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Town of Mammoth Lakes )  
Community & Economic Development Department )  
P.O. Box 1609 )  
Mammoth Lakes, CA 93546 )

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**RESOLUTION NO. PEDC 2022-03**

**A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND  
ECONOMIC DEVELOPMENT COMMISSION APPROVING USE PERMIT 22-002,  
TO ALLOW A GATE ON A PRIVATE STREET  
LOCATED AT 100 CALLAHAN WAY  
(APN: 033-330-087-000)**

**WHEREAS**, a request for consideration of a Use Permit was filed by Mark Rafah on behalf of the property owner, Mammoth Springs Resorts, LLC, to allow a gate on Callahan Way, a private street, in accordance with the Lodestar at Mammoth Master Plan, Chapter 17.68 (Use Permits) and Section 17.52.130 (Gates on Private Streets) of the Town of Mammoth Lakes Municipal Code for property located within Development Area 2 of the Lodestar at Mammoth Master Plan at 100 Callahan Way; and

**WHEREAS**, the Planning and Economic Development Commission conducted a duly noticed public hearing on the application request on May 11, 2022, at which time all those desiring to be heard were heard; and

**WHEREAS**, the Planning and Economic Development Commission considered, without limitation:

1. The staff report to the Planning and Economic Development Commission with attachments;
2. The Lodestar at Mammoth Master Plan, Municipal Code, Design Review Guidelines, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project plans consisting of: Project Plan Sheet A-410, dated April 21, 2022;
6. The 1991 Lodestar at Mammoth Draft Environmental Impact Report (EIR) and Final EIR (State Clearinghouse No. 1991105212), dated February 1991, incorporated herein by reference and collectively referred to hereafter as the "1991 Lodestar EIR"; and
7. The Addendum to the 1991 Lodestar EIR, dated April 2022, attached hereto as Exhibit "B" and referred to hereafter as the "Addendum."

**NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:**

## SECTION 1. FINDINGS.

### I. CEQA.

#### **PUBLIC RESOURCES CODE SECTION 21166; CEQA GUIDELINES SECTION 15164**

- a. The Planning and Economic Development Commission previously considered the Addendum (SCH No. 1991105212) together with the 1991 Lodestar EIR, any comments received, including the Mitigation Monitoring and Reporting Program, pursuant to the CEQA Guidelines, and finds that on the basis of the whole record, there is no substantial evidence that the proposed project consisting of Use Permit (UPA) 22-002 (“Project”) will result in any new or increased significant effects on the environment.
- b. The Planning and Economic Development Commission finds that the Addendum has been completed in compliance with CEQA and reflects the lead agency’s independent judgment and analysis.
- c. An addendum is adequate because the Addendum demonstrates that the environmental analysis and impacts identified in the 1991 Lodestar EIR remain substantively unchanged by the Project and supports the finding that the proposed modifications to the original project do not trigger the need for preparation of a subsequent EIR under the criteria listed in CEQA Guidelines Sections 15162.
- d. The custodian and location of the documents and other material which constitute the record of proceedings upon which this decision is based is the Town Clerk at the Town of Mammoth Lakes Offices, 437 Old Mammoth Road, Suite 230, Mammoth Lakes, California 93546.
- e. The Planning and Economic Development Commission finds that there are no new or different mitigation measures or alternatives that would substantially reduce one or more significant impacts identified in the 1991 Lodestar EIR that are not adopted. The proposed modifications do not identify or require adoption of any further mitigation measures or alternatives beyond those provided in the 1991 Lodestar EIR.
- f. All mitigation measures shall be incorporated by reference into the conditions of approval.

### II. MUNICIPAL CODE FINDINGS.

#### **A. FINDINGS FOR USE PERMIT (Municipal Code Section 17.68.050 and 17.52.130)**

##### **1. The gate is consistent with the General Plan and any other applicable Town policy or plan, including the Trails System Master Plan.**

The proposed gate is consistent with the 2007 General Plan Mobility Element policy M.6.4, which states the Town shall Discourage the use of neighborhood streets as cut-through routes to avoid congested arterial facilities. By limiting access to the Villas III Development, a cut through route will be prevented and a safer experience will be provided for residents as well as users of the adjacent multi-use path. The presence of the gate will also prevent drivers from speeding into and out of the development.

The proposed gate is also consistent with the Trails System Master Plan as access to the adjacent multi-use path will not be obstructed by the gate.

**2. There is a demonstrated need for public safety or security that will be satisfied by the gate.**

The proposed gate will improve public safety by limiting traffic into and out of the Villas III Development. The gate will also prevent non-residents from mistakenly driving into the development. The limited traffic will improve the safety of both the residents and the users of the adjacent multi-use path.

