards.

To make Code Subsection 6.3.A findings for Alternative D, TRPA must find that Alternative D is consistent with applicable Goals and Policies, will not exceed environmental thresholds, and will meet or exceed applicable air and water quality standards. Alternative D results in several significant impacts associated with scenic quality that cannot be reduced to a less than significant level. No mitigation measures that allow for implementation of the proposed building height and massing have been identified in this EIS. The only measures available to mitigate the scenic impacts would include building height reduction consistent with the building heights proposed in Alternative C. Modification of the proposed building heights would make Alternative D consistent with community design related goals and policies analyzed in Chapter 3 (e.g., Land Use Element, Community Design Goal 2, NSCP Policy 10.2). As a result, with mitigation measures or recommended changes to the development program included in this EIS, TRPA could make the Chapter 6 findings to amend the NSCP as under Alternative D.

Chapter 13 of the Code establishes findings for amendments to Plan Area Statements. Section 13.7.D(1) requires that an amendment must be substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C. Subsection 13.5.B is in regard to the Plan Area Designation, which, for the NSCP, is Tourist Area. Timeshares are inherently tied to tourism based on the process in which units are leased. Timeshares that offer kitchen units are more attractive to families, particularly with children. Including residential design timeshares in the NSCP would further meet the goal of becoming a family-oriented destination. In addition, the Management Strategy for the NSCP is Redirection, which is a designation to create improvements by changing the direction of development, thereby improving the natural and scenic environment while providing high quality facilities for residents and visitors. Allowing residential design timeshare units would allow more versatile accommodations within a smaller hotel design footprint, which would result in less coverage per unit. In addition, the design of newer facilities would be required to follow the design review process and design guidelines to improve the architectural character of the NSCP and provide the potential to integrate green building practices and general site improvements. Subsection 13.5.C applies to Special Designations. The Special Designation associated with the NSCP is Transfer of Development Rights Receiving Areas that include existing development and multi-residential units. Allowing residential design timeshare units would be appropriate under this Special Designation as the community plan area is associated with urban areas and tourism. Since the community plan area is designed to concentrate urban uses in one area to avoid urban sprawl throughout the Lake Tahoe Basin, this would be an appropriate location for residential design timeshare units.

Chapter 14 of the Code specifically applies to Community Plans. In particular, Section 14.7 applies to the maintenance and modification of Community Plans, which allows for consideration of Community Plan amendments to reflect current goals and targets. Alternative D would include a proposed amendment to add timeshare (residential design) as an allowable use. Residential timeshare units, as stated above, enhance the ability of the NSCP to be a family-oriented destination.

Alternative D proposes 200 hotel units, an increase of 89 hotel units over existing conditions within the project area. The increased number of hotel units and proposed multi-family housing will increase the density within the project area. However, with one exception for multi-family dwelling units (affordable housing) as shown below, the proposal is consistent with allowable density regulations established in the TRPA Code of Ordinances.

TRPA Code of Ordinances Subsection 21.4.B establishes the maximum allowable densities for a mixed-use project. Because Alternative D includes 3 or more uses in the project area, category F is used for the density analysis. A description of Category F is provided above under the analysis for Alternative C. Table 4.1-4 provides a breakdown of the allowable density for Alternative D. Based on the amount of land area available within the NSCP for the proposed uses, the number of hotel units and multi-family (whole ownership) dwelling units proposed for Alternative D is consistent with the allowable density. The number of affordable housing units proposed for Alternative D exceeds the maximum allowable density. Alternative D proposes multi-family (affordable housing) dwelling units on 0.47 acres of the project area, which allows 8 dwelling units using the allowable density of 15 units per acre and a density bonus of 25% allowable for affordable housing projects. Therefore, the number of affordable housing units proposed in Alternative D is not consistent with allowable density calculations.

**Table 4.1-4**

Alternative D Allowable Density Calculation

Land Use	NSCP Project Area (acres)	Maximum Density <sup>1</sup>	Multiplier	Permissible Density	Mixed Use Units <sup>2</sup>
Tourist Accommodations (Hotel)	5.00	40.00	1.00	40.00	200
Timeshare (Residential Design)	5.33	15.00	2.00	30.00	160
Multi-family dwelling (Whole Ownership)	1.40	15.00	1.00	15.00	21
Multi-family dwelling (Affordable Housing)	0.47	15.00	1.25	18.75	8
	<b>12.20</b>				<b>389</b>

Source: TRPA Code Chapter 21 and Boulder Bay, 2009

- 1 Maximum density is defined in TRPA Code Subsection 21.3 and the NSCP (page A-14).
- 2 Calculated by multiplying the project area assigned to the use by the permissible density.

Alternative D proposes a conference and meeting center (21,253 square feet), health and wellness spa space (19,089 square feet), fitness center (9,860 square feet), and hotel retail, restaurant and bar (5,180 square feet) as accessory uses under the proposed hotel and casino development. Like Alternative C, Alternative D would result in an increase in accessory use area with the expansion of the hotel facility, particularly as the resort reduces gaming area and transfers its focus toward providing larger conference/meeting areas and health and wellness (spa) facilities, which are services for the guests of the

resort and are common facilities at destination resorts. Therefore, the proposed conference/meeting space, health and wellness (spa) space, and restaurant accessory uses are not included in the commercial floor area calculation, which decreases from 56,322 square feet to 37,620 square feet under Alternative D.

The square feet of accessory space under Alternative D does not include restaurants or retail units associated with the pedestrian village, but does include dining facilities, bars, lobbies, and retail space associated with the hotel, casino and spa/meeting center. Accessory uses also include the daycare facility as well as lobbies, administrative offices, maintenance and service rooms associated with each building. Alternative D results in 90,640 square feet of accessory use or 13 percent of the total resort square footage.

Table 4.1-3 presents a comparison between the accessory use area proposed under Alternative D and the square footage of accessory uses typically found in “Resort Conference Centers” as defined by the book *Hotel Design Planning and Development, Rutes, Penner and Adams* and two comparable Lake Tahoe Region resorts. Table 4.1-3 demonstrates that hotel room space proposed for Alternative D is less than standard hotel design practices in square footage, but greater in percentage of the total development area. Alternative D also proposes 160 timeshare units that are not included in the calculation because they are not standard guestrooms. Their inclusion would further increase the amount of space dedicated for accommodations versus other accessory related uses. Table 4.1-3 demonstrates that accessory space proposed for Alternative D is less than standard hotel design practices defined in *Hotel Design Planning and Development*. Alternative D proposes less public area and meeting/conference area than comparable resorts, but proposes a greater amount of recreational spa space. This is consistent with the Resort’s objective to provide a broader range of wellness and health programs to its guests.

Alternative D’s consistency with applicable TRPA Regional Plan, NSCP, and Washoe County Goals and Policies is analyzed in Chapter 3. The Chapter 3 consistency analysis demonstrates that Alternative D is generally consistent with applicable goals and policies for the project area. Two inconsistencies occur as a result of Alternative D’s building height and massing as viewed from SR 28 and adjacent roadways.

In summary, the proposed building height and massing is inconsistent with applicable goals and policies, and the number of proposed multi-family housing units exceeds allowable density calculations. Therefore, this impact is considered to be significant.

