

TOWN COUNCIL STAFF REPORT

Subject: Housing Ordinance Update (General Plan Amendment 15-001 and Zoning Code Amendment 15-001)
(Housing Fee Nexus Study and Housing Impact Mitigation Fee Schedule continued to June 3, 2015)

Meeting Date: May 20, 2015

Written by: Jen Daugherty, Senior Planner

RECOMMENDATION:

Take the following actions as recommended by staff or with modifications:

- a. Consider the Addendum to the Housing Element Update 2014-2019 Negative Declaration (Negative Declaration) together with the Negative Declaration,
- b. Adopt the attached resolution making the required CEQA and Municipal Code findings and approving General Plan Amendment 15-001,
- c. Waive the first reading and introduce by title only the attached ordinance making the required CEQA and Municipal Code findings and approving Zoning Code Amendment 15-001 (Housing Ordinance Update),
- d. Adopt the attached resolution approving the Workforce Housing Amenity and Design Standards, and
- e. Continue the public hearing on the Housing Fee Nexus Study and Housing Impact Mitigation Fee Schedule to the June 3, 2015 regular Council meeting.

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 (on-site housing mitigation) requirement for certain projects (Attachment 5). Concerns with the Interim Housing Policy have been raised 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 housing impact mitigation 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.
- Provide housing fee recommendations that are reasonable for new development to absorb.
- Provide recommendations for housing programs and activities that could be executed with housing fees.
- Analyze peer resorts to inform this work effort (see Attachment 4).
- Amend the Housing Element of the General Plan as necessary to allow for consistency between the 2014 Housing Element and the housing ordinance and fee update.
- 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 2, Exhibit A) reflects this Council direction.

Mammoth Lakes Housing, Inc. (MLH) Board Review

The MLH Board serves in an advisory role to the Town 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. Policy concerns raised by the MLH Board and others have been included in the Analysis/Discussion section, below.

Planning & Economic Development Commission (PEDC) Review

The PEDC reviewed the draft ordinance and workforce housing amenity and design standards on April 29th. The PEDC did not recommend any changes to the amenity and design standards (Attachment 3). However, the PEDC recommended certain modifications to the ordinance in response to comments provided from Tom Hodges, Vice President of Mountain Development, Mammoth Mountain Ski Area. These modifications have been incorporated in the attached updated housing ordinance, Attachment 2, Exhibit A. With these modifications, the PEDC recommended to Council approval of the housing ordinance update and the workforce housing amenity and design standards. The PEDC provided comments on certain policy items for Council's consideration, which are discussed in the Analysis/Discussion section, below.

ANALYSIS/DISCUSSION:

Staff is requesting that the Housing Fee Nexus Study and Housing Impact Mitigation Fee Schedule be continued to June 3rd to allow time to finalize fee recommendations with stakeholders. Therefore, this Analysis/Discussion section is focused only on the Housing Ordinance Update.

While the updated housing ordinance reflects Council's direction, the following policy items are provided for Council discussion.

Policy Items for Discussion

1. **Utilizing Existing Rental Units for Housing Mitigation**

Subsection 17.136.060.B.2 of the housing ordinance would prohibit units currently serving as long-term rental units to be used as off-site mitigation. A comment raised at the PEDC hearing was that these units should be allowed to serve as off-site mitigation because they could be deed-restricted to ensure long-term affordability. Furthermore, since off-site mitigation units would be required to meet workforce livability and design standards, allowing existing rental units to serve as mitigation would encourage renovation of existing buildings. However, applying a deed restriction to currently occupied rental units could result in some existing tenants no longer be eligible to rent the units. Therefore, if Council decides to revise Subsection 17.136.060.B.2, staff recommends revising the language as follows:

Units that are currently serving as long-term (i.e., non-transient) rental units, may only serve to satisfy housing mitigation requirements if all applicable relocation law provisions are adhered to.

2. **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 (D, OMR, and MLR), RMF-2 Zone, Resort Zone, and Specific Plan Zone (17.136.060.B.1) (the Town's Zoning Map is included as Attachment 6). These are zones where transient rentals are allowed. 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 not only allows the provision of new workforce units in other appropriate areas of town, but also helps to ensure that an adequate supply of workforce units is available.

