



11.1 Initial Study/Notice of Preparation and Comment Letters



NOTICE OF PREPARATION

Date: June 2, 2016

To: Reviewing Agencies and Other Interested Parties

Subject: Notice of Preparation of a Draft Environmental Impact Report

Project Title: Mammoth Creek Park West New Community Multi-Use Facilities

Project Applicant: Town of Mammoth Lakes

Scoping Meeting: June 8, 2016 at 2:00 p.m.

The purpose of this Notice of Preparation (NOP) is to notify potential Responsible Agencies (Agencies) that as the Lead Agency, the Town of Mammoth Lakes, plans to prepare an Environmental Impact Report (EIR) for the proposed Mammoth Creek Park West New Community Multi-Use Facilities (the project) and to solicit comments and suggestions regarding (1) the scope and content of the EIR and (2) the environmental issues and alternatives to be addressed in the EIR (California Environmental Quality Act [CEQA] Guidelines §15082). This NOP also provides notice to interested parties, organizations, and individuals of the preparation of the EIR and requests comments on the scope and contents of the environmental document.

The Town of Mammoth Lakes requests your careful review and consideration of this notice, and it invites any and all input and comments from interested Agencies, persons, and organizations regarding the preparation of the EIR. Pursuant to CEQA §21080.4, Agencies must submit any comments in response to this notice no later than 30 days beginning June 2, 2016, and ending the close of business on July 1, 2016. This NOP is available for view at:

1. Town of Mammoth Lakes, Community and Economic Development Department, 437 Old Mammoth Road, Suite R, Mammoth Lakes.
2. Mono County Library, 400 Sierra Park Road, Mammoth Lakes.
3. Town of Mammoth Lakes website: <http://www.townofmammothlakes.ca.gov/index.aspx?nid=158>

All comments or other responses to this notice should be submitted in writing to:

Ms. Sandra Moberly, Community and Economic Development Manager
Town of Mammoth Lakes
437 Old Mammoth Road, Suite R
Mammoth Lakes, California 93546
smoberly@townofmammothlakes.ca.gov
760.934.8989, ex. 251

The Town will conduct a public scoping meeting in conjunction with this NOP in order to present the project and the EIR process and to receive public comments and suggestions regarding the scope and content of the EIR. The meeting will be held on June 8, 2016 at 2:00 p.m. at Town Council Chambers, located at 437 Old Mammoth Road, Suite Z, Mammoth Lakes, California 93546.

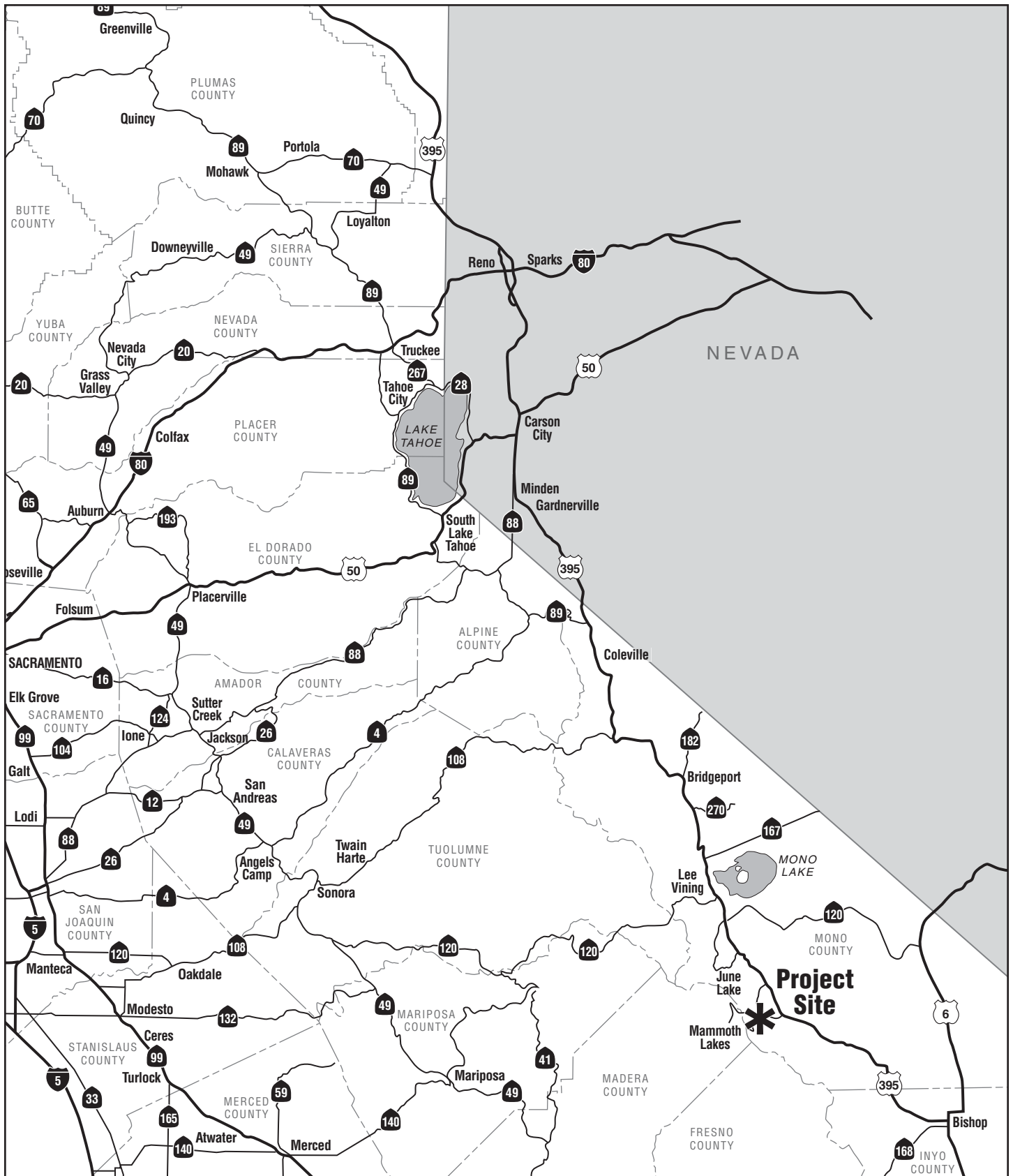
Project Location. The Town of Mammoth Lakes (Town) is located in the southwest portion of Mono County, on the eastern side of the Sierra Nevada mountain range; refer to Exhibit 1, Regional Vicinity. The project site is located at Mammoth Creek Park West (686 Old Mammoth Road) and is comprised of Assessor's Parcel Numbers (APNs) 040-140-001-000 and 040-140-002-000. The project site is approximately 4.9 acres and is bounded by multi-family residential uses and commercial uses to the north, Old Mammoth Road to the east, recreational open space to the south, and multi-family residential uses to the west; refer to Exhibit 2, Site Vicinity. Vehicular access to the site is provided via Old Mammoth Road, and pedestrians/trail users can access the site via the Town Loop trail to the east and south. The primary local roadway providing access through the project site is Old Mammoth Road.

