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AGENDA ITEM NO. 5 (Action Item - Public Hearing)

PLANNING COMMISSION
MEETING DATE: April 24, 2024

SUBJECT: Zone Text Amendment 2023-01/SB9 Two-Unit Development

EXECUTIVE SUMMARY

Senate Bill 9 (SB9) is part of the state legislature's effort to address the state's housing crisis by streamlining and encouraging certain residential development through the ministerial approval of Two-Unit Development in a single-family residential zoning designation. The Two-Unit Development must also meet a variety of specific criteria detailed in SB9. Staff has prepared a proposed Zone Text Amendment (ZTA) to amend Chapter 18.84 of the Inyo County Code to address the requirements of the SB9 Two-Unit Development, with recommendations addressing areas SB9 allows for local agencies to provide for their own needs in implementing this legislation.

PROJECT INFORMATION

Supervisory District:	County-wide
Applicants:	Inyo County
Landowners: Address/	Multiple
Community:	County-wide
A.P.N.:	County-wide
Existing General Plan:	N/A
Existing Zoning:	N/A
Surrounding Land Use:	N/A
Recommended Action:	Adopt the attached Resolution, recommending that the Board of Supervisors:

- 1.) Find the proposed amendment exempt from the requirements of the California Environmental Quality Act by 15303 (Class 3) and per Government Code section 65852.21(j).
- 2.) Make certain Findings with respect to, and approve, Zone Text Amendment 2023- 01/Two-Unit Development

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner:

Danielle Visuaño

BACKGROUND

On September 16, 2021, Governor Newsom signed SB9 which became effective January 1, 2022. As part of the bill is the requirement that proposed Two-Unit Development within certain identified single-family residential zones to be considered ministerially, without discretionary review or hearing, if the proposed Two-Unit Development meets certain SB9 requirements of Government Code section 65852.21.

APPLICABILITY OF SB9 OVERARCHING CONDITIONS

First, to determine which single-family residentially zoned parcels fall within the scope of SB9 under Government Code section 65852.21(a)(1), the boundary of the U.S. Census Bureau urbanized area needs to be determined and applied to areas in the county. According to the U.S. 2020 Census Bureau information, there is only one urbanized area in Inyo County. This area covers much of the Bishop area. In assessing which single-family residential zones in the Bishop area fall within the U.S. Census urbanized area, the City of Bishop area and the Bishop Paiute Tribal area cannot be considered since they are not in the County's area of jurisdiction. The City of Bishop is incorporated and is its own jurisdictional entity and the Tribal area falls under Tribal sovereignty. The areas which are within the U.S. Census urbanized area and have the possibility to propose Two-Unit Development are the generalized areas of: Dixon, Early Pond, McLaren, Grandview, Fairview, Sunset and Sunrise, with the zone designation of Rural Residential (RR), R1 Districts - One-Family Residence (R1) and Open Space (OS) (Map attached).

Second, once an application is determined to fall within an urbanized area, the application must be reviewed to determine if it meets the other overarching criteria of SB9.

A Two-Unit Development is prohibited in areas with the following property designations:

- a. Prime farmland or farmland of statewide importance
- b. Wetlands

- c. Within a very high fire hazard severity zone (with limitations)
- d. A hazardous waste site (with exceptions)
- e. Within a delineated earthquake fault zone (with exceptions)
- f. Within a flood zone (with exceptions)
- g. Identified for conservation or under conservation easement
- h. Habitat for protected species
- i. Historic Properties – located in state or local historic districts, or properties designated as historic landmarks

In addition to the areas SB9 prohibits Two-Unit Development, SB9 also provides detailed eligibility requirements. A Two-Unit Development shall be considered ministerially, if the development meets the following eligibility requirements:

- a. The Two-Unit Development would not require demolition or alteration of existing housing that:
 - i. Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to person and families of moderate, low, or very low income.
 - ii. Is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - iii. Has been occupied by a tenant in the last three (3) years
- b. Ellis Act Properties – where the Ellis Act was used to evict tenants at any time in the last fifteen (15) years
- c. The Two-Unit Development would not result in the demolition of more than twenty-five percent (25%) of the existing exterior structural walls unless the site has not been occupied by a tenant in the last three (3) years.
- d. Any units developed pursuant to SB9 must be rented for a term longer than thirty (30) days.

FOCUSED APPLICATION REVIEW ANALYSIS

SB9 Review Requirements

Applications for SB9 Two-Unit Development must be ministerially reviewed without any discretionary/subjective review pursuant to Government Code section 65852.21(a).

Environmental Review

Not only are applications to be reviewed ministerially, pursuant to Government Code section 65852.21(j), which is the code section addressing SB9 Two-Unit Development, the County may adopt an ordinance to implement the provisions of Government Code section 65852.21, and such an ordinance shall not be considered a project under the California Environmental Quality Act (CEQA). Further, the proposed ordinance that implements provisions of SB9 is not considered a project under Section 21000 et seq. of the Public Resources Code, and is Categorically Exempt from CEQA according to Section 15303 of the CEQA Guidelines 15303 (Class 3). The proposed ordinance would create consistency and amend Inyo County Code requirements to reflect State law, the proposed ordinance will not have a significant effect on the environment; and, therefore, the activity is not subject to CEQA.

Objective Review Standards

SB9 provides that only objective zoning and design standards shall be utilized for structural development, and no standards shall physically preclude the construction of two (2) units of less than eight hundred (800) square feet each, per parcel, with no rear or side setback being greater than five (5) feet. However, there shall be no setback requirements for a new residence constructed in the same location and to the same dimensions as an existing structure that is being demolished. Further, an application cannot be rejected because it proposes adjacent or connected structures provided the structures meet the building code safety standards and are sufficient to allow separate conveyance.

Application Denial

Two-Unit Development projects that otherwise meet the requirements of SB9 may only be denied if the Building Official determines it will result in a specific, adverse impact on health and safety and there is no feasible way to mitigate the impact. Staff has recommended that specific, adverse impact be defined, pursuant to Government Code section 65589.5(d)(2) covering the Housing Element requirements for the General Plan, as: a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Staff Recommended Additional Assessments

Additional Review Requirements

SB9 allows a local agency to impose objective zoning standards that do not conflict with the SB9 Two-Unit Development Government Code section 65852.21. In light of the option to impose additional objective standards and taking into consideration the restrictions for SB9 Two-Unit Development, staff is recommending the County include the following objective standards to the proposed SB9 Two-Unit Development ordinance:

- **Easements** – Easements must be provided for public services and utilities to all newly constructed units.
- **Access** – Each unit must have access to a public right of way.
- **Parking** – No more than one (1) parking space per unit shall be required. No parking space is required for properties within one-half (1/2) mile walking distance of either a high-quality transit corridor or a major transit stop, or within one block of a car share. SB9 does not require parking but allows the option for up to one (1) space per unit.
- **Front Setback** – The front setback for new development under SB9 can be reduced to a minimum of ten (10) feet.
- **Rear and Side Setbacks** – SB9 allows a local agency the option to impose a four (4) foot rear and side setback. However, staff recommends implementing a five (5) setback for both the rear and side as needed to be consistent with current standards, unless a four (4) foot setback is necessary to fit two 800 square foot dwelling units on a parcel as required by SB9.
- **Septic Percolation Test** - The applicant may be required to provide a percolation test completed within the last five (5) years, or if the percolation test has been recertified, within the last ten (10) years based upon review by the Inyo County Department of Health.