At the PEDC hearing, there was discussion about allowing new construction of off-site mitigation units in all zones (i.e., not limiting new off-site mitigation units to any zones). Concern was raised that if new construction of off-site units is not allowed in the RMF-1 Zone, that area of town may not be redeveloped and the

Shady Rest Tract may remain vacant. Another comment was that requiring new off-site construction of workforce units in transient zones would decrease the number of units available to generate TOT. However, the more transient units that are constructed, the higher the need will be for employees and workforce units.

Since staff anticipates the submittal of an application to amend to the Shady Rest Master Plan shortly, it may be appropriate to conduct a detailed analysis of this issue at that time.

If Council decides to not restrict where the construction of new off-site mitigation housing units can be located, Subsections 17.136.060.B.1 and 17.136.070.A.8 would be deleted.

3. 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.

The PEDC did not direct any changes to the ordinance as a result of its discussion on this topic, but noted it would be appropriate to continue to discuss this topic in the future.

4. Exemptions from Housing Mitigation – Non-Transient Single Family Homes

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 are not proposed to be exempt.

The PEDC’s discussion on this topic included the following:

- Should new non-transient single family homes be exempt since they can serve as workforce housing?
 - Non-transient single family areas (RR and RSF Zones) include the Knolls, the Trails, Majestic Pines, Mammoth Slopes, most of Old Mammoth, Ranch Road, and the Bluffs (please see Zoning Map, Attachment 6).

- Should new non-transient single family homes of a certain size be exempt from the housing fee?
 - The Interim Housing Policy exempts new single family homes of less than 2,500 square feet of habitable space and applies fees on a square foot basis for homes of 2,500 square feet and above. Many of the recently constructed single family homes (e.g., Graystone and Gray Bear) are between approximately 2,600 and 3,100 square feet of habitable space.
 - If a size threshold were to be applied, non-transient single family home additions that would result in the home exceeding the threshold would need to be addressed (i.e., a fee applied to these additions).

The Housing Fee Nexus Study will recommend a fee per residential unit, and those fee recommendations are expected to be considered at the Council's June 3rd meeting. Since not all new single family homes in non-transient zones would actually serve as workforce housing, if all or a portion of these homes were exempt, another funding source would be required to meet the gap in housing need that would result.

If Council decides to exempt non-transient single family homes from housing mitigation requirements, the Council may consider adding one of the following to Section 17.136.100, Exemptions:

Option 1: *New single family homes in non-transient zones (i.e., RR, RSF, and RMF-1 zones).*

Option 2:

- *New single family homes in non-transient zones (i.e., RR, RSF, and RMF-1 zones) that have less than 2,500 square feet of habitable space.*
- *Revise 17.136.100.B as follows:*
 - *Additions to single family homes, except additions that increase total habitable square footage to 2,500 square feet or more for homes that were originally exempt under the above section (i.e., constructed after July XX, 2015).*
 - *Additions to multi-family units in any zone.*

If Option 2 was selected, the effective date of the updated housing ordinance would be inserted.

Additional Minor Revisions to the Housing Ordinance

After the PEDC hearing on the housing ordinance and work on the draft Housing Fee Nexus Study, staff has made the following three minor revisions to the housing ordinance:

- Deleted residential additions from fee calculations (17.136.040.C). Since the Nexus Study assigns residential fees per unit, assessing housing fees for residential additions would not be consistent. For additional clarity, residential additions have been added to exemptions (17.136.100.B).
- Deleted the provision that required an Alternate Housing Mitigation Plan (AHMP) if “a combination of the options” allowed in the ordinance were proposed (17.136.080). This was determined to be unnecessary and excessive. As a result AHMPs would only be required when a developer is proposing to mitigate through a method not identified in the ordinance.
- Added a provision to clarify that existing housing credits calculated based on Full Time Equivalent Employees (FTEEs) or Employee Housing Units (EHUs) can be applied under the updated ordinance (17.136.030.B.3).

