

Jen Daugherty

From: Mark Carney <Carney@mammothlaw.com>
Sent: Wednesday, April 29, 2015 1:15 PM
To: Jen Daugherty
Subject: Today's Planning & Economic Development Commission Hearing on the Housing Ordinance Update

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Hi Jen,

As we discussed by telephone, I had intended to attend today's Planning & Economic Development Commission hearing to comment on the proposed Housing Ordinance update on behalf of the following clients of my firm: (1) iStar Financial (8050/Three Corners); (2) The Mayer Corporation (Sierra Star Bear Lake Hotel Parcel); (3) Will Gustafson (East Village); (4) John Hooper (Gray Bear/Rainbow Lane); (5) Mammoth Springs Resorts (Tallus); (6) Jim Demetriades (Old Mammoth Place); (7) All California Funding (Shady Rest); (8) CBG Homes (Kitzbuhel) and (9) the Plum Family Partnership (LeVerne Street VTPM) (collectively, "Clients"). As it turns out, however, I cannot attend today's hearing; so please accept my apology. Please also accept and distribute the following comments to the Commissioners in lieu of my attendance at the hearing.

On behalf of the Clients, I want to thank you and the Commission for the substantial progress the Town has made toward updating the Housing Ordinance throughout the past ninety days and for the ongoing efforts that you have made to keep the community and the Clients fully informed and engaged in the process. We recognize and appreciate the fact that the Town has made great strides toward achieving its goal of completing the Housing Ordinance update by the end of June.

The Clients are generally receptive to the form and substance of the draft Housing Ordinance Update and in particular, the Town's movement away from any policy which would mandate or prioritize inclusionary zoning. The Clients agree that a housing ordinance which provides developers several options to mitigate the impacts of their development on the Town's supply of workforce housing, including the payment of housing impact mitigation fees, is the wiser approach.

The Clients do not believe, however, that the updated Ordinance should contain any restrictions as to which zones or parcels within the Town limits may accommodate the construction of workforce housing as mitigation. In this regard, section 17.136.060 B. 1. provides as follows: "For new construction of off-site units, such units shall be within the Downtown, Old Mammoth Road, Mixed Lodging and Residential, Residential Multi-Family 2, Resort, or Specific Plan Zones." As you noted in your comments to a prior redline draft of the proposed Ordinance, "consistent with the Town's current regulations, this would not allow off-site mitigation housing in the RMF-1 Zone, including the Sierra Valley Sites and the Shady Rest Tract" and, therefore, this is a "Policy Question" for the Commission and Town Council to address.

We request the Planning Commission to make a recommendation to the Town Council to strike section 17.136.060 B. 1. from the updated Housing Ordinance. The clause conflicts with the purposes of the proposed Ordinance as set forth in section 17.136.010, which include: (1) to "encourage the development and availability of housing that is affordable to a broad range of households with varying income levels within the town"; and (2) to "promote the Town's goal to add to, and preserve the existing stock of workforce housing units with the town."

In order to encourage and promote the development and availability of workforce housing within the town, no zone or parcel should be declared "off-limits" for workforce housing mitigation. This is particularly true for parcels within the AH Zone (the Shady Rest Tract) and the RMF-1 Zone. If workforce housing mitigation is not allowed at Shady Rest, then

it will remain vacant. If workforce housing mitigation is not allowed in the RMF-1 zone, then parcels within the RMF-1 zone will never be redeveloped and improved with workforce housing which complies with the Town's livability standards. Moreover, if workforce housing mitigation is limited to the zones described in section 17.136.060 B. 1., then high-value parcels within the RMF 2, Resort, and Specific Plan Zones will no longer be available to generate the transient occupancy taxes and other revenues that the Town would otherwise receive for decades to come.

Finally, we have concluded that the current draft of the Housing Ordinance update does not limit or restrict which zones or parcels within the Town may accommodate workforce housing that is constructed as a result of the Town's dedication of the housing impact mitigation fees it collects pursuant to section 17.136.040. Specifically, section 17.136.040 G. 4., entitled "Use of Housing Fees," does not limit or restrict where those mitigation fees may be applied. Nonetheless, we recognize that because the current draft ordinance prohibits the construction of off-site mitigation within certain zones, the updated Ordinance may be susceptible to the interpretation that it also prohibits mitigation fees from being used to construct workforce housing within those same zones. If the updated Ordinance is meant to preclude the Town from using the housing impact mitigation fees to provide workforce housing on any zones or parcels with the Town, then the Clients oppose that concept. If, however, the Town does not intend to restrict where the Town can spend its mitigation fees, then we request the Commission to recommend to the Town Council that it add the clarifying clause "within the Town limits" to the end of the first sentence of section 17.136.040 G. 4. so that it reads as follows: "Fees collected pursuant to this Chapter shall be placed in a separate fund of the Town and shall be used only for the purposes of planning for, administering, subsidizing, or developing workforce housing *within the Town limits.*"

Thank you,

Mark Carney

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