

TOWN COUNCIL STAFF REPORT

Subject: Receive and file the Snowcreek Development Agreement 2021 Annual Review Report

Meeting Date: November 17, 2021

Written by: Michael Peterka, Assistant Planner

RECOMMENDATION:

Staff recommends that Town Council receive and file the Snowcreek Development Agreement annual review report, finding the Developer in good faith substantial compliance with the terms and conditions of the Development Agreement.

BACKGROUND:

Development Agreements

Development Agreements (DAs) are contracts negotiated between project proponents and public agencies that govern the allowable land uses in a particular project and establish the conditions to which a development will be subject. DAs provide mutual benefits to the parties and must be consistent with the General Plan and any applicable specific plan.

Neither an applicant nor a public agency is required to enter into a DA; DAs are voluntary agreements of both parties. The terms and conditions of DAs are negotiated between the parties and subject to the ultimate approval of the public agency after following a specifically required process.

State law, Government Code 65864 et seq., and Municipal Code Chapter 17.108 outline the requirements for Town of Mammoth Lakes DAs. DAs are recorded, which binds future owners to the requirements and obligations contained in the DA. The Snowcreek DA was adopted consistent with these requirements.

Snowcreek DA

The Snowcreek DA (**Attachment 3**) was approved by Town Council via Ordinance 10-08 and became effective on July 23, 2010. The DA provides a 20-year vesting for the Snowcreek Master Plan Update (Snowcreek VIII) and Snowcreek VII projects, which total approximately 260 acres within the Snowcreek Master Plan area.

The Snowcreek DA is intended to:

- Increase the likelihood the subject development projects are built as intended in the long-term; and
- Ensure the provision of needed facilities, improvements, or services; and
- Provide assurance to the developer regarding the rules, regulations, and policies applicable to future development.

Both the Town and the Developer share mutual interest in implementation of Snowcreek VII and Snowcreek VIII projects and the improvements that would result.

Community benefits provided through the Snowcreek DA include:

- Allowing egress of backcountry skiers, snowboarders, and snowshoers from the Sherwin Range earlier than required (DA Section 2.2.1.a).
- Permanent preservation of the Mammoth Creek open space corridor (DA Section 2.2.1.b).
- Additional Financial Contribution (“AFC”) paid per unit at building permit issuance. This cash flow could result in up to \$10 million to use for purposes beneficial to the community and intended to be applied to various projects located within a surrounding geographic nexus (DA Section 2.2.2).
- Fiscal benefits that will accrue to the Town and community through the implementation of the Project as intended that would not occur without the DA, including transient occupancy taxes.
- Secondary access for both Snowcreek V and VIII and the emergency vehicle access road, which is in addition to the Fire District requirements.
- Establishment of public access across certain points of the project to surrounding public lands prior to project construction and after completion, which would provide access to an enhanced network of publicly accessible multi-use paths that is connected to the Town’s trail system.

Additional community benefits provided by the Project are identified in the Recitals of the DA. The full Development Agreement can be found online [HERE](#).

ANALYSIS/DISCUSSION:

Snowcreek DA - Annual Review

Because of economic conditions and the significant impacts caused by the recession, a determinate phasing schedule of development was not practical and was not approved with the Snowcreek DA. Rather, basic performance milestones were provided, which are listed in the attached annual review report (**Attachment 1**). The DA allows for a finding that it is acceptable for milestones to have not been met due to unavoidable delays or events as described in Section 11.15 of the DA.

Attachment 1 is the 2021 annual review report for the Snowcreek DA and **Attachment 2** is the written statement from the developer initiating the annual review. This report finds that the Developer is in good faith substantial compliance with the terms and conditions of the DA.

Development of the Snowcreek VII project Phase 2 and 3 has continued over the past year. A total of 23 units within 9 multi-unit buildings have been completed. At the end of 2021, 32 units within 11 multi-unit buildings were under construction. Building permits for an additional 20 units within 7 multi-unit buildings have been approved and are ready to be issued. The developer continues to refine their plans for the residential component of Snowcreek VIII. Staff expect an entitlement application for the first phase of Snowcreek VIII in 2022.

OPTIONS ANALYSIS

Option 1: Receive and file the Snowcreek Development Agreement annual review report, finding the Developer in good faith substantial compliance with the terms and conditions of the Development Agreement.

Option 2: Receive and file the Snowcreek Development Agreement annual review report, finding the Developer in good faith substantial compliance with the terms and conditions of the Development Agreement, and comment on the report or request further information or public discussion at a future regular public meeting or closed session, as legally permitted.

Both options allow the Snowcreek DA annual report to be filed consistent with the requirements of the Snowcreek DA.

FINANCIAL CONSIDERATIONS:

The Snowcreek DA includes terms related to financial contributions to the Town, such as the Additional Financial Contribution (e.g., \$10,000 per unit in Snowcreek VIII paid to the Town at time of building permit issuance pursuant to DA Section 2.2.2). The DA vests development impact, affordable housing in-lieu, application processing, and building permit fees for 20 years. Application processing fees are subject to a cost of living adjustment (COLA).

ENVIRONMENTAL CONSIDERATIONS:

An Environmental Impact Report (EIR) was certified for the Snowcreek Master Plan Update (Snowcreek VIII) Project (SCH# 2006112015). A Mitigated Negative Declaration was adopted for the Snowcreek VII Project (SCH# 2006022011). Pursuant to CEQA Guidelines Section 15161, no additional environmental review is required for the DA annual review.

LEGAL CONSIDERATIONS:

The Town's legal counsel and special legal counsel were part of the Town's negotiating team for the Snowcreek DA. There are no legal considerations associated with the filing of the DA annual review.

Attachments

1. Snowcreek DA 2021 Annual Review Report
2. Letter from Mr. Charles R. Lande initiating the Snowcreek DA Annual Review, dated received by the Town October 21, 2021
3. Snowcreek Development Agreement - available online at:
<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/5109>