



Placer County, Environmental Coordination Services
Community Development Resources Agency
3091 County Center Drive, Ste. 190
Auburn, CA 95603

August 1, 2014

Subject: Martis Valley West Parcel draft Area Plan

Dear Ms. Wydra:

The Friends of the West Shore (FOWS) and the Tahoe Area Sierra Club (TASC) appreciate the opportunity to provide comments regarding the draft Martis Valley West Area Plan (MVW AP). FOWS and TASC are extremely concerned with the proposed MVW AP and rezone to a Resort Recreation District (RRD). The project would place over a hundred new homes on the ridgeline of the Tahoe Basin. There is no question that there will be negative environmental impacts to numerous natural resources *within the Lake Tahoe Basin*. The project is also an extremely dangerous idea from a public safety point of view given the wildfire threats in such an area. Concerns include:

- Development on Tahoe's ridgeline will have significant daytime and nighttime scenic impacts, which will negatively impact the scenic resources.
- This project will be precedent-setting, and runs counter to the Compact and the focus on development infill encouraged by California's Sustainable Communities Strategy.
- The large project will create more traffic and VMT within the Basin, more air, water, noise, and night sky light pollution, damage wildlife habitat, and cause numerous other threshold impacts, and therefore does not conform to the RPU.
- The Tahoe Basin portion of the project area must be addressed separately, taking into account basin-wide impacts. The TRPA Compact requires planning for the Tahoe Basin to include the basin-wide scale.
- The proposed RRD zoning runs counter to the reasons used to justify TRPA's approval of the first two RR zones in the RPU; further, there are no RPU criteria or regulations to identify what other areas (if any) are appropriate for RRD zoning in the Basin.

Before approving additional RR zoning,¹ TRPA must first carefully examine alternative locations for RR zoning throughout the Tahoe Basin to determine which locations would meet TRPA's intent² for adopting the RR use in the RPU and best support RR uses. We are also concerned with the public process, and what appears to be a project-driven RPU amendment, rather than threshold-driven amendment. Detailed comments follow below, and we also herein incorporate all comments submitted by Ellie Waller and the North Tahoe Preservation Alliance.

Please feel free to contact Jennifer Quashnick at jqtahoe@sbcglobal.net or Laurel Ames at laurel@watershednetwork.org if you have any questions.

Sincerely,

Susan Gearhart,
President,
Friends of the West Shore

Jennifer Quashnick
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Friends of the West Shore

Laurel Ames,
Conservation Chair,
Tahoe Area Sierra Club

¹ As noted in our previous comments on the RPU, we do not support the new RR zoning.

² TRPA Goals & Policies: LU 4.1 states: "The intent of this system is to provide flexibility when dealing with existing uses, continuation of acceptable land use patterns, and redirection of unacceptable land use patterns."

Attachments: 7/8/2014 FOWS Comments to HRA WG re: Nearshore
6/12/2014 FOWS Comments to CA OPR re: Sustainable Communities
4/28/2014 FOWS Comments on Martis Valley West NOP
4/28/2014 Sierra Club Comments on Martis Valley West NOP
10/3/2013 TASC & FOWS Comments to RPIC on the TCAP
2007 Dangerous Developments. Sierra Nevada Alliance

The Tahoe Basin portion of the proposed Martis Valley West Area Plan must be analyzed separately from the non-Tahoe area of the projects:

Reasons include, but are not limited to:

- The Compact³ requires the environmental thresholds to be met. Environmental impacts and benefits in the Basin cannot be negated by ‘trading’ with watersheds outside of the Lake Tahoe watershed boundary.
- TRPA’s responsibility is to ensure the environmental thresholds are met *in the Basin*. *The TRPA Compact (Article II) defines the Tahoe Region as:*

As used in this compact:

(a) “Region,” includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the county of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of section 1, thence west to the northwest corner of section 3, thence south to the intersection of the basin crestline and the west boundary of section 10; all sections referring to township 15 north, range 16 east, M. D. B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

This definition does not include areas outside of the Tahoe Basin boundary. The TRPA must evaluate impacts within the Tahoe Basin.

- Projects within the project area cannot be approved by the same entity:
 - Development in Resort Recreation cannot be permitted by Placer County (TRPA Code 13.7.3),⁴ therefore TRPA is the only authority to approve permits for projects in the RR portion of the project.
 - TRPA cannot approve or deny projects for areas outside of the Tahoe Basin.
- The proposed MVW AP includes numerous, more intensive proposed uses not previously allowed in these areas, however the TRPA RPU EIS did not analyze or define the uses to be allowed (or conditionally-allowed) in RR-zoned areas.
- TRPA has not yet performed an environmental analysis to assess what locations in the Basin are most appropriate, if any, for additional Resort Recreation zoning.
 - In fact, the additional special RR acreage was only included in the 208 Plan and released to the public in November 2012, too late for the substantial change to have been analyzed in the final environmental documents. Further, the project is a land planning project, and it was not a water quality project

³ http://www.trpa.org/wp-content/uploads/Bistate_Compact.pdf

⁴ http://www.trpa.org/wp-content/uploads/TRPA_Code_of_Ordinances.pdf (accessed 7/29/2014)

raising the question of why it had to be hidden in the Water Quality Plan.(Sec. 208 CWA, EPA) and was not considered by the RPU EIS, RTP EIR/S, nor the Bi-state consultation agreement. There has been no analysis of this zoning change, where it applies, and what uses it allows.

- In the interest of full disclosure, the TRPA should first describe the relationship of the RR zoning to the Water Quality Plan and provide a rationale for its role in the Water Quality Plan, as well as describe the environmental and water quality benefits associated with the development compared to the existing forested land. The relationship of the Water Quality Plan to the Compact required threshold standards would also be described in order to better understand the benefits of the project on undeveloped land.
- TRPA's claim for the RPU's approach is based on concentrating development in already developed areas. The proposed Area Plan converts mostly conservation-zoned land to Resort Recreation where there are currently no adjacent resorts or high-intensity recreation facilities.

Applicant-driven Area Plan:

Both TRPA and Placer County staff have repeatedly explained to the public that this is an applicant-driven Area Plan which will be subject to review and approval by both agencies. Staff members have stated nothing has been approved and placed the onus of what is in the Area Plan on the applicant. However, presentations by Placer County and TRPA staff to date have indicated a bias in favor of the new Plan, evidenced by favorable statements, glowing environmental benefits, and other sales pitches that have been made by planning staff and consultants operating on behalf of the agencies. This sales pitch-style presentation has alarmed an already concerned public and has led to the belief that the proposed Area Plan is already favored by the agencies. Other evidence of bias is that with the co-lead agencies working closely together to assure there is conformity between the plans before the public ever sees them, it seems a given that the conformity decision has already been made.

Further, as Placer County is said to be the lead agency responsible for the development of the Area Plan (according to the July 17th workshop⁵), but the MVWP AP assumes amendments to the Regional Plan, it is unclear which agency will determine that the proposed area plan conforms to the Regional Plan Update. Representatives from both agencies also responded to public concerns at the July 17th workshop by stating they had not yet reviewed or approved the draft Area Plan, yet the agencies and public have already spent time on the NOP notice (March 2014) and now, the draft MVWP AP. The fact that it would make little sense for the agencies to delay this determination until well after extensive time and money have been spent by the applicant, TRPA, Placer County, and the public to develop the draft Area Plan and the associated environmental documents, further suggests that the agencies already assume that the applicant's proposal will conform with the RPU.

The third issue with an applicant-driven Area Plan is that the process appears to be rushed, leaving no time to fully analyze the potential locations for RR zoning in the basin. TRPA must first evaluate which locations in the Lake Tahoe Basin are appropriate, environmentally and community-wise, for Resort Recreation; otherwise, that decision will be determined piecemeal by project applicants – in which case a comprehensive, objective analysis of where

⁵ This presentation is posted on Placer County's website at:

<http://www.placer.ca.gov/departments/communitydevelopment/planning/martisvalleywestparcelproject>

RR zoning is appropriate would never be performed - in direct violation of good planning standards and the Compact's requirement to study feasible alternatives in an EIS.

The failure to include such criteria and objectives in the RPU and offer no alternatives to adopting the new RR zoning, is contrary to the Compact.

SECTION 1: AREA PLAN INTRODUCTION

In the following comments, references to excerpts from the draft MVWP AP are noted with page numbers (e.g. "p. 1"). Where statements are cited from other documents, the full document reference is noted. In addition, where specific language in the draft MVWP AP is referred to, excerpts of the language are included *below* the comment for ease of reference.

Misleading Comparison of Approved Development:

1. The following statements (below) in the project description are not correct; no projects have been approved which construct this level of development. Rather, these numbers are merely the maximums that could be approved under current existing zoning, which would be subject to environmental analysis and approval. It is highly misleading to the public to suggest these developments have already been approved.

The East Parcel was previously approved for development of 1,360 residential units and 6.6 acres of commercial development on 670 acres outside the Tahoe Basin zoned Residential and Neighborhood Commercial. (p. 1)

2. The following statement (below) is further misleading with regards to open space. The acreage inside the Tahoe Basin is already zoned primarily conservation; the land uses allowed in these areas, and those allowed on the small portion zoned Recreation, are extremely limited and would preserve the existing forested areas as open space. The existing property owner, and any future landowner would have no legal expectation for any more development than could be approved under the existing conservation and recreation zoning. The statement below from the introduction in the draft MVWP AP appears to be grasping at straws to claim public benefits for a proposed project that will solely benefit the private landowner.

...including the 670 acres currently zoned Residential and Neighborhood Commercial [outside the basin] and the 130 acres located within the Tahoe Region, will be preserved as permanent open space...(p. 1)

Requirements for Area Plans with Resort Recreation:

TRPA's Code 13.5.3.D states: "In addition to recreation uses, an Area Plan may allow the development and subdivision of tourist, commercial, and residential uses on the Resort Recreation District parcels depicted on Map 1 of the Regional Plan and subject to the following conditions..." It appears Placer County is the lead agency on development of the MVWP Area Plan, which TRPA must find in conformance with the TRPA RPU in order to approve the Area Plan. Further, once an Area Plan with Resort Recreation uses has been adopted, all development within the Area Plan must be approved by TRPA, as noted in the General Provisions (p. 1). For these reasons alone, the MVWP AP must be evaluated solely

on how it conforms with the RPU and impacts the environmental thresholds *within the Lake Tahoe Basin*.

3. References to the parcel being a ‘small portion of a much larger parcel of land’ (example below) are misleading because this fails to note that the ‘smaller portion’ of land exists in the Lake Tahoe Basin, containing a Lake that is a federal Outstanding National Resource Water, meaning development in the Basin is subject to regulation under different rules and authorities required to protect Lake Tahoe’s famed natural resources.

The MVWP Area Plan is a small portion of a much larger parcel of land, most of which is located outside the Tahoe Region... (p. 2).

4. There is no definition for “within the influence of” in the following MVWP AP language. It could be said that anything in the greater Lake Tahoe Region is ‘within the influence of existing tourist and recreational services.’ This rationale appears to be another attempt to grasp at straws to try to justify the proposed rezoning which benefits only the private landowner, not the small communities below the luxury housing, not TRPA’s threshold standards, and not the new RPU. This area is currently zoned mostly conservation, with limited recreation – both uses which support low impact recreation. The RPU did not designate any land in this area as Resort Recreation.

The land area is within the influence of existing tourist and recreational services. It is also adjacent to significant recreational resources and has the potential to greatly enhance year round recreational opportunities in the region. (p. 2) [Emphasis added]

5. How will new luxury homes in a gated community enhance year round recreational opportunities within the region? The MVWP AP provides the following vague statement and gives no indication as to how the proposed project enhances recreation:

The Area Plan anticipates that future recreational development will play an increasingly important role within the context of the region’s economic and environmental health. The plan includes such elements as transportation, infrastructure, low density clustered residential/tourist accommodation development, hiking, biking, cross-country skiing, snowshoeing, and services for year round recreational use. (p. 2).

