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Agenda Item 12  
August 5, 2009  
File No. R09-55  
430-90

**AGENDA BILL**

Subject: Adoption of the Community Benefits and Incentive Zoning Policy Recommendations

Initiated by: Mark Wardlaw, Community Development Director  
Ellen Clark, Senior Planner

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**INTRODUCTION:**

The purpose of this agenda item is to present revised Community Benefits and Incentive Zoning (CBIZ) Policy Recommendations for the Town Council to adopt.

**BACKGROUND:**

The 2007 General Plan includes specific policies and actions about achieving community benefits with new development. To begin implementation of these General Plan actions, staff prepared and issued the 490-page "*Destination Resort: Community and Economic Development*" report in January 2008. The report contained an extensive "Incentive Zoning Programs Case Study Report" section describing the development, purpose, and examples of incentive zoning.

Extensive public workshops were held by the Town Council, Tourism and Recreation Commission and Planning Commission to create these CBIZ policies throughout 2008 and 2009. On April 15, 2009 the Town Council reviewed, formed consensus, and provided direction to staff to finalize the CBIZ Policy Recommendations. Although scheduled for Town Council action on May 6<sup>th</sup> and June 17<sup>th</sup>, the matter has been continued to allow additional review from interested parties.

On July 2<sup>nd</sup>, in order to respond to concerns, staff met with Mr. Dan Dawson and Mr. Jim Smith to discuss issues and potential changes that are described later in this report.

## **ANALYSIS:**

The CBIZ policy recommendations are an essential tool in assisting with the evaluation of development proposals, and in guiding future growth and development towards desired community outcomes. The recommended CBIZ policies set a reasonable bridge framework to evaluate current major legislative permit applications alongside adopted PAOT policies. As Neighborhood District Plans (NDP's) and the zoning code update progress, these policies will be refined and completed.

It is important to note that completion of NDP's and the zoning code update will set the detailed development standards, policies, and expectations of the community and the Town Council. Completion of these efforts is essential to prepare for reinvestment in the community as the economy recovers from this recession. New development will be expected to meet these standards and policies (including CBIZ requirements) reducing the amount and scope of applicants that seek zoning code amendments. In other words, once land use, development standards, building envelope, and density/square footage requirements are set, projects will be expected to meet them.

### **Policy Revisions**

After meeting with Mr. Dawson and Mr. Smith, a number of changes have been made to improve the clarity of intent and purpose of the CBIZ policy. Previous strikeout changes have been accepted in this revised policy and new changes are shown in strike out/underline format in Attachment A. The complete June 17 Agenda Bill is provided as Attachment C for reference.

The following is a summary of the issues that were posed and responses; the changes are reflected in Attachment A..

#### **Issue 1**

Concern: Requiring housing and development impact fees from square footage and density resulting from incentives creates an unintended financial penalty. With impact fees applied, more total square footage/density is required to create the financial ability to fund the amenity and therefore creates an overall greater impact to the community.

Change: New Section A.4:

*"A.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."*

### Issue 2

Concern: Community Benefits Incentive Zoning policy creates the appearance that there is no limit to bartering community values or policies in exchange for amenities.

Change: New section added Section A.5. (this is slightly modified from the adopted PAOT policy):

*"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.*

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

### Issue 3

Concern: Incentives should be granted incrementally in direct proportion to the scale of amenity received (setting a scaling factor was suggested). It should also not be assumed that an automatic granting of twice the base density nor the ability to achieve the maximum incentive(s) sought will be approved.

Changes: B.2.a. modified striking "...of twice the base density." New section C.2. added stating this policy.

*"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."*

#### Issue 4

Concern: A list of amenities should be adopted by resolution and updated regularly to maintain clear direction and intent.

Change: None, Section B.2 adequately describes method and intent. Town Council reached consensus to eliminate the list of benefits described in the General Plan at this time from this policy, and, stating that a list will be adopted with completion of NDP (see Section B.2.). A list of community benefits resulting from accepted neighborhood district planning studies is shown for informational purposes in Attachment B.

#### Issue 5

Concern: That incentives will be sought for what should be "required" features of new development rather than for true "amenities."