Mitigation: **LU-1A: Reduce Proposed Building Height to be Consistent with TRPA Resolution No. 2008-11.**

Alternative D shall be redesigned to reduce building heights consistent with the maximum building height (75 feet) prescribed in TRPA Resolution No. 2008-11 and the proposed Chapter 22 height amendment (Appendix U) analyzed in Impact SR-1 of Chapter 4.5 of this EIS.

**LU-1B: Reduce Development Levels to Equal Allowable Density.**

The proposed development level (9 affordable multi-family housing units) shall be reduced by one unit to be consistent with density limits set forth in Code Subsection 21.4.B.

After

Mitigation: *Less than Significant Impact; Alternative D*

Amending the Community Plan to add residential design timeshare use, reducing proposed building heights, and reducing the number of affordable housing units would reduce the identified impact to a less than significant level. Based on the required findings necessary to amend the NSCP to add residential design timeshare use, it is likely that TRPA could amend the NSCP. Therefore, with the proposed NSCP amendment and recommended mitigation, this impact would be reduced to a less than significant level for Alternative D.

Analysis: *Less than Significant Impact; Alternative E*

As discussed above in Alternative B, Alternative E will include one single-family dwelling unit within Plan Area 034 – Crystal Bay pursuant to the Tahoe Mariner Settlement Agreement. Single-family dwellings are a special use in Plan Area 034 and will require findings for approval as outlined under Alternative B. Since the same findings as discussed for Alternative B could be made for Alternative E, the addition of a single-family residence in this area would not result in a significant impact. Alternative E will include two single-family dwelling units within the NSCP. Single-family dwellings are an allowable use in the NSCP.

Although hotel, gaming, restaurant, recreational day-use, single-family homes, and personal services are permissible uses within the NSCP, multi-family housing is a special use that will require TRPA findings pursuant to Code Section 18.1.B, but not an amendment to the NSCP. The rationale for the findings required for the 30 market rate multi-family housing units proposed in Alternative E (Building E) is similar with the analysis provided above for Alternative C. The multi-family housing units proposed in Alternative E are consistent with the character of the existing community and are a land use that should be located within a community plan area where urbanization is concentrated. The NSCP includes goals and policies to provide affordable housing (NSCP Policy 1.4.2, Goal 4.1, policies 4.1.2, 4.1.5, 5.2.2, and Goal 13.7). In addition, multi-family housing promotes family-oriented tourism by offering more family-friendly accommodations as discussed above for Alternative E.

Alternative E proposes 202 hotel units, an increase of 91 hotel units over existing conditions within the project area. One hundred and thirty two of the 202 hotel units will be located in proposed Buildings B and C. The rest would remain in the existing Crystal Bay Motel and the Tahoe Biltmore buildings. The increased number of hotel units and proposed multi-family housing will increase the density within the project area. However, as shown below, the proposal is consistent with allowable density regulations established in the TRPA Code of Ordinances.

TRPA Code of Ordinances Subsection 21.4.B establishes the maximum allowable densities for a mixed-use project. Because Alternative E includes 3 or more uses in the project area, category F is used for the density analysis. A description of Category F is provided above under the analysis for Alternative C. Table 4.1-5 provides a breakdown of the allowable density for Alternative E. Based on the amount of land area available within the NSCP for the proposed uses, there is more than adequate area for the proposed density – only 9.47 of the available 12.20 acres within the NSCP are needed for the density calculation. Therefore, this impact is considered to be less than significant.

**Table 4.1-5**

Alternative E Allowable Density Calculation

Land Use	NSCP Project Area (acres)	Maximum Density <sup>1</sup>	Multiplier	Permissible Density	Mixed Use Units <sup>2</sup>
Tourist Accommodations (Hotel)	5.05	40.00	1.00	40.00	202
Timeshare (Hotel Design)	1.50	15.00	2.00	30.00	45
Multi-family dwelling (Whole Ownership)	2.00	15.00	1.00	15.00	30
Single family dwelling	0.92	1 per acre	1.00	3.00	3
	<b>9.47</b>				<b>280</b>

Source: TRPA Code Chapter 21 and Boulder Bay, 2009

- 1 Maximum density is defined in TRPA Code Subsection 21.3 and the NSCP (page A-14).
- 2 Calculated by multiplying the project area assigned to the use by the permissible density.

Alternative E Accessory uses under Alternative E include the hotel and casino gift shop, lobbies, meeting areas, administrative offices, and general maintenance and service rooms. Alternative E accessory uses total 39,267 square feet or approximately 11 percent of the total square footage. Dining areas including bars/lounges, café, and restaurant were not included, nor were retail/office space other than the gift shop and resort administrative offices. As discussed above for Alternatives C and D, the Code of Ordinances strictly limits what may be considered an accessory use. The total commercial floor area decreases from the existing 56,322 square feet to 49,888 square feet as a result of Alternative E.

The proposed hotel design timeshare use in Alternative B is a special use in the North Stateline Community Plan. Alternative E proposes 45 hotel design timeshare units in Building D, located adjacent to SR 28 and the existing Biltmore Casino and Hotel. Special use findings for the 45 hotel design timeshare units proposed under Alternative E can be made because the use is consistent with the tourist, commercial and gaming uses currently located within the project area and surrounding community plan area. As discussed above under Alternative B, the proposed hotel design timeshare use will not conflict with the surrounding uses, will not create unsafe conditions for adjacent uses, and will be in character with surrounding uses in the Community Plan Area. Therefore, this impact is considered to be less than significant.

Mitigation: No mitigation is required.

**IMPACT:** **LU-2: Will the Project be consistent with adjacent land uses or expand/intensify existing non-conforming uses?**

Analysis: *Less than Significant Impact; Alternatives A and B*

Alternative A would not alter the existing uses of the existing Tahoe Biltmore and Tahoe Mariner sites. No change, expansion, or intensification would occur. Since the actively used portion of the Tahoe Biltmore site is within the casino core and Main Street areas of the NSCP, this impact is considered less than significant.

Alternative B would result in the conversion of 92 hotel units to hotel design timeshare units. Since these units would continue to serve the tourist population, there would be little change in the use of the site. Under Alternative B, the gaming area would expand from 22,400 square feet to 29,744 square feet, the maximum certified amount of gaming floor area for the site as approved by NTRPA. Although this is an expansion of gaming area, the concentration of gaming in this area and the moderate expansion of gaming area under this alternative would not result in a significant land use change, particularly since gaming is an existing conforming use. Open space and parking configuration would not change. Since the Tahoe Biltmore is an existing and operating casino and hotel in the North Stateline Casino Core area, the expansion of the casino, a conforming use, within its current structure will be consistent with adjacent land uses.

Alternative B would result in the development of three single-family homes on the three parcels within the Tahoe Mariner site in accordance with the “Settlement Agreement Between Crystal Bay Associates and the TRPA”. These homes would be surrounded by open space and located between SR 28 and Wassou Road, nearest the existing single-family homes between Wassou and Lakeview Drive. Single-family homes are considered a special use in PAS 034 and are allowed in the NSCP, although special use findings would need to be made as described above under Impact LU-1.

Mitigation: No mitigation is required.

