

Jamie Gray

From: kimberly@lundbergtaylor.com
Sent: Tuesday, March 1, 2022 8:26 AM
To: mvanderhurst@visitmammoth.com; jenb2374@gmail.com; Paul Chang; jessicarskennedy@gmail.com; eckertimmth@verizon.net; Lynda Salcido; Sarah Rea; Jamie Gray; Sandra Moberly; John Wentworth; Bill Sauser; Kirk Stapp
Subject: Comment re Villas III PEDC hearing March 2, 2022
Attachments: Villas-III Opposition PEDC 2022-03 public hearing 20220301_KTaylor.pdf

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[EXTERNAL EMAIL]

Please find my attached comments with respect to the PEDC public hearing on March 2, 2022 regarding the proposed Villas III application request.

I appreciate you taking the time to review the information.

Thank you,
Kimberly Taylor
SJV E6

To: Town of Mammoth Lakes Planning and Economic Development Commission,
Commissioners Vanderhurst, Burrows, Chang and Kennedy

CC: Director Mobley, Mayor Salcido

Date: March 1, 2022

Subject: Opposition to proposed Villas-III development plans at 100 Callahan Way

I am writing to again request that you as PEDC commissioners **do not approve** the Villas III application due to significant concerns regarding errors, inaccuracies and inconsistencies in the Staff Report and its bias toward the developer.

This proposed Villas-III development would have direct negative impact on quality of life on the residential community whose properties are adjacent to the planned project, particularly for the residents of 28 two-story San Joaquin Villas townhomes and their residents, over 70% are occupied by full-time Mammoth workforce and their families.

At the PEDC 2022-02-09 hearing, ToML attorney Andy Morris reminded everyone of the importance of specific findings and consistency within the application, and he stated that findings for denial would include inconsistency with plans, zoning, and such. The resultant 2-2 planning commission vote provided the ToML planning department and the developer with ample time to address the many issues; despite the additional time the concerns and inconsistencies remain.

These concerns include:

1. Erroneous, Flawed, Misleading and Biased "Solar Study"
2. Inconsistent Front Setback vs Primary Development Entrance
3. Biased Justification for Use Permit UPA 21-006
4. Inconsistent Proposed "Limited" Access Gate on Callahan way
5. Inconsistent Building Height Adjustment request ADJ 21-006
6. Inconsistent Fence Along Multi-Use Public Trail
7. Inconsistent / Missing pre-existing existing easements
8. Lack of Resolution to Enforce Compliance to Low Incoming Housing Ordinance
9. Renaming of Callahan Way
10. Construction Vehicle Access

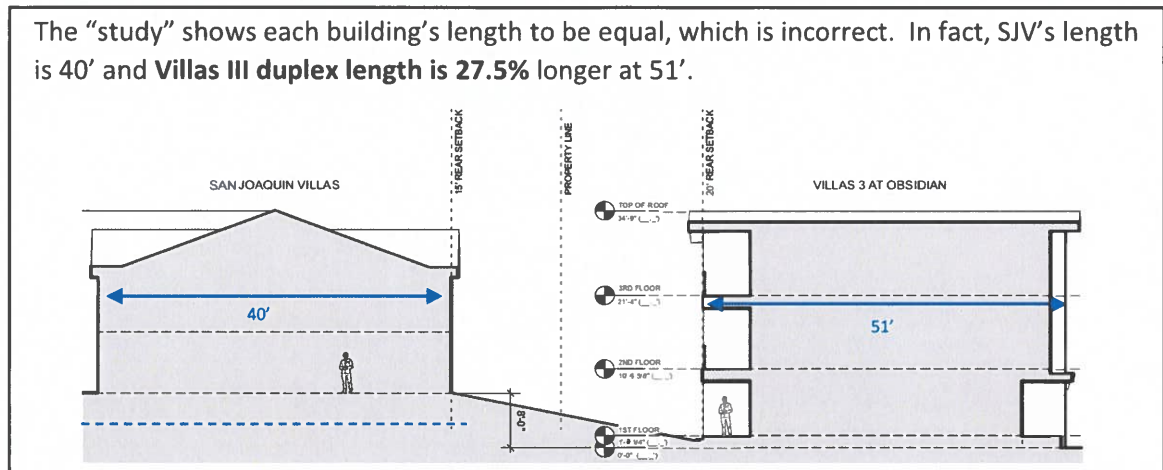
Each of these will be discussed in further detail below.