Subdivisions and “Clusters:”

6. The plan proposes subdivision of the land into “clusters” (as stated by Richard Shaw, Design Workshop, at the Placer County MVWP AP workshop on July 17, 2014; also noted in the presentation for the Area Plan, tenth slide⁶). The developer appears to believe that clusters are not subdivisions, yet a close reading of California’s Subdivision Map Act⁷ does not distinguish between the myriad ways land can be subdivided. The project has not indicated how the clusters of luxury homes will be aligned along the ridge, how tall they will be,⁸ or what qualifies them as “recreational development..

⁶ “Cluster development, not a lot and block subdivision.”

⁷ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=66001-67000&file=66410-66413.5>

⁸ The MVWP AP design standards suggest heights up to 3 stories “not to exceed 42 feet above grade” (p.13), yet the presentation on July 17 noted heights for single family homes (55’), townhomes (60’), Condos (115’), and Commercial (60’).

7. The Area Plan must provide extensive details as to the critical issues surrounding the scenic impacts of the clusters, including total height based on grade of building site, the amount of trees that are to be removed for the building construction, and the amount of trees that will be removed for the various transportation facilities and commercial uses.

SECTION 2: VISION AND PRINCIPLES

8. Section 2 begins with the following statement below. As there is currently no resort development within the Tahoe Basin portion of this proposed Area Plan, this project qualifies as urban sprawl, and runs counter to California's focus to encourage infill development (see OPR cites below). We've included related definitions below.

The MVWP Area Plan is envisioned as a resort destination providing an array of recreational opportunities year round, including connectivity to the Tahoe Rim Trail and a myriad of existing cross-country, snowshoe, mountain bike and hiking trails linking the MVWP Area Plan to developed recreation throughout the Northstar Community and Resort.

Urban Areas and Urban Sprawl:

The following goals are summarized in the California Governor's Office of Planning and Research (OPR) General Plan Guidelines (2003)⁹:

“Sustainable Development goals and policies include the following:

- Promote compact, walkable mixed-use development.
- Promote infill development.
- Restore urban and town centers.
- Limit non-contiguous (leapfrog) development.
- Promote transit-oriented development.

Protect open space and working landscapes.

- Conserve prime agricultural lands.
- Conserve lands of scenic and recreational value.
- Use open space to define urban communities.

Protect environmentally sensitive lands.

- Conserve natural habitat lands.
- Preserve habitat connectivity.
- Minimize impact to watershed functions, including water quality and natural floodways.
- Avoid natural hazards.” (p. 20).

Related definitions included in the glossary of the OPR's Guidelines include:

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http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB8QFjAA&url=http%3A%2F%2Fopr.ca.gov%2Fdocs%2FGeneral_Plan_Guidelines_2003.pdf&ei=TvzaU4qDMKma8QHa7oD4Cw&usg=AFQjCNF8WV8gMpKvyZsNFu9CDBt5cqs3Q&sig2=njrskwh2tv4tkRT34fKHEA&bvm=bv.72197243.d.b2U&cad=rja

Urban: Of, relating to, characteristic of, or constituting a city. Urban areas are generally characterized by moderate and higher density residential development (i.e., three or more dwelling units per acre), commercial development, and industrial development, and the availability of public services required for that development, specifically central water and sewer, an extensive road network, public transit, and other such services (e.g., safety and emergency response). Development not providing such services may be “non-urban” or “rural.” (See “Urban Land Use.”) CEQA defines “urbanized area” as an area that has a population density of at least 1,000 persons per square mile (Public Resources Code §21080.14(b)).

Urban Sprawl: Haphazard growth or outward extension of a city resulting from uncontrolled or poorly managed development.

The California Public Resources Code Section 21094.5 defines an "urban area" as:¹⁰

- (5) "Urban area" includes either an incorporated city or an unincorporated area that is completely surrounded by one or more \incorporated cities that meets both of the following criteria:
- (A) The population of the unincorporated area and the population of the surrounding incorporated cities equal a population of 100,000 or more.
 - (B) The population density of the unincorporated area is equal to, or greater than, the population density of the surrounding cities.

In more general terms, Wikipedia¹¹ defines urban sprawl as:

“Urban sprawl or suburban sprawl describes the expansion of human populations away from central urban areas into previously remote and rural areas, particularly resulting in low-density communities reliant upon heavy automobile usage...” [Emphasis added].

The proposed MVWP AP also appears contrary to the RPU’s goals and policies, which state “Since the development permitted under this plan is generally limited to the existing urban boundaries in which uses have already been established, the concept of this land use plan is directed toward encouraging infill and redirection.” (TRPA Goals & Policies, p. 2-12). [Emphasis added]. We note the California Public Resources Code Section 21061.3 defines “infill” as:¹²

21061.3. "Infill site" means a site in an urbanized area that meets either of the following criteria:

(a) The site has not been previously developed for urban uses and both of the following apply:

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.

¹⁰ <http://law.onecle.com/california/public-resources/21094.5.html>

¹¹ http://en.wikipedia.org/wiki/Urban_sprawl

¹² <http://law.onecle.com/california/public-resources/21061.3.html>

Plan Principles:

Our suggested revisions are noted below as:

- ~~Strikethrough~~ for deletions and underline for additions;
- In order to help clarify which goals and policies noted are in the draft MVW AP or TRPA's Regional Plan, we've added "MV" before each MVW AP goal or policy and "RP" before each TRPA goal or policy.

In general, numerous proposed goals and policies in the MVW AP directly or indirectly conflict with the TRPA Regional Plan (RP) goals and policies.

9. The goal below focuses solely on the *Lake Tahoe Region*; thus the intention of, the Area Plan and its projects within the AP must be evaluated solely by the impacts to the quality of the Lake Tahoe Basin portions of the Area Plan.

MV: *Goal LU-1:* Restore, maintain, and improve the quality of the Lake Tahoe Region for the visitors and residents of the Region.

10. The RPU includes the following Land Use Policy (below) which should be included in all TRPA Area Plans in order to conform to the RP. Note the proposed MVWP AP does not conform to the RPU's high priority policy that refers to redevelopment and town centers. Note that there is only undeveloped land in the project area providing further argument that the TRPA is setting aside its usual rules in order to accommodate a large new development on undeveloped land that is several miles from a Town Center.

RP: LU-1.2 REDEVELOPING EXISTING TOWN CENTERS IS A HIGH PRIORITY

11. The MVWP AP's proposed LU-1.3 (below) should be replaced with the following language from the TRPA Compact Article I (a)(6): "Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural public health values provided by the Lake Tahoe Basin."

MV: LU-1.3: Seek to maintain a balance between economic/social health and the environment.

12. As noted throughout, the RP's goals and policies (excerpts below) as well as its public statements, presentations, and public relations campaign, reinforce the RPU's aim to concentrate development in existing town centers and to encourage rehabilitation and redevelopment of existing buildings (see examples below in LU-2.2 and LU-2.12); TRPA states this emphasis will help achieve and maintain the thresholds standards. As the proposed MVW AP proposes new development on raw land outside of a Town Center, it does not conform to the RPU's goals and policies. The MVW AP does not meet its own stated goal:

MV: *Goal LU-2:* Direct the amount and location of new land uses in conformance with the environmental threshold carrying capacities and other goals of the Tahoe Regional Planning Compact.

RP: LU-2.2 NO NEW DIVISIONS OF LAND SHALL BE PERMITTED WITHIN THE REGION WHICH WOULD CREATE NEW DEVELOPMENT POTENTIAL INCONSISTENT WITH THE GOALS AND POLICIES OF THIS PLAN.

RP: LU-2.12 REHABILITATION, RECONSTRUCTION, AND UPGRADING OF THE EXISTING INVENTORY OF STRUCTURES, OR OTHER FORMS OF COVERAGE IN THE TAHOE REGION, ARE HIGH PRIORITIES OF THE REGIONAL PLAN. TO ENCOURAGE REHABILITATION AND UPGRADING OF STRUCTURES, THE FOLLOWING POLICIES SHALL APPLY:...

13. According to staff at the July 17th workshop on this draft Area Plan, the proposed community will be gated. It is unclear how an undeveloped forest, once converted to a gated community helps all persons to enjoy the Basin's natural resources as stated in their policy below.

MV: Policy LU-3.1.: All persons shall have the opportunity to utilize and enjoy the Region's natural resources and amenities.

14. As noted in our comments, the proposed MVW AP will place more than a hundred new homes and people in a location on the top of a ridge that is subject to extreme fire danger. This specific location does not appear to meet TRPA's policy:

RP: LU-3.2 NO PERSON OR PERSONS SHALL DEVELOP PROPERTY SO AS TO ENDANGER THE PUBLIC HEALTH, SAFETY, AND WELFARE.

15. As noted, the MVWP AP conflicts with the RP's high priority aim to direct development toward Centers.

RP: LU-3.3 DEVELOPMENT IS PREFERRED IN AND DIRECTED TOWARD CENTERS, AS IDENTIFIED ON THE REGIONAL LAND USE MAP. CENTERS SHALL HAVE THE FOLLOWING CHARACTERISTICS:

- 1) A concentration of non-residential and mixed-use development at a higher intensity than exists in other areas of the Region.
- 2) Existing or planned transit service.
- 3) Highway access.
- 4) Infill and redevelopment opportunities.
- 5) Capacity for receiving transfers of development rights and relocations of existing development.
- 6) Existing or planned housing in the vicinity.
- 7) Existing or planned street designs with continuous sidewalks, paths and other infrastructure that promotes walking, bicycling and transit use so as to encourage mobility without use of private vehicles.

16. The MVW AP proposes to create a new residential and tourist neighborhood in an undeveloped forested area several miles drive from the nearest Center. This conflicts with the RP's policies:

RP: LU-3.4 EXISTING DEVELOPMENT PATTERNS IN RESIDENTIAL NEIGHBORHOODS OUTSIDE OF CENTERS AND ENVIRONMENTALLY-SENSITIVE LANDS SHOULD BE MAINTAINED WITH NO SIGNIFICANT CHANGE.

RP: LU-3.5 DEVELOPMENT IS DISCOURAGED IN AND DIRECTED AWAY FROM ENVIRONMENTALLY-SENSITIVE LANDS AND AREAS FURTHEST FROM NON-RESIDENTIAL SUPPORT SERVICES. THESE AREAS ARE FURTHER DEFINED IN OTHER PLAN POLICIES.

17. The MVW AP appears at this time to fail to include affordable housing, contrary to the RP's goals and policies:

GOAL HS-1
PROMOTE HOUSING OPPORTUNITIES FOR FULL-TIME AND SEASONAL RESIDENTS
AS WELL AS WORKERS EMPLOYED WITHIN THE REGION.

18. The proposed Area Plan will both impede public access and scenic views, and does nothing to enhance the quality of the built environment because there are no existing buildings.. It is unclear how the policy below can be a goal of the project, or how goal CD-1 and policy CD-1.1 below can meet the challenge of protecting the views of a natural forested ridgeline.

MV: *Goal CD-1*: Ensure preservation and enhancement of the natural features and qualities of the region, provide public access to scenic views, and enhance the quality of the built environment.

MV: Policy CD-1.1.: The scenic quality ratings established by the environmental thresholds shall be maintained or improved.

19. The MVW AP fails to include the following goal of the RPU. We emphasize the goals regarding the compatibility of land uses as there are currently no buildings or communities of character located in the MVW AP project area, and the proposed project will be detrimental to scenic views from Lake Tahoe.

RP: GOAL CD-2
REGIONAL BUILDING AND COMMUNITY DESIGN CRITERIA SHALL BE
ESTABLISHED TO ENSURE ATTAINMENT OF THE SCENIC THRESHOLDS,
MAINTENANCE OF DESIRED COMMUNITY CHARACTER, COMPATIBILITY OF LAND
USES, AND COORDINATED PROJECT REVIEW.