**3. The requirements of MC Section 17.52.130 are met.**

- a. *A gate on a private street shall require a use permit approved by the Commission, a building permit approved by the Building Official, and a permit approved by the Mammoth Lakes Fire Protection District.*

The plans for the proposed gate have been reviewed by the Mammoth Lakes Fire Protection District. The Fire District has provided conditions of approval that are included in the attached resolution. Additionally, a condition for approval has been included that states a building permit approved by the Building Official is required prior to work beginning on the gate.

- b. *The gate improvements shall include pedestrian access and/or easement as determined by the Commission.*

Pedestrian access will not be obstructed by the proposed gate. Pedestrians will be able to freely pass through the gate area on the adjacent multi-use path that parallels Callahan Way.

- c. *The gate shall adequately operate for emergency response vehicles, snow removal equipment operators, utility service providers, deliveries, and guests, including adequate turn-around space and vehicle queuing.*

The proposed gate will be equipped with an emergency key box that will allow emergency vehicles to immediately pass through the gate. Prior to all snowfall events, the gate will be left open as to not obstruct traffic and to facilitate the removal of snow. Utility service providers, deliveries, and guests will be able to enter through the gate with access codes provided by homeowners. The gate will not have an intercom or gate alarm in order to limit noise. The gate alignment allows for up to four vehicles to queue at the gate and Public Works and the Fire District have determined that there is adequate turn-around space.

**4. The proposed use is consistent with all applicable sections of the General Plan and Title 17 and is consistent with the Lodestar at Mammoth Master Plan;**

As stated previously, the proposed gate is consistent with the 2007 General Plan Mobility Element policy M.6.4, which states the Town shall discourage the use of neighborhood streets as cut-through routes to avoid congested arterial facilities. By limiting access to the Villas III Development, a cut through route will be prevented and a safer experience will be provided for residents as well as users of the adjacent multi-use path. The presence of the gate will also prevent drivers from speeding into and out of the development.

The Lodestar at Mammoth Master Plan does not specifically acknowledge gates on private streets, but the proposed gate on Callahan way is consistent with the previously approved and constructed gate at the south end of the existing Obsidian development.

**5. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health and safety nor materially injurious to properties or improvements in the vicinity; and**

The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health and safety nor materially injurious to properties or improvements in the vicinity because proposed gate on a private street is consistent with permitted gates in other areas of the Resort (R) zoning district and the Resort (R) land use designation.

**SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS.**

The Planning and Economic Development Commission hereby takes the following actions:

1. Approves Use Permit 22-002 subject to the following conditions:  
(SEE EXHIBIT “A”); and
2. Directs staff to file a Notice of Determination within five (5) working days of the adoption of this Resolution.

**PASSED AND ADOPTED** this 11<sup>th</sup> day of May 2022, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

RECUSED:

ATTEST:

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Sandra Moberly,  
Community and Economic Development  
Director

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Michael Vanderhurst  
Chair of the Mammoth Lakes Planning  
and Economic Development  
Commission

**NOTE:** This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

**OWNER/APPLICANT:**

I, Mark Rafeh, am an authorized Representative for Mammoth Springs Resorts, LLC, the property owner, and I do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark Rafeh, Authorized Signatory  
Mammoth Springs Resorts, LLC  
(Notary Required)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California     }  
County of Mono

On \_\_\_\_\_ before me, \_\_\_\_\_  
personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the persons whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity (ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**WITNESS my hand and official seal.**