Total Number of Units

Under SB9 owners can build two new primary dwellings on a vacant lot or if there is an existing home applicants can add one more primary dwelling to the lot. State law allows for one ADU and one JADU per one single-family dwelling which could result in 6 units on a single-family parcel. However, nothing under SB 9 requires a local agency to allow more than four units on one lot. As such, staff is recommending that each primary dwelling on a SB9 Two-Unit lot be allowed either one ADU or one JADU which could result in a maximum total of 4 unit on a single-family residentially zoned parcel as reflected in the draft ordinance under 18.84.020 definition of “Two-Unit Development.”

Deed Restrictions

In order for a SB9 Two-Unit Development to be reviewed for possible approval, an application must meet the eligibility requirements as discussed above. Two of these requirements are:

- The parcel can only be used for residential purposes
- A dwelling unit cannot be rented for 30 days or under

Staff recommends these requirements be reflected in a deed restriction recorded for the parcel. It is recommended because it not only memorializes that the parcel was developed as a SB9 Two-Unit Development, but it also gives notice to future buyers of the limitations placed on the parcel with the use of SB9.

Additionally, staff also recommends the following be memorialized in a deed restriction:

- Prohibition of any separate conveyance of a primary dwelling, any separate fee interest and any common interest development within the lot.

Separate conveyance of a dwelling from the land gives rise to a disconnect between ownership interests such as a “landowner” (the person who owns the land) and the “Property owner” (the person who owns the building). If land is owned separately from the structure, it may lead to a type of landlord and tenant type of scenario. The result could lead to land use and legal disputes, maintenance, liability issues and evictions that are recommended by staff to be avoided. To prevent these types of relationships and problems staff highly recommends the prohibition of separate conveyance and any common interest development be recorded in a deed especially considering the Two-Unit Development is the development of two (2) primary dwelling units.

Expiration of Approval

SB9 does not provide a time limit for an applicant to take action on an approved application for a SB9 Two-Unit Development. Staff recommends a requirement that an approved application shall expire one (1) year after the application is approved if the applicant does not take reasonable steps to construct the Two-Unit Development. This will allow for more accurate housing reporting for the County and prevent delays in construction that could lead to, or affect, other futures actions to include impacts on infrastructure and public services and facilities.

RECOMMENDATIONS

Staff recommends adoption of the attached Resolution recommending the Board of Supervisors consider ZTA 2023-01, make certain findings, and adopt the proposed ordinance adding Chapter 18.84 to the Inyo County Code.

Recommended Findings

1. The proposed ordinance is covered by Government Code section 65852.21(j), Section 21000 et seq. of the Public Resource Code and Section 15303 of CEQA and is exempt from CEQA.
[Evidence: Pursuant to Government Code section 65852.21(j), the County may adopt an ordinance to implement Government Code section 65852.21 and such an ordinance shall not be considered a project under the CEQA. Further, the proposed ordinance that implements provisions of SB9 is not considered a project under Section 21000 et seq. of the Public Resources Code, and is Categorically Exempt from CEQA according to Section 15303 of the CEQA Guidelines 15303 (Class 3).]
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.
[Evidence: Applications for a SB9 Two-Unit Development fall within the State SB9 mandate. SB9 applications are not subject to the General Plan density requirements.]
3. Based on substantial evidence in the record, the proposed zoning ordinance to add Chapter 18.74 to the Inyo County Code is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
[Evidence: ZTA 2023-01 is being proposed to implement and bring the Inyo County Code into compliance with the State's SB9 mandate.]

ATTACHMENTS

- Draft proposed ordinance
- Resolution
- Maps
- Deed Restrictions

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, ADDING CHAPTER 18.84 TO THE INYO COUNTY CODE IMPLEMENTING REGULATIONS FOR THE CALIFORNIA HOME ACT (STATE SENATE BILL 9) AS IT RELATES TO TWO-UNIT DEVELOPMENT

WHEREAS, on September 16, 2021, Governor Newsom approved Senate Bill 9 (California Housing Opportunity and More Efficiency [HOME] Act) (SB9) adding Government Code Sections 65852.21; and

WHEREAS, SB9 took effect on January 1, 2022; and

WHEREAS, SB9 requires all cities and counties to ministerially review and approve two types of projects, if specific criteria are met: 1) a Second Dwelling Unit in a defined single-family residential zone; and 2) a subdivision of one lot into two resultant lots in a defined single-family residential zone (referred to as an “Urban Lot Split”); and

WHEREAS, SB9 allows local agencies to impose objective zoning, and design review standards, as those terms are defined in Government Code Section 65852.21(b)(1) on Two-Unit Development projects subject to certain limitations; and

WHEREAS, pursuant to Government Code Sections 65852.21(j), a local government may adopt an ordinance to implement SB9; and

WHEREAS, staff now proposes that Chapter 18.84 be added to the Inyo County Code to implement the requirements of SB9 as they pertain to Urban Lot Splits; and

WHEREAS, pursuant to Government Code Section 65852.21(j), the County may adopt an ordinance to implement Government Code Section 6585.21 for Two-Unit Development and such ordinance shall not be considered a project. Further, the proposed ordinance implements provisions of SB9 are not considered a project under Section 21000 et seq. of the Public Resources Code, and is Categorical Exempt from CEQA according to Section 15303 of the CEQA Guidelines 15303 (Class 3); and

WHEREAS, on April 24, 2024, the Inyo County Planning Commission held a public hearing to adopt a Resolution recommending that the Board adopt an Ordinance to implement the portions of SB9 related to Two-Unit Development, and through a separate Resolution recommended an Ordinance to implement the portions of SB9 relating to Urban Lot Splits.

NOW, THEREFORE, the Board of Supervisors, County of Inyo finds and ordains as follows:

SECTION I. The recitals above are incorporated herein as findings.

SECTION II. Chapter 18.84 of the Inyo County Code is hereby added to read as follows:

Chapter 18.84 SB9 Districts - Two-Unit Development

SECTION III. Chapter 18.84.010 of the Inyo County Code is hereby added to read as follows:

18.84.010 Purpose and intent.

The purpose of this Chapter is to regulate Senate Bill 9 (SB9) Two-Unit Developments within defined single family residential zones as provided by Government Code Sections 65852.21 in order to allow for ministerial approval of certain Two-Unit Development projects.

