

## TOWN COUNCIL STAFF REPORT

Title: Receive and file the 2024 Snowcreek Development Agreement annual review report, finding the Developer in good faith substantial compliance with the terms and conditions of the Development Agreement.

Meeting Date: February 19, 2025

Prepared by: Nolan Bobroff, Community & Economic Development Director

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### **RECOMMENDATION:**

Receive and file the 2024 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 are intended to provide the developer with assurances that it will have a vested right to develop, use, and operate the project site during the term of the agreement, including the vesting of the uses and densities identified in the regulatory documents (e.g., zoning code, master plan). In return for those assurances, DAs provide the public agency (e.g., the Town) with a variety of community benefits that are negotiated between the parties and are required to be shown to be of greater benefit to the community than development under present zoning. DAs are required to 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 17.104 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 (SDA) (**Attachment 3**) was approved by Town Council via Ordinance 10-08 and became effective on July 23, 2010 and applies to the Snowcreek Master Plan Update (Snowcreek VIII) and Snowcreek VII projects, which total approximately 260 acres within the Snowcreek Master Plan area. The term of the SDA is for 20 years covering the period of July 23, 2010 – July 23, 2030; however, starting in July 2020, the term of the SDA is reduced one day for each day that construction of the hotel and expanded golf course has not commenced. Construction of these elements has not commenced and

therefore, the term is currently being reduced and will expire in July 2025, unless construction of the golf course and hotel has commenced or unless an amendment to the 2010 SDA is approved that extends the term.

The SDA is intended to:

- Increase the likelihood the subject development projects are built as intended in the long-term;
- 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 the Snowcreek VII and Snowcreek VIII projects and the improvements that would result.

As negotiated through the SDA, the greater community benefits provided through the SDA 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 SDA. The full Development Agreement can be found online [HERE](#).

## **ANALYSIS:**

### ***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 SDA. Rather, basic performance milestones were provided, which are listed in the attached annual review report (**Attachment 1**). The SDA 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 SDA.

**Attachment 1** is the 2024 annual review report for the SDA 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 SDA.

The Developer has submitted a request for an amendment to the SDA to extend the term for an additional 20 years; however, the amendment is separate from this annual review. The annual review is simply reviewing the progress towards the milestones listed in the current SDA, which is still in effect until July 2025, or the effective date of an amended DA if one is approved prior to July 2025.

### ***Snowcreek VII Progress***

Development of the Snowcreek VII project was completed in 2024, with the final eight (8) units (3 buildings) receiving certificates of occupancy. A total of 118 units within 39 multi-unit buildings have been constructed and the associated benefits of the project have been provided, including, but not limited to the completion of the bike path, and the provision of recreational trail public easement, adjacent to Minaret Road between the Athletic Club and Minaret Road, the provision of a 40-foot wide public access easement for fishing and hiking along Mammoth Creek, and the preservation and restoration of the historic Wildasinn Cabin and Pelton Wheel.

### ***Snowcreek VIII Progress***

In August 2023, the final map for TTM 09-002 (Snowcreek VIII) was recorded, thereby legally creating 18 development lots, six lettered lots for road purposes, and 1 lettered lot for open space purposes within the Snowcreek VIII area.

In September 2024, the “Snowcreek VIII Phase I” condominium subdivision project was approved by the PEDC allowing for: (1) the creation of 172 “airspace” condominium units; (2) construction of the road and multi-use path network for Phase I; and (3) completion of all required subdivision improvements (i.e., mass grading, installation of utilities, drainage infrastructure, stormwater management) for Phase I. The proposed subdivision does not authorize the physical construction of the residential units and a subsequent use permit and design review approval is required prior to the commencement of construction.

Grading and infrastructure improvement plans were submitted for Engineering review in summer 2024 and grading may begin in spring 2025.

## **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.

**Attachments**

1. Snowcreek DA 2024 Annual Review Report
2. Letter from Mr. Charles R. Lande initiating the Snowcreek DA Annual Review, dated received by the Town October 21, 2024
3. Snowcreek Development Agreement - available online at:  
<http://www.townofmammothlakes.ca.gov/DocumentCenter/View/5109>