

RESOLUTION NO. 10-17

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA,
REJECTING THE APPEAL AND CONFIRMING THE PLANNING
COMMISSION'S APPROVAL OF VESTING TENTATIVE TRACT
MAP 09-003, USE PERMIT 09-003, DESIGN REVIEW 09-005,
AND ADJUSTMENT 09-004

TO ALLOW A MIXED-USE PROJECT FOR PROPERTY
LOCATED AT 164, 202, & 248 OLD MAMMOTH ROAD
(APN: 035-230-005, -006, -007)

WHEREAS, a request for consideration of a Permit was filed by Severy Realty group on behalf of the owner, Metric Mammoth LLC, to allow a mixed-use project that includes 340 residential units with up to 488 lodging rooms and 8 units of on-site workforce housing, outdoor public events plazas and associated amenities, 19,500 square feet of retail, 17,000 square feet restaurant space, 9,500 square feet of conference space, a 4,500 square foot quality spa and wellness center, and subterranean parking capacity for no fewer than 619 vehicles, in accordance with Section 10.0 of the Clearwater Specific Plan, for property located within the Clearwater Specific Plan at 164, 202, and 248 Old Mammoth Road.

WHEREAS, An Environmental Impact Report (EIR) for the Clearwater Specific Plan (State Clearinghouse #20066012041) was prepared pursuant to the California Environmental Quality Act and the State CEQA Guidelines to address the environmental effects, mitigation measures, and project alternatives associated with the Clearwater Project and actions related thereto; and

WHEREAS, The EIR for the Clearwater Specific Plan was circulated for a 45-day review period on December 14, 2006 and was certified by the Town Council on January 7, 2009; and

WHEREAS, The Town Council adopted a Statement of Overriding Considerations as a part of the EIR which is incorporated by reference; and

WHEREAS, the Planning Commission conducted a Noticed Public Hearing on the application request on March 10, 2010, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning Commission considered, without limitation:

1. The staff report to the Planning Commission with exhibits;
2. The State Map Act, Clearwater Specific Plan, General Plan, Municipal Code, Design Guidelines, and associated land use maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project plan packet dated received by the Town of Mammoth Lakes on February 8, 2010; and

WHEREAS, the Planning Commission approved the project and made the following findings, and the Town Council affirms those findings, pursuant to Section 17.60 of the Mammoth Lakes Municipal Code and Sections 66474 and 66498.1 of the Subdivision Map Act:

(SEE EXHIBIT A-1 through A-6)

WHEREAS, Kirk Stapp, a private citizen representing a group of appellants, submitted an appeal of the Planning Commission's decision pursuant to Municipal Code 17.68; and

WHEREAS, the Town Council conducted a Noticed Public Hearing on the application request on April 21, 2010, at which time all those desiring to be heard were heard; and

WHEREAS, the Town Council considered, without limitation:

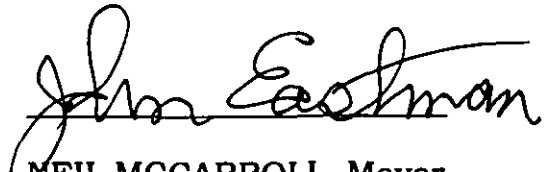
1. The staff report to the Planning Commission and agenda bill to Town Council with exhibits;
2. The State Map Act, Clearwater Specific Plan, General Plan, Municipal Code, Design Guidelines, and associated land use maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project plan packet dated received by the Town of Mammoth Lakes on February 8, 2010; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council, in its independent judgment, finds that this project is consistent with the

Clearwater Specific Plan Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) Guidelines.

BE IT FURTHER RESOLVED that the Town Council of the Town of Mammoth Lakes hereby denies the appellant's request and upholds the Planning Commission's approval of Vesting Tentative Tract Map 09-003, Use Permit 09-003, Design Review 09-005, and Adjustment 09-004 subject to conditions as outlined in the Planning Commission Resolution.