Failure to include significant Goals and Policies from the TRPA RP:

The proposed MVWP AP fails to include adequate goals and policies to help achieve and maintain the environmental thresholds. It will be difficult for the TRPA to perform environmental analysis and conformance review if the RPU goals and policies are not compared to the project's goals and policies. It is of even greater concern that the following RP threshold-related conservation goals and policies – many of which will obviously be negatively impacted by the proposed MVW AP – were not considered “applicable”¹³ by the draft MVWP AP. The failure to ensure conformance sends a message that the conformance review may not be all that it was touted to be to assure protection of the basin ecosystem.

20. The following goals and policies for Noise should be added. In addition, the proposed MVWP AP proposes to increase the allowable CNEL level in most of the in-Basin project area. This runs contrary to the noise thresholds and will adversely impact residents, tourists, adjacent recreation users, and wildlife.

RP: GOAL N-1

¹³ Page 5 of the MVWP AP states: “The Area Plan seeks to implement applicable TRPA Regional Plan Goals and Policies, particularly the following:” [Emphasis added].

SINGLE EVENT NOISE STANDARDS SHALL BE ATTAINED AND MAINTAINED.

RP: N-1.3 MOTOR VEHICLES AND MOTORCYCLES SHALL COMPLY WITH THE APPROPRIATE NOISE THRESHOLDS.

RP: N-1.4 OFF-ROAD VEHICLE USE IS PROHIBITED IN THE LAKE TAHOE REGION EXCEPT ON SPECIFIED ROADS, TRAILS, OR DESIGNATED AREAS WHERE THE IMPACTS CAN BE MITIGATED.

RP: N-1.5 THE USE OF SNOWMOBILES WILL BE RESTRICTED TO DESIGNATED AREAS.

RP: N-1.6 PERMIT USES ONLY IF THEY ARE CONSISTENT WITH THE NOISE STANDARDS. NOISE MITIGATION MEASURES MAY BE REQUIRED ON ALL STRUCTURES CONTAINING USES THAT WOULD OTHERWISE ADVERSELY IMPACT THE PRESCRIBED NOISE LEVELS.

RP: GOAL N-2
COMMUNITY NOISE EQUIVALENT LEVELS SHALL BE ATTAINED AND MAINTAINED.

21. The following natural hazard goals and policies should be added. The project is located in an area subject to extensive danger from wildfire, placing hundreds of people and more than a hundred luxury properties in a hazardous area. In addition to wildfire, the project is also located between two recently studied and mapped active earthquake faults. The east branch of the West Tahoe Fault, and west of the Incline Village fault, bracket the project area. More information regarding the determination of faults in the project area can be found at the UNR Nevada Seismological Laboratory and the California Geological Survey.

RP: GOAL NH-1
RISKS FROM NATURAL HAZARDS (E.G., FLOOD, FIRE, AVALANCHE, EARTHQUAKE, SEICHE) WILL BE MINIMIZED.

RP: NH-1.1 DEVELOPMENT SHALL BE REGULATED IN IDENTIFIED AVALANCHE OR MASS INSTABILITY HAZARD AREAS.

RP: NH-1.3 INFORM RESIDENTS AND VISITORS OF THE WILDFIRE HAZARD ASSOCIATED WITH OCCUPANCY IN THE REGION. ENCOURAGE USE OF FIRE RESISTANT MATERIALS AND FIRE PREVENTATIVE TECHNIQUES WHEN CONSTRUCTING STRUCTURES, ESPECIALLY IN THE HIGHEST FIRE HAZARD AREAS. MANAGE FOREST FUELS TO BE CONSISTENT WITH STATE LAWS AND OTHER GOALS AND POLICIES OF THIS PLAN.

RP: NH-1.4 TRPA WILL ENCOURAGE PUBLIC SAFETY AGENCIES TO PREPARE DISASTER PLANS.

22. The MVWP AP includes only one goal regarding air quality, however there are numerous policies in the Regional Plan which are applicable and should be added in order to understand and protect air quality from the project's added pollutants to the basin's air.

RP: AQ-1.1 COORDINATE WITH OTHER AGENCIES AND JURISDICTIONS TO REDUCE EMISSIONS, EXPOSURES, AND HEALTH AND ENVIRONMENTAL RISKS WHEN DEVELOPING AND IMPLEMENTING PROGRAMS, PLANS, AND PROJECTS.

RP: AQ-1.2 REDUCE OR LIMIT SOURCES OF POLLUTANTS THAT DEGRADE VISIBILITY.

RP: AQ-1.3 ENCOURAGE THE REDUCTION OF EMISSIONS FROM MOTOR VEHICLES AND OTHER MOTORIZED MACHINERY IN THE REGION.

RP: AQ-1.4 ENCOURAGE THE REDUCTION OF EMISSIONS FROM GAS APPLIANCES.

RP: AQ-1.5 ENCOURAGE THE REDUCTION OF EMISSIONS THROUGH BUILDING EFFICIENCY.

RP: AQ-1.7 PROMOTE THE REDUCTION OF AIR QUALITY IMPACTS FROM CONSTRUCTION AND PROPERTY MAINTENANCE ACTIVITIES IN THE REGION.

23. The MVWP AP includes only one goal regarding water quality, however there are numerous policies in the Regional Plan which are applicable and should be added in order to understand and protect water resources from the amount of disturbance to storm water runoff that is estimated to escape the project during major storm events.

RP: GOAL WQ-1
FEDERAL, STATE, REGIONAL, LOCAL AND PRIVATE WATER QUALITY MANAGEMENT PROGRAMS SHOULD BE IMPLEMENTED IN A COORDINATED MANNER TO RESTORE AND MAINTAIN LAKE TAHOE'S UNIQUE TRANSPARENCY, COLOR AND CLARITY IN ACCORDANCE WITH ENVIRONMENTAL THRESHOLD CARRYING CAPACITY STANDARDS.

RP: WQ-1.1 ACHIEVE AND MAINTAIN WATER QUALITY THRESHOLDS THROUGH COMPREHENSIVE REGIONAL PLANNING AND THROUGH COORDINATION WITH OTHER PUBLIC AGENCIES AND THE PRIVATE SECTOR.

RP: WQ-1.2 COORDINATE A MULTI-AGENCY EFFORT TO PRIORITIZE AND FUND WATER QUALITY IMPROVEMENT PROJECTS IN THE LAKE TAHOE REGION THROUGH THE ENVIRONMENTAL IMPROVEMENT PROGRAM (EIP).

RP: WQ-1.3 REQUIRE THAT DEVELOPMENT AND OTHER ACTIVITIES IN THE LAKE TAHOE REGION MITIGATE ANTICIPATED WATER QUALITY IMPACTS.

RP: WQ-1.4 SUPPORT AND SEEK TO EXPEDITE ACTIVITIES TO REDEVELOP NON-CONFORMING PROPERTIES IN A MANNER THAT IMPROVES WATER QUALITY AND TO RELOCATE OR RETIRE DEVELOPMENT RIGHTS ON SENSITIVE LANDS.

RP: WQ-1.5 SUPPORT THE LAKE TAHOE TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAMS IN CALIFORNIA AND NEVADA AND THE TMDL POLLUTANT/STORMWATER LOAD REDUCTION PLANS FOR EACH LOCAL GOVERNMENT IN THE REGION.

RP: WQ-1.6 SUPPORT FEDERAL, STATE, LOCAL AND PRIVATE WATER QUALITY IMPROVEMENT PROGRAMS THAT IMPROVE WATER QUALITY IN THE REGION.

RP: WQ-1.7 COORDINATE WITH PUBLIC AND PRIVATE ENTITIES TO MAXIMIZE THE EFFICIENCY AND EFFECTIVENESS OF WATER QUALITY PROGRAMS

RP: WQ-2.1 DISCHARGE OF MUNICIPAL OR INDUSTRIAL WASTEWATER TO LAKE TAHOE, ITS TRIBUTARIES, OR THE GROUNDWATERS OF THE TAHOE REGION IS PROHIBITED, EXCEPT FOR EXISTING DEVELOPMENT OPERATING UNDER APPROVED ALTERNATIVE PLANS FOR WASTEWATER DISPOSAL, AND FOR FIRE SUPPRESSION EFFORTS IN ACCORDANCE WITH APPLICABLE STATE LAWS.

RP: WQ-2.2 DISCHARGES OF SEWAGE TO LAKE TAHOE, ITS TRIBUTARIES, OR THE GROUNDWATERS OF THE LAKE TAHOE REGION ARE PROHIBITED. SEWAGE COLLECTION, CONVEYANCE AND TREATMENT DISTRICTS SHALL HAVE APPROVED SPILL CONTINGENCY, PREVENTION, AND DETECTION PLANS.

RP: WQ-2.3 UNDERGROUND STORAGE TANKS FOR SEWAGE, FUEL, OR OTHER POTENTIALLY HARMFUL SUBSTANCES SHALL MEET STANDARDS SET FORTH IN TRPA ORDINANCES, AND SHALL BE INSTALLED, MAINTAINED, AND MONITORED IN ACCORDANCE WITH THE BEST MANAGEMENT PRACTICES HANDBOOK.

RP: WQ-2.4 NO PERSON SHALL DISCHARGE SOLID WASTES IN THE LAKE TAHOE REGION BY DEPOSITING THEM ON OR IN THE LAND, EXCEPT AS PROVIDED BY TRPA ORDINANCE.

RP: WQ-2.5 TRPA SHALL COOPERATE WITH OTHER AGENCIES WITH JURISDICTION IN THE LAKE TAHOE REGION IN THE PREPARATION, EVALUATION, AND IMPLEMENTATION OF TOXIC AND HAZARDOUS SPILL CONTROL PLANS.

RP: GOAL WQ-3
REDUCE OR ELIMINATE NON POINT SOURCES OF POLLUTANTS WHICH AFFECT, OR POTENTIALLY AFFECT, WATER QUALITY IN THE TAHOE REGION IN A MANNER CONSISTENT WITH THE LAKE TAHOE TMDL, WHERE APPLICABLE.

RP: WQ-3.1 REDUCE LOADS OF SEDIMENT, NITROGEN, AND PHOSPHORUS TO LAKE TAHOE; AND MEET WATER QUALITY THRESHOLDS FOR TRIBUTARY STREAMS, SURFACE RUNOFF, AND GROUNDWATER.

RP: WQ-3.4 IN ADDITION TO OTHER POLICIES AND REGULATIONS THAT ARE INTENDED TO MINIMIZE WATER QUALITY IMPACTS OF DEVELOPMENT ON-SITE, MAINTAIN MITIGATION FEE PROGRAMS TO FINANCE ACTIVITIES THAT MITIGATE THE WATER QUALITY IMPACTS OF DEVELOPMENT ACTIVITIES. THE MITIGATION FEE PROGRAMS SHALL REFLECT DIRECT AND INDIRECT WATER QUALITY IMPACTS AND BENEFITS RESULTING FROM DIFFERENT TYPES OF DEVELOPMENT AND REDEVELOPMENT ACTIVITIES, AS WELL AS GEOGRAPHIC DIFFERENCES.

RP: WQ-3.5 PROMOTE INFILTRATION FACILITIES AND FUNCTIONING FLOOD PLAINS ALONG STREAM CORRIDORS AS A STRATEGY FOR REMOVING INSTREAM LOADS OF SEDIMENT AND NUTRIENTS.

RP: WQ-3.6 ALL PERSONS ENGAGING IN PUBLIC ROAD MAINTENANCE OR SNOW DISPOSAL OPERATIONS IN THE TAHOE REGION SHALL MAINTAIN ROADS AND DISPOSE OF SNOW TO MINIMIZE THE DISCHARGE OF DEICERS, FINE PARTICULATES AND OTHER CONTAMINANTS TO STREAM ENVIRONMENT ZONES, GROUNDWATER AND SURFACE-WATER IN ACCORDANCE WITH SITE CRITERIA AND MANAGEMENT STANDARDS IN THE BEST MANAGEMENT PRACTICES HANDBOOK.

