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

**PLANNING COMMISSION
MEETING DATE:** December 7, 2022

SUBJECT: Zone Text Amendment (ZTA) No. 2022-03/Inyo County – Reasonable Accommodation.

EXECUTIVE SUMMARY

Staff has drafted a proposed ordinance addressing Reasonable Accommodation to update the Inyo County Zoning Code's Title 18, to be compliant with state fair housing law and is asking the Planning Commission for a recommendation by resolution for the Board of Supervisors to adopt.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

**Landowners:
Address:** Multiple

Community: County-wide

A.P.N.: County-wide

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/2022-02

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial. This is not recommended as the ordinance is necessary for the county to be in compliance with HCD requirements to approve the Housing Element.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

BACKGROUND

All jurisdictions in the state of California are required to have a General Plan. These General Plans must have seven mandatory elements, including a Housing Element pursuant to California Government Code Section 65580 et seq. Housing Element law is the most complicated of the General Plan Elements and Housing Elements must be regularly updated and approved by the State. For Inyo County this is to be done every eight years. The latest update was approved by the state on August 17, 2022. It took two years and many iterations of back and forth with drafts to the California Department of Housing and Community Development (HCD) to obtain approval.

One of the additions, required by HCD to approve the housing element, was for the County to add a reasonable accommodation ordinance. The reasonable accommodation ordinance aims to remove land use, zoning and building constraints to the development of housing for individuals with disabilities and provide reasonable accommodation to ensure equal access to housing. The ordinance also provides the procedures for people who wish to request reasonable accommodation in land use, zoning and building regulations, as well as, a process and required findings for planning and building staff to use to review reasonable accommodation requests.

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. These changes affect where in specified residential zoning districts certain uses can occur. This does not create new uses and do not increase already established densities set forth in the County's General Plan. The changes are also required for the County's zoning code to be compliant with the County's General Plan.

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 County's zoning code.

Recommended Findings

1. This proposed ordinance is covered by the General Rule 15061(b)(3) *[Evidence: 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; these changes can cause some modification to design standards for the provision of reasonable accommodation as it relates to fair housing law. These changes will not create new residential uses and will not increase already established densities as set forth in the County's General Plan.]*

2. 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: these changes are being proposed primarily to cause the County code to be consistent with federal and state fair housing laws and the County General Plan as the changes are requirements of the County's 6th Cycle Housing Element Update approval.]

3. Based on substantial evidence in the record, the proposed Zoning text Amendment is consistent with Title 18 (Zoning Ordinance of Inyo County Code).
[Evidence: this change is not in conflict with other sections of the County's zoning code and is being added to bring it into compliance with current state and federal fair housing laws and the changes required by HCD to the County's General Plan per the 6th Cycle Housing Element Update; and therefore, the amendments will not affect the intent of Title 18 to direct certain types of residential land uses to specific areas within the County.]

ATTACHMENTS

- Draft Ordinance
- Draft Resolution

Attachment
Draft Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE INYO COUNTY BOARD OF SUPERVISORS ADDING SECTION 18.80 TO THE INYO COUNTY CODE, PROVIDING A PROCEDURE FOR REASONABLE ACCOMMODATION IN THE COUNTY'S LAND USE AND ZONING AND BUILDING REGULATIONS PURSUANT TO FAIR HOUSING LAWS.

WHEREAS, on August 16, 2022 the Inyo County Board of Supervisors adopted the 6th Cycle Housing Element Update; and

WHEREAS, on August 17, 2022 the California Department of Housing and Community Development (HCD) approved the County's 6th Cycle Housing Element Update and sent a letter of compliance to the County; and

WHEREAS, HCD's approval of the 6th Cycle Housing Element included required changes to the County's Zoning Code to be in compliance with the requisite changes to the General Plan per the updated Housing Element; and

WHEREAS, staff reviewed the Zoning Code for other inconsistencies with current State Housing Law and found additional places where the Zoning Code needed to be updated to be in compliance; and

WHEREAS, the approval of ZTA 2022-03 will result in Chapter 18.80 being added to the Inyo County Zoning Code, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities; and

WHEREAS, the Inyo County Planning Commission met to discuss the proposal to add to the Inyo County Code chapter 18.80 - Reasonable Accommodation with regard to consistency with the Inyo County Zoning Code, General Plan, and the California Environmental Quality Act and concurred with staff recommendations.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO ORDAINS AS FOLLOWS:

SECTION ONE – Chapter 18.80 shall be added to the Inyo County Code to read as follows:

Chapter 18.80 Reasonable Accommodation

18.80.010 Purpose.

It is the policy of Inyo County, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws"), to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

18.80.020 Findings.

The Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing:

A. The Housing Element of the jurisdiction must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including local land use and zoning constraints or providing reasonable accommodation;

B. The Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities;

C. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the jurisdiction's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

18.80.030. Applicability.

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for

individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

18.80.040. Notice to the Public of Availability of Accommodation Process.

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counters in the Planning and Building and Safety departments, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the Planning and Building and Safety departments.