The Town's existing community center (1000 Forest Trail) and Mammoth Ice Rink (416 Sierra Park Road) are located approximately 1.38 miles to the northwest, and 0.30-mile to the northeast of the project site, respectively. The operations of the existing community center would continue. However, the winter and summer operations of the Multi-Use Facility (Mammoth Ice Rink/Mammoth RecZone) would be relocated to Mammoth Creek Park west as part of the proposed project, as described below.

Environmental Setting. The project site is comprised of Mammoth Creek Park West; refer to Exhibit 2. Mammoth Creek Park West currently includes playground equipment, grass/open space, picnic areas, trail connections, and a surface parking lot for 44 vehicles. Based on the *Town of Mammoth Lakes General Plan 2007* (General Plan) Land Use Map, the project site is designated OS (Open Space). Based on the Town's Zoning Map, the project site is zoned P-QP (Public and Quasi Public).

Surrounding land uses include residential, commercial, office, and open space uses, which are further described as follows:

- North: Commercial/office uses, including The Stove restaurant and Mammoth Dental office, and multi-family residential uses (Chateau Blanc Condominiums) are located to the north of the project site.
- East: Open space/recreational trail uses (Town Loop trail), Mammoth Creek, Mammoth Creek Park East, and Old Mammoth Road are located to the east of the project site.
- South: The southern portion of Mammoth Creek Park West [owned by the United States Forest Service (USFS) and in part under a Special Use Permit to the Town], open space/recreational trail uses (Town Loop trail), and Mammoth Creek bound the project site to the south. In addition, Old Mammoth Road is located further to the south.
- West: Multi-family residential uses (La Visa Blanc Condominiums) bound the project site to the west.



NOT TO SCALE

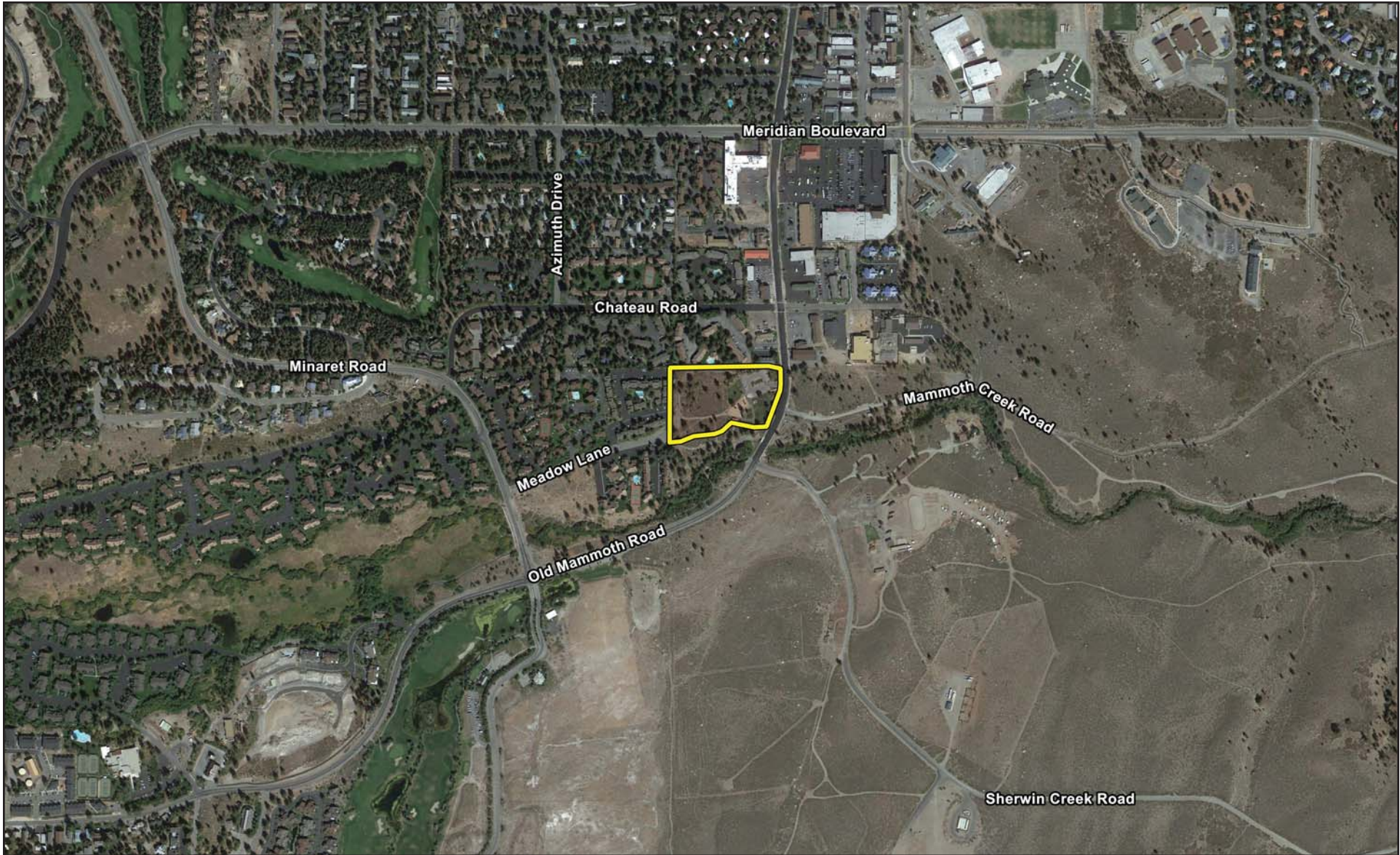
Michael Baker
INTERNATIONAL



06/16 • JN 151373

NOTICE OF PREPARATION
MAMMOTH CREEK PARK WEST
NEW COMMUNITY MULTI-USE FACILITIES
Regional Vicinity

Exhibit 1



Source: Google Earth, 2016.

 - Project Site

NOT TO SCALE

Michael Baker
INTERNATIONAL



06/16 • JN 151373

NOTICE OF PREPARATION
MAMMOTH CREEK PARK WEST
NEW COMMUNITY MULTI-USE FACILITIES
Site Vicinity

Exhibit 2

Background and History.

Ice Rink

The Town has been engaged in finding a permanent location for the Multi-Use Facility with a focus on the operation of an ice rink since 1998. From 1999-2004 the Town operated a seasonal ice rink at the Mammoth RV Park that was well attended; however, escalating operating costs required the Town to find another location. In 2007 the Town entered into a long-term agreement with the Mammoth Unified School District (MUSD) and the Mono County Office of Education (MCOE) to utilize two acres of land adjacent to the MUSD offices to construct and operate an ice rink. The ice rink operated from 2007 to 2010 on a temporary basis and averaged over 6,000 skaters per winter. In 2011, Measure R funds contributed to the installation of a permanent ice rink slab, and the Town has been operating the facility year-round since 2012 as an ice rink in winter and the Mammoth RecZone (inline/roller skating, skate ramps, volleyball, etc.) during the summer. The Town has determined the lease for this existing facility would not be extended past the end of 2017.