SECTION IV. Chapter 18.84.020 of the Inyo County Code is hereby added to read as follows:

18.84.020 Definitions.

For purposes of this Chapter all terms shall have the meanings given in Government Code Section 65852.21 unless otherwise defined herein. The following definitions shall apply:

- A. **“ADU”** means an Accessory Dwelling Unit as defined by Chapter 18.
- B. **“Car share vehicle”** means a motor vehicle that is operated as part of a regional fleet by a public or private care sharing company or organization and provides hourly or daily service.
- C. **“JADU”** means a Junior Accessory Dwelling Unit as defined by Chapter 18.
- D. **“Local agency”** means a county.
- E. **“Lower income household”** has the meaning set forth in Health & Safety Code Section 50079.5.
- F. **“Moderate income household”** has the meaning set forth in Health & Safety Code Section 50093.
- G. **“Single-Family Residential Zoning District”** means R1 Zones (One Family Residence), RR Zones (Rural Residential) and OS Zones (Open Space) as defined in Chapter 18 of the Inyo County Code, for which single-family residences are the

only dwelling unit allowed, and which does not allow two-family residences or multi-family residences, and is located in the Bishop urbanized area, but does not include the areas of the City of Bishop or the Bishop Paiute Indian Reservation. The Bishop urbanized area is determined by the U.S. Census, and this boundary, current at the time of application, will be used to determine if the application qualifies for an Urban Lot Split. This District’s urbanized zone(s) shall be updated by reference with each decennial update by the U.S. Census Bureau.

- H. “Two-Unit Development”** means a development that proposes up to two (2) primary units on a single-family zoned parcel in accordance with California Government Code Section 65852.21 and this Chapter. Each primary unit developed under SB9 Two-Unit Development is allowed one ADU or JADU.
- I. “Urban Lot Split”** means a SB9 subdivision of an existing single-family parcel into no more than two (2) separate parcels that meets all the criteria and standards set forth in Chapter 16.
- J. “Very low-income household”** has the meaning set forth in Health & Safety Code Section 50105.

SECTION V. Chapter 18.84.030 of the Inyo County Code is hereby added to read as follows:

18.84.030 Urban Lot Split.

SB 9 Urban Lot Split provisions are included in Title 16, SB9 Districts – Urban Lot Split.

SECTION VI. Chapter 18.84.040 of the Inyo County Code is hereby added to read as follows:

18.84.040 Two-Unit Development.

- A. Application Review.** The Planning Department shall ministerially review an application for a Two-Unit Development and shall approve the application if all applicable requirements are met including but not limited to the criteria in Government Code Section 65852.21 and this Chapter.
- B. Lot Location.** The Planning Department shall determine if the Two-Unit Development meets all the following location requirements:
 - 1. The parcel shall be located within a Single-Family Residential Zoning District.

2. The Two-Unit Development shall not be located on a site that is any of the following:
 - a. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - b. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - c. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by the county, pursuant to subdivision (b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - d. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - e. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the building department under Chapter 12.2

(commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

- f. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the County; or (2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- g. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the County shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the County that is applicable to that site.
- h. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan

pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

- i. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
- j. Lands under conservation easement.
- k. A historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a County landmark or historic property or historic district pursuant to a County ordinance.

C. No Impact on Protected Housing: The proposed Two-Unit Development shall not require demolition or alteration of any of the following types of housing:

- 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low-income.
- 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
- 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- 4. Housing that has been occupied by a tenant in the last three (3) years.
- 5. The proposed Two-Unit Development does not include the demolition of more than twenty-five (25) percent of the existing exterior structural walls unless the site has not been occupied by a tenant in the last three (3) years.

D. Lot and Unit Standards. For Two-Unit Development proposed on a parcel shall comply with all objective zoning standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located; provided, however, that:

1. The Planning Director, or their designee, shall modify or waive any standard if the standard would have the effect of physically precluding the construction of up to two (2) units on the parcel or that would physically preclude either of the two (2) units from being at least eight hundred (800) square feet in floor area. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two (2) units of eight hundred (800) square feet on the parcel.
2. Notwithstanding Section (D)(1) above, required rear and side yard setbacks may equal five (5) feet as necessary to be consistent with current standards, unless a four (4) foot setback is necessary to fit two 800 square foot dwelling units on a parcel as required by SB9. No setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
3. Front yard setbacks may be reduced to ten (10) feet.
4. Dwelling units created by a Two-Unit Development shall be used for residential uses only and shall not be used for rentals of less than thirty (30) days.

E. Utilities and Services.

1. The proposed Two-Unit Development shall provide a separate gas, electric and water utility connection directly between each primary dwelling unit and the utility. The applicant is responsible for providing the required easements.
2. For a Two-Unit Development connected to an onsite wastewater treatment system (septic), the applicant may be required to provide a percolation test completed within the last five (5) years, or if the percolation test has been recertified, within the last ten (10) years based upon review by the Inyo County Department of Health.

3. Proposed adjacent or connected dwelling units shall be allowed if they meet building code safety standards and are designed to sufficiently allow separate conveyance.

F. Parking. One (1) off-street parking space shall be required per unit constructed pursuant to the procedures in this Chapter, except that no parking may be required where:

1. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
2. There is a designated parking area for one or more car-share vehicles within one block of the parcel.

G. Deed Restrictions. Prior to the issuance of a building permit, the applicant shall record a restrictive covenant and agreement in the form prescribed by the county counsel, which shall run with the land and provide for the following:

1. A limitation restricting the property to residential uses only.
2. A requirement that any dwelling units on the property shall be rented or leased only for a period of longer than thirty (30) days.
3. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
4. The County Administrator or designee is authorized to enter into the covenant and agreement on behalf of the County and to deliver any approvals or consents required by the covenant.
5. No removal or modification of the recorded deed restrictions shall occur without County approval, or State laws that supersede current deed restriction requirements.

H. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed Two-Unit Development may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible

method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

- I. Enforcement.** The County shall be authorized to abate violations of this Chapter and to enforce the provisions of this Chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law to include Title 22 of the Inyo County Code. Remedies provided for in this Chapter shall not preclude the County from any other remedy or relief to which it otherwise would be entitled under law or equity.

- J. Expiration of Approval.** The approval of a SB9 Two-Unit Development shall become null and void if construction is not commenced within one (1) year of the approval and diligently advanced until completion of the project. In the event construction of the project is commenced, but not diligently advanced until completion, the rights granted pursuant to the approval shall expire if the building permits for the project expire.

SECTION VII. Environmental Determination. The Board further finds pursuant to Government Code section 65852.21(j), the County may adopt an ordinance to implement the provisions of Government Code section 65852.21, and such an ordinance shall not be considered a project under the California Environmental Quality Act (CEQA). Further, the proposed ordinance implements provisions of SB9 are not considered a project under Section 21000 et seq. of the Public Resources Code, and is Categorical Exempt from CEQA according to Section 15303 of the CEQA Guidelines 15303 (Class 3). The proposed ordinance would create consistency and amend the Inyo County Code requirements to reflect State law, the proposed ordinance will not have a significant effect on the environment; and, therefore, the activity is not subject to CEQA.

SECTION VIII. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provision or clauses or application of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provision of this ordinance are declared to be severable.