Change: None, Section B.4. adequately describes the intent and types of "required features" versus "amenities."

#### Issue 6

Concern: The appearance that "density" is the priority incentive considered in exchange for receiving amenities rather than incentives that may create less overall impact to the community.

Change: Section C.1. text is added and the list of incentives is reordered to state this priority to awarding incentives: 1. building envelope, 2. financial, and 3. square footage and density.

#### Issue 7

Concern: Some amenities are a better fit for a project or to a given incentive, and the appropriate nexus relationship between the amenity and incentive should be described.

Change: Added text to D.2.d, add to end of sentence: "..., and, that a reasonable nexus exists between the community benefit provided and incentive granted."

### Issue 8

Concern: The Town Council has expressed concern that because the CBIZ policies are controversial, new to the community, and need to be tested, early Town Council review and input should be required for applications to the CBIZ policy.

Change: Modify Section D.1. to:

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

All changes described above are shown in Attachment A. It is staff's opinion that the modified CBIZ policy establishes sufficient review requirements and provides a reasonable and timely due process within the established review decision making framework.

### **Future Work Program**

Completion of follow-up CBIZ tasks, including applicability to the RMF-2 zone, amount of flexibility for each incentive, and cost-benefit relationship of incentive to benefit will further refine the application of these policies. These tasks will be addressed through district studies, Neighborhood District Planning, and the zoning code update.

### **OPTIONS ANALYSIS:**

1. Adopt by resolution the modified Community Benefits/Incentive Zoning Policy, dated August 5, 2009.
2. Adopt by resolution the modified Community Benefits/Incentive Zoning Policy, dated August 5, 2009, with additional changes directed by Town Council.
3. Do not adopt the policy.

Option 1 would adopt the Community Benefits/Incentive Zoning Policy, Staff will incorporate these policies in the evaluation of permit applications and the formulation and evaluation of other planning documents.

Option 2 would adopt the Community Benefits/Incentive Zoning Policy as modified per Council's direction. Depending on the nature of Council changes, staff would proceed generally as described in Option 1.

Option 3 would reject the Community Benefits/Incentive Zoning Policy and Council would provide staff with different direction.

### **VISION CONSIDERATIONS:**

Establishing this Community Benefits/Incentive Zoning Policy will implement the 2007 General Plan which includes specific policy and actions about achieving community benefits with new development. The Land Use Element policy and action items slated for completion in the 1- and 2-5 year time frames include the following:

*"L.3.F. Policy: Ensure appropriate community benefits are provided through district planning and development projects." (GP page 32,)*

*"L.3.F.1. Action: Study the experiences of other communities in finding fair and equitable standards and formulas for gaining community benefits." (GP page 32)*

*"L.3.F.2. Action: Develop formula-based methods and standards for community benefits applicable to projects of a certain size." (GP page 32)*

*"L.3.F.3. Action: Develop and maintain a list of uses, facilities, infrastructure, programs and services for use as community benefits." (GP page 32) and*

*"L.3.F.4. Action: Develop size, space and program characteristics and criteria for uses and facilities deemed as community benefits." (GP page 32)*

### **STAFFING CONSIDERATIONS:**

This work effort was directed by the Town Council and is necessary to allow timely evaluation of and action on pending land use permit applications.

**FINANCIAL CONSIDERATIONS:**

None.

**ENVIRONMENTAL CONSIDERATIONS:**

None.

**LEGAL CONSIDERATIONS:**

None.

**RECOMMENDATION:**

Therefore, it is recommended that the Town Council approve Option 1 and adopt by resolution the modified Community Benefits/Incentive Zoning Policy, dated August 5, 2009.