Community Center

The Town operates a year-round community center of approximately 2,500 square feet, located at 1000 Forest Trail just east of Minaret Boulevard. The facility has several deficiencies, including extensive building deterioration, on-going maintenance issues, and functional inefficiencies. Currently, this facility does not meet the current or future desire or needs of the community and would require substantial investment to upgrade the structure. While operations at the existing facility are anticipated to continue for the foreseeable future, rather than invest considerable funds to upgrade the existing facility, the Town intends to design and construct a new facility at the project site.

Ice Rink/Community Center Site Selection

Town Staff working in conjunction with representatives from Mammoth Lakes Recreation and the Recreation Commission were tasked to identify, evaluate, and recommend to Town Council appropriate sites for a Multi-Use Facility that would include a new community center and ice rink, and complementary uses. After an extensive review of available Town-owned properties/managed facilities, the following sites were considered for a new Multi-Use Facility:

- Community Center Parcel;
- Bell Shaped Parcel;
- Mammoth Creek Park West;
- Whitmore Park/Track;
- Parcel at Tavern and Sierra Park Road; and
- Civic Center Parcel.

Ultimately, the Town's ad hoc committee [i.e., the Recreation Commission, Mammoth Lakes Recreation (MLR) and members of the Ad Hoc Facility Task Force] recommended that the Multi-Use Facility be located at Mammoth Creek Park West with a complementary Community Center. It is noted that the review of potential sites did not include Shady Rest Park or Mammoth Creek Park East as the current USFS Special Use Permits under which these two sites are managed do not allow the construction of this type of permanent facility.

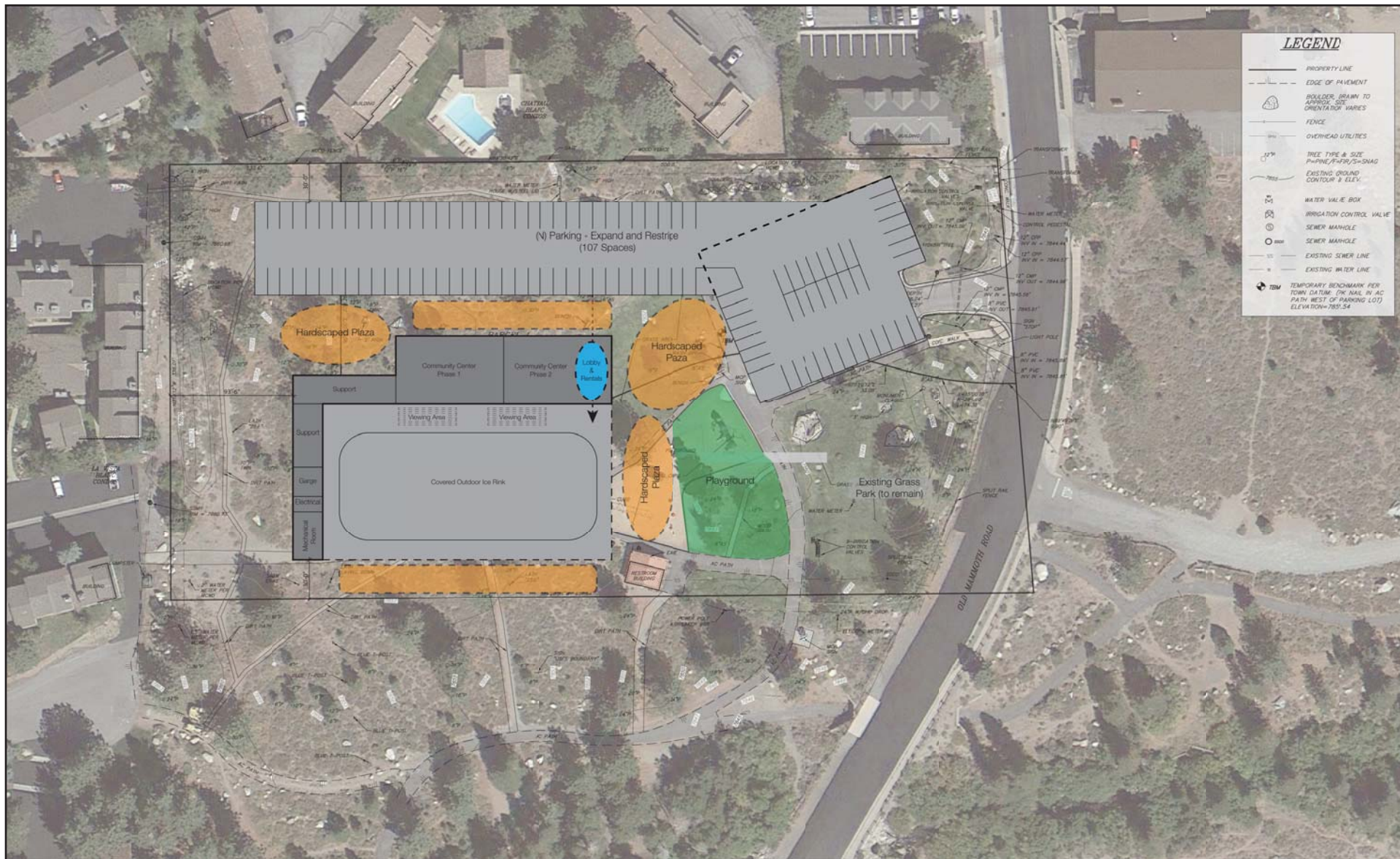
Project Design/Programming Process

On January 6, 2016, the Town Council authorized consultant services agreements related to the preliminary design and environmental documentation for the project at Mammoth Creek Park West. Preliminary tasks focused on providing the desired community benefit while considering how best to mitigate potential impacts to the environment and neighboring land uses. On January 11, the Town kicked off the site planning process with HMC Architects. HMC reviewed available information, including previous staff reports, site information, historical data and comments to date from interested parties. HMC began the development of three site plan alternatives that were posted and remain available on the Town website for this project at www.PlanMCP.com. These were made available in advance of the initial public workshop on possible site plans held on January 29, 2016. The workshop was well attended and resulted in a list of comments, questions, and ideas. Questions received and preliminary responses were subsequently posted on the dedicated project website.

Before moving forward to select and refine a preferred site plan, additional information was gathered from public comments, discussions with stakeholders and the first sessions of the programming efforts. A preferred alternative was prepared that considered all input received. A follow up public site planning workshop was held on March 18, 2016. In advance of that meeting, an updated list of questions and responses was posted along with a preferred alternative.

In parallel with the site planning/preliminary design workshops discussed above, a series of public programming workshops have also been conducted. These six formal and facilitated workshops took place from February 22 through April 12, 2016. There was also a specific hockey workshop held in March 2016 as well as a workshop with the Town/County Youth Advisory Committee (YAC). The public was also invited to participate via an online survey tool available in both English and Spanish. The collated and summarized programming information (i.e., the "Playbooks") serve to inform the final site planning and preliminary design efforts, as well as final design.

