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VACATION RENTALS AND B&B ZONING TEXT AMENDMENTS

STAFF REPORT:

TO: City of Maupin - City Council
FROM: Nick Kraemer, City Planner
DATE: 6/13/2017

BACKGROUND

The purpose of the proposed zoning ordinance text amendments is to clarify the Bed and Breakfast regulations and consider clarifying the ban on no-host/whole house vacation rentals.

A public hearing was held at the Planning Commission on May 17, 2017. Several letters of testimony were submitted for consideration prior to the hearing and several attendees to the meeting provided testimony. A majority of the testimony was in favor of banning no-host/whole house vacation rentals. A minority of the testimony was in favor of considering allowing vacation rentals. Several people provided testimony that was relatively neutral on the matter and in favor of looking at the issue more closely.

At the close of the public hearing, the Planning Commission, having a quorum, moved unanimously to recommend approval of the legislative text amendments and approve a ban on no-host/whole house vacation rentals.

Now, the issue is before the City Council and the City Council must take final action on any legislative text amendments. The City Council has chosen to hold a de novo public hearing and hear additional public testimony/evidence - which is the purpose of the meeting tonight.

If the City Council votes to follow the recommendation of Planning Commission and ban vacation rentals - then the City Council must pass an ordinance adopting the text amendments. The text amendments would be implemented 30 days from the passage of the ordinance.

POTENTIAL IMPLEMENTATION OF VACATION RENTAL BAN

I have not yet discussed - with City Legal Counsel - the potential implementation of the text amendments and subsequent code enforcement procedures that may be required to address existing vacation rentals in the City. In a quick search of online vacation rental

websites - it appears there are currently 3-6 whole house vacation rentals in the City of Maupin. There is currently no express language in the zoning ordinance that specifically bans (nor allows) vacation rentals. Therefore, I would recommend that the Council along with Legal Counsel reach an understanding of the appropriate code enforcement procedures and timing of implementing the text amendments before adopting a decision.

For example, in the City of Hood River they allowed for a sunset period of several years for existing vacation rentals. In the City of Maupin, the issue is a lot less prevalent - but the existing vacation rentals likely have booked reservations for the next several months. I would recommend that City Council discuss the mechanics of implementing the ban in the near-term for the existing vacation rentals - and also consider long-term implementation of the ban - in terms of monitoring and code enforcement.

PROCESS: LEGISLATIVE REVISIONS

Section 7.2 Legislative Revisions details that Legislative Revisions shall be initiated by a majority vote of City Council, majority vote of Planning Commission, or a request by the City Attorney or City Planner. The City Council sent direction to the Planning Commission to make amendments to B&B and vacation rental and the Planning Commission voted in favor of initiating the land use process for considering zoning text amendments for B&Bs and vacation rentals at their 3/14/2017 meeting.

As per Section 7.5 - a public hearing before the Planning Commission is mandatory and a Public Hearing before City Council is optional. The City Council must take final action on an amendment request - by adopting an ordinance that details the legislative revisions.

Public notice was published in the newspaper and posted more than 10 days from the date of the hearing. The Department of Land Conservation and Development (DLCD) was notified 35 days in advance of the first evidentiary hearing as required by Statute.

BED AND BREAKFAST - PROPOSED AMENDMENT TEXT

As discussed above, the goal of the legislative revisions for Bed and Breakfast facilities is to clarify the development standards and land use processes required for B&Bs. The Planning Commission also discussed other potential issues to address in the B&B criteria - such as the requirement of an annual permit and time limits on approvals. Without a City Business Permit and/or any other annual lodging permits required by the City - it could be a complicated system to setup and I am recommending that we stick to relying on the criteria in the Zoning Ordinance. Likewise, the City would be relying on the standard code enforcement process to ensure that the criteria for B&B's is being followed and that each facility is in compliance in an ongoing basis.

Note: proposed text amendments are show as **bold and underline.**

From Definitions:

These proposed changes are to clarify definition of B&B

BED AND BREAKFAST. An establishment ~~**in a residential district**~~ that **conducts transient rental of rooms**, contains up to five (5) **g**uest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to thirty (30) days.

Comments from Planning Commission: *Some Planning Commissioners wanted to limit the stay to 15 days and there were mixed opinions about requiring that it be owner-occupied vs. manager-occupied. Ultimately Commissioners decided that owner-occupied should be required.*

B&Bs allowed as Conditional Uses in Zoning Districts

These proposed changes will further clarify in which zones B&Bs are allowed.