Analysis: *Less than Significant Impact; Alternative C*

Alternative C proposes to expand the number of tourist accommodation hotel units within the project area, and proposes to add multi-family dwellings. Table 4.1-6 outlines the existing and proposed tourists and residential units for Alternative C.

The Boulder Bay proponents currently own 150 Tourist Accommodation Units (TAUs) associated with the Biltmore Hotel (95), the Crystal Bay Motel (19), the former Baltabrin Casino (19) and 17 units banked on the Sierra Park parcels. The 17 units banked on the Sierra Park parcels are currently verified as CFA by TRPA. If TRPA does not allow Boulder Bay to convert the CFA back to TAUs as proposed (at a rate of 2,470 CFA for each TAU), Boulder Bay would be required to increase the number of TAU transferred from others by 17 (from 79 to 96 for Alternative C). Boulder Bay owns or has options for up to 148 TAU from seven properties located in Washoe and El Dorado Counties. TAUs are required to allow the proposed increase in hotel units. The 148 TAUs include:

Property	Sending Parcel	Sending Parcels	County	No. TAU Purchased
Siera Boquet VI, Inc.	127-600-05	1	Washoe	8
Gabrielli	124-082-21	1	Washoe	5
Thunderbird Lodge	029-061-08/13	2	El Dorado	31
Rainbow Lodge	029-062-02	1	El Dorado	11
Tahoe Budget Inn	032-201-13	1	El Dorado	20
Tahoe Mountain Lodge	029-161-24	1	El Dorado	21
The Colony Inn	029-441-04-100	1	El Dorado	42
The Colony Inn (non SEZ)	029-441-04-100	1	El Dorado	10
<b>Total TAU Transferred</b>		<b>8</b>		<b>148</b>

The Boulder Bay proponents currently own three equivalent residential units (ERUs) associated with the back parking lot at the Biltmore (2) and the manager’s unit at the Crystal Bay Motel (1). Boulder Bay owns or has options for up to 56 ERU from properties located in El Dorado County. ERUs are required for the multi-family and single-family residential units. Forty-two of the ERUs come from TAUs located on the site of The Colony Inn that will be restored as SEZ. These units can be converted to ERU under the provisions of TRPA Code Chapter 33.7.

**Table 4.1-6**

Existing and Proposed Tourist and Residential Units by Alternative

Units	Alt C	Alt D	Alt E
<b>Tourist Accommodation Units (TAU – Hotel and Timeshare Units)</b>			
Existing Boulder Bay Owned TAU	150	150	150
Bonus TAU from NSCP Pool (NSCP transfer match)	31	31	31
Bonus TAU from TRPA Special Project Pool (SEZ restoration match)	40	40	0
Boulder Bay Purchased TAU available for Transfer <sup>1</sup>	79	139 <sup>2</sup>	66
Total Proposed TAU	300	360	247
<b>Equivalent Residential Units (ERU – Whole Ownership and Single Family Units)</b>			
Existing Boulder Bay ERU	3	3	3
Boulder Bay Purchased and Transferred ERU	56 <sup>3</sup>	18 <sup>2</sup>	30 <sup>4</sup>
Total Proposed ERU	59	21	33
<b>Multi-Family Residential Bonus Units (MBRU - Affordable Housing)</b>			
Proposed MBRU (CEP Bonus Allocation)	14	9	0

Source: Boulder Bay, LLC, July 2009

- 1 Boulder Bay has purchased, or has options to purchase, up to 148 TAUs from two properties in Washoe County and six properties in El Dorado County. Forty-two of the assembled El Dorado County TAUs (The Colony Inn, APN 029-441-04-100) include SEZ restoration credits based on the restoration of approximately 1.5 acres of SEZ. These TAUs can be used to qualify for TAUs from TRPA’s special project bonus pool (one TAU for each TAU with SEZ restoration credit) and may also be converted to ERUs under the provisions of TRPA Code Chapter 33.7 (one ERU for each TAU with SEZ restoration credit).
- 2 Of the 42 TAU described above that include SEZ restoration, 36 will be used as TAU and 4 will be converted to ERU under Alternative D. The remaining would be available for use in another project.
- 3 Of the 42 TAU described above that include SEZ restoration, each will be used as ERU under Alternative C.
- 4 Of the 42 TAU described above that include SEZ restoration, 16 will be used as ERU under Alternative E. The remaining would be available for use in another project.

The 14 affordable housing multi-family units proposed under Alternative C will use multi-family residential bonus units (MRBU) from TRPA’s bonus pool for affordable housing. The Project has 48 MRBU units reserved through the CEP, where a bonus allocation is provided in accordance with the community benefits afforded through the CEP. The maximum density allowed by the NSCP does not allow for more than 14



affordable housing units under Alternative C based on the acreage set aside for tourist accommodation and market rate multi-family residential units. The remaining 34 MRBUs reserved for Boulder Bay and not used by Alternative C will be returned to the TRPA bonus pool.

Under Alternative C, Boulder Bay will transfer up to 79 TAUs to the project area from properties located throughout the Lake Tahoe Basin. Under Alternative C, the 79 TAUs will come from banked TAUs located on two properties in Washoe County (13 TAUs from Gabrielli House and Lakeside Tennis), one property in El Dorado County (20 TAUs from the Tahoe Budget Inn), and four properties in the Stateline/Ski Run Community Plan (46 TAUs). Stateline/Ski Run CP properties include the former Thunderbird Lodge (4 TAUs), Rainbow Lodge (11 TAUs), Tahoe Mountain Lodge (21 TAUs) and The Colony Inn (10 non-SEZ TAUs). The TAUs proposed for construction at the Boulder Bay project area will be larger than the TAUs removed from the sending sites. The average TAU size under Alternative C is 556 square feet. The average size of the TAUs demolished within the sending parcels is approximately 325 square feet (approximately 13 by 25 feet). However, transferring the TAUs to the Boulder Bay project area would eliminate potential impacts (e.g., trip generation, land coverage, etc.) that could result within the sending Plan Area or Community Plan because the transferred TAUs would not be rebuilt at the sending location in the future. The new TAUs constructed at Boulder Bay would utilize much less water and energy resources than the units removed from both the onsite and offsite locations proposed for TAU transfer. An integrated resource model and carbon footprint study prepared by Boulder Bay by ARUP North America, Ltd shows that Boulder Bay will use 38 percent less energy and water despite having more units (based on proposed bonus unit) and more square footage than the TAUs that will be transferred (under Alternative D, which includes more development than Alternative C).

The majority of TAUs proposed for transfer are from the Stateline/Ski Run Community Plan. Many of the parcels from which these TAUs originated were overdeveloped at the time of their construction and exceeded the allowable land coverage limits. In addition, a portion of the Colony Inn units were located within sensitive SEZ habitat that are being restored. Although the transfer of 46 TAUs would result in a decrease in the available TAUs in the Stateline/Ski Run Community Plan, it would also contribute to water quality and visual improvements, helping to meet applicable Community Plan goals.

