



Town of Mammoth Lakes

Planning & Economic Development

Commission Recommendation Report

Date:	April 29, 2015	Case/File No.:	General Plan Amendment (GPA) 15-001 and Zoning Code Amendment (ZCA) 15-001
Place:	Council Chambers, 2 nd Floor Minaret Village Shopping Center Mammoth Lakes, CA 93546		
Time:	After 2:00 p.m.	Project:	Housing Ordinance Update
Agenda Item:	2	Location:	Town-wide
Appeal Status:	NA	General Plan:	NA
Applicant:	Town of Mammoth Lakes	Specific Plan:	NA
Environmental Review:	Negative Declaration Addendum	Zoning:	NA

TITLE: Consider recommending to the Town Council approval of General Plan Amendment 15-001 and Zoning Code Amendment 15-001, adopting the Housing Ordinance Update, Municipal Code Chapter 17.136

A. EXECUTIVE SUMMARY

1. Subject/Requested Actions

The Commission is requested to evaluate the proposed Housing Ordinance Update, which consists of General Plan Amendment 15-001 and Zoning Code Amendment 15-001, determine if the required findings can be made, and recommend Town Council take the following actions:

1. Consider the Addendum to the Housing Element Update 2014-2019 Negative Declaration and adopt the required CEQA findings,
2. Adopt the required Municipal Code findings,
3. Approve General Plan Amendment 15-001 and Zoning Code Amendment 15-001, and
4. Approve the Amenity and Design Standards for workforce units.

2. Required Findings to Support Requested Actions

1. Is the proposed project consistent with the vision, goals, and policies of the General Plan?
2. Does the proposed project conform to the Mammoth Lakes Municipal Code (MLMC)?
3. Is the proposed project consistent with the California Environmental Quality Act (CEQA)?

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Report Approved By:
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3. Report Summary

Town Council directed staff to prepare a comprehensive update to the housing ordinance (Municipal Code Chapter 17.136). The updated ordinance reflects Council's direction, which includes a menu-based ordinance that allows developers to choose a desired method for housing mitigation (i.e., fee, on-site housing, off-site housing, conveyance of land, or other). Draft amenity and design standards for workforce units have been prepared for Commission review and recommendation to Council. An Addendum to the Negative Declaration adopted for the 2014-2019 Housing Element has been prepared to satisfy the environmental review requirements for this ordinance update. A number of policy items are identified for Commission discussion and to facilitate the provision of comments for Council consideration.

Based on the analysis, it is staff's opinion that the required findings can be made, and staff recommends that the Commission recommend to the Town Council approval of the housing ordinance update.

B. ANALYSIS

1. Background

Housing Ordinance/Interim Policy

The housing ordinance is part of the Zoning Code that describes housing mitigation requirements for new development. The Town's housing ordinance was first adopted in 2000. In 2009, an Interim Housing Policy was adopted, which included a 10% inclusionary requirement for certain projects (Attachment 4). Concerns with the Interim Housing Policy have been raised recently with the economy recovering and potential new developers entering Mammoth Lakes.

Town Council Direction

On January 21st, the Council directed staff to proceed with updating the housing ordinance and fee. On March 4th, the Council provided additional direction to staff regarding this update. Council's direction included the following:

- Develop a clear, easy-to-understand menu of options available for developers to utilize to mitigate workforce housing.
- One of the options shall be a fee, so all development projects have the option to pay a fee.
- On-site housing (i.e., inclusionary housing) shall not be mandatory for any project.
- Developers should not be penalized for choosing to mitigate via one option instead of another; mitigation options should be considered equivalent.
- Include households with incomes of up to 150% Area Median Income (AMI) in mitigation requirements.
- Analyze peer resorts to inform this work effort (see Attachment 3).
- This is a very high priority and is on an expedited schedule.
- Authorization to Town staff to hire AECOM Technical Services, Inc. (AECOM) to complete this work effort.

The updated housing ordinance, Attachment 1, Exhibit C, reflects this Council direction.