1. Erroneous, Flawed, Misleading and Biased “Solar Study”:

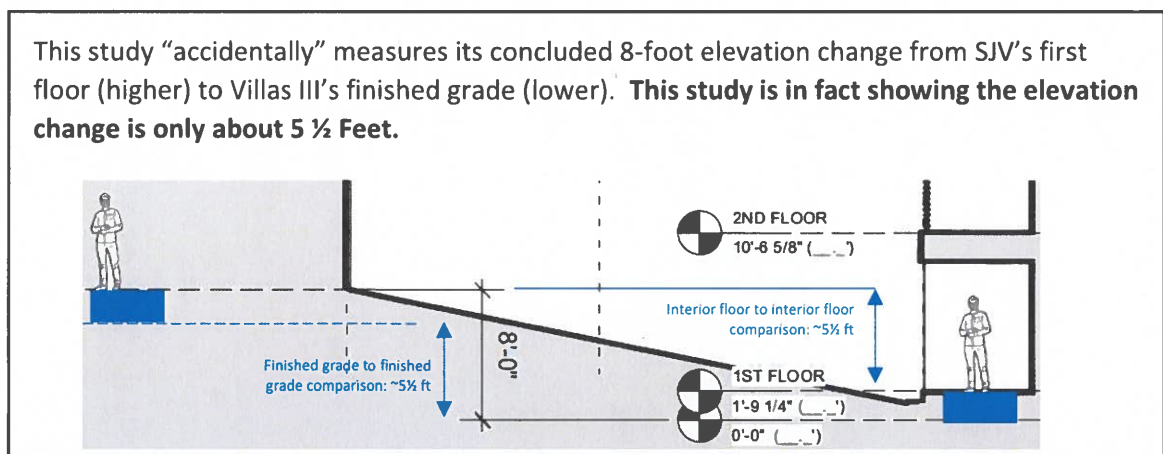
A.) Erroneous, Flawed, Misleading and Biased “Solar Study”

The “solar study” provided by the architect in the Staff Report 0222-03 Attachment 2 (pp. 69-74 / 74) is not based on fact.

This so-called “study” does not use actual building dimensions and is a deceitful attempt to deliberately misconstrue the negative effect that the Villas III duplex units 22-25 will have on San Joaquin Villas (SJV) E-building. To start, their “study” misrepresents size of the buildings to downplay the difference of the structure size.

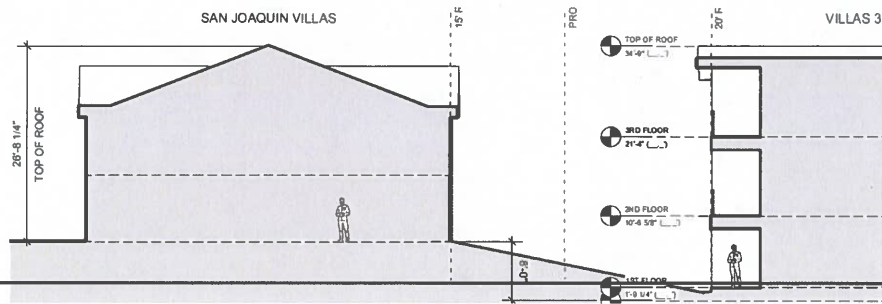


Additionally, this study **misrepresents the relative height** between the SJV E-building and Villas III duplexes by using inconsistent reference points between the two structures. Maximum building height is measured from the finished graded adjacent to the building exterior to the highest roof peak. This “study” does not use “apples-to-apples” references. Both structure heights should be measured from finished grade (indicated by horizontal blue dashed line on SJV image, and the zero-reference on the Villas III image).



