

March 2, 2022

Michael Vanderhurst, Chair, Economic Development & Planning Commission
Commissioner Jennifer Burrows, Vice Chair
Commissioner Paul Chang
Commissioner Jessica Kennedy
Town of Mammoth Lakes
437 Old Mammoth Rd. Ste R
Mammoth Lakes, CA 93546

Dear Chair Vanderhurst and Commissioners,

The Town Planning Division's RESOLUTION NO. PEDC 2022-03 states:

"An addendum is adequate because the Addendum demonstrates that the environmental analysis and impacts identified in the 1991 Lodestar EIR remain substantively unchanged by the Project and supports the finding that the proposed modifications to the original project do not trigger the need for preparation of a subsequent EIR under the criteria listed in CEQA Guidelines Sections 15162."

(Source: RESOLUTION NO. PEDC 2022-03 states in SECTION 1. FINDINGS.

I. CEQA. PUBLIC RESOURCES CODE SECTION 21166; CEQA GUIDELINES SECTION 21166; CEQA GUIDELINES SECTION 15164 I.c. pg. 2)

This statement is not true, and a new EIR is needed based on a Review by an expert in the field (see below). Many things have change in 30 plus year that need to be addressed. I personally am not a CEQA expert, but a very close friend is.

I asked my friend who is a CEQA expert, who has performed hundreds of CEQA and EIR Reviews for government agencies in California, if he would review this Villas III EIR and Addendum. He agreed and performed a full review. Please see below.

CEQA expert's evaluation and response to the Villas III EIR Addendum:

"The Use of an Environmental Impact Report Addendum for California Environmental Quality Act (CEQA) compliance:

The Lodestar Master Plan Environmental Impact Report, is self-labeled as a Program EIR (PEIR), and therefore has certain constraints on its use for future projects (CEQA Guidelines Section 15168). When used with later activities in the program, those activities must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared (Guidelines Section 15168(c)). If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration (Guidelines Section 15168(c)(1)).

The PEIR was certified in 1991 and the draft was circulated in late 1990. A PEIR and supporting technical reports prepared 32 years ago is unlikely to fully address the environmental setting of today or adequately document impacts from a project 32 years in future. The public is expected to review the three volume 886-page PEIR to determine if project impacts have been fully documented and mitigated without the benefit of a public review and comment period and then determine if the Addendum constitutes minor technical changes to the PEIR. Authoring a 152-

page long addendum is a clear indication that the Program EIR could not comply with the changes to CEQA practice, case law and to the statute/guidelines that have occurred since certification. To expect the public to review a total 1,038 pages of technical environmental documentation without the benefit of any kind of a review period does not meet the objectives of CEQA.

Addendums are to be used for minor technical changes to the base document and, at 152 pages, including six new technical appendices, the PEIR Addendum is evidence that there are new potential impacts/changed conditions that should have been addressed in new initial study and, if determined to be significant, a subsequent EIR. At a minimum, a subsequent negative declaration that grants the public a period to review the determination that there are no new significant environmental impacts would show that the town cares about informing the public of its analysis and decision. Encouraging public participation is one of the fundamental objectives of the California Environment Quality Act.

Based on the Commission's scheduling of hearings designed to prevent the working public from participating, and including an Addendum without a public review period would appear to be a logical choice to further limit informing the public of the impacts of the project, but in this case it cannot be used due to the changes in project/environmental setting which per Guidelines Section 15168 require the preparation of a new Initial Study and subsequent environmental document.

Examples of effects/project description changes/mitigation changes that are not addressed in the PEIR and Addendum (all text/references from the Addendum):

Addendum page 27:

Mitigation measure 4.10-1(d) from the PEIR required that:

In order to reduce visual impacts, a forested buffer averaging no less than 100 feet shall be retained along Meridian Boulevard, Minaret Road, and along the western and eastern edges of the project site as required in project approval or by the Planning Director.

The Addendum (page 28) claims that the measure is not applicable:

4.10-1(d) is not applicable as mitigation to the Project because the specific Site is essentially within 100 feet of the eastern boundary of the overall Master Plan site and already contains a buffer of trees between the Site and the homes on Joaquin Road.

The elimination of this mitigation from the Program EIR is an impact that will need to be addressed in an Initial Study for the Villas III project. It cannot be simply waved away and the impact of the buffer loss should be considered significant until evaluated and potentially having new mitigation proposed. It is not appropriate to use an addendum for this PEIR mitigation measure elimination.

