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AGENDA ITEM NO. 7 (Action Item and Public Hearing)

PLANNING COMMISSION
MEETING DATE: **October 31, 2017**

SUBJECT: Zone Text Amendment (ZTA) No. 2017-04 Short-Term Rentals; update to allow Short-term rentals in the One Family Residential (R1), Single Residence and Mobile Home Combined (RMH), Rural Residential (RR), Rural Residential Starlite Estates (RR-Starlite), and Open Space (OS) Zones.

EXECUTIVE SUMMARY

Staff has drafted a proposed ordinance (Attachment 1) to update the Inyo County Zoning Code's Title 18, to allow for Short-term rentals in the County's R1, RMH, RR and OS.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

Landowners: Multiple
Address/

Community: County-wide

A.P.N.: County-wide

Existing General Plan: All Residential designations including: Residential Ranch (RR), Residential Estate (RE), Residential Rural Medium Density (RRM), Residential Rural High Density (RRH), Residential Rural Very Low Density (RVL), Residential Low Density (RL), Residential Medium Density (RM), Residential Medium High Density (RMH) and Residential High

Density (RH) and Open Space and Recreation (OSR).

Existing Zoning:

All Single Residence Zones including: One Family Residential (R1), Single Residence and Mobile Home Combined (RMH), Rural Residential (RR), Starlite Estates (RR-Starlite), and Open Space (OS).

Surrounding Land Use:

Various

Recommended Action:

Recommend that the Board of Supervisors:

1.) Find the proposed project exempt from the requirements of the California Environmental Quality.

2.) Make certain Findings with respect to, and approve, Zone Text Amendment ZTA/2017-04

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial. This is not recommended as the ordinance is necessary in light of the proliferation of short-term rentals in the County and the public input that was used to prepare the draft.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

BACKGROUND

On August 23, 2017 staff held a workshop with the Planning Commission to discuss Short Term Rentals in the County; the results of the five community workshops held throughout the County; and, a discussion draft short term rental ordinance that was prepared based on what other jurisdictions have created and the comments collected at the community workshops (Attachment 2 - August 23 Staff Report). Based on the Commissioner's, and public comments from the August 23 workshop, as well as, a review by the County's legal counsel, the discussion draft has been updated for review, comment, and potentially a recommendation from the Planning Commission to the Board of Supervisors for adoption.

Short Term vacation rentals have intermittently been viewed as a controversial use in Inyo County over the years. In 2006, during a particularly contentious episode involving short term rentals, the Board of Supervisors provided a finding that stated that short-term are not allowed in the County's residential zones. Planning staff has treated short term rentals as zoning violations, based on the Board's finding, since 2006. More recently, planning and tax collector/treasurer staffs get inquiries from people in the public asking

what they need to do to set up a vacation rental business legally and how to collect and pay the appropriate taxes. Planning staff also receives complaints about already existing short-term rentals on a fairly regular basis by neighbors nearby them and has several zoning violation cases related to short-term rentals. The issues commonly cited in these complaints are traffic, noise, disrespect for other properties in the vicinity and the use of neighboring facilities' parking areas and trash cans.

At the direction of the Board of Supervisors, five Community Workshops were held to discuss Short-Term Vacation Rental issues including potential ways to regulate it. These workshops were held throughout the County during June and into the beginning of July, 2017. Staff members from Planning and the Treasurer Tax Collector departments, members of the Board of Supervisors and Planning Commissioners were present at the workshops. The workshops were also well attended by the public. Each workshop resulted in a lively exchange of thoughts and ideas from both sides of the issue and many comments were collected (about 170, included in August 23 staff report).

An evaluation of the comments collected at the community workshops found that most of the people who attended are interested, or at least tolerant, in allowing for short-term rentals in the County. This was not without concerns, however, and there were community members who are still worried about the potential effects to the integrity and safety of residential neighbors from short-term rentals. Additionally, the attending public expressed some apprehension regarding the impact of short term rental proliferation to the limited availability of housing for local residents. These issues are the same as those stated previously at the public workshops and staff addressed them in the discussion draft ordinance. The Planning commission and attending public (August 23rd workshop) were, overall, happy with the discussion draft.

STAFF ANALYSIS

Changes from discussion draft to current draft

A few changes were made to the discussion draft based upon the scope of local government's authority to restrict land uses. One highly important factor to the public is the possibility of out-of-area investors buying up properties and converting their primary uses into short-term rentals. The primary fear surrounding this is the potential loss of affordable housing for locals and residential neighborhoods becoming overly commercial in character. In order to address this issue the draft was amended to include a cap on the number of short-term rentals one owner can have. Under 18.73.030 – Short-term rentals – General Requirements (e), it states “No more than two parcels on which short-term rentals are permitted may share a common owner”.