FOLLOW UP ITEMS

After Council approval of the updated housing ordinance and fee, staff anticipates completing the following items:

- Council approval of target Area Median Income (AMI) levels for on- and off-site housing mitigation (17.136.050.B.1 and 17.136.060.B.3). Town Council has directed staff to consider up to 150% AMI in the housing ordinance and fee update work effort.
- Council approval of methodology or formula for calculating workforce housing sales prices and rents (17.136.130.C.1 and 17.136.130.D.1).
- Council adoption of a resolution to waive a proportion of application processing fees for developments in which at least five percent of units are affordable to extremely low income households (30% AMI) consistent with Housing Element Action H.4.B.1.
- Determine approach and/or methodology for applying existing Full-Time Employee Equivalent (FTEE) and Employee Housing Unit (EHU) credits under the updated Housing Ordinance.

The timeline for completion of these items will depend on necessity and staff workload priorities.

OPTIONS ANALYSIS

Option 1: Take the following actions as recommended by staff or with modifications:

- a. Consider the Addendum to the Housing Element Update 2014-2019 Negative Declaration (Negative Declaration) together with the Negative Declaration,
- b. Adopt the attached resolution making the required CEQA and Municipal Code findings and approving General Plan Amendment 15-001,
- c. Waive the first reading and introduce by title only the attached ordinance making the required CEQA and Municipal Code findings and approving Zoning Code Amendment 15-001 (Housing Ordinance Update),
- d. Adopt the attached resolution approving the Workforce Housing Amenity and Design Standards, and
- e. Continue the public hearing on the Housing Fee Nexus Study and Housing Impact Mitigation Fee Schedule to the June 3, 2015 regular Council meeting.

Option 2: Continue all items to the June 3, 2015 meeting.

Option 3: Deny General Plan Amendment 15-001 and Zoning Code Amendment 15-001.

Option 1 would allow the ordinance to proceed to a second reading by Council on June 3rd, and which would become effective 30 days after the second reading.

Option 2 would allow the public hearing for both the Housing Ordinance Update and the Housing Fee to be continued to the June 3, 2015 meeting. The Council could select this option if additional information or analysis related to the Housing Ordinance Update is requested by Council.

Option 3 would deny the Housing Ordinance Update work effort, including the establishment of housing fees for all development types. Council would need to make findings for denial.

FINANCIAL CONSIDERATIONS:

The establishment of a housing fee as a mitigation option for all development is expected to result in the majority of new projects paying the fee. The Housing Fee Nexus Study will identify maximum allowable fees that the Town could charge and recommended fees based on other available workforce housing funding sources, existing and anticipated housing programs, and direction previously provided by Council. It is expected that the Council will consider the Housing Fee Nexus Study and establishment of a Housing Impact Mitigation Fee Schedule on June 3rd.

ENVIRONMENTAL CONSIDERATIONS:

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.

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.

Attachments

1. Resolution approving General Plan Amendment 15-001
 - a. Exhibit A – Addendum to the Housing Element Update 2014-2019 Negative Declaration
 - b. Exhibit B – Housing Element Update 2014-2019 Initial Study/Negative Declaration dated March 17, 2014, and the Addition and Response to Comments dated June 18, 2014 (collectively the “Negative Declaration”)
 - c. Exhibit C – Housing Element Update 2014-2019 Revisions (track changes excerpts)
2. Ordinance rescinding the Interim Affordable Housing Mitigation Policy and approving Zoning Code Amendment 15-001, amending Municipal Code Chapters 17.136 and 17.148
 - a. Exhibit A – Chapter 17.136, Housing Ordinance Update
 - b. Exhibit B – Chapter 17.148, Definitions
3. Resolution approving Mammoth Lakes Workforce Amenity and Design Standards
4. Peer Resort Analysis Memo, dated April 16, 2015
5. Interim Affordable Housing Mitigation Policy (Council Resolutions 09-76 and 14-54)

6. Zoning Map
7. Planning and Economic Development Commission April 29, 2015 hearing staff report (http://mammothlakes.granicus.com/ViewPublisher.php?view_id=4)
8. Mammoth Lakes Housing, Inc. letter to Council, April 7, 2015
9. Planning and Economic Development Commission letter to Council, April 29, 2015
10. State Income Limits for 2015