\_\_\_\_\_  
Signature of Notary

**EXHIBIT “A”**  
**Resolution No. PEDC 2022-03**  
**Case No. UPA 22-002**  
**CONDITIONS OF APPROVAL**

1. This approval authorizes a gate on the privately owned Callahan Way as shown Project Plan Sheet A-410, dated April 21, 2022; for property located within Development Area 2 of the Lodestar at Mammoth Master Plan.
2. The approved Project Plan Sheet A-410, dated April 21, 2022 shall be adhered to and maintained for the duration of the permit.
3. This permit and all rights hereunder shall automatically terminate unless the site preparation or construction has been commenced within two years after the issuance of this permit and such work is diligently carried on until completion, or an extension of time has been granted in accordance with Municipal Code §17.60.060.B.
4. All new improvements constructed on the site shall be in compliance with all Town of Mammoth Lakes, County of Mono, Mammoth Community Water District, the Mammoth Lakes Fire Protection District, the CRWQCB Lahontan District, Great Basin Air Pollution Control District, OSHA, State of California and United States of America laws, statutes, ordinances, regulations, directives, orders, and the like applicable thereto and in force at the time thereof. Any violation of the above may constitute grounds for revocation under Chapter 17.128 of the Mammoth Lakes Municipal Code.
5. This resolution of approval, as conditioned herein, shall be recorded for the subject property by the Mono County Recorder’s Office to commence the approved use on the property or the issuance of any building permits for new or remodeled structures.
6. The site shall be maintained in a neat, clean and orderly manner. All improvements shall be maintained in a condition of good repair and appearance. Outdoor storage of equipment and other materials, except for firewood, is prohibited. Non-operating vehicles, equipment and materials inappropriate to the site and its use shall not be stored within outdoor areas on the site.
7. Storage of construction materials and equipment off-site shall not be permitted without a permit issued by the Community and Economic Development Department of the Town. Any public or private property altered, damaged or destroyed by site preparation, grading, construction or use shall be restored to its pre-existing condition by the permittee.
8. All conditions of this permit shall be met or secured prior to final occupancy approval of any new structures.
9. All uses are subject to review by the Building Official of the Town of Mammoth Lakes and must conform to occupancy ratings of the structures to obtain occupancy.
10. Town staff shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business hours and shall, upon request make records and documents available to Town staff as necessary to

evidence compliance with the terms and conditions of the permit.

- 11.** Prior to the issuance of a building permit, the applicant shall pay all applicable fees as prescribed by ordinance and/or resolution and pay any fees due on the project processing account.
- 12.** Where compliance with the conditions of approval or applicant-initiated changes to the plans require additional staff review, that review time shall be billed at the Town's established billing rates. Prior to the issuance of a building or grading permit, the applicant shall pay all outstanding costs for the processing of this application.
- 13.** This action may be appealed to the Town Council within fifteen (15) calendar days from the date of Planning and Economic Development Commission approval in accordance with Municipal Code Chapter 17.104.
- 14.** The applicant shall defend, indemnify, and hold harmless the Town and its agents, officers, and employees from any claim, action, or proceeding against the Town and its agents, officers, or employees to attack, set aside, void, or annul, an approval of the Town, advisory agency, appeal board, or legislative body concerning this approval. The Town shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense.
- 15.** Pursuant to Government Code Section 66474.9 the subdivider shall defend, indemnify, and hold harmless the Town and its agents, officers, and employees from any claim, action, or proceeding against the Town and its agents, officers, or employees to attack, set aside, void, or annul, an approval of the Town, advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Government Code Section 66499.37. The Town shall promptly notify the subdivider of any claim, action, or proceeding and shall cooperate fully in the defense.
- 16.** All exterior lighting shall comply with Chapter 17.36.030 of the Town of Mammoth Lakes Municipal Code, Exterior Lighting. Exterior light fixtures having a total of over 400 lumens of output shall be equipped with shields that extend below the horizontal plane of the light source to direct the light downward onto the structure or surrounding grounds. Accent lighting is permitted as described in Municipal Code Section 17.36.030.F.6. This shall be verified prior to issuance of a certificate of occupancy.
- 17.** A valid building permit and a permit from the Mammoth Lakes Fire Protection District are required before any building can begin on-site.
- 18.** New or changed improvements, exterior illumination, elevations, designs, materials, or colors shall conform to the adopted Design Guidelines of the Town of Mammoth Lakes and will require review and approval from the Town of Mammoth Lakes Community and Economic Development Department or Planning and Economic Development Commission pursuant to Municipal Code Chapter 17.88.
- 19.** All conditions of approval shall be printed verbatim on all of the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical, and plumbing) and shall be referenced in the index.

- 20.** The gate shall be functional in all weather conditions including heavy snow, and Callahan Way shall be plowed and clear of snow on both sides of the gate.
- 21.** The Fire Chief shall have the authority to remove the gate if it is not free of snow or operational for emergency operations.
- 22.** In the event of power failure, the gate shall automatically open and stay open until power is restored.
- 23.** The gate shall have a radio-controlled device that serves as the primary means of operation with an approved key operated switch or touchpad used as a backup system. The gate's radio receiver shall be programmed to CLEMRS.
- 24.** The gate shall be equipped with a means of opening the gate by emergency personnel for emergency access. Emergency opening devices shall be approved by the fire code official
- 25.** The gate operations shall be listed in accordance with UL 325 and shall be designed, constructed, and installed to comply with the requirements of ASTM F2200.
- 26.** The gate shall not be equipped with an intercom or gate alarm.