

RESOLUTION NO. 09-55

RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA,
ADOPTING COMMUNITY BENEFITS/INCENTIVE ZONING POLICIES

WHEREAS, on August 15, 2007 the Town Council adopted the General Plan Update, including policies and actions related to community benefits and development projects; and

WHEREAS, extensive information has been developed and public workshops and meeting have been held during 2008 and 2009 to discuss community benefits and incentive zoning policies; and

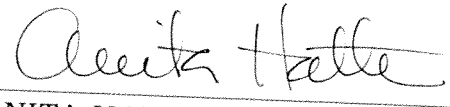
WHEREAS, the Planning, and Tourism and Recreation commissions have reviewed and recommended community benefits and incentive zoning policies.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Mammoth Lakes does hereby adopt the attached Community Benefits/Incentive Zoning Policy Recommendations (See Attachment A).

APPROVED AND ADOPTED THIS 5th day of August, 2009.


NEIL MCCARROLL, Mayor

ATTEST:


ANITA HATTER, Town Clerk

Attachment A

Community Benefits/Incentive Zoning Policies

The following policy recommendations derive from extensive input and direction received from the Town Council, Town Commissions and the community during 2008 and 2009, on the subject of the relationship between discretionary development incentives and community benefits.

A. Community Benefits/Incentive Zoning

The intent of the Community Benefits/Incentive Zoning Policy is to provide regulations for the granting of discretionary development incentives to property developers to encourage the provision of certain community benefits or amenities. This policy acknowledges that the Town's adopted municipal code, plans, and guidelines establish standards and requirements for quality planning design, and construction; ongoing maintenance and operation; reasonable provision of program and infrastructure; and mitigation of project impacts. Project applications that meet Town standards and are not seeking discretionary development standards are not subject to this Community Benefits/Incentive Zoning Policy.

1. *Allow for the granting of discretionary development incentives in exchange for community benefits (as defined in other provisions of this policy), in accordance with relevant policies of the 2007 General Plan, including Policy L.3.F., L.5.G., the concepts contained therein as they may apply to other areas of the town, and the following objectives:*
 - a. To enhance the function of the town as a successful year-round resort community, in accordance with the Town of Mammoth Lakes General Plan and Community Vision, and related implementing documents including the Destination Resort Community and Economic Development Strategy (DRCEDS), and facilities Master Plans.
 - b. To provide facilities and amenities to increase the recreation and leisure, social, community character, mobility and environmental amenities available to Mammoth Lakes' residents and visitors, beyond those ordinarily achievable through the Town's other Codes, policies and regulations.
 - c. To ensure that the granting of development incentives provides desired benefits and amenities to the community, commensurate with the financial incentive conferred to an applicant in the form of additional land value or development profit.
 - d. To provide a clearly defined review process for evaluation of proposed incentives and the public benefits offered, including opportunity for public review and comment.

2. *Grant discretionary development incentives in exchange for community benefits only when the community benefits offered would not otherwise be required or likely to result from the applicable planning process before the Town.*
 - a. Community benefits shall be in addition to any items that are or would be required under other provisions of the General Plan or Municipal Code, applicable Specific Plans or Master Plans, Development Impact Fee program, required or allowed for by State Housing Law, or based on mitigation measures required pursuant to the California Environmental Quality Act.
 - b. Community benefits eligible for discretionary development incentives shall be as specified in Section B of these policy recommendations.
3. *Apply the community benefits policy within the existing development standards and requirements of the General Plan.*
 - a. While the General Plan's defined standards provide the primary guidance for incentive zoning, there is nonetheless an understanding that an applicant may request legislative amendments to the Zoning Code, General Plan, and existing Specific Plans and Master Plans, and that the Town is obliged to consider such requests. Therefore, these policies may also be applied as a tool for the Town to consider and evaluate those requests.
 - b. No provision of this policy shall be interpreted to imply that an application requesting development incentives, density above the base of 40 rooms per acre for hotel and lodging uses, or density above existing standards shall or should be granted, even if a project also proposes community benefits. All such proposals shall continue to be considered on their merits, and on the basis of all relevant analysis and information, including the General Plan consistency, CEQA review, PAOT and Impact Assessment Policies, district planning, and other studies.
 - c. The Town Council and/or Planning Commission shall retain the ultimate authority regarding the award of development incentives in exchange for community benefits.
4. *In order to balance the desire to achieve benefits described in this policy with the cumulative impacts of growth, impact fees (including affordable housing, development impact fees, and public art fees) are not applied to square footage or density provided as community benefits or granted as an incentive.*
5. *This Community Benefits Incentive Zoning policy is intended as a "bridge" framework, to be applied to all pending project applications and plan documents until the Town has completed Community Planning documents and codified them. Once codified, the Town will have substantially established land use and development policies (including clearly specified limits on height and density) that implement the Town of Mammoth Lakes General Plan.*