The physical effects at the Boulder Bay TAU receiving site have been analyzed in this EIS and have been mitigated where necessary to avoid significant impacts. The proposed TAU transfer will reduce existing development potential in the applicable Washoe and El Dorado County Plan Areas and Stateline/Ski Run Community Plan. However, the TAUs proposed for transfer are spread out over two counties and will not result in a substantial loss of development potential in any one location. Under Alternative C, up to 46 TAUs will come from the Stateline/Ski Run Community Plan area, which has approximately 5,500 TAUs (Table 4.1-B, Stateline/Ski Run CP EIR/EIS). Therefore, the 46 TAUs proposed for transfer represent less than a one percent reduction in the Stateline/Ski Run Community Plan TAU pool. As stated above, the remaining 33 TAUs come from Washoe (13) and El Dorado Counties (20 from the former Tahoe Budget Inn). The Washoe County TAUs come from buildings that were converted to single-family dwellings or reconfigured to reduce the number of tourist accommodations. The El Dorado County TAUs come from the South Wye area where a concentration of underperforming TAUs was located.

A reduction in the number of TAUs from the south shore redevelopment area has been studied in numerous environmental documents and plans, including the South Lake Tahoe Redevelopment Demonstration Plan, the environmental documents for the South Lake Tahoe Redevelopment Project No. 1, the Stateline/Ski Run Community Plan, and an Amendment of the Community Plan processed in 2007. The Redevelopment Plan states that “Redevelopment must result in the upgrading of the visitor and lodging facilities in the community and, where possible, a reduction in the number of hotel/motel units to improve overall occupancy percentages and the resulting income to the community.” The EIR/EIS for Redevelopment Project No. 1 documents that additional height in the redevelopment area can be obtained with the removal of hotel units and states “About four acres of public parks and beach would be provided through consolidation of development. The projects would retire hotel rooms within the Redevelopment Plan as required in this section [Code Section 15.11.A(3)]”. The redevelopment plans and the Stateline/Ski Run Community Plan environmental documentation assumed that 920 to 940 lodging units would be retired or displaced. In 2007, the TRPA amended the Stateline/Ski run Community Plan to allow for the transfer of TAUs outside of the Loop Road area designated in the Community Plan. The 2007 amendment facilitates the transfer of 36 TAUs located within the Loop Road area. As a result of the planning direction included in the documents listed above, the TAU transfer proposed under Alternative C will not impact the ability of local jurisdictions to achieve the vision and planning considerations included in applicable planning documents.

Boulder Bay proposes to use 31 of the 43 bonus TAUs available in the NSCP pool and 40 bonus TAUs from the TRPA Special Project Pool (available as a result of the demolition and restoration of TAUs from the Colony Inn that were located in SEZ) for Alternative C. Each of these bonus units can be transferred to the Project through the transfer process outlined in the CEP Application.

The 42 TAUs from the Colony Inn SEZ restoration will be used differently under each of the action alternatives based on the different combinations of TAUs and ERUs proposed. Under Alternative C, each of the 42 TAUs from the SEZ restoration at The Colony Inn would be converted to ERUs following transfer to the project site. At the time the TAUs are transferred to the Boulder Bay project area, the Colony Inn TAUs would be used to earn 40 bonus TAUs from the TRPA Special Project Pool based on the SEZ restoration associated with those banked TAUs. This transfer process requires compliance with both Chapters 33 and 34 of the Code as described below.

Chapter 33.7 allows the conversion of TAUs to ERUs at a one to one ratio as stated in Section 33.7.A – Transfer from Sensitive Lands, “Conversion of an existing residential or tourist accommodation unit to a residential, tourist, or commercial use may be permitted when a residential or tourist unit is transferred from a parcel classified as land capability districts 1, 2, 3, or SEZ, and the parcel is restored.” Therefore, the 42 TAUs at the Colony Inn SEZ restoration site may be converted to ERUs. With this conversion and transfer, there would be sufficient ERUs for Alternative C.

The 42 TAUs restored at The Colony Inn site also allow Boulder Bay to earn 40 bonus units from the TRPA special projects pool. Bonus TAUs may be awarded pursuant to TRPA Code of Ordinances Chapter 35.3 if four criteria are met. These criteria are listed below with an analysis of the project’s ability to meet these criteria in *italics*:

1. The proposed density, including any tourist accommodation bonus units, shall not exceed the maximum density limits set forth in the adopted community plan.

*Density limits for each Alternative are provided in Tables 4.1-3, 4.1-4 and 4.1-5. TAUs proposed under each Alternative are equal to or less than the maximum allowable density.*

2. Tourist accommodation units shall be designated in the plan area or community plan as an allowed use, or a special use for which the findings required in Section 18.1 have been made.

*TAUs for hotel and hotel-design timeshare units are allowed in the NSCP.*

3. The project shall be located on a parcel designated in an adopted community or redevelopment plan as being eligible to receive tourist accommodation bonus units and the project shall not exceed the density set forth in the community or redevelopment plan.

*The NSCP is eligible to receive tourist accommodation bonus units and includes provisions for a tourist accommodation bonus unit program.*

4. All tourist accommodation bonus units shall be allocated in accordance with Chapter 33.

*Chapter 33.4 states that additional TAUs may be allocated through the transfer of existing TAUs to a project. The Project proposes the transfer of TAUs from offsite parcels through the TRPA transfer process and proposes to utilize up to 40 TAUs from the TRPA special project pool based on SEZ restoration associated with up to 42 (at The Colony Inn) of the offsite TAUs.*

Section 34.4 of the TRPA Code of Ordinances outlines the process for transferring TAUs and ERUs. Existing developments may be transferred within the same classification (ERU to ERU or TAU to TAU) to a receiving parcel in an adopted community plan designated for receiving such transfers as the NSCP allows. In addition, the plan area must allow the type of use to be transferred or findings must be made to allow a special use transfer. Historical structures and affordable housing may not be transferred and the transfer shall be evaluated for adverse impacts that must be mitigated. The Code further states that the receiving parcel shall be land Class 4 Capability or greater unless: there is greater than 25 percent reduction in existing land coverage with restoration on the receiving parcel with no adverse impacts, or parking, vehicle, or structural volume increases; or the transfer is from sensitive land to equal or less sensitive land with a reduction of coverage and restoration equal to 300 square feet of the land coverage. Following transfer, the development from which the transfer occurred must be removed or modified consistent with the terms of the transfer, and the land must be restored and maintained to eliminate the units that once existed on that site. If some of the transfer units originated on sensitive lands, that land shall be permanently restricted from transferring development back to the parcel through a deed restriction or other recorded covenant. Each of these requirements is achieved under Alternative C.

The proposed hotel and multi-family residential units are consistent with the existing land uses in the project area. These tourist oriented land uses are all allowable in the NSCP.

Casino and resort uses already exist on the site and within the area surrounding the project site. The proposed hotel resort, commercial, residential and gaming uses are consistent with the Community Plan.