Mammoth Lakes Housing, Inc. (MLH) Board Review

The MLH Board serves in an advisory role to the Commission and Council on housing issues. The MLH Board reviewed the draft ordinance on April 6th. Many of the Board's recommendations were considered appropriate by staff and AECOM and have been incorporated into the updated housing ordinance. A number of policy concerns raised by the MLH Board have been included in Section 2, Updated Housing Ordinance - Policy Discussion Items, below.

Nexus Study and Fee Recommendations

The housing fee nexus study will provide an analysis and justification framework for housing fees. The draft nexus study is being prepared by AECOM and is anticipated to be available at the end of April, along with AECOM's fee recommendations. The nexus study and fee recommendations will not be included in the Commission recommendation on the housing ordinance update due to the expedited timeline requested by Council¹.

2. Updated Housing Ordinance - Policy Discussion Items

While the updated housing ordinance reflects the Council's direction described above, there are a number of policy items the Commission may wish to discuss and/or provide comments to Council:

A. Inclusionary Housing No Longer Mandated

As directed by Council, the requirement for certain projects to mitigate via on-site housing (i.e., inclusionary housing) has been removed. Instead, a developer would have the option to select a mitigation method of his/her choice (e.g., fee, on-site housing, off-site housing, conveyance of land, etc.). The MLH Board raised concern that eliminating inclusionary housing could have a negative effect on the ability to meet Mammoth Lakes' workforce housing needs, mainly due to the limited available land in town. The Council will consider the challenges associated with the elimination of inclusionary housing, as well as effective and efficient housing programs, when determining appropriate housing fees. The Commission may wish to discuss and provide comments regarding this item to Council.

B. Time Limit for Housing Mitigation Credit

A developer is entitled to housing mitigation credit for existing uses that are demolished or for the provision of housing mitigation above that required (17.136.030.B). The MLH Board suggested that a term be applied to credits (i.e., credits would expire if not used within a certain period). AECOM researched peer resorts that allow credits and did not find any that included such a time limit. Also, the Town allows credit for development impact fees (DIF) and does not currently impose a time limit for use of DIF credit. Therefore, no time limit has been included in the updated ordinance.

C. Housing Fees for Administration

Housing fees provided would be used "for the purposes of planning for, administering, subsidizing, or developing workforce housing" (17.136.040.G.4). The MLH Board raised concern with fees being spent on administration (e.g., Housing Element Updates) rather than securing or producing units. The Council authorizes all housing fee account expenditures, and

¹ The Commission is not required to provide a recommendation to Town Council regarding the establishment of fees by Council resolution. The housing ordinance is part of the Zoning Code, which requires a Commission recommendation to Council.

both the nexus study/fee recommendations from AECOM and the Housing Strategy should assist in determining priority expenditures and appropriate administrative uses of those funds.

D. *On-Site Housing Excluded From Density, not Floor Area Ratio (FAR), Calculations*

Housing Element Action H.1.B.1 requires the Town to analyze the implication and benefits of excluding on-site workforce housing from density or FAR calculations if certain criteria are met. Due to the environmental work underway for the FAR work, which would already increase development capacity of commercially-zoned sites, staff recommends that on-site housing be included in FAR calculations. However, housing mitigation units would be excluded from density calculations for projects in the Residential Multi-Family 2 (RMF-2) Zone (17.136.050.D).

E. *Construction of New Off-Site Housing Allowed in Certain Zones (not RMF-1 or Shady Rest)*

Consistent with the Town's current housing regulations, the construction of new off-site housing units would only be allowed in the commercial zones, RMF-2 Zone, Resort Zone, or Specific Plan Zone (17.136.060.B.1) (the Town's Zoning Map is included as Attachment 5). The Residential Multi-Family 1 (RMF-1) Zone, including the Shady Rest Tract, has not been included because the RMF-1 Zone tends to naturally serve as workforce housing since transient rentals are prohibited. Furthermore, considering the limited land available, exclusion of the RMF-1 Zone allows the provision of new units throughout other appropriate areas of town. As stated by the Shady Rest owners' representative, an application request for a Zoning Code amendment to allow new off-site housing at Shady Rest is expected to be submitted. A detailed analysis for this request would be conducted at that time.