- a. Set policies and standards through Community Planning documents, which are tied to impacts and desired community outcomes for individual districts and subjects:
 - i. Community Planning documents may include Neighborhood District Plans, Specific Plans, Mobility Plan, Trails System Master Plan, Parks and Recreation Plan, Public Art Plan, etc.
 - ii. Community Planning documents should define community expectations and requirements.
 - iii. Community Planning documents should be developed through a public process that garners community input.
- b. Adhere to policies and standards established in Community Planning documents and the updated Municipal Code

B. Community Benefits

1. *Community benefits shall be defined as "facilities, amenities and project features provided directly, or in the form of financial contributions, above and beyond those that would be otherwise required through applicable planning processes and development standards (see A.2.a, above) that a project may propose in order to qualify for discretionary development incentives."*
2. *A list of allowable community benefits for which incentives may be granted shall be developed, based on the following means, and shall be reviewed and adopted by resolution by the Town Council, at whose discretion the list may be modified. This list shall be reviewed and periodically updated to reflect changing conditions and community priorities, at a minimum once every two years. The list shall reflect both town-wide and place- or district-specific priorities, and facilities funding information based on input from the Town Council, Town Commissions, and the community.*
 - a. Based on the list in the Neighborhood and District Character Element of the General Plan (on page 24), and on the various features and characteristics listed for each neighborhood district listed in that Element. The provision of underground parking shall not be the exclusive consideration in granting a discretionary development incentive.
 - b. As refined or further defined for a particular district through an approved Neighborhood District Plan and its supporting studies.
 - c. To allow for innovative and creative proposals, to reflect site-specific conditions and changes over time, and to reflect technological advances and state-of-the art thinking on topics such as sustainability, other applicant- or community-proposed benefits not otherwise reflected in a. through b., above, may be considered, subject to Planning Commission and Town Council review and approval, and

supported by third-party study as needed.

3. *To assist with evaluation of a particular community benefits proposal, a standard evaluation framework shall be developed and applied, as outlined in Section D, below.*
4. *In the interest of ensuring that new development provides community benefits and amenities supportive of the Town's community vision, and consistent with requirements of the Town and other regulatory agencies, certain components, features, measures, and standards shall be required of all projects without qualifying that project for additional development incentives. These include, but are not limited to:*
 - Features required as project environmental mitigations, pursuant to CEQA.
 - Land use, development, and maintenance and operational requirements established by Town plans, Municipal Code, and typical conditions of approval.
 - Required workforce housing, pursuant to Municipal Code Chapter 17.36, notwithstanding such density bonuses and development concessions for affordable housing, which shall be as allowed under State Law and defined by Government Code Section 65915-65917 or as subsequently amended.
 - Trails, pedestrian and bicycle facilities determined as fulfilling the requirements of the General Plan Mobility Element, Mobility Plan (when adopted), Trails System Master Plan, and General Bikeway Plan as written or subsequently amended.
 - Recreation and amenities and private and/or common open space required by Town plans and the Municipal Code.
 - Payment of Developer Impact Fees and other fees and mitigation fees as provided for in the Municipal Code.
 - High quality architecture, site planning, landscaping, and design to meet the requirements of Town Design Guidelines, the Municipal Code, and the General Plan.
 - Project facilities to meet State energy efficiency, green building or sustainable design standards, or other similar State- or Town-mandated requirements.
 - Features required to meet Town-defined criteria for hotels, including condo-hotels.
 - Other reasonable requirements consistent with adopted Codes and plans that may be determined appropriate for individual projects or sites, at the discretion of the Town.
5. *Community benefits may be provided within any zoning district, subject to the land use and development standards of those zones. Where community benefits contribute to and are a catalyst to implementing a district- or placed-based program and strategy, the preferred option is for the community benefits to be provided on-site or within that district.*

6. *At its discretion, the Town may accept the payment of fees in-lieu of the direct provision of a community benefit(s).*
 - a. Acceptance of in-lieu fees shall only be made where payment of the fee would support the provision of a specific facility that corresponds to the future prioritized list of community benefits.
 - b. If in-lieu fees are accepted, the level of fee shall reflect the actual costs of the targeted community benefit or portion thereof, and any adjustment to account for timing, locational, and implementation risks or benefits passed on to the Town.

C. Incentives Permitted

1. Incentives shall be defined as “discretionary development incentives that may be achieved in exchange for provision of community benefits.” Discretionary incentives may include but are not limited to those described in the following list. Discretionary development incentives should be evaluated and granted as prioritized with preference for building envelope first, financial incentives second and height and density last.