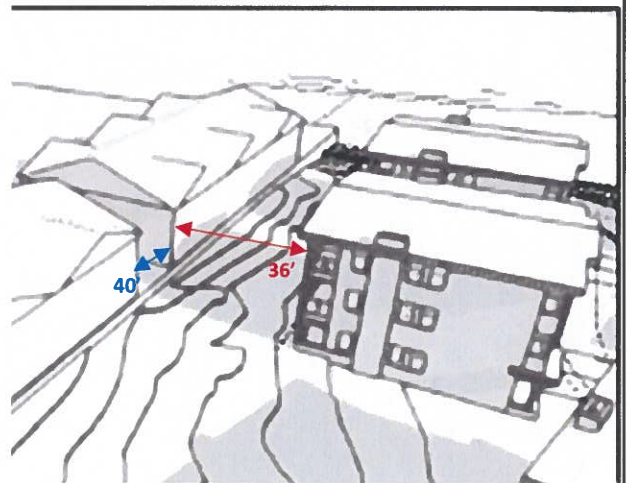
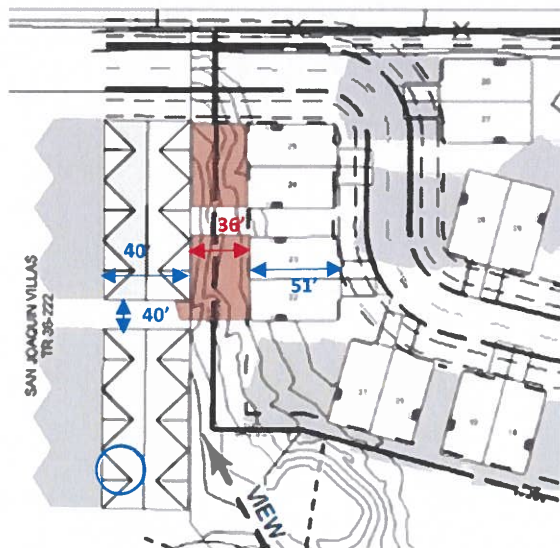
By misrepresenting both the SJV image proportion and the incorrect height reference point, this “study” attempted diminish the actual impact of the Villas III duplex 35-foot height.

This “study” also misrepresents the relative **Heights** of the SJV E Building and the Villas III duplexes (p. 69/74). It shows the tops of the 2 buildings to be the same height. It claims SJV is 26’ - 8 1/4” and Villas III is 34’ - 9” tall. The actual difference in height would be 8’-3 3/4”. However, the previous paragraph proves that the Elevation Change is actually about 5.5’. Their error is almost 3’ in height, which is an **error of more than 10% relative to SJV’s height**.



The **distances between buildings** are also misrepresented, as can be seen by the images below with the actual dimensions applied.

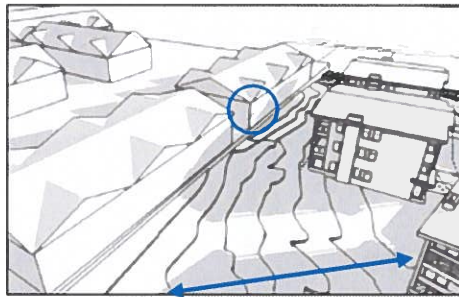
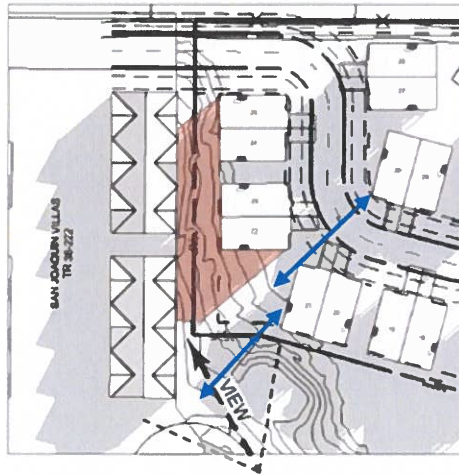
The distance between Villas III and SJV E-building (36’) is shown inaccurately as significantly larger than the distance between SJV’s E- and D-buildings (40’).



Further, these same “study” pages illustrate the significant size of the duplex shadows cast by the other duplex units and yet try to minimize that effect when the shadow strikes the SJV E-building.

