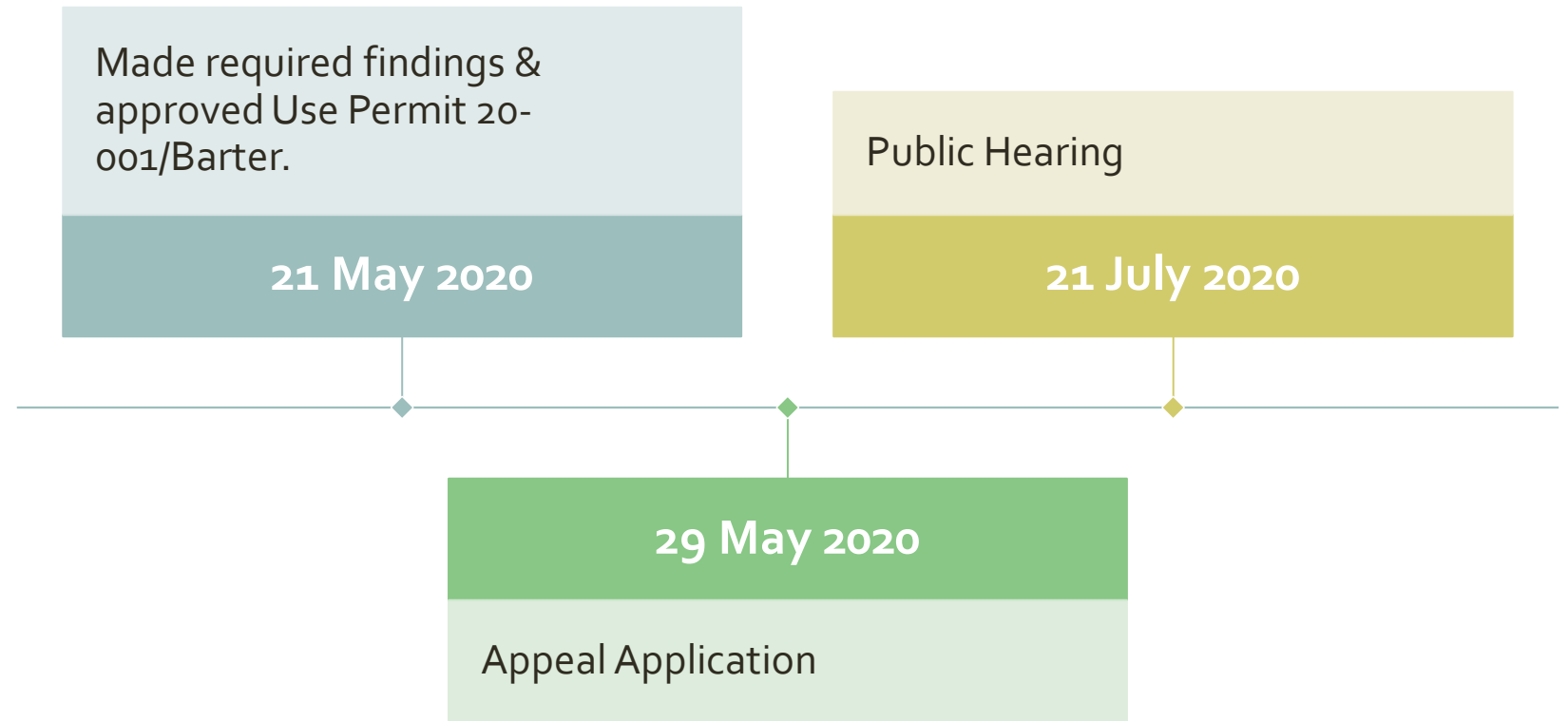


Appeal 20-001

Barter Short-Term Rental Use Permit

July 21, 2020

Planning Commission Action

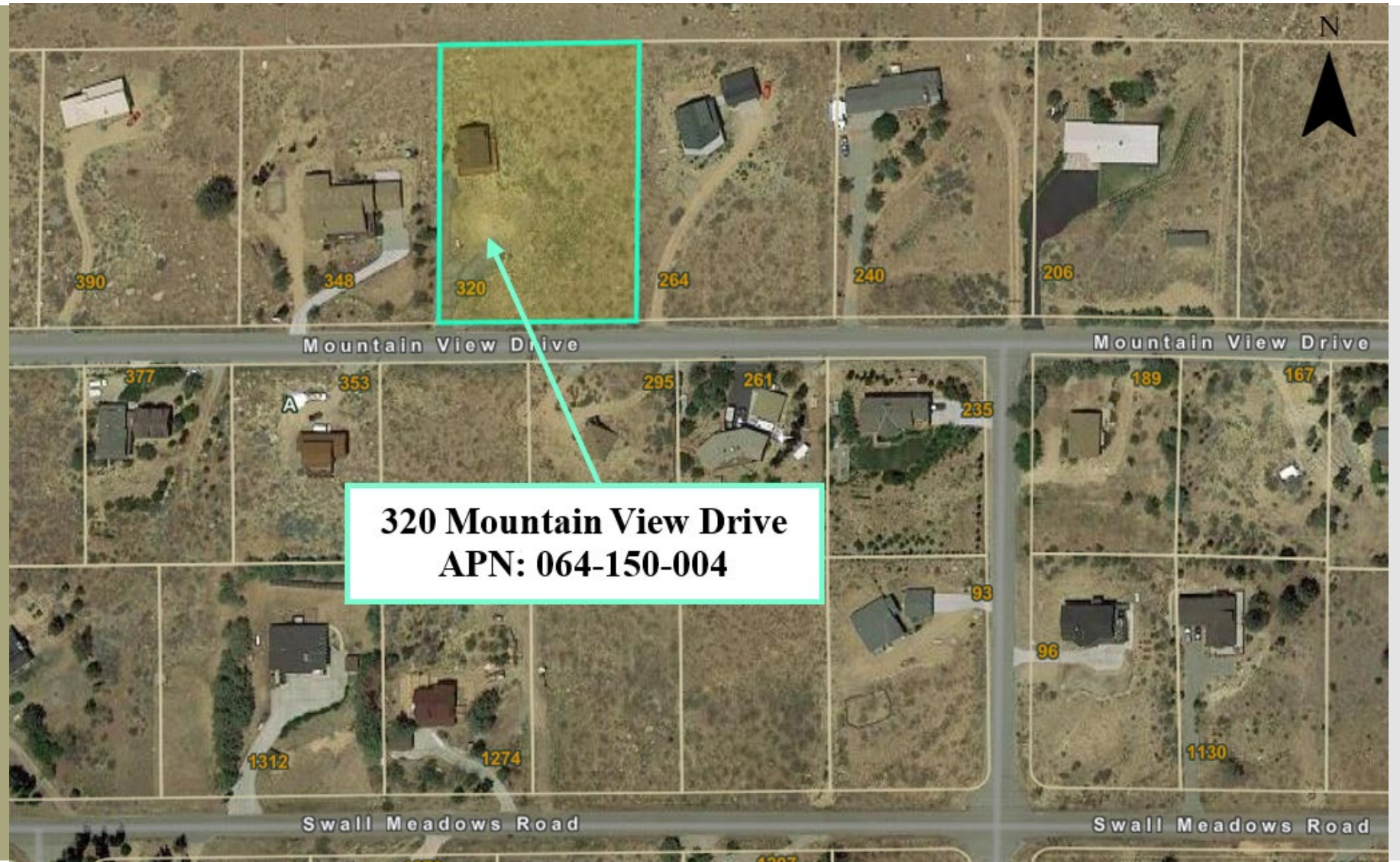


Appeal Process

Land Use Element, Chapter 47 - Appeals

- Submitted within 10 calendar days of a PC's action.
- Public Hearing must be agendized within 60 days
 - 60-day deadline = July 28
 - Appellants' requested July 21 date
- Board of Supervisors may:
 1. Affirm
 2. Affirm in part, or
 3. Reverse the Commission's determination