Project Description. The project consists of constructing new Community Multi-Use Facilities at the project site, encompassing a maximum 100-foot by 200-foot ice rink (winter)/recreation/event area (RecZone) covered by a roof structure of approximately 30,000 square feet, a 13,000 square-foot complementary community center, reconfiguration and improvements to an existing playground to add accessible components, restroom improvements, and 107 additional surface parking spaces; refer to Exhibit 3, Conceptual Site Plan. The project would also include an active outdoor recreation area to the west of the new Community Multi-Use Facilities. Upon project completion, the existing Mammoth Ice Rink/RecZone (located at 416 Sierra Park Road) would be made inactive, and the existing community center (located at 1000 Forest Trail) would remain under Town operation. The proposed project components are described in more detail below.



Source: HMC Architects, dated March 7, 2016.

NOT TO SCALE

Michael Baker
INTERNATIONAL



06/16 • JN 151373

NOTICE OF PREPARATION
MAMMOTH CREEK PARK WEST
NEW COMMUNITY MULTI-USE FACILITIES
Conceptual Site Plan

Exhibit 3

Community Center

The proposed 13,000 square-foot complementary community center would include a maximum of two large rooms (1,500 to 3,000 square feet) adjacent to the multi-use facility, a 200 to 400 square-foot warming kitchen with concession space, approximately 400 square feet of office space, a 500 to 600 square-foot arts/crafts/play room, a 300 to 400 square-foot meeting room, a 600 to 800 square-foot multi-purpose room, two to four locker rooms (approximately 400 square feet each), Americans with Disabilities Act (ADA) accessible restrooms, a 400 to 600 square-foot storage room, mechanical room (including storage, cleaning supplies, phone, electrical, internet, etc.), and 20 to 40 wall lockers.

The community center would host a number of community-based programs, events, classes, camps, meetings, community/social gatherings, and rental space for Town community members. Such activities would include, but are not limited to, adult and youth introductory fitness classes (e.g., gymnastics/tumbling, yoga), arts and crafts programs/camps, training/certification courses (e.g., first-aid training), seasonal productions (theatre/rehearsal), senior programs, holiday celebrations, fairs/festivals, rotating art gallery, community variety/talent shows, and facility rentals for small events/conferences. Community center operations would generally run between 6:00 a.m. and 10:00 p.m., Monday through Sunday, with occasional use from 10:00 p.m. to 12:00 a.m.

Ice Rink

The proposed ice rink would be open on two sides (to the south and east), oriented in an east-west direction, and would be up to 100-feet long by 200-feet wide. The ice rink would include space for skate rental, concessions and/or vending machines, ADA accessible restrooms, a viewing area, bleachers, and lockers for personal items. The ice rink would operate during the winter months (November to April), and would provide a number of recreational activities, including recreational skating, youth and adult hockey, as well as programs for ice skating, figure skating, and curling. The ice rink would also host community events, hockey tournaments, private/special events, and professional/club/college/school rentals and events. Ice rink operations would generally run between 9:00 a.m. and 10:00 p.m., Monday through Sunday, with occasional use from 6:00 a.m. to 9:00 a.m. or 10:00 p.m. to 12:00 a.m.

Mammoth Recreation Zone

In the summer months (mid-May to mid-October) the multi-use facility would operate as the summer Mammoth RecZone. The Mammoth RecZone would be the home of Parks and Recreation Department summer camps and programs. The facility would also offer youth, adult and senior court sports (drop-in and league play), a climbing wall, professional/club/college/school rental space, community gathering space, and would be home to community and special events. Activities could include youth and adult recreational basketball, badminton, pickleball, cricket, handball, small-sided soccer (futsal), volleyball, street hockey, dodgeball, kickball, adaptive sports (wheelchair basketball, pickleball, etc.), summer sports camps (basketball, volleyball, soccer), roller/inline skating, farmers market, festivals, holiday events, and special events such as weddings, trade shows, birthday parties, etc. Auxiliary equipment such as sport court flooring, wind screens, scoreboards, athletic equipment, tables, chairs, etc., would be required to operate the Mammoth RecZone. Mammoth RecZone operations would generally run between 6:00 a.m. and 10:00 p.m., Monday through Sunday, with occasional use from 10:00 p.m. to 12:00 a.m. The open area south of the Mammoth RecZone may also be used occasionally for access and seating for events.

Park Playground

The square footage of the existing playground on the project site would remain the same. However, some elements of the existing playground may be moved or new “inclusive” features may be added. In addition, the existing bathroom at the Mammoth Creek Park West would be updated for year round use and to comply with ADA standards. The existing rock garden in the southeast portion of the project site would remain unchanged.

Active Outdoor Recreation Area

The area to the west of the proposed Community Multi-Use Facility would be used as an active outdoor recreation area. Possible activities for this portion of the project site include a dog park, a BMX bicycle dirt track (during summer months), sledding hill (during winter months), and/or a community garden.

Parking

The existing surface parking lot in the northeast portion of the project site would be expanded westward across the northern portion of the project site, and would provide 107 additional parking spaces (a total of 151 parking spaces).

Construction Phasing

Construction of the proposed project would be phased and is anticipated to begin in June 2017 and conclude in June 2022.

Required Approvals

The project would require the following project approvals:

- Environmental Review
 - Certification of the Environmental Impact Report
- Discretionary Permits
 - Use Permit
 - Major Design Review
 - o Site Plan Review
 - o Architectural Review
- Ministerial Permits
 - Grading Permit
 - Building Permit

Environmental Analysis. Due to the decision to prepare an EIR, an Initial Study was not prepared. This option is permitted under *CEQA Guidelines* Section 15063(a), which states that if the Lead Agency determines an EIR will be required for a project, the Lead Agency may skip further initial review and begin work on the EIR. The Draft EIR will focus on the following environmental issues:

- Aesthetics;
- Agriculture and Forest Resources;
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Geology and Soils;
- Greenhouse Gas Emissions;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use and Planning;
- Mineral Resources;
- Noise;
- Population and Housing;
- Public Services;
- Recreation;
- Transportation/Traffic; and
- Utilities and Service Systems.

The EIR will particularly focus on the following topical areas:

- *Aesthetics*. The proposed project could result in visual impacts due to potential public view blockage/effects from the proposed Community Multi-Use Facility building, as well as the change in character/quality of the project area. Other impacts that could result include introduced lighting from both interior and exterior lighting sources as well as increased vehicle headlights entering and exiting the project site.
- *Agriculture and Forest Resources*. As the project area is not designated for agricultural production, impacts in this regard are not anticipated. The project site is located within an area known for its forestland, and the adjoining parcel to the south is owned by the USFS. However, the project site is not zoned or used for forestland resource production. The Draft EIR will confirm that the project would not create impacts related to agriculture and forest resources.
- *Air Quality*. The project may result in air quality impacts due to temporary construction-related emissions, as well as long-term air emissions from project operations associated with daily automobile traffic and energy consumption. Short-term construction air quality impacts that may occur include dust generation, construction vehicle emissions, and possible odors. Future development within the project area may result in long-term air quality impacts within the Great Basin Valleys Air Basin (GBVAB). These issues will be addressed in the Draft EIR, including project consistency with regional air quality planning programs.
- *Biological Resources*. Given the undeveloped nature of the project site and proximity to Mammoth Creek, biological impacts to sensitive species or habitat could occur at the project site. The Draft EIR will include a Habitat Assessment/Field Investigation to document baseline conditions from which to evaluate the sites potential to support special-status species, sensitive habitat types, or jurisdictional drainages. The Habitat Assessment/Field Investigation will be used in the Draft EIR to analyze impacts to biological resources as a result of the proposed project.

