



## **COMMUNITY DEVELOPMENT**

*P.O. Box 1609 Mammoth Lakes, CA 93546*

**PLANNING COMMISSION ITEM:** May 11, 2011

**SUBJECT:** Vesting Tentative Parcel Map and Use Permit 10-001 (Plum)

**FROM:** Jessica Morriss, Transportation Planner

**APPLICANT:** Terry Plum

**OWNER:** Plum Mammoth Lakes Family Limited Partnership

**LOCATION:** 500 Le Verne Street and South of 374/376 Tamarack Street (APN: 022-400-025); Please see Project Location Map in Figure 1

**ZONING/GENERAL PLAN:** Rural Residential (RR) / Low Density Residential (LDR-1)

**PROJECT DESCRIPTION:** The proposed project includes the following:

- Subdivision of one 4.39 acre parcel into four lots for the future development of single-family homes;
- Grant of 0.25 acres of land to the Town of Mammoth Lakes;
- Construction of one ADA compliant public parking space;
- 10-foot wide non-motorized public access easement connecting Tamarack Street to Forest Service lands;
- Paving of three emergency access turnout areas on Tamarack Street;
- Addition of one fire hydrant on Tamarack Street and two along the Project's private drive; and
- Contribution of \$10,000 (maximum) to the Town for transit stop improvements at Old Mammoth Road and Tamarack Street.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission choose Option 1: certify the Initial Study/Mitigated Negative Declaration, adopt the Mitigation Monitoring and Reporting Program., and adopt the attached resolution to approve Vesting Tentative Parcel Map 10-001 and Use Permit 10-001 subject to the conditions of approval as recommended, or as may be amended by the Planning Commission after receiving public testimony.

## **A. REPORT ORGANIZATION:**

The content of this staff report is organized as follows:

- A. Report Organization
- B. Summary and Background
- C. Subject Property and Surrounding Land Uses
- D. Analysis and Discussion
- E. Conformance with the General Plan and Vision
- F. CEQA Compliance
- G. Options Analysis
- H. Recommendation
- I. Attachments

## **B. SUMMARY AND BACKGROUND:**

The purpose of this staff report is to allow the Planning Commission to consider the proposed Terry Plum Vesting Tentative Parcel Map 10-001 and Use Permit 10-001 (Project) application and conditions of approval, Initial/Study Mitigated Negative Declaration (IS/MND), and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act (CEQA) for the Project, which is provided in Attachment 2. The proposed Project plans are provided in Attachment 3.

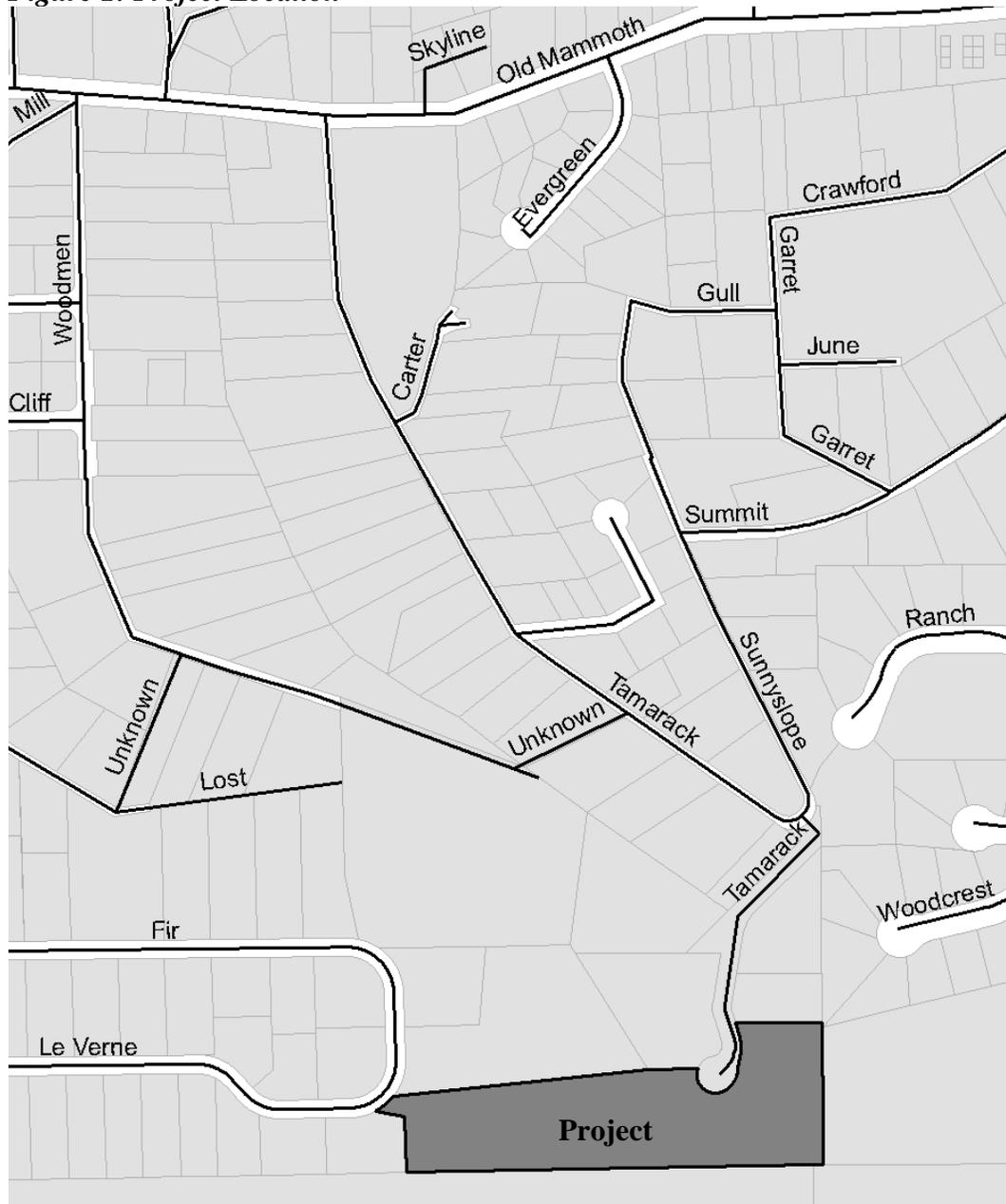
### ***Development Proposal Summary***

The proposed Project is a Vesting Tentative Parcel Map and Use Permit to subdivide a 4.39-acre parcel into four lots for the future development of single-family homes (no homes are being proposed at this time). Three of the new lots (Parcels 2, 3 and 4) would take access via a private driveway that will connect to an extension of the public roadway at the south end of Tamarack Street (adjacent to Gibbs Cemetery Road). The fourth lot (Parcel 1) would take access from Le Verne Street in the Bluffs subdivision. Figure 1 depicts the Project location.

The Project also proposes the following:

- Grant of approximately 0.25 acres of land to the Town, to be partially used as snow storage for Town winter maintenance operations,
- The construction of one designated ADA public parking space,
- A 10-foot wide non-motorized public access easement to serve existing recreational users who cross the property to access the United States Forest Service (USFS) lands south of the Project site,
- Emergency access improvements on Tamarack Street by widening pavement in three areas to create turn-out locations,
- Addition of one new fire hydrant on Tamarack Street and two fire hydrants along the Project's private driveway, and
- Contribution of \$10,000 (maximum) to the Town for transit stop improvements at Old Mammoth Road and Tamarack Street.

**Figure 1: Project Location**



**C. SUBJECT PROPERTY AND SURROUNDING LAND USES:**

The 4.39-acre Project site is located in the Bluffs Subdivision. The land use designation is “Low Density Residential 1 (LDR-1)” as identified in the Town of Mammoth Lakes General Plan. The zoning for the site is Rural Residential (RR). A portion of the eastern end of the site also falls within the Snow Deposition Design (SDD) overlay zone (Municipal Code Section 17.28.700).

Surrounding land uses consist of developed low-density residential areas to the west and north, the Snowcreek golf course to the east, and undeveloped public land administered by

the United States Forest Service (USFS) to the south. Two undeveloped single-family residential parcels that are directly north of the Project site are also owned by the applicant, but are not part of this Project.

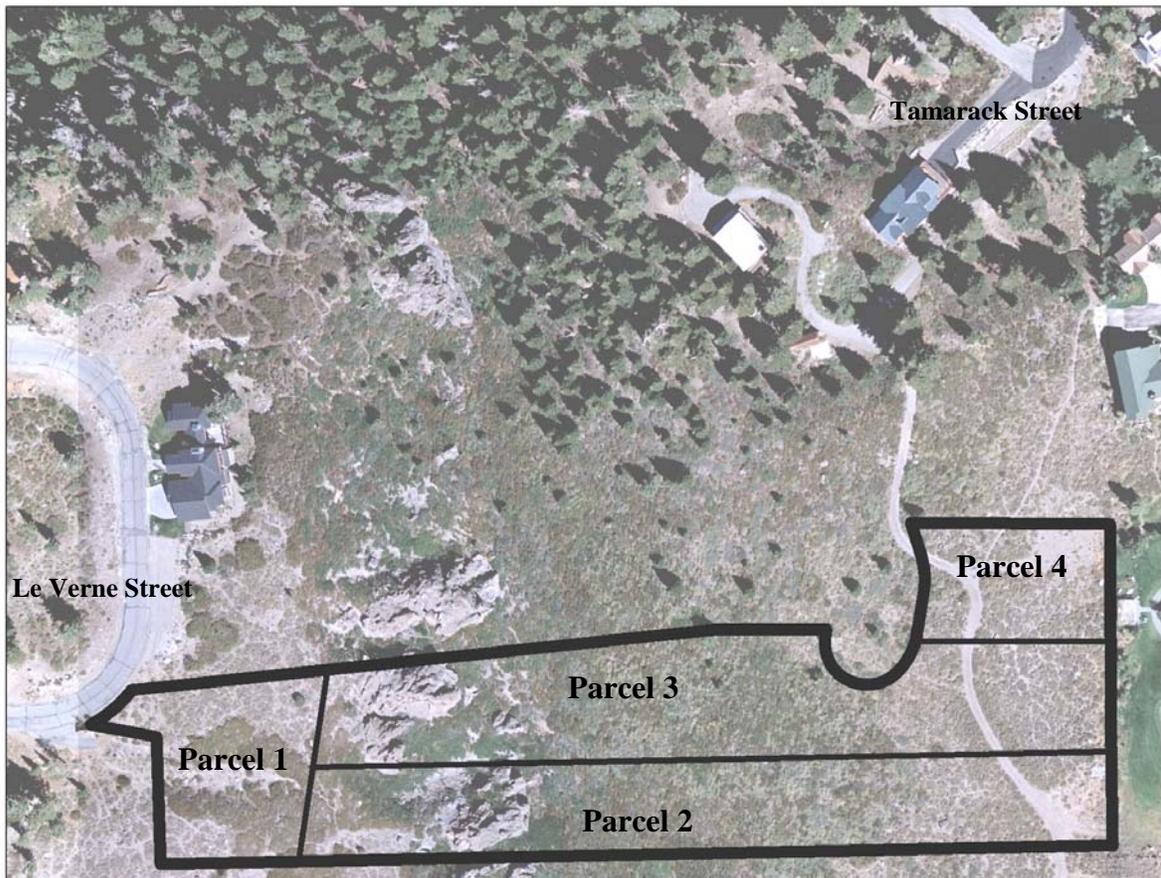
***Property Development Standards (RR Zone)***

The proposed subdivision of the parcel for the future development of single-family homes is a use that is consistent with the property’s RR zoning designation. The lot dimensions resulting from the proposed Project are consistent with that permitted in the RR zone, and with other existing neighboring development. All proposed lots meet the minimum lot area of 15,000 square feet and the minimum building site area of 2,000 square feet outside of setback areas, including the required 30-foot setback from the 30% slope line, as established by Municipal Code Section 17.16.040.C.8. Figure 2 depicts the proposed division of the parcel into four lots.

***Density***

The proposed development density is consistent with that allowed in the RR zone, which permits 2.0 dwellings per acre. The Project proposes four dwellings on approximately 4.39 acres, for a density of approximately 0.91 dwellings per acre. Parcels may measure as little as 15,000 square feet in area as long as the entire Project area does not exceed 2.0 dwellings per acre.

***Figure 2: Proposed Parcel Subdivision***



## **D. ANALYSIS AND DISCUSSION:**

The following sections describe issues and questions that have been raised either by the public or by the Planning Commission at the July 28, 2010 public meeting held at the site, as well as during the public review period of the Draft IS/MND and subsequent meetings held with various neighbors and concerned citizens.

### ***Bluffs Subdivision CC&Rs***

A question was previously raised regarding whether or not the Bluffs CC&Rs allow for the subdivision of land. The Town does not regulate or enforce private CC&Rs. Regardless, staff research indicates that CC&Rs for the Bluffs subdivision were never adopted because of a lack of property owner approval. Additionally, at least one recent subdivision was previously approved in the Bluffs (TPM 36-213, RMC Group Inc./Bob Mueller) in 2004.

### ***Woodcrest Trail Easement***

There has been some concern raised regarding the legal validity of an access easement between Woodcrest Trail and the Applicant's property off of Tamarack Street. The issue has no bearing on the Commission's action on the proposed Project for two reasons: 1. it is a private, civil matter between the interested parties, and 2. the parcel for which the easement was created (valid or not) is not part of the proposed Project. The disputed easement was created to provide access to Woodcrest Trail for the benefit of LLA 08-01 Parcel 1 *only*, which is not part of the proposed parcel map. Therefore, even if the easement is valid, there would be no legal right of the Project parcels to use this easement.

### ***Design Review***

Proposed Parcel 1, which sits on top of the bluff in the Bluffs subdivision, will require a subsequent Use Permit and Design Review for future development, consistent with the visual impact mitigations established by the Bluffs EIR. This will involve a review of the exterior building materials and colors to make sure that they are harmonious in color and texture with native landscaping and mountain backdrop.