Project Location



Project Description

- **Location:** 320 Mountain View Drive
- **Land Use Designation:** Estate Residential (ER)
- **Parcel Size:** 1 acre +
- **Owner-Occupied Short-Term Rental**
 - **Maximum Occupancy:** 4 vehicles + 6 people
 - Limited by capacity of septic system
 - 2 spaces for owners, 2 spaces for renters
- 1st Owner-Occupied STR proposed in Swall Mdws

Application Processing/ Noticing

- Chapter 25, Short-Term Rentals expands mailed public hearing notices from a **300' buffer & 10 days** to **500' buffer & 30 days**.
- Published notices are available in print or online.
- Land Development Technical Advisory Committee:
 - Accepts all development applications for processing.
 - Reviews draft conditions of approval prior to PC meetings.

January 6 – LDTAC Application Acceptance UP 20-001

April 18 – Public hearing notices mailed to 500' buffer

April 18 & May 16 – The Sheet published hearing notices

May 4– LDTAC reviewed draft Conditions of Approval Up 20-001

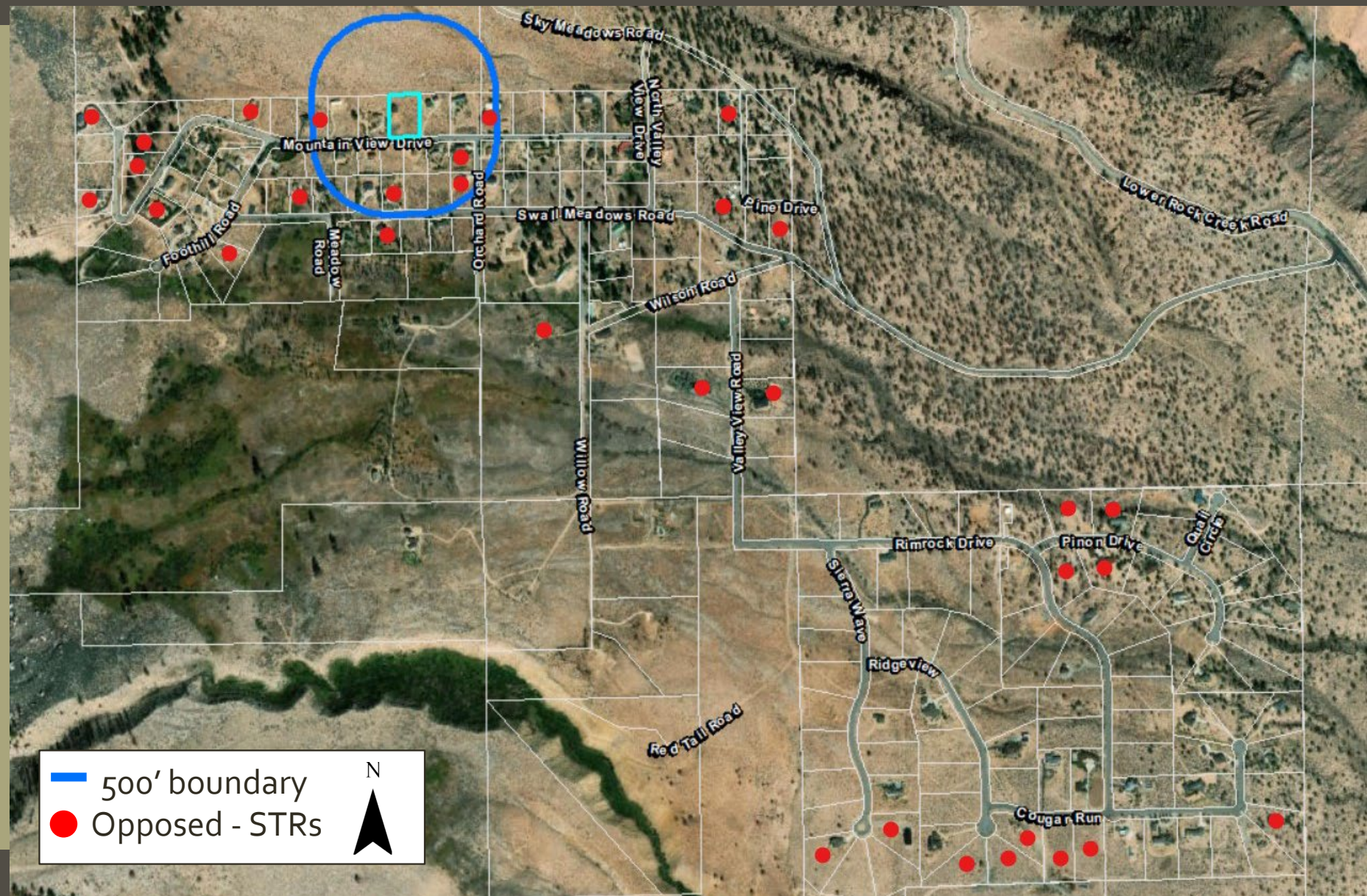
Appeal Application

- Owner-Occupied STRs are a commercial use
- “General commercial uses” are prohibited in Wheeler Crest Area Plan
- Community character concerns

Appellants' Planning Commission Comment

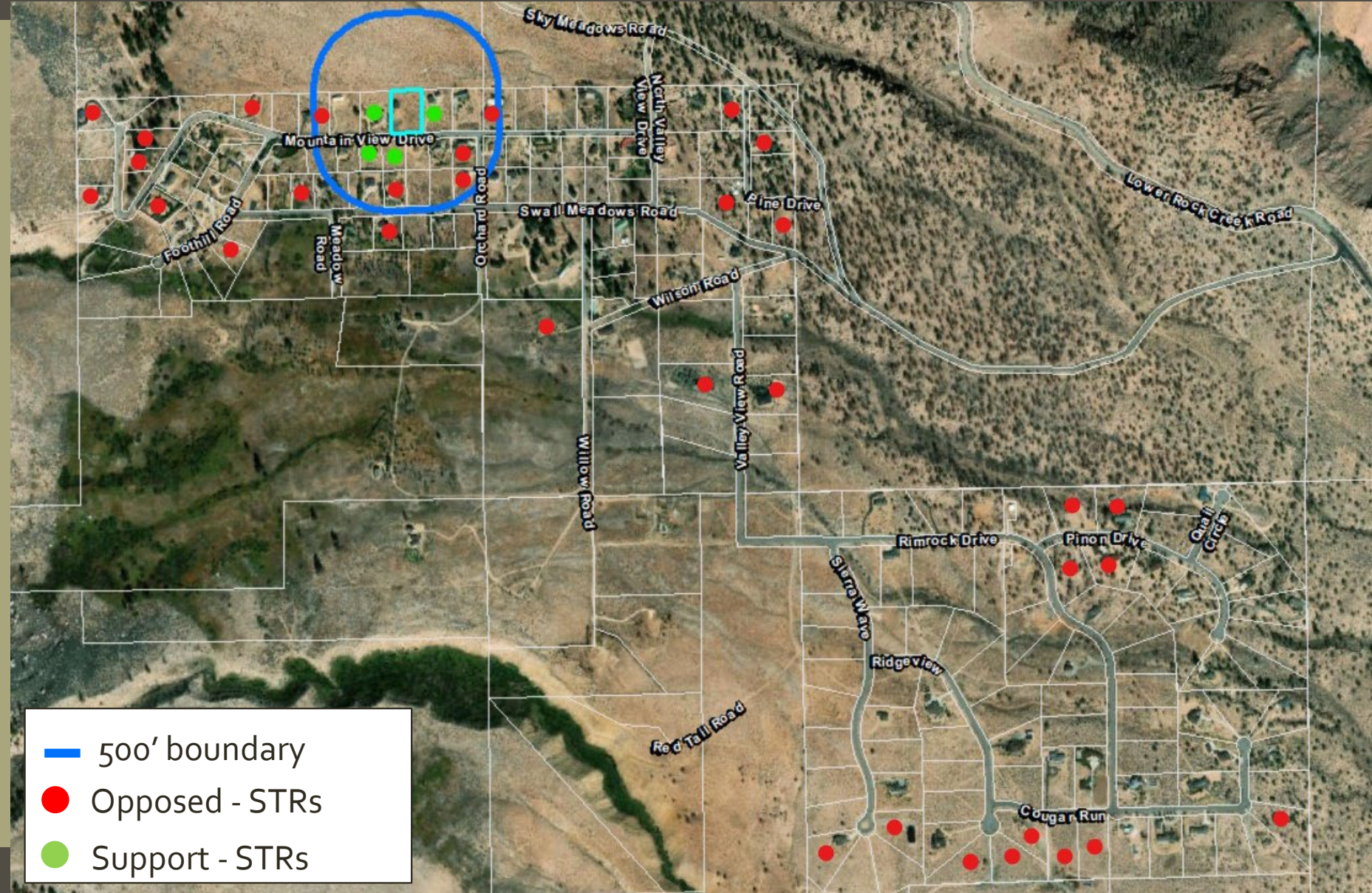
Nextdoor Swall Meadows (online hub)