WINTER SOLSTICE, DECEMBER 21ST

9AM

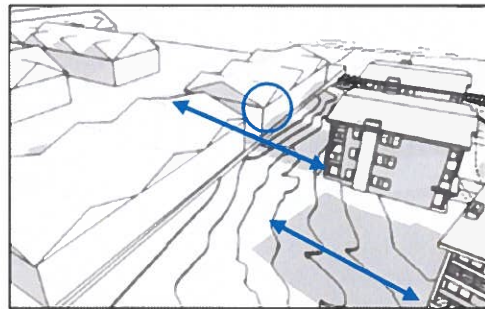
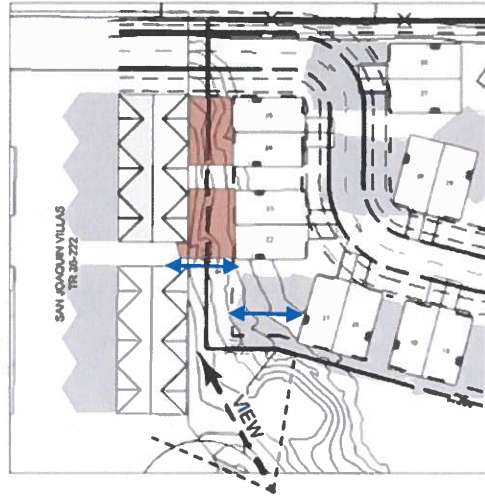


The Solar Study (Project Plans p.72/74) shows these Winter Solstice 9AM long shadows cast by Units 28 and 18-21 (blue arrows) are approximately 120 feet long. The (orange) indicates shadows cast by units 22-25 onto E-building.

These Winter 9am shadows cast by units 22-25 (orange) will impact and overshadow SJV E-building and half of SJV D-building by a significant amount.

Yet this simulated study inconsistently indicates my home will get sunshine during this long shadow period when units 22-23 are just 36' away ?? – inaccurate.

12PM



These Winter Solstice 12PM shadows cast by units 21 (shadow length indicated by blue arrow; note both shadow length and width) compared to units 22-25, which are the same size and would cast the same size shadow.

The second blue arrow shows the length expected from units 22-25, however the lower image unexpectedly shows sun on the E-building when the unit 21 shadow length clearly indicates there would not be sun in this location.

The Staff Report 2022-03 Figures 10-12 (pp 8-10) and Attachment 2 Project Plans (pp . 69-74) fail to use actual building dimensions of either the Villas III Duplex units 22-25 or San Joaquin E-building. By using **unmistakably incorrect building proportions**, the developer has deliberately fabricated a scenario that provides a false impression of lessening the negative impact of building shading on SJV E-Building during the winter months than the true reality.

Given the flawed solar study: Let's *pretend* for a moment the building dimensions used *were correct*... If we review the Solar Study as presented, it confirms the adjacent San Joaquin Villas property (E-building and D-buildings) would be impacted by, and in greater shadow as a result of, the presence of the Villas III duplex units 22-25. Now, had the solar study used accurate dimensional information the negative impact would even greater.

Plus, had this "study" included the added 4 to 10 feet of snow that will accumulate on these flat roofs (1.5 / 12 slope) during winter, then the shade cast on SJV would be another 30% greater.

This impact was not addressed in the either PEIR or the EIR Addendum and has also had no public review. In addition to the aesthetic impacts, including loss of sun during winter months, this greater shadow could cause **increased snow accumulation, decreased snow melt, and increased energy and snow removal costs** to the SJV residents. These impacts to the adjacent property must be addressed in an Initial Study.

Staff Report inclusion of this flawed study is another example of bias toward the developer. To rectify this egregious and deceptive attempt to sway benefit to the developer, I request the PEDC **require a fact-based Shadow Analysis be conducted by an independent entity using true and accurate building dimensions and spacing to factually represent the significant negative impact the Villas III Duplex units 22-25 will have on SJV (E-building) during the winter months.**

B.) Biased Design Review Conclusion:

The Staff Report 2022-03 only addresses concerns about the Obsidian property to the south **with no consideration for SJV property** despite the fact that **Villas-III duplexes will be closer to SJV. This selective approach shows a clear bias for the developer and disregards the negative impact** upon the community including the two-story SJV townhomes immediately to the north which are physically closer than *any other* neighboring property. If there had there been a comparison of the proposed Villas III 3-story duplex design with the San Joaquin Villas townhomes the Staff Report would have reached a negative conclusion.