RP: WQ-3.7 INSTITUTIONAL USERS OF ROAD TRACTION ABRASIVES AND DEICERS IN THE LAKE TAHOE REGION SHALL KEEP RECORDS SHOWING THE TIME, RATE, LOCATION, AND TYPE OF TRACTION ABRASIVES AND DEICERS APPLICATION. STORAGE OF ROAD SALT SHALL BE IN ACCORDANCE WITH THE BEST MANAGEMENT PRACTICES HANDBOOK.

RP: WQ-3.8 OFF ROAD MOTORIZED VEHICLE USE IS PROHIBITED IN THE LAKE TAHOE REGION EXCEPT ON SPECIFIED ROADS, TRAILS, OR DESIGNATED AREAS WHERE THE IMPACTS CAN BE MITIGATED.

RP: WQ-3.9 RESTRICT APPLICATION OF FERTILIZER WITHIN THE TAHOE REGION TO USES, AREAS, AND PRACTICES IDENTIFIED IN THE CODE OF ORDINANCES AND

THE BEST MANAGEMENT PRACTICES HANDBOOK. FERTILIZERS SHALL NOT BE USED IN OR NEAR STREAM AND DRAINAGE CHANNELS, OR IN STREAM ENVIRONMENT ZONES, INCLUDING SETBACKS, AND IN SHOREZONE AREAS EXCEPT FOR MAINTENANCE OF PREEXISTING LANDSCAPING. MAINTENANCE OF PREEXISTING LANDSCAPING SHALL BE MINIMIZED IN STREAM ENVIRONMENT ZONES AND ADJUSTED OR PROHIBITED IF FOUND, THROUGH EVALUATION OF CONTINUING MONITORING RESULTS, TO BE IN VIOLATION OF APPLICABLE WATER QUALITY DISCHARGE AND RECEIVING WATER STANDARDS. ADDITIONALLY, ENCOURAGE THE PHASE OUT THROUGH EDUCATION AND OUTREACH OF THE SALE AND USE OF CHEMICAL FERTILIZER CONTAINING PHOSPHORUS FOR LAWNS IN THE REGION, WITH LIMITED EXCEPTIONS, BY 2017.

RP: WQ -3.12 PROJECTS SHALL BE REQUIRED TO MEET TRPA BMP REQUIREMENTS AS A CONDITION OF APPROVAL FOR ALL PROJECTS.

We suggest adding the following policy:

“WQ: Discharges of nitrogen from fertilizer used for new landscaping are prohibited.”

24. The RP’s transportation goals and policies should be added (rather than reprint all of them below, we refer to pages 3-2 through 3-8 of TRPA’s Goals and Policies). However, we note that the proposed MVWP AP project area is not in or adjacent to a Center, nor are substantial transportation enhancements included. Additionally, as the land is currently undeveloped forest land, the project will conflict with the goal to implement environmental improvements because it will generate a net negative impact in the Basin compared to existing conditions. The type of urban sprawl that will result from the proposed project is also in conflict with California’s sustainable communities strategy because this project will not add development to ‘infill’ areas, but instead creates new, low-density development outside of developed centers.
25. The RP’s Vegetation goals and policies should be added (TRPA Goals and Policies pages 4-2 through 4-8). However, the proposed MVW AP conflicts with many of these goals, which require the protection of forests. It is clear from the data we have seen to date, that at least a thousand trees will be removed, both for the construction of buildings and roads, but also it is a concern that the project may receive special exemptions to remove trees that stand in front of the prized views from the buildings. Such removal will exacerbate screening of the project over the following years.
26. The RP’s Wildlife goals and policies should be added (TRPA Goals and Policies pages 4-9 through 4-10). Depending upon the wildlife species both identified and not yet identified in the project area, and recognizing that the project will further fragment forest habitat, it is unlikely the proposed project conforms to these goals and policies.
27. The RP’s Soils goals and policies should be added (TRPA Goals and Policies pages 4-14 through 4-16). It appears the proposed project would not conform to the first Goal: “GOAL S-1 MINIMIZE SOIL EROSION AND THE LOSS OF SOIL PRODUCTIVITY” as it proposes significant development on soil currently functioning in a natural forest environment. The project should clearly delineate those soils that are to be protected from disturbance, and then protect them.

28. The RP’s Scenic goals and policies should be added (TRPA Goals and Policies pages 4-21 through 4-22). The proposed project would not conform to the first Goal: “GOAL SR-1 MAINTAIN AND RESTORE THE SCENIC QUALITIES OF THE NATURAL APPEARING LANDSCAPE” as it proposes significant development in a forested environment which will create negative daytime and nighttime scenic impacts. Goals and policies should also be included which protect Night Sky/Dark Skies. The Douglas County Dark Skies ordinance should be adopted by this plan. Dark Skies establishes that lights cannot be seen off the property, through use of many new devices that direct light to where it is needed, but eliminate spillover light or light that trespasses on someone else’s property.
29. Other RP goals and policies should also be included, including SEZ, Cultural, and energy (p. 4-24 to 4-29); Public Services and Facilities Element (p. 6-1 to 6-5), transportation (p. 3-1 to 3-8), and the Implementation Element (p. 7-1 to 7-15). The proposed MVWP AP does not appear to meet several of the RP’s goals and policies, including but not limited to:

RP: GOAL DP-1
 DIRECT ALL RESIDENTIAL DEVELOPMENT FIRST TO THOSE AREAS MOST SUITABLE FOR DEVELOPMENT IN ACCORDANCE WITH ENVIRONMENTAL THRESHOLD CARRYING CAPACITIES AND OTHER CONSIDERATIONS, SUCH AS INFRASTRUCTURE CAPACITY AND PROGRESS TOWARD ACCOMPLISHING WATER QUALITY IMPROVEMENT PROGRAMS.

For example, there is no current infrastructure in the undeveloped forested area of the Basin where the Area Plan is proposed. Further, the RPU identifies existing Centers as the high priority areas most suitable for additional development of all types.

RP: GOAL DP-2
 MANAGE DEVELOPMENT AND REDEVELOPMENT CONSISTENT WITH PROGRESS TOWARD MEETING ENVIRONMENTAL THRESHOLDS.

RP: GOAL DP-4
 CONDITION APPROVAL OF NEW DEVELOPMENT AND REDEVELOPMENT IN THE TAHOE REGION ON POSITIVE IMPROVEMENTS IN OFF-SITE EROSION AND RUNOFF CONTROL AND AIR QUALITY.

The MVWP’s AP proposed goals and policies leave out most of the goals and policies related to threshold attainment. Further, the proposed Area Plan does not appear to provide any environmental threshold benefits¹⁴ that would improve the current conditions of a forested slope.

30. The MVWP AP also fails to sufficiently address the RP’s Recreational goals and policies. Opportunities for dispersed recreation currently exist on the Area Plan site and are already used year-round; the proposed MVWP AP will diminish these existing opportunities through developing property now used for recreation and potentially replacing it with urbanized recreation (e.g. swimming pools, tennis and other urban

¹⁴ It appears the only ‘benefit’ considered is related to the 112 units that must be restored from ‘somewhere’ in the Basin; however, as noted in our attached comments to the City of South Lake Tahoe, there has been no environmental analysis to provide evidence of the presumed water quality benefits from this transfer approach. In addition, without sufficient nearshore information, it is not possible to assess the impacts of moving development from different locations in the Basin.

features. The proposed MVWP AP also does not appear to achieve the TRPA goal of protecting natural resources.

MV: *Goal R-1*: Encourage opportunities for dispersed recreation when consistent with environmental values and protection of *natural resources*. [Emphasis added]

31. The Plan must cite the evidence of the projected demands for hiking and horseback riding (as stated in the policy noted below), and what the ‘expansions’ are that are needed to meet these demands. These demands are clearly met with the existing land use designation as the zoning is recreation and conservation. It is important the recreation demand from the proposed 112 houses/tourist units be provided in the MVWP AP. Further, is it important to document along with the population numbers that will be increased on the trails from the “enhancements” named in the plan, the expected links with major new regional or interstate trails in the area. While we are familiar with the Tahoe Rim Trail, we expect the other links to which the MVWP AP refers to be specifically named. Currently, it appears from maps and experience that all the trails are now linked, with no needed help from the future developer. However, there is also the issue of the carrying capacity of the trails and when that capacity will be reached - or whether it already has been reached - in which case, the addition of more hikers from the new project could easily tip some trails into over-capacity status.

MV: *Policy R-1.3*: Trail systems for hiking and horseback riding shall be expanded to accommodate projected demands and provide a link with major regional or interstate trails, within the constraints provided by all environmental threshold carrying capacities. [Emphasis added].

32. As the MVWP AP is being promoted as a recreation resort, we recommend the Area Plan include all of TRPA’s Recreational Goals & Policies (p. 5-2 to 5-3). The following should be added. It does not appear the proposed MVWP AP achieves these goals and policies.

RP: R-1.1 LOW DENSITY RECREATIONAL EXPERIENCES SHALL BE PROVIDED ALONG UNDEVELOPED SHORELINES AND OTHER NATURAL AREAS, CONSISTENT WITH THE TOLERANCE CAPABILITIES AND CHARACTER OF SUCH AREAS.

RP: R-1.2 AREAS SELECTED FOR NATURE STUDY AND WILDLIFE OBSERVATION SHALL BE APPROPRIATELY REGULATED TO PREVENT UNACCEPTABLE DISTURBANCE OF THE HABITAT AND WILDLIFE.

RP: R-1.4 EXISTING TRAILS THAT ARE EITHER UNDERUTILIZED OR LOCATED IN ENVIRONMENTALLY-SENSITIVE AREAS SHALL BE RELOCATED TO ENHANCE THEIR USE AND TO PROTECT NATURAL RESOURCES.

RP: R-1.5 OFF-ROAD VEHICLE USE IS PROHIBITED IN THE LAKE TAHOE REGION EXCEPT ON SPECIFIED ROADS, TRAILS, OR DESIGNATED AREAS WHERE THE IMPACTS CAN BE MITIGATED.

33. Along with the proposed “Goal R-2: Provide high-quality recreational opportunities,” the following RP policies need to be added. It does not appear the proposed MVWP AP meets these goals and policies.

MV: *Goal R-2*: Provide high-quality recreational opportunities.

RP: R-2.1 WILDERNESS AND OTHER UNDEVELOPED AND ROADLESS AREAS SHALL BE MANAGED FOR LOW-DENSITY USE.

RP: R-2.2 SEPARATE USE AREAS SHALL BE ESTABLISHED FOR THE DISPERSED WINTER ACTIVITIES OF SNOWMOBILING, CROSS-COUNTRY SKIING AND SNOWSHOEING WHEN CONFLICTS OF USE EXIST.

34. The following RPU goals and policies need to be added and conflicts between the proposed Area Plan and the TRPA Regional Plan Goals and Policies addressed. The proposed MVWP AP appears to conflict with the Policy R-3.1. The reserved PAOTs for the areas in the three impacted PAS's include 1,000 winter day use and 524 overnight uses (throughout the entire PAS area, whereas the MVWP AP includes portions of each PAS). The proposed MVWP AP appears to impact the future use of these reserved PAOTs as the document suggests the 'alternative' to the proposed project under existing zoning would be 832 camping spots.

RP: GOAL R-3
PROVIDE A FAIR SHARE OF THE TOTAL BASIN CAPACITY FOR OUTDOOR RECREATION.

RP: R-3.1 ALL EXISTING RESERVATIONS OF SERVICES FOR OUTDOOR RECREATION SHALL CONTINUE TO BE COMMITTED FOR SUCH PURPOSES.

35. The following RP policy must be included to help achieve threshold standards. It appears the proposed MVWP AP does not meet this clear capacity goal. The following issues of concern are raised by the resort recreation zoning for the project: 1) the impacts generated by the proposed MVWP AP on low-density, low-intensity dispersed recreation; and 2) according to existing maps, the project area runs close to the existing Tahoe Rim Trail, which raises concerns about the capacity along this ridgeline for the project to provide a comparable current Rim Trail experience to hikers such that as with current conditions, hikers can enjoy the trail without being exposed to urban scenes, driveways, buildings noise, light pollution, scenic impacts, loss of wildlife and vegetation and other intrusive impacts of this project.