- 41 signatures
- 28 properties (two from Paradise)



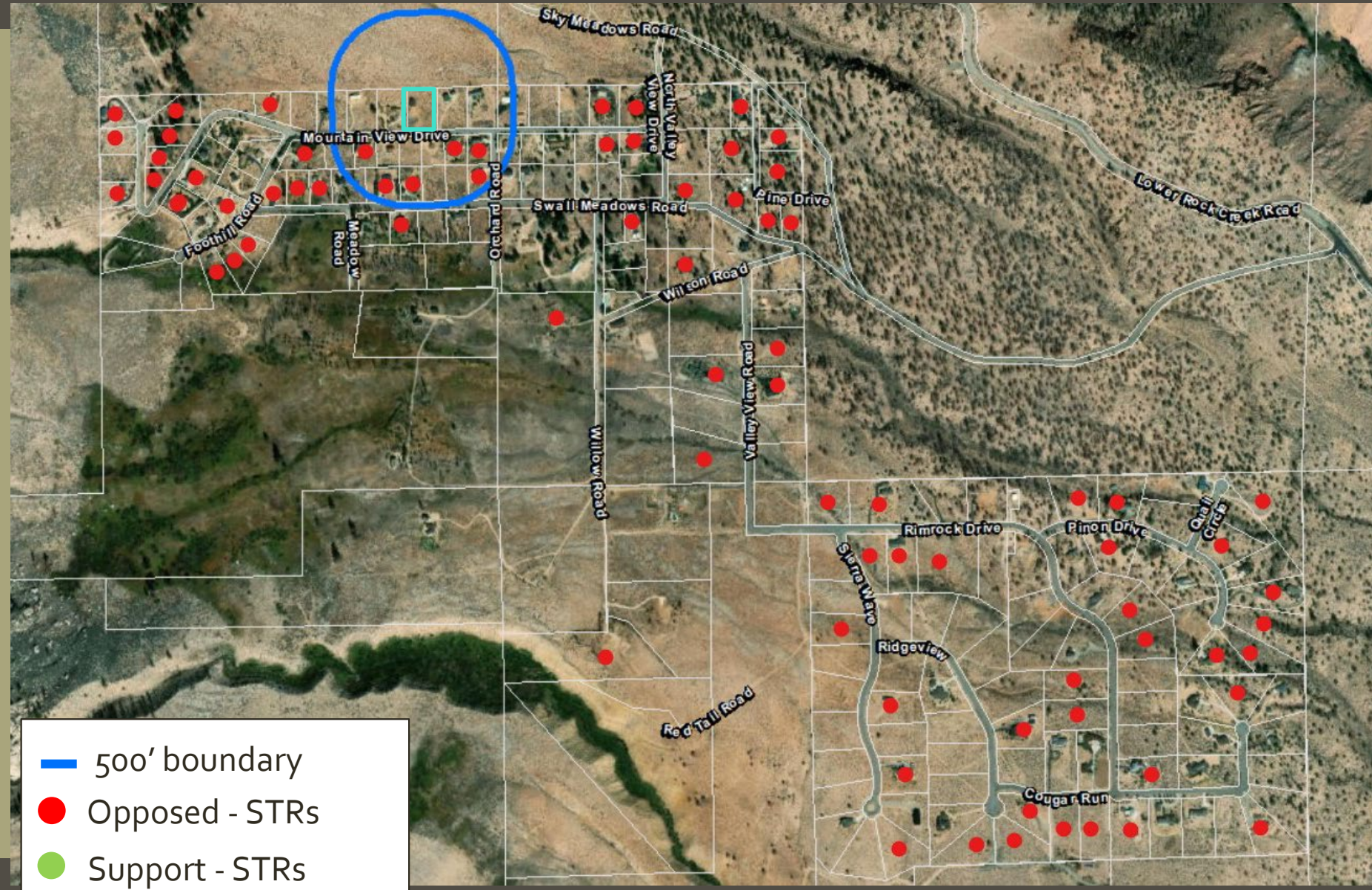
All Written Planning Commission Comments

