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CC - Receipt and Filing of Report from the Finance Advisory Committee Regarding Review of Extended Stay Hotel/Motel Land Use

Meeting Date: September 13, 2021

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Fiscal Impact: Yes [] No [X] **General Fund:** Yes [] No [X]

Public Hearing: [] **Action Item:** [X] **Attachments:** []

Commission Action Required: Yes [] No [X] **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (09/08/2021);

Department Approval: Onyx Jones, Chief Financial Officer (09/08/2021); Sol Blumenfeld (08/25/2021)

RECOMMENDATION

Staff recommends the City Council receive and file a report from the Finance Advisory Committee (FAC) regarding its review of the Extended Stay Hotel/Motel land use.

BACKGROUND

On February 22, 2021, the City Council adopted an Ordinance approving Zoning Code Amendment P2019-0058-ZCA establishing an "Extended Stay Hotel/Motel" land use (hotels/motels allowing stays of more than 30 days) in commercial zones. During its consideration of the Ordinance, the City Council inquired about the ability to charge an in-lieu fee for Extended Stay Hotel land uses to account for any potential loss in transient occupancy tax (TOT) revenue. City Council suggested discussing potential financial impacts of the Extended Stay use with the Finance Advisory Committee and to report back to City Council at a future date. The City Council also acknowledged the City

Attorney's Office would need to review the permissibility associated with establishing such fees.

CCMC Section 11.02.105 requires the collection of a TOT on hotel/motel stays of 30 days or less. Stays of longer than 30 days are not subject to the TOT. Allowing stays of greater than 30 days would reduce the TOT revenue collected. It is difficult to determine the potential reduction in TOT tax revenue without knowing the number of hotel rooms that will be used as extended stays and the rate of those rooms at the time of the stay. The current TOT tax rate is 14%.

On May 12, 2021, the FAC created an Ad Hoc Subcommittee consisting of FAC Members Kevin Lachoff, Darrell Menthe and Keith Jones (Subcommittee) to review this issue with City staff.

DISCUSSION

On July 21, 2021, the Subcommittee met with staff from the City Manager's and City Attorney's Offices and the Finance and Community Development Departments to discuss potential options for addressing fiscal impacts to the City associated with the Extended Stay Hotel/Motel land use.

Options that were considered but determined not to be practically and/or legally feasible included:

- *Amendment of the TOT:* An amendment to the City's transient occupancy tax to apply to stays of longer than 30 days, such as an Extended Stay Hotel, would require voter approval. Further, such a measure could be problematic if it only sought to tax long-term hotel stays but not apartment rentals, without distinguishing between the two and identifying a rationale for treating them differently.
- *In-Lieu Fee:* Payment of fees for lost revenues that the City would have received if the hotels were used for short-term stays is not permissible.
- *Cost Recovery:* A requirement for recovery of actual costs (not lost revenue) to the City to mitigate impacts on its services through the land use entitlement process would need to distinguish between Extended Stay Hotel/Motel land use and long-term apartment rentals (i.e. what are the impacts of an Extended Stay that are not the impacts of apartments). Such requirement would also need to be supported by a finding demonstrating the relationship between impacts created by the project and fees collected, and that the fees are roughly proportional to those impacts.

The Subcommittee also discussed the option of considering the use of a development agreement during the entitlement process. A development agreement is essentially a planning tool that allows public agencies greater latitude to advance local planning policies, promote the community's needs and receive greater community benefits than can otherwise be achieved through the land use regulatory process. It is sometimes used in conjunction with the traditional development approval process; for example, an applicant may pursue a development agreement concurrently with a comprehensive plan, site plan review, conditional use permit, etc. Neither the applicant nor the City is required to enter into such an agreement, as it is a negotiated contract.

The Subcommittee reported these discussions to the full FAC at its meeting of August 11, 2021.

By unanimous vote, the FAC passed the following motion:

Make a report to the City Council that, having studied and looked at various options, the FAC has determined the best course of action to address the impacts from the Extended Stay Hotel/Motel land use is for the City to consider entering into development agreements with any Extended Stay Hotel/Motel project applicants should the occasion arise.

FISCAL ANALYSIS

There is no fiscal impact associated with the receipt and filing of the FAC's report.

ATTACHMENTS

None.

MOTION

That the City Council:

Receive and file a report from the Finance Advisory Committee regarding its review of the Extended Stay Hotel/Motel use.

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