F. *Off-Site Housing – Regional Housing*

At the March 18th Council, Commission, and MLH Board workshop, the concept of considering whether workforce housing should be focused solely within Mammoth Lakes or should encompass the region (e.g., Mono County and Inyo County) was raised. While MLH provides programs in Mono County and the City of Bishop, the Town's General Plan and Housing Element focus on providing adequate and appropriate workforce housing within the Town's boundaries. Therefore, the updated housing ordinance would only allow off-site mitigation housing within Mammoth Lakes, in specified zones. If a regional housing approach is to be considered, the Town may need to have a larger policy discussion regarding the goals of those programs and potentially regarding the provision of financial resources outside of the Town's jurisdictional boundary. Additionally, if this is pursued, coordination with Mono and Inyo Counties should be conducted.

G. *Exemptions from Housing Mitigation*

Since all projects will be eligible to pay fees to mitigate housing, fewer exemptions have been identified. The exemptions include commercial projects that generate no more than one employee and projects that serve as workforce housing (17.136.100). New single family homes and additions would not be exempt, and an appropriate fee would be applied.

H. *Existing Development Entitlements*

The following question has been raised: how would this updated ordinance affect existing entitlements, including the Intrawest and Snowcreek Development Agreements? The adoption of the ordinance alone would not affect existing entitlements and the associated housing mitigation approved for those projects. However, it is reasonable to assume that developers will weigh the

cost and risk associated with submitting project amendment requests to take advantage of more options or options that are perceived as more financially favorable to the developer. These requests would be dependent on a variety of factors, including market conditions and others affecting development pro formas, making it difficult to predict the extent of amendments that may be requested. These requests would be reviewed through the required process and the necessary findings would need to be made for approval.

3. Amenity and Design Standards

Section 17.136.120 of the updated housing ordinance discusses livability standards for workforce housing units, including distribution of units, size, amenity and design standards, and waivers or modifications to those standards. The specific amenity and design standards will be adopted by Council resolution, and the draft standards are included as Attachment 1, Exhibit E.

The standards generally reflect the standards included in the current Interim Housing Policy, but provide some specifications regarding waivers or modifications. The Commission should discuss these draft standards and provide any suggestions for Council consideration.

4. General Plan Consistency

The housing ordinance update is consistent with the General Plan as described in Table 1:

Table 1: General Plan Conformance

Vision Statement, Goal, Policy, or Action	Explanation of Conformance
Vision Statement - <i>“Adequate and appropriate housing that residents and workers can afford”</i>	The ordinance would provide methods by which development projects can mitigate their housing impacts. Mitigation housing would be required to meet livability and design standards to ensure the housing is adequate and appropriate.
Goal L.2: Substantially increase housing supply available to the workforce	The ordinance includes mitigation housing for the workforce.
Policy L.2.D: For housing development projects where all units are deed restricted for workforce housing, a density bonus may be granted in addition to any bonus granted pursuant to State Density Bonus Law up to a combined bonus of twice the density identified for the designation	The ordinance incorporates this Policy in Section 17.136.050.D. This also reflects Housing Element Policy H.1.C and Action H.1.C.1.
<p>Policy H.2.B: Update the Town’s workforce housing mitigation requirements to ensure they meet the following objectives:</p> <ul style="list-style-type: none"> • Respond to a technically sound Workforce Housing Needs Assessment that reflects the existing housing resources, seasonality, commuting patterns, and affordability categories • Meet current legal mandates and can be successfully implemented by the Town • Ensure that new development mitigates an appropriate portion of workforce housing demand it generates, 	<p>The 2011 comprehensive housing needs assessment and the 2015 Housing Strategy were considered in the development of the ordinance. The ordinance reflects legal requirements and case law related to housing mitigation. The amount of the housing fee will be determined by Council resolution and based on an approved nexus study. Livability standards are addressed in Section 17.136.120, and Council resolution will establish the amenity and design standards for mitigation housing.</p>

<p>through requirements and standards that can be reasonably achieved by the development community</p> <ul style="list-style-type: none"> • Meet documented community housing needs and gaps in terms of unit affordability levels, type, tenure, size, amenities, and configuration • Achieve quality, livable housing units that are successfully integrated into neighborhoods and the broader community 	
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The housing ordinance update includes a General Plan Amendment to revise the Housing Element 2014-2019 to reflect the update. These revisions include updating the text to describe the housing ordinance update, as well as modification to the following policy and actions: H.1.D, H.1.D.1, and H.2.B.1 (Attachment 1, Exhibit B). Specifically, the modifications reflect Council’s direction to not mandate on-site mitigation housing and provide options for developers to mitigate housing. Although these modifications are proposed, the housing ordinance update would be internally consistent with all other provisions of the General Plan as described in Table 1.

