

ORDINANCE NO. 2009-06

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, ADOPTING DISTRICT ZONING AMENDMENT 2007-01 TO AMEND THE NORTH VILLAGE SPECIFIC PLAN AND MAKING FINDINGS IN SUPPORT THEREOF

THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. GENERAL FINDINGS. The Town Council makes the following findings in connection with the adoption of this Ordinance:

A. Mammoth Crossing Ventures, LLC. has requested approval of applications for District Zoning Amendment No. 2007-01, to amend the North Village Specific Plan to modify development and other related standards that govern the future development of the three Mammoth Crossing sites at the northwest, southwest, and southeast corners of Main Street/Lake Mary Road, and Minaret Road. The North Village Specific Plan as amended by DZA 2007-01 is on file in the Office of the Town Clerk and is incorporated herein by this reference.

B. A Draft EIR for the Project was prepared to address the environmental effects, mitigation measures, and project alternatives associated with the Project and actions related thereto.

C. The Draft EIR for the Project (State Clearinghouse # 2007112002) was prepared pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines and was transmitted to the State Clearinghouse and circulated from public review during a public comment period from August 1, 2008 to September 17, 2008.

D. The Final EIR for the Project was prepared pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines.

E. The Planning Commission conducted a duly Noticed Public Hearing on the application request on June 24, 2009 which was continued to July 8, 2009, at which times all those desiring to be heard were heard. Following the receipt of all oral and written testimony, the Planning Commission closed the public hearing and adopted Resolution No. 2009-04 recommending certification of the Final EIR and approval of the Project to the Town Council, with conditions.

F. The Planning Commission considered, without limitation, the staff report to the Planning Commission with all attachments and exhibits, the 2007 General Plan, oral and written evidence submitted at the hearing, Final EIR, and all other items listed in Planning Commission Resolution 2009-04.

G. The Town Council conducted a Noticed Public Hearing on the application request on September 2, 2009, which was continued to September 16, 2009, at which times all those desiring to be heard were heard. Following the receipt of all oral and written testimony, on September 16, 2009, the Town Council closed the public hearing on the application.

H. In considering its approval of the applications, the Town Council considered, without limitation, the agenda bill with all attachments to the Town Council with exhibits, including the Final EIR.

Section 2. CEQA FINDINGS. The Town Council makes the following findings and takes the following actions pursuant to the requirements of the California Environmental Quality Act (CEQA):

A. The Final EIR was certified as being prepared in compliance with CEQA pursuant to Town Council Resolution No. 2009-52.

B. That the Town Council finds that General Plan Amendment 2009-02 and District Zoning Amendment 2007-01 were part of the project analyzed in the Final EIR for the Project.

C. The Town Council has reviewed and hereby adopts the findings contained in Exhibit 1 to Resolution 2009-52, including but not limited to, the findings related to the compliance of the Final EIR with the requirements of CEQA and the Project's impact to various environmental resources.

D. That the Town Council has reviewed and hereby adopts the findings contained in Exhibit 2 to Resolution 2009-52, including but not limited to, the findings Town Council has reviewed and considered the Draft Environmental Impact Report (DEIR), Final EIR, and associated technical appendices for the Mammoth Crossing Project ("Final EIR") and all other oral and written evidence in the record prior to acting on General Plan Amendment 2009-02 and District Zoning Amendment 2007-01.

E. That the Town Council has reviewed and hereby adopts the Findings of Fact and Statement of Overriding Considerations contained in Exhibit 3 to Resolution 2009-52, including but not limited to, a discussion of each project impact, changes or alterations that have been made to avoid or substantially lessen impacts identified, impacts that are considered significant and unavoidable, determinations as to the infeasibility of each project alternative and statements of overriding consideration as to the impacts that could not be mitigated to less than significant.

F. That the Town Council has reviewed and hereby adopts the findings and the Mitigation Monitoring and Reporting Plan contained

in Exhibit 4 to Resolution 2009-52 and incorporates the Mitigation Measures listed therein into the project.

Section 3. ADDITIONAL FINDINGS FOR DISTRICT ZONING AMENDMENT 2007-01.

The Town Council finds that District Zoning Amendment No. 2007-01 is consistent with the General Plan, based upon the findings contained in Exhibit 1 to this Ordinance.

