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AGENDA ITEM NO 7 (Action Item – Public Hearing)

PLANNING COMMISSION
MEETING DATE: **June 29, 2022**

SUBJECT: Zone Text Amendment (ZTA) No. 2022-01/Inyo County-Outdoor Seating

EXECUTIVE SUMMARY

Staff has drafted a proposed ordinance to amend Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code to allow outdoor seating as an accessory use.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

Landowners: Multiple
Address/

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 project exempt from the requirements of the California Environmental Quality Act.

2.) Make certain Findings with respect to, and approve, Zone Text Amendment ZTA/2022-01

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:

Cathreen Richards

BACKGROUND

In July 2020 the Board of Supervisors adopted a Resolution to temporarily suspend the enforcement of landuse regulations to allow local businesses to operate outdoors. This was primarily done so that businesses that serve food and beverages could do so outdoors during the indoor restrictions set forth by Health Department orders addressing Covid. This Resolution is no longer effective and many County business owners would like to continue to have outdoor seating and without the time and cost of first obtaining a Conditional Use Permit as is presently required in some zoning districts.

ANALYSIS

Staff has reviewed the County's Commercial zones and found that all of them that allow for businesses that could include outdoor seating, such as food and beverage services, restrict outdoor business activities including outdoor seating in one way or another. Some zones require Conditional Use Permits and others do not allow for it at all. A breakdown of the current regulations regarding outdoor seating in commercial zones that also allow for food and beverage service is as follows:

- 18.44 - Central Business, lists it specifically as a Conditional Use;
- 18.48 - Highway Services and Tourist Commercial, included under Outdoor Business Activity and requires a Conditional Use Permit;
- 18.45 – General Commercial and Retail, states that the permitted uses listed are permitted when entirely conducted within an enclosed building. Outdoor seating, therefore, is not allowed, even with a Conditional Use Permit. This zone does allow for food and beverage service, however; and,
- 18.54 - Commercial Recreation also does not include any language that would address outdoor seating and is not allowed, even with a Conditional Use Permit. This zone also allows for food and beverage service.

Inyo County with its sunny climate, beautiful views and tourist based economy is a perfect place for businesses with food and beverage service to have outdoor seating and it has become a much more common and enjoyed practice in the United States. It has been a way of life in other parts of the World for many, many years. During the time that this use was allowed through the Board Resolution suspending regulation, no nuisance complaints were received by the Planning Department or the Code Enforcement Officer regarding outdoor seating, indicating that it also has not been perceived as a problem.

General Plan Consistency

ZTA 2022-01 - Amending Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code to allow outdoor seating as an accessory use will not change the current underlying commercial uses, or their relationship to accompanying commercial uses per the General Plan. It only adds to where on the property a business is located that seating can occur.

Zoning Ordinance Consistency

ZTA 2022-01 is consistent with the Inyo County Zoning code as amending Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code to allow outdoor seating as an accessory use does not discontinue or expand the allowed commercial uses within the zoning designations, but adds to where on the property a business is located seating can occur. The current allowed uses will remain consistent with the use requirements of Title 18.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal 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. This project is a proposal to amend parts of the County Code to allow for outdoor seating as an accessory use. It does not expand or change the underlying commercial uses, but adds to where on a business' location seating can occur.

RECOMMENDATIONS

Staff recommends adoption of the attached resolution recommending the Board of Supervisors consider ZTA 2020-01, make certain findings, and adopt the proposed ordinance amending Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code.

Recommended Findings

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3)

[Evidence: 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. Amending Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code to allow outdoor seating as an accessory does not expand or change the underlying commercial uses, but adds to where on a business' location seating can occur. This change also does not allow new or expanded uses or development.]

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: Amending Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation of the Inyo County Code to allow outdoor seating as an accessory use will not change the current underlying commercial uses, or their relationship to commercial uses per the General Plan. It only adds to where on the property a business is located that seating can occur.]

3. Based on substantial evidence in the record, the proposed Zoning Ordinance to amend ICC 18.44 is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

[Evidence: Zone Text Amendment 2022-01 allowing outdoor seating as an accessory is consistent with the Inyo County Zoning code Chapters 18.44 - Central Business; 18.48 - Highway Services and Tourist Commercial; 18.45 – General Commercial and Retail; and, 18.54 - Commercial Recreation as it will not discontinue or expand the allowed commercial uses within the zoning designations, but adds to where on the property businesses are located that seating can occur. The current allowed uses will remain consistent with the use requirements of Title 18.]

ATTACHMENTS

- A. Resolution
- B. Draft proposed ordinance

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. 2022-01 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

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

WHEREAS, the Inyo County Planning Commission held a public hearing on June 29, 2022, to review and consider a request for approval of Zone Text Amendment No. 2022-01, and considered the staff report for the project and all oral and written comments regarding the proposal

WHEREAS, ICC Section 18.03.020 states in part that it is necessary for the zoning ordinance to be consistent with the General Plan

WHEREAS, the approval of ZTA 2022-01 will result in updates to certain allowed accessory uses related to commercial businesses providing outdoor seating, which does not, cause new use types to what is already allowed based on General Plan designations.

WHEREAS, ZTA 2022-01 is consistent with the Inyo County Zoning code as it will result in updates to certain allowed activities related to commercial businesses providing outdoor seating, which does not cause new use types to 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 June 29, 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 parts of the County Code to allow for outdoor seating as an accessory use. It does not expand or change the underlying commercial uses, but adds to where on a business' location seating can occur.
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 the Amendments to Title 18 related to commercial businesses providing outdoor seating based on all of the information in the public record and on the recommendation of the Planning Commission.

PASSED AND ADOPTED this 29th day of June 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