All parcels associated with the Project will be subject to review of exterior lighting to assure that no glare impacts will be imposed on surrounding development, in accordance with the Town's Lighting Ordinance (Municipal Code Section 17.34), and Bluffs EIR mitigation measures. Exterior lighting will be reviewed as part of the required Design Review for Project Parcel 1 and as part of the Building Permit review for Project Parcels 2, 3, and 4. These design review requirements are included as conditions of approval for the Project.

### ***Vegetation Preservation and Tree Removal***

The Project is required to preserve natural vegetation and trees to the maximum extent possible and to replace removed vegetation and trees with native plant materials that will blend with the natural surrounding landscape. All future building sites and the access roadway/driveway will be graded only to the extent that the building pads and required access can be accommodated and any exposed grading will be contoured to blend with the natural terrain and revegetated.

As shown on Sheet 3 in Attachment 3, approximately 10 trees between 10 and 30 inches in diameter would be removed to accommodate the proposed roadway/driveway access. No

additional tree removal is required to accommodate the non-motorized public access easement because it lies within the proposed private driveway that will provide access to the future home sites. The giant red fir tree near the northern end of the property will not be disturbed. No additional live trees over six inches in diameter will be removed without the prior approval of the Community Development Director. These requirements are included as conditions of approval for the Project.

### ***Biological (Vegetation and Wildlife) Resources***

In September of 2010, Resource Concepts, Inc. completed a detailed review of vegetation and wildlife habitat requirements and a comprehensive field review of the Project site and vicinity. The biological review is discussed in Section 4.4 of the IS/MND and the report is provided in Appendix A (Attachment 2).

The report concluded that there is no potential for occurrence of special status plant species on the Project site or vicinity, as determined through the biological review, because the required habitat for each species is not present on the site. The biological review also determined that the Project area may experience possible use by the Long-eared Myotis, potential incidental use by Long-legged Myotis, and may provide potential foraging habitat for the Great Grey Owl and Northern Goshawk, which are special status species. The study recommended a series of mitigation measures to reduce potential impacts to these species, which are included as conditions of Project approval.

Analysis of potential impacts to mule deer migration was also conducted and the study determined that a number of the mitigation measures established in the Bluffs EIR are applicable to the proposed Project and should be implemented with future grading and or building on the Project parcels to reduce potential impacts. These are also included as conditions of approval.

### ***Cultural (Archaeological) Resources***

An archaeological review of the Project site and surrounding property was performed by Trans-Sierran Archaeological Research (TSAR) between July and September 2010. TSAR's review consisted of a comprehensive ground survey of the property and analysis of two presumed gravesites (Gibbs) and two previously identified archaeological sites. The cultural resources report is provided in Appendix C of the IS/MND in Attachment 2.

#### Gibbs Gravesites

The presumed gravesites lie within an existing Town conservation easement. The easement is located on proposed Parcel 4 as shown on Sheet 1 of Attachment 3. The cultural resources analysis determined that the proposed Project would not impact the existing gravesites. The study recommended that a low, permanent fence of weather-resistant materials (e.g. wrought iron, or stone pillars and wooden rails) should be constructed around the gravesites. The fence will either be constructed along the easement boundary, or be placed in a 7-foot by 8-foot boundary around the gravesites, as recommended in the cultural resources study. This is included as a condition of Project approval.

#### Archaeological Sites

Extensive study was also conducted of the two previously identified archaeological sites. The study included site testing and collection, and analysis of artifacts consistent with

standard procedures. The analysis concluded that the proposed Project would not impact the archaeological sites and that no further archaeological work is necessary because the sites do not appear to offer any further significant cultural resource information potential.

Additionally, in accordance with State law and the Bluffs EIR, in the event that a material of potential cultural significance is uncovered, including human remains, during grading and/or construction, all work in the area of the uncovered material shall cease, the Town notified, and an archaeological monitoring program should be implemented. This is also included as a condition of Project approval.

### ***Drainage and Hydrology***

The Project is required to comply with Town standards and regulations regarding drainage and water quality protection, including established best management practices. As discussed in Section 4.9 of the IS/MND, the Project includes drainage infrastructure designed to capture stormwater run-off from the Project and surrounding area and divert it to the southern border of the site, including a 3 to 4-foot wide drainage swale, a 36-inch retention pipe, and level spreader to disperse storm-water discharge. The Project is required to comply with the Town's adopted Storm Drainage Master Plan and a Stormwater Pollution Prevention Plan (SWPPP) and a National Pollution Discharge Elimination System (NPDES) permit must be approved by the Lahontan Regional Water Quality Control Board.

There has been some concern raised that there may be underground springs and groundwater flow present on or near the Project site and the proposed Project may impact groundwater and site drainage, causing potential impacts to neighboring property. As discussed in the IS/MND, a preliminary geotechnical investigation (soils report) was prepared for the Project site by Sierra Geotechnical Services, Inc. in November 2003, the findings of which were confirmed again in May 2010. The investigation focused principally on the soils condition with respect to the proposed roadway alignment accessing the Project site and included digging a series of exploratory test pits.

The soils report cited that groundwater was not encountered during the field investigation and concluded that groundwater is not anticipated to be encountered during site development due to the location of the site with regard to overall drainage.

Nevertheless, as stated, the Project includes a number of drainage measures that are required to mitigate any potential runoff and drainage impacts that may occur as a result of the Project improvements. Additionally, as a condition of approval, prior to issuance of a grading or building permit for any construction (roadway improvements or single-family homes), additional soils testing, including groundwater testing, and reporting will be required and if groundwater is detected, appropriate measures will be required to ensure that there are no off-site impacts.

### ***Avalanche Hazard Potential***

#### **History and Background**

Avalanche hazard potential exists in certain areas of town, given proper storm and snowpack conditions, as is discussed in the Town's General Plan (Section 4.5, *Public Safety and Hazards*). The Town does not have any current ordinances or regulations that prohibit the construction of buildings in an avalanche area. Avalanche danger can generally be assumed

for any slope that has a gradient between 30 and 45 degrees, whether or not timber is present. The Bluffs include several areas that pose an avalanche hazard and have historically experienced avalanches, including on the proposed Project site and surrounding property.

The Bluffs EIR included extensive avalanche hazard analysis (prepared by Luke Schwartkopf, Section N, *Avalanche Hazard Potential*), which included surveys of the bluffs area and identification of approximately 15 avalanche starting zone paths. Paths #1, #2, and #3, are located on the east facing slopes overlooking the Snowcreek Golf Course. The Project site lies principally within starting zone path #1 and a portion of the site lies within path #2. The Bluffs EIR documented some of the avalanche history in the Bluffs, including the deaths of “a recreation skier/snowboarder and his dog on December 30, 1992 when an avalanche was triggered by his walking up the slope from the bottom.” According to the EIR, these deaths occurred in avalanche path #3, which is near, but is not on the Project site. Please refer to the map provided in Attachment 6.

Nonetheless, avalanches have occurred (and will presumably continue to occur) on the site, as is also documented in the Bluffs EIR, including the occurrence of a large avalanche on February 12, 1986, which “involved the whole bluff area south of Tamarack Street. Although there was no documented damage, the slide was observed to stop just short of several occupied residences. This event occurred during an unusually heavy snowfall which also produced a huge slide in the nearby Sherwin Ridge area southeast of the Bluffs (Sherwin ‘North Face’ Avalanche).”

#### Snow Deposition Design (SDD) Zone (Municipal Code Section 17.28.720)

The SDD zone was designated based on a 1997 study (*Avalanche Hazard Change Resulting from ‘The Bluffs,’ Mammoth Lakes, California*) prepared for the Town by Arthur I. Mears, an expert avalanche hazard consultant, to analyze potential avalanche impacts, hazards and mitigation related to the Bluffs subdivision. The SDD designates areas located immediately above, adjacent to, or within 150 feet of the 30 degree point of an avalanche starting zone.

The Project site, which is approximately 4.39 acres, sits both atop and below Mammoth Bluff in the Bluffs subdivision. The western portion of the Project site that sits atop the bluff is located within the SDD overlay zone, and the eastern portion of the site that sits below the bluff includes areas that were identified as run-out zones in the 1997 Arthur Mears report. The run-out zones are depicted on Sheet 2 and Exhibit 1 in Attachment 2.

#### Avalanche Studies

Per Municipal Code Section 17.28.720.B., no development, including construction and subdivision of land, within the SDD zone shall be permitted without first obtaining a Conditional Use Permit, which shall include certification by a recognized expert in the field of avalanche occurrence, force and behavior that there will be no greater snow deposition in the related avalanche starting zones and no overall increase in the avalanche hazard in the balance. The Project request includes a Use Permit application as well the required avalanche studies.

In accordance with Municipal Code Section 17.28.720.B., a series of avalanche studies and peer-reviews have been conducted for the proposed Project property, as well as property to the north of the Project site that is also owned by the Applicant. These studies include

avalanche hazard analysis related to development on top of the bluff, which may impact avalanche starting zones in the SDD, as well as avalanche hazards related to development below the bluff, which are located within the identified run-out zones. The studies, including the 1997 report by Arthur I. Mears prepared for the Bluffs subdivision, are described extensively in Section 4.3 and Appendix E of the IS/MND prepared for the Project in Attachment 2.

The studies conclude that there would be no increased avalanche risk if the measures specified in the reports are implemented. These mitigation measures, which are included as conditions of Project approval, include requirements for future placement of structures in relation to the avalanche starting zones within the SDD zone, and design and construction requirements for structures in run-out zones to withstand avalanche impact loads.

The studies also note that the currently proposed location of the access driveway and public access easement along the easterly border of the Project site is superior to the location proposed in a previous application, which proposed that the access be provided near the middle of the site (i.e. higher exposure to avalanche hazard). The current access location offers greater protection to the public by placing the homes between the bluff and the driveway (lower exposure to avalanche hazard), as well as increased protection of users accessing the future homes.

In response to the Draft IS/MND that was prepared for the Project, the Town received comments that raised concern about whether activities related to the occupancy of the homes (heating, vibrations, etc.) may increase the potential avalanche hazard. To address this concern, the Town consulted with Arthur I. Mears in February 2011 to provide subsequent analysis of the proposed Project and to address the comments made with respect to the Draft IS/MND.

Mr. Mears' most recent analysis and report confirms the previous findings and concludes that the Project, including development of the lower sites and the upper site, "...will not increase the avalanche hazard to adjacent lots or houses below the Bluffs...as a result of building heating, wind-drift effects, snow sliding from roofs, or any vibrations that may be associated with the use of these buildings during the snow and avalanche season." The supplemental report by Mr. Mears is provided in Attachment 7, as well as in the response to comments section of the IS/MND.

#### Additional Requirements

The proposed Project application does not include plans for development of the individual parcels at this time. Future development of proposed Parcel 1 will require a subsequent Use Permit and Design Review approval from the Planning Commission in accordance with regulations of the SDD zone and the visual impact mitigation measures established in the Bluffs EIR. As part of this process, an additional avalanche study will be required to ensure the proposed development plan complies with the existing avalanche studies and SDD mitigation measures.

Additionally, prior to grading and/or building permit issuance, structures built on Project Parcels 2, 3, and 4 that are within the identified run-out zones must also be assessed by a certified structural engineer and/or avalanche consultant to ensure that all avalanche hazard

mitigation design requirements are met. These review requirements, in addition to the structure design requirements, are included as mitigation measures and conditions of Project approval.

### Town Liability

Concerns have been raised by various community members, as well as members of the Planning Commission, with regard to the Town's potential liability in allowing construction in an avalanche zone. The Town's legal liability is limited by Municipal Code Section 17.28.740, which contains a "warning and disclaimer of safety and liability" with regard to avalanches in and outside of established avalanche zones:

Avalanches occur naturally, suddenly and unpredictably based on many factors including slope, exposure, snow pack composition, snowfall rate, wind and temperature. The SDD zone is considered reasonable for regulatory purposes and is based upon and limited by the engineering and scientific methods of study. The Town of Mammoth Lakes does not represent, guarantee or warrant the ultimate safety of any construction, use or occupancy of structures situated in any avalanche area, whether designated or undesignated by this ordinance. Avalanches may occur with forces greater than those set forth in avalanche studies. This article does not represent or imply that areas outside the SDD zone are free from avalanches or avalanche danger. *The granting of any permit or approval for any structure or use, or the declaration or failure to declare the existence of an avalanche hazard shall not constitute a representation, guarantee or warranty of any kind or nature by the town of Mammoth Lakes, or any official or employee, of the practicality or safety of any construction, use or occupancy thereof, and shall create no liability upon or cause of action against such public body, or its officials or employees for any injury, loss or damage that may result thereby.* Persons who develop or occupy real property within an SDD zone or other undesignated avalanche area do so at their own risk. (emphasis added)

Further, as a condition of approval, the Applicant is required to defend, indemnify, and hold the Town financially free from and against any claims for liability or damages brought against the Town for any claim related to approval of the Project (with exception for claims that may result from the public's use of the proposed non-motorized public-access easement).

### ***Mammoth Community Water District Easement Request***

#### History and Background

The Mammoth Community Water District (MCWD) maintains and operates several District groundwater wells that are located near the Project site. Wells 10m, 11, 11m, and 12m are located on USFS land south of the Project site and are operated under a federal Special Use Permit. Well 10 is located in the southwest corner of the Snowcreek golf course. None of these wells is located on the Project site or within the Applicant's property.

The MCWD has historically (approximately 15-25 years) utilized the Applicant's property via an existing informal dirt road/path to access the Well sites for maintenance purposes. During much of this time, the District utilized the property without the permission of the property owner/owners. However, in the fall of 2009 the Applicant and the MCWD reached

a temporary written agreement to allow MCWD to cross the property for the purposes of accessing Well 11. This temporary written agreement expired when the repairs to and tests of Well 11 were completed. Further discussions between the Applicant and the MCWD to secure a permanent easement agreement took place following the Applicant's submission of the VTPM/UPA application to the Town. These discussions concluded recently and did not result in an agreement being reached.