Attachments

- A. Resolution to Adopt the Community Benefits/Incentive Zoning Policies.
- B. List of community benefits resulting from accepted neighborhood district planning studies.
- C. June 17, 2009 Agenda Bill - Adoption of the Community Benefits and Incentive Zoning Policy Recommendations

APPROVED ON: 8/5/09 BY  
MAMMOTH LAKES TOWN COUNCIL  
R09-550WN COL  
Clerk Harte  
TOWN CLERK  
TOWN CLERK

## **Attachment B – Current List of Community Benefits, July 15, 2009**

### 2007 General Plan, adopted August 15, 2007

- Convention and conference facilities
- Performance and cinema theaters
- Anchor retail and entertainment uses
- An indoor four seasons field house, skating rink, and swimming facility
- Expanded golf and tennis facilities
- In-town state-of-the-art Nordic Ski center facility
- Improved equestrian facilities
- Open space
- Plazas and special events areas
- Arts, culture and heritage facilities
- Public parking facilities
- Market rate workforce housing
- Child and infant care facilities
- Parks and passive recreational space
- Snow play areas

### North Old Mammoth Road District Special Study, accepted November 19, 2008

- Convention and conference facilities
- Performance and cinema theaters
- Anchor retail and entertainment uses with emphasis on resident and community based services
- Open space
- Plazas and special events areas
- Arts, culture and heritage facilities
- Public parking facilities, under ground and potentially under rights-of-way
- Workforce housing
- Child care facilities

### North Village District Planning Study, accepted July, 1 2009

- Event/convention space
- Performance and cinema theaters
- Ground floor retail
- Hotels with guaranteed nightly rentals
- Public open space and plazas
- Public art
- Public parking beyond that required to service project needs
- Green and sustainable building design, in excess of LEED Silver rating or equivalent

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Agenda Item 3  
June 17, 2009  
File No. R09 -  
430-90

**AGENDA BILL**

Subject: Adoption of the Community Benefits and Incentive Zoning Policy Recommendations

Initiated by: Mark Wardlaw, Community Development Director  
Ellen Clark, Senior Planner

**INTRODUCTION:**

The purpose of this agenda item is to present revised Community Benefits and Incentive Zoning (CBIZ) Policy Recommendations as directed by Town Council on April 15th. This item was continued from the May 6th agenda to allow additional review from interested parties. That review has been completed and minor revisions and clarifications have been made to Attachment A.

**BACKGROUND:**

The 2007 General Plan includes specific policy and actions about achieving community benefits with new development. To begin implementation of these General Plan actions, staff prepared and issued the 490-page "*Destination Resort: Community and Economic Development*" report in January 2008. The report contained an extensive "Incentive Zoning Programs Case Study Report" section describing the development, purpose, and examples of incentive zoning.

Throughout 2008 and 2009, thirteen public workshops have been held on CBIZ with the Tourism and Recreation Commission, Planning Commission, and Town Council. On April 15th, the Town Council reviewed, formed consensus, and provided direction to staff to finalize the CBIZ Policy Recommendations.

**ANALYSIS:**

The CBIZ policy recommendations are an essential tool in assisting with the evaluation of development proposals, and in guiding future growth and development towards desired community outcomes. The

recommended CBIZ policies set a reasonable bridge framework to evaluate current major legislative permit applications alongside adopted PAOT policies. As Neighborhood District Planning (NDP) and the zoning code update progress, these policies will continue to be refined.

### **Policy Revisions**

Policy revisions directed by Council on November 3, 2008 and April 15, 2009 are shown in strike-out/underline form in Attachment A. The following changes are incorporated in the attached policy:

1. Change reference to “discretionary density” as the incentive to “discretionary incentives” (throughout).
2. Notation stating underground parking does not automatically provide double density (B.2.a.).
3. List of facilities struck; incorporate by resolution in future, (B.2.a.).
4. Clarifications to requirements and expectations to cover information in the “Base Requirements, CEQA, and Discretionary Density” chart (B.4.).
5. Revision to location preference of community benefits struck and place-making added (B.5.).
6. Permitted incentives revised (C.1.a-d.).
7. “Financial evaluation and analysis” added (D.2.a.).
8. Policy relationship to current and future PAOT and impact thresholds clarified (D.2.c.).
9. Two week public notice and availability of information added (D.6.).

### **Open Policy Question**

The Council held section “D. Procedure and Criteria for Review” for further discussion. This section as written was intended to capture November 2008 Council direction to allow an early conceptual level discussion of an application seeking use of the CBIZ policy in addition to the typical public process.