+10 letters opposed/13 ppl
+7 letters support/8 ppl



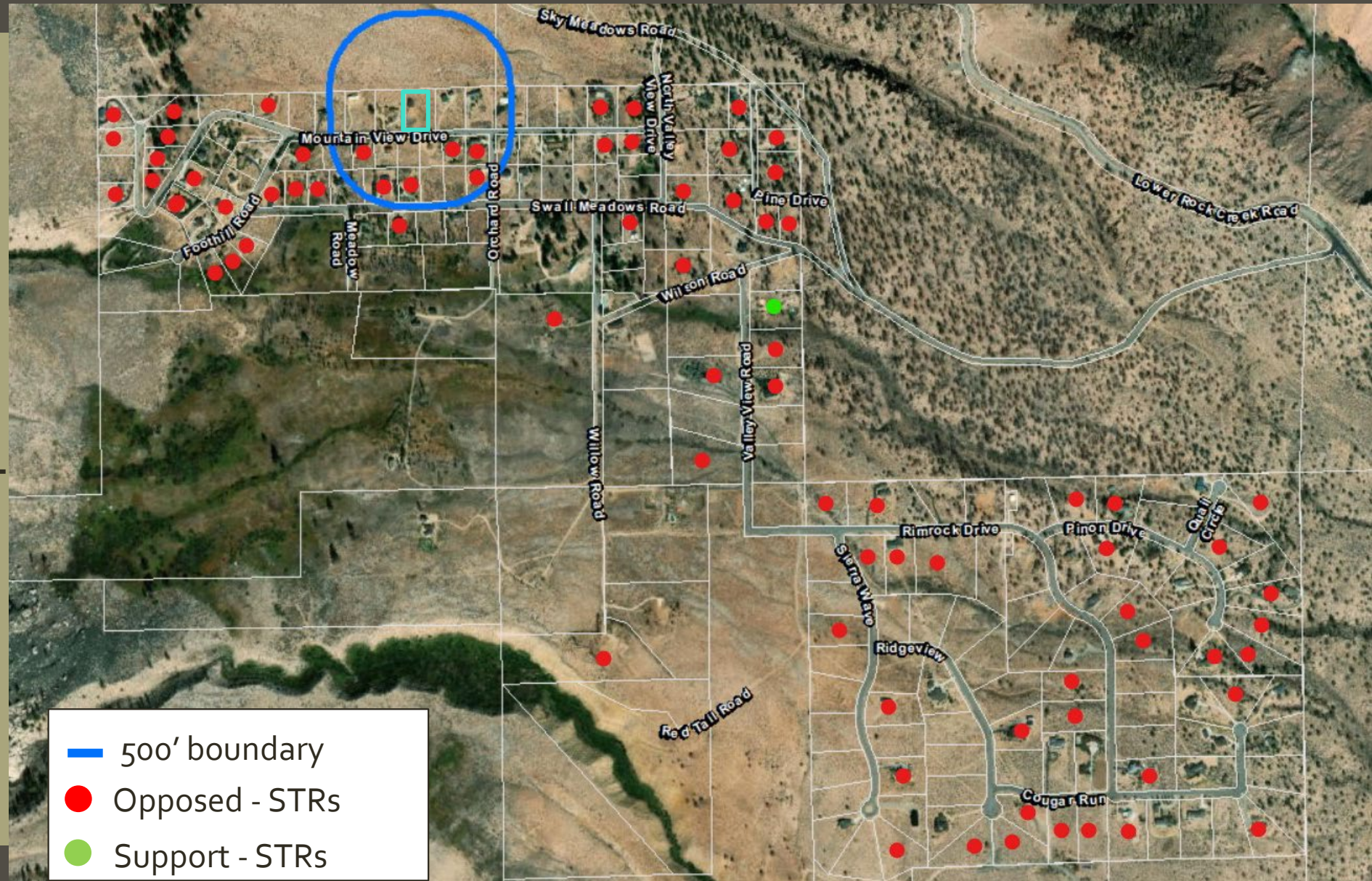
Appellants' BOS Petition

- 170 properties mailed
- 112 signatures
- 72 properties
- Received 07/06/20



All Written BOS Comments

- 85 comments
(including petition)
- 2 supporting STRs



Discussion:

Determining if STR Use is Permittable

Step 1: Land Use Designation

- Estate Residential (ER): Allows Owner-Occupied & Not Owner-Occupied STRs Subject to UP, Chapter 25, & County Code §5.65.

Step 2: Chapter 25

- Owner-Occupied & Not Owner-Occupied STR use is allowed any SFR with LUD(s) of SFR, **ER**, RR, or RMH subject to UP, if consistent Area Plan policies.

Step 3: Wheeler Crest Area Plan

- Action 24.A.3.f. Prohibits not Owner-Occupied STRs.
- Owner-Occupied STRs are eligible to apply for a UP.

Discussion:

Wheeler Crest Area Policies & "General Commercial Uses"

WHEELER CREST AREA POLICIES

Objective 24.A. *Prevent incompatible or conflicting uses within the Wheeler Crest community.*

Policy 24.A.3. *Retain the rural residential character of the entire study area.*

Action 24.A.3.a. *Permit only single-family residential and related accessory structures. Bed-and breakfast establishments shall also be permitted on parcels of 100 acres or greater, if designed to be compatible with existing residential uses, and if the undeveloped portion of the parcel remains as open space or agricultural use in perpetuity.*

Action 24.A.3.b. *General commercial uses are not desired within the residential area, and shall be prohibited.* *Bed-and-breakfast establishments shall be exempt from this provision, as detailed in Action 3.1.*

Commercial Vs. Residential Uses



Commercial Uses

1. Retail Store
2. Restaurant
3. Office providing services to customers, etc.
4. Short Term Rentals
 - More than 10 people
 - Commercial Occupancy Group

✓ Commercial Building Code



Residential Uses

1. Long-Term Rentals
2. **Home Occupations***
 - Legal Services
 - Drafting/Architecture
3. Short-Term Rentals
 - 10 people or less
 - Residential Occupancy Group