SECTION IX. This ordinance shall become effective thirty (30) days from the date of its adoption and final passage, which appears immediately below. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance in the manner prescribed by Government Code Section 25124 no later than fifteen (15) days after the date of its adoption and

final passage. IF the Clerk fails to publish this ordinance within said fifteen (15) day-period, then the ordinance shall not take effect until thirty (30) days after the date of publication.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2024, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

 Matt Kingsley
 Inyo County Board of Supervisors

ATTEST: Nate Greenberg, Clerk of the Board

 Darcy Ellis, Assistant Clerk of the Board

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 AMENDMENT EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKE CERTAIN FINDINGS WITH RESPECT TO, AND APPROVE ZONE TEXT AMMENDMENT NO. 2023-01 INYO COUNTY

WHEREAS, on September 16, 2021, Governor Newsom approved Senate Bill 9 (California Housing Opportunity and More Efficiency [HOME] Act) (SB9) adding Government Code Sections 65852.21; and

WHEREAS, SB9 took effect on January 1, 2022; and

WHEREAS, SB9 requires all cities and counties to ministerially review and approve two types of projects, if specific criteria are met: 1) a Second Dwelling Unit in a single-family residential zone; and 2) a subdivision of one lot into two resultant lots in a single-family residential zone (referred to as an “Urban Lot Split”); and

WHEREAS, SB9 allows local agencies to impose objective zoning, and design review standards, as those terms are defined in Government Code Section 65852.21(b)(1) on Two-Unit Development projects subject to certain limitations; and

WHEREAS, pursuant to Government Code Sections 65852.21(j), a local government may adopt an ordinance to implement SB9; and

WHEREAS, staff now proposes that Chapter 18.84 be added to the Inyo County Code to implement the requirements of SB9 as they pertain to Two-Unit Development; and

WHEREAS, the proposed amendment implements provisions of SB9 and is not considered a project pursuant to Government Code Section 65852.21(j) and under Section 21000 et seq. of the Public Resources Code, and is Categorically Exempt from the California Environmental Quality Act (CEQA) according to Section 15303 of the CEQA Guidelines 15303 (Class 3); and

WHEREAS, the Inyo County Planning Commission held a public hearing on April 24, 2024, to review and consider the request for approval of Zone Text Amendment (ZTA) No. 2023-01, which adds Chapter 18.84 to the Inyo County Code to implement the requirements of SB9 as they pertain to Two-Unit Development, and considered the staff report for the amendment and all oral and written comments regarding the proposal; and

WHEREAS, ZTA 2023-01 is internally consistent with the goals, objectives and elements of the County’s General Plan and Zoning Code.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received during the April 24, 2024, 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 amendment:

RECOMMENDED FINDINGS

1. The proposed amendment implements provisions of SB9 and is not considered a project under Section 21000 et seq. of the Public Resources Code, and is Categorically Exempt from the California Environmental Quality Act (CEQA) according to Section 15303 of the CEQA Guidelines 15303 (Class 3); and
2. The proposed amendment is consistent with the state-mandated program established under Senate Bill 9.

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

RECOMMENDED ACTIONS

1. Approve the Ordinance adding of Chapter 18.84 to the Inyo County Code related to two-unit development consistent with the requirements of Senate Bill 9 and based on all the information in the public record and on the recommendations of the Planning Commission.
2. Certify that ZTA 2023-01 is not a project under CEQA pursuant to Section 21000 of the Public Resources Code and is further Exempt from CEQA pursuant to 15303 of the CEQA Guidelines.
- 3.

PASSED AND ADOPTED this 24th day of April 2024, by the following vote of the Inyo County Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Todd Vogel, Chair
Inyo County Planning Commission

ATTEST:
Cathreen Richards, Planning Director

By _____
Sally Faircloth, Secretary of the Commission

Recording Requested By:
County of Inyo

**When Recorded Return
To:**
County of Inyo
ATTN: County Clerk-Recorder
168 N. Edwards Street
Independence, CA 93526

This document is recorded for the benefit of the County of Inyo and is entitled to be recorded free of charge in accordance with Section 6103 of the Government Code.

Area Above Reserved for Recorder's Use

**DEED RESTRICTION AGREEMENT FOR SENATE BILL 9 TWO-UNIT
DEVELOPMENT**

This DEED RESTRICTION AGREEMENT FOR A SENATE BILL 9 TWO-UNIT-DEVELOPMENT (Agreement) is entered into as of this ___ day of _____, 20__, by and between the County of Inyo, a Political Subdivision of the State of California (County) and the undersigned who/whom is/are the present owner(s) of record (collectively, Property Owner) of certain real property located at:

_____ within the County of Inyo, State of California, which is also identified as Assessor's Parcel No. _____ and more particularly described in Exhibit "A" attached hereto and incorporated by this reference (Property).

RECITALS

WHEREAS, California Government Code Section 65852.21 allows ministerial approval of certain two-unit development meeting specific statutory and local requirements; and

WHEREAS, Chapter 84 of Title 18 of the Inyo County Code (Code) sets forth certain conditions on two-unit development as authorized by Government Code Section 65852.21 and the use of any dwelling units constructed, and Chapter 18.84 of the Code requires the recordation of a covenant with respect to said conditions; and

WHEREAS, on _____, Inyo County ministerially approved the Property Owner's application for the development of no more than two primary dwellings on the Property, subject to the terms and conditions of Chapter 18.84 of the Code; and

WHEREAS, this Agreement is the covenant recorded to satisfy the requirements of the Ministerial Approval authorized by Chapter 18.84 of the Code; and

WHEREAS, the Property Owner understands and agrees that the Property is therefore subject to these requirements and knowingly and willingly agrees to recordation of this Agreement.

NOW THEREFORE, in consideration of the benefits received by the Property Owner under Government Code Section 65852.21 and the public purposes served by Chapter 18.84 of the Code, Property Owner and the County of Inyo hereby agree to the following restrictions on the Property:

1. Incorporation of recitals. The foregoing recitals are incorporated into this Agreement by reference and made part of this Agreement.
2. Agreement to comply with restrictions. In satisfaction of the Ministerial Approval conditions, the Property Owner hereby accepts the obligation to notice all future buyers and successors in interest of all conditions which apply to the Property.
3. Residential uses only. The Urban Lot Split property shall only contain residential uses.
4. Short-term rental prohibited. Rental of any dwelling unit created pursuant to Government Code Section 65852.21 shall be for a term longer than 30 days.
5. Enforcement. Any violation of this Agreement may result in the imposition of fines, fees, penalties and/or other enforcement action allowed at law or in equity by any applicable local, State or Federal law and regulation.
6. Conformance with code. All dwelling units located on the Property shall conform to the requirements of the Code, as of the date of the Ministerial Approval. Because the restrictions contained in this Agreement memorialize a land use approval pursuant to the Code, the Ministerial Approval conditions shall continue to apply to the Property, even if this Agreement is terminated or removed from title following a foreclosure.
7. Binding on heirs, assigns, and transferees. This Agreement runs with the land and is binding on all heirs, assigns, and transferees. Each and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Property or any interest therein, as the case may be, shall conclusively be held to have been executed, delivered and accepted subject to this Agreement regardless of whether the other party or parties to such contract have actual knowledge of this Agreement.
8. Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision(s) shall be deemed severable from the remaining provision(s) contained in this restriction, and this Agreement shall be construed as if such invalid, illegal, or unenforceable item had never been contained herein.

9. No Waiver. No delay or omission in the exercise of any right or remedy of County of Inyo (County) upon any default by Property Owner shall impair such right or remedy or be construed as a waiver. The County's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of the County's right thereafter to enforce the provisions of this Agreement. The County shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the County.
10. Amendments in Writing. This Agreement may not be amended except by a written agreement executed by County and Property Owner.
11. County Approval. The County Administrator or designee is authorized on behalf of the County to deliver any approvals or consents that this Agreement requires.
12. Recordation. This Agreement shall be executed by the Property Owner and by the County and shall be recorded by the Property Owner in the Office of the Recorder for the County of Inyo within ten (10) days of the date of execution.
1. Notices. All notices required under this Agreement shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To the Owner:

At the address of the Property.