This type of early review precedes, and is in addition to, the public meetings and hearings required to consider and act upon a permit application. This is much like the current requirement for early Council review of an application for a development agreement. This policy is also consistent with the current decision-making authority in the Municipal Code: Planning Commission acts on design review/use permits and Council acts on legislative actions. Appeals of Planning Commission actions are considered by the Town Council.

Three options exist for an early non-binding review process for CBIZ applications. They are:

1. Conduct review by current decision-makers.
2. Conduct review by Town Council.
3. Do not conduct review.

This CBIZ section incorporates option 2; suggested minor clarifications are provided below.

#### **D. Procedure and Criteria for Review**

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

- 1. A preliminary site plan review application shall be filed for any request to receive a discretionary development incentive. The Town Council shall consider the preliminary site plan review application and shall provide non-binding input. Applicants may also seek non-binding input from the Planning Commission as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process, prior to the formal consideration of the application by the Planning Commission or Town Council. Authorization of any discretionary development incentive ~~density increase~~ shall be subject to approval by the Planning Commission or Town Council as established by the decision-making authority in the Municipal Code.*

It is staff's opinion that the modified CBIZ policy establishes sufficient review requirements and provides a reasonable and timely due process within the established review decision making framework.

#### **Next Steps and Future Work Program**

Completion of follow-up CBIZ tasks, including applicability to the RMF-2 zone, amount of flexibility for each incentive, and cost-benefit relationship of incentive to benefit will further refine the application of these policies. These tasks will be addressed through district studies, Neighborhood District Planning, and the zoning code update.

**OPTIONS ANALYSIS:**

1. Adopt by resolution the modified Community Benefits/Incentive Zoning Policies.
2. Adopt by resolution the modified Community Benefits/Incentive Zoning Policies, with additional changes.
3. Do not adopt the policies.

Option 1 would adopt the Community Benefits/Incentive Zoning Policies as modified per Council's April 15<sup>th</sup> direction. Staff will incorporate these policies in the evaluation of permit applications and the formulation and evaluation of other planning documents.

Option 2 would adopt the Community Benefits/Incentive Zoning Policies as modified per Council's April 15<sup>th</sup> direction, with other changes as requested by the Town Council. Depending on the nature of Council changes, staff would proceed generally as described in Option 1.

Option 3 would reject the Community Benefits/Incentive Zoning Policies and Council would provide staff with different direction.

**VISION CONSIDERATIONS:**

Establishing Community Benefits/Incentive Zoning policies will assist in implementation of the 2007 General Plan policies that call for this approach, and which seek to implement the community vision. The 2007 General Plan includes specific policy and actions about achieving community benefits with new development. The Land Use Element policy and action items slated for completion in the 1- and 2-5 year time frames include the following:

*"L.3.F. Policy: Ensure appropriate community benefits are provided through district planning and development projects." (GP page 32,)*

*"L.3.F.1. Action: Study the experiences of other communities in finding fair and equitable standards and formulas for gaining community benefits." (GP page 32)*

*"L.3.F.2. Action: Develop formula-based methods and standards for community benefits applicable to projects of a certain size." (GP page 32)*

*"L.3.F.3. Action: Develop and maintain a list of uses, facilities, infrastructure, programs and services for use as community benefits." (GP page 32) and*

*"L.3.F.4. Action: Develop size, space and program characteristics and criteria for uses and facilities deemed as community benefits." (GP page 32)*

**STAFFING CONSIDERATIONS:**

This work effort was directed by the Town Council to be substantially completed by March/April 2009. This effort is necessary to allow timely evaluation of and action on pending land use permit applications.

**FINANCIAL CONSIDERATIONS:**

None.

**ENVIRONMENTAL CONSIDERATIONS:**

None.

**LEGAL CONSIDERATIONS:**

None.

**RECOMMENDATION:**

Therefore, it is recommended that the Town Council adopt the Community Benefits/Incentive Zoning Policies by resolution.