APPROVED AND ADOPTED THIS 5th DAY of MAY, 2010


NEIL MCCARROLL, Mayor

ATTEST:

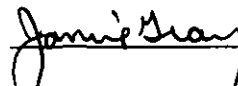

JAMIE GRAY, Town Clerk

EXHIBIT A-1

Resolution No. TC-10-

VTTM 09-003, UPA 09-003, ADJ 09-004, DR 09-003

FINDINGS FOR USE PERMIT

(Municipal Code Section 17.60.070)

1. Consistent with the evidence contained within the Agenda Report and provided at the public hearing, the Town Council finds that the proposed use is consistent with the General Plan because hotel, condominium-hotel, workforce housing, street front retail along Old Mammoth Road, and a large public plaza intended for use as an event venue are allowed within the Clearwater Specific Plan designation in accordance the goals and policies of the General Plan.
2. The Town Council finds that the proposed location of the uses are in accord with the objectives and purpose of the zones in which they are located because the Land Use Areas 1-3 of the Clearwater Specific Plan are intended for hotel, condominium-hotel, workforce housing, street front retail, public plazas, and conference space uses in accordance with zoning objectives and purpose of the Clearwater Specific Plan.
3. The Town Council finds that the proposed site is adequate in size and shape and has adequate access for the proposed use because the project meets lot coverage, setbacks, and access standards of the Town.
4. The Town Council 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 EIR and will include street and sidewalk improvements, pedestrian paths though the project site, a transit stop on Old Mammoth Road, as well as other improvements that will ensure compatibility with surrounding uses.
5. The Town Council finds that the proposed uses comply with the applicable sections of the zoning regulations because the project meets the Clearwater Specific plan requirements and standards in all areas.

EXHIBIT A-2

FINDINGS FOR VESTING TENTATIVE MAP APPROVAL

(State Map Act Section 66474 and 66498.1)

1. The proposed map is consistent with applicable general and specific plans 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 Clearwater Specific Plan. The Council further finds that the proposed mixed-use development complies with Clearwater Specific Plan 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.
2. The design and improvements of the project are consistent with General Plan standards since the project complies with the development standards of the Clearwater Specific Plan and with all other applicable Town Ordinances and applicable agency requirements in effect at the time the tentative map request was submitted for review and considered by the Town Council.
3. The site is physically suitable for the type of development because the proposed buildings are situated on the site such that maximum solar exposure is available to the public areas and the project is well below the permitted lot coverage. The project will not adversely impact significant natural landforms since no significant landforms were identified on the property.
4. The site is physically suitable for the proposed density of development because the proposed project is consistent with the density requirements of the General Plan and the Clearwater Specific Plan within buildings that only cover 42% of the total site area.
5. The design of the proposed improvements are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat since the property is not located within an environmentally sensitive area and since the project was found to be consistent with the Clearwater Environmental Impact Report, pursuant to the California Environmental Quality Act (CEQA) Guidelines.
6. The design improvements is not likely to cause serious public health problems since the required mitigation measures reduce health-related impacts to a less than significant level and no evidence has been submitted during the planning review process to indicate that the development would cause any serious public health problems. 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.

7. That 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 the property has access to three existing public streets with approved street alignments and widths, proposes a new public street, and will grant a public access easement to the plaza areas on the site. All utilities and their easements are currently in place on, or can be extended to the property and the proposed project will not impact adjacent property easements and/or common areas shared among condominium owners.

EXHIBIT A-3

FINDINGS FOR DESIGN REVIEW PERMIT

(Municipal Code Section 17.32.120)

1. The design of the project is consistent with the goals, policies, and objectives of the General Plan, the Clearwater Specific Plan, and the provisions of the Municipal Code since it is a mixed-use, hotel project designed with public plaza areas and pedestrian-friendly street frontages.
2. The project design is consistent with the Design Review Guidelines to assure that colors, materials, illumination, and landscaping enhance the image, attractiveness, and environmental qualities of the Town since staff has reviewed the project against the Town's Design Guidelines and found that the project meets the Guidelines, as conditioned, for all components of the project. Additionally, the site plan has been composed to maximize sunlight into public spaces as well as to provide southern exposure and natural light for the buildings while placing the tallest portions of the building in the center of the site so as to effectively screen the mass from adjacent properties.
3. The project will not detract from the value or utility of adjoining properties as a result of inappropriate, inharmonious, or inadequate design since the site is currently run-down and the proposed project will provide new uses and buildings on the site that are consistent with what is intended for this site.
4. The project does not indiscriminately destroy trees or natural vegetation, nor does it create excessive or unsightly grading, indiscriminate clearing of the property, or the destruction of natural significant landforms since the project proposes to save 16 of the 58 existing trees on the site, including a grove of five large trees at the southeast corner of the site.
5. The project ensures an architectural design of structures, materials, lighting, and colors which are appropriate to the function of the project and are visually harmonious with surrounding development and natural landforms, trees, and vegetation since the proposed materials are natural or of a natural appearance, and because the architecture is appropriate for a mountain resort environment.