- Cultural Resources. Culturally significant resources are known to exist in the project area. As such, the potential exists for future construction activities at the planning site to encounter known or unknown prehistoric and historic resources. As part of the Draft EIR, a Cultural Resources Technical Report will be prepared. The Cultural Resources Technical Report will supplement the Draft EIR analysis of impacts on cultural resources and address potential cultural and historic resource impacts as a result of the proposed project in the Draft EIR.
- Geology and Soils. The Town and surrounding area is situated within a seismically active region, capable of producing surface rupture, ground motion, liquefaction, or soil settlement of sufficient magnitude to damage buildings or structures during an earthquake. The Draft EIR will utilize the *Town of Mammoth Lakes 2005 General Plan Update Final Program Environmental Impact Report* (General Plan EIR), or any updates thereto, to evaluate seismicity of the local area, presence of existing fault lines and effect on development, the potential for erosion of site soils, soil stability, and expansive characteristics of project area soils.
- Greenhouse Gas Emissions. Development at the project site could increase greenhouse gas emissions both during construction and operations of the proposed Community Multi-Use Facility. The Draft EIR will analyze short-term construction activities and long-term operations, buildings, and transportation as these activities pertain to greenhouse gas emissions.
- Hazards and Hazardous Materials. Operations at the project site may involve limited amounts of hazardous materials such as cleaning and degreasing solvents, fertilizers, pesticides, and other materials used in the regular maintenance of buildings and landscaping. The Draft EIR will address the potential that a significant hazard to the public may be created through the transport, use, or disposal of hazard materials, as well as the potential for reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment. The Draft EIR will identify whether or not the project would emit hazardous materials and/or interfere with any emergency response plans. Potential impacts to nearby residents and schools, if applicable, will also be evaluated.
- Hydrology and Water Quality. According to flood hazard maps published by the Federal Emergency Management Agency, portions of the project site are located within Special Flood Hazard Areas (SFHAs). As part of the Draft EIR, Hydrology/Water Quality Analysis will be conducted. The Draft EIR will address the potential that project implementation could place future development and within SFHAs that would impede or redirect flood flows. The project could generate pollutants typical of urban development, which may adversely impact receiving waters. The Draft EIR will analyze short-term temporary construction-related effects on hydrology and water quality; long-term project-related water quality; permanent changes to stormwater drainage and/or flooding; project-related impacts to groundwater quantity and quality; and off-site hydrology and water quality impacts.
- Land Use and Planning. The project is not anticipated to require a General Plan Amendment or Zone Change. The proposed project will be evaluated in regards to consistency with the existing policies and standards of the General Plan, *Mammoth Lakes Municipal Code* (Municipal Code), and *Town of Mammoth Lakes Parks and Recreation Master Plan* (Parks and Recreation Master Plan). The project's potential adverse impacts to adjacent land uses would also be evaluated through an analysis of short-term construction activities and long-term operations.

- Mineral Resources. According to the Town's General Plan EIR, no known mineral resources are known to occur in the project area. The Draft EIR will confirm that there is no effect on the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.
- Noise. Development at the project site may result in short-term construction noise and long-term changes in noise levels in the area due to traffic volume changes along area roadways and on-site project operations. The Draft EIR will describe these potential construction and operational noise impacts and will compare these impacts to applicable noise thresholds. The Draft EIR will evaluate these potential noise-related issues as well as address the noise/land use compatibility of the proposed project with existing and future expected noise levels.
- Population and Housing. The Draft EIR will present existing population, housing, and employment figures for the project site and the projected changes in these variables as a result of project implementation. The population analysis will compare the amount and type of growth anticipated under the proposed project with estimates from the General Plan, the U.S. Census Bureau, the California Department of Finance, and other adopted planning documents.
- Public Services. Potentially affected agencies such as fire and law enforcement protection will be contacted to confirm relevant existing conditions, project impacts, and recommended mitigation measures. The discussion will focus on the potential alteration of existing facilities, extension, or expansion of new facilities, and the increased demand on services based on the proposed land uses. The Draft EIR will evaluate the ability of the project to receive adequate service based on applicable Town standards and, where adequate services are not available, will identify the effects of inadequate service, and recommended mitigation measures if necessary.
- Recreation. The Draft EIR will analyze the potential for increased use of or substantial degradation of existing local and regional parks. The Draft EIR will also evaluate potential impacts on construction or expansion of recreational facilities based on the proposed land uses.
- Transportation/Traffic. Potential impacts associated with construction-related traffic, project-related operational traffic on local and regional transportation facilities, internal circulation, and emergency access of the project may occur. Development of the proposed project could include on-site and off-site circulation improvements, which may affect access, and/or traffic volumes. As such, a Transportation Impact Memorandum will be conducted. The Draft EIR will summarize the results of the Transportation Impact Memorandum addressing these issues and will analyze effects on public transit, as well as public transit needs and alternative modes of transportation.
- Utilities and Service Systems. Potentially affected agencies such as water service, wastewater treatment, and solid waste providers will be contacted to confirm relevant existing conditions, project impacts, and recommended mitigation measures. The discussion will focus on the potential development requiring the construction of new facilities, expansion of existing facilities, and the increased demand on services based on the proposed land uses. The Draft EIR will evaluate the ability of the project to receive adequate service based on applicable Town standards and, where adequate services are not available, will identify the effects of inadequate service, and recommended mitigation measures.

- Cumulative Impacts. Consistent with Section 15130 of the CEQA Guidelines, the Draft EIR will discuss cumulative impacts of the proposed project, addressing each topic covered in the environmental analysis.
- Effects Not Found to be Significant. This section will discuss those environmental issues found not to have an impact as a result of the proposed project.
- Significant and Unavoidable Environmental Effects. This section will describe any significant and unavoidable impacts on the environment that cannot be avoided or reduced to a less than significant level with the application of mitigation measures.
- Growth Inducing Effects. As a required discussion according to CEQA Section 15126.2(d), the Draft EIR will include a discussion of growth inducing effects. The anticipated growth conditions in the project area and parameters for consideration of any secondary impacts from growth will be discussed. The section will evaluate the potential for the proposed project to generate additional growth in the area using standard growth analysis criteria, such as the project's potential to foster economic or population growth or its potential to remove obstacles to population growth through extension of infrastructure.
- Project Alternatives. Under CEQA, environmental documentation must include an analysis of a reasonable range of alternatives to the project, including the "No Project" alternative. Each alternative will be contrasted with the proposed project in terms of the extent to which project's objectives are met and a reduction in adverse impacts is achieved. The environmentally superior alternative will be identified.

This page left intentionally blank.