Further, to address issues raised in both 1A and 1B, I request PEDC **require the following mitigations** to address the Size / Scale / Setback and increased shadow discrepancies that close-proximity enormous Villas III duplex units 22-25 will have on the immediately adjacent SJV (E-building):

- I. **Eliminate Duplex units 22-25** from the design plan.
- II. **At a minimum**, if those units were to remain included, **require duplex units 22-25 to have an increased setback of 50 feet.**
- III. Independent Shadow Study: Require a **Shadow Analysis be conducted** by an **independent** entity using accurate building / setback dimensions to factually represent the significant negative impact the Villas III Duplex units 22-25 will have on SJV (E-building) during the winter months.

Privacy / green natural barrier: Require Villas III developer / subsequent owners/HOA be held responsible to install *and maintain a significant "green" natural barrier* between the Villas-III development and neighboring residences, specifically between duplexes 22-25 and San Joaquin Villas units E1 to E62. Inconsistent / Missing pre-existing easement on Villas III development plans:

Public Multi-use Path 12-foot easement for Mammoth Lakes Trail System. This issue was raised during the 2022-02-09 hearing and inconsistency remains showing the 12-foot easement being vacated for the publicly funded Multi-Use Public Path (TTM 36-222). As currently stated, the development will absorb a portion of the previously approved 12-foot easement for the Mammoth Lakes Trail System.

3. Biased Justification for Use Permit UPA 21-006:

Resolution No. PEDC 2022-03, Section II Municipal Code Findings for Use Permit section makes the following claims:

- A.) Findings for Use Permit (Paragraph A.1, page 3/178) states the proposed project “features a clubhouse and other on-site amenities that are not available within traditional multi-family developments”.

The Villas III development plans do not include plans for a clubhouse, or other such onsite amenities as claimed. Further the Villas III development plans do not substantiate how this claim will be met. Both the Tallus / Obsidian I (Obsidian Private Residences Club) and Obsidian II (Villas at Obsidian) have their own separate and unique HOAs. Of these, only the Tallus / Obsidian I development has clubhouse / amenities, and which is owned and controlled by the Obsidian Private Residences Club HOA.

- B.) Findings for Use Permit (Paragraph A.2, page 3/178) states the proposed use “will not be detrimental to the public health” and (Paragraph A.3, page 3/178) improperly concludes “Therefore, the proposed transient use of the site is consistent with other development in the vicinity”.

This Staff Report conclusion is incorrect and ***grossly biased*** toward the developer, and it ***deliberately ignores*** the San Joaquin Villas workforce community ***immediately adjacent*** to the Villas III proposed development. The Staff Report review gives no consideration to disturbances from transient occupancy adjacent to a workforce community. The proposed Villas III development plans will severely impact quality of life and mental health for San Joaquin Villas residents.

Both of these inconsistencies need to be resolved and corrected. I **request the following mitigations** to address the noise and loss of privacy from the result of close-proximity transient overnight rentals:

- i. Transient Rentals (Units 22-25): **Deny Use Permit Request UPA 21-001; do not allow transient overnight rentals in Villas III Duplex Units 22-25** due to the close proximity to the immediately adjacent SJV workforce community.
- ii. Hot Tubs: **Do not allow exterior hot tubs on any Villas III duplex unit. Require that developer is not allowed to install either plumbing or electrical utility to any deck.**

4. Inconsistent Front Setback vs. Primary Development Entrance:

The Staff Report 2022-03 (p.12 /22) describes the Villas III development setbacks per municipal code §17.74.030 for RMF-2 zoning and states “The **front setback (25-feet)** has been applied to the southern property line as it is where the primary access to the project site will be taken through the existing Obsidian Development (the project is required to be annexed into the Obsidian HOA).” This claim of primary access point is inconsistent with other parts of the Staff Report and Resolution.

The Staff Report / developer have misconstrued the northern SJV / Villas III border as the “Rear” and have applied the minimum rear setback of 20-feet to the SJV / Villas III property line. This is blatantly inconsistent with defined setbacks required and therefore the **front setback of 25-foot must be applied to the north property line** adjacent to SJV.

The Villas III development is clearly targeting Callahan Way as the primary entrance point with the proposed Access Gate, this since Dorrance is defined as Emergency Egress easement only, and the Tallus / Obsidian I main entry at Meridian is owned and controlled by its Obsidian I Private Residence Club HOA. There is no evidence provided to show any agreement that Obsidian Private Residence Club HOA has or will grant passage through their private access gate from Meridian Blvd.