Section 4: ADOPTION OF DISTRICT ZONING AMENDMENT 2007-01

Based upon the findings contained in this Ordinance and all other evidence in the record of proceedings in this matter, the Town Council hereby adopts District Zoning Amendment No. 2007-01, subject to the conditions of approval contained in Exhibit 2, attached hereto and incorporated herein. The North Village Specific Plan as amended by DZA 2007-01 is on file in the Office of the Town Clerk and is incorporated herein by this reference.

Section 5: EFFECTIVE DATE OF ORDINANCE

This ordinance shall become effective and enforceable thirty (30) days from and after the date of its adoption.


Section 6: POSTING

The Town Clerk shall, within fifteen (15) days after the passage of this Ordinance, cause it to be posted at the duly designated posting places established by resolution of the Town Council, published once in a newspaper of general circulation, and entered in the Book of Ordinances of the Town.

Section 7: SEVERABILITY

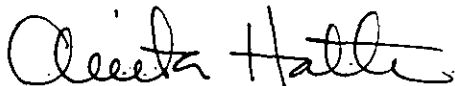
If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

The foregoing Ordinance was introduced on the 2nd day of September 2009, and PASSED, APPROVED AND ADOPTED on the 7th day of October 2009.



NEIL MCCARROLL, Mayor

ATTEST:



ANITA HATTER, Town Clerk.

EXHIBIT 1

FINDINGS FOR DISTRICT ZONING AMENDMENT 2007-01, AMENDING THE NORTH VILLAGE SPECIFIC PLAN

(Municipal Code Section 17.72)

1. Consistent with the evidence contained within the staff report, Final Environmental Impact Report, and provided at the public hearing, the Town Council finds that proposed amendments to the North Village Specific Plan are consistent with the General Plan because:

a. The General Plan neighborhood and district character section requires that the North Village District should be an intensely focused entertainment-retail district, and a location for more urban development that includes a range of uses including hotels, restaurants, visitor-oriented and general commercial operations. In accordance with the characteristics specified for the district, the Specific Plan Amendments would require or encourage future development of the Mammoth Crossing-sites to:

- Provide pedestrian-oriented sidewalks plazas and courtyards, and safe pedestrian crossings of main streets.
- Include a variety of lodging facilities, supported by meetings facilities, restaurants, and entertainment that would contribute to a successful visitor-oriented entertainment retail district.
- Provide animating streetfront retail along Lake Mary Road and Minaret Road.
- Enhance non-vehicular links to mountain portals, including development within close proximity to the Village gondola.
- Include site planning that provides connections to the Lake Mary bike path.
- Provide parking sufficient for all of its proposed uses, and include additional structured and on-street public parking.
- Provide on-site workforce housing and employment in proximity to transit.

b. The proposed amendments would be consistent with the North Village Specific Plan (NVSP) land use designation as stated in the General Plan, including creating a pedestrian-oriented entertainment retail and lodging district, with uses that include hotels and similar visitor accommodations, along with supporting restaurants, retail and service, and providing for future development projects that enhance the visitor experience.

c. The proposed amendments will accomplish the following General Plan goals and policies through the following:

- Encouraging improvements to neighborhood character and economic vitality by redeveloping existing deteriorating sites, providing street-front retail along Lake Mary Road and contributing to the critical mass of lodging and retail uses needed to support a successful North Village district. (Policies L.1.C. and Neighborhood District Character)
- Continuing to support the development of three existing disturbed infill sites, with a mixture of new lodging, retail and residential uses, and would, as suggested in the conceptual site plan for the Mammoth Crossing sites, allow for clustered development that preserves existing trees and focuses development towards disturbed portions of each site. (Policies C.2.O, C.4.A through C.4.D, and L.1.C.)
- Allowing for an enhanced suite of feet-first measures to be incorporated into a future project, including improved pedestrian routes and mid-block connectors, transit facilities, and bicycle facilities. The conceptual project, at the highest level of density allowed in the amended zoning, would also include 100 spaces of public parking (in addition to those required for its own uses), assisting in meeting the current parking deficit in the North Village. (Policies M.3.B., M.3.E., M.4.A., M.4.B., M.5.B., M.6.A., M.6.B., M.7.B.), Crossing.
- The overall potential traffic, noise, air quality and other physical impacts related to increased density would be mitigated by the placement of density in a district with access to transit, opportunities for feet first connectivity and mixed uses, and walking proximity to the Village Gondola and a range of uses. (Policies L.5.B., M.3.C. and Neighborhood and District Character Element)
- Requiring future development to provide transit stops, shuttles, multi-use paths and pedestrian paths, and bicycle parking and storage to support feet-first mobility (Policies M.3.B, M.3.D, M.4.B, and M.5.B).
- Requiring future development to enhance the publicly accessible trail system through multi-use paths and pedestrian paths. Through the incorporation of conditions of approval the proposed feet-first mobility circulation system would connect to the Town's existing sidewalks (Policies P.5.B, P.5.C, and M.4.B, and Neighborhood and District Character Element).
- Adhering to the existing design requirements of the NVSP and applying site-specific development guidelines for the distribution and arrangement of height and massing that would mitigate potential effects on visual character and views. (Policies C.2.J, C.2.V., C.2.W. and C.2.X.)
- Continuing to apply workforce housing requirements of the existing NVSP, including the provision of a significant increment of workforce housing on-site. (Policies L.2.A and L.2.B.)
- Requiring feasible implementation of measures for energy resources and conservation, green building technology, and reduction of greenhouse gas emissions (Goals R.6, R.7, R.8, and R.11).

- Requiring future development on the Mammoth Crossing sites to fully mitigate its potential traffic impacts through installation of intersection improvements. (Policies M.3.A. and M.7.A).

2. Consistent with the evidence contained within the staff report, Final Environmental Impact Report and provided at the public hearing, the Town Council finds that the proposed Specific Plan amendments are consistent with the intent of the Town of Mammoth Lakes Municipal Code, because the specific standards and development requirements for the North Village would continue to be regulated by a Specific Plan, as allowed for in the Municipal Code.

3. Consistent with the evidence contained within the staff report, Final Environmental Impact Report and provided at the public hearing, the Town Council finds that the proposed Specific Plan amendments are consistent with the Vision Statement because:

- They would support the creation of an intensive mixed-use, infill development plan within the Town's Urban Growth Boundary, and within an area designated and envisioned as a hub for visitor-oriented uses including lodging and commercial development.
- Development of the sites under the revised Specific Plan will create new affordable housing, market rate units, and commercial that will help to house workers and provide services in a central location that is near transit and other amenities.
- The amended Specific Plan will also help to realize the Community Vision of becoming a premier destination resort, by allowing for the construction of several hundred new rooms of transient lodging, which will be obliged, by policy, to have the management and operational characteristics to ensure it provides true hot-bed hotel lodging. The development of the Mammoth Crossing sites allowed for by the Specific Plan amendments would also contribute a significant increment of visitor-oriented commercial development, sited so as to encourage an animated, street level retail district within the North Village.

4. Consistent with the evidence contained within the staff report, Final Environmental Impact Report and provided at the public hearing, the Town Council finds that the change is in the interest of or will further the public health, safety, comfort, convenience and welfare because with incorporation of mitigation measures included in the FEIR, the project has no impact on public health, safety, comfort, convenience and welfare.

5. Based upon all the evidence in the record, including the staff report, Final Environmental Impact Report and public testimony provided at

the public hearing, the Town Council finds that the Specific Plan Amendment will not adversely affect the established character of the surrounding neighborhood nor be detrimental to adjacent properties because the changes would continue to be consistent with the desired character and land use objectives of the North Village Specific Plan area, and because a future project would be subject to the design guidelines and requirements of the Specific Plan that would ensure development of the Mammoth Crossing sites is harmonious with surrounding properties. Furthermore, the Town Council finds, in consideration of the recommendation of the Planning Commission, that the same finding is implicit in findings 1, 2, 3 and 4 in the Planning Commission recommendation to approve DZA 2007-01.

6. Consistent with the evidence contained within the Staff report, Final EIR, and provided at the public hearing, the Town Council finds that although development of the project will result in unavoidable impacts to aesthetics, air quality, and noise the project will result in the community benefits listed in Exhibit 4 of Resolution 2009-52.