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0459
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



June 29, 2016

Ms. Sandra Moberly
Community and Economic Development Manager
Town of Mammoth Lakes
437 Old Mammoth Road, Suite R
Mammoth Lakes, CA 93546

Subject: Notice of Preparation of a Draft Environmental Impact Report
Mammoth Creek Park West New Community Multi-Use Facilities Project
State Clearinghouse No. 2016062009

Dear Ms. Moberly:

The California Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the Mammoth Creek Park West New Community Multi-Use Facilities Project (project) [State Clearinghouse No. 2016062009]. The Department is responding to the NOP as a Trustee Agency for fish and wildlife resources (California Fish & G. Code, §§ 711.7 & 1802, and the California Environmental Quality Act [CEQA] Guidelines, § 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines, § 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish & G. Code, § 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish & G. Code, §§ 2080 & 2080.1).

The project is located at Mammoth Creek Park West and is approximately 4.9 acres. It is bounded by multi-family residential uses and commercial uses to the north, Old Mammoth Road to the east, recreational open space to the south, and multi-family residential uses to the west. The project consists of constructing new Community Multi-Use Facilities at the project site, encompassing a maximum 100-foot by 200-foot ice rink/recreation area; a 13,000 square-foot complementary community center; reconfiguration and improvements to an existing playground; and 107 additional surface parking spaces. The project would also include an active outdoor recreation area to the west of the new Community Multi-Use Facilities.

COMMENTS AND RECOMMENDATIONS

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (i.e., biological resources). The Department offers the comments and recommendations presented below to assist the Town of Mammoth Lakes (the Town; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or

potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable the Department to adequately review and comment on the proposed project with respect to impacts on biological resources. The Department recommends that the forthcoming DEIR address the following as applicable to the project:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable Department staff to adequately review and comment on the project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats. The Department recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. The Department recommends that floristic, alliance- and/or association based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. The Department's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or <http://www.dfg.ca.gov/biogeodata/cnddb/> to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed project. The Department recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at: http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp

Please note that the Department's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. The Department recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish & G. Code, § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines, § 15380). The inventory should address seasonal variations in use of the project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist

and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service, where necessary. Note that the Department generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed project may warrant periodic updated surveys for certain sensitive taxa, particularly if the project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following the Department's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see <https://www.wildlife.ca.gov/Conservation/Plants>);
5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines, § 15125[c]);

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the project. To ensure that project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address project-related changes on drainage patterns and water quality within, upstream, and downstream of the project site, including: volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site.
2. A discussion of potential indirect project impacts on biological resources, including resources in areas adjacent to the project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
3. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. Please include all potential direct and indirect project related impacts to riparian areas, wetlands, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on

similar plant communities and wildlife habitats.

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should include appropriate and adequate avoidance, minimization, and/or mitigation measures for all direct, indirect, and cumulative impacts that are expected to occur as a result of the construction and long-term operation and maintenance of the project. When proposing measures to avoid, minimize, or mitigate impacts, the Department recommends consideration of the following:

1. *Sensitive Plant Communities*: The Department considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from project-related direct and indirect impacts.
2. *Species of Special Concern (SSC)* status applies to animals generally not listed under the federal Endangered Species Act or the California Endangered Species Act, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. SSCs should be considered during the environmental review process.
3. *Mitigation*: The Department considers adverse project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement should be evaluated and discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

4. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game

Code (FGC) also afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

The Department recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the project site. If pre-construction surveys are proposed in the DEIR, the Department recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

Lake and Streambed Alteration Program

Any project that may substantially alter a lake or streambed will require notification to the Department per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity (as defined in Fish and Game Code section 1601(d)) to notify the Department prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit or dispose of debris or waste where it may pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year round). This includes ephemeral streams, desert washes, watercourses with a subsurface flow, and hydraulically connected floodplains of a body of water.

Upon receipt of a complete notification, the Department determines if the proposed project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake or Streambed Alteration Agreement is required. A Lake or Streambed Agreement includes measures necessary to protect existing fish and wildlife resources. The Department may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources.

The Department's issuance of a Lake or Streambed Agreement constitutes a "project", and is subject to CEQA (Pub. Resources Code §21065); the Department is thus bound by its role as a Responsible Agency to independently evaluate and approve the Environmental Document prepared by the Lead Agency, pursuant to California Code of Regulations

section 15096 (f). To facilitate issuance of a Lake or Streambed Agreement, the DEIR should fully identify the potential impacts to all lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with the Department is recommended to ensure timely preparation and execution of a Lake or Streambed Alteration agreement, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

Further Coordination

The Department appreciates the opportunity to comment on the NOP of a DEIR for the Mammoth Creek Park West New Community Multi-Use Facilities Project (SCH No. 2016062009) and recommends that the Town address the Department's comments and concerns in the forthcoming DEIR.

If you should have any questions pertaining to the comments provided in this letter, please contact Rose Banks at (760) 873-4412 or at Rose.Banks@wildlife.ca.gov.

Sincerely,



for

Leslie MacNair
Regional Manager

Literature Cited

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California.
<http://vegetation.cnps.org/>

NATIVE AMERICAN HERITAGE COMMISSION

1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone (916) 373-3710
Fax (916) 373-5471
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>
Twitter: @CA_NAHC



June 7, 2016

Sandra Moberly
City of Mammoth Lakes
P. O. Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, CA 93546

sent via e-mail:
smoberly@townofmammothlakes.ca.gov

RE: SCH# 2016062009 Mammoth Creek Park West New Community Multi-Use Facilities Project, Environmental Impact Report, Mono County, California

Dear Ms. Moberly:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a **separate category of cultural resources**, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. **Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).
7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.

- ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)). *This process should be documented in the Cultural Resources section of your environmental document.*

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have been already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Please contact me if you need any additional information at gayle.totton@nahc.ca.gov.

Sincerely,



Gayle Totton, M.A., PhD.
Associate Governmental Program Analyst

cc: State Clearinghouse

Bogue, Kristen

From: Sandra Moberly <smoberly@townofmammothlakes.ca.gov>
Sent: Friday, July 01, 2016 8:44 AM
To: Torres, Eddie; Bogue, Kristen
Cc: Stuart Brown; Grady Dutton
Subject: FW: Comments: Scope of EIR for MUF at Mammoth Creek Park West

FYI

From: Lesley B [mailto:lestravel@hotmail.com]
Sent: Thursday, June 30, 2016 10:07 PM
To: Sandra Moberly
Subject: Comments: Scope of EIR for MUF at Mammoth Creek Park West

smoberly@townofmammothlakes.ca.gov

Dear Ms. Moberly,

As someone who has called Mammoth Lakes home for nearly twenty years, and as one who treasures our natural environment (along with most other residents and visitors), I urge our town government to use the utmost care in preparing EIR documents for the Multi-Use Facility at Mammoth Creek Park West.

Of primary importance is retaining the viability of the riparian corridor along Mammoth Creek. This section of creek is home to a variety of birds and mammals and is a stop for migrant birds. Removal of natural vegetation - including significant stands of Jeffrey Pines - will degrade this habitat and needs to be accurately documented in the EIR.

Ice rink operations carry a risk of leaking contaminants which could further endanger local wildlife. This should be addressed by the EIR along with possible impacts to groundwater.

The large parking lot will encourage vehicular travel and is inconsistent with town's plan to encourage a "feet first" community. Added car trips will increase pollutants.