EXHIBIT A-4

FINDINGS FOR COMMUNITY BENEFITS/INCENTIVE ZONING

1. The proposal would result in a project whose proposed community benefits and increment of development incentives fit the site and relate appropriately to adjacent uses and structures because the project will accommodate the proposed uses and community benefits on site within the maximum development envelope approved in the Clearwater Specific Plan and the project will serve to revitalize this portion of Old Mammoth Road which may serve as a catalyst for other commercial developments in the area. Additionally, the project has been designed with the tallest portions of the building in the center of the site so as to effectively screen the mass from adjacent properties.
2. The proposal will be consistent with the accepted list and prioritization established in Section B.2 of the Community Benefits/Incentive Zoning (CBIZ) Policy (adopted by the Town Council on August 5, 2009 by Resolution No. 09-55) as adopted with the Clearwater Specific Plan; and the proposed benefits would not otherwise result through provisions of the Town's policies, Codes, and other requirements. The project implements the General Plan Main Street/Old Mammoth Road/Shady Rest District Character and is consistent with the accepted community benefits list which is contained within the Clearwater Specific Plan. The Clearwater Specific Plan outlines the following community benefits for the proposed project, all of which are included in the Old Mammoth Place project and have been the subject of financial analysis by KMA and a peer review by EPS, incorporated into these findings by reference:
 - Indoor meeting and conference space.
 - Outdoor public events plaza.
 - Commercial, retail, and restaurant uses along Old Mammoth Road.
 - Underground parking.
 - Pedestrian and vehicular mid-block connectors.
 - Dedication of property for the purpose of improving public rights-of-way and sidewalks and the achieving "complete streets."
 - Public access to the events plaza and mid-block connectors secured through easements.

3. The proposal reflects a fair financial balance of costs and benefits to the applicant and the Town in that the financial analysis for the project concluded that the financial value of the community benefits (excluding fiscal/economic benefits) outweigh the projected economic benefits to the developer by more than 10 times. The residual land value increase associated with the density bonus is estimated at approximately \$2.5 million, whereas the value of the physical benefits provided by the project is estimated at over \$26 million. From this, it can be concluded that the award of additional density will not result in a disproportionate "windfall" to the developer. Further, the benefits accruing to the community from the project's proposed features and amenities have been determined to achieve community goals, as defined in the General Plan, to a greater extent than would be achieved through the payment of impact fees and other exactions that may be foregone pursuant to CBIZ Policy A.4.
4. The project will not result in unacceptable environmental or other impacts as assessed through CEQA and the People at One Time (PAOT) and Impact Assessment. An environmental compliance analysis was completed for this project and it was determined that the project will not result in any impacts above those analyzed in the EIR for the project. The PAOT and Impact Assessment (adopted by the Town Council on June 17, 2009 by Resolution 09-34) show that the proposed project will not result in unacceptable impacts.

EXHIBIT A-5

FINDINGS FOR ADJUSTMENT

(Municipal Code Section 17.76)

1. The adjustment requests an increase of not more than 10% of the permitted height of the buildings along Old Mammoth Road and Laurel Mountain Road, resulting buildings with a height not to exceed 38.5 feet with two additional feet permitted for appurtenances. This request is a permitted adjustment, pursuant to Municipal Code section 17.76.010.B.2.
2. The adjustment contributes to a strong project design by providing architectural variation along the street frontages, which contributes to the overall character of the project and enhances the pedestrian spaces along Old Mammoth Road and Laurel Mountain Road.

EXHIBIT A-6

CEQA Findings

The Town of Mammoth Lakes prepared an environmental conformance analysis for the Old Mammoth Place project and determined that the previously certified Clearwater Specific Plan EIR (State Clearinghouse #2006012041) sufficiently analyzed the Old Mammoth Place project and further environmental review was not necessary pursuant to CEQA Guidelines Section 15162(a). The following findings were made:

(1) No substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

STATE OF CALIFORNIA)
COUNTY OF MONO) ss.
TOWN OF MAMMOTH LAKES)

I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Resolution No. 10-17 adopted by the Town Council of the Town of Mammoth Lakes, California, at a meeting thereof held on the 5th day of May, 2010, by the following vote:

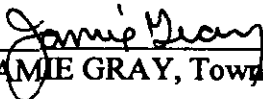
AYES: Councilmember Sugimura, Mayor Pro Tem Eastman, and Mayor McCarroll

NOES: Councilmember Harvey

ABSENT: None

ABSTAIN: None

DISQUALIFICATION: Councilmember Bacon



JAMIE GRAY, Town Clerk