Currently, B&Bs are allowed as a Conditional Use in the following zones:

-Low Density Residential
-Medium Density Residential
-High Density Residential

Not recommended to add as Conditional Use in these zones:

-I - Industrial
-A - Agricultural

Consider allowing them as Conditional Uses in other zones:

-Large Lot Residential - consider allowing as CUP
-GC - General Commercial - allowed under CUP as similar use now.
-RC - Recreational Commercial - not clear - maybe allowed with SPR.

The following text would be added to the above zones B. Conditional Uses Sections to allow B&Bs: **# Bed and Breakfast facilities. Subject to supplemental provisions of Section 4.14**

From Zoning Ordinance:

These proposed changes are to clarify the development standards for B&Bs

SECTION 4.14 – BED AND BREAKFAST FACILITIES DEVELOPMENT STANDARDS. A bed and breakfast facility approved as a conditional use in ~~the residential zones of~~ the City shall have the following approval standards.

(A) **The facility shall not adversely affect the residential character of the neighborhood**. The structure shall retain the characteristics of a single-family dwelling **and guest rooms must be located in the dwelling - not accessory structures.**

(B) The number of guest rooms shall be limit**ed** to five (5) and the number of guests shall be limited to ten (10).

(C) In addition to the required off-street parking for each residential use, one (1) off-street parking space for **each guest room in the** bed and breakfast shall be provided.

(D) Signs shall be limited to one non-illuminated sign, not exceeding one and one-half (1-1/2) square feet. No off-premises signs are permitted.

(E) Submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.

(F) The facility must be owner-occupied.

(G) The facility must acquire and maintain all other permits required by the State and County for operating a Bed and Breakfast. These may include permits with the County Public Health Department for food safety and registration with the City and State to pay transient room tax.

(H) Receptacles must be provided for the deposit of garbage and the facility must subscribe to regular solid waste collection service

Comments from Planning Commission: *Most of the Planning Commissioners wanted to consider some sort of annual review of all B&Bs to ensure the conditions of approval are being met. Further, they wanted to see a clear set of revocation procedures if the conditions of approval for operating B&Bs are not being met. Without a business license or annual permit - the City would rely on the land use code enforcement process - which is time-consuming and costly.*

WHOLE HOUSE/NO HOST VACATION RENTALS BAN AMENDMENT TEXT

Currently the City Zoning Ordinance has no direct reference to vacation rentals. The purpose of these amendments is to clearly state what uses are allowed and what uses are prohibited in the City in regards to vacation rentals.

The direction from City Council to Planning Commission was to consider an outright ban on whole house/no host vacation rentals. These text amendments are intended to follow that direction for an outright ban. There was discussion and public input provided at the March Planning Commission Meeting in opposition to an outright ban. However, several letters of testimony were submitted for consideration prior to the official May Public Hearing and several attendees to the meeting provided testimony in favor of a ban. As stated above, the Planning Commission voted in favor of an outright ban on vacation rentals and hosted homeshares.

The following proposed amendments are intended to prohibit whole house/no host vacation rentals and hosted homeshares.

From Definitions:

The following text amendments are proposed to be added to **Article 1 - Introductory Provisions - Section 1.3 Definitions**

Hosted Homeshare means the transient rental of a portion of a dwelling while the homeowner is present and the dwelling is the primary residence of the homeowner.

Non-Transient Rental means to rent a dwelling unit or room(s) for compensation on a month-to-month basis, or for a longer period.

Primary Residence means the residence where the owner is registered to vote, used as the primary residence for tax purposes, or with other proof that the residence is primary.

Transient Rental means a dwelling unit or other building or any portion thereof that is available or advertised, or listed by an agent, for use, rent, or occupancy for a period of time that is less than 30 consecutive days, but not including, bed and breakfast, hotel, or other types of lodging permitted to operate in accordance with this Ordinance.

Vacation Home Rental means the transient rental of an entire dwelling unit.

Option 1 - Outright Ban on Vacation Rentals and Hosted Homeshare

The following text amendments are proposed to be added to **Article 4 - Supplementary Provisions:**

Section 4.15 - Prohibition on Vacation Home Rentals

Vacation Home Rental (as defined in Section 1.3 Definitions) is a prohibited use in the City of Maupin.

Hosted Homeshare (as defined in Section 1.3 Definitions) is a prohibited use in the City of Maupin.

Transient Rental, but not including, bed and breakfast, hotel, or other types of lodging permitted to operate in accordance with this Ordinance, (as defined in Section 1.3 Definitions) is a prohibited use in the City of Maupin.

