

Jamul Dulzura Community Planning Group

P.O. Box 613, Jamul, CA 91935

March 28, 2023

Mark Slovick
Deputy Director, Planning & Development Services

Thank you for organizing the County Staff and Department Representatives for a meeting with our group to present the progress of your negotiations with the Jamul Indian Village (JIV). We appreciate all of you taking our questions and listening to our concerns. We want to reemphasize that we expect the County Staff and the Board of Supervisors (BOS) to use every tool in their power to negotiate the best outcomes for “off-reservation” mitigations including filing a Petition with the Courts for the “arbitration” process as set forth in the Intergovernmental Agreement (IGA) of 2016. We request County Staff take action on the following items.

1. **All of the traffic related mitigation measures for State and County facilities agreed to in the IGA of 2016** should be completed before construction of the new Event Center and Hotel starts. Five SR-94 intersection projects and various County road projects have not been started.
2. **The JIV must provide accurate “maximum occupancy” figures for the casino expansion project just as they did in the first build-out of the Hollywood Casino in 2016.** Both the State Compact with the JIV and the Indian Gaming Regulatory Act (IGRA) are unequivocal in defining casino facilities to include entertainment and other event activities as part of the gaming floor business model and cannot be separated justifying lower disclosure mitigation responsibilities and standards.
 - Occupancy and capacity are major factors that affect the safety of patrons in the case of any emergency. In case of a wildland fire, a shelter in place strategy, as proposed by Chief Mecham, may still pose a safety risk due to the possible penetration of smoke through the moveable glass wall sections in the entertainment center, and flying embers through both the glass walls and the floor to ceiling hotel windows. The danger here is that the Tribal Environmental Impact Report (TEIR) lacks the specific technical details of how the proposed movable glass wall sections will actually function and perform under extreme wildfire conditions and whether the windows in the 16-story hotel can withstand being pelted by baseball size embers at 60 mph, as has happened in previous Santa Ana fire events.
 - Occupancy and capacity are also major factors in determining the traffic loads on the 2-lane highway SR-94 and the connections to County roads into the surrounding community. All routes on the Primary, Alternative, Contingency and Emergency (PACE) spectrum should be identified and evaluated for mitigation to be safe for emergency evacuation. Without an accurate occupancy rating for the proposed expansion project, we estimate, based on the Unified Building Code (UBC) occupant load factor for “Minimum Egress Requirements (Table 10-A)”, that a guest capacity of 4,480 people will be added to the existing 5,500 making a total of 9,980 maximum occupancy and this is without including additional occupancy from the 225-room hotel. Based on this calculation without additional hotel occupancy, the JIV property will have a person count 66% greater than the entire population of Jamul, yet why doesn't the County deem it necessary to create a wildfire evacuation plan? If a project of this size and scale of human activity were proposed on County land in this location rated Very High Fire Hazard Severity Zone (VHFHSZ) and (HFHSZ), a Wildfire Emergency Evacuation Plan (WEEP) would be required.
 - If this were a 30 Unit housing development on County land, the CalFire Subdivision Review Program (AB 2911) would require 2 evacuation routes, each leading to a different road. The

Jamul Casino has one driveway for ingress and egress onto one road, a 2-lane rural highway. As a basis for comparison, 30 family homes multiplied by a standard factor of 10 to estimate Vehicle Trips per Day (VTD) would give us **300**. Traffic volumes gathered by Kimley Horn on Saturdays at the Jamul Casino showed an average of **13,039 VDT**. This number is **42.50 x** greater than **300**, and yet for the Jamul Casino, the project with the larger number of **13,039 VDT**, only **one evacuation route is required instead of two**. This represents an astounding disparity in the perception of equity/equality of treatment in public safety for these 2 types of projects.