18.80.050. Requesting Reasonable Accommodation.

In order to make housing available to an individual with a disability, any eligible person as defined in 18.80.030 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures, as follows:

A. Requests for reasonable accommodation shall be in writing and provide the following information:

- (1) Name and address of the individual(s) requesting reasonable accommodation;
- (2) Name and address of the property owner(s);
- (3) Address of the property for which accommodation is requested;
- (4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and
- (5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.

B. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

C. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

D. If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

18.80.060 Reviewing Authority.

A. Requests for reasonable accommodation shall be reviewed by the "reviewing authority," using the criteria set forth in 18.80.070.

B. The reviewing authority shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth in 18.80.070.

C. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

18.80.070 Required Findings.

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

- (1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
- (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
- (3) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
- (4) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program.

18.80.080 Written Decision on the Request for Reasonable Accommodation.

A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings on the criteria set forth in 18.80.070. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.

B. The written decision of the reviewing authority shall be final unless an applicant appeals it to the jurisdiction's planning commission.

C. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by 18.80.060, the request shall be deemed granted.

D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

18.80.090. Appeals.

A. Within thirty (30) days of the date of the reviewing authority's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.

B. If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible.

C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

D. Nothing in this procedure shall preclude an aggrieved individual from seeking any

SECTION TWO: EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board members voting for and against same.

PASSED AND ADOPTED THIS __ DAY OF _____, 2022.

AYES:

NOES:

ABSTAIN:

ABSENT:

Chairperson

Inyo County Board of Supervisors

ATTEST:

By: _____

Attachment
Draft Resolution

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING
THAT THE BOARD OF SUPERVISORS FIND THE PROPOSED
PROJECT IS EXEMPT FROM THE REQUIREMENTS OF THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKE CERTAIN
FINDINGS WITH RESPECT TO AND APPROVE ZONE TEXT
AMENDMENT NO. 2022-03 INYO COUNTY**

WHEREAS, the Inyo County Board of Supervisors, through Inyo County Code (ICC) Section 15.12.040, has designated the Planning Commission to serve as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines, which is responsible for the environmental review of all County projects; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA), the proposed ordinance is covered by the Common Sense 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

WHEREAS, the Inyo County Planning Commission held a public hearing on December 7 2022, to review and consider a request for approval of Zone Text Amendment No. 2022-03, and considered the staff report for the project and all oral and written comments regarding the proposal; and

WHEREAS, ICC Section 18.03.020 states in part that it is necessary for the Zoning ordinance and General Plan to be consistent with each other; and

WHEREAS, ZTA 2022-03 is consistent with the Inyo County General Plan as it will not result in higher densities than what is already established in the Inyo County General Plan; and

WHEREAS, ZTA 2022-03 is consistent with the Inyo County Zoning Code as it will not allow for new uses beyond what is already established in the Inyo County Zoning Code.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received at the December 7, 2022, hearing, including the Planning Department Staff Report, the Planning Commission makes the following findings regarding the proposal and hereby recommends that the Board of Supervisors adopt the following findings for the proposed project:

RECOMMENDED FINDINGS

1. The proposed ordinance is covered by the Common Sense 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. This project is a proposal to amend Section 18.73.060 of the County Code to provide short-term rental areas and limitations by area for the number of allowed short-term rental permits and does not add residential densities or uses that are currently not allowed for by the zoning code.
2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
3. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors take the following actions:

RECOMMENDED ACTIONS

1. Approve ZTA 2022-03 based on all of the information in the public record and on the recommendation of the Planning Commission.

PASSED AND ADOPTED this 7th day of December 2022, by the following vote of the Inyo County Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Caitlin Morley, Chair
Inyo County Planning Commission

ATTEST:
Cathreen Richards, Planning Director

By _____
Paula Riesen, Secretary of the Commission