Option 2 - Consider allowing Vacation Rentals and Hosted Homeshare

If the City Council decides they want to pursue some amendments to allow vacation rentals or hosted - then we would need to hold another hearing with some proposed text amendments that allow for whole house/ no host vacation rentals.

DRAFT FINDINGS

Section 7.8 Legislative Amendments: ***It is suggested in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.***
Finding #1: The City has followed the quasi-judicial procedures for two public hearings - one held at Planning Commission and another hearing held de novo at City Council. **Criteria met.**

Section 7.9 Quasi-Judicial Hearing Requirements

1. ***The burden of all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.***

Finding #2: The City of Maupin submitted the necessary information to process the proposed text amendments. **Criteria met.**

2. ***The requested text amendment is in conformance with the Comprehensive Plan and also the goals and policies of the plan.***

Finding #3: The proposed amendments are in conformance with the City of Maupin Comprehensive Plan – specifically the Goal 9 – Economics – wherein Policy #2 states that the home occupations shall be encouraged in the Town and Policy #7 states that commercial development shall be concentrated so as to maintain or improve the stability of existing commercial areas. The allowance of B&Bs encourages what is essentially a home occupation. The prohibition of whole house/no host vacation rentals - especially in

the residential zones - discourages the spreading out of what is essentially a commercial use all over the City and forces the vacation rental use into zones that allow for commercial uses. **Criteria met.**

3. ***The showing of public need for the amendments and whether that public need is best served by making the amendments under consideration.***

Finding #4: The proposed text amendments are in the interest public need:
-The Bed and Breakfast amendments further clarify the development standards for B&Bs, which will further protect from any offsite impacts to neighborhoods. The B&B amendments also clarify the zones in which B&Bs are allowed. The prohibition on whole house/no host rentals is also in the public interest. The PC and CC both view whole house/ no host rentals as having a negative impact on residential areas - as they are essentially a commercial use. Further, the potential for offsite impacts such as late night noise, on-street parking, and generally not knowing your neighbors is a negative impact. Lastly, the CC and PC feel that whole house/ no host rentals are limiting the number of houses available for potential full-time residents in Maupin. Therefore, it is in the interest of the public to prohibit these types of uses. **Criteria met.**

4. ***A plan or land use regulation amendment significantly affects a transportation facility if it: (1) Changes the functional classification of an existing or planned transportation facility (2) Changes standards implementing a functional classification system (3) Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification system or a transportation facility (4) Would reduce the level of service of the facility below the acceptable level identified in the Transportation System Plan***

Finding #6: The proposed amendments do not have significant effects on transportation facilities in Maupin. The amount of traffic generated by B&Bs is minimal - and the City expects fewer than 10 bed and breakfast facilities in total throughout the City. In addition, B&Bs are already an allowed use in several zones therefore the text amendments don't significantly increase the potential number of trips on the Maupin roads. Lastly, the requirements for off-street parking for short term rentals decreases the impacts of excessive numbers of cars parking on-street in residential areas. **Criteria met.**

STATE TRANSPORTATION PLANNING RULE - OAR 660-12-0060

(1) Applicant must identify potential traffic impacts from land use action.

Finding #7: The proposed amendments will not significantly affect existing or planned for transportation facilities in the City of Maupin. **Criteria met.**

STAFF RECCOMENDATION

This is a legislative matter and is really at the discretion of the elected officials of the City of Maupin. As a tourist destination and popular area for second homeowners - I can see many potential advantages for the City to allow vacation rentals or hosted homeshares. On the other hand, I can understand the concerns about impacts from no-host rentals and potential decrease in available units for full-time residents in Maupin. It

appears that many of the community members are in favor of a ban on vacation rentals and have been in favor of a ban for many years (see Ordinance 281). Therefore, I have no recommendation on supporting the proposed text amendments and will work with the City Council to support and implement the decision of the elected officials on the matter.

As discussed in the first section - I am recommending that a robust discussion on the timing of an implementing ordinance, potential code enforcement actions, and overall implementation of the proposed ban on vacation rentals takes place in order to truly understand how the proposed text amendments would actually impact the community.

POTENTIAL CITY COUNCIL ACTIONS

1) City Council Vote to approve the proposed legislative zoning text amendments and adopt the enacting ordinance as attached.

2) Continue the Hearing to a time and date certain (at least 7 days from this hearing) to gather further testimony and/or consider different text amendments.

3) Vote to deny the proposed legislative zoning text amendments.

