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AGENDA ITEM NO.: 8 (Public Hearing & Action Item)

**PLANNING COMMISSION
MEETING DATE:** January 25, 2012

SUBJECT: **Ordinance Extending Certain Provisions
of Inyo County Code Sections 18.78.285**

EXECUTIVE SUMMARY

On March 18, 2011 the Center Fire destroyed a total of 20 homes in the western portion of Big Pine, CA. Inyo County Code Section 18.78.285 permits the reconstruction of non-conforming one-family or multiple dwellings destroyed by fire, provided that such reconstruction is permitted by the building code of the county and is started within one year and diligently pursued to completion. To date, some of the homes have been rebuilt; however others have not. The proposed ordinance extending certain provisions of Inyo County Code Section 18.78.285 would extend the time allowed for the reconstruction of non-conforming dwellings for five additional years to allow residents additional time for reconstruction. All other provisions contained in Inyo County Code Section 18.78.285 would remain in full force and effect.

PROJECT INFORMATION

Supervisory District: Fourth District

Community: Big Pine

Properties Affected By Inyo Center Fire:

APN	Zoning	General Plan
004-050-07	Rural Residential (RR)and Open Space (OS)	Rural Residential Low (RRL) and Natural Hazard (NH)
004-010-06	Single Residential or Mobile home Combined (RMH)	Residential High (RH)
004-130-01	Rural Residential (RR)and Open Space (OS)	Rural Residential Low (RRL) and Natural Hazard (NH)

Recommended Action: **Recommend the Inyo County Board of Supervisors conduct a public hearing and adopt an ordinance extending certain provisions of Inyo County Code Section 18.78.285**

- Alternatives:**
- 1.) Do not recommend adoption of an ordinance extending certain provisions of Inyo County Code Sections 18.78.285. This would require that the residents comply with current zoning code.
 - 2.) Continue the item to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner: Dan Stewart, Planning Coordinator

BACKGROUND

On March 18, 2011 at approximately 3:30 pm the Center Fire was started by an unattended campfire at the Bernasconi Center west of Big Pine. Gusty winds caused the fire to move rapidly toward the town site. Despite rapid response and extensive efforts of local firefighters, the blaze destroyed 20 homes in western Big Pine. Later, a State of Emergency was declared, with significant damage reported.

To date, a portion of the homes destroyed in the Center Fire have been reconstructed, but not all. Two parcels have not yet begun reconstruction: Glacier View Mobile Home Park and the area generally know as Indian Camp. Glacier View is regulated by the Department of Housing and Community Development (HCD) and will follow HCD regulations to reconstruct. A representative of Glacier View is currently pursuing reconstruction of the homes lost due to the Center Fire. A representative of Indian Camp has inquired into reconstruction of homes lost in the fire, but has not officially initiated the process.

STAFF ANALYSIS

Most homes destroyed in the Center Fire were constructed prior to the adoption of current zoning code, and so were not subject to the restrictions of the current zoning code, in particular the number of dwelling units allowed per parcel.

Inyo County Code Section 18.78.285 permits reconstruction of nonconforming one-family or multiple dwellings destroyed in a fire provided that such restoration or reconstruction has equal to or less floor area, and a similar building footprint and height as the destroyed nonconforming one-family or multiple dwelling, that such restoration is permitted by the

building code of the county, and that such reconstruction is started within one year and diligently pursued to completion. As applied to the Center Fire, residents would thus be permitted to reconstruct similar non-conforming homes.

Currently, on March 18, 2012, those residences that have not yet initiated the construction process would not be permitted to reconstruct non-conforming homes as per Inyo County Code Section 18.78.285. Indian Camp had several homes on a single parcel prior to the fire, which would not be permitted under current zoning code. Indian Camp is zoned Rural Residential. Rural Residential zones permit by right the construction of one primary dwelling and one second dwelling unit. Residents at Indian Camp have not yet initiated the construction process. After March 18, 2012, the reconstruction of nonconforming homes at Indian Camp would not be permitted, thus in-effect disallowing the “grandfathering-in” of the multiple dwellings that had previously existed on a single residential lot.

Adoption of an ordinance extending the one-year time limitation provided for in Inyo County Code Section 18.78.285 to initiate the reconstruction of non-conforming dwellings to five years would provide additional time for those impacted by the Center Fire to reconstruct similar nonconforming homes.. The remaining provisions of Section 18.78.285 would remain in full force and effect.

However, if a building permit is not issued for replacement of the non-conforming dwellings within the proposed 5-year time extension, any new construction will be required to conform to the regulations in effect at that time.

Staff also considered proposing an ordinance extending similar provisions of Inyo County Section 18.78.280, as that section applies to accessory buildings. An extension to this clause would allow the reconstruction of non-conforming buildings that were damaged to the extent of fifty percent or less. Inyo County Section 18.78.280 would apply to the loss of accessory structures, as accessory structures are excluded from Inyo County Section 18.78.285. However, in the Inyo Center Fire all accessory structures were damaged to a greater extent than fifty percent. As such, reconstruction of nonconforming accessory structures lost in the Center Fire is not permitted under Title 18. For this reason, all accessory structures must be reconstructed in adherence to the current zoning code.

ENVIRONMENTAL REVIEW

The adoption of an ordinance extending certain provisions of Inyo County Code Section 18.78.285 is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15269(a).