Attachment

A. Strike-out/Underline Resolution to Adopt the Community Benefits/Incentive Zoning Policies.

B. Final Resolution to Adopt the Community Benefits/Incentive Zoning Policies.

**Attachment A - Strike-out/Underline  
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 ~~early~~ 2009, on the subject of the relationship between discretionary development incentives ~~density~~ 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 ~~development incentives, in the form of~~ discretionary development incentives ~~density increases~~, 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 ~~density increases~~ 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 ~~and~~ 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 ~~density-increases~~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 ~~density-increases~~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 ~~proposing~~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 ~~density~~development incentives in exchange for community benefits.

**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 ~~accepted~~ 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 of twice the base density.

The list on page 24 includes:-

• <del>Convention and conference facilities</del>	• <del>Plazas and special events areas</del>
• <del>Performance and cinema theaters</del>	• <del>Arts, culture and heritage facilities</del>
• <del>Anchor retail and entertainment uses</del>	• <del>Public parking facilities</del>
• <del>An indoor four seasons field house, skating rink, and swimming facility</del>	• <del>Market rate workforce housing</del>
• <del>Expanded golf and tennis facilities</del>	• <del>Child and infant care facilities</del>
• <del>In town state of the art Nordic Ski center facility</del>	• <del>Parks and passive recreational space</del>
• <del>Improved equestrian facilities</del>	• <del>Snow play areas</del>
• <del>Open space</del>	

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 he., 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 ~~benefits~~ 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 pPrivate and/or common open space required by Town plans and the Municipal Code, for residential uses.
  - 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. *~~The preferred option is for community benefits to be provided on site, and second, off-site but within the same district. In some cases, a benefit may be provided outside of a district if it can be demonstrated that a greater benefit would be realized by locating it elsewhere. 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 concessions~~incentives that may be achieved in exchange for provision of community benefits.” Discretionary incentives may include but are not limited to:*

- a. Square footage and density;*
- b. Building envelope: height, setbacks, lot coverage, and clustering<sup>1</sup>;*
- c. Parking requirements; and*
- d. Financial incentives. Clustering*

*±2. 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 ~~recommendations outline~~ are the administrative considerations for approval of incentives and community benefits proposed by a project:

- 1. Authorization of any discretionary incentive density increase shall be subject to approval by the Planning Commission or Town Council, prior to the grant of preliminary site plan approval. Applicants may seek non-binding input from the Planning Commission as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process, prior to the formal consideration of the application by the Planning Commission or Town Council.*
- 2. Criteria and a framework for evaluation of proposed community benefits and requested development incentives density increase shall be developed by staff, including the following criteria:*

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<sup>1</sup> 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.

- 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 ~~density increase~~ 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.
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 ~~additional density~~ 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.a.; 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 ~~Mammoth Times~~ for at least two consecutive weeks prior to the scheduled meeting date.*

**Attachment B - Final Resolution to Adopt Community  
Benefits/Incentive Zoning Policies**

**RESOLUTION NO. 09-**

RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA,  
ADOPTING THE COMMUNITY BENEFIT/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.

WHEREAS, the Town Council conducted a public meeting on April 15, 2009 and reviewed and provided consensus direction to establish 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 Policies.

APPROVED AND ADOPTED THIS 17<sup>th</sup> day of June, 2009.

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WENDY SUGIMURA, Mayor

ATTEST:

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ANITA HATIER, Town Clerk

## **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.

#### **B. Community Benefits**

3. *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.*

4. *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 of twice the base density.
  - 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.
7. *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.*
8. *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.

9. *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.*

10. *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:*

- a. Square footage and density;
- b. Building envelope: height, setbacks, lot coverage, and clustering<sup>2</sup>;
- c. Parking requirements; and
- d. Financial incentives. ~~Clustering~~

2. *Incentives may be achieved within the following Zones: Commercial General,*

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<sup>2</sup> 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.

*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:

7. *Authorization of any discretionary incentive increase shall be subject to approval by the Planning Commission or Town Council, prior to the grant of preliminary site plan approval. Applicants may seek non-binding input from the Planning Commission as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process, prior to the formal consideration of the application by the Planning Commission or Town Council.*
8. *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.
9. *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.*

- 10. 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.
- 11. 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.*
- 12. 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.*