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RESOLUTION NO. PEDC 2018-03

A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND

ECONOMIC DEVELOPMENT COMMISSION

APPROVING USE PERMIT 17-004

TO ALLOW A THREE GUESTROOM BED AND BREAKFAST

LOCATED AT 70 CARTER STREET

(APN: 022-321-001-000)

WHEREAS, a request for consideration of a Use Permit was filed by Zachary David Salaam, for Amy Walters, property owner, to allow the establishment of a Bed and Breakfast use with three guestrooms in accordance with Chapter 17.52.080 (Bed and Breakfast Inns) and 17.68 (Use Permits) of the Town of Mammoth Lakes Municipal Code, for property located within the Rural Residential/Equestrian Overlay Zoning District at 70 Carter Street; and

WHEREAS, the Planning and Economic Development Commission conducted a noticed public hearing on the application request on April 11, 2018, 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 General Plan, Municipal Code, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing; and

5. The Addendum to Initial Study/Mitigated Negative Declaration for Grading Plan Check 94-01 (SCH #1994042008); and associated Mitigation Monitoring and Reporting Program; and
6. Project plans and narrative, dated received by the Town of Mammoth Lakes on February 20, 2018 and December 24, 2017, respectively.

**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.

- a. On May 11, 1994, the Town of Mammoth Lakes Planning Commission adopted the Initial Study/Mitigated Negative Declaration (IS/MND) for Grading Plan Check 94-01 (SCH #1994042008). The IS/MND evaluated the impacts of grading approximately one-half acre to accommodate a single-family home, detached garage/tack room, driveway, and small horse stable located at the southeast corner of Old Mammoth Road and Tamarack Street. These proposed improvements required filling a portion of the existing wetlands on-site, and therefore, off-site mitigation was required. The single-family home, detached garage/tack room, driveway, and horse stable/corral were constructed and exist on the site today.

On September 25, 2013, The Planning Commission adopted an Addendum to the Grading Plan Check 94-01 Initial Study/Mitigated Negative Declaration (IS/MND) (SCH #1994042008) prepared by the Town of Mammoth Lakes to assess the potential environmental impacts of a subdivision of the subject property into two lots. The approved Tentative Parcel Map (TPM 11-001) has not been exercised and has an expiration date of September 25, 2021. The Addendum prepared for the Tentative Parcel Map demonstrates that the environmental analysis and impacts identified in the Grading Plan Check 94-01 Initial Study/Mitigated Negative Declaration remain substantively unchanged by the proposed project.

The proposed bed and breakfast inn with the proposed bridge access off of Tamarack Street will not result in any new environmental effects that were not previously analyzed in the adopted Addendum to the IS/MND for Grading Plan Check 94-01 (SCH #1994042008). Pursuant to CEQA Guidelines Section 15162; once an environmental impact report, negative declaration, or mitigated negative declaration has been certified for a project, no subsequent CEQA review is required for subsequent project actions unless the agency determines that one of the following has occurred: 1.) There are substantial changes in the project that will cause new or more severe environmental impacts; 2.) There are changes in the circumstances under which the project is to be undertaken, which cause new or more severe environmental impacts; and 3.) Substantial new information is available that was not reasonably available at the time the Addendum to the IS/MND was adopted and shows that: (a) either the project will have one or more new significant effects; (b) significant effects examined in the Mitigated Negative

Declaration will be substantially more severe; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the project proponents decline to adopt the measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt that measure or alternative.

The three criteria described within Section 15162 of the CEQA Guidelines that require additional environmental analysis do not apply to the proposed bed and breakfast inn. The project, a change of use of the single-family residence to a bed and breakfast inn and construction of an access bridge off Tamarack Street, is not substantially different than the project previously analyzed. Alone, the change of use of the single-family residence to a bed and breakfast inn would be categorically exempt from further review pursuant to CEQA Guidelines sections 15301 (Existing Facilities) and 15303 (Conversion of Small Structures). The bridge access off Tamarack Street was previously analyzed at the same general location on the property under the Addendum to the IS/MND and the previously adopted mitigation measures applicable to the construction of the access bridge will continue to apply. Additionally, there are no changed conditions or new items of information that would suggest the existence of new or more significant impacts. Therefore, the adopted Addendum to the IS/MND for Grading Plan Check 94-01 (SCH #1994042008) is applicable to the potential impacts associated with this use permit application and the proposed construction of an access bridge off Tamarack Street. The project is subject to the mitigation measures included in the Addendum's Mitigation Monitoring and Reporting Program (MMRP), which have been included as conditions of approval for the project.