To the County:

County of Inyo
224 N Edwards St.
PO Drawer N

2. Independence, CA 93526

Attn: County Administrator

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

IN WITNESS WHEREOF, Property Owner and County have executed this Agreement as of

OWNER

COUNTY OF INYO

By: _____
Signature

By: _____
Nate Greenberg, County Administrator

Print or Type Name

APPROVED AS TO FORM:

**TERMS AND CONDITIONS HAVE
BEEN REVIEWED AND APPROVAL
RECOMMENDED:**

, County Counsel

Cathreen Richards, Planning Director

NOTARY ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF INYO)

On _____, 20____ before me, _____, Notary Public,

(insert name and title of the officer),

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

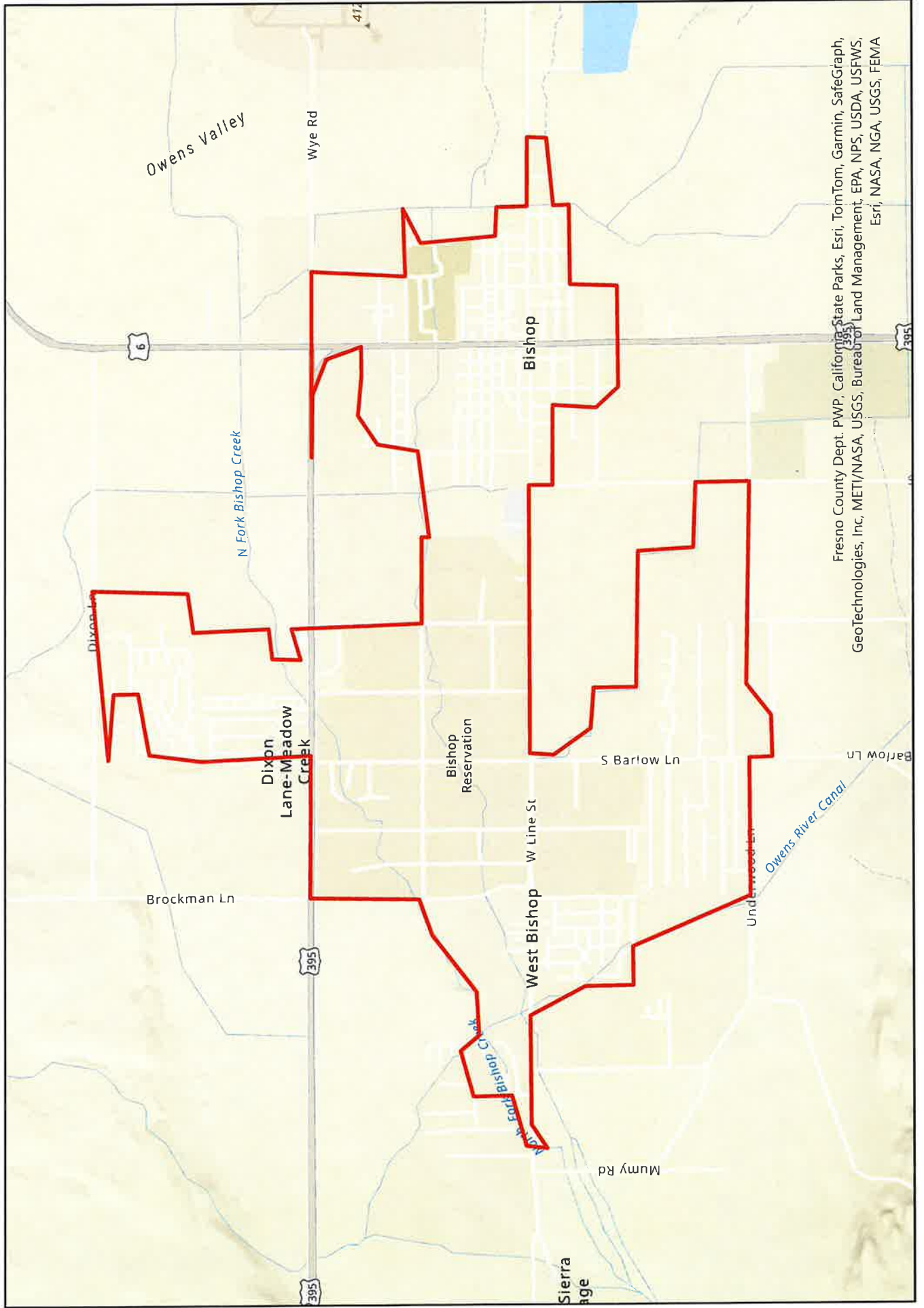
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

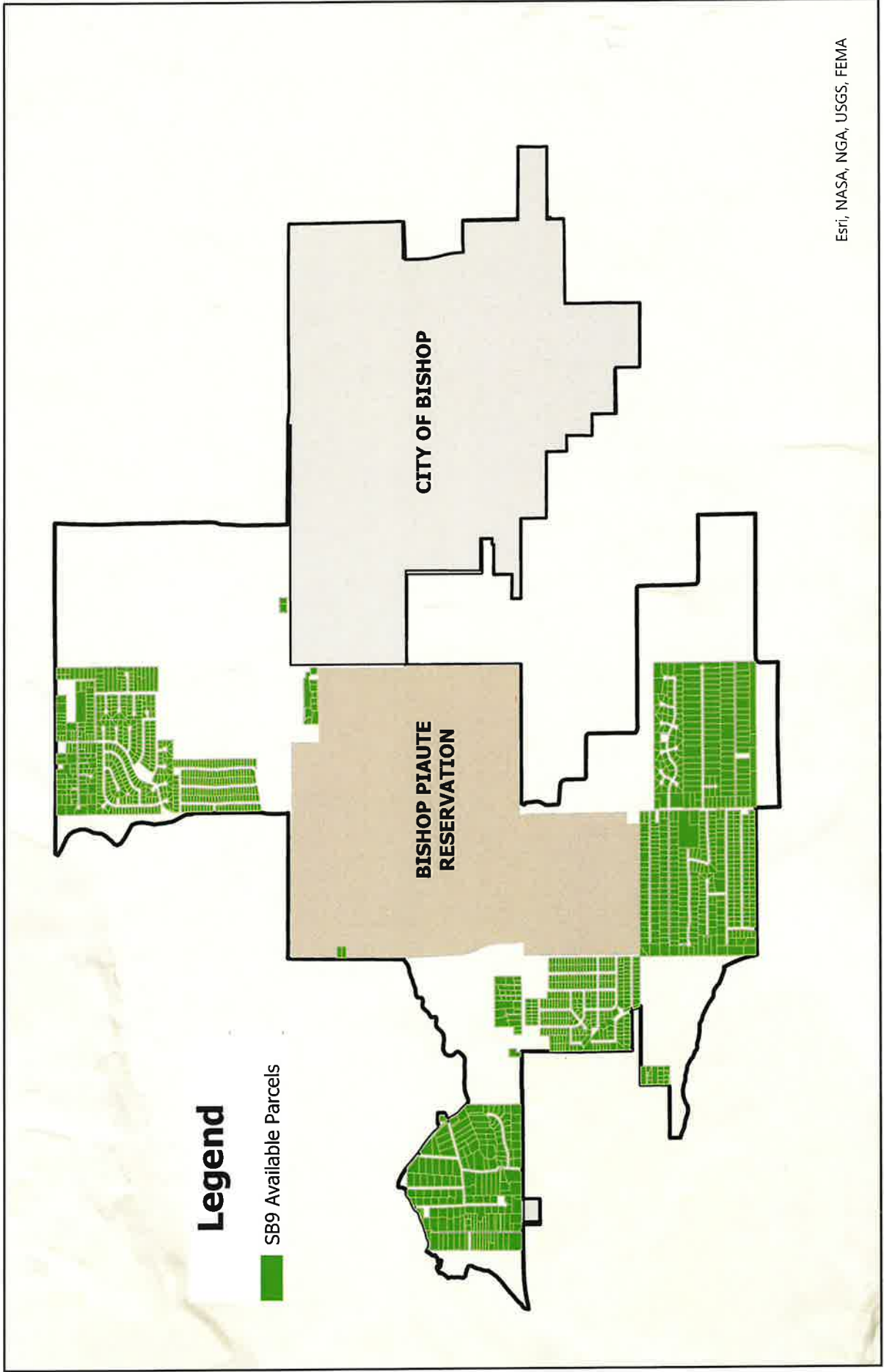
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BISHOP URBANIZED AREA