#### MCWD Easement Request and Legal Analysis

The Mammoth Community Water District (MCWD) requested that the Town require the Applicant to provide the MCWD's desired access easement for maintenance purposes across the Applicant's property. The desired easement, which is separate from the easements necessary to provide sewer and water service to the future home sites, cannot be required by the Town as determined by the Town's special legal counsel. The full analysis from the Town's legal counsel is provided in the IS/MND (Attachment 2) as a response to the District's comment letter on the IS/MND (Letter 5 of the response to comments document).

The Town does not have the legal authority to require the Applicant to provide the desired easement because its legal authority is limited by the Takings Clause of Fifth Amendment of the United States Constitution. That provision prohibits the Town from taking private property for a public use without just compensation. Based on judicial interpretations of that Constitutional provision, an exaction requiring dedication of an easement over private property as part of the approval of a development project is permitted only if both the *Nollan* "nexus" and *Dolan* "rough proportionality" requirements established by the United States Supreme Court can be met.

In legal counsel's opinion, the "nexus" requirement may not clearly be met because the MCWD currently has other legal means of accessing the wells over other property, as is confirmed in the September 16, 2010 Agenda Item Memo from MCWD staff to the Board, which is provided in Appendix B of the IS/MND. Existing access to the wells exists through multiple means, including the Snowcreek golf course, easements off of Woodcrest Trail, and Snowcreek V.

Additionally, Town special legal counsel does not believe that the *Dolan* requirements of "rough proportionality" are met based on the facts pertaining to the subject vesting tentative parcel map. Under the "rough proportionality" requirement, the dedication of an easement over private property is valid as a condition imposed on a development project, only if that dedication is reasonably needed to mitigate impacts caused by that development project. In the current situation, while it is true MCWD would no longer have access to the wells over the subject property, which it has had for many years with the permission of the property owner, the approval of the proposed Project and the construction of four single-family dwellings do not result in increasing the need for that access or to provide MCWD's services. Stated another way, under the facts as understood, the subject property owner has withdrawn its permission for MCWD to use the subject property to access the wells. The Town cannot now require the property owner to reissue that permission without payment of just compensation, unless the potential four new single-family dwellings that could be constructed pursuant to the VTPM/UPA created the need for access to the well over the subject property. It is clear access to Well 10 is of benefit to and needed by MCWD and that benefit and need exist with or without the subject development.

MCWD states in its comment letter on the IS/MND that a lack of the desired access easement over the subject property will impact the utilization of existing water supplies, the ability to monitor critical groundwater resources and the ability to develop planned future water supplies to meet the Town's General Plan build-out projections. As described above, that access (i) is and would be needed with or without the subject development and (ii) is currently available to serve those needs.

As noted by the Town's special legal counsel, the MCWD retains legal authority outside of the Town's consideration of the VTPM/UPA process to obtain the desired easement. However, using the land use authority of the Town to leverage such negotiation has been expressly prohibited by the *Nollan*, and *Dolan* cases, and their progeny.

### ***Traffic and Transportation***

#### **Tamarack Street and Old Mammoth Road Capacity**

Potential traffic and transportation impacts to roadway capacity on Tamarack Street and Old Mammoth Road related to the proposed Project were analyzed as part of the preparation of the Project's IS/MND (Section 4.15/Appendix D). Because the Project does not propose additional single-family lots on Le Verne Street than were already assumed as part of the Bluffs Subdivision, analysis of traffic impacts on Le Verne Street was not conducted.

An earlier proposal included the construction of a larger public parking area with a maximum of six public parking spaces, including one ADA space; however, this has been revised to provide only one ADA space located at the end of existing Tamarack Street. The evaluation of traffic and transportation impacts included an analysis of potential increased use of Tamarack Street that may occur with a formalized public access easement, as well as the associated six-space public parking area that was previously proposed. The analysis has not been updated to reflect the removal of the public parking area, and therefore represents a more conservative analysis.

The analysis determined that there are no roadway capacity impacts to Tamarack Street, and therefore no required roadway improvements, because the total estimated cumulative trips, including the Project (622 daily and 75 peak-hour trips), are well within the determined "livability" capacity for the roadway of 1,500 daily and 150 peak-hour trips, which is a capacity threshold that is commonly utilized in standard transportation engineering practice to represent the capacity of a local residential street.<sup>1</sup> A peer-review, conducted by the Town's transportation consultant, LSC Transportation Consultants, Inc., concurred with the methodology and results of the analysis.

Given that future Project trips will utilize Old Mammoth Road to access Tamarack Street, the potential for roadway capacity impacts on this street was also reviewed. The capacity of Old Mammoth Road in the vicinity of Tamarack Street, which is functionally classified as a collector street, is approximately 6,000 to 8,000 vehicles per day. Existing volumes on Old Mammoth Road in the vicinity of Tamarack Street are approximately 1,600 vehicles per day and cumulative volumes without the Project are expected to be approximately 1,500 to 2,000 trips per day per the Town's traffic model. Therefore, there are no roadway capacity impacts

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<sup>1</sup> LSC Transportation Consultants, Inc.; Arlington County, VA; Rockville, MD

to Old Mammoth Road and no required roadway improvements, since there is sufficient capacity on Old Mammoth Road in the existing and cumulative conditions, with and without the Project.

#### Old Mammoth Road Left-Turn Lane Analysis

In response to concerns raised about left-turn movements on Old Mammoth Road, a left-turn warrant analysis was conducted to determine if a left turn lane on Old Mammoth Road at Tamarack Street is necessary, with and without the Project, based on standards established for two-lane roadways by the American Association of State Highway and Transportation Officials (AASHTO)<sup>2</sup>. Based on existing and projected volumes, left-turning traffic onto Tamarack Street does not meet minimum thresholds for the installation of a left-turn lane on Old Mammoth Road onto Tamarack Street. Given that similar volumes exist at other intersections along Old Mammoth Road, and that these neighborhoods are largely built-out, it is unlikely that minimum volume standards for the addition of left turn lanes would be met under the cumulative condition.

Nevertheless, while not required of the Project, the Town Public Works Department may investigate the possibility to add a left-turn lane at this location and at other locations on Old Mammoth Road.

#### Substandard Streets Policy (Tamarack Street Improvements)

Tamarack Street, which would provide the primary means of access to the Project site, is considered to be a substandard street in terms of roadway width by the Public Works Department. Concerns have been raised by various community members about the Town's policy regarding development on substandard streets. In particular, a question was asked about whether or not the Town previously denied a property owner the ability to subdivide his property on Tamarack Street because it is a substandard street. Town staff conducted research and was unable to find a record of an application submittal for a parcel map on Tamarack Street; however, it is possible that an application was submitted and withdrawn.

Action M.7.B.1. from the 2007 General Plan established direction to “update the sidewalk, bikeway, and road design and development standards.” In early 2009, staff began an effort to update the Town's Public Works Standards. As part of this update, a policy to address development on substandard streets was drafted and recommended by the Planning Commission for approval by the Town Council.

On September 16, 2009, the Town Council adopted Council Resolution 09-64, which approved Public Works Standard Plan 008-0, Policy for Development of Substandard Streets. The policy and approving resolution, which are provided in Attachment 5, states:

In some cases, it may not be reasonable to impose the application of current street standards to a proposed development that may only be accessible via a substandard street. Off-site right-of-way dedications and/or street improvements that would be required to bring the street into compliance may be impractical or extraneous to the proposed development.

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<sup>2</sup> American Association of State Highway and Transportation Officials, *A Policy on Geometric Design of Highways and Streets* (2001).

The policy is applicable to all substandard streets within the Town and requires the dedication of right-of-way, snow storage-easements where applicable, street improvements along the property's street frontage, any improvements as required by the Mammoth Lakes Fire Protection District (MLFPD) to improve emergency access, and other improvements as necessary and applicable.

In accordance with this policy, the Project will widen the pavement on Tamarack Street in three areas to create turn-out locations, which will allow for safer passage of emergency vehicles and other vehicles on the roadway, without widening the entire cross-section of Tamarack Street, which would have been required prior to the approval of the updated policy.

These turn-out improvements will be created within existing Town right-of-way and the locations have been approved by the Public Works Department and MLFPD. Also in accordance with the policy, the Project is required to install one additional fire hydrant on Tamarack Street. Two additional fire hydrants will be installed along the private drive to serve the future home sites and nearby homes. All proposed improvements conform to Town standards and regulations for substandard streets and provide adequate access per the Public Works Department and the MLFPD. These improvements are illustrated on Sheet 4 – Off-site Improvements – Tamarack Turnouts in Attachment 2.

#### Traffic Management and Calming

Due to the substandard nature of Tamarack Street, some residents have expressed concern about existing vehicle, pedestrian, and equestrian safety, particularly during the winter months when snow and ice are present, given its narrow and curving cross-section. Concerns are primarily related to vehicle speed and safety issues related to sight-distance due to the large trees on both sides of the street. At the same time, residents have expressed a desire to maintain the rural character of the street and do not wish to see the cross-section widened, trees removed, or facilities such as sidewalks added. This situation is common in other areas of town, particularly in the neighborhoods of Old Mammoth and the Sierra Valley Sites.

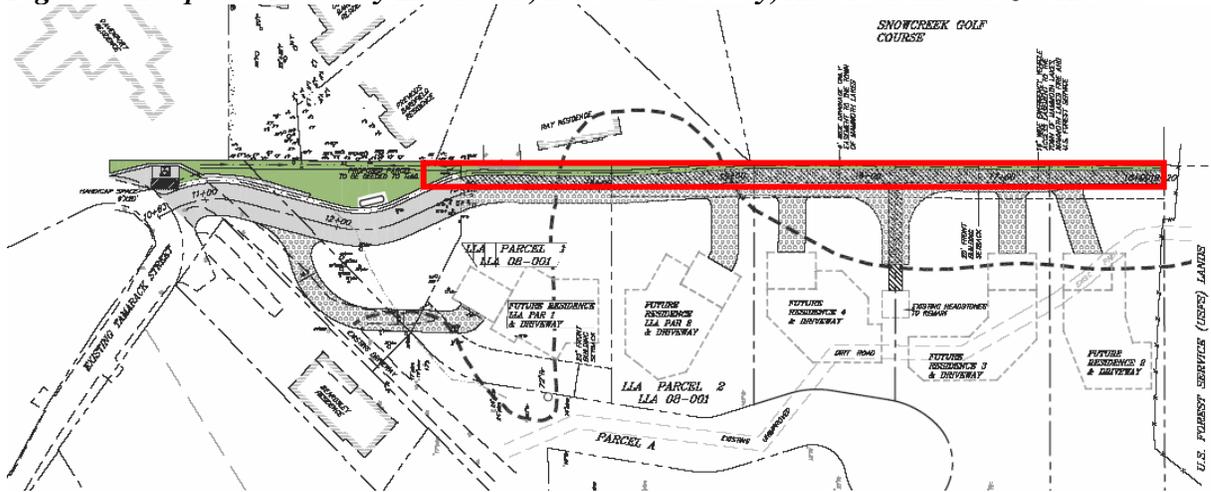
While development of the Project parcels is expected to add vehicle trips to Tamarack Street, these existing issues are not the Project's sole responsibility to correct. These existing issues may best be addressed through non-physical strategies (strategies that do not alter the physical alignment of the roadway), such as pavement striping, advisory and directional signage, and vegetation removal to improve driver sight distance. The Public Works Department may proceed with these measures in the short-term.

The Public Works Department may also conduct a vehicle speed survey during the winter to determine if speeds in the area warrant an adjustment to the speed limit or if physical measures to calm traffic should be implemented. These latter steps would require a petition from Tamarack Street residents to initiate the process and would then require more comprehensive neighborhood meetings and surveys. Funding for physical improvements would also require approval by the Town Council.

### ***Non-Motorized Public Access Easement***

The Project also proposes to provide a 10-foot wide non-motorized public access easement to the Town across the easterly boundary of the property to connect to the USFS lands south of the Project. The 10-foot easement is located within the private driveway and would not be a separate facility. The future trail within the easement would accommodate all forms of non-motorized travel, including equestrians, and would be open to the public for use year-round and will not be gated. The area within the red box in Figure 3 below depicts the proposed easement location, which connects to the public roadway extension of Tamarack Street and the USFS lands south of the site. The easement is shown in greater detail in Exhibit 1 provided in Attachment 3.

***Figure 3: Proposed Roadway Extension, Private Driveway, And Non-Motorized Access***



### **History and Background**

The public has historically used the Applicant's property to access the public lands south of the Project site for recreation purposes and the proposed access easement is intended to serve that existing use.

A trail in this location has been identified in and recommended by a number of Town planning documents, including the adopted 1991 Town of Mammoth Lakes Trail System Plan, the 2009 Town of Mammoth Lakes Draft Trail System Master Plan, and the 2009 Sherwins Area Recreation Plan (SHARP), which was developed through the Sherwin Working Group (SWG).

The SHARP document in particular (excerpt is provided in Attachment 4) recommends the proposed connection and describes it as an "important link" in the system of loop trails planned to connect Tamarack Street to the Borrow Pit staging area near the base of the Sherwins.

As noted, the public currently utilizes an unimproved dirt road on the property to access the public lands south of the site. In most instances, this access has taken place without the property owner's expressed permission, although the property owner has not physically restricted or prohibited public access. Nevertheless, the proposed easement presents a significant opportunity to provide legitimate and legal access for the public in an area of

town that currently has limited legal access to the public lands south of the Town's Urban Growth Boundary.

As is the case with all proposed easements shown on the vesting tentative parcel map, the non-motorized public access easement must be recorded prior to or simultaneously with approval of the final parcel map. However, because the final parcel map may not be recorded for some time, the Applicant and the Town have discussed the possibility of establishing a temporary access agreement in the interim, if the terms of the agreement are acceptable to both parties.

Additionally, the public roadway extension of Tamarack Street and the private driveway access, including the public access easement within, have been designed to comply with Federal ADA Trail Guidelines, which is consistent with the recommendation in SHARP that the proposed loop system between Tamarack Street and the Borrow Pit, if developed, should be developed as an ADA trail. The SHARP Trails Technical Committee, which includes representatives of the Forest Service, Mammoth Lakes Trails and Public Access, and the Town, has determined through extensive field visits that it is feasible to construct the entire loop trail in accordance with ADA Trail Guidelines, which could provide a significant recreation opportunity for disabled individuals.