Additionally, staff has just provided a shadow analysis of the Villas III project which shows the adjacent properties in greater shadow. This impact was not addressed in either the PEIR or the Addendum and also has had no public review. In addition to aesthetic impacts, this could cause increased snow accumulation and increased energy and snow removal costs to SJV residents. These impacts to the adjacent property should be addressed in an Initial Study.

Biological Resources (page 38):

No new resource survey was performed, so the project impacts are based on the 32-year old PEIR and the biologic resources report performed at the time. The site's resources may have substantially changed since PEIR evaluation since 1990. As evidence of the need of an updated biological resources survey, it was determined by staff that an updated tree survey was required. If the trees on site warranted reevaluation, why not reevaluate the remainder of the biological resources on site? The Addendum does not address this potential impact and never documents the number and type of trees that will be lost. Instead, it claims that a replacement planting plan would limit the impacts to less than significant. Without initially establishing the level of impact, this is impossible to determine, and the public never had the opportunity to review this impact, mitigation and level of resulting impact.

Another mitigation measure that is determined to be not applicable to the Project (Page 44): 4.3-5(a) is not applicable to the Project because the area around the Project Site has been developed since the Certified EIR. Specifically, the golf course, and surrounding residential uses have been developed which have already removed wildlife habitat areas and corridors for wildlife movement

A golf course is not a barrier to wildlife movement and the surrounding area has substantial amounts of habitat. A new biological resources survey could determine the amount of both resident and transitory wildlife. Until then, the deletion of the mitigation is inappropriate and would result in a potentially significant environmental impact. No input from the California Department of Fish and Game was sought for evaluation of the Vistas III impacts. Again, a new tree study was warranted, why not a new biological resources survey?

Cultural Resources:

(Page 46 of the Addendum) The cultural resources survey for the project is dated, and a new survey should be performed to assess the potential for resources to exist on site. Professional standards normally recommend against the use of a cultural resources survey older than five years. The Addendum notes that the possibility of human remains was not addressed in PEIR and the addendum does not address the omission, no consultation with the designated Native American tribal representative(s) was conducted, therefore there has been no evaluation of potentially significant impacts.

Greenhouse Gas Emissions (GHG):

(Page 65 of Addendum): GHGs were not addressed in PEIR. The Addendum does address this impact but there has been no public review of this impact category, the project's impacts, or the rationale for why the Vista III project's GHG emissions are considered less than significant.

Hydrology and Water Quality:

(Page 78 of the Addendum): This section's evaluation of impacts is based on a new drainage analysis and water quality management plan prepared for the project. This is new information that the PEIR did not address and public has not had the opportunity to review and comment on

the analysis and conclusions contained in the Addendum. This is not a minor technical change to the project.

Public Services:

(Page 106 of the Addendum) The San Joaquin Villas project was conditioned to use over 6,000 square feet of The Villas III project site for snow removal and storage (both properties had a common owner at the time of approval). Construction of The Villas III project would result in the loss of this snow storage and is a potentially significant impact of the project. This impact is not addressed in either the PEIR or Addendum.

Transportation:

(Page 121 of the Addendum) The project includes a different methodology than used in the PEIR to determine that the project's impacts are less than significant. The map-based methodology is more than a minor technical change and deserves review by the public to see if the assumptions made in the Addendum are representative of the project impacts and can be considered less than significant.

Because of these deficiencies in the Addendum and the antiquated analysis in the PEIR the Section 15162 determination lacks substantial evidence and a subsequent environmental document that permits public review and comment needs to be prepared.

The Town has also failed to make the needed findings in its Resolution to reflect significant impacts identified in the PEIR and has not included a Statement of Overriding Considerations for impacts that are noted as significant and unavoidable in the certified PEIR and Addendum.

These comments are supplied on behalf of the Town residents, but any potential commentator on the PEIR and the addendum is free to use these comments in any future proceeding or challenge to the environmental findings

As a result of these shortcomings and others in the environmental documentation, The Commission should vote to not use the PEIR, as modified by the Addendum, for the Villas III approval, since it does not comply with the requirements of CEQA. Without adequate CEQA compliance, the Commission must deny the project approval at this time."

Thank you for your time,
Donna Mercer
San Joaquin Villas Resident

CC:

Mayor, Lynda Salcido
City Council Member John Wentworth
City Council Member Bill Sauser
City Council Member Kirk Stapp
City Council Member Sarah Rea