2. MUNICIPAL CODE FINDINGS.

FINDINGS FOR THE USE PERMIT

(Municipal Code Section 17.68.050)

- a. *The proposed use is consistent with all applicable sections of the General Plan and Title 17 and is consistent with any applicable specific plan or master plan.*

The proposed use is consistent with the applicable General Plan land use designation and the zoning designation for the property because a bed and breakfast inn may be permitted within the Rural Residential zoning district when a Use Permit is obtained and where the specific use standards applicable to bed and breakfast inns can be satisfied. The proposed bed and breakfast operation is consistent with General Plan Policy L.5.A., which directs the Town to encourage and support a range of visitor accommodations that include a variety of services and amenities. The proposed bed and breakfast use would increase the variety of visitor accommodation within Town, to include small-scale lodging options that retain the residential character of the site.

Additionally, General Plan Policy L.5.B, directs the Town to locate visitor lodging in appropriate areas. The location of the proposed bed and breakfast inn is appropriate due to the comparatively large size of the property in the context of the surrounding neighborhood and the corner configuration of the lot, which provides for greater distance between the proposed use and other residential properties in the vicinity. The layout of existing driveway and pavement areas at the site provide adequate circulation and parking for the three guestrooms and for the on-site owner/manager's living quarters.

Zoning Code §17.52.080 establishes nine land use standards applicable to bed and breakfast inns as follows: 1.) Exterior Appearance: The exterior appearance of the structure shall not be altered from its original single-family residential character. 2.) Fire Safety: The bed and breakfast inn shall meet the requirements of the Mammoth Lakes Fire Protection District and California Building Standards Code. 3.) Guest Rooms: The number of rental guest rooms shall be limited to five rooms and shall not contain food preparation facilities. 4.) Internal Access: Main or primary access to guest rooms shall be from within the bed and breakfast inn or the guest room shall be located in an approved detached living area. 5.) On Site Parking: On-site parking shall be provided at a ratio of one space for each guest room plus two spaces for the on-site owner/manager. 6.) On-site management: The bed and breakfast inn shall be the primary residence of the bed and breakfast inn owner or manager. 7.) Provision of Meals: Bed and breakfast inns may serve breakfast to guests only where authorized by the Mono County Environmental Health Department. 8.) Signs: Signage shall be allowed for bed and breakfast inns in compliance with Chapter 17.48 (Signs). 9.) Transient Occupancy Tax: Bed and breakfast inns shall be subject to all applicable provisions of chapter 3.12 (Transient Occupancy Tax) and shall maintain accurate occupancy records.

The proposed bed and breakfast inn complies with the nine mandatory land use standards as follows: 1.) The exterior appearance of the single-family residence is not being altered from its single-family residential character because no modifications to the exterior of the structure are proposed. 2.) Fire safety requirements of the Mammoth Lakes Fire Protection District are satisfied with adherence to conditions of approval #28 - 31, which require adequate emergency vehicle access to the property. Applicable conditions of approval have also been included to ensure all Building Permits are obtained for interior modifications and for the access bridge, to ensure compliance with the California Building Code. 3.) The bed and breakfast inn is limited to a total of three guestrooms. 4.) The three proposed guestrooms are accessed from within the bed and breakfast inn. 5.) The site plan provided for the bed and breakfast inn identifies five parking spaces that meet the required ratio of one space per guestroom and two spaces for the on-site owner or manager. 6.) The existing secondary dwelling unit on the property will function as the primary residence of the bed and breakfast inn owner or manager. 7.) The applicant's proposal includes breakfast service to guests on a daily basis, so condition of approval #20 has been included and requires the applicant to obtain the necessary Mono County Health Department approvals. 8.) The applicant has not proposed a sign

as part of this use permit application, so condition of approval #21 is included to ensure any future signs comply with Zoning Code Chapter 17.48, *Signs*. 9.) Condition of approval #16 has been included to ensure a transient occupancy tax certificate and a business tax certificate are obtained prior to commencing operation of the use.

