

Agenda

County of Inyo Planning Commission

NOTICE TO THE PUBLIC: In order to minimize the spread of the COVID-19 virus, Governor Newsom has issued Executive Orders that temporarily suspend certain requirements of the Brown Act. Please be advised that the Planning Commission will be conducting its hearing exclusively via videoconference by which Planning Commission Members and staff will be participating. The videoconference will be accessible to the public by computer, tablet or smartphone at: <https://us02web.zoom.us/j/81142874278?pwd=MnVRRXpoWEhPUTNVWHYzOVJOL2ltQT09>
You can also dial in by phone at 1-669-900-6833 and then enter Access Code: 811 4287 4278. Public Comment may be provided by emailing the comments prior to the meeting. All emailed comments will be read into the record, and the Planning Commission will take that feedback into consideration as it deliberates. Please send comments to: inyoplanning@inyocounty.us

FRANK STEWART
CAITLIN (KATE) J. MORLEY