- a. Building envelope: setbacks, lot coverage, and clustering¹;
- b. Financial incentives (such as rebates of fees); and
- c. Height, Square footage and density.

2. The procedure and criteria for the review of discretionary development incentives is described in Section D. This review shall evaluate the scale of the community benefit(s) provided compared to the scale of the incentive(s) provided. Incentives will be granted incrementally commensurate to that relationship. Based on that evaluation, any single amenity or combination of amenities may not qualify for the maximum discretionary development incentive available.

3. Incentives may be achieved within the following Zones: Commercial General, Commercial Lodging, Resort, and Specific Plan. Incentives may also be achieved within other zones for properties subject to an adopted Master Plan, Specific Plan or accepted or adopted Neighborhood District Study/Plan.

D. Procedure and Criteria for Review

The following are the administrative considerations for approval of incentives and community benefits proposed by a project:

1. *Any applicant for a discretionary development incentive shall seek non-binding input from the Town Council as to whether the proposal is worthy of consideration prior to the formal consideration of the application by the Planning Commission. The Town Council shall consider concept-level project information, including but not limited to, plans, illustrations, and project description, after filing an appropriate application with the Town. Authorization of any discretionary development incentive shall be*

¹ In this policy context, “clustering” refers to the massing or grouping of buildings or habitable building area that result in a change to existing building envelope standards.

subject to approval by the Planning Commission or Town Council as established by the decision-making authority in the Municipal Code. .

2. *Criteria and a framework for evaluation of proposed community benefits and requested development incentives shall be developed by staff, including the following criteria:*
 - a. Applicant submittal of sufficient financial evaluation and analysis, information, and evidence to allow for a reasonable assessment of the value of the benefits offered relative to incentives being sought, including proposed community benefits, and conformance with the accepted list and prioritization established in B.2, above.
 - b. Applicant assessment of the economic and/or intrinsic value of the proposed community benefit to the Town as compared with the economic value of the proposed development incentives to the applicant. The Town may request an independent or third party review or verification, by a qualified appraisal expert of its choosing, to validate the valuation submitted by the applicant. This requirement is not intended to imply a need for the applicant to provide or disclose a complete project pro forma. Only the marginal costs of the proposed community benefit and incentive are required to be disclosed in the analysis.
 - c. Assessment of project-related impacts to PAOT and against adopted impact thresholds, and as established in the future by new PAOT and Impact Assessment Policy Recommendations.
 - d. An explanation as to the way in which the proposed amenities will fulfill the Vision, Goals and Policies of the General Plan, and the conformance of the proposed project with the General Plan or applicable community planning documents, and that a reasonable nexus exists between the community benefit provided and the incentive granted.
3. *All applicable requirements of the California Environmental Quality Act shall be complied with as part of the review and hearing process before the Planning Commission.*
4. *Prior to granting approval of a use permit, preliminary map or preliminary site plan based on an incentive proposal, the Planning Commission shall conduct a public hearing on the incentive proposal, and shall make findings with regard to the following:*
 - That 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.
 - That the proposal would be consistent with the accepted list and prioritization established in B.2.; and that such benefits would not otherwise result through provisions of the Town's policies, Codes, and other requirements.
 - That the proposal would reflect a fair financial balance of costs and benefits to the

applicant and the Town.

- That the project does not result in unacceptable environmental or other impacts as assessed through CEQA and the PAOT and Impact Assessment.
5. *Major project applications in process at the time of adoption of these policy recommendations shall be evaluated against this policy framework and the criteria outlined herein.*
 6. *Timely public notice and availability of relevant meeting documents and information.*
 - a. *All relevant meeting materials shall be available on the Town's website and office no less than two weeks prior to a scheduled meeting to consider an application seeking to apply community benefits/incentive zoning policies. The schedule must allow for timely staff review and acceptance of materials prior to posting. If the meeting materials are not available within this timeframe, staff shall postpone or re-schedule the meeting.*
 - b. *All meetings shall be advertised in the paper of record for at least two consecutive weeks prior to the scheduled meeting date.*

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

I, ANITA HATTER, 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. 09-55 adopted by the Town Council of the Town of Mammoth Lakes, California, at a meeting thereof held on the 5th day of August, 2009, by the following vote:

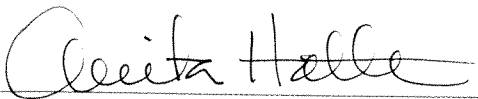
A YES: Councilmembers Sugimura, Mayor Pro Tem Eastman, and Mayor McCarroll

NOES: Councilmembers Bacon and Harvey

ABSENT: None

ABSTAIN: None

DISQUALIFICATION: None



ANITA HATTER, Town Clerk