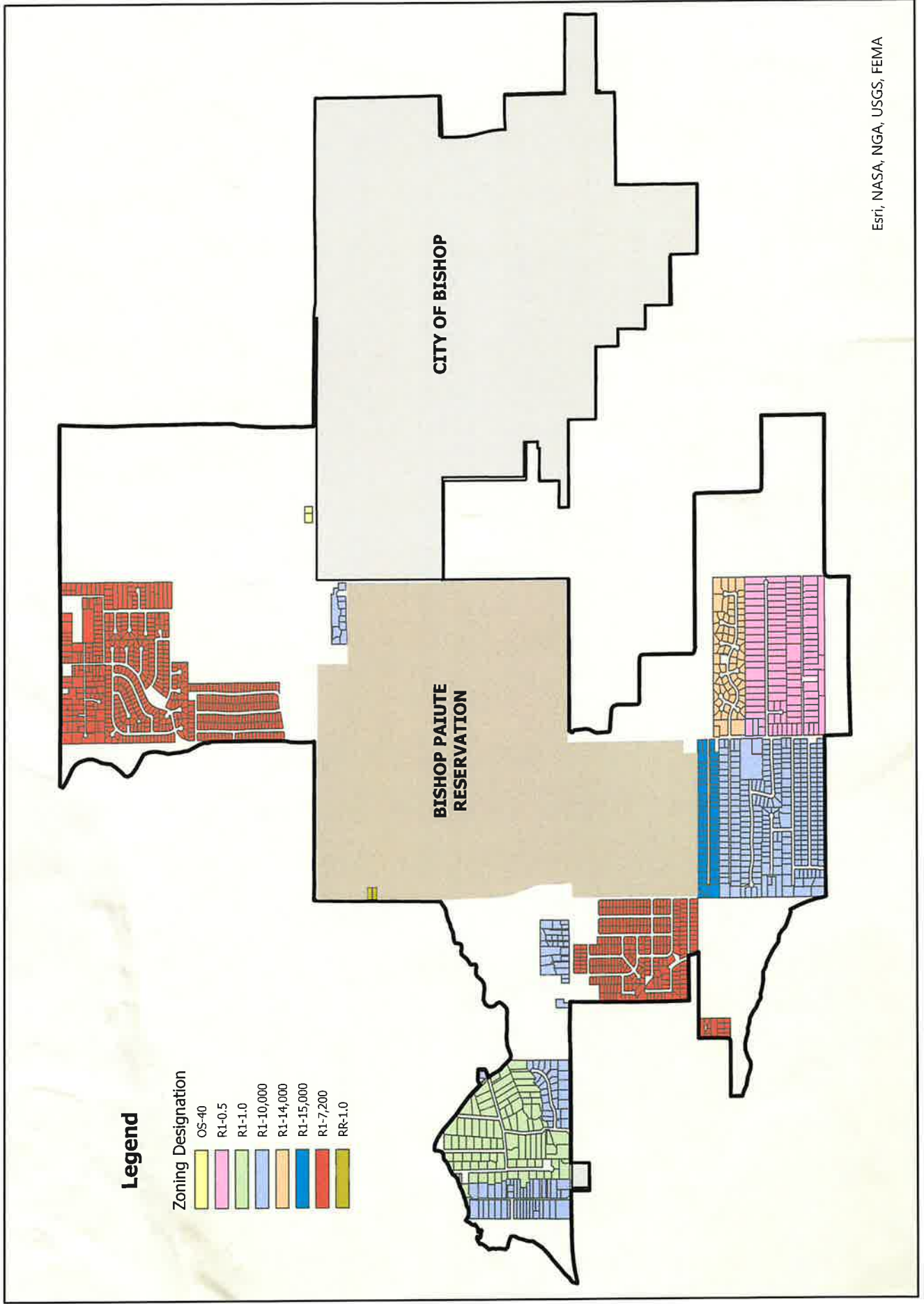


Fresno County Dept. PWP, California State Parks, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc. METI/NASA, USGS; Bureau of Land Management, EPA, NPS, USDA, USFWS, Esri, NASA, NGA, USGS, FEMA

