

Recording Requested by and )  
When Recorded Mail To: )  
)  
Town of Mammoth Lakes )  
Community & Economic Development Department )  
P.O. Box 1609 )  
Mammoth Lakes, CA 93546 )

Recordation fee exempt per Government Code §27383  
Space Above for Recorder's Use

**RESOLUTION NO. PEDC 2017-19**

**A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND  
ECONOMIC DEVELOPMENT COMMISSION  
APPROVING TIME EXTENSION REQUEST 17-003 GRANTING A  
SIX-YEAR TIME EXTENSION FOR THE  
VISTA POINT ENTITLEMENT  
(VTTM 2009-001 and UPA 2009-01)  
FOR PROPERTY LOCATED AT 94 AND 151 BERNER STREET  
(APN: 033-041-011-000 & 039-030-014-000)**

**WHEREAS**, a request for consideration of a six-year Time Extension Request for the Vista Point project entitlement (Vesting Tentative Tract Map 2009-001, Use Permit 2009-013) was filed by the property owner, FM Mammoth, LLC, in accordance with Section 17.64.060 (Time Limits and Extensions) of the Town of Mammoth Lakes Municipal Code and CA Subdivision Map Act Section 66452.6(e), for property located within the North Village Specific Plan, Specialty Lodging district at 94 and 151 Berner Street; and

**WHEREAS**, the Planning and Economic Development Commission conducted an administrative hearing on the application request on December 13, 2017, 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 exhibits;
2. The State Subdivision Map Act, General Plan, Municipal Code, Design Guidelines, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing; and

5. Project plans consisting of all those approved with the original project approval; and

**WHEREAS**, pursuant to Government Code Section 66498.1, none of the conditions warranting denial or modification of the conditions of approval are present; and

**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.**

### **1. CEQA.**

Pursuant to the California Environmental Quality Act (CEQA), the Planning and Economic Development Commission previously found the project to be consistent with the 1999 North Village Specific Plan Program EIR (SCH # 99-092082). As no changes to the approved project have occurred, this Time Extension Request is not subject to additional environmental review.

### **2. MUNICIPAL CODE FINDINGS.**

#### **FINDINGS FOR THE TIME EXTENSION APPROVAL**

##### **Municipal Code Section 17.64.060.B(4)**

- a. The Planning and Economic Development Commission finds that the applicant has made a good faith effort to exercise the permit and comply with the conditions of approval in a timely manner and circumstances beyond the control of the applicant have prevented exercising the permit because the Project was approved November 18, 2009, in the midst of a significant economic downturn, which reduced building activities within the Town and created difficulties in obtaining financing for new construction projects. The applicant has cited the economic conditions of the past several years as the primary reason that the project has not moved forward, and states in their time extension request that a steady improvement in the economy and the anticipated growth stemming from the new ownership of Mammoth Resorts provides a reasonable expectation that the project may move forward.

Sequential State mandated time extensions applicable to tentative maps provides further evidence that effects of the recession were contemplated by the State Legislature and that time extensions for tentative maps was considered a necessary form of relief for developers. 2017 marks the first lapse in the State mandated time extensions, so this time extension request provides the final six-year extension to the Vista Point entitlement.

Additionally, pursuant to Government Code Section 66498.1, the vested project is subject to the development standards that were in effect when the application was deemed complete and that in order to deny or condition a time extension, a determination would need to be made that either (1) a failure to deny the extension request or impose additional conditions of approval would place the residents of the subdivision or the immediate community, or both, in a condition

dangerous to their health or safety, or both; or (2) the condition or denial is required in order to comply with state or federal law. Neither of those situations apply in this instance because the original approved project remains consistent with the General Plan, applicable zoning regulations, the North Village Specific Plan, and would not place occupants in a condition dangerous to their health or safety, and there are no applicable state or federal laws that conflict with the approved project.

- b. The Planning and Economic Development Commission finds that the project is still in compliance with the General Plan, Zoning Code, and the North Village Specific Plan since there have not been changes to the original approved project, which was found to be consistent at the time the project application was deemed complete.
- c. The Planning and Economic Development Commission finds that the original conditions of approval for the project (Resolution No. PC-2009-07) are still appropriate and conditions have not changed since the project approval that would necessitate additional conditions of approval to be imposed on the project, or that would warrant the denial of the six-year time extension request.

**SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS.** The Planning and Economic Development Commission hereby takes the following actions:

1. Approves Time Extension Request 17-003 subject to the following conditions:
  - a. The approved Vista Point Entitlement (VTTM 2009-01 and UPA 2009-01), approved via Resolution No. PC-2009-07 shall be adhered to and maintained for the duration of this six-year time extension approval.
  - b. All conditions of approval for the Vista Point Entitlement (VTTM 2009-01 and UPA 2009-01) approved via Resolution No. PC-2009-07 shall be adhered to, or satisfied, prior to Final Map approval or Certificate of Occupancy, as may be applicable.
  - c. The Vista Point Entitlement (VTTM 2009-01 and UPA 2009-01) shall become null and void on November 18, 2023. No additional time extensions may be granted since the maximum allowable term of eight (8) years will have been exhausted.

**PASSED AND ADOPTED** this 13<sup>th</sup> day of December 2017, by the following vote, to wit:

AYES: BURROWS, CALLANAN, ECKERT

NAYS:

ABSENT:

ABSTAIN:

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ATTEST:

*Sandra Moberly*  
Sandra Moberly,  
Community and Economic Development  
Director

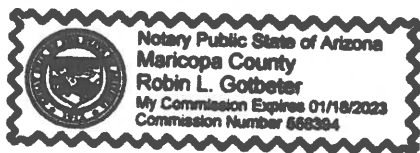
*Amy Callanan*  
Amy Callanan,  
Chair of the Mammoth Lakes Planning  
and Economic Development  
Commission

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

I, Phillip Dorchester, am the authorized signatory for FM Mammoth, LLC and I do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

*Phillip Dorchester*      2-12-2019  
\_\_\_\_\_  
Phillip Dorchester      Date

FM Mammoth, LLC  
(Notary Required)



*Robin L. Gotbeter*  
2/12/2019

" See attached Notarial Certificate "

This certificate is attached to a 4 page document dealing with/entitled  
Resolution PEDC 2017-19 and dated undated.

State of Arizona  
County of Maricopa

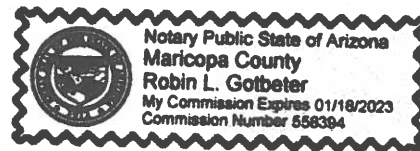
Before me, Robin L Gotbeter, notary public, on February 12<sup>th</sup>, 2019  
personally appeared Phillip Dorchester who proved to be the  
person whose name is subscribed to the foregoing instrument and who acknowledged  
to me that he/she executed the same for the purposes and consideration expressed  
herein.

Given under my hand and seal of office this 12<sup>th</sup> day of February, 2019.

Robin L. Gotbeter

Robin L Gotbeter

Notary Public, State of Arizona



My Commission Expires: 01/18/2023