RECOMMENDATIONS

Recommend the Inyo County Board of Supervisors conduct a public hearing and adopt an ordinance extending the provisions of Inyo County Code Section 18.78.285 for five years for those properties impacted by the Center Fire.

ATTACHMENTS

1. Current Inyo County Code Section 18.78.285
2. Draft Inyo County Ordinance extending certain provisions of Inyo County Code Section 18.78.285.
3. Aerial Photo of the Indian Camp area West of Big Pine
4. Resolution from Planning Commission to Board of Supervisors

Prepared By:

Dan Stewart
Planning Coordinator

ORDINANCE NO.
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY
INYO, STATE OF CALIFORNIA, ALLOWING THE RESTORATION OF NON-
CONFORMING DWELLINGS THAT WERE DESTROYED BY THE INYO
CENTER FIRE OF MARCH 18, 2011

The Board of Supervisors of Inyo County ordains as follows:

SECTION 1. PURPOSE

It is the purpose of this Ordinance to alleviate the economic impact to the County of Inyo and its citizens occasioned by the Inyo Center Fire, a natural disaster which destroyed property within the County.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to the police power of this Board and Sections 18.81.310 and 18.81.350 of the Inyo County Code, which establish the procedure for the Board of Supervisors to enact changes to the Inyo County Zoning Ordinance, set forth in Title 18 of said code.

SECTION 3. FINDINGS

This Board of Supervisors finds that the Inyo Center Fire was a natural disaster of unusual size and impact, which caused severe property damage within the County. It is in the public's interest to restore such property to its prior condition, while avoiding further economic losses to the victims of the fire and to the County. Given the extent of the damage from the fire, this Board finds that Inyo County Code Section 18.78.285, which prohibits the restoration of non-conforming one-family or multiple dwellings destroyed by fire unless such reconstruction commences within one year of destruction, imposes a disproportionately negative impact and undue burden on the victims of the fire and on the economic health of the County of Inyo.

SECTION 4. RESTORATION OF NONCONFORMING BUILDINGS ALLOWED

Notwithstanding Section 18.78.285 of the Inyo County Code, one-family or multiple dwelling units that were destroyed or damaged by the Inyo County Center Fire may be restored, provided that such restoration is permitted by the building code of the county and a building permit is obtained within five years of the final adoption of this Ordinance and construction is diligently pursued to completion. This Ordinance is of no further effect five years after its final adoption.

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or

phrase not declared invalid or unconstitutional, without regard to whether any portion of this Ordinance would be subsequently declared unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE

This Ordinance shall take effect and be given 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 _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marty Fortney, Chair
INYO COUNTY BOARD OF

SUPERVISORS

ATTEST: Kevin Carunchio
Clerk of the Board

BY: _____
Patricia Gunsolley, Assistant Clerk

18.78.285 Nonconforming buildings—Reconstruction of residences regardless of the extent of destruction.

Notwithstanding Section 18.78.280, the restoration of a nonconforming one-family or multiple dwelling that is damaged or destroyed by fire, explosion, act of God, or of the public enemy shall be permitted regardless of the extent of destruction, provided that such restoration or reconstruction has equal to or less floor area and a similar building footprint and height as the destroyed nonconforming one-family or multiple dwelling, that such restoration is permitted by the building code of the county, and is started within one year and diligently prosecuted to completion. (Ord. 1150 § 3, 2010.)

Attachment 3- Indian Camp Map



RESOLUTION NO. 2012-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE ALLOWING THE RESTORATION OF NON-CONFORMING RESIDENTIAL DWELLINGS THAT WERE DESTROYED BY THE INYO CENTER FIRE OF MARCH 18, 2011

WHEREAS, on March 18, 2011 a fire, subsequently known as the Inyo Center Fire, destroyed a number of non-conforming dwelling units in the community of Big Pine; and

WHEREAS, Sections 18.78.285 of Inyo County Code requires that the reconstruction of any non-conforming structures destroyed or damaged by fire must be initiated within one year from the date of destruction or damage; and

WHEREAS, the Inyo County Planning Commission believes that such a time limitation imposes an undue burden upon citizens and residents affected by the Inyo Center Fire; and

WHEREAS, Section 18.81.320 of Inyo County Code states that an amendment to Title 18 of County Code (i.e., the Zoning Ordinance) may be initiated by a resolution of the Planning Commission; and

WHEREAS, the Inyo County Planning Commission held a public hearing on January 25, 2012, where it reviewed and considered amending Section 18.78.285 of Title 18 to allow reconstruction of one-family or multiple family dwelling units destroyed or damaged by the Inyo Center Fire for an additional five years, and considered the staff report and all oral and written comments regarding such an amendment; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that, based on all of the written and oral comment and input received at the January 25, 2012 hearing, including the Planning Department Staff Report concerning the above-described proposed amendment to Title 18, the Planning Commission recommends that the Board of Supervisors take the following action:

The Board of Supervisors conduct a public hearing and adopt an ordinance extending provisions of Inyo County Code Sections 18.78.285 for five years for those properties impacted by the Inyo Center fire.

**PASSED AND ADOPTED this 25th day of January, 2012, by the following vote
of the Inyo County Planning Commission:**

AYES:

NOES:

ABSTAIN:

ABSENT:

Sam Wasson, Chairman
Inyo County Planning Commission

ATTEST:

Josh Hart, Planning Director

By _____
Dan Stewart,
Secretary of the Commission