RP: R-3.2 WHEN REVIEWING PROJECTS THAT COMMIT SIGNIFICANT RESOURCES OR SERVICES TO NON-OUTDOOR RECREATIONAL USES, TRPA SHALL BE REQUIRED TO MAKE WRITTEN FINDINGS THAT SUFFICIENT RESOURCE CAPACITY REMAINS TO OBTAIN THE RECREATION GOALS AND POLICIES OF THIS PLAN.

36. The MVWP AP also conflicts with the RP goal R-4.1 (below). First, the MVW AP proposes residential development and timeshares – which are not recreational facilities although the MVWP AP is being promoted as a recreational project. Second, no demand for recreational facilities in this area has been presented, while the existing recreational uses do not require facilities, e.g. hiking, biking, horseback-riding, snowshoeing, cross-country skiing, telemark skiing, and snowmobiling – all of which are outdoor recreational activities. No evidence of a demand for urban and/or indoor recreation proposed in the Lake Tahoe Basin portion of the MVWP AP, for example swimming pools and tennis courts (see the list of proposed uses included in these comments), has been presented.

RP: GOAL R-4
PROVIDE FOR THE APPROPRIATE TYPE, LOCATION, AND RATE OF DEVELOPMENT OF OUTDOOR RECREATIONAL USES.

RP: R-4.1 EXPANSION OF RECREATIONAL FACILITIES AND OPPORTUNITIES SHOULD BE IN RESPONSE TO DEMAND.

37. The proposed MVW AP conflicts with the following RP Goals and Policies, in large part because the goals and policies direct facilities to be developed in or near urban areas, and require that natural resources be protected. The MVW AP proposes recreational facilities in undeveloped areas, where natural resource damage will occur as a result of the development.

R-4.7 DEVELOPMENT OF DAY-USE FACILITIES SHALL BE ENCOURAGED IN OR NEAR ESTABLISHED URBAN AREAS, WHENEVER PRACTICAL.

R-4.8 VISITOR INFORMATION FACILITIES SHALL BE LOCATED, TO THE EXTENT FEASIBLE, NEAR ENTRY POINTS TO THE REGION OR CLOSE TO URBAN AREAS.

GOAL R-5
PROTECT NATURAL RESOURCES FROM OVERUSE AND RECTIFY INCOMPATIBILITY AMONG USES.

R-5.1 RECREATION DEVELOPMENT IN THE TAHOE REGION SHALL BE CONSISTENT WITH THE SPECIAL RESOURCES OF THE AREA.

R-5.2 REGULATE INTENSITY, TIMING, TYPE, AND LOCATION OF USE TO PROTECT RESOURCES AND SEPARATE INCOMPATIBLE USES.

GOAL R-6 PROVIDE SUFFICIENT CAPACITY FOR LOCAL-ORIENTED FORMS OF OUTDOOR AND INDOOR RECREATION IN URBAN AREAS. [Emphasis added].

Additional List in Area Plan Principles (p. 6):

38. Intro to Area Plan principles: TRPA's Goals and Policies include legal, adopted language voted upon by the TRPA Governing Board. Using an Area Plan to revise those Goals and Policies (G&Ps) through a set of "principles" is a most unusual process. In fact, it appears to be arbitrary and capricious, especially considering the odd effort to hide the extent of the revisions and separate them from the threshold standards. The concept of "intending to achieve the Goals and Policies"¹⁵ is bizarre. The point of the G&Ps is as the backbone of the Regional Plan. Applicants normally work with the G&P. It is only a year and a half old, and applicants cannot simply add additional principles (which appear to be more goals and policies) and proclaim they help achieve the Regional Plan Goals and Policies, without explanation or analysis. To do so is misleading as it implies to readers that these principles have been approved by TRPA. Instead these principles undermine the G&P to the benefit of the one project, by going around the usual process to amend and revise the G&P and short-circuiting the required amendment process with a set of principles. It is peculiar, if not presumptuous, for an applicant to just drop them in an

¹⁵ "The Area Plan is based on the following principles, which are intended to achieve the Regional Plan Goals and Policies:" (p. 6).

Area Plan, instead of addressing the entire Regional Plan. Piecemeal amendments are generally seen as a very unprofessional way to administer a regional plan. Lake Tahoe deserves better.

39. Principle 1 (included below). Since the entire Regional Plan and Transportation Plan were created, the TRPA has touted the concepts of a recreation-based pedestrian-oriented development. That was the underlying theme of the planning process, and isn't new. Further, it is not different from the current pedestrian-oriented areas in the Basin, which we believe are also recreation-based (i.e. Ski Run, Heavenly Village, Tahoe City). If there is a difference, what is it that is currently lacking in the existing RPU plans that is now necessary in the Tahoe Basin?
 1. Establish a recreation based pedestrian orientated development that offers a variety of experiences in a walkable and bikeable environment.

40. Principle 2: How is the following principle not already provided in the RPU? Is this a special principle for a special project? Describe why this principle is needed.
 2. Establish the potential for diverse outdoor recreation experiences and accommodations in a single location adjacent to developed and natural recreation resources.

41. Principle 3: As noted above, the RP goal and policies focus on outdoor recreation. In addition, existing outdoor recreational activities in the area, such as hiking and biking, already have visual connections to Lake Tahoe. What is the demand that this principle (included below) meets that is not offered in the Regional Plan? The principle may conflict with the RPU and thresholds.
 3. Provide cross-country skiing, bike and hiking trails, swimming, tennis, and other outdoor recreational activities at a location that has visual connections to Lake Tahoe.

42. Principle 4: The language is odd for a Regional Plan. Marketing and the viability of the North Shore are subjects outside the purview of the Regional Plan. Those subjects are the realm of the developer and Chambers and their implementation of their project. Also, as the Compact's definition for 'regional' is only in the Basin, this principle is stating the project must provide in-Basin benefits. Further, Tahoe is a National Treasure because it has beautiful natural resources, not because it can be marketed.
 4. Develop new programs and facilities to improve market attractiveness and viability of the North Shore with regional benefits.

43. Principle 5: Enhancing services suggests there are existing services which need enhancement. As there is no development in this area, there is currently no need to provide transit in this project area. This principle does not make sense.
 5. Enhance transit and alternative travel modes as part of the resort destination experience.

44. Principle 6: The natural characteristics of the site include an undeveloped forested area which can be seen from both the Basin and on Lake Tahoe. This appears to be a statement developers often use, as if a house looks better than a forest. As a principle, we presume it is part of the applicant's marketing, and with or without the principle

the project will meet the TRPA design guidelines. However, attaining “compatibility” between a new luxury home and an open forest is a juxtaposition of values.

6. Require sensitive architectural and site design to ensure there is compatibility with the built environment and natural characteristics of the site.
45. Principle 8: As noted in our attached comments to the City of South Lake Tahoe in 2013, there is no evidence to confirm the assumption made by TRPA’s RPU, and in this draft Area Plan, that the transfer and restoration will result in environmental benefits. They could, but it would depend on a number of factors. However, the principle is a good idea, provided that the transfer ratios are demonstrated to provide for a net improvement to both sites, sending and receiving areas. Baldly stating that there will be benefits is simply not supportable by the evidence provided to date.
8. Transfer existing substandard development from outside of the Area Plan within the Basin with priority for retirement on environmentally sensitive sending sites and restoring the sending sites to a natural condition.
46. Principle 9: As no development currently exists in the area, there is nothing to reduce ‘from.’ It is unclear what this principle (below) is intended to mean. Further, as the proposed MVWP AP will cut down trees which sequester carbon and build new homes and roadways – thereby generating additional energy demands and greenhouse gas emissions – this principle statement is merely gratuitous.
9. Reduce reliance on non-renewable energy and the emission of air pollutants and greenhouse gasses.
47. Principle 10: All new development should not merely ‘strive’ to meet or exceed standards, but should actually demonstrate that they did so. This policy is another on the list that provides an exit from actually attaining standards. Lake Tahoe deserves better.
10. Strive to meet and/or exceed the standards set for energy efficiency and reduction of greenhouse gasses by programs like LEED certification.
48. Principle 11: This principle is misleading because it omits the fact that currently no residential or transient lodging is within the area plan, and if it were, it would not be in proximity to services and amenities. The proposed project will generate urban sprawl on the ridgeline of Lake Tahoe. Those owning, renting, or in some way utilizing luxury homes are noted in the transportation plan to arrive by autos – and use them.
11. Locate residential and transient lodging in proximity to services and amenities to reduce reliance on automobiles.
49. Final principle statement: The draft MVWP AP must include a list of the existing uses and proposed permissible uses, and also explain how the proposed uses will meet the RPU’s goals and policies. In the meantime, we prepared our own comparison of uses in order to help inform the public of the potential increases in development proposed by the draft MVWP AP (included below).

These principles are incorporated into the permissible uses, land use district standards, design standards and guidelines, and other sections of the MVWP Area Plan.

Area Plan Characteristics:

50. The surrounding “context” as noted in the statement below appears to be the developer’s wish list citing the existing road network, adjacent land uses, and recreational uses. In fact the surrounding context that should influence the area plan is open forest with low impact recreational trails and wintertime snowmobile use. It is unclear how these ‘features’ influence the open forest in a way in which it requires the development of new luxury homes?

The Area Plan is influenced by the surrounding context and features including the existing road network, adjacent land uses, and active and passive recreational uses.

51. There does not appear to be any evidence that people in this area of the Tahoe Basin desire a luxury resort looming over their small towns. In fact, according to comments submitted by North Tahoe groups and citizens, it appears there is a great desire to maintain the existing open forest and recreational experiences already here. We note that people desiring a true resort setting need not only drive approximately five miles to arrive at the extensive Northstar Village developments. As TRPA’s jurisdiction lies solely within the Lake Tahoe Basin, TRPA decisions must be based solely on impacts to the thresholds.

The availability of recreation on this portion of the North Shore is abundant, but does not fully represent all of the choices people desire in a resort setting. Additional recreational opportunities include both natural resource based recreation and more formalized options:

52. The activities in the first bullet (below) are already supported by the area. Further, the addition of the newly proposed recreation resort will negatively impact these activities.

- Cross-country skiing, snowshoeing, hiking, biking, and nature trails (and associated amenities) with connections to regional trails, e.g. Tahoe Rim Trail and Tompkins Memorial Trail;

53. The TRPA RPU does not include adding more swimming facilities and tennis courts, let alone outside centers and on undeveloped lands.

- Swimming opportunities will be expanded by dedicating land areas to swim facilities;
- Tennis courts and teaching facilities will offer the possibility for visitors to engage with this sport; and

54. This following statement is perplexing as the mountain bike trails are already there.

- Biking trails that serve both mountain bikers and road cyclists, providing links to neighborhoods and adjacent areas and attractions.

55. As noted previously, there is no current development in the proposed area that would require ‘enhancement.’

The Area Plan will enhance the resort destination experience by providing connections to existing recreational opportunities within and in proximity to the MVWP Area Plan.

SECTION 3: LAND USE

56. TRPA has not yet conducted a regional analysis to assess what alternative areas (if any) beyond the two identified in the RPU, are appropriate for the Resort Recreation Land Use zoning. An alternatives analysis must be completed before TRPA can determine whether certain changes will help achieve and maintain thresholds.

Resort Recreation District:

57. The language regarding Resort Recreation Districts on page nine of the MVWP AP conflicts with the information provided by the TRPA FEIS and RPU regarding Resort Recreation zoning. The draft MVWP AP states:

The Area Plan is comprised of 112.8 acres, all of which will be zoned Specific Plan Resort Recreation (RR). For purposes of this Area Plan, the Specific Plan RR zoning district is used in non-urban areas with good potential for developed outdoor recreation, park use, or concentrated recreation. Allowable uses include single-family and multi-family dwellings, tourist accommodations, condominiums and timeshares, outdoor retail sales, eating and drinking establishments, and a number of public service and recreational uses.