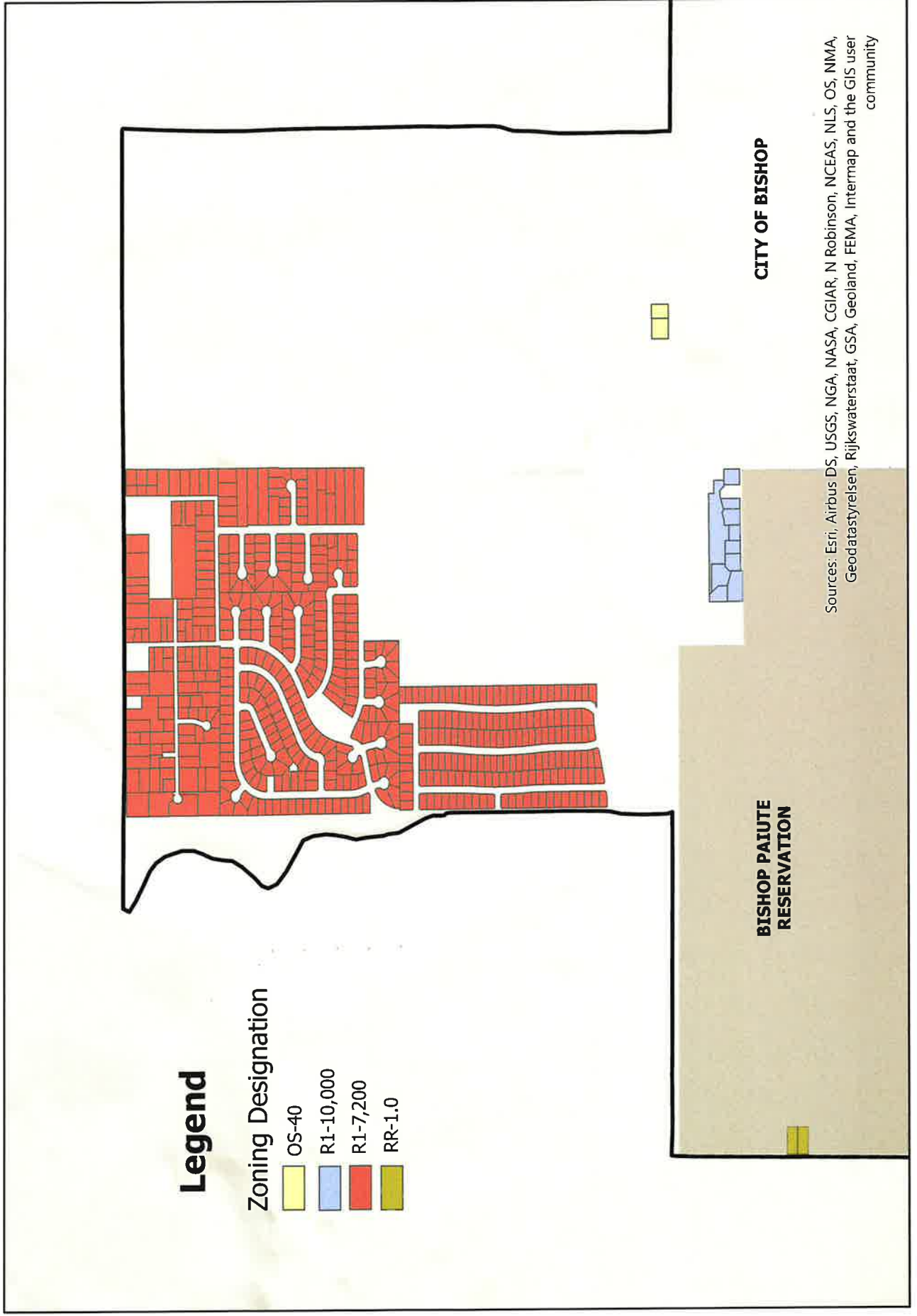
SB 9 PARCEL OVERVIEW



SB9 PARCEL ZONING



SB9 Parcel Zoning Dixon, Barlow, Brockman, Early Pond



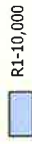
SB9 Parcel Zoning Shepard, McLaren, Ranch