- b. *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.*

The use will be operated in such a way that it will be compatible with surrounding land uses and will not be detrimental to the public health, safety, and welfare, nor will it be materially injurious to properties or improvements in the vicinity because the proposed bed and breakfast inn will be accommodated within the existing structures at the site while adhering to the applicable standards for bed and breakfast uses including on-site parking for each guestroom and for the owner or manager's living quarters (condition of approval #1).

The presence of an owner or manager on site will ensure that the property is maintained and that any safety issues related to the property condition can be remedied by the owner or manager in a timely manner. The presence of an owner or manager on-site enables quick intervention of any potentially disruptive activities. The presence of the bed and breakfast inn owner or manager is addressed in condition of approval #18.

The proposed site is adequate in size and shape to provide screening and buffer areas between the proposed bed and breakfast inn and adjacent residential properties as required by §17.36.090.B of the Zoning Code. A new access bridge to the property is proposed off of Tamarack Street, which will satisfy the emergency access requirements of the Mammoth Lakes Fire Protection District (condition of approval #29-31). This access bridge will become the primary access point for the proposed bed and breakfast use, thereby decreasing the use of Carter Street, a private road, for access to the property. Condition of approval #22 addresses required approvals from the Army Corps of Engineers, Lahontan Regional Water Quality Control Board, and the California Department of Fish and Wildlife related to the construction of the access bridge off Tamarack Street.

Public Works condition of approval #27 requires the provision of a grant deed by the property owner to the Town, for portions of the subject property fronting on Old Mammoth Road and Tamarack Street in order to reconcile existing road conditions and locations with the Town's right-of-way standards.

- c. *The Commission shall make such other findings as deemed necessary to support approval or denial of the proposed use.*

The proposed location for the use is appropriate because the property features frontage along three streets, which provides for separation between the proposed use and the surrounding residential neighborhood. The east side of

the property abuts several properties zoned Residential Single-Family, and one property zoned Residential Multi-Family-1. This north/east portion of the property that directly abuts other residentially zoned properties is a designated wetland area which will be left in its natural state.

The proposed bed and breakfast operation satisfies all of the applicable Zoning Code standards specific to bed and breakfast inns and retains the property's residential character and scenic qualities by utilizing the existing structures at the site.

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

1. Finds that the proposed bed and breakfast inn with the proposed bridge access off of Tamarack Street will not result in any new environmental effects that were not previously analyzed in the adopted Addendum to the Initial Study/Mitigated Negative Declaration for Grading Plan Check 94-01 (SCH #1994042008); and
2. Approves Use Permit (UPA) 17-004 subject to the following conditions: (SEE EXHIBIT "A"); and
3. Directs staff to file a Notice of Determination.

PASSED AND ADOPTED this 11th day of April 2018, by the following vote, to wit:

AYES: BURROWS, CALLANAN, CHANG, ECKERT

NAYS:

ABSENT: VANDERHURST

ABSTAIN:

ATTEST:

Sandra Moberly,
Community and Economic
Development Director

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, Zachary Salaam, am the applicant for this Use Permit, and I do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

Zachary Salaam (Applicant)	Date
Yosemite Toad Inn, LLC	
(Notary Required)	

I, Amy Walters, am the property owner of 70 Carter Street, and I do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

Amy Walters (Property Owner)	Date
(Notary Required)	

EXHIBIT “A”
Resolution No. PEDC 2018-
Case No. UPA 17-004

PLANNING DIVISION CONDITIONS

STANDARD PLANNING CONDITIONS

1. This approval authorizes the following: A three guestroom bed and breakfast inn to be operated within an existing single-family residence and a detached secondary dwelling unit to be utilized as the on-site owner and/or manager’s living quarters. On-site parking shall be provided including three parking spaces for the three guestrooms and two parking spaces for the owner and/or manager’s living quarters.
2. This permit and all rights hereunder shall automatically terminate unless the business operation, site preparation or construction has been commenced within 24 months 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 Section 17.60.100.
3. 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 of the permit under Chapter 17.128 of the Mammoth Lakes Municipal Code.
4. 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.
5. 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 at the property.
6. All conditions of this use permit shall be met or secured prior to issuance of a Transient Occupancy Tax Certificate and a Business Tax Certificate for use of the property as a bed and breakfast inn.
7. 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 approval.
8. 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.