However, the RPU FEIS states, the two areas rezoned to Resort Recreation were considered appropriate because they were in close proximity to *existing* Districts (considered urban by TRPA), are private lands in or very near areas that are *already highly developed*, and according to TRPA, *reduce* development potential.

As described in the Draft EIS (page 3.2-69), re-designation of this private land was proposed to provide recreation access to an area in close proximity to the proposed High Density Tourist District and the Kingsbury Grade Town Center. The Recreation designation would be consistent with surrounding recreation uses, including the Edgewood Golf Course and Heavenly Ski Resort. (p. 3-47)

Upon consideration of stakeholder concerns the TRPA Governing Board agreed that the scope of the proposal should be reduced, and that expanded use in Recreation-designated lands should be restricted to private lands in or very near areas that are already highly developed.

These two areas were considered appropriate for additional uses and building subdivision allowances (i.e., to permit creation of condominiums, not new subdivision of land) because they are in close proximity to already developed centers—Edgewood to the most intensely developed casino core at South Shore, and Heavenly California Base area to the heavily developed South Shore (proposed Regional Center) and to an existing, heavily used ski area base facility and parking lot. Re-designating both locations under the new Resort Recreation designation is consistent with the larger objectives of the Regional Plan Update. By creating new allowances that put visitors in proximity to organized recreation opportunities and to the services and amenities that serve those visitors, fewer vehicle trips would likely be necessary to travel to and from recreation sites, leading to lower air pollutant emissions and reduced vehicle noise. (p. 3-38 and 3-49). [Emphasis added].

With the incorporation of the revisions described above, the Final Draft Plan would ensure that inappropriate or incompatible land uses are not implemented on Recreation-designated lands and that any new uses on lands designated Resort Recreation do not increase development potential within the Region, but in fact reduce it. (p. 3-49) [Emphasis added].

The area in the proposed MVWP AP is not developed, nor is it immediately adjacent to a highly developed area that provides amenities (e.g. grocery stores, pharmacies, etc.). Therefore, the proposed MVWP AP cannot be found to conform to the RPU.

58. As noted, the proposed MVWP AP fails to include goals and policies aimed at achieving and maintaining the environmental thresholds, and in fact includes several policies (or ‘principles’) which are likely to harm the thresholds. However, as the FEIS states (p. 3-50):

To be found in conformance with the Regional Plan, the Area Plan must demonstrate that it will achieve and maintain TRPA Threshold Standards.

59. We question how 112 new, low-density luxury homes will not require subdivision, which is prohibited by the RPU, as noted below:

Second, the Final Draft [RPU] Plan would prohibit lot or block subdivision within Resort Recreation areas. Subdivision would be allowed only for structures (i.e., individually owned “air space” condominiums); no subdivision of land would be allowed. (RPU FEIS Volume 1, p. 2-3)

60. As noted, statements implying the proposed project will support open space and recreational uses are misleading as they omit the fact that the entire project area is currently open space, and has attained that over the centuries without the support of an 85-acre development. The current zoning would not allow this project.

Within the Area Plan, 85.3 acres will be developable with the remaining 27.5 acres deed restricted for trails, open space, and recreation. Land coverage for the MVWP Area Plan will comply with the TRPA Code, Chapter 30: Land Coverage. The estimated allowable coverage is approximately 28 acres. (p. 9).

61. As noted in our comparison table herein, there is a significant difference between the existing uses allowed by the PAS’s and the proposed uses, which significantly increase the development potential and prescribe **intensive** development. In addition, it is misleading to refer to campgrounds, which are also only open a few months during the year, as “intensive development.”

62. There are not enough PAOTs in the PAS’s to allow for 832 campground sites, therefore the MVWP AP is out of line making this statement (see below). At most 524 have been reserved for the entire PAS areas. However, as such sites have not been approved and would be subject to environmental analysis; it is misleading to suggest these would be developed if the MVWP AP were not allowed.

Currently, three Plan Area Statements (PAS), one with a Recreation land use classification and two with a Conservation land use classification, provide a description of permissible land uses within the Area Plan, two of which allow intensive development, such as developed campgrounds with up to 832 sites and associated amenities. This Area Plan defines future land use, density, and development standards which will replace portions of the affected PASs with an RR zoning district. The portions of these PASs outside the boundaries of the Area Plan remain unchanged. (p. 9)

Permissible Uses:

63. TRPA did not define the uses allowed in Resort Recreation areas. The analysis of RR uses, in addition to the potential locations in the Basin, must first be addressed by TRPA. However, so that the public can assess the proposed project, we assembled our own table to compare the uses in the existing Plan Area Statements compared to the new uses proposed in Table 3.1 of the draft MVWP AP. We have also included the RPU definition for each use. There is a significant increase in development potential allowed by the proposed uses – however, TRPA has stated increased development potential cannot be the result of Resort Recreation. Further, almost all existing uses are designated as Special Uses, or (S), which require additional review before projects can be approved, whereas the proposed uses would all be ‘Permissible’ (P) and therefore not subject to additional review. This is also a significant change in how projects are approved, and such changes must be made clear and vetted with the public and TRPA Board.

The following table shows clearly the difference between the current zoning allowances for permissible uses. The first three columns list what is allowed in the current three Plan Area Statements subject to change in the proposed area plan. All but two current uses are listed as Special (S), which means most uses require additional review. The fourth column includes the proposed uses for the new MVWP AP, most of which are marked with a (P), which is “permissible” in planning lingo. The standard for environmental review, public notice, and public process for uses that are Permissible is looser than uses that require special considerations – thereby making it easier for the developer to develop and more difficult for the public to participate.

Please note that permissible uses, which are the uses proposed to be available to the developer to add to the 112 unit project, include but are not limited to the following examples:

- Recreation centers (gyms);
- Tennis courts;
- Swimming pools;
- Restaurants/drive-through restaurants,
- Auditoriums;
- Convention halls;
- Amphitheaters;
- Arcades and coin-operated amusements;
- Billiard and pool halls;
- Bowling alleys;
- Card rooms;
- Clubs and ballrooms,
- Ice skating and roller skating facilities;
- Indoor sauna, spa, or hot tub facilities;
- Movie theaters, and
- Tennis, handball, racquetball, indoor archery, and shooting ranges.

Comparison of Current Allowed/Proposed Permissible/Special Uses¹					
Existing PAS's vs. Proposed Martis Valley West Area Plan					
Use	013 Watson Creek	015 North Star	019 Martis Peak	Proposed MVW Area Plan	Definition of Use (TRPA Code Chapter 21)
	Allowed/Permissible, Special:² Included and noted as A or S - indicates not allowed				
Residential Summer Homes (1 unit/parcel)	S	-	S	-	A cabin-type single-family house intended primarily for intermittent vacation use and located in USFS summer home tracts or other remote recreation sites. Such structures are generally located in areas of restricted winter access.
Time Share Units (motel/hotel design)	-	-	-	P	A right to exclusively use, occupy, or possess a tourist accommodation unit of a hotel/motel design without kitchen units, according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three years.
Time Share Units (residential design)	-	-	-	P	A right to exclusively use, occupy, or possess a tourist accommodation unit of a residential design with kitchen units, according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three years.
Outdoor Retail Sales	-	-	-	S	Retail trade establishments operating outside of buildings on a daily or weekly basis, such as: roadside stands; flea markets; swap meets; seasonal sales involving Christmas trees, fireworks, pumpkins, or other seasonal items; regular sales of art or handcrafted items in conjunction with community festivals or art shows; and retail sales of various products from individual motor vehicles locations outside the public right-of-way, not including bakery, ice cream, and similar vending vehicles that conduct all sales within the right-of-way and do not stop in any location except on customer demand. Outside storage or display is included as part of the use.
Eating and Drinking Places	-	-	-	P	Restaurants, bars, and other establishments selling prepared foods and drinks for on-premise consumption, as well as facilities for dancing and other entertainment that are accessory to the principal use of the establishment as an eating and drinking place. The use also includes drive-in restaurants, lunch counters, and refreshment stands selling prepared goods and drinks for immediate consumption.
Health Care Services	-	-	-	P	Service establishments primarily engaged in furnishing medical, mental health, surgical, and other personal health services such as: medical, dental, and psychiatric offices; medical and dental laboratories; outpatient care facilities; and allied health services. Associations or groups primarily engaged in providing medical or other health services to members are included. Nursing homes and similar long-term personal care facilities are classified in "Nursing and Personal Care," and mental health-related services, including various types of counseling practiced by licensed individuals other than medical doctors or psychiatrists or unlicensed individuals, are included under "Professional Offices."
Outdoor Amusements	-	-	-	S	Commercial establishments for outdoor amusement and entertainment such as: amusement parks; theme and kiddie parks; go cart and miniature auto race tracks; moped, bicycle, and skate rentals; and miniature golf courses. Outside storage or display is included as part of the use.
Day use areas	S	-	-	P	Land or premises, other than "Participant Sports Facilities," designated by the owner to be used by individuals or the general public, for a fee or otherwise, for outdoor recreation purposes on a daily basis such as regional and local parks, picnic sites, vista points, snow play areas, rafting facilities, and playgrounds.

Private[ly owned] Assembly and Entertainment	-	-	-	P	Commercially operated facilities for public assembly and group entertainment with a capacity of greater than 300 people, such as: auditoriums; exhibition and convention halls; theaters, meeting halls and facilities for "live" theatrical presentations or concerts by bands and orchestras; amphitheaters; meeting halls for rent; and similar public assembly uses.
Public [owned] Assembly and Entertainment	-	-	-	P	Facilities owned and operated by a public or nonprofit entity for public assembly and group entertainment with a capacity of greater than 300 people, such as: public auditoriums; exhibition and convention halls; civic theaters, meeting halls and facilities for live theatrical presentations or concerts by bands, choirs, and orchestras; meeting halls for rent; community centers; and similar public assembly uses.
Religious Assembly and Membership Organizations	-	-	-	P	<i>Religious Assembly:</i> Religious organization assembly or institutional facility operated for worship or promotion of religious activities, including churches and incidental religious education. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals, and other potentially related operations (such as a recreational camp) are not considered a religious assembly and are classified according to their respective activities. <i>Membership Organizations:</i> Permanent meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, such as: business associations; professional membership organizations; labor unions and similar organizations; civic, social and fraternal organizations; political organizations; and other membership organizations. The use does not include country clubs in conjunction with golf courses (see "Golf Courses"); religious organizations ("see Churches"); and lodging (see "Multi-person Dwelling").
Local Public Health and Safety Facilities	S	-	S	P	Facilities operated by public or quasi-public entities for the local protection of the public, such as: fire stations and other fire prevention facilities; police and sheriff substations; satellite highway maintenance and snow removal facilities; water tanks, pumps, wells and related facilities; monitoring facilities; sewage pumps and related facilities; and emergency services. Outside storage or display is included as part of the use.
Day Care Centers, Schools	-	-	-	P	<i>Day Care Centers/Pre-schools:</i> Establishments used for the care of seven or more children residing elsewhere. <i>Schools – college:</i> Junior colleges, colleges, universities, and professional schools granting associate arts degrees, certificates, undergraduate and graduate degrees, and requiring for admission at least a high school diploma or equivalent general academic training. <i>Schools – kindergarten through secondary:</i> Kindergarten, elementary, and secondary schools serving grades up to 12, including denominational and sectarian.
Public Utility Centers	-	-	-	P	Public and quasi-public facilities serving as junction points for transferring utility services from one transmission to another or to local distribution and service, such as: electrical substations and switching stations; major telephone switching centers; natural gas regulating and distribution facilities; public water system wells, treatment plants and storage; and community wastewater treatment plants and settling ponds. Outside storage or display is included as part of the use. The use does not include office or service centers (see "Professional Offices or Government Offices").
Pipelines and Power Transmission	S	S	-	P	Transportation facilities primarily engaged in the pipeline transportation of refined products of petroleum, such as: gasoline and fuel oils; natural gas; mixed, manufactured, or liquefied petroleum gas; or the pipeline transmission of other commodities. The use