Noise and light pollution will cause a significant impact, especially if the MUF is developed as an open air structure. It's vital that the EIR looks at these issues carefully and notes the degradation of quality of life to nearby residents resulting from added noise and glare. Also, we should be following our town's "dark skies" guidelines.

It is my hope that the EIR document will present a fair assessment of the environmental consequences of siting an industrial-style facility in a relatively natural area. It is my fear that the document will minimize environmental impacts in order to expedite development.

Sincerely,
Lesley Bruns
818 424-5552 (lesleybruns@outlook.com)

P.S. I can't resist sharing this link which details numerous failed ice rink projects and notes some undesirable environmental consequences: <http://iceskatingresources.org/ClosedOrFailingIceRinks.html>



[Virus-free](#)

SHUTE MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

CATHERINE C. ENGBERG
Attorney
engberg@smwlaw.com

October 21, 2015

Mayor Michael Raimondo
Mammoth Lakes Town Council
Town of Mammoth Lakes
P.O. Box 1609
Mammoth Lakes, CA 93546

Re: Comments on Agenda Item 11—Proposed Community Multi-Use
Recreation Facility at Mammoth Creek Park West

Dear Mayor Raimondo and Members of the Town Council:

On behalf of our clients, La Vista Blanc Homeowners' Association, Mammoth Creek Homeowners' Association, Sunrise Homeowners' Association, and Chateau Blanc Homeowners' Association ("the Homeowners' Associations"), we are writing to provide comments on the proposed relocation of the Mammoth Ice Rink from its current location on Mammoth Unified School District property to a Community Multi-Use Recreation Facility at Mammoth Creek Park West ("the Facility").

The Mammoth Creek Park West site poses severe and likely insurmountable development challenges. While the Town has not released a detailed project description, it appears that the Facility would replace a five acre park, currently used as open space, with a full-sized hockey and ice skating rink and mixed summer uses, and would also include a 10,000 square foot community center and a concessions trailer that could sell alcohol. The co-location of these facilities is meant to reduce costs for the Town, but crowding in so many different uses on such a small site will concentrate negative impacts on the surrounding residential community and those who enjoy Mammoth Creek Park for its current recreational amenities. The proposed relocation will bring permanent changes to the surrounding residential community, a beloved and well-used park, riparian habitat within Mammoth Creek Park, and Mammoth Lakes as a whole. The Town must therefore carefully analyze the impacts of the Facility and ensure rigorous public involvement in the decision-making process.

In light of the Facility's significant environmental impacts, we concur with staff's recommendation that an "Environmental Impact Report be considered as the

appropriate environmental review document for this project.” October 21, 2015 Staff Report at 3. The Homeowners’ Associations are particularly concerned with the Facility’s impacts to noise levels, parking and traffic, light and aesthetics, land use compatibility, air and water quality, and public safety. Because “it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact[s],” if the Town decides to move forward with the Facility, compliance with the California Environmental Quality Act (“CEQA”) will require the completion of an Environmental Impact Report (“EIR”), including thorough analysis of alternative sites. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. CEQA prohibits the Town from approving the Facility if the project’s significant environmental effects could be substantially lessened through use of a project alternative that accomplishes the project’s goals or through feasible mitigation. Pub. Res. Code §§ 21000 *et seq.*; CEQA Guidelines, Cal. Code Regs., tit. 14, §§ 15000, *et seq.*; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 731.

The Homeowners’ Associations urge the Town to take this opportunity to either abandon Mammoth Creek Park West as the preferred project location and/or to prepare an EIR that thoroughly analyzes potential impacts of the Facility and project alternatives, including those described below.

I. The Facility Will Result in Significant Noise Impacts.

The project must fully comply with noise control requirements of CEQA, the Mammoth Lakes General Plan, and the Noise Ordinance of the Mammoth Lakes Municipal Code. CEQA requires lead agencies, such as the Town, to “[t]ake all action necessary to provide the people...with freedom from excessive noise,” and the defines the potential to “increase substantially the ambient noise levels for adjoining areas” to be a significant environmental effect. *Lewis v. Seventeenth Dist. Agricultural Assn.* (1985) 165 Cal.App.3d 823, 829 fn. 7 (quoting CEQA Guidelines Appendix G); Pub. Res. Code § 21001(b). Residential developments like those surrounding the proposed project site are identified in the Mammoth Lakes General Plan as a noise-sensitive use, and the Noise Ordinance sets detailed standards for acceptable decibel levels in residential zones at different times throughout the day. Mammoth Lakes General Plan, Noise Element § 1.1; Mammoth Lakes Municipal Code §§ 8.16.010 *et seq.*). As a part of environmental review, the Town should analyze all of the noise producing elements discussed below individually and cumulatively for their compatibility with both the daytime and nighttime noise thresholds of the Noise Ordinance. Pub. Res. Code § 21083(b)(2) (requiring identification of significant cumulative impacts).

If the Facility is placed at Mammoth Creek Park West, removal of snow from the ice rink, ice resurfacing machines, and ice cooling units will contribute substantial ambient daytime noise to the adjacent quiet residential community. Noise impacts would be heightened during hockey game times through crowd noise, public address system announcements, increased traffic, and game play noises like referee whistles and hockey pucks hitting dasher boards. Game noise would be particularly detrimental to the peace of the surrounding residential community if night games are allowed at the Facility. Even without scheduled nighttime games, however, noise impacts could run around the clock if the ice cooling units run at all hours, maintenance such as snow removal and resurfacing occurs afterhours, or if the site is not well-patrolled for illicit afterhours use. Additionally, grading and construction will also create temporary noise impacts that will be a nuisance to surrounding residents and recreational users of the park.

II. The Facility Will Result in Significant Parking and Traffic Impacts.

Currently, Mammoth Creek Park West is served by a lot with only 44 parking spaces. Town of Mammoth Lakes, Conceptual Site Plan: Mammoth Creek Park West, <http://www.ci.mammoth-lakes.ca.us/DocumentCenter/View/5299>. Forty-four spaces will most certainly be insufficient for a development of this scale. Adverse impacts to parking are a significant effect on the environment for CEQA purposes. See *Taxpayers for Accountable School Bond Spending v. San Diego Unified School District* (2013) 215 Cal.App.4th 1013, 1050, *reh'g denied* (Apr. 25, 2013), *review denied* (July 31, 2013) (invalidating school district's mitigated negative declaration of proposed field lighting at football stadium based on fair argument that significant parking impacts would occur). A failure to provide additional parking for Facility users will lead to parking overflow into adjacent private lots that will burden area residents, and effective enforcement against illegal parkers would take up valuable police resources. Minimizing parking impacts through converting more undeveloped land into parking, however, will in turn increase open space loss.

Old Mammoth Road provides the only vehicular access to Mammoth Creek Park. Significant, unmitigated impacts to traffic requires preparation of an EIR. *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342. The additional trips the project will generate on this two-lane roadway will create congestion that could reduce access to local businesses and residences during peak use times. Congestion at the bend in Old Mammoth Road approaching the park could create dangerous roadway conditions, as visibility is limited there.