✓ Residential structures
✓ Residential Building Code

*Home Occupations

"Any use that can be carried on within a dwelling by the inhabitants thereof and that is clearly incidental and secondary to the residential use of the dwelling"

- ✓ Generate income
- ✓ All residential LUDs
- ✓ Business license
- ✓ TOT certificate

Commercial Vs. Residential Occupancy



Residential Use & Occupancy

- Owner-Occupied STRs
 - 10 people or less
 - Residential Structure
 - Residential Building Code
 - Residential Occupancy Group



California Building Code

- Building Official Determination:
 - STRs < 10 ppl = residential occupancy group
- 2019/2020 Code concurs w/ determination
 - Residential Group R-3; and
 - § 310.4.2 Lodging Houses

"310.4.2. Lodging Houses

Owner-occupied lodging houses with five fewer guest rooms and 10 or fewer total occupants shall be permitted to be constructed in accordance with the California Residential Code."

Mono County General Plan EIR Addenda

12-01 & 19-01

"The short-term rental amendments do not change the underlying property use or result in the construction of new units or increased density. Single-family homes that are now used seasonally or periodically by the owner, or are rented on a long-term basis, will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters."

Determined

- ✓ Underlying property use is unchanged.
- ✓ Use substantially the same manner as single-family home.
- ✓ STRs would be more tightly regulated for parking, noise, and traffic which could potentially reduce impacts.

Reasonable Opposition/ Use Permit Denial

Use Permits may be denied for the following reasons:

- Reasonable opposition* by neighbors within 500' of the project; or
 - ***"Reasonable opposition"** = "articulable negative impacts" must be defined as the basis to deny the permit.
 - Specific detrimental reasons must be described by the Board in findings to deny the permit.
- Certain safety and/or infrastructure characteristics that are not compatible with visitor use (per Policy 1.M.3.) , such as:
 1. Emergency access issues (due to single access point to/from neighborhood.
 2. Access to parcel in whole or part includes an unimproved dirt road and/or roads not served by emergency vehicles.
 3. Substandard or small parcels (less than 7,500 SF), potentially resulting in greater impacts to adjacent neighbors.
 4. Current water or sewer service is inadequate or unable to meet Environmental Health standards.

Required Use
Permit
Findings:
Option 1

- **Option 1 (Grant the Appeal):** Based on the below, the Board could find that the project does not meet § 25.015 and/or that the use permit findings cannot be made, and overturn the PC approval.
 - Multiple comments expressed concern:
 1. STRs are not consistent w/ community character
 2. Increase in burden to local FPD

GP Land Use Element Chapter 25, § 25.015, states short-term rentals:

“...must exhibit no reasonable opposition from neighbors within 500 feet of the subject parcel.”

Required Use
Permit
Findings:
Option 2

- **Option 2 (Uphold PC Approval):** Direct staff to process regulatory amendments to short-term rentals to:
 - a) Prohibit all future STRs in Swall Meadows; or
 - b) Cap the number of STRs (through the Activity Permit under Mono County Code Chapter 5.65), or
 - c) Provide for any other desired solution.
- Or, take no further action.

Required Use
Permit
Findings:
Option 2

The Board must find the UP complies with the following:

- A. All applicable provisions of the Land Use Designations and Land Development Regulations are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features.
- B. The site for the proposed use relates to streets and highways adequate in width and type to carry the quantity and kind of traffic generated by the proposed use.
- C. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.
- D. The proposed use is consistent with the map and text of this General Plan and any applicable area plan.

Recommendation

1. Conduct a public hearing, receive all relevant testimony in considering the appeal by Amy Motroni and Pete Peterson; and
2. Either affirm, affirm in part, or reverse the Planning Commission's decision granting Use Permit 20-001/Barter, making appropriate findings and providing any other desired direction to staff.
 - * If the Board grants the appeal and reverses the Commission's decision, staff recommends that the Board move to tentatively grant the appeal and direct staff to return with written findings within **30 days of July 21, 2020**.