- **NOTE:** The JIV team makes a very flawed and specious argument. The Traffic Engineer for Kimley Horn, Leo Espelet, argued that because the traffic studies show fewer vehicles trips on “peak hours” than were originally estimated in 2013, they can use this difference to argue that there will be no increase in traffic over the 2013 estimated levels, because they have not reached their original estimate. We find there are a number of problems with this analysis.
 1. It relies solely on **Table: 3-22 Project Trip Generation Comparison (Inserted below)**, which just looks at “PEAK HOURS” for AM and PM. Also, Peak Hour figures are missing for Friday and Saturday.
 2. Building a conclusion on just **Table:3-22** is flawed because it contradicts **Table 3-20: Section 3.11 Traffic and Transportation, TEIR, or Table 2: Casino Trip Generation Comparison in Appendix K**, (Inserted below), where in every instance for Weekday, Friday and Saturday, the “Actual” is higher than the “Estimate”. For the Saturday average of **13,039 VDT**, they state: “*Volumes collected were 4,039 daily trips higher than what was analyzed in the Approved TIS*”.
 3. This shows a 45% increase over the 2013 **9,000 VDT estimate**. This is an alarming difference that cannot be ignored and dismissed. They have to be factored into this overall analysis to determine needed mitigations.
 4. This data has to be compared to other factors like the “Occupancy Loads”. How often did occupancy exceed the maximum limit? Did occupancy counts exceed the limits even when peak hour VDT were lower?
 5. It makes sense that the overall daily volumes would be the more relevant and significant traffic data to draw conclusions from than the guess work of estimating volumes for individual hours of the day.
 6. The **PREMISE** of this argument is based on the flawed assumption that the difference between “original estimates” and “current actual” volumes would mean much at all. And more flawed, the conclusion fails to evaluate the significance of the contradictory data where actual traffic volumes dramatically increased and is presented in isolation without considering relationships with other data points like guest occupancy.
- FINALLY**, if we ignore the faulty premise, the conclusion that they can grant themselves a “reduction factor” does not work in the real world. A builder would never present the argument to code enforcement that they are expecting fewer occupants so as a result they can design and build to lesser standards for electrical, plumbing and structure etc. Code standards are set by the highest potential stresses that real world forces can or have exerted upon a structure or demand from a mechanical system. In this case, the Maximum Occupancy rating must be applied to determine mitigations for the traffic load potentials on the highway and connecting roads.
- The Maximum Occupancy set by **Rohde and Associates** in their study for the “Hollywood Casino Fire and Emergency Plan” 2013, also known as, “Fire Protection Plan (FPP)” was **5,500**. The casino expansion will nearly double the current allowable occupancy. In Section III. Wildland-Urban Interface Fire Response Plan, Wildland Protection, they stated:

“Wildland fires are frequent in the area, and the Highway 94 pathway is within an historical major fire corridor. Past major fires have included the Laguna (1970), and Harris (2007). Wildfires may pose a direct threat to the development, which is of fire-resistive construction, but is subject to ember intrusion via horizontal openings on the east and south sides at restaurant/bar patio decks, in the parking garage/casino access openings on floors P4-8, along the roofline, at ventilation/HVAC air intakes, and in other locations. The need for active structural defense, evacuation, and/or occupant protection-in-place requiring multiple fire and law resources should be anticipated in the event of a threatening wildfire.”

- **WE STRONGLY RECOMMEND:**
 - That Rohde and Associates update their Fire and Emergency Plan for this sizable expansion that introduces “NEW STRUCTURAL ELEMENTS” like the “moveable glass wall sections” for the event center and the significant area of the vertical planes of glass and glazing in the 225-foot-tall 16-story hotel structure located in a “hazardous location”. These structural elements were not present in the first building and therefore not reviewed and evaluated.
 - That a new and updated comprehensive traffic study for the SR-94 corridor in the Jamul Valley including connecting roads with the PACE classification be performed by a leading consultant like Fehr & Peers, who has previously done comprehensive studies in the Jamul area.
- 3. **All Casino expansions should be subject to California and Federal Laws that relate to the “off-reservation” impacts.**
 - This should comply with the newly enacted VMT’s laws. Our group concurs with the recommendation Caltrans made in their letter dated June 15, 2022 in response to the JIV’s Notice of Preparation (NOP) that “*A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) should be provided for this project.*”
 - Should include providing actual solutions with details for screening the hotel windows to comply with Jamul’s “Dark Skies” Policy.
 - **Question on Aviation Safety:** Has the 225-foot height of the hotel been approved by the Federal Aviation Administration (FAA) through an “Aeronautical Survey”? If so, under what conditions? Does a red signal light on the roof top of the hotel conflict with Jamul’s “Dark Skies” Policy”?
 - Should include providing actual solutions with details for the moveable wall sections that will close to dampen the volume of sound from live bands.
- 4. **A new and updated IGA should be completed before construction starts not after the casino expansion has opened its doors.**
- 5. **Caltrans should remain as the “Lead Agency” for this and all future expansion projects.**

Caltrans was the “Lead Agency” on the Hollywood Casino because of the necessity of highway improvements for SR-94. Back in 2012 -13, our group attended numerous public meetings studying board presentations of intersection improvements presented by Caltrans engineers. Most of these have not been accomplished. The County and Caltrans have to work collectively and share responsibility.

Both you and Justin Crumley, Senior Deputy County Counsel, stated clearly that the ‘casino project is not subject to CEQA but the County uses CEQA only as a “lens to evaluate” “off-reservation” impacts requiring mitigations’. Yet when we pointed out impacts discoverable through this lens, you both argued that it is immaterial because the JIV is legally exempt from CEQA. This is a contradictory circular argument. Whether through the CEQA lens or the UBC codes or County policies, all are enforceable through the power of the County who, as you have claimed is the chief negotiator for the State, and from our point of view the only representative for the Community of Jamul Dulzura.