The commenting public also expressed concerns over the amount of people who might congregate at a short-term rental. The discussion draft included a limitation on the total number of people allowed at a short-term rental at any given time in response to these concerns. This restriction is problematic in enforcing, however, as the County does not limit the number of people who can gather at single-family residence in other contexts. Staff recommends removing this language because the restrictions on noise, parking and the inclusion of quiet hours and property manager or on-site host requirements should provide for the same protections against unruly or overcrowded conditions.

Other changes from the discussion draft to the current draft are with regard to procedure. The discussion draft included an annual review of the short-term rental permits. Upon further review, this seemed unnecessary as the permit will not require a yearly renewal and there is a process in place for revocation. The Treasurer Tax Collector and Planning Department will have records of possible tax delinquencies and nuisance violations without a review process and will use this information to gauge the performance of short-term rentals.

General Plan Consistency

The following General Plan references apply:

General Land Use Policy No. LU-1.9 states that the County shall ensure that land use regulations permit a wide range of home-based business in order to attract professionals to the County.

General Plan Land Use Policy No. LU-2.17 states that the County shall encourage home occupations (small scale commercial activities and uses). Such commercial activities and uses located in residential areas shall be permitted only when they do not negatively impact the residential character of the neighborhood in which the activity takes place. Restrictions are included in the proposed ordinance in order to protect the integrity of residential neighborhoods.

The proposed text amendments to the Zoning Code implement these policies, and are consistent with the General Plan.

Zoning Ordinance Consistency

ICC Section 18.03.020 states, in part, that it is necessary for the zoning ordinance to be consistent with the General Plan. As discussed above, the project implements the General Plan's direction, and therefore furthers the purposes of the zoning ordinance.

ICC Section 18.12. Open Space description states, in part, that its purpose is to provide a zone classification for those areas designated as open space by the county general plan to encourage the protection of mountainous, hilly upland, valley, agricultural, potential agricultural, fragile desert areas, and other mandated lands from fire, erosion, soil destruction, pollution and other detrimental effects of intensive land use activities; and protects and preserves the environmental resources, scenic, natural features, and open space character of the county, while also providing for agricultural development and protection of existing agricultural areas from urban development or residential subdivision; and to preserve agricultural areas open space around the more intensive urban areas of the county, while providing for compatible multiple use of nonagricultural lands which are principally held by federal and other public agencies. This project complies with the purpose of 18.12 as it will not cause disturbance to lands classified as open space by the county general plan as it only allows for the short term residential uses within residential dwellings.

ICC Section 18.21. Rural Residential description states, in part, that is its intent and purpose to provide suitable areas and appropriate environments for low density, single family rural residential and estate type uses where certain agricultural activities can be successfully maintained in conjunction with residential uses on relatively large parcels. The RR (rural residential) zone is intended to be applied to the areas outside the urban communities of Inyo County which are without fully developed services and where individual residences are expected to be largely self-sustaining, particularly for water and sewage disposal. This project complies with 18.21 in that it can promote the opportunity to create income from residential properties that can help individual residences be ‘self-sustaining’.

ICC 18.22. Rural Residential-Starlite Estates description states, in part, that its intention and purpose are to provide suitable areas and appropriate environments for low density, single-family rural residential uses, where certain agricultural activities can be successfully maintained in conjunction with residential uses. The RR (Rural Residential) 0.5 acre-Starlite Estates zone is intended to be applied to the area known as Starlite Estates and adjoining private lands which may be without fully developed services. This project complies with 18.22 in that it can promote the opportunity to create income from residential properties that can help individual residences be ‘self-sustaining’.

ICC 18.30 Residential One-family dwellings (R1)

The one-family residence district description, in part, states that is intended to protect established neighborhoods of one-family dwellings, and to provide space in suitable locations for additional development of this kind, with appropriate community facilities. This project complies with 18.30 as it provides for restrictions on the number of allowed guests, includes parking requirements and quiet hours, prohibits amplified sounds and requires either an on-site host or a property manager that can be contacted during the entire time of rental. It also does not preclude additional development of this kind as short-term rental is defined as a means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less and does not include transient lodging in county-approved hotels and motels.