					includes facilities for the transmission of electrical energy for sale, including transmission and distribution facilities. Outside storage or display is included as part of the use. The use does not include offices or service centers (see "Professional Offices"); equipment and material storage yards (see "Storage Yards"); distribution substations (see "Public Utility Centers"); and power plants (see "Power Generating Plants").
Transit Stations and Terminals	-	-	-	P	Passenger stations for vehicular and mass transit systems; also, terminal facilities providing maintenance and service for the vehicles operated in the transit system. The use includes, but is not limited to, buses, taxis, railway, and ferries. Outside storage or display is included as part of the use.
Transmission and Receiving	-	S	S	P	Communication facilities for public or quasi-public, commercial, and private electronic, optic, radio, microwave, electromagnetic, and photo-electrical transmission and distribution, such as: repeater and receiving facilities, feeder lines, and earth stations for satellite communications for radio, television, telegraph, telephone, data network, and other microwave applications. The use includes local distribution facilities such as lines, poles, cabinets, and conduits. Outside storage or display is included as part of the use. The use does not include uses described under "Broadcasting Studios."
Developed campgrounds (8 units/acre)	S	-	S	-	Land or premises designed to be used, let, or rented for temporary occupancy by campers traveling by motorized vehicle, and that contain such facilities as campsites with parking area, barbecue grills, tables, restrooms, and at least some utilities.
Off-road vehicle courses	S	-	S	-	Areas authorized by the Agency for the use of off-road vehicles including, but not limited to, dirt bike, enduro, hill climbing, or other off-road motorcycle courses. The use also includes areas authorized by the Agency for competitive events utilizing four-wheel-drive vehicles. The use does not include the use of vehicles associated with timber harvest activities on approved skid trails or maintenance vehicles.
Outdoor recreation concessions	S	-	S	P	Facilities that are dependent on the use of outdoor recreation areas, such as onsite food and beverage sales, onsite recreational equipment rentals, parasailing, rafting, and onsite recreation instruction. The use also includes outfitter or guide service establishments whose base facilities are located on or near a recreation area, such as horse packing outfitters or snowmobiling outfitters. Outside storage or display is included as part of the use.
Riding and hiking trails	A/P	A/P	A/P	P	Planned paths for pedestrian and equestrian traffic, including trail heads.
Rural sports	S	-	S	-	Establishments that provide for special outdoor recreation group activities, such as: outdoor archery, pistol, rifle, and skeet clubs and facilities; hunting and fishing clubs; and equestrian facilities, stables, and exhibition facilities. The use does not include indoor shooting facilities (see "Amusements and Recreational Services").
Group facilities (25 persons/acre)	S	-	S	-	Establishments that provide overnight accommodations and outdoor recreation to organized groups such as recreational camps, group or organized camps, and religious camps.
Undeveloped campgrounds	S	-	S	-	Land permanently established to be used for temporary occupancy by campers traveling by foot or horse, which may contain tent sites, fire rings, and sanitary facilities, but which does not contain utilities.
Snowmobile courses	S	S	S	-	Mapped areas, pathways, and trails utilized in, and approved for, commercial snowmobile operations.
Cross country skiing courses	-	S	-	P	Land or premises used as a commercial operation for nordic skiing. Outside storage or display is included as part of the use.
[Downhill] Skiing facilities	-	S	-	-	Uses and facilities pertaining to ski areas, including but not limited to: runs, trails, lift-lines cables, chairs, cars, warming huts, care taking quarters, parking, vehicles, day lodges, shops for sale and rental of ski equipment, ski pro shop, first aid stations, ski school facilities and assembly areas, day nurseries, maintenance facilities, lounges, eating and drinking establishments, and other ski oriented

					shops. Outside storage or display is included as part of the use. Uses and facilities serving non-skiing activities or operating year-round such as tennis courts, swimming pools, hot tubs, restaurants, bars, and retail sales constructed on lands which serve or are utilized in the operation of a ski area shall be considered under the appropriate use classification in this Code.
Day use areas <i>("Recreation day use areas" in draft AP)</i>	-	-	S	P	Land or premises, other than "Participant Sports Facilities," designated by the owner to be used by individuals or the general public, for a fee or otherwise, for outdoor recreation purposes on a daily basis such as regional and local parks, picnic sites, vista points, snow play areas, rafting facilities, and playgrounds.
Participant Sport Facilities	-	-	-	P	Facilities for various outdoor sports and recreation including, but not limited to, tennis courts, swim and tennis clubs, ice skating rinks, and athletic fields (non-professional). Outside storage or display is included as part of the use.
Amusements and recreation services	-	-	-	P	Establishments providing amusement or entertainment for a fee or admission charge, such as: arcades and coin-operated amusements; billiard and pool halls; bowling alleys; card rooms; clubs and ballrooms that are principal uses rather than being subordinate to an eating or drinking place; dance halls; gymnasiums; health and athletic clubs; ice skating and roller skating facilities; indoor sauna, spa, or hot tub facilities; motion picture theaters; reducing salons; and tennis, handball, racquetball, indoor archery and shooting ranges, and other indoor sports activities.
Visitor Information Centers	-	-	-	P	Nonprofit establishments providing visitor information and orientation.
Recreation Centers	-	-	-	P	Indoor recreation establishments operated by a public or quasi-public agency providing indoor sports and community services, such as swimming pools, ice skating rinks, multi-purpose courts, weight rooms, and meeting and crafts rooms.
Uses that support the primary use (TRPA Code 21.3.1-21.3.8) Residential ³ Tourist Accommodation Commercial Public Service Recreation				P	
Residential – garages	-	-	-	P	
Residential – green houses	-	-	-	P	
Residential – HOA offices	-	-	-	P	
Residential – art studios	-	-	-	P	
Residential – workshops	-	-	-	P	
Residential – swimming pools	-	-	-	P	
Residential – storage structures	-	-	-	P	

Residential – exempt home occupations	-	-	-	P	
Residential – tennis courts	-	-	-	P	
Residential – dog runs	-	-	-	P	
Residential – emergency facilities	-	-	-	P	
Residential – home occupations	-	-	-	P	
Residential – secondary residence	-	-	-	P	
Residential – other uses listed in Primary Use definition as “Accessory”	-	-	-	P	
Tourist - Garages	-	-	-	P	
Tourist – parking lots	-	-	-	P	
Tourist – swimming pools	-	-	-	P	
Tourist – tennis courts	-	-	-	P	
Tourist – bars and restaurants	-	-	-	P	
Tourists – equipment rental	-	-	-	P	
Tourist – maintenance facilities	-	-	-	P	
Tourist – laundries	-	-	-	P	
Tourist – gymnasiums	-	-	-	P	
Tourist – coin-operated amusements	-	-	-	P	
Tourist – meeting rooms	-	-	-	P	
Tourist – managers quarters	-	-	-	P	
Tourist – Childcare facilities	-	-	-	P	
Tourist – Emergency facilities	-	-	-	P	
Tourist – employee facilities other than housing	-	-	-	P	

Tourist – secondary residence	-	-	-	P	
Tourist – other uses listed in Primary Uses as Accessory	-	-	-	P	
Commercial – garages	-	-	-	P	
Commercial – parking lots	-	-	-	P	
Commercial – emergency facilities	-	-	-	P	
Commercial – maintenance facilities	-	-	-	P	
Commercial – employee facilities other than housing	-	-	-	P	
Commercial – secondary residence	-	-	-	P	
Commercial – storage buildings	-	-	-	P	
Commercial – Other uses listed in Primary uses as “accessory”	-	-	-	P	
Public Service – garages	-	-	-	P	
Public Service – secondary residences	-	-	-	P	
Public Service – emergency facilities	-	-	-	P	
Recreation – garages	-	-	-	P	
Recreation – emergency facilities	-	-	-	P	
Recreation – child care	-	-	-	P	
Recreation – related commercial sales and services such as: - ski shops - pro shops, - marine sales and repairs	-	-	-	P	
Recreation – parking lots	-	-	-	P	
Recreation – maintenance	-	-	-	P	

facilities					
Recreation – swimming pools	-	-	-	P	
Recreation – tennis courts	-	-	-	P	
Recreation – employee facilities other than housing	-	-	-	P	
Recreation – secondary residence	-	-	-	P	
Recreation – outdoor recreation concessions	-	-	-	P	
Recreation – bars and restaurants	-	-	-	P	
Recreation – other uses listed under Primary Use as “accessory”	-	-	-	P	
One secondary residence shall be considered an accessory use to the primary use it serves and may be permitted where the primary use is a permissible use. Secondary units may include a - guest house; - an affordable or market-rate rental unit; - a caretaker residence for a residential use, commercial use, public service or recreational use; and - a manager's quarters for a tourist accommodation or multi-residential use.	-	-	-	P	
Remaining additional PAOTs available in PAS	400 PAOTs Over-night	1000 PAOTs Winter Day Use	124 PAOTs Over-night		

1. This comparison table excludes resource management to focus on more development-oriented uses.

2. In existing PAS's, uses may be (A) Allowed or (S) Special. Allowed uses may be permitted without additional review; it appears the draft AP is substituting (A) with (P) Permissible, which presumably will not require additional review.
3. As no residential facilities are allowed (other than summer homes) in PAS 013, 015, and 019, this table assumes all possible residential accessory uses would not be allowed in these PAS's; also, it is assumed the example recreational accessory uses would also not be allowed due to limits on primary recreational uses in the PAS's.

SECTION 4:

Development Standards:

The following excerpt includes the table from the proposed MVWP AP (p. 13).

SECTION 4:

A. DEVELOPMENT STANDARDS

The following Table 4.1 defines the required development and dimensional standards for the MVWP Area Plan.

TABLE 4.1: DEVELOPMENT STANDARDS	
STANDARDS	RESORT RECREATION DISTRICT
Height (Maximum)	3 Stories (not to exceed 42 feet above grade)
Maximum Density	Tourist Accommodation Units or Residential Dwellings at 1 dwelling unit per acre, not to exceed a maximum of 112 units within the Area Plan. The individual units of use shall be transferred from existing development and eligible for bonus units if existing development on sensitive lands is removed and restored to a natural condition
Front Yard Setback	30 Feet from property line
Rear Yard Setback	10 Feet from property line
Side Yard Setback	10 Feet from property line
Surface Parking	See parking ratios in Section 4.B
Minimal Parcel Size	10,000 square feet
Land Coverage	Per Section 30.4 of the TRPA Code of Ordinances
Noise Level	Not to exceed 55 dB (snow making activities associated with winter sports activities are allowed on a periodic basis to exceed the Area Plan standard as an essential part of the land use permitted).

Notes:

1. Height per Chapter 37, TRPA Code.
2. The land capability classification of the Lake Tahoe Basin, California-Nevada, a Guide for Planning, Bailey, 1974.
3. Setbacks between structures must conform to applicable building code requirements.
4. Projections, including roof overhangs and eaves, porte coheres, decks, stairs and stairway landings, awnings, oriel and bay windows, and canopies, may encroach up to 20% into a setback as long as the projection conforms to applicable building code requirements.

64. The 42 foot height allowed outside of Town Centers in the RPU is a maximum height based on taking into account other factors including slope of the land and roof pitch. A height of 42 feet is not necessarily short enough to avoid scenic impacts on the lake and on other north shore communities. While the proponents have provided a picture

of the forested ridge, they did not provide the usual “bald hill” model that clearly establishes what could be seen from the lake.

65. According to TRPA staff at the July 17th workshop, Resort Recreation developments are not eligible for bonus units. This misinformation in the Area Plan must be deleted from the Area Plan text.
66. What are the sources of the proposed setbacks from the property lines?
67. The proposed Noise level is 5 decibels higher than currently allowed in the conservation-zoned areas. This does not conform to the RPU. In addition, as the MVWP AP does not include snow-making activities (e.g. downhill skiing), it is unclear why the area plan would reference variances for snow-making. If snow-making is proposed, the entirety of the snow-making and related facilities must be described in detail.