4) Close the public hearing and take no action on the proposed amendments

Respectfully submitted,

/s/ Nick Kraemer

Nick Kraemer, Contract Planner

EXHIBIT 1 -
ENACTING ORDINANCE

ORDINANCE NO. _____
CITY OF MAUPIN, OREGON

AN ORDINANCE AMENDING THE CITY OF MAUPIN ZONING ORDINANCE NO. 249 TEXT TO BAN VACATION RENTALS

WHEREAS, the City Council sent direction to the Planning Commission to make text amendments to zoning ordinance regarding Bed and Breakfast (B&B) regulations and consider adding clarifying language for an outright ban on vacation rentals; and

WHEREAS, the Planning Commission voted in favor of initiating the land use process for considering zoning text amendments for B&Bs and vacation rentals at their 3/14/2017 meeting by a unanimous vote; and

WHEREAS, notice of the proposed amendments was sent to DLCD 45 days prior to the hearing; and

WHEREAS, the City Recorder caused notices to be submitted to all property owners in the City of Maupin and posted notices throughout the City prior to the public hearing held before the Planning Commission on May 17, 2017, in the Community Building at the Maupin City Park.; and

WHEREAS, the hearing was conducted on May 17, 2017. A Staff Report was presented and incorporated into the record. At the close of that public hearing, the Planning Commission moved unanimously to recommend the approval to the City Council of the proposed legislative text amendments and ban on no-host/whole house/homeshare vacation rentals; and

WHEREAS, legislative text amendments are governed by Article 7 Amendments of the City of Maupin Zoning Code. As described in Section 7.7, the City Council shall either affirm the decision of the Planning Commission or set the matter for a hearing "de novo" before the City Council. The City Council must take final action on an amendment request; and

WHEREAS, City Council chose to hold a Public Hearing "de novo" on June 20, 2017. The City Recorder caused notices to be submitted to all property owners in the City of Maupin and posted notices throughout the City prior to the City Council public hearing; and

WHEREAS, the City Council, after hearing further testimony at the June 20, 2017 public hearing, has voted to approve the proposed text amendments contained in the attached Staff Report; and

NOW, THEREFORE, THE CITY OF MAUPIN RESOLVES AS FOLLOWS:

Section 1. The adoption of the proposed legislative text amendments as contained in the attached Staff Report are hereby approved.

Section 2. The approval is based upon information from the May 17, 2017 Planning Commission Hearing and June 20, 2017 City Council Hearing which contains the proposed text amendment language, findings of fact, and conclusions of law, attached as Exhibits and incorporated herein.

Approved by the City Council and signed by the Mayor this DATE.

_____
Lynn Ewing, Mayor

ATTEST

_____
DeOra Patton, City Recorder

City of Maupin

ORDINANCE NO. 281

AN ORDINANCE REPEALING CERTAIN PROVISIONS OF THE MAUPIN CITY ZONING ORDINANCE TO DELETE VACATION RENTALS FROM THE RESIDENTIAL ZONE CONDITIONAL USE LISTINGS AND TO DELETE THE VACATION RENTAL HOME STANDARDS AND DECLARING AN EMERGENCY

LEGISLATIVE FINDINGS

1. The City has become aware that its Standards for allowing vacation rentals in the Residential Zones of the City do not lessen or serve to reduce the impacts on neighboring properties.
2. The City Council has determined that this issue needs to be reviewed and if Vacation Rentals are to be allowed, a better set of standards needs to be adopted.
3. The City Council finds that the best way to deal with this issue is to repeal those provisions from the City's Zoning Ordinance while the issue is being researched.
4. This is an emergency situation in which Public Notice of the Public Hearing has been provided in the local newspaper.

Now therefore, The City of Maupin ordains as follows:

1. The vacation rental provision is hereby deleted from Section 3.4 (B) (12) from the City's Zoning Ordinance.
2. The Vacation Rental provisions listed in Section 4.15 of the Ordinance are deleted in their entirety.

EMERGENCY CLAUSE

In as much as the health, safety and welfare of the citizens of Maupin may be at risk, an emergency is deemed to exist, and this ordinance shall be in full force and effect upon its adoption by the City Council.

READ, considered, and approved by the Common Council of the City of Maupin, this 28th day of May, 2008.

Ayes: 5

Nays: 0

Absent: 1

CITY OF MAUPIN

Dennis D. Ross

Dennis D. Ross, Mayor

ATTEST:

DeOra M Patton

DeOra M. Patton, City Recorder