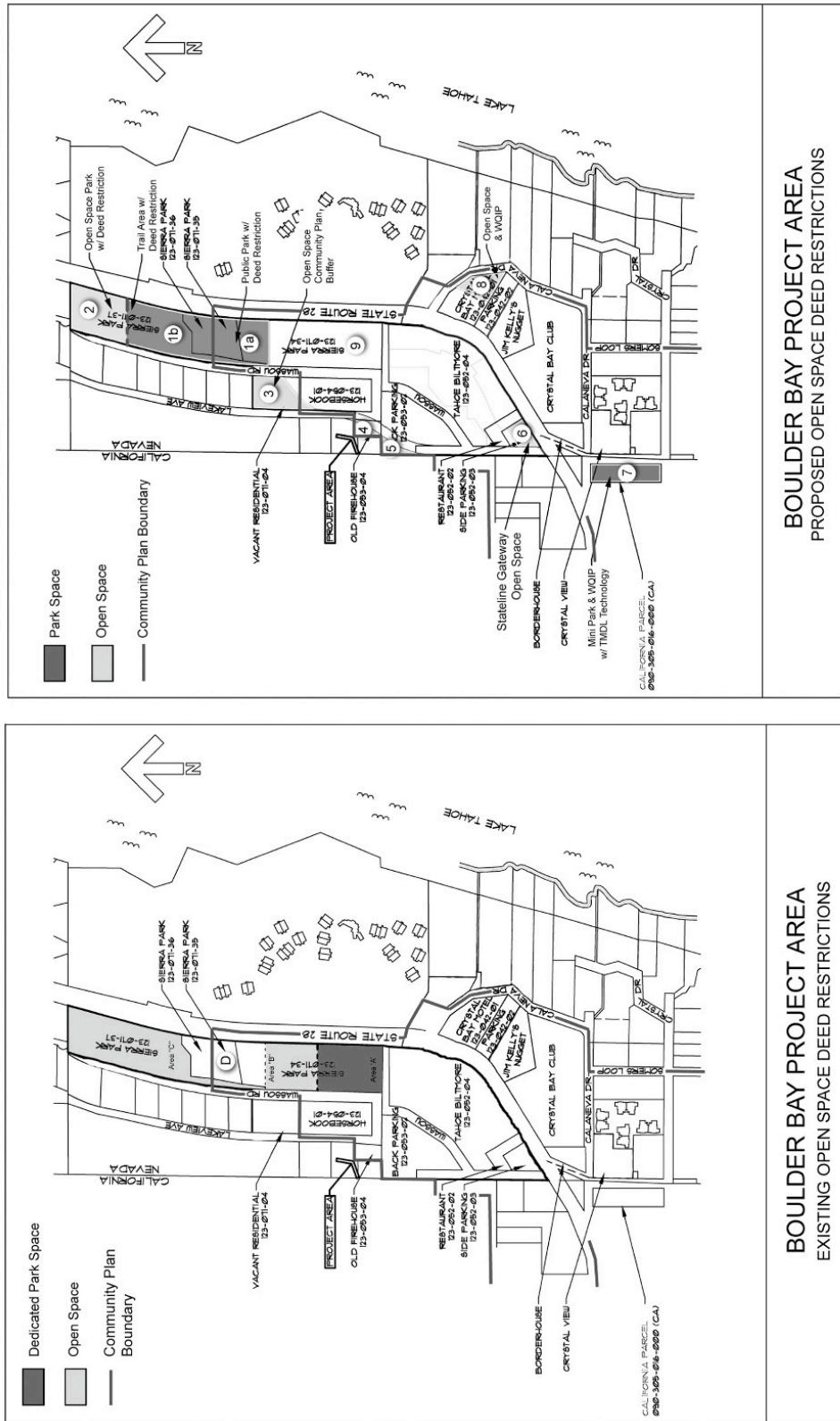
The reduction of casino floor area to 10,000 square feet under Alternative C, a 66% reduction, would not expand or intensify gaming in the area; however, the location of the gaming structure would be relocated off of the SR 28 right-of-way behind the proposed commercial buildings that would front SR 28. NTRPA has approved the reduction in gaming area and the relocation of the casino within the project site (Appendix H).

The existing Tahoe Mariner Settlement Agreement requires 4.78 acres of open space and sets aside 1.27 acres of the 4.78 acres for parks to be built and maintained by Washoe County. Figure 4.1-2 shows the location of the existing deed restrictions within the project area. Under Alternative C, the location of the deed restricted open space is proposed to be enlarged, partially developed as park uses, and partially relocated to other locations within the project area. To allow for this change, Boulder Bay has proposed an amendment to the existing Tahoe Mariner Settlement Agreement (see Appendix M).

The proposed amendment to the Tahoe Mariner Settlement Agreement must be approved and signed by TRPA and the State of California to reflect the change in open space deed restrictions to allow for the TRPA approval of Alternative C. The proposed amendment will allow for proposed TAU and multi-family dwelling units on the southern most portion of the settlement agreement area (see Area 9 on Figure 4.1-2), will allow for the deed restricted open space to be relocated within the Boulder Bay project area at a minimum total of 4.78 acres, will allow a portion of the open space to be developed park use, and will eliminate the rights for three single-family residences on the former Tahoe Mariner Site (see Area D on Figure 4.1-2). The proposed amendment will allow land coverage and associated urban development on lands currently deed restricted as open space. Land coverage and scenic impacts associated with this development are analyzed in Chapters 4.2 and 4.5 of this EIS. The proposed Settlement Agreement amendment and the development proposed in Alternative C will reduce overall land coverage within the Lake Tahoe Basin (through either permanent retirement of land coverage or payment of an excess coverage mitigation fee) and will improve scenic quality ratings from SR 28. Development rights banked on the former Tahoe Mariner site will be used for the proposed project, or will remain banked for use by Boulder Bay on a future and separate project.

Under Alternative C, 5.70 acres of total deed restricted, landscaped, public open space, parks and trails are proposed, including 3.07 acres designated for two urban parks and hiking trails (Figure 4.1-2). These 5.70 acres would be deed restricted for open space and park use. The largest area of park includes seating areas, footpaths, historical interpretive kiosks, and lake vistas and will be developed and maintained by Boulder Bay on the north end of the project area in the NSCP. The landscape and irrigation plan for this area uses native trees and shrubs requiring minimal maintenance and no fertilizer and provides some areas with high-traffic, groomed turf. Public open space will be adjacent to the park area on the north end of the project area in the Crystal Bay Plan Area.

Figure 4.1-2 Existing and Proposed Open Space Deed Restrictions – Alternative C



Source: Boulder Bay, 2009

The park proposed under Alternative C on the Tahoe Mariner site would be located across from the Stillwater Cove residential development. The existing SR 28 berm would be landscaped to minimize road visibility and potential noise from the park site. The park plan proposes six public parking spaces located between Building A and the park site, an ADA access path, 1/5 mile walking trail, three picnic tables, and two benches along several walking trails. Historical interpretive signage will be placed near the parking area. The Washoe County Comprehensive Plan Public Services and Facilities Element Park Facility Design Standards (page 77) do not require restroom facilities for this type of park development, and state that the “standards should not be considered as strict building guidelines, rather...a guide in the initial planning of facilities and facility needs.” Since no play structures, covered seating areas or fields are included on the park plan, the park use will not create high levels of vehicle trips or high noise levels from visitors. Therefore, the proposed park use will not conflict with existing residential uses.

The Project would implement EIP projects and the Implementation of the EIP projects and restoration of the Crystal Bay Motel site would enhance the community by providing water quality, visual, and recreational improvements, resulting in a beneficial impact.