Urban Bear Strategy:

68. As this proposed project will develop lands in existing well-populated bear habitat, and draw more people and garbage to the area, it is likely that additional conflicts will exist. Further, more people in the area will mean more trash is left along trails and in other areas not adjacent to bear-proof containers. The Area Plan must propose an Urban Bear Strategy to ensure conflicts on trails are also minimized.

Greenhouse Gas Reduction Strategy:

69. Strategies should replace ‘encourage’ with ‘require.’
70. The document states: “...that residents and guests can walk, ski, or bike to obtain the basic necessities.” (p. 15). What are considered basic necessities, and where will they obtain them? The Area Plan must be clear about how accessible the location is to basic necessities and services, in terms of quarter mile measures.(e.g – 3.75 miles.)
71. Buildings must also be designed to minimize impacts to night sky (light pollution). See Douglas County, Nevada Night Sky Ordinance.

Site Development:

72. The natural hazard standards must address the wildfire danger and earthquake faults in the proposed project area.¹⁶
 1. Natural Hazard Standards and Floodplain Management: All development in floodplains that is allowed in Chapter 35, Natural Hazard Standards, of the TRPA Code must comply with the floodplain provisions of the Code.

¹⁶ Sierra Nevada Alliance’s “Dangerous Developments” (2007) is also attached with important information regarding the dangers of development in wildfire prone areas.

SECTION 5: TRANSPORTATION AND CIRCULATION

73. First, we refer to previous comments regarding the need to include the RPU’s transportation goals and policies in the Area Plan. Second, the MVWP AP states that the Fibreboard Freeway will be used for emergency access during the summer months. How wide is the existing Fibreboard Freeway? Does it meet width requirements for emergency access? Is it sufficient if there is a fire and the only way people can evacuate is on this road?

Fibreboard Freeway, which traverses Basin land, would provide emergency access only not be used at all in the winter months. Therefore, no non-emergency vehicular access would be provided to the Area Plan from the Basin. Within the Basin, common driveways would provide access to units and trails while minimizing road construction. (p. 19).

B. EMERGENCY ACCESS

The Fibreboard Freeway is a paved US Forest Service road that provides access to federal lands and recreational trails outside of the winter season. Fibreboard Freeway will provide emergency vehicular access and an evacuation route for the Area Plan in the non-winter season. No regular access to the Area Plan from the Fibreboard Freeway will be allowed. (p. 20).

74. What is the difference between a common drive and a neighborhood roadway? Per this description, it appears these will be new streets constructed for access to the homes. The use of the word ‘common’ is confusing. We note the attempt to reduce coverage requirements and/or get around constructing ‘new roads’ in the Basin through claiming roadways as recreational access was not allowed by the courts (Sierra Colina Village). Gated and private roads are not public linear facilities and do not qualify for free coverage. Also, see Placer County minimum road standards for accurate presentation of width of “common” roads and driveways.

A. COMMON DRIVES

Common drives are small-scale, low-speed roadways that will conform to site topography. In this Area Plan, they will serve as connection points between the Main Access road and local, clustered neighborhoods and provide access to existing trail networks and other recreational opportunities. They are intended for automobile traffic, emergency vehicles, and multi-user recreational access. (p. 20).

75. The public can already access views and recreation in this area. The MVWP AP will impede those opportunities, not improve them, especially if the Area Plan is for a gated community. This runs counter to the RPU’s emphasis on supporting outdoor recreation and scenic views.

Key benefit of the trail system include providing the public access to new sites, and enhancing recreational and viewing opportunities. (p. 20).

76. The statement below is confusing because there is no such demand from residents and visitors in this area because there are no such developments. The following statement is misleading. It is also unclear how the proposed MVWP AP will benefit *the Tahoe Basin* “economically, environmentally, and aesthetically.” Economically, this development provides no public benefit; instead it appears to simply generate profits

for private developers and homebuyers. Environmentally, the development provides no benefits to the thresholds, nor does it conform to the TRPA RPU. Aesthetically, the development will mar scenic views of the ridgeline from numerous areas in the Basin, on Lake Tahoe, as well as ruin night sky views with light pollution from homes. These impacts run counter to the TRPA compact requirements to protect Tahoe's natural scenic views.

Note also, that there is no commitment to provide "access to the larger transit system within the Lake Tahoe Basin". Suggestions are nice, but written commitments are all that count.

The provision of a variety of trails and access to the larger transit system within the Lake Tahoe Basin is positive economically, environmentally, and aesthetically. Creating connections between regional transit, local circulation, and the regional trail network, while also providing neighborhood serving retail/commercial services and recreational amenities will enable guests and residents to meet many of their needs on-site or within walking distance. (20).



For example, notice how bright the interior lights are in this image, located on page 27 of the draft MVWP AP. Lights on the ridge will be visible at night.

SECTION 6: WATER QUALITY

77. As noted in our attached comments to the City of South Lake Tahoe, there has been no environmental analysis of the benefits, or impacts, of the proposed transfer program. In addition, transferring from 300 sq. ft. motel rooms into large, 1,800 foot luxury accommodations in itself will generate additional disturbance and other environmental impacts. There is no evidence upon which TRPA can make the threshold findings that will be required for this Area Plan and future projects. Furthermore, any number of sending sites have been restored, but there is no evidence that they are functioning effectively. Until monitoring proves that the sending parcel restoration is effective, the claim is just hot air.

The Area Plan will protect water quality in the Basin through the use of BMPs, and by ensuring that any additional runoff from developed areas is routed to the MVWPSP drainage system, which will discharge to areas outside of the Basin. As a result, no Area Plan flows will reach Lake Tahoe. In addition, sending sites for the transfer of development will be

restored to a natural condition, substantially reducing the transport of pollutants of concern to Lake Tahoe. (p. 21).

DESIGN STANDARDS AND GUIDELINES

78. The standards in 1(b) are confusing. The entire project will be constructed on generally undisturbed lands.
- b. Projects shall be designed to use existing disturbed areas rather than undisturbed areas for the siting of all improvements except when:
 - i. The disturbed area is precluded from development by setbacks or other such limitations;
 - ii. The disturbed lands are classified as sensitive lands and alternative sites classified as non sensitive lands exist on the parcel;
 - iii. The use of the disturbed lands would require more total disturbance than use of undisturbed lands;
 - iv. Avoidance of other development impacts are of more importance than the preservation of undisturbed areas; and/or
 - v. The degree of existing disturbance is minor and the area shall be restored as part of the project.
79. The proposed MVWP AP does not state that commercial facilities will be constructed in the area plan. However, the document proposes standards and guidelines for commercial uses. This needs to be resolved, and the extent of potential commercial uses must be disclosed to allow for sufficient public disclosure and adequate environmental analysis. In addition, the RPU does not allow new CFA to be allocated until the existing CFA has been used in the Basin.
- 2. Standards for Commercial, Tourist Accommodation, Public Service, and Multi-Residential Projects:**In addition to the other standards in this section, the standards for commercial, tourist accommodation, public service, and multi-residential projects shall be: (p. 23)
80. Does the following guideline mean existing trees will be conserved? The existing images display large buildings immediately adjacent to large trees. However, as we have seen in the South Shore's Heavenly Village development, those trees have died due to the development around them (in fact, it is ironic the MVWP AP includes a photograph of the Heavenly Village before the trees died¹⁷). In addition, the MVWP AP suggests protecting larger groups of trees, rather than individual trees, which would not conform with TRPA's RPU and vegetation thresholds for late seral/old growth trees. Further, images without trees should be provided to show potential scenic impacts of the projects.

¹⁷ P. 27 - Image labeled "Image B: Design Articulation"

The issue of what trees, what clumps of trees, and other arrangements for trees must be discussed in great detail. By the time the grading, BMPs, roads, parking and other facilities are considered, plus wildfire constraints, it may be that there will be too few trees left to screen from the Tahoe Basin and Lake Tahoe much of the development of the 112 units and whatever else will be built in sight of the lake.

8(b). Site Grading and Drainage: The site drainage and hydrology conditions need to be considered in the development of the site. Grading on the undeveloped site shall avoid the over lot grading approach in favor of a site specific design that minimizes the overall disturbance, acknowledges the qualities of the site and provide for best management practices (BMPs). The design will offer conservation of natural resources. (p. 25). [Emphasis added].

b. Preserving Existing Trees: Preserving trees should be planned for with efforts on preserving large groups of forest rather than individual trees that are subjected to stress due to changes of runoff, grades, or surface coverage. The protection zone for trees extends at a minimum to the drip-line of the tree's canopy. Trees will be preserved in accordance with Chapter 61 of the TRPA Code of Ordinances, with recognition of defensible space within the Chapter. (p. 32).

81. The proposed lighting guidelines for night sky fail to address the impacts of homes on the ridgeline, where windows will be unshuttered and lights will be on inside of the home. This visual impact will be seen from surrounding ridgelines, the Tahoe Rim Trail, throughout the North Shore, and from on the Lake. The project is so large, and in such a prominent place that a test should be undertaken before a permit is issued to learn exactly what light would be cast, including where and in what amount of illumination. As noted below, "will" should be replaced with "shall."

f. Protection of the night sky ~~will~~ shall be addressed by the type of permitted lighting. Lighting of the area will be provided for function, safety and security by directing light toward the locations where it is needed. The night sky will be protected from fugitive light with cut-off shields and other devices that direct light onto surfaces, rather than having wide visibility of the lighting source. These design standards minimize the visibility of the light source.

82. No signs with colors should be allowed to impede any scenic view from Lake Tahoe. In addition, what colors are considered 'bright' and what defines an 'accent color?' We recommend "discouraged" be replaced with "shall not be used" to make this an enforceable policy.

Signage Standards: 2.a.iv.Color: Bright colors ~~are discouraged~~ shall not be used on signs except when used as accent colors .Sign colors on permit applications should be specified using the Pantone Matching System (PMS) standard color charts. Accent colors shall not exceed 20% of signs' surface area. (p. 34)

83. As outlined extensively in our comments, the proposed MVWP AP does not conform to the RPU.

The TRPA Code of Ordinances, Chapter 13, Area Plans, requires the Area Plan to be approved by Placer County Board of Supervisors prior to the TRPA Governing Board's review and finding of conformance. Pursuant to TRPA Code of Ordinance 13.6.4, this Ordinance cannot take effect until the TRPA Governing Board has approved the Area Plan and made a finding of conformance.

All plans, policies and regulations in the TRPA Regional Plan, TRPA Code of Ordinances, Placer County Code and County zoning maps remain in effect until superseded by a TRPA approved Area Plan. This ordinance shall be effective upon the TRPA Governing Board's finding of conformance and approval of the Area Plan as approved by Placer County Board of Supervisors. (p. 37)

Additional Comments:

84. Need for Resort Recreation Analysis:

We request the TRPA first perform a sufficient environmental analysis to determine what uses, heights, and densities are appropriate in Recreation Resort areas that will help achieve and maintain thresholds. Additionally, TRPA needs to perform a regional analysis to determine whether alternative locations in the Basin are appropriate for additional Resort Recreation land uses and how those locations compare to the proposed RR site. The alternatives analysis must include a comprehensive regional evaluation, since the 'only-one-more RR' district provided for in the 208 Water Quality Plan expires after January 1, 2017 and additional requests to rezone to RR are expected after that date. The proposed RR use here also does not utilize the full 320-acre rezone allowed before January 1, 2017 by the 208 Plan.¹⁸ This remaining acreage must also be evaluated by the cumulative impacts analysis. The TRPA analysis and regional evaluation must determine the criteria and identify future sites which meet the criteria, performance measures and standards, and permissible uses for the proposed RR.

85. Transfer of Development Rights:

Finally, we request (again) TRPA perform a sufficient environmental analysis to examine the environmental impacts of the proposed transfer of development program. This analysis needs to include the best available information related to Tahoe's nearshore conditions.

¹⁸ Note: 207.2 acres is the difference between the 320 acres allowed in the 208 Plan and the 112.8 acres of proposed RR in this area plan.