5. Municipal Code Consistency

The Housing Ordinance Update is internally consistent with all other applicable provisions of the Zoning Code because the amendment also includes revisions to the definitions related to housing to ensure internal consistency (Attachment 1, Exhibit D).

6. Environmental Analysis

A Negative Declaration (ND) was adopted for the Housing Element Update 2014-2019 on June 18, 2014 (State Clearinghouse No. 2014032067). Consistent with CEQA Guidelines §15164, an Addendum to this ND has been prepared to address the housing ordinance update, which includes an amendment to the Housing Element. An addendum is appropriate when minor technical changes or modifications to a project do not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. Staff’s review and analysis concluded that there would be no new or increased environmental impacts resulting from the housing ordinance update. The Addendum is included as Attachment 1, Exhibit A.

7. Legal Considerations

The Town Attorney has reviewed the draft housing ordinance, and his edits have been incorporated to ensure conformance to current legal requirements. At this time, no issues are anticipated to arise from the California Supreme Court’s decision in the *CBIA v. City of San Jose* case (expected this summer) because the ordinance does not mandate on-site housing and housing fees will be established in conjunction with approval of a nexus study. To the extent the decision in this case requires amendments to the housing ordinance, staff will prepare appropriate amendments for Council consideration.

C. OPTIONS

Option 1. Recommend Town Council take the following actions:

- Consider the Addendum to the Housing Element Update 2014-2019 Negative Declaration and adopt the required CEQA findings,
- Adopt the required Municipal Code findings,
- Approve General Plan Amendment 15-001 and Zoning Code Amendment 15-001 (Housing Ordinance Update), as proposed or with modifications, and
- Approve the Amenity and Design Standards for workforce units.

Option 2. Recommend Town Council deny General Plan Amendment 15-001 and Zoning Code Amendment 15-001 (Housing Ordinance Update).

Option 1 would allow the housing ordinance update to proceed to Town Council for consideration. It is anticipated to be considered by the Council on May 20th.

Option 2 would not allow the housing ordinance update to proceed to Town Council for consideration because an affirmative vote of a majority of the Commission is required for a General Plan amendment to be considered by the Council. Staff would need to revise the ordinance, and the Commission would need to conduct another public hearing to allow the housing ordinance update to proceed.

D. RECOMMENDATION

Staff recommends that the Planning and Economic Development Commission choose Option 1: Recommend Town Council take the following actions:

- Consider the Addendum to the Housing Element Update 2014-2019 Negative Declaration and adopt the required CEQA findings,
- Adopt the required Municipal Code findings,
- Approve General Plan Amendment 15-001 and Zoning Code Amendment 15-001 (Housing Ordinance Update), as proposed or with modifications, and
- Approve the Amenity and Design Standards for workforce units.

Attachments

Attachment 1: Planning and Economic Development Commission Resolution

Exhibit A - Addendum to the Housing Element Update 2014-2019 Negative Declaration

Exhibit B - Housing Element 2014-2019 revised (track changes excerpts) (GPA 15-001)

Exhibit C - Housing Ordinance Update, Municipal Code Chapter 17.136

Exhibit D - Housing definitions revised (track changes), Municipal Code Chapter 17.148

Exhibit E - Amenity and Design Standards

Attachment 2: Housing Element Update 2014-2019 Negative Declaration

Attachment 3: Peer Resort Analysis Memo, dated April 16, 2015

Attachment 4: Interim Affordable Housing Mitigation Policy (Council Resolutions 09-76 and 14-54)

Attachment 5: Zoning Map