Thus, the Callahan Way entry is clearly the planned primary entry into the Villas III development and therefore the SJV / Villas III property border is the “Front” of the property. Thus, the Staff Report must be revised to state “The **front setback (25-feet)** has been applied to the northern property line as it is where the **primary access to the project site will be taken via Callahan Way**. And the Tentative Tract Map must reflect the 25 foot setback on units 22-25.

Require clarification and correction:

- If Callahan Way *is* the primary entrance, then the northern SJV / Villas III property border must be defined as the **front and the front setback (25-feet) must be applied to the north property line** adjacent to SJV.
- If Callahan Way is *not* a primary entrance, then action is required to ensure that **only the Meridian entrance** is the primary entrance, and the proposed Callahan gate should be emergency or exit only.

5. Inconsistent Proposed “Limited” Access Gate on Callahan Way at current terminus:

- A.) PEDC Resolution 2022-03 Standard Planning Conditions #1 states “*The proposed limited access gate on the north end of the project on the private Callahan Way road will require a subsequent use permit and is not part of this approval.*”

The statement directly conflicts with Resolution PEDC 2022-03 (page 41/178) which states that there will be a gate on Callahan Way. Further, Special Planning Condition # 31, (page 15/178), describes the required gate elements. This implies that the gate design will be approved as part of the 2022-03-02 PEDC hearing – this is unacceptable, due process must be followed. **The Resolution must be updated to remove the conflicting statements that imply that a gate is being approved as part of the 2022-03-02 PEDC hearing.**

- B.) While it is understood per PEDC Resolution 2022-03 that the gate “*will require a subsequent written permit and is not part of this approval*”, I am Clearly ON RECORD in opposition to Callahan Way as the primary entry/exit for the proposed Villas III development. An entry gate at Callahan Way would negatively impact SJV residents, especially with transient renters arriving in late night / wee hours of the morning.

There are numerous concerns related to a proposed gate in this location. **I request the following mitigations** as part of a future Callahan gate design and location and its *future approval process*:

- I. Expressly prohibit any type of speaker communication system (e.g. call box, speaker-amplified keypad, etc.) at the gate location for communication purposes into the

Villas III development in order to prevent emanation of vocal/beep noises, that would disturb SJV residents, especially during sleeping hours, particularly late-night arrival of transient renters or returning from bar/restaurants after night out.

- II. Require that the gate be activated only via radio-frequency remote, RFID-card or similar silent mechanism.
- III. Require that the gate design incorporate a “soft-close” gate to prevent clanging that will disturb SJV residents, especially during sleeping hours.
- IV. Require that the PRIMARY entrance for Villas III be through Obsidian via Meridian and that this be actively enforced.
- V. Require that the Callahan Way gate be used only for emergency access, or that it be solely used to exit the Villas III development.
- VI. Require that, if the gate were allowed for entry access, entry time be limited to daytime/early evening hours (e.g. 8am-6pm) with afterhours access mandated via alternate Obsidian entry points such as Meridian or Dorrance.
- VII. Require that the gate follow ToML code that in the case of malfunction, the gate shall automatically open and remain open for the extent of the malfunction.
- VIII. Require that the gate design does not impede access to Public Access Trail nor block visual sight of Public Access Trail so as to dissuade casual users from utilizing the trail.
- IX. Require that the gate does not impede snow removal from Callahan Way, which is 100% the responsibility of the Developer

6. Inconsistent Building Height Adjustment ADJ 21-006:

I object to the request for height adjustment ADJ 21-006. Per ToML municipal zoning code §17.36.060 a *maximum* building height of 35-feet for lots with 0-10% slope. The Lodestar Master Plan states the same 35-foot *maximum* building height for resort zones within Lodestar at Mammoth Master Plan Development Area 2.

ADJ 21-006 requests a building height increase from 35ft to 37.5ft for three single family homes.

Significant inconsistency exists between the Staff Report 2022-03 (page 4/22) and ADJ 21-006 / Resolution PEDC 2022-03 Findings for Adjustment (p. 6/178, paragraph C-1). The Staff Report claims “A 7.1% building height increase (37.5 feet vs 35 feet maximum height) is requested for the three single-family residences in order **to accommodate building infrastructure and maintain visual continuity** with the existing Obsidian development to the south”; the resolution cites **safety**.