The proposed land uses, transfer and conversion of units, and expansion of existing land uses would be in conformance with the TRPA Code of Ordinances and the NSCP and consistent with the surrounding land uses. Therefore, this impact is considered to be less than significant.

Mitigation: No mitigation is required.

Analysis: *Less than Significant Impact; Alternative D*

Alternative D proposes to expand the number of tourist accommodation hotel units within the project area, add multi-family dwellings, and add tourist accommodation units that are operated as timeshare (Residential Design) units. As stated above under Impact LU-1, residential design timeshare units are not an allowable use in the NSCP. However, as documented below and in Impact LU-1, the uses proposed in Alternative D are consistent with adjacent land uses and would not expand/intensify existing non-conforming uses in the project area. Table 4.1-6 above outlines the existing and proposed tourist and residential units for Alternative D.

The Boulder Bay proponents currently own 150 TAUs in the project area and immediate vicinity as described above for Alternative C. Boulder Bay owns or has options for up to 148 TAU from seven properties located in Washoe and El Dorado Counties, also described above under Alternative C. Boulder Bay needs to transfer 139 TAUs from these properties for Alternative D. TAUs are required for the proposed hotel and timeshare units.

The Boulder Bay proponents currently own three equivalent residential units (ERUs) as described above for Alternative C. Boulder Bay owns or has options for up to 56 ERU from properties located in El Dorado County. Boulder Bay needs to transfer 18 ERUs from these properties for Alternative D. ERUs are required for the multi-family and single-family residential units.

The affordable housing units proposed under Alternative D will be multi-family residential bonus units (MRBU) from TRPA’s bonus pool for affordable housing. The Project has 48 MRBU units reserved through the CEP, where a bonus allocation is provided in accordance with the community benefits afforded through the CEP. The maximum density for the project area does not allow for more than 8 affordable housing

units under Alternative D based on the acreage set aside for tourist accommodation and market rate multi-family residential units (see Impact LU-1 and mitigation measure LU-1B). The remaining 40 MRBUs reserved for Boulder Bay and not used by Alternative D will be returned to the TRPA bonus pool.

Under Alternative D, Boulder Bay will transfer up to 139 TAUs to the project area from properties located throughout the Lake Tahoe Basin. Under Alternative D, the 139 TAUs will come from banked TAUs located on two properties in Washoe County (13 TAUs from Gabrielli House and Lakeside Tennis), one property in El Dorado County (20 TAUs from the Tahoe Budget Inn), and four properties in the Stateline/Ski Run Community Plan (106 TAUs). Stateline/Ski Run CP properties include the former Thunderbird Lodge (28 TAUs), Rainbow Lodge (11 TAUs), Tahoe Mountain Lodge (21 TAUs), and The Colony Inn (10 non-SEZ TAUs and 36 SEZ TAUs). As with Alternative C, TAUs proposed for construction at the Boulder Bay project area will be larger than the TAUs removed from the sending sites. However, under Alternative D, the average TAU size will be approximately 850 square feet based on the inclusion of larger 2- and 3-bedroom timeshare units. The average size of the TAUs demolished within the sending parcels is approximately 325 square feet (approximately 13 by 25 feet). However, transferring the TAUs to the Boulder Bay project area would still reduce potential impacts (e.g., trip generation, land coverage, etc.) that could result in the sending Plan Area or Community Plan because the transferred TAUs would not be rebuilt in the future. The new TAUs constructed at Boulder Bay would utilize much less water and energy resources than the units removed from both the onsite and offsite locations proposed for TAU transfer. An integrated resource model and carbon footprint study prepared by Boulder Bay by ARUP North America, Ltd shows that Boulder Bay will use 38 percent less energy and water despite having more units (based on proposed bonus unit) and more square footage than the TAUs that will be transferred (under Alternative D).

The majority of TAUs proposed for transfer are from the Stateline/Ski Run Community Plan. Many of the parcels from which these TAUs originated were overdeveloped at the time of their construction and exceeded the allowable land coverage limits. In addition, a portion of the Colony Inn units were located within sensitive SEZ habitat that are being restored. Although the transfer of 106 TAUs would result in a decrease in the available TAUs in the Stateline/Ski Run Community Plan, it would also contribute to water quality, SEZ and visual improvements, helping to meet applicable Community Plan goals.

The physical effects at the Boulder Bay TAU receiving site have been analyzed in this EIS and have been mitigated where necessary to avoid significant impacts. The proposed TAU transfer will reduce existing development potential in the applicable Washoe and El Dorado County Plan Areas and Stateline/Ski Run Community Plan. However, the TAUs proposed for transfer are spread out over two counties and will not result in a substantial loss of development potential in any one location. Under Alternative C, up to 106 TAUs will come from the Stateline/Ski Run Community Plan area, which has approximately 5,500 TAUs (Table 4.1-B, Stateline/Ski Run CP EIR/EIS). Therefore, the 106 TAUs proposed for transfer represent less than a two percent reduction in the Stateline/Ski Run Community Plan TAU pool. An analysis of relocation of TAUs from the south shore redevelopment area is provided above for Alternative C. The analysis documents planning direction to reduce the number of lodging units in the redevelopment area. As a result, the TAU transfer proposed under Alternative D will not impact the ability of local jurisdictions to achieve the vision and planning considerations included in applicable

planning documents. As stated above, the remaining 33 TAUs come from Washoe (13) and El Dorado Counties (20 from the former Tahoe Budget Inn). The Washoe County TAUs come from buildings that were converted to single-family dwellings or reconfigured to reduce the number of tourist accommodations. The El Dorado County TAUs come from the South Wye area where a concentration of under-performing TAUs was located.

Boulder Bay proposes to use 31 of the 43 bonus TAUs available in the NSCP pool and 40 bonus TAUs from the TRPA Special Project Pool (available as a result of the demolition and restoration of TAUs from the Colony Inn that were located in SEZ) for Alternative D. Each of these bonus units can be transferred to the Project through the transfer process outlined in the CEP Application.

The 42 TAUs from the Colony Inn SEZ restoration will be used differently under each of the action alternatives based on the different combinations of TAUs and ERUs proposed. Under Alternative D, 4 of the TAUs from the SEZ restoration at The Colony Inn would be converted to ERUs following transfer to the project site, and 36 would continue to be used as TAU on the Boulder Bay project site. At the time the TAUs are transferred to the Boulder Bay project area, the Colony Inn TAUs would be used to earn 40 bonus TAUs from the TRPA Special Project Pool based on the SEZ restoration associated with those banked TAUs. This transfer process requires compliance with both Chapters 33 and 34 of the Code as described below.

Chapter 33.7 allows the conversion of TAUs to ERUs at a one to one ratio as stated in Section 33.7.A – Transfer from Sensitive Lands, “Conversion of an existing residential or tourist accommodation unit to a residential, tourist, or commercial use may be permitted when a residential or tourist unit is transferred from a parcel classified as land capability districts 1, 2, 3, or SEZ, and the parcel is restored.” Therefore, the 4 of the 42 TAUs at the Colony Inn SEZ restoration site may be converted to ERUs and then transferred to the project site. With this conversion and transfer, there would be sufficient ERUs for Alternative D. Thirty-six of the remaining 38 TAUs would be transferred to the project site as TAUs under Alternative D.