The long-term land use change from an expanding casino industry in Jamul sharply conflicts with the current land use goals of our sub regional plan to remain rural for conservation and preservation for future generations. Casino operations consume enormous resources and rely entirely upon vehicle transportation for goods, services and customers. The JIV is purchasing hundreds of acres of land in and around the town of Jamul. The current expansion would increase the capacity to close to 10,000 and a second casino, which is allowable under IGRA, could easily double this figure with more event and entertainment venues and resorts on new “land to trust” acquisitions. Road and highway infrastructure planning will be critical for the multiplicity of travelers and users on SR-94, including bicyclists that seek out this backcountry recreation paradise including Otay Lakes Road to the west.

We request that the County and the State coordinate in accomplishing the necessary mitigation measures and enforcing codes and policies that protect the public and the environment. Finally, the County and the State must comply with the Federal Laws of IGRA, on which the Tribal Compacts are based.

This letter was approved by unanimous vote of the Jamul-Dulzura Community Planning Group at their March 28, 2023 meeting.

Respectfully Submitted,



Kevin May
Chair, Jamul Dulzura Community Planning Group

Table 3-22: Section 3.11 Traffic and Transportation, TEIR, or Table 4: Casino Trip Generation Comparison in Appendix K

Table 3-22: Project Trip Generation Comparison

Scenario		AM Peak Hour			PM Peak Hour		
		Total	In	Out	Total	In	Out
Weekday	Estimated (2013 TIS)	599	420	179	1,005	533	472
	Actual (2022) + Project	318	216	102	754	389	365
	Δ^1	-281	-204	-77	-251	-144	-107
Friday	Estimated (2013 TIS)	-	-	-	1,401	645	756
	Actual (2022) + Project	-	-	-	808	445	363
	Δ^1	-	-	-	-593	-200	-393
Saturday	Estimated (2013 TIS)	-	-	-	1,401	645	756
	Actual (2022) + Project	-	-	-	970	488	482
	Δ^1	-	-	-	-437	-157	-274

¹ Difference is calculated as (actual plus proposed) minus estimated.

Source: Appendix K

Table 3-20: **Section 3.11** Traffic and Transportation, TEIR, or

Table 2: Casino Trip Generation Comparison in **Appendix K**, Trip Generation Analysis Memorandum

Table 3-20: Current Casino Trip Generation Comparison

Scenario		Daily Trips	AM Peak Hour ²			PM Peak Hour ²		
			Total	In	Out	Total	In	Out
Weekend	Estimated (2013 TIS)	9,000	599	420	179	1,005	533	472
	Actual (2022)	9,885	263	176	87	640	365	275
	Δ^1	885	-336	-244	-92	-365	-168	-197
	% ³	10%	-56%	-58%	-51%	-36%	-32%	-42%
Friday	Estimated (2013 TIS)	9,000	-	-	-	1,401	645	756
	Actual (2022)	10,811	-	-	-	663	392	271
	Δ^1	1,811	-	-	-	-738	-253	-485
	% ³	20%	-	-	-	-53%	-39%	-64%
Saturday	Estimated (2013 TIS)	9,000	-	-	-	1,401	645	756
	Actual (2022)	13,039	-	-	-	825	435	390
	Δ^1	4,039	-	-	-	-576	-210	-366
	% ³	45%	-	-	-	-41%	-33%	-48%

Source: **Appendix K**

1. Actual minus estimated;

2. Used the following peak hours of the Casino: Weekday AM: 8:00 a.m. – 9:00 a.m., Weekday PM: 5:00 p.m. – 6:00 p.m., Friday p.m.: 5:00 p.m. – 6:00 p.m., and Saturday pm: 7:15 p.m. – 8:15 p.m.

3. Percent difference calculation

Based on the data collected, the Jamul Casino generated the following:

- Weekday: Average of 9,885 daily trips with 263 (176 in, 87 out) trips during the AM peak hour and 640 (365 in, 275 out) during the PM peak hour. Volumes collected were 885 daily trips higher than what was analyzed in the Approved TIS. However, AM and PM peak hour volumes were 56 and 36% lower than what was previously assumed in the Approved TIS, respectively.
- Friday: Average of 10,811 daily trips, with 663 (392 in, 271 out) trips during the PM peak hour. Volumes collected were 1,811 daily trips higher than what was analyzed in the Approved TIS. However, PM peak hour volumes were 53% lower than what was previously assumed in the Approved TIS.
- Saturday: Average of 13,039 daily trips, with 825 (435 in, 390 out) trips during the PM peak hour. Volumes collected were 4,039 daily trips higher than what was analyzed in the Approved TIS.

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Governor's Office of Tribal Affairs

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