9. 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, or Transient Occupancy Tax Certificate or Business Tax Certificate, the applicant shall pay all outstanding costs for the processing of this application.
10. 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.
11. 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.
12. In the event the Town determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the Town, even if the matter is not prosecuted to a final judgement or is amicably resolved, unless the Town should otherwise agree with applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails on every issue in the enforcement proceeding.
13. A certificate of occupancy is required for all tenant improvements within the subject structures. Tenant improvements shall identify occupancy separation requirements, and compliance with all applicable building, electrical, plumbing, and fire code requirements.
14. 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.

SPECIAL PLANNING CONDITIONS

15. Pursuant to Municipal Code Chapter 17.128 (Revocations and Modifications), any modification to the operations of the approved use and/or any substantial modification to the approved site plan shall require the applicant to apply for a Modification of this Use Permit.
16. Prior to commencing operation of the bed and breakfast inn, the property owner shall obtain a transient occupancy tax certificate and a business tax certificate from the Town of Mammoth Lakes Finance Department. The operators of the bed and breakfast inn shall maintain a guest register to ensure accurate occupancy records.
17. The project shall comply with all Mammoth Lakes Fire Protection District and Town of Mammoth Lakes Building Division requirements. A fire permit and a building permit are required for all applicable tenant improvements.

18. The bed and breakfast inn shall be the primary residence of the owner or manager of the property. The Bed and Breakfast Inn shall have an on-site manager available at all times while guest rooms at the inn are rented and/or occupied.
19. The bed and breakfast inn operators shall ensure that required driveway and parking areas are kept free of snow and any other obstacles at all times. A minimum of three 10 foot by 20 foot guest parking spaces shall be provided and maintained. A minimum of one exterior 10 foot by 20 foot parking space and one interior garage parking space shall be provided and maintained for the owner and/or manager's living quarters.
20. The operators of the bed and breakfast Inn may serve breakfast to guests only where authorized by the Mono County Environmental Health Department. Meals shall be limited to registered overnight guests only. Rental guest rooms shall not contain food preparation facilities.
21. If signage is installed, all signage will require a sign permit and shall conform to Municipal Code Chapter 17.48 (Signs).

PUBLIC WORKS CONDITIONS

22. Prior to approval of a building permit for the proposed bridge access off Tamarack Street, the applicant shall provide the Town with documentation of approval from the Army Corp of Engineers (ACOE), Lahontan Regional Water Quality Control Board (LRWQCB), and the California Department of Fish and Wildlife (CDFW).
23. Low-impact development principles shall be implemented to maintain natural flow paths, slow and filter runoff, and prevent degradation of adjacent wetlands areas and stream channels.
24. During construction activities, protective fencing shall be placed upslope and adjacent to existing wetlands to keep construction vehicles and personnel from impacting adjacent wetlands located outside of work limits.
25. A building permit shall be required for construction of the proposed bridge providing access to the property from Tamarack Street.
26. The property shall be assigned a new address to reflect the primary access off Tamarack Street pursuant to Municipal Code Chapter 16.32, to the satisfaction of the Public Works Director. The applicant shall submit an "Application for Address Assignment" to the Public Works Department with the applicable application fee prior to final inspection of the access bridge.
27. The applicant shall provide a grant deed to the Town of Mammoth Lakes for the traveled way of Tamarack Street that is currently located within the property boundaries of 70 Carter Street and a portion of the property adjacent to Old Mammoth Road as delineated on the topographical survey associated with the approved Tentative Parcel Map 11-001. This condition shall be satisfied prior to Building Permit issuance for the bridge access off Tamarack Street.

MAMMOTH LAKES FIRE PROTECTION DISTRICT CONDITIONS

28. A fire permit shall be reviewed and approved by the Mammoth Lakes Fire Protection District prior to issuance of any building permit for the bridge or other development on the property.
29. The access bridge from Tamarack Street shall be engineered for a rating of 40,000 lbs., to support Mammoth Lakes Fire Protection District engines.
30. The approach to the access bridge from Tamarack Street shall accommodate a 28 foot turning radius on either side of the bridge.
31. The bridge access to the property off Tamarack Street shall provide a minimum clearance of 13 feet 6 inches from finished grade to any overhead utility equipment or structure.