Bonus TAUs may be awarded pursuant to TRPA Code of Ordinances Chapter 35.3 if four criteria are met. These criteria are listed above under Alternative C. The analysis presented for Alternative C also applies to Alternative D and shows that Alternative D would be consistent with the required criteria for award of bonus units.

Section 34.4 of the TRPA Code of Ordinances outlines the process for transferring TAUs and ERUs. The discussion presented above for Alternative C also applies to Alternative D. The proposed hotel, residential design timeshare, and multi-family residential units are consistent with the existing land uses in the project area. With the exception of the proposed residential design timeshare use (see Impact LU-1), the uses proposed in Alternative D are all allowable in the NSCP. Casino and resort uses already exist on the site and within the area surrounding the project site. The proposed hotel resort, commercial, residential and gaming uses are consistent with the Community Plan land use goals.

The reduction of casino floor area to 10,000 square feet under Alternative D, a 66% reduction, would not expand or intensify gaming in the area; however, the location of the gaming structure would be relocated off of the SR 28 right-of-way behind the proposed



commercial buildings that would front SR 28. NTRPA has approved the reduction in gaming area and the relocation of the casino within the project site (Appendix H).

The existing Tahoe Mariner Settlement Agreement requires 4.78 acres of open space and sets aside 1.27 acres of the 4.78 acres for parks to be built and maintained by Washoe County. Figure 4.1-2 shows the location of the existing deed restrictions within the project area. Under Alternative D, the location of the deed restricted open space is proposed to be enlarged and partially relocated to other locations within the project area. To allow for this change, Boulder Bay has proposed an amendment to the existing Tahoe Mariner Settlement Agreement (see Appendix M).

The proposed amendment to the Tahoe Mariner Settlement Agreement must be approved and signed by TRPA and the State of California to reflect the change in open space deed restrictions to allow for the TRPA approval of Alternative D. The proposed amendment will allow for proposed TAU and multi-family dwelling units on the southern most portion of the settlement agreement area, will allow for the deed restricted open space to be relocated within the Boulder Bay project area at a minimum total of 4.78 acres, and will eliminate the rights for three single-family residences on the former Tahoe Mariner Site (see Area D on Figure 4.1-2). The proposed amendment will allow land coverage and associated urban development on lands currently deed restricted as open space. Land coverage and scenic impacts associated with this development are analyzed in Chapters 4.2 and 4.5 of this EIS. The proposed Settlement Agreement amendment and the development proposed in Alternative D will reduce overall land coverage within the Lake Tahoe Basin (through either permanent retirement of land coverage or payment of an excess coverage mitigation fee) and will improve scenic quality ratings from SR 28. Development rights banked on the former Tahoe Mariner site will be used for the proposed project, or will remain banked for use by Boulder Bay on a future and separate project.

Under Alternative D, 4.99 acres of deed restricted, landscaped, public open space, parks, and trails are proposed, including 2.60 acres designated for two urban parks and hiking trails. These 4.99 acres would be deed restricted for open space and park use. The largest area of park includes seating areas, footpaths, historical interpretive kiosks, and lake vistas and will be developed and maintained by Boulder Bay on the north end of the project area in the NSCP. The landscape and irrigation plan for this area uses native trees and shrubs requiring minimal maintenance and no fertilizer and provides some areas with high-traffic, groomed turf. Public open space will be adjacent to the park area on the north end of the project area in the Crystal Bay Plan Area.

The park proposed under Alternative D on the Tahoe Mariner site would be located across from the Stillwater Cove residential development. The existing SR 28 berm would be landscaped along SR 28 to minimize road visibility and potential noise from the park site. The park plan proposes six public parking spaces located within the SR 28 right of way, an ADA access path, 1/5 mile walking trail, three picnic tables, and two benches along several walking trails. The proposed SR 28 parking may not be allowed in the right of way by NDOT, and if so, would have to be relocated onto the project area immediately north of Buildings A, or into the underground parking structure associated with the Boulder Bay hotel. Historical interpretive signage will be placed near the parking area. The Washoe County Comprehensive Plan Public Services and Facilities Element Park Facility Design Standards (page 77) do not require restroom facilities for this type of park development, and state that the “standards should not be considered as strict building guidelines, rather...a guide in the initial planning of facilities and facility needs.” Since no play structures, covered seating areas or fields are included on the park

plan, the park use will not create high levels of vehicle trips or high noise levels from visitors. Therefore, the proposed park use will not conflict with existing residential uses.

The Project would implement EIP projects and the Implementation of the EIP projects and restoration of the Crystal Bay Motel site would enhance the community by providing water quality, visual, and recreational improvements, resulting in a beneficial impact.

The proposed land uses, transfer and conversion of units, and expansion of existing land uses would be consistent with the surrounding land uses. However, as stated above under Impact LU-1, residential design timeshare units are not currently an allowable use in the NSCP. As documented in Impact LU-1, amending the NSCP to add residential design timeshare use would not result in significant impacts. Therefore, with the adoption of the proposed NSCP amendment, this impact is considered to be less than significant for Alternative D.

Mitigation: No mitigation is required.

Analysis: *Less than Significant Impact; Alternative E*

Alternative E proposes to expand the number of tourist accommodation hotel units within the project area, add multi-family dwellings to the project area, and add tourist accommodation units that are operated as timeshare (Hotel Design) units. Alternative E would also include the three single-family residences allowable under the existing Tahoe Mariner Settlement Agreement. Table 4.1-6 above outlines the existing and proposed tourists and residential units for Alternative E.

The Boulder Bay proponents currently own 150 TAUs in the project area and immediate vicinity as described above for Alternative C. Boulder Bay owns or has options for up to 148 TAU from seven properties located in Washoe and El Dorado Counties, also described above under Alternative C. Boulder Bay needs to transfer 66 TAUs from these properties for Alternative E. TAUs are required for the proposed hotel and timeshare units.

The Boulder Bay proponents currently own three equivalent residential units (ERUs) as described above for Alternative C. Boulder Bay owns or has options for up to 56 ERU from four properties located in El Dorado County. Boulder Bay needs to transfer 30 ERUs from these properties for Alternative E. ERUs are required for the multi-family and single-family residential units.

Under Alternative E, Boulder Bay will transfer up to 66 TAUs to the project area from properties located throughout the Lake Tahoe Basin. Under Alternative E, the 66 TAUs will come from banked TAUs located on two properties in Washoe County (13 TAUs from Gabrielli House and Lakeside Tennis), one property in El Dorado County (11 TAUs from the Tahoe Budget Inn), and two properties in the Stateline/Ski Run Community Plan (42 TAUs). Stateline/Ski Run CP properties include the former Thunderbird Lodge (31 TAUs) and the Rainbow Lodge (11 TAUs). The proposed TAU transfer will reduce existing development potential in the sending Washoe and El Dorado County Plan Areas and Stateline/Ski Run Community Plan. As documented above for Alternative C, Alternative E will not impact the ability of local jurisdictions to meet the special policies and general guidance included in the applicable planning documents due to the broad distribution of the proposed TAU sending parcels.