ICC 18.36 Single Residence or Mobile Home Combined (RMH)

The single residence and mobile home combined district description states, in part, that its intention is to protect established neighborhoods of one-family dwellings (dwelling includes in its definition a mobile home), and to provide space in suitable locations for additional development of this kind, with appropriate community facilities. This project complies with 18.36 as it provides for restrictions on the number of allowed guests, includes parking requirements and quiet hours, prohibits amplified sounds and requires either an on-site host or a property manager that can be contacted during the entire time of rental. It also does not preclude additional development of this kind as short-term rental is defined as a means to provide transient lodging in a dwelling unit, for compensation, for a period of thirty consecutive calendar days or less and does not include transient lodging in county-approved hotels and motels.

In General

Short-term rentals can enhance economic development in the County by providing a means for citizens to use their property to generate income. This opportunity can also provide alternatives to traditional hotel and motel accommodations for tourists who prefer staying in residential short-term rentals and thereby filling a niche. With the proposed ZTA's language regulating potential nuisances, the integrity of the County's residential neighborhoods can be maintained while supporting this economic opportunity.

Development Standards

Staff proposes no changes to the existing development standards in the One Family and Single Residence Residential, Rural Residential and Rural Residential Starlite Estates and Open Space Zones. These standards are appropriate for new development where a Short-term Rental may be subsequently created as the residential character would be maintained by the current standards.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and, Pursuant to the California Environmental Quality Act (CEQA), this proposal falls into the Categorical Exemption Class 1 Existing Facilities (15301). 15301 Existing Facilities Class 1 states: "Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical feature, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

RECOMMENDATIONS

Staff recommends the Planning Commission make certain findings and send a recommendation to the the Board of Supervisors to consider the Zone Text Amendment, make certain findings, and adopt the proposed ordinance, amending the ICC to include Chapter 18.73 Short-term Rental of Residential Property.

Recommended Findings

1. This proposed ordinance is covered by the General Rule 15061(b)(3)
[Evidence: the proposed ordinance is covered by the General Rule 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Amending the language to include that Short-term Rentals are permitted in the Single Residence Residential, Rural Residential, and Open Space Zones and allow for Short-term Rentals in these Zones will not have a significant effect on the environment as it does not provide for additional development types and preserves the current development

standards that are designed to maintain the residential character of residential neighborhoods.]

2. Subsequent projects once this ordinance is in effect will fall into the Categorical Exemption Class 1 Existing Facilities (15301).

[Evidence: projects subsequent to this ordinance will be pursuant to CEQA Guidelines Section 15301 Existing Facilities Class 1, as Short-term Rentals are defined as a means to provide transient lodging in an existing dwelling unit in the One Family and Single Residence Residential, Rural Residential, Rural Residential-Starlite and Open Space Zones, and will involve negligible or no expansion of an existing use, proposals as such fall into the Categorical Exemption Class 1 Existing Facilities (15301) and a Notice of Exemption should be filed.]

3. Based on substantial evidence in the record, the proposed Zoning text Amendment is consistent with the Goals and Policies of the Inyo County General Plan.

[Evidence: The County's General Plan clearly states, in Policy No. LU-2.17, that the County shall encourage home occupations (small scale commercial activities and uses). Such commercial activities and uses located in residential areas shall be permitted only when they do not negatively impact the residential character of the neighborhood in which the activity takes place. The proposed new language directly addresses the potential negative impacts to the residential character of the neighborhood in which the activity takes place, by restricting the number of allowed guests, and amplified noises; providing for quiet hours and parking requirements; and, requiring either an on-site host or a property manager that can be contacted during the entire time of rental.]

4. Based on substantial evidence in the record, the proposed Zoning text Amendment is consistent with Title 18 (Zoning Ordinance of Inyo County Code).

[Evidence: Adding Chapter 18.73 Short Term Rental of Residential Property to the Inyo County Code Title 18 is consistent with the descriptions of 18.12 Open Space, 18.21 Rural Residential, 18.22 Rural Residential Starlite, 18.30 One family residential, and 18.36 Single Residence Mobile Home Combined districts; and, does not change the intent or purpose of them as described within Title 18. Chapter 18.73 provides for the conditions in which Short-term Rentals may operate, and the restrictions of the use. The character of residential neighborhoods will not be directly affected by these amendments and therefore the amendments will not affect the intent of Title 18 to direct certain types of land uses to specific areas within the County.]

ATTACHMENTS

- Draft regulation of Hosted Short-Term Rentals and Short-Term Vacation Rentals
- August 23, 2017 Planning Commission Staff Report