The claim of “safety” is based on allowing a 3:12 roof pitch for the three single-family houses as justification for exceeding the 35-foot height limit. However, the 15 duplex structures within the same development which are held to the same requirements only utilize the lesser 1.5:12 roof pitch, which per this rationale would be considered unsafe. This justification **does not meet** the requirement per Municipal Code §17.76.020 for a height adjustment approval. Instead, this is simply a barefaced attempt to bypass the existing maximum building height code purely for the developer convenience and smacks of bias toward the developer to allow such blatant failure to follow existing code. The PEDC should enforce the ToML maximum building height code consistently. **Do not approve Height Adjustment ADJ 21-006.**

7. Inconsistent Fencing Along Multi-Use Public Trail:

Resolution PEDC 2022-03 Special Planning Conditions #36 (p. 16/178) is inconsistent with TTM 21-001. The Resolution states the 6-foot solid fence is on the **eastern** property line, the TTM shows the fence along the **western** side of the multi-use trail.

Also, Resolution PEDC 2022-03 Special Planning Conditions #37 (p. 16/178) does not provide any justification for use of a split rail fence in areas where fencing is not required by municipal code.

Do not approve this Resolution, and require the following corrections:

- A.) **Revise Tentative Tract Map (TTM) 21-001** to be consistent with the Resolution to show the fence on the eastern property line, and only in the locations mandated per code.
- B.) **Revise TTM 21-001** to clearly identify the areas where the solid fence is not allowed.
- C.) **Revise TTM 21-001 and Resolution No. PEDC 2022-03** to eliminate split rail fence references.

Additionally, I also object to the following aspects related to this proposed development application:

8. Lack of Resolution Condition to Ensure Compliance with Low-Income Housing Ordinance Requirement:

PEDC Resolution 2022-03 Standard Planning Conditions # 26 (p. 15/178) states *"The affordable housing requirements for this project shall be mitigated in accordance with the Town's Housing Ordinance in effect at the time of building permit submittal."*

Also, PEDC Resolution 2022-03 section "Prior to Issuance of a Temporary, Conditional, or Final Certificate Occupancy, the Following Conditions Shall be Completed" Condition # 95 (p. 23/178) *"Recordation of the final map. The applicant shall provide evidence to the Town that the map has recorded prior to issuance of the first building permit for the project. Evidence shall consist of the recording information of the final map."*

The PEDC must **require an additional condition to ensure that agreement is reached to ensure compliance to the Low-Income Housing Ordinance before building permits are issued.**

9. Resolution PEDC 2022-03 Special Engineering Conditions # 111, re potential Callahan Way renaming:

This change will negatively impact SJV residents, many of whom have resided at 61 Callahan Way since 2008. For these individuals, changing street names after so many years will result in real costs and added financial burden, many of whom are Mammoth workforce on limited budgets, to change existing documents to reflect new street address (mortgages, property titles, utility bills, etc.) and create unnecessary confusion for local and visitors alike.

- Who will cover the costs to the SJV and other local residents impacted by this inane change?
- Who will cover potential late fees/damages resulting when an address change is missed or not made in a timely manner?
- Why must the local SJV residents who will already be so negatively impacted by the Villas III also be saddled with this financial burden and unnecessary documentation hassle solely for the developer's desire to have an "Obsidian" address??

10. Construction Vehicle Access via Callahan Way:

Construction vehicle access via Callahan Way should not be allowed since extended construction traffic would have significant negative impact on the adjacent SJV residential community.

Additionally, entry into Callahan Way is through an already hazardous combined intersection consisting of Callahan Way - Frontage Road - Main Street - Mountain Blvd. This intersection is comprised of tight corners, is not conducive to construction traffic, and would block the sole SJV entry/exit route should a traffic accident occur as a result of oversized equipment transiting via Callahan. **Require that Villas III construction vehicle access is not allowed via Callahan Way.**

CONCLUSION

I request the Planning Commission **REJECT** the Villas-III development application for 100 Callahan Way submitted by Mammoth Spring Resorts, LLC due to the errors / inaccuracies / inconsistencies discussed herein which must be adequately addressed.

Thank you for your considered and thorough review.

Kimberly Taylor
SJV, Unit E6 since 2009