The majority of TAUs are being transferred from the Stateline/Ski Run Community Plan. Many of the parcels from which these units originated were overdeveloped and exceeded the allowable coverage limits. In addition, some units were located within sensitive SEZ habitat that will be restored. Although the transfer of 42 TAUs would result in a decrease in the available TAUs in the Stateline/Ski Run Community Plan, it would also result in SEZ habitat enhancement and visual improvements, helping to meet applicable Community Plan goals.

Under Alternative E, Boulder Bay would convert 16 of the 42 TAUs associated with SEZ restoration at The Colony Inn to ERUs. Boulder Bay will use an additional 14 ERUs available for transfer to the project area from three additional El Dorado County properties. As with Alternatives C and D, Boulder Bay will apply for 31 of the 43 bonus TAUs available in the NSCP for use in Alternative E, but will not apply for any bonus units from TRPA's special project's pool.

As discussed in the analysis for Alternatives C and D, transfer of the units is also feasible under Alternative E in accordance with the terms of Code Section 34.4. Transferred units would be used for allowed land uses in the NSCP and would not come from affordable housing or historical structures. Further, the units would be transferred to Class 4 capability lands. In addition the criteria in Code Section 35.3 for awarding bonus TAUs could be met as follows:

1. The proposed density, including any tourist accommodation bonus units, shall not exceed the maximum density limits set forth in the adopted community plan. *According to Table 4.1-5, the proposed density for Alternative E is below the maximum allowable density for the project area, as the development would only require 9.47 acres of the project area using the density calculations in Code Chapter 21.*
2. Tourist accommodation units shall be designated in the plan area or community plan as an allowed use, or a special use for which the findings required in Section 18.1 have been made. *TAUs are allowed in the NSCP, specifically TAUs used for hotel and hotel-design timeshare units.*
3. The project shall be located on a parcel designated in an adopted community or redevelopment plan as being eligible to receive tourist accommodation bonus units and the project shall not exceed the density set forth in the community or redevelopment plan. *The NSCP is an area eligible to receive tourist accommodation bonus units and includes provisions for a tourist accommodation bonus unit program.*
4. All tourist accommodation bonus units shall be allocated in accordance with Chapter 33. *Chapter 33.4 states that additional TAUs may be allocated through the transfer of existing TAUs to a project. The Project would transfer existing TAUs from other sites.*

The proposed hotel, hotel design timeshare and multi-family dwelling units are consistent with the existing land uses in the project area. Casino and resort uses already exist on the

site and within the area surrounding the project site. The proposed hotel resort, commercial, residential and gaming uses are consistent with the Community Plan.

The existing Tahoe Mariner Settlement Agreement requires 4.78 acres of open space and sets aside 1.27 acres of the 4.78 acres for parks to be built and maintained by Washoe County. No change to the existing settlement agreement would occur under Alternative E.

As stated above for Alternative B, Alternative E would also result in the development of three single-family homes on the former Tahoe Mariner site. Development of these units would be consistent with the other residential uses in the area, and would not expand a non-conforming use. In addition, the gaming area would expand from 22,400 square feet to 29,744 square feet, which is the maximum certified amount of gaming floor area for the site, as approved by NTRPA. Although this is an expansion of gaming area, the concentration of existing gaming (an existing conforming use) in this area and the moderate expansion of gaming area under this alternative would not result in a significant land use change and is authorized under Article VI of the Tahoe Regional Planning Compact to occur without TRPA approval.

The proposed land uses, transfer and conversion of units, and expansion of existing land uses would be in conformance with the TRPA Code of Ordinances and the NSCP and consistent with the surrounding land uses. Therefore, this impact is considered to be less than significant.

Mitigation: No mitigation is required.

**IMPACT: LU-3: Will the project be consistent with NDOT encroachment permit conditions?**

Analysis: *Less than Significant Impact; Alternatives A, B, and E*

Alternatives A, B, and E would not result in changes to the SR 28 roadway or encroach upon the roadway prism or right of way.

Mitigation: No mitigation is required.

Analysis: *Less than Significant Impact; Alternatives C and D*

Alternatives C and D will require the submittal of an encroachment permit application to NDOT for proposed changes to SR 28 including the addition of bike lanes, construction within the right-of-way for transit stops, sidewalk alterations, driveway removal, and general construction activity. Alternative C proposes park parking outside of the NDOT right of way just north of residential Building A. Although the parking lot for the park, open space, and trails area would not be located within NDOT right-of-way, the entrance to the parking lot would be partially located within the right-of-way. The entrance for the parking lot will be located in the location of the existing informal pull-out area along SR 28 that used to provide access to the Tahoe Mariner. Signage shall be posted along SR 28 to indicate parking for the Boulder Bay Park. Signage detail, location and design of the parking lot and access shall be shown on the final design for TRPA approval. Alternative D proposes park parking within the NDOT right of way because of onsite constraints associated with Building A, which is larger in Alternative D than in Alternative C. NDOT has not confirmed that they would provide an encroachment permit for park related parking included in Alternative D. If an NDOT encroachment permit cannot be obtained for the park parking area, Boulder Bay would be required to relocate the parking onsite as proposed in Alternative C. Relocation of the proposed park parking would require a reduction in the size of Building A, but would be consistent with Alternative C.

Although a NDOT encroachment permit has not been approved, the project proponent will implement the conditions to be agreed upon in the NDOT encroachment permit, as the project could not be constructed without the permit. Therefore, this impact is considered to be less than significant.

Mitigation: No mitigation is required.

## CUMULATIVE IMPACTS AND MITIGATION MEASURES

**IMPACT:** LU-C1: Will the project have significant cumulative impacts to land use?

Analysis: *No Impact; Alternatives A and B*

The No Project Alternatives will not result in any significant land use changes. Therefore, Alternatives A and B will not contribute to a cumulative land use impact.

Analysis: *Less than Significant Impact; Alternatives C, D, and E*

Reasonably foreseeable projects in north Lake Tahoe area include other mixed use redevelopment projects, affordable housing developments, park improvements, ski resort improvements, and public works/infrastructure improvements. These cumulative projects will increase the diversity of land uses in the North Tahoe urban areas and revitalize existing development to maintain economic viability. Since Alternatives C, D and E will not substantially alter land uses currently provided at the Tahoe Biltmore site and will be consistent with TRPA Community Plan density requirements (with proposed mitigation measures), Alternatives C, D and E will not contribute to an adverse change to existing NSCP land use, rather they will better implement NSCP goals. Chapter 3 summarizes the project and alternative's consistency with NSCP goals and policies. In summary, Alternative C, D and E help meet NSCP goals that call for a more complete, family-oriented destination resort area, a pedestrian path system, land use patterns that reduce the need for travel and increase access to transit, contribution to a more economically viable mix of land uses, strengthening of the area's potential as a world class tourist destination resort, and improvement of the natural environment through site rehabilitation and BMPs. In addition, the Project reflects current planning movements that establish a mix of land uses in a pedestrian oriented design to provide social and environmental benefits to the community. Therefore, Alternatives C, D and E will not contribute to adverse cumulative land use impacts, but will better achieve the goals and vision of the NSCP as a destination resort.

Mitigation: No mitigation is required.

## REFERENCES

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