Concerns have been raised regarding whether the formalized access improvements associated with the trail would increase the volume and intensity of use in the area. It is possible that this could occur, particularly if/when the complete loop system between Tamarack Street and the Borrow Pit is developed. It should be noted that increased future use of the area could occur even if the access easement were not formalized.

### ***Parking***

#### **ADA Parking Space**

Although not required, the Project proposes to grant approximately 0.25 acres of land to the Town and to construct one designated ADA public parking space. As stated previously, an earlier proposal included the construction of a larger public parking area with a maximum of six public parking spaces, including one ADA space; however, this has been revised to provide only one ADA space located at the end of existing Tamarack Street, as depicted on Figure 3 above and on Exhibit 1 provided in Attachment 2.

The ADA parking space, in combination with the ADA compliant trail access, will provide improved opportunity for disabled users who wish to access the USFS lands south of the site. The remaining dedicated land would be used as snow storage for Town winter maintenance operations. The ADA parking space would be constructed by the Applicant and maintained by the Town through a benefit assessment district funded by the Applicant.

#### **Parking Enforcement**

Concerns have been raised about existing unauthorized parking on Tamarack Street, and in some cases, parking in residential driveways, by users accessing the property to reach the public lands. Currently, there is existing signage that prohibits on-street parking during the winter months, as there is throughout the town; however, this is not often enforced on Tamarack Street.

This existing unauthorized parking poses potential issues for emergency access. Therefore, the MLFPD has recommended that parking should be prohibited on all, or sections of, Tamarack Street year-round. The MLFPD and Town will work together to implement this as a separate action item in the short-term. Enforcement of parking restrictions would be provided by the MLFPD and the Mammoth Lakes Police Department and would likely occur as complaints are received due to limited staff resources.

Additionally, as a condition of approval, the Applicant will provide financial assistance to the Town to improve the existing transit stop at Old Mammoth Road and Tamarack Street in an effort to encourage transit use and to discourage vehicles from driving and parking on Tamarack Street to access the trail.

### ***Maintenance of Improvements***

As a Project condition of approval, maintenance (snow and trash removal, etc.) for the public improvements (Tamarack Street extension, public access easement, ADA parking space) associated with the Project would be performed as part of a Benefit Assessment District. The assessment district would be funded by the Applicant/property owner (or future property owners). Additionally, maintenance of the private driveway will be the responsibility of the Applicant/property owner (or future property owners).

### **E. CONFORMANCE WITH THE GENERAL PLAN AND VISION:**

The Project is consistent with Zoning and General Plan land use regulations. Additionally, the Project is consistent with the goals of the General Plan by improving emergency vehicle access on a substandard street and by providing improved and legal public access to USFS lands.

### **F. CEQA COMPLIANCE:**

In accordance with CEQA, an Initial Study / Mitigated Negative Declaration was prepared for the Project and is provided in Attachment 2. The Planning Commission should consider certification of the Initial Study/Mitigated Negative Declaration and adoption of the Mitigation Monitoring and Reporting Program. The Project, if approved, is also subject to the mitigation measures established in the Environmental Impact Report for the Bluffs Subdivision.

### **G. OPTIONS ANALYSIS:**

Option 1: Recommend that the Planning Commission: certify the Initial Study/Mitigated Negative Declaration, adopt the Mitigation Monitoring and Reporting Program, and adopt the attached resolution to approve Vesting Tentative Parcel Map 10-001 and Use Permit 10-001 subject to the conditions of approval as recommended, or as may be amended by the Planning Commission after receiving public testimony.

Option 2: Provide direction to staff regarding substantial changes recommended by the Planning Commission and continue the public hearing to a later date.

Option 3: Deny Vesting Tentative Tract Map 10-001 and Use Permit 10-001.

Option 1 would approve VTPM 10-001, UPA 10-001, certify the Initial Study/Mitigated Negative Declaration, and adopt the Mitigation Monitoring and Reporting Program.

Option 2 would result in a continuance of the public hearing to allow staff to work with the Applicant to make major changes recommended by the Planning Commission. The Applicant may need to prepare new plans and staff would need to analyze any new or changed plans prior to scheduling the continued public hearing.

Option 3 would deny the application and would end the planning process and would not allow the applicant to move forward with the current proposal. The applicant would have the option to appeal the Planning Commission's denial and request a hearing before the Town Council.

#### **H. RECOMMENDATION:**

Staff recommends that the Planning Commission choose Option 1: Certify the Initial Study/Mitigated Negative Declaration, adopt the Mitigation Monitoring and Reporting Program., and adopt the attached resolution to approve Vesting Tentative Parcel Map 10-001 and Use Permit 10-001 subject to the conditions of approval as recommended, or as may be amended by the Planning Commission after receiving public testimony.

#### **I. ATTACHMENTS:**

1. Planning Commission Resolution

Exhibit A: Conditions of Approval and Mitigation Measures

2. CEQA Initial Study/Mitigated Negative Declaration Response to Comments

3. Project Plan Sheets and Exhibits

VTPM/UPA Sheets 1 through 4

Exhibit 1: Non-Motorized Public Access Easement and Driveway Profile

Exhibit 2: Non-Motorized Public Access Easement

Exhibit 3: Town of Mammoth Lakes Vehicle Access Easement

Exhibit 4: Mammoth Lakes Fire Protection District Vehicle Access Easement

Exhibit 5: Driveway Access Easement

Exhibit 6: Mammoth Community Water District Easements

Exhibit 7: Parcel 2 Sewer Easement

Exhibit 8: Dry Utility Easement

Exhibit 9: Drainage Easement

Exhibit 10: Snow Storage Areas

4. Sherwin Area Recreation Plan Excerpt
5. Council Resolution 09-64, Approving Public Works Standard Plan 008-0, Policy for Development of Substandard Streets
6. Bluffs EIR Avalanche Starting Path Figure
7. Arthur I. Mears Supplemental Avalanche Hazard Analysis
8. Tamarack Neighborhood Interest Group Letter

# **Attachment 1**

Planning Commission Resolution  
Exhibit A: Conditions of Approval and Mitigation Measures

Recording Requested by and )  
When Recorded Mail To: )  
 )  
Town of Mammoth Lakes )  
Community Development Department )  
P.O. Box 1609 )  
Mammoth Lakes, CA 93546 ) \_\_\_\_\_

Space Above for Recorder's Use

**RESOLUTION NO. PC-2011-\_\_**

**A RESOLUTION OF THE MAMMOTH LAKES PLANNING COMMISSION**  
**ADOPTING THE INTITAL STUDY/MITIGATED NEGATIVE**  
**DECLARATION, RESPONSE TO COMMENTS, MITIGATION MONITORING**  
**AND REPORTING PROGRAM, AND APPROVING VESTING TENTATIVE**  
**PARCEL MAP 10-001 AND USE PERMIT 10-001 FOR PROPERTY LOCATED**  
**AT 500 LE VERNE STREE/SOUTH OF 374/376 TAMARACK STREET (APN**  
**022-400-25)**

**WHEREAS**, a request for consideration of a vesting tentative parcel map and use permit was filed by Plum Mammoth Lakes Family Limited Partnership to subdivide a 4.39-acre parcel for the future development of single-family homes and associated improvements for property located within the Rural Residential (RR) Zoning District at 500 Le Verne Street/South of 374/376 Tamarack Street (APN: 022-400-025).

**WHEREAS**, the Town of Mammoth Lakes prepared an Initial Study/Mitigated Negative Declaration (State Clearinghouse Number 2010122005), as required by CEQA to assess potential environmental impacts of the Terry Plum Vesting Tentative Parcel Map and Use Permit Project;

**WHEREAS**, a public review period was noticed and held as required by CEQA to solicit comments on the Initial Study/Mitigated Negative Declaration from the public and/or agencies related to potential environmental impacts of the Project;

**WHEREAS**, after the close of the Initial Study/Mitigated Negative Declaration public review period, the Town of Mammoth Lakes prepared Response to Comments and Mitigation Monitoring and Reporting Program;

**WHEREAS**, the environmental documentation was prepared in accordance with the California Environmental Quality Act (CEQA) and Guidelines;

**WHEREAS**, the Planning Commission conducted a Noticed Public Hearing on the Vesting Tentative Parcel Map and Use Permit 10-001, Initial Study/Mitigated Negative Declaration, Response to Comments, and Mitigation Monitoring and Reporting Program on May 11, 2011, at which time all those desiring to be heard were heard;

**WHEREAS**, the Planning Commission considered, without limitation:

1. The Staff Report to the Planning Commission with exhibits;
2. The State Map Act (if applicable), Specific or Master Plan (if applicable), General Plan, Municipal Code, and associated Land Use Maps;
3. Project plans consisting of: (1) Civil Plans Sheets 1-4; (2) Exhibits 1 - 10, all dated received by the Town of Mammoth Lakes (“date received”) on April 26, 2011;
4. The Terry Plum Initial Study/Mitigated Negative Declaration;
5. The Terry Plum Initial Study/Mitigated Negative Declaration Response to Comments and Mitigation Monitoring and Reporting Program;
6. Oral evidence submitted at the hearing;
7. Written evidence submitted at the hearing; and

**NOW THEREFORE, THE PLANNING COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:**

**SECTION 1. FINDINGS.**

**1. CEQA.**

- a. The Planning Commission considered the proposed Initial Study/Mitigated Negative Declaration together with all comments received during the public review process, including the Response to Comments and Mitigation Monitoring and Reporting Program, and finds that on the basis of the whole record, there is no substantial evidence that the Project will have a significant effect on the environment.
- b. The Planning Commission finds that the Initial Study/Mitigated Negative Declaration reflects the lead agency’s independent judgment and analysis.
- c. The custodian and location of the documents and other material which constitute the record of proceedings upon which this decision is based is the Town Clerk at the Town of Mammoth Lakes Offices, 437 Old Mammoth Road, Suite R, Mammoth Lakes, California 93546.

- d. A program for reporting on or monitoring the required mitigation measures has been prepared and will be adopted with the Initial Study/Mitigated Negative Declaration.
- e. The Planning Commission finds that Project will not result in a safety hazard or noise problem for persons using the Mammoth Yosemite Airport or for persons residing or working in the Project area with the incorporation of mitigation measures identified in the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.
- f. Mitigation Measure BIO-8 has been revised as a result of the public review process and the revised language as identified in the Response to Comments and Mitigation Monitoring and Reporting Program is more effective in mitigating or avoiding potentially significant effects and that it in itself will not cause any potentially significant effect on the environment.
- g. All mitigation measures shall be conditions of Project approval.

## **2. MUNICIPAL CODE FINDINGS.**

### **FINDINGS FOR USE PERMIT APPROVAL**

(Municipal Code Section 17.60.070)

- a. Consistent with the evidence contained within the Agenda Report and provided at the public hearing, the Planning Commission finds that the proposed use is consistent with the General Plan because the future development of single-family homes at a maximum density of 2.0 dwellings per acre is allowed within the Low Density Residential (LDR-1) designation in accordance with the goals and policies of the General Plan. The zoning regulations implement the goals and policies of the General Plan as they relate to the Special Conservation Planning (SCP) and the Snow Deposition Design (SDD) overlay zones. The intent of the use permit is to assure that the proposed development will not adversely impact surrounding properties and will not increase the potential for avalanche hazards within the SDD zone. The proposed non-motorized shared public access easement is consistent with the 1991 Trails Master Plan, Draft 2009 Trail System Master Plan, and the Sherwin Area Recreation Plan. Additionally, the proposed ADA parking space, which is not required by the Town, provides improved access to public lands and recreation opportunities for the disabled community and is consistent with General Plan goals and the Sherwin Area Recreation Plan recommendations.
- b. The Planning Commission finds that the proposed subdivision is in accord with the objectives and purpose of the zone in which it is located because the proposed use is permitted in the Rural Residential (RR) zone and has been reviewed and found in compliance with development standards of the RR zone and the SDD and SCP overlays within the Bluffs subdivision. Therefore, the Planning Commission finds the project in conformance with the purpose of the zoning district and that use permit approval is warranted.

- c. The Planning Commission finds that the proposed site is adequate in size and shape and has adequate access for the proposed use because the project meets minimum lot dimensions, lot area, buildable area, and access standards of the Town.
- d. The Planning Commission finds that the proposed use will be operated in a way that will be compatible with surrounding uses and will not be detrimental to the public health, safety, and welfare nor be materially injurious to properties or improvements in the vicinity because the proposed project will comply with the mitigation measures required by the Initial Study/Mitigated Negative Declaration and will include emergency access improvements to Tamarack Street consistent with Town Council Resolution 09-64, Policy for Development on Substandard Streets, and will comply with the regulations of Municipal Code Section 17.28 with regard to the Snow Deposition Design Zone.
- e. The Planning Commission finds that the proposed uses comply with the applicable sections of the zoning regulations because the project meets Town Code requirements and standards in all areas.

**FINDINGS FOR VESTING TENTATIVE PARCEL MAP APPROVAL**

(State Map Act Section 66474 and 66498.1)

- a. The proposed map is consistent with the General Plan as specified in Section 66451 of the Subdivision Map Act because the project conforms to the density standards for both the General Plan and the Zoning Code. No Specific Plans apply to this site. The Commission further finds that the proposed subdivision complies with Zoning Code property development standards and Town policies that implement the General Plan and that all utilities and access roadways can be improved and/or extended to service the project area.
- b. The design and improvements of the subdivision are consistent with General Plan because the project, as conditioned, complies with the development standards of the Rural Residential (RR) and Snow Deposition Design (SDD) zones and the project's approval is conditioned to require compliance with all other applicable Town Ordinances and applicable agency requirements in effect at the time the subdivision request was submitted for review. The property is not located within a Specific Plan area.
- c. The site is physically suitable for the proposed type and density of development because the site can accommodate the intensity of development proposed while meeting all applicable development standards established by the Municipal Code. As a condition of approval, prior to the issuance of a grading or building permit, future development of Project Parcel 1 will require a subsequent use permit and design review in accordance with Municipal Code Section 17.28.720 to ensure that there will be no greater snow deposition in the related avalanche starting zones and no overall increase to the avalanche hazard in the balance. Also as a condition of approval, the required Design Review permit shall ensure compliance with Municipal Code Section 17.16.040.C.8 with regard to mitigation of potential off-site visual impacts as described in the Bluffs Environmental Impact Report (EIR).

- d. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat since the mitigation measures imposed on the property have been determined to be adequate to reduce the impacts to a less than significant level as described in the project's Initial Study/Mitigated Negative Declaration, consistent with the California Environmental Quality Act (CEQA) Guidelines.
- e. The design improvements are not likely to cause serious public health problems since the required mitigation measures reduce health-related impacts to a less than significant level. All necessary public services are currently provided, or can be extended to, the site to assure health and safety for those individuals occupying and using the site facilities.
- f. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision since all utilities, and their easements, are indicated on the Vesting Tentative Parcel Map and the subdivision will not adversely impact upon any existing public easements. The property has access to a public street with approved street/driveway alignments and widths. All utilities, and their easements, are currently in place on, or can be extended to the property and the proposed subdivision will not impact upon adjacent property easements and/or common areas.

**SECTION 2. PLANNING COMMISSION ACTIONS.** The Planning Commission hereby takes the following actions:

1. Adopts Initial Study/Mitigated Negative Declaration (State Clearinghouse 2010122005), Response to Comments, and Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act (CEQA) Guidelines; and
2. Approves Vesting Tentative Parcel Map and Use Permit 10-001 subject to the following conditions:

(SEE EXHIBIT "A")

**PASSED AND ADOPTED** this 11th day of May 2011, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Mark Wardlaw  
Community Development Director

\_\_\_\_\_  
Jay Deinken, Vice Chair of the Mammoth  
Lakes Planning Commission

**NOTE:** This action is subject to Chapter 17.68 of the Municipal Code, which specifies time limits for legal challenges.

I, Terry Plum, am the applicant for this project request and I do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

\_\_\_\_\_  
Terry Plum                      Date  
(Notary Required)

## **EXHIBIT A**

### **Resolution No. PC-11-**

### **Case No. VTPM 10-001, UPA 10-001,**

## **CONDITIONS OF APPROVAL AND MITIGATION MEASURES**

### **PLANNING GENERAL CONDITIONS**

1. This approval authorizes the following: a Vesting Tentative Parcel Map and Use Permit (VTPM/UPA 10-001) to subdivide parcel APN 022-400-025 into four lots for the development of single-family homes. Three of the new lots will take access via a private driveway that will connect to an extension of the public roadway (Gibbs Cemetery Goad) at the south end of Tamarack Street. The fourth lot will take access from Le Verne Street in the Bluffs subdivision. The project includes off-site measures to improve Tamarack Street by widening the pavement in three areas to create turn-out locations to allow improved emergency vehicle access and on new fire hydrant per Town Resolution 09-64 for sub-standard streets. Two new fire hydrants will also be located on the Project's private driveway. A 10-foot wide non-motorized shared public access easement will be granted along the easterly boundary of the property to provide access to the public lands south of the project. The project also includes an offer to grant approximately 0.25 acres of land to the Town of Mammoth Lakes, improvement of the transit stop location at Old Mammoth Road and Tamarack Street, and the construction of one ADA compliant parking space.
2. This permit and all rights hereunder shall automatically terminate unless the business operation, site preparation or construction has been commenced within 24 months after the issuance of this permit and such work is diligently carried on until completion, or an extension of time has been granted in accordance with Municipal Code 17.60.160.
3. All new improvements constructed on the site shall be in compliance with all Town of Mammoth Lakes laws, statutes, ordinances, regulations, and resolutions in force at the time the project application was deemed complete on May 25, 2010. Any violation of the above may constitute grounds for revocation of the use permit under Section 17.60.130 of the Mammoth Lakes Municipal Code.
4. All new improvements constructed on the site shall be in compliance with all County of Mono, Mammoth Community Water District, the Mammoth Lakes Fire Protection District, the CRWQCB Lahontan District, Great Basin Air Pollution Control District, OSHA, State of California and United States of America laws, statutes, ordinances, regulations, and resolutions in force at the time thereof. Any violation of the above may constitute grounds for revocation of the use permit under Section 17.60.130 of the Mammoth Lakes Municipal Code.
5. This resolution of approval, as conditioned herein, shall be recorded for the subject property with the Mono County Recorder's Office to document the approved use on the property or the issuance of any building permits for new structures.
6. The site shall be maintained in a neat, clean and orderly manner, which shall include timely removal of grease and debris. All improvements shall be maintained in a

- condition of good repair and appearance. Except as otherwise approved by the construction storage and management plan, outdoor storage of equipment and other materials is prohibited. Non-operating vehicles, equipment and materials inappropriate to the site and its use shall not be stored on the site.
7. Storage of construction materials and equipment off-site shall not be permitted without a permit issued by the Community Development Department and shall be consistent with the approved construction management plan.
  8. Any public or third-party private property altered, damaged or destroyed by site preparation, grading, construction or use shall be restored to its pre-existing condition by the permittee.
  9. All conditions of this use permit shall be met or secured prior to final occupancy approval of any new structures.
  10. All uses are subject to review by the Building Official of the Town of Mammoth Lakes and must conform to occupancy ratings of the structures to obtain occupancy.
  11. Town staff shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business hours and shall, upon request, make records and documents available to Town staff as necessary to evidence compliance with the terms and conditions of the permit.
  12. The applicant shall pay Development Impact Fees as prescribed by ordinance and required by Municipal Code Section 15.16 Article II in effect at the time the application was deemed complete on May 25, 2010.
  13. Where compliance with the conditions of approval or applicant initiated changes to the plans require additional staff review, that review time shall be billed at the Town's established billing rates. Prior to final parcel map approval or the issuance of an engineered grading or building permit, whichever occurs first, all outstanding application processing fees due to the Town in excess of the original deposit shall be paid.
  14. The approved vesting tentative parcel map shall be adhered to and maintained for the duration of the use permit.
  15. This action may be appealed to the Town Council within fifteen (15) calendar days from the date of Planning Commission approval in accordance with Municipal Code Chapter 17.68.
  16. Pursuant to Government Code Section 66474.9 the subdivider shall defend, indemnify, and hold harmless the local agency and its agents, officers, and employees from any claim, action, or proceeding against the local agency and its agents, officers, or employees to attack, set aside, void, or annul, an approval of the local agency, advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Government Code Section 66499.37. The Town shall promptly notify the subdivider of any claim, action, or proceeding and shall cooperate fully in the defense.

## **GENERAL PUBLIC WORKS CONDITIONS**

17. A final parcel map, consistent with the tentative parcel map and the conditions herein, shall be recorded with the County Recorder of Mono County prior to the expiration of the approved tentative parcel map. The final parcel map shall conform to the Subdivision Map Act and the Subdivision Regulations of the Town of Mammoth Lakes. The tentative parcel map shall expire twenty-four (24) months after the approval date. Failure to record the final parcel map prior to the expiration will nullify all approvals, except that such time limitation may be extended by the Planning Commission, in accordance with the Subdivision Map Act and the Municipal Code.
18. Copies of all exceptions, easements, restrictions and encumbrances listed in the preliminary title report together with a copy of the current grant deed and a current title report, a copy of each record map for the subject property shown within the tentative map boundary, and a copy of each and every adjacent map, deed or other document as necessary that establish, or were used for the survey of, and for the retracement of the subdivision boundary shall be submitted with the initial submittal of the final parcel map. A subdivision guarantee shall be issued and dated within 30 days prior to final parcel map approval by the Planning Commission.
19. If any portion of any future structure encroaches into front or street side yards, as approved by the Town, the property owner shall execute a hold harmless agreement waiving any liability on the part of the Town for damage from snow removal or other standard street maintenance functions.
20. The applicant shall submit to the Town an electronic file of the final parcel map in AutoCAD, Version 2008, or other format as may be approved by the Public Works Director, within 30 days of approval of the final parcel map.
21. Application shall be made to the Mammoth Community Water District (MCWD) for re-apportionment of any existing assessment lien(s) to the new lots and units proposed. The applicant shall submit a receipt of the application from MCWD to the Town prior to final parcel map consideration by the Planning Commission.
22. Prior to staff approval of the final parcel map, the applicant shall provide evidence to the Town that the property taxes have been pre-paid to Mono County Tax Collector or their payment has been secured by the filing of a surety bond or other cash-equivalent security acceptable to the County.
23. The applicant shall pay a fee for each unit, parcel, or lot created, including lettered lots and parcels and common area lots or parcels, to the Community Development Department for long range planning reimbursement (New Construction Fee) prior to approval by staff of the final parcel map. The current fee is \$550.00 per unit.
24. The property owner, applicant/developer and holder of any and all permits associated with this property shall conform to the statutes, ordinances, regulations, and resolutions of the Town of Mammoth Lakes and Federal, State, County and Local agencies, as they may apply. This includes, at a minimum, the CRWQCB, Lahontan District, the Great Basin Air Quality Control District, OSHA, the Mammoth Lakes Fire Protection District, and the Mammoth Community Water District.
25. Nothing in the approval of this tentative parcel map shall be construed to allow for the deviation, adjustment, variance or non-conformance of any Town of Mammoth Lakes Municipal Code or ordinance, or of any local, State or federal standard, policy,

- regulation or law, unless specifically provided for herein.
26. All grading and public improvements shall be consistent with the Town Of Mammoth Public Works Standard Plans.
  27. Prior to the staff approval of the final parcel map, the final parcel map shall conform to the requirements of Town of Mammoth Lakes Subdivision Ordinance 84-10 and all amendments thereto.
  28. Prior to the staff approval of the final parcel map, easements shall be designated and offered for dedication on the final map in a form and in content acceptable to the Public Works Director and/or other applicable agencies. Final design of driveway, non-motorized public access, retaining walls or footings, drainage, and utilities may require revisions to easements shown on the tentative parcel map.
  29. Right-of-way/easement dedications and improvements (including off-site) for street transitions and drainage improvements and transitions from proposed to existing improvements shall be required as necessary.
  30. Prior to the staff approval of the final parcel map, monumentation of the subdivision shall be installed or bonded for in accordance with the Subdivision Ordinance of the Town, Ordinance 84-10. A street centerline monument well and monument shall be installed at the intersection of Tamarack Street and Sunnyslope Lane or at an appropriate offset.
  31. Prior to the staff approval of the final parcel map, the applicant shall submit a request for unit, building, and street addressing to the Town, and a request for street names for all streets within the subdivision. Approval of the addressing and street names shall be completed prior to approval of the final parcel map by the Town Public Works Department and the Fire District.
  32. Construction of water and sewer improvements shall require water and sewer permits from the Mammoth Community Water District. Engineered grading plans shall be submitted to the Town for review and approval and an engineered grading permit shall be obtained from the Town in accordance with the Municipal Code prior to any construction activity on the site. All mitigating measures and best management practices to prevent erosion and to protect existing trees shall be constructed prior to work commencing for any and all water and sewer improvements.
  33. No work within Town right of way shall be commenced until a traffic control plan has been approved by the Engineering Services Division of the Town.
  34. Prior to the issuance of an encroachment, engineered grading or improvement permit, slope stability tests are required for all cuts greater than 2:1 or fills greater than 3:1 (H:V).
  35. In addition to the drainage, traffic related, or other requirements stated herein, other "on-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to the Public Works Director.
  36. All required grading; public and private street and drainage improvements shall be completed; all "punchlist" items completed to the satisfaction of the Public Works Director; the as-built plans submitted, reviewed and approved and the required warranty

sureties posted prior the issuance of the first certificate of occupancy for the project.

37. All deferred survey monumentation shall be completed, or surety posted, prior to the issuance of the first temporary, conditional or final certificate of occupancy for the project.

### **MOBILITY AND PARKING**

38. A 10-foot wide non-motorized shared public access easement (Sherwin Trail Multiuse Path), which shall connect the public roadway extension of Tamarack Street to the southern border of the Project site, shall be conveyed by separate document to the Town of Mammoth Lakes. The non-motorized shared public access easement shall be available for use by the public year-round and shall be constructed consistent with ADA trail guidelines. Non-motorized uses consist of bicycles, pedestrians, equestrians, and other non-motorized uses.
39. The Applicant shall grant the northerly 0.25 acres of APN 022-400-023 to the Town of Mammoth Lakes by separate document prior to approval of the final parcel map and shall construct the required improvements within 24 months of final map approval or prior to the issuance of the first certificate of occupancy, including the required health and safety improvements to Tamarack Street (turnouts and fire hydrant), the extension of Tamarack Street, the ADA parking space, and the private driveway and non-motorized shared public access easement.
40. The ADA parking space shall be available for use by the public year-round. Town staff shall present a restricted parking proposal to the Town Council for consideration, which may prohibit overnight parking in the ADA parking space, restrict on-street parking on Tamarack Street and Sunnyslope Lane, and provide enforcement by the Town of Mammoth Lakes Police Department. Maintenance of the extension of Tamarack Street, the ADA parking space, and the private driveway and non-motorized shared public access easement, including snow removal, shall be the responsibility of the Town of Mammoth Lakes through a Benefit Assessment District.
41. The design of all required improvements, including the Tamarack Street health and safety improvements, the Tamarack Street extension, the ADA parking space, and the private driveway, shall be consistent with the Public Works standard plans, unless otherwise determined by the Public Works Director, and ADA guidelines where applicable (parking space and non-motorized public access multiuse path easement).
42. Existing Town streets that require construction or reconstruction shall remain open for traffic at all times, with adequate detours and traffic control, during actual construction. Surety shall be posted to cover the cost of grading and paving prior to approval by staff of the map.
43. The ADA parking space and non-motorized public access multiuse path shall include signage and wayfinding, consistent with current accepted Town standards, as part of the engineered grading plan, at locations acceptable to the applicant if they are located outside of the easement or deeded property. Installation of approved signage/wayfinding shall occur in conjunction with the construction of the required improvements.

44. The Applicant shall provide financial assistance to the Town of Mammoth Lakes for the purpose of improving the transit stop at Old Mammoth Road and Tamarack Street. Financial assistance shall not exceed \$10,000 and shall be provided within 24 months of tentative map approval. Transit stop improvement may consist of relocating the existing transit stop from the southwest corner of the intersection to the southeast corner, paving of a 40 to 50-foot turnout within existing Town right-of-way, installation of necessary transit signage, and installation of trail system signage to be approved by the Town.

## **DESIGN**

45. All future structures shall be designed and constructed in accordance with the Town Design Guidelines.
46. Prior to issuance of an engineered grading or building permit for Project Parcel 1, accessing Le Verne Street in the Bluffs subdivision, a Design Review permit shall be approved to ensure compliance with Municipal Code Section 17.16.040.C.8 with regard to mitigation of potential off-site visual impacts as described in the Bluffs Environmental Impact Report (EIR). The Design Review shall also evaluate whether the proposed structure incorporates the following mitigation from the Bluffs EIR: (a) Keeping the finished floor elevations as low as possible, (b) Utilizing building materials (including roofing materials), exterior textures, and color finishes that are harmonious with the native landscape and surroundings, and (c) Reducing light glare impacts by utilizing Low-e glass and shielding exterior lights.
47. A building height verification stamp shall be placed on the plans prior to issuance of Building Permit to ensure the Building Height Certificate is provided. A Building Height Certificate shall be required during the construction period of Project Parcel 1 to ensure that the roof heights are consistent with future approved plans. Staff shall verify the Building Height Certificate prior to the issuance of any certificates of occupancy.
48. Roof vents, exhaust pipes, flues, and other mechanical appurtenances shall be combined and/or collected together on slopes of roof out of public view to the greatest extent possible.
49. Retaining wall design and material(s) shall be reviewed by the Town prior to engineered grading permit issuance. All retaining and screening walls, other than those associated with the public roadway extension and the private driveway, shall also require a building permit.
50. The private driveway, including the 10-foot non-motorized public access multiuse path easement area, shall be constructed with “grasscrete” or similar product as approved by the Public Works Director.

## **AVALANCHE DESIGN AND MITIGATION**

51. A use permit for development of Project Parcel 1, shall be approved prior to approval of an engineered grading permit in conjunction with the required Design Review, in accordance with Municipal Code Section 17.28.720, which requires properties within

the Snow Deposition Design overlay zone (17.28.700) to obtain a use permit prior to development. As specified in 17.28.720.B., the use permit application shall contain certification by a recognized expert in the field of avalanche occurrence, force and behavior, that there will be no greater snow deposition in the related avalanche starting zones and no overall increase in the avalanche hazard in the balance. The certification shall evaluate building design and orientation to ensure that the recommendations made in previous avalanche studies and peer-reviews relevant to the subject property, as well as the requirements included in the Mitigation Monitoring and Reporting Program related to mitigation of avalanche hazards have been appropriately incorporated. Any mitigation measures that may be required as part of the Project Parcel 1 use permit or design review process shall also be incorporated. Per 17.28.720.C., the Town staff has the right to hire an expert to provide a second opinion, at the expense of the applicant, to review any of the calculations, studies, reports or certifications required under this section.

52. Development of Project Parcels 2, 3, and 4 shall be designed and oriented consistent with the recommendations or mitigation measures required in avalanche studies and/or peer-reviews relevant to the subject property, as well as the requirements included in the Mitigation Monitoring and Reporting Program related to mitigation of avalanche hazards. Per 17.28.720.C., the Town staff has the right to hire an expert to provide a second opinion, at the expense of the applicant, to review any of the calculations, studies, reports or certifications required under this section.
53. Per Municipal Code Section 17.28.740, “Avalanches occur naturally, suddenly and unpredictably based on many factors including slope, exposure, snow pack composition, snowfall rate, wind and temperature. The SDD zone is considered reasonable for regulatory purposes and is based upon and limited by the engineering and scientific methods of study. The town of Mammoth Lakes does not represent, guarantee or warrant the ultimate safety of any construction, use or occupancy of structures situated in any avalanche area, whether designated or undesignated by this ordinance. Avalanches may occur with forces greater than those set forth in avalanche studies. This article does not represent or imply that areas outside the SDD zone are free from avalanches or avalanche danger. The granting of any permit or approval for any structure or use, or the declaration or failure to declare the existence of an avalanche hazard shall not constitute a representation, guarantee or warranty of any kind or nature by the town of Mammoth Lakes, or any official or employee, of the practicality or safety of any construction, use or occupancy thereof, and shall create no liability upon or cause of action against such public body, or its officials or employees for any injury, loss or damage that may result thereby. Persons who develop or occupy real property within an SDD zone or other undesignated avalanche area do so at their own risk.”
54. All development shall comply with all avalanche hazard mitigation measures established in the Hazards and Hazardous Materials Section of the Project Mitigated Negative Declaration.

### **SNOW MANAGEMENT**

55. Prior to the issuance of an encroachment, engineered grading or improvement permit;

the engineered grading plan shall indicate all snow storage areas and drainage facilities.

### **LANDSCAPE/IRRIGATION**

56. The project shall meet the requirements of Municipal Code Section 17.38 (Water Efficient Landscape Regulations). A final landscape and irrigation plan shall be submitted to, and approved by, the Community Development Department for inclusion in the project engineered grading permit. Where no engineered grading permit is required, the final landscape plan must be submitted to and approved by the Town prior to the issuance of a building permit. All landscape plantings shall be maintained in a healthy and growing condition at all times (as applicable for the season) and individual plants shall be replaced if they become diseased or die. Irrigation equipment and systems shall be maintained in a proper working condition at all times. Landscaping and irrigation systems within the public right-of-way within or adjacent to the project area shall be maintained by the property owners or owners association, with the exception of benefit assessment districts.

### **LIGHTING**

57. All exterior lighting shall comply with Chapter 17.34 of the Town of Mammoth Lakes Municipal Code, Outdoor Lighting. Exterior light fixtures having a total of over 400 lumens of incandescent illumination shall be equipped with shields that extend below the horizontal plane of the light source to direct the light downward onto the structure or surrounding grounds.
58. Design Review for Project Parcel 1, which will be accessed by Le Verne Street in the Bluffs subdivision, will include review of exterior and interior lighting to reduce potential impacts from light and glare. All interior lights shall be “ambient” lighting with the fixtures directed upwards onto the walls and ceilings so as not to be directly visible through windows. Canned, recessed lights should not be visible through the windows from off-site.
59. All project lighting within the right-of-way will require an encroachment permit.

### **NOISE**

60. All construction and maintenance equipment shall be properly equipped and operated to minimize noise disturbance.
61. Construction equipment shall be operated in accordance with Town of Mammoth Lakes regulations. Improperly equipped vehicles shall not be permitted to operate.
62. All development shall comply with all noise related mitigation measures established by the Project Mitigated Negative Declaration.

### **AFFORDABLE HOUSING**

63. Pursuant to Municipal Code Chapter 17.36 (Affordable Housing Mitigation

Regulations), the housing demand generated by the project will be mitigated by the payment of in-lieu fees. The actual fees will be based on the affordable housing mitigation regulations in effect at time the project application was deemed complete on May 25, 2010.

### **LIFE SAFETY**

64. In accordance with Planning Commission Resolution 09-64 and the Public Works standard plans, construction of three (3) paved pullouts and installation of one fire hydrant on Tamarack Street as shown on the approved plans shall occur prior to issuance of first occupancy permit.
65. Prior to any construction occurring on any parcel, the applicant shall contact the Fire District for verification of the then current fire protection requirements that will be applicable for the building permit(s). Building permit plans shall be reviewed and permit issued by the MLFPD. Basic compliance to provide a defensible space barrier shall be reviewed by the Fire Marshal. The typical defensible space requires two levels of vegetation modification (30-foot and 100 foot defensible buffer) from the structure where vegetation has been reduced or changed to act as a barrier between an advancing wildland fire and structures. Vegetation may be reduced or changed through several techniques, such as tree and shrub thinning and pruning to increase crown separation and reduce ladder fuels. No wood shake roofs are allowed, even if they meet Class "A" fire-resistive requirements. Automatic sprinkler system and smoke detectors are required in compliance with the California Building/Fire/Residential Codes and a portable fire extinguisher with the minimum rated capacity of 2A10BC will be required to be installed within the kitchen.
66. Prior to the issuance of the first temporary, conditional or final certificate of occupancy, address numbers shall be placed on all new and existing structures in such a manner as to be plainly visible and legible from the access roadway or street, consistent with Municipal Code Section 16.32.
67. Projects subject to a building permit shall have all required on and off-site improvements completed and approved prior to final inspection of any buildings or structures. The installation of any on or off-site improvements shall be sufficiently completed so as to assure protection from storm or drainage run off, a safe and drivable access for fire and safety, and the ordinary and intended use of buildings or structures. The Building Official, with the concurrence of the Public Works Director, may approve any plan or approve a change to an approved plan, which complies with the intent of this policy.
68. The Fire District shall be granted a 16 to 20-foot access easement for the entire length of the private driveway and to the southern most portion of Parcel 2 and the property boundary with Forest Service lands for the purpose of emergency access. The public roadway extension and private driveway shall be signed "No Parking" or "No Parking Bike Lane" every 100 feet on both sides, or as otherwise required by the MLFPD.
69. All structures shall be designed and constructed in accordance with the current California Building Code incorporating lateral force requirements for the appropriate seismic zone.

70. A lateral force (seismic) analysis shall be prepared by a licensed structural or civil engineer for all building structures and submitted with the building permit application. The analysis must analyze lateral forces under maximum snow load conditions.
71. In areas where soils exhibit potential for liquefaction or other instability during a seismic event, building construction shall be avoided unless a soils engineering report indicates that remedial soils conditioning can eliminate hazards.

### **STORMWATER MANAGEMENT**

72. An engineered grading plan shall be submitted and approved prior to grading activities. The Project shall comply with the National Pollution Discharge Elimination System (NPDES) requirements for construction projects, the MOU between the Town of Mammoth Lakes and Lahontan Regional Water Quality Control Board (LRWQCB), and the Town Municipal Code.
73. Drainage across the property shall be maintained. The design of the grading and drainage facilities shall not create concentrated discharges to adjacent properties and/or public rights of way in excess of historical flows. A registered civil engineer shall investigate existing facilities and design adequate drainage facilities to intercept and conduct the drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties. The Public Works Director shall verify that downstream facilities and drainage channels accepting site flows are not adversely affected by an increase in runoff from this development. If the project does create concentrated or sheet flows off-site that are greater than historical, the applicant shall demonstrate that the downstream facilities can accommodate the increased flows.
74. Prior to the issuance of an encroachment, engineered grading, or improvement permit, additional review and analysis, including core studies, of potential groundwater sources shall be performed on-site. Foundations shall include sub-drainage facilities where appropriate for structures including retaining walls and raised foundation stem walls. The review shall coincide with further required soil review for the proposed building foundations.
75. Prior to the issuance of an encroachment, engineered grading or improvement permit, a final hydrology and hydraulics study is required and shall be submitted with the grading and improvement plans for the project. The study shall be prepared in accordance with the grading chapter of the Municipal Code and the adopted Storm Drain Master Plan of the Town and shall be prepared by a registered civil engineer. The study shall include runoff from the entire site and shall also include runoff that enters the property from all upstream sources, and shall include all storm drains, infiltrators and surface flows. The study shall indicate the method of conveying surface and underground runoff and shall address drainage conveyances downstream to the extent they exit to an existing facility or natural drainage course. All existing drainage facilities on-site and tributary to the site shall be identified and shown on the grading plans. The hydraulic calculations shall include all pipe flows, velocities and head loss calculations sufficient to show the adequacy of all conveyance systems. Q100 and V100 and the hydraulic grade line for all public storm drains and all facilities with an equivalent diameter of 18 inches or greater shall be shown on the

approved engineered grading and improvement plans. The drainage study for the project and the final design of the storm drain system shall be approved prior to approval by staff of the engineered grading and improvement plans and the final parcel map. Infiltrators and storm water pollution prevention facilities are to be designed to accept the “first flush” levels of runoff. The capacity of these facilities shall not be assumed to reduce storm water flows of other drainage facilities that may be required for the project. A sediment and oil water separator shall be installed in conjunction with the infiltrator, substantially in conformance with water quality Phase 2 requirements.

## **CONSTRUCTION & MANAGEMENT**

76. The applicant shall obtain an easement or letter of permission to grade all areas requiring off-site, or out of right-of-way, grading prior to issuance of an engineered grading permit or a building permit. These areas shall be contour graded.
77. An engineered grading permit shall be submitted to the Engineering Services Division of the Public Works Department in accordance Chapter 12.08 of the Municipal Code. No change to the existing conditions of the site, including site grading, drainage interruption, land clearing, etc. shall be commenced until an engineered grading, drainage and landscape/irrigation plans have been approved by the Public Works Director.
78. An engineered grading permit for the project may be issued prior to submission of a building permit or prior to recordation of the final parcel map provided all easements denoted on the tentative map have been recorded.
79. Prior to construction within the right of way, an encroachment permit or a letter of exemption shall be obtained from the Engineering Services Division in accordance Chapter 12.04 of the Municipal Code.
80. Temporary and permanent erosion control plans shall be included with the engineered grading and improvement plans. Appropriate Best Management Practices shall be used during grading operations to control fugitive dust. Drop inlet filters and other temporary Best Management Practices shall be employed to filter nuisance water from storm drain inlets affected by construction, on-site and off-site. Groundwater pollution from urban run-off water generated by the project shall be mitigated using best management practices (BMP's), per the requirements of the California Regional Water Quality Control Board, Lahontan District, and as indicated in the "New Development and Redevelopment Guidelines." The applicant shall apply for and obtain all required permits, written clearances or exemptions from the Lahontan District prior to any grading. All BMP's shall be shown on the erosion control plans. If the Town inspector determines that the BMP's in place are not adequate, then additional BMP's shall be installed at the discretion of the Town inspector or a revised erosion control plan shall be prepared for approval by the engineering services division. Gravel bags shall be used in lieu of sand bags. All permanent erosion control measures shall be irrigated for at least one season. Permanent BMPs shall include sediment traps upstream of infiltrators and oil water separators for parking areas consistent with the General Plan.
81. A Construction Staging and Management Plan shall be submitted to, and approved by the Public Works Director prior to engineered grading permit issuance. Said plan

- shall include provisions related to the parking of construction worker vehicles, construction equipment, construction materials, and specific limitations restricting access into non-developed portions of the site and the storage of materials within these areas. The staging plan and the final access roadway improvements shall all be approved by the Mammoth Lakes Fire Protection District prior to grading permit issuance. An approved copy of the plan shall be maintained on-site at all times and available to all contractors, subcontractors, their employees and the Town. The staging plan shall address hours of work, consistent with the established noise mitigation measures of the Project Mitigated Negative Declaration. The plan shall also contain provisions for interrupting utility services to neighboring properties and sufficient noticing to affected residents and property owners.
82. Prior to the issuance of an encroachment, engineered grading or improvement permit, on the cover sheet of the grading plans and in a very conspicuous location place the following note: “The conditions of approval for the approved vesting tentative parcel map, Vesting TPM 10-001, and Use Permit, UPA 10-001, and all mitigation measures within the Mitigation Monitoring and Reporting Program contained in the resolution recorded at the County Recorder’s Office of Mono County as Document No. 2011xxxxxx shall be made a part of these plans and the engineered grading permit and all conditions and requirements therein shall be adhered to by the contractor, his sub-contractors and any person performing any work on the project.” This note shall also be included within the construction staging and management plan.
  83. Prior to the issuance of an encroachment, engineered grading or improvement permit, a shoring plan shall be prepared and submitted for review that demonstrates how the cuts along and adjacent to the property lines can be made without encroachment onto the adjacent property and in conformance with OSHA requirements.
  84. The engineered grading plan shall include tree protection measures to address how construction can occur without disturbing the drip-line of retained trees. The drip-line areas shall be “fenced” off with barriers to prevent disturbance during site grading. Additionally, finish grading shall not disturb existing understory vegetation or retained trees. Grading operations shall not commence until all erosion control measures and tree protection measures are in place as shown on the approved plans, and as required by the Town.
  85. If necessary, all export shall be taken to, and all import shall be taken from a permitted site, which shall be identified at engineered grading permit issuance. Prior to the issuance of an encroachment, engineered grading or improvement permit, the applicant shall prepare a haul route, subject to the approval of the Public Works Director prior to the import or export of material for the site.
  86. Any approved phasing shall provide that construction work and traffic control be scheduled and constructed to provide for a minimum of inconvenience and a maximum of safety to the public vehicular and pedestrian traffic. Multi-seasonal impacts to the public sidewalks and streets shall not be approved. All work shall comply with the mitigation measures established in the Mitigated Negative Declaration.
  87. Construction activities shall be in accordance with Town of Mammoth Lakes regulations.

88. Construction hours shall be limited to those described in the Mitigation Monitoring and Reporting Program as outlined in the Mitigated Negative Declaration.
89. Paved access is required to a maintained street during construction. Street and traffic signs shall meet Town standards.
90. Prior to combustible construction materials being placed on-site, verification that fire hydrants in the vicinity of the project have been tested and accepted and an all-weather access road shall be maintained serving all exterior portions of any structure to the satisfaction of MLFPD and the Public Works Department.
91. Safe pedestrian access around the site shall be maintained at all times during construction.

### **AIR QUALITY**

92. Prior to receipt of an engineered grading or building permit, the applicant shall obtain a secondary source permit or letter of exemption from the Great Basin Unified Air Pollution Control District.

### **GEOLOGY & SOILS**

93. Prior to engineered grading or building permit issuance for the individual Project Parcels, a soils report for the proposed building foundation shall be submitted and any recommendations or mitigation measures specific to those foundations shall be incorporated and shall be verified by the Community Development Director and Public Works Director.
94. Where “unsuitable” soils, such as undocumented fills, colluvium, and alluvium, will be subjected to increased loads from new fills or structures, remedial grading consisting of over-excavation and compaction should be utilized to improve the bearing capacity of those materials. The applicant shall retain geotechnical services for construction observation and review during site grading and foundation installation allowing for evaluation of the actual soil conditions and the ability to provide appropriate revisions where required during construction. Remedial grading shall follow the recommendations and/or mitigations measures provided in the Preliminary Geotechnical Investigation prepared for the proposed project roadway alignment by Sierra Geotechnical Services, Inc on November 3, 2003 and May 11, 2010, as well as in the required subsequent studies that are performed for grading and construction relative to the building sites on the Project Parcels.
95. The project shall comply with the Guidelines for Erosion Control and required BMPs in the Mammoth area and as required by Lahontan Regional Water Quality Control Board. This shall include submittal of a Report of Waste Discharge prior to issuance of an engineered grading or building permit if required. Prior to the first occupancy permit, the developer shall prepare a stormwater management operation plan that the property owners and/or owner association shall use for ongoing operation and maintenance of permanent erosion control and storm water.
96. All oversize rock (greater than 6-inches diameter) and organic debris shall be disposed of at a Town approved site in accordance with the earthwork and grading

- recommendation included in Appendix C of the Preliminary Geotechnical Investigation prepared for the proposed project roadway alignment by Sierra Geotechnical Services, Inc on November 3, 2003 and May 11, 2010, as well as in the required subsequent studies that are performed for grading and construction relative to the building sites on the Project Parcels.
97. The applicant and future applicants shall follow all of the recommendations outlined in Section 10 of the Preliminary Geotechnical Investigation prepared for the proposed project roadway alignment by Sierra Geotechnical Services, Inc on November 3, 2003 and May 11, 2010, as well as in the required subsequent studies that are performed for grading and construction relative to the building sites on the Project Parcels.
  98. The maintenance of graded slopes and landscaped areas shall be the responsibility of the developer until the transfer to individual ownership or until the maintenance is officially assumed by an approved maintenance district or property owners association.
  99. Slope rights adjacent to public rights of way shall be dedicated on the final parcel map where necessary.

### **UTILITIES**

100. Water and sewer improvements require a construction permit from Mammoth Community Water District. Prior to the Town issuing an engineered grading or building permit, the applicant shall obtain water and sewer permits from Mammoth Community Water District and pay applicable fees to the District.
101. All new utility lines within, adjacent to or serving the site shall be placed underground.
102. A final Utility Plan shall be provided to the Town and MLFPD that shows the location of all utilities, including but not limited to, propane, electric, sewer, water, CATV, phone, etc. Utility lines shall be adjacent to the proposed driveways to the future residences, where feasible, to avoid the disturbance of the natural terrain. Utility design and installation shall conform to the requirements of the serving utility company.
103. Final engineered grading and improvement plans and profiles shall indicate the location of any existing utility facility that would affect construction. All existing utilities shall be shown on the improvement plans and relocated as necessary without cost to the Town.

### **FINAL PARCEL MAP**

104. There shall be a note on the final parcel map stating: “No further subdivision of the parcels created by this approval shall occur.”
105. A final parcel map, consistent with the tentative parcel map and the conditions herein, shall be recorded with the County Recorder of Mono County prior to the expiration of the approved tentative parcel map. The final parcel map shall conform to the Subdivision Map Act and the Subdivision Regulations of the Town of Mammoth Lakes.

The tentative parcel map shall expire twenty-four (24) months after the approval date. Failure to record the final parcel map prior to the expiration will nullify all approvals, except that such time limitation may be extended by the Planning Commission, in accordance with the Subdivision Map Act and the Municipal Code.

106. Prior to the issuance of an engineered grading permit for the building pads or building permit, the final parcel map shall be recorded. The applicant shall provide evidence to the Town that the map has recorded prior to issuance of the first building permit for the project. Evidence shall consist of the recording information of the final parcel map.

### **SURETIES**

107. Prior to the staff approval of the final parcel map, sureties shall be posted for required grading, street and drainage improvements in accordance with the Municipal Code and the applicant shall enter into a subdivision improvement agreement for all required public improvements in accordance with the Subdivision Map Act. The agreement shall include provisions for the posting of warranty sureties for the accepted public improvements. Construction cost estimates for all required sureties shall be prepared and signed by a registered civil engineer. The estimates shall be at prevailing wages and shall include 20% for construction contingencies and 20% for administrative costs. All sureties shall be posted prior to the issuance of an engineered grading permit and prior to approval by staff of the final parcel map.
108. Prior to the staff approval of the final parcel map, surety shall be posted with the Town in a form acceptable to the Town Public Works Director for any deferred final monumentation for the final parcel map. The estimated amount of the surety shall be prepared by the licensed land surveyor preparing the final map and shall be approved by the Town Public Works Director.

### **ASSESSMENT DISTRICTS**

109. Project Parcel 1 shall remain a part of Assessment District 93-4 (The Bluffs) Zone 1, Maintenance District No. 1 for the operation, maintenance, and repair, snow removal, pavement, multiuse path easement surface, landscaping and irrigation, street lighting, and other things, of the public improvements as described in the Engineers Report for the District.
110. With the initial application for the final parcel map, an application shall be made to the Town for re-apportionment of the assessment liens (if necessary) under Assessment District 93-4 (The Bluffs) Zone 1, and Assessment District 93-4 (The Bluffs) Zone 1, Maintenance District No. 1.
111. A Maintenance Assessment District shall be adopted for Project Parcels 2, 3, 4 of the Project and LLA Parcels 1 and 2 of LLA 08-01 (APNs 022-400-023 and 022-400-024) into the District. An Engineer's Report prepared by Town staff for the re-apportionment and annexation (if necessary) shall be approved by Town Council. The Town Council resolution approving the Engineer's Report shall be fully executed by all parties and submitted to the Public Works Department for recordation prior to approval of the final parcel map. The resolution shall record concurrently with the

final parcel map. The Applicant shall be responsible for all costs and fees associated with the re-apportionment and annexation.

### **EASEMENTS AND DEDICATIONS**

112. Existing Conservation Easement 602/496 O.R. requires that the existing headstones and gravesites presumably located below shall not be disturbed or impacted in any way and should be left in their existing state, subject to only normal wear and tear over time. The easement states that nothing shall be done within its boundaries that would indirectly compromise the integrity of the headstones or gravesites. A low, permanent fence of weather-resistant materials (e.g. wrought iron, or stone pillars and wooden rails) shall be constructed around the gravesites. The fence can either be constructed along the gravesite easement boundary, or be placed in a 7-foot by 8-foot boundary around the gravesites, as recommended in the cultural resources study prepared for the Project Mitigated Negative Declaration.
113. An easement will be required for a minimum 10-foot wide non-motorized shared public access (Sherwin Trail Multiuse Path), which shall connect the public roadway extension of Tamarack Street to the southern border of the Project site, shall be conveyed by separate document to the Town of Mammoth Lakes. The non-motorized public access multiuse path easement shall be available for use by the public year-round and shall be constructed consistent with Federal ADA trail guidelines. Non-motorized uses consist of bicycles, pedestrians, equestrians, and other non-motorized uses.
114. Within 36 months after the tentative parcel map is approved by the Planning Commission and at no cost to the Town, the Applicant shall offer the Town a temporary license agreement, in a recordable form acceptable to the Public Works Director and Town Attorney, for use of a 4-foot wide area across LLA 08-01 Parcels 1 and 2 and the Project Parcels as a non-exclusive, non-motorized public access way to the public lands south of the Project site. The temporary license agreement shall allow for clearing of existing vegetation as necessary for such use of the licensed area; provided that the clearing activities do not require a grading permit. The temporary license agreement shall be effective and irrevocable until the approved Final Parcel Map is recorded in the County Recorder's Office and the Final Parcel Map includes the 10-foot wide easement required by condition number 113, or the Vesting Tentative Parcel Map/Use Permit 10-001 expires as noted in condition number 2 (whichever occurs first). The clearing activities shall be satisfactorily performed, as reasonably determined by the Town Manager, or his designee, by the Applicant within that same 36-month period.
115. The Applicant shall provide a grant deed that describes the northerly 0.25 acre of APN 022-400-023 to the Town of Mammoth Lakes (as the dominant tenant) by separate document prior to approval of the final parcel map and shall construct the required improvements prior to the issuance of the first certificate of occupancy, including the required health and safety improvements to Tamarack Street (turnouts and fire hydrant), the extension of Tamarack Street, the ADA parking space, and the private driveway and non-motorized public access multiuse path easement. The grant of the northerly 0.25 acre of APN 022-400-023 to the Town of Mammoth Lakes shall

include a propane utility easement in favor of the Project Parcels and APNs 022-400-23 and 24.

116. All easements as shown on the tentative parcel map shall be granted on the final parcel map, or recorded by separate document prior to or concurrent with recordation of the final parcel map. Easements to be recorded by separate document shall be submitted to the Town for review and approval by all applicable agencies. The fully executed documents shall be submitted to the Public Works Director prior to staff approval of the final parcel map. Easements shown on the tentative parcel map to be granted or dedicated shall indicate the beneficiary of the easement(s).
117. Prior to the staff approval of the final parcel map, easements shown on the tentative parcel map to the benefit of an agency other than the Town or to other parties for utilities (water, sewer, gas, phone, cable) shall be shown on the final map as "Easements Reserved."
118. The Applicant's statement on the tentative parcel map shall reserve said easements unto themselves, their heirs and assigns or easement by separate document.
119. Prior to the issuance of an encroachment, engineered grading or improvement permit, all easements shall be shown on the plans.
120. Prior to staff approval of the final parcel map, evidence shall be provided to the Town that any easements identified on the tentative parcel map as "to be quitclaimed" have been applied for.

### **CC&Rs**

121. The CC&Rs and/or reciprocal easement agreements shall contain provisions granting rights of access, as necessary, to the owners and their guests, for the parcels, including LLA Parcels 1 and 2 of LLA 08-01 (APNs 022-400-023 and 022-400-024).