Legend

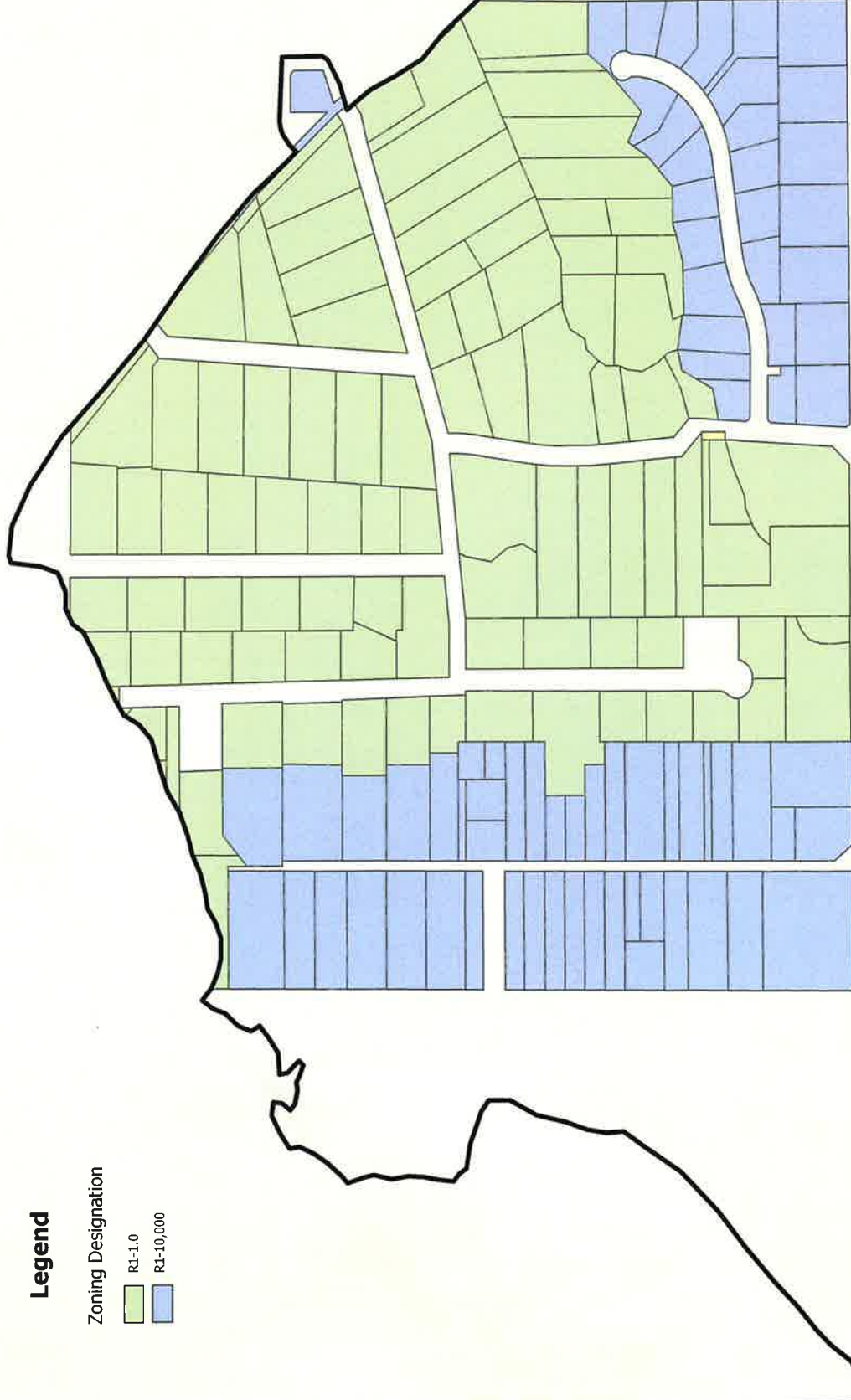
Zoning Designation



R1-1.0



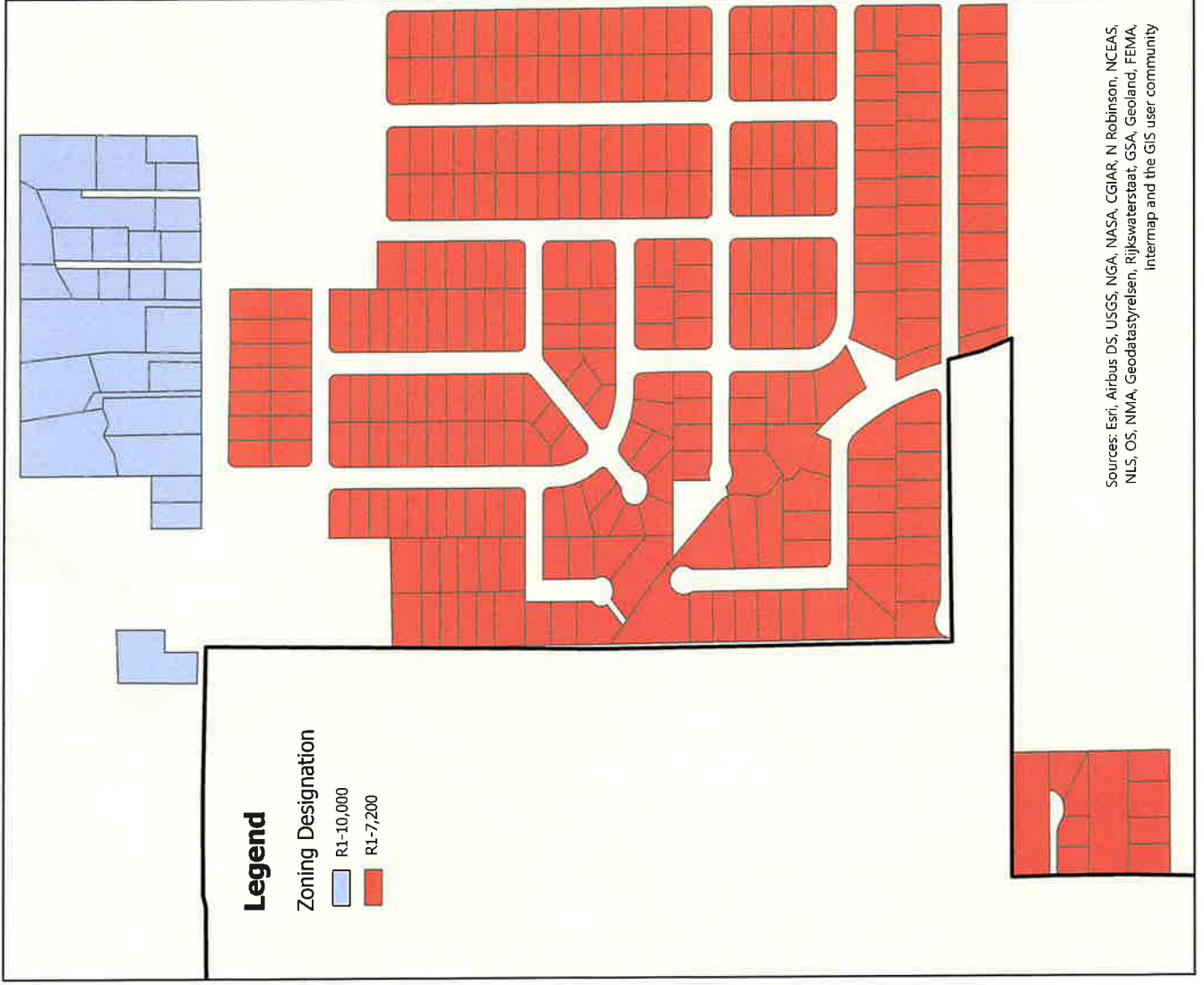
R1-10,000



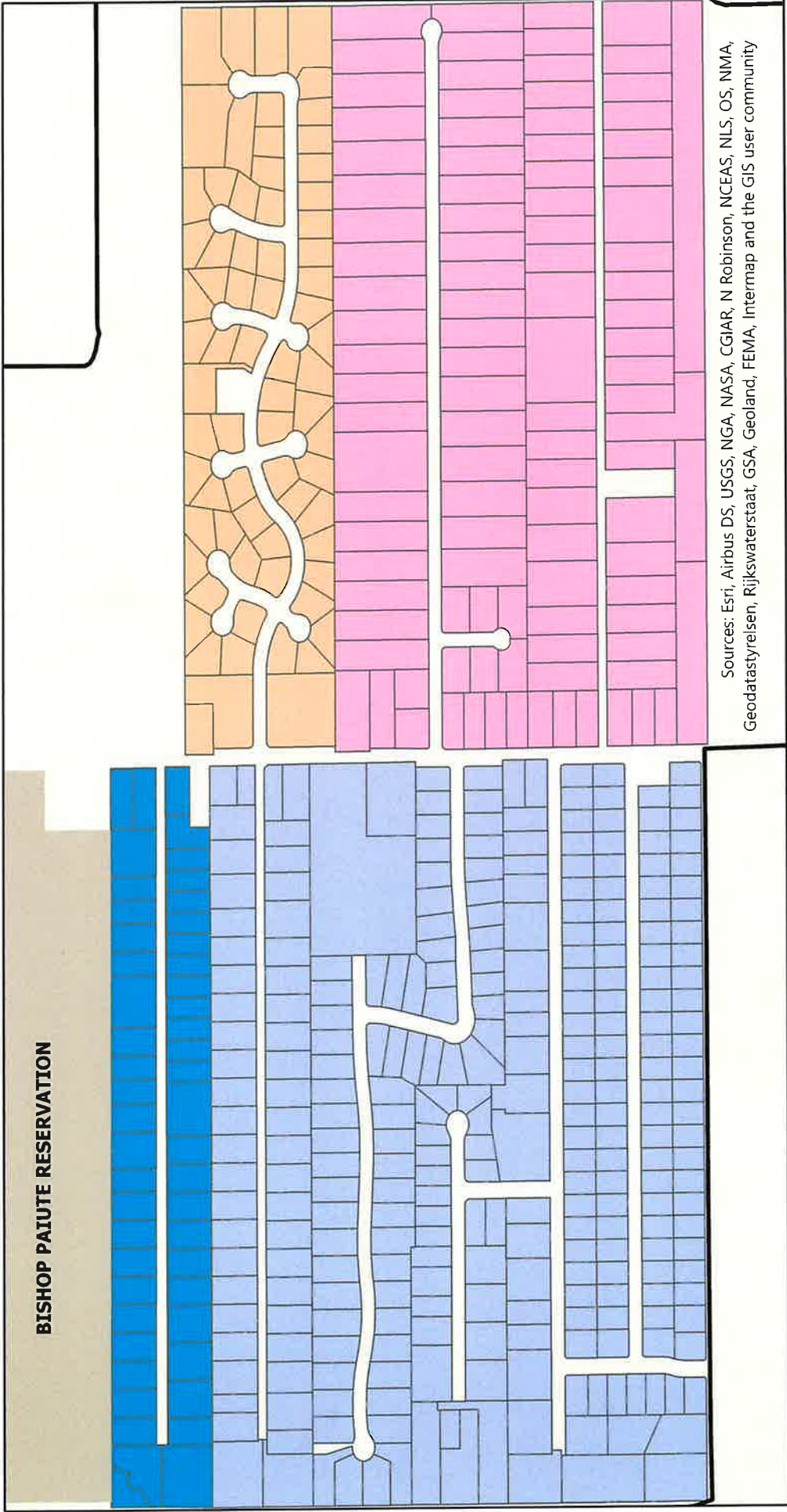
CITY OF
BISHOP

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA,
Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community

SB9 Parcel Zoning Grandview, Tumbleweed, Fairview



SB9 Parcel Zoning Sunset, Sunrise



Legend

Zoning Designation

- R1-0.5
- R1-10,000
- R1-14,000
- R1-15,000