III. The Facility Will Result in Significant Light and Aesthetic Impacts.

The Facility will introduce new light sources into the project area that will produce glare and spill lighting on the surrounding residential area. Particularly if the design includes sports lighting typical of major recreational facilities, light intensity from the Facility could exceed levels permitted under the Town's Exterior Lighting Ordinance. Mammoth Lakes Municipal Code § 17.36.030 (requiring that "[o]utdoor lighting installations shall be designed to avoid harsh contrasts in lighting levels between the project site and the adjacent properties" and prohibiting the installation of lights that cause glare or spillover onto neighboring properties). Unless effectively mitigated, light impacts from the project will contribute to a loss of night sky observation and will interfere with sleep and health of nearby residents. Substantial adverse effects on human beings, such as negative health impacts, are significant environmental effects for the purposes of CEQA. Pub. Res. Code § 21083(b)(3).

Furthermore, the addition of Facility buildings to the site will detrimentally modify views from neighboring residential properties and from within the park. "[A]esthetic issues, such as public and private views, are properly studied in an EIR to assess the impacts of a project." *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 492, *as modified* (July 13, 2004). CEQA requires review of the Facility's impact on residents who will lose their views of Mammoth Lakes' dramatic mountain vistas. Even with careful design review, such aesthetic impacts will be very difficult to mitigate, whereas the selection of an alternative project site that is not adjacent to residential development would avoid these impacts altogether.

IV. The Facility Will Cause Significant Impacts Related to Land Use Compatibility.

The Facility's proposed intensive and dense use of the site must be analyzed for consistency with current land uses both on the park itself and in the surrounding area.

Currently, Mammoth Creek Park is heavily used for recreation purposes, including fishing in the stream, dog walking, and creek access. Parents and their young children who frequent the park's playground make up a particularly large segment of users. Diverse recreational uses that are desirable in their own right are not necessarily compatible in a shared site. The transformation of Mammoth Creek Park into a multi-use sports facility and community center will entail the removal of vegetation, grading, and changes in land use that will lead to permanent loss of a beloved open space for community residents, and will result in a space ill-suited for its present passive

recreational uses. The segments of the populace served will also shift. A boisterous hockey rink can be expected to primarily benefit adults and teens, forcing out young families and senior citizens who enjoy the park's quiet, safe, and contemplative atmosphere.

The Mammoth Lakes General Plan includes a goal to “[p]reserve and enhance the exceptional natural, scenic and recreational value of Mammoth Creek,” and policies to “protect stream-bank vegetation” and “[m]anage all properties held by the Town of Mammoth Lakes along the Mammoth Creek corridor for open space, habitat preservation and passive recreation.” Mammoth Lakes General Plan, Resource Management and Conservation Element, R. 3-3.B. The Facility's necessary destruction of open space along the Mammoth Creek corridor is directly inconsistent with these provisions of the General Plan.

Use of Mammoth Creek Park West to develop a crowded multi-use facility is also incompatible with the surrounding use, which is overwhelming residential. There are a number of condo developments to the south, west, and north of the park. Community residents depend on Mammoth Creek Park as a place for peaceful recreation. As the diversity of possible impacts discussed herein attests to, residents can expect the incompatibility of existing uses and the Facility's uses to be highly disruptive to their community.

V. The Facility Will Cause Significant Air and Water Quality Impacts.

Environmental review must analyze the risk of pollution from the Facility's construction, use, and maintenance impacting to air quality, water quality, and biological resources in the park's creekside riparian habitat.

The Facility poses a risk of doing irreparable harm to Mammoth Creek, an invaluable natural resource. Construction runoff, vehicle fuel, and chemicals used by ice-chilling devices could pollute and permanently degrade the creek and groundwater resources. Given the importance of the creek as a biological resource, analysis of plans for stormwater collection and treatment, soil erosion control, and spill cleanup for fuel used on-site are all of heightened importance in the environmental review process.

Environmental review must also analyze the potential for increased traffic, idling of vehicles, and use of gasoline-fueled ice resurfacing machines or ice chillers to degrade air quality below requirements set in the Mammoth Lakes Air Quality Management Plan. (Air Quality Management Plan for the Town of Mammoth Lakes, Nov. 30, 1990).

VI. The Facility Will Result in Significant Public Safety Impacts.

Public safety risks created by the Facility could put new demands on police and fire services. Possible impacts of the Facility that require review include afterhours vandalism and increases in crime in the area if alcohol is available through the concessionaire. The sale of alcohol on-site would also exacerbate traffic safety hazards created by congestion at the blind bend in Old Mammoth Road. Insufficient mitigation for pedestrian safety could particularly threaten young children and elderly persons accessing the park and Facility on foot.

VII. The EIR Must Contain a Robust Alternatives Analysis.

Finally, as a part of the EIR, the Town will need to conduct thorough evaluation of alternative locations and designs for the Facility. An EIR must describe a range of alternatives to the proposed project, and to its location, that would feasibly attain the project's basic objectives while avoiding or substantially lessening the project's significant impacts. Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a). A proper analysis of alternatives is essential for the Town to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2), 15126.6(a). The Town has already acknowledged that it considers the Mammoth Creek Park East alternative "to have less direct impact on any residential areas." Town of Mammoth Lakes, Proposed Ice Rink Relocation Project, <http://www.ci.mammoth-lakes.ca.us/index.aspx?NID=659>. In addition to analysis of the Mammoth Park East alternative, the EIR should analyze a no-relocation alternative, other Town-owned sites (such as Community Center Park, Bell Shaped Parcel, Trails End Park, and Whitmore Park Complex), and a less intensive design option in order to identify the project alternative that will best achieve project goals while minimizing environmental impacts.

Mammoth Creek Park West is not the only viable project site, and it appears several of the alternative sites would result in reduced impacts. Mammoth Lakes Multi-Use Facility, Task Force Due Diligence Progress, September 4, 2015, at 1-3. For example, Trails End Park is rejected because of likely interference with some existing amenities. However, the Trails End Park site would likely result in less inference with existing recreation opportunities; The area includes only minimal residential development that would be impacted by light, noise, and traffic from the project, there is no sensitive creek habitat, and the site already includes a skate park, creating an excellent opportunity for co-location of compatible uses. The Town must also seriously reconsider the no-relocation alternative in light of public comments and analysis of likely impacts discussed herein. The no-relocation alternative would have no effect on residential areas and would

keep the ice rink where it makes the most sense—near the middle school, high school, and community college. While the Town claims that the lease costs over twenty years would be similar to the cost of relocation, this analysis likely fails to take into account the high risk of cost overruns for this sort of project, or the cost of necessary environmental remediation at the current site. July 10, 2015 Staff Report at 3.

VIII. Conclusion

We respectfully request that the Town consider all of the above mentioned issues before committing to a preferred project location and commencing the EIR process. This information is required to provide the basis for a comprehensive analysis of environmental impacts and the identification of feasible mitigation measures and project alternatives.

We appreciate the opportunity to provide these comments. Please keep us informed of all notices, hearings, staff reports, briefings, meetings, and other events related to the Facility.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in black ink, appearing to read "Cate", followed by a large, stylized flourish that loops around and ends with a small hook.

Catherine C. Engberg

cc: Andrew Morris, Town Attorney
Stuart Brown, Recreation Manager

718233.2