### **STREET & DRIVEWAY IMPROVEMENTS**

122. Prior to the issuance of an encroachment, engineered grading or improvement permit, an evaluation of the structural street section, to include parkway improvements if necessary, from a qualified civil and/or geotechnical engineer, shall be submitted to the engineering services division with an application.
123. Prior to the issuance of an encroachment, engineered grading or improvement permit, the common driveways shall be designed in accordance with the driveway standards of the Town.
124. Prior to the issuance of an encroachment, engineered grading or improvement permit, street and public improvement plans for streets, sidewalks (if applicable), drainage, and other public/private infrastructure shall be prepared by a registered civil engineer and submitted to the Town for review and approval. Existing topography and proposed grading with sufficient contours intervals (not to exceed two feet) shall be prepared by a registered civil engineer or a licensed land surveyor.
125. A retaining wall shall be constructed as part of the common driveway improvements on the Beardsley property (APN 22-343-10) with the permission of the property owner.

Review and approval of the retaining wall shall either occur through a separate building permit or through the required Project encroachment , engineered grading, or improvement permit.

126. Street profile grades shall not be less than 0.5% unless the engineer of work at the time of submittal of the improvement plans provides justification to the satisfaction of the Public Works Director confirming the adequacy of the grade and provided that drainage can be adequately maintained.
127. Construction of private streets and private facilities and related drainage improvements shall be inspected and certified by the Public Works Director according to Public Works Standard Plans and/or the Municipal Code.
128. A thirty-five foot (35) foot radius of return grant of easement is required for rounding the corner of intersecting streets when the half-width right-of-way of any intersecting street is forty (40) feet or greater. A twenty-five (25) foot radius of return grant of easement is required for rounding the corners of intersecting streets if the half-width right-of-way of all intersecting streets is less than forty (40) feet. At intersections street dedication shall be from point of curb return (PCR) to PCR of property line.

#### **MITIGATION MEASURES**

129. The project shall comply with all applicable mitigation measures of the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Mitigated Negative Declaration, as included in this Exhibit.

## MITIGATION MEASURES

### AESTHETIC

- AES-1:** Future structures will be required to adhere to the Town's Design Guidelines, which include standards for materials, color, and design that will result in buildings that are harmonious with the natural landscape and are visually unobtrusive. Additional review by the Planning Commission's Design Committee, in conjunction with a use permit application, will be required for future development of proposed Parcel 1 to ensure compliance with Municipal Code Section 17.16.040.C.8. as it relates to the mitigation of potential off-site visual impacts as described in the Bluffs EIR.
- AES-2:** All appurtenances (i.e. meters, roof vents, and electrical equipment) shall be screened or placed in areas that are not highly visible, where feasible.
- AES-3:** The landscaping for each Project parcel, when developed, shall enhance the character of the on-site development and shall be compatible with, and complementary to, the natural environment in Mammoth Lakes and the surrounding region. All building sites and graded areas shall be revegetated to blend with existing native landscape consistent with firesafe requirements. Native plant materials shall be utilized whenever possible.
- AES-4:** Existing trees and vegetation shall be preserved to the maximum extent possible. No live trees over six inches in diameter shall be removed without prior approval of the Community Development Director. As mitigation for tree removal, the Community Development Director may require replacement plantings. Required replacement shall not exceed a total trunk diameter equal to that removed and shall be limited to plantings in areas suitable for tree replacement.
- AES-5:** Construction equipment staging areas shall use appropriate screening (i.e., temporary fencing with opaque material) to buffer views of construction equipment and material, when feasible. Staging locations and screening techniques shall be indicated on grading permit plans and shall be approved by the Community Development Department prior to permit issuance.
- AES-6:** All outdoor lighting related to the development of the Project parcels, including construction, shall comply with Municipal Code Section 17.34, which regulates light and glare. In addition, an outdoor lighting plan shall be submitted in conjunction with a use permit application for the future development of proposed Parcel 1 in accordance with Municipal Code Section 17.34.060.
- AES-7:** All utilities shall be placed underground.

### AIR QUALITY

- AQ-1:** In order to reduce emissions associated with both mobile and stationary sources (i.e., wood burning stoves and fireplaces), the Project shall adhere to the regulations contained in the Air Quality Management Plan (AQMP) and

Particulate Emissions Regulations of the Town Municipal Code Section 8.30.

**AQ-2:** In order to reduce fugitive dust emissions, each Project parcel shall obtain permits, as needed, from the Town and the State Air Pollution Control District (APCD) and shall implement measures during grading and/or construction of the individual parcels to ensure compliance with permit conditions and applicable Town and APCD requirements.

- a. The individual parcels shall comply with State, APCD, Town, and Uniform Building Code dust control regulations, so as to prevent the soil from being eroded by wind, creating dust, or blowing onto a public road or roads or other public or private property.
- b. Adequate watering techniques shall be employed on a daily basis to partially mitigate the impact of construction-generated dust particulates.
- c. Clean-up on construction-related dirt on approach routes to the Project parcels shall be ensured by the application of water and/or chemical dust retardants that solidify loose soils. These measures shall be implemented for construction vehicle access, as directed by the Public Works Director. Measures shall also include covering, watering or otherwise stabilizing all inactive soil piles (left more than 10 days) and inactive graded areas (left more than 10 days).
- d. Any vegetative ground cover to be utilized on the individual Project parcels shall be planted as soon as possible to reduce the amount of open space subject to wind erosion. Irrigation shall be installed as soon as possible to maintain the ground cover.
- e. All trucks hauling dirt, soil or other loose dirt material shall be covered.

**AQ-3:** To reduce the potential of spot violations of the CO standards and odors from construction equipment exhaust, unnecessary idling of construction equipment shall be avoided.

**AQ-4:** The Project shall contribute on a fair share basis through payment of Development Impact Fees to the Town's street sweeping operations in order to reduce emissions and achieve the required Federal standard.

## BIOLOGICAL RESOURCES

**BIO-1:** Grading permits required for the Project shall include, but not be limited to, the following where applicable:

- a. Stockpile and protect topsoil removed during the construction phase of the Project.
- b. Reapply topsoil to cleared and graded surfaces as soon as feasible and prevent unnecessary soil compaction.
- c. Terrace cleared slopes and apply protective mulch.
- d. Select species for planting that satisfy the project's landscaping goals, yet are suited for the existing environmental conditions.
- e. Plantings should be healthy individuals grown under field conditions.

- f. Plant shrubs and trees in late spring or early summer after threat of snow and heavy frost is past.
- g. Fertilize plants sparingly or not at all.
- h. Provide for irrigating young plants using a drip irrigation system for approximately two years, or until establishment is certain.

**BIO-2:** All newly disturbed areas shall be immediately revegetated, preferably with native plant materials, to minimize loss of wildlife habitat and to reduce weed species invasion.

**BIO-3:** Construction shall be limited to 7:00 AM to 7:00 PM in accordance with the Bluffs subdivision EIR, to minimize noise impacts to wildlife, and in particular to mule deer.

**BIO-4:** In accordance with Municipal Code Section 12.08.090, during construction, dust controls shall be instituted to reduce wildlife impacts. Such controls are to include watering and mulching of disturbed areas; initiation of revegetation efforts shall commence as soon as practical after construction.

**BIO-5:** Night lighting shall be limited in both amount and intensity of fixtures to a level adequate for safety purposes, so as to reduce impacts to nocturnal wildlife species, particularly mule deer.

**BIO-6:** Dogs shall not be permitted to roam freely; dogs, including during the construction phase, must be on a leash or within an enclosure.

**BIO-7:** To reduce the spread of insect pests, trees, and other large plants in close proximity to construction sites shall be protected by erecting barriers (e.g. plastic flagging) and to avoid root, stem, or trunk damage.

**BIO-8:** To reduce impacts on mule deer, Great Grey Owl, and Northern Goshawk, construction activities shall be scheduled to minimize disturbance to migratory deer and nesting/fledgling raptors, that is, not during the spring and fall migration/holding periods. Major construction activities (e.g. earthmoving, paving, extensive exterior building work, etc.) shall be scheduled between November 1 – April 1 and August 1 – October 1.

**BIO-9:** Fences generally should be discouraged. Otherwise, any fences shall follow United States Forest Service guidelines for fencing that allow for easier deer movement. All proposed fencing shall be approved by the Community Development Department.

**BIO-10:** Any other impediments to deer movement (such as soil piles, open ditches, and cut-fills) shall be avoided. Such impediments shall be rectified as soon as possible to reduce wildlife/deer movement, interference and danger.

**BIO-11:** Disturbance of habitat in the areas adjacent to the development shall be limited to that which is necessary to accomplish necessary work. Limits of disturbance shall be established in accordance with Town engineering standards.

## CULTURAL RESOURCES

- CUL-1:** A low, permanent fence of weather-resistant materials (e.g. wrought iron, or stone pillars and wooden rails) shall be constructed around the gravesites. The fence can either be constructed along the easement boundary, or be placed in a 7-foot by 8-foot boundary around the gravesites, as recommended in the cultural resources study.
- CUL-2:** Additionally, in accordance with State law and the Bluffs EIR, in the event that a material of potential cultural significance is uncovered during grading and/or construction, including grading and construction of the parcels, public ADA parking space, off-site turnout improvements to Tamarack Street, and improvements to the transit stop on Old Mammoth Road at Tamarack Street, all work in the area of the uncovered material shall cease, the Town notified, and an archaeological monitoring program should be implemented. The monitoring program shall be managed by an archaeologist who meets the *Secretary of the Interior's Professional Qualification Standards*. The archaeological monitoring program shall include provisions for an archaeological monitor; assessing the significance of archaeological finds; consideration of avoidance and minimization of impacts to significant archaeological resources (in consultation with the Town); mitigation measures including archaeological excavation, laboratory analysis, reporting, and curation; and consultation with Indian Tribes if resource is prehistoric in nature.
- CUL-3:** If any human remains are encountered during construction, all work in the vicinity of the discovery must be halted and the Town notified in accordance with State of California Public Resources Health and Safety Code § 7050.5-7055 and § 5097.98). The Professional Guide for the Preservation of Native American Remains and Associated Grave Goods shall be utilized to protect Native American burial sites should they be discovered.

## GEOLOGY AND SOILS

- GEO-1:** Prior to grading or building permit issuance for the individual single-family lots, a soils report for the proposed building foundations will be required and any recommendations or mitigation measures specific to those foundations shall be incorporated and shall be assured by the Community Development Director and Public Works Director.
- GEO-2:** The Project shall obtain a Engineered Grading Permit from the Town in accordance with the erosion and drainage design standards outlined in Municipal Code Section 12.08.
- GEO-3:** Construction shall be consistent with the Town of Mammoth Lakes Seismic Zone IV standards.

## HAZARDS AND HAZARDOUS MATERIALS

- HHM-1:** Structures within the identified run-out zone shall be designed and constructed to meet the required design-year avalanche impacts as specified in the November 4, 2003 Arthur I. Mears report entitled, Avalanche Mitigation Analysis, Tamarack Road Lots, Mammoth Lakes, California.
- HHM-2:** Structures within the Snow Deposition Design (SDD) shall be designed meet the following minimum criteria:
- a. Structures shall be located a minimum of 30 feet to the windward of the point at which the slope steepens to 30 degrees.
  - b. Structures shall be located at a minimum of 1.5 times their height above grade to the windward of the point at which the slope steepens to 30 degrees. Should the structures be multilevel, each level shall conform to this 1.5 times factor.
  - c. Roof, walkways, and driveways shall be located or positioned such that shedding snow or plowed snow is not directed toward the starting zones.
- HHM-3:** The following factors should be considered when designing avalanche mitigation into future structures to be built on Project parcels.
- a. Windows and doors exposed to avalanche shall be designed for avalanche impact.
  - b. Alternate entrances safe from avalanches shall be included.
  - c. Final loads may require adjustment by an impact factor.
  - d. Building orientation, shape, or other factors could change the loads.
  - e. Impact decreases linearly with height.
- HHM-4:** Prior to grading permit and/or building permit issuance for each Project parcel, an assessment of the proposed building site orientation and structure design shall be assessed by a certified structural engineer and/or avalanche consultant to ensure that all avalanche hazard mitigation design requirements are met.

## HYDROLOGY AND WATER QUALITY

**HWQ-1:** A Engineered Grading Plan shall be submitted for grading activities. The Project shall comply with the National Pollution Discharge Elimination System (NPDES) requirements for construction projects, the MOU between the Town of Mammoth Lakes and Lahontan Regional Water Quality Control Board (LRWQCB), and the Town Municipal Code. Construction activities subject to these requirements shall include clearing, grading, and disturbances to the ground such as stockpiling or excavation, but not including regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Grading Plan shall be designed and incorporate Best Management Practices (BMPs) into plans and Storm Water Pollution Prevention Plan (SWPPP) as required. All temporary off-site Best BMPs are required to be removed in the Town right-of-way after October 15<sup>th</sup> or before April 30<sup>th</sup> each year. The applicant shall maintain the BMP's on-site at all times and shall conform to the permits during construction.

## NOISE

**N-1:** Prior to grading operations, the Project shall demonstrate, to the satisfaction of the Town of Mammoth Lakes Community Development Department, that the project complies with the following through a construction management plan reviewed and approved by the Town:

- a. All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- b. Construction noise reduction methods such as shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, maximizing the distance between construction equipment staging areas and occupied residential areas, and use of electric air compressors and similar power tools, rather than diesel equipment, shall be used where feasible.
- c. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.
- d. During construction, stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.
- e. Operate earthmoving equipment on the construction site as far away from vibration sensitive areas as possible.
- f. A project sign shall be clearly posted at the primary construction entrance as an information source for surrounding property owners and residents. The sign shall include the following minimum project information: project name, general contractor, normal construction hours, normal workdays, and local telephone number of job superintendent. If the Town of job superintendent receives a complaint, the superintendent shall investigate,

take appropriate corrective action, and report the action taken to the Town Community Development Department.