7. Consistent with the evidence contained within the staff report, Final EIR, and provided at the public hearing, the Town Council finds that the neighborhood infrastructure is adequate or will be modified to accommodate any increase in intensity of land use if such would occur from a change in the zone classification because the proposed mitigation measures proposed in the EIR and implemented through the Mitigation and Monitoring Program will reduce the impacts of the project, and along with conditions of approval, and will require new neighborhood infrastructure including sidewalks, pedestrian connections through the project site, and transit improvements.

EXHIBIT 2 Conditions of Approval

Standard Conditions

1. This approval authorizes the Mammoth Crossing North Village Specific Plan amendments. The amendments to the North Village Specific Plan include revised standards for density, height, setbacks and other related text and graphic changes to allow for the future development of high intensity lodging, residential and commercial uses on the properties referred to hereinafter as the "Mammoth Crossing" sites. A companion application and approval, approved by separate resolution of the Town Council was for General Plan Amendment 2009-02 which modified the stated number of rooms of density allocated to the NVSP land use area from 3,020 to 3,317 rooms.
2. This resolution of approval, as conditioned herein, shall be recorded for the subject properties by the Mono County Recorder's Office to commence the approved use on the properties or the issuance of any building permits for new or remodeled structures.
3. At all times the sites shall be maintained in a neat, clean and orderly manner.
4. Applicant shall indemnify and defend the Town, its officials, consultants, employees and representatives (the "Town Indemnitees") with respect to any legal action or proceeding, including any involving CEQA (the "Litigation") initiated by a third party against the Town's final approval or final conditional approval of the application for the Mammoth Crossing North Village Specific Plan Amendments (DZA 2007-01, GPA 2009-02) requesting an amendment to the North Village Specific Plan, amendment to the General Plan, and certification of the Mammoth Crossing Project Environmental Impact Report (the "Project Approvals"); provided, however, that if any Town Indemnitee is involved in bringing the Litigation, this indemnification shall not be applicable to him or her personally. Applicant's obligation to defend and indemnify, as set forth in this condition, shall expire once the applicable statute of limitations for the discretionary and ministerial approvals associated with the Project Approvals has run.

In the event any Litigation is filed, Applicant shall select and retain legal counsel ("Counsel") to represent both the Town and Applicant with respect to the Litigation, and Counsel shall cooperate with Applicant and the Town in the course of defending the Litigation. Applicant anticipates choosing as Counsel to provide the Town's and Applicant's legal defense in any Litigation the law firm of Foster Pepper PLLC., subject to either party's right to change counsel if Counsel does not provide adequate and timely professional services. Applicant shall also pay all filing fees, court

costs and similar out-of-pocket expenses required for the Town and Applicant to defend the Litigation. However, if the Town Attorney elects to appear (either in person or by his designee) in any Litigation, Applicant shall not be responsible for paying any fees, costs, attorneys' fees or expenses resulting from unreasonable actions taken by the Town against the written advice of Counsel. The Town shall cooperate with Counsel's defense of the Litigation, and shall make its records (other than documents privileged from disclosure) and personnel available to Counsel as may be reasonably requested by Counsel in connection with the Litigation.

5. 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 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.
6. Where compliance with the conditions of approval or applicant initiated changes to the North Village Specific Plan require additional staff work, that time shall be billed at the Town's established billing rates. Prior to the issuance of any additional permits, the applicant shall pay all outstanding costs for the processing of this application.
7. All new improvements constructed on the Mammoth Crossing sites shall be in compliance with all local, state and federal laws, statutes, ordinances, regulations, rules, directives, orders, judgments, decrees, permits, approvals and the like requirements applicable thereto and in force at the time thereof ("applicable law"), and as may be legally modified by a development agreement. "Local, state and federal" applicable law shall include, without limitation, the applicable law of the Town of Mammoth Lakes; County of Mono; Mammoth Community Water District; the Mammoth Lakes Fire Protection District; the CRWQCB Lahontan District; California Department of Transportation (Caltrans); US Army Corps of Engineers; Great Basin Air Pollution Control District; OSHA; State of California; and United States of America.
8. Prior to receipt of a grading or demolition permit, the applicant shall obtain a secondary source permit or letter of exemption from the Great Basin Unified Air Pollution Control District.
9. Water and sewer improvements require a construction permit from Mammoth Community Water District. Prior to the Town authorizing any construction, the applicant shall obtain water and sewer permits from Mammoth Community Water district and pay applicable fees to the District.
10. Throughout all of the various phases of project construction, public trails and bike lanes must be maintained in a safe and usable condition during construction. Trails or bike lanes that are to be relocated must be

relocated prior to removal of the existing facility. Trails and/or bike lanes shall be constructed at the same time as any or all adjacent roadway segments are constructed or improved.

11. The applicant shall submit to the Town, within 5 days of the Town Council decision, payment of the Environmental Impact Report Fee for the Mammoth Crossing Project Environmental Impact Report ("EIR") made out to the County where the filing is made at the time of the Notice of Determination. The EIR fee is \$2,768.25 plus \$50 processing fee for the County (total \$2,818.25).

Special Conditions

12. Town staff shall prepare the final, formatted version of the amended North Village Specific Plan, including all appendices, in Word format that can be edited by Town Staff for any future North Village Specific Plan amendments. The applicant shall agree to reimburse the Town for the staff time to produce this final version, which shall be billed at the Town's established billing rates, and for the direct costs of printing of ten (10) copies of the amended Specific Plan:

- a. The Specific Plan shall be revised to reflect any changes approved by the Planning Commission and/or Town Council.

13. All future development on the Mammoth Crossing sites shall be consistent with Mitigation Measures established in the Mammoth Crossing EIR, and with all other Mitigation Measures specified in the 1999 North Village Specific Plan Amendment Subsequent Program EIR.

14. The Mammoth Crossing EIR relied on impact fees to mitigate various environmental impacts (e.g. parks and recreation, police, fire protection, and traffic). If adjustments are made to impact fees by the Town, as may be made through a development agreement or other Town Council approval, the Town shall make findings that the adjustments still mitigate impacts to the levels identified in the EIR. Should adjustments to fees be requested by the applicant, and not at the initiative of the Town, the burden to demonstrate ongoing adequacy of fees to mitigate project-related impacts shall be upon the applicant, including preparation of new environmental studies pursuant to CEQA.

15. Additional requirements not identified in the amended North Village Specific Plan, including but not limited to additional CEQA mitigation measures and additional conditions of approval, may be required at time of subsequent permits approvals (e.g. use permits, tentative maps, grading permits, building permits, etc.), based on conformance review with the Mammoth Crossing Environmental Impact Report and the Specific Plan.

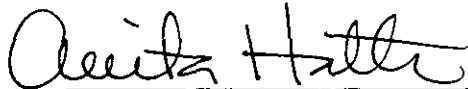
TOWN OF MAMMOTH LAKES

Notice is hereby given that on September 16, 2009 the Town Council introduced an Ordinance entitled:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES,
STATE OF CALIFORNIA, ADOPTING DISTRICT ZONING AMENDMENT 2007-01 TO
AMEND THE NORTH VILLAGE SPECIFIC PLAN AND MAKING
FINDINGS IN SUPPORT THEREOF.

A copy of the complete text of the Ordinance is posted and may be read at the Town Offices,
Minaret Mall, Old Mammoth Road, Mammoth Lakes, and/or a copy may be obtained from the
office of the Town Clerk at a nominal charge.

Dated: September 17, 2009



ANITA HATTER, Town Clerk
Town of Mammoth Lakes

TOWN OF MAMMOTH LAKES

Notice is hereby given that on October 7, 2009 the Town Council adopted an Ordinance entitled:

ORDINANCE NO. 09-06

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES,
STATE OF CALIFORNIA, ADOPTING DISTRICT ZONING AMENDMENT 2007-01 TO
AMEND THE NORTH VILLAGE SPECIFIC PLAN AND MAKING
FINDINGS IN SUPPORT THEREOF.

by the following vote:

AYES: Councilmembers Bacon, Harvey, Sugimura, Mayor Pro Tem Eastman, and Mayor
McCarroll

NOES: None

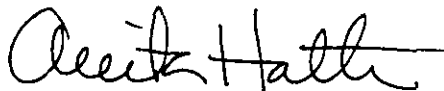
ABSENT: None

ABSTAIN: None

DISQUALIFICATION: None

A certified copy of the complete text of the Ordinance is posted and may be read at the Town
Offices, Minaret Mall, Old Mammoth Road, Mammoth Lakes, and /or a copy may be obtained
from the office of the Town Clerk at a nominal charge.

Dated: October 8, 2009



ANITA HATTER, Town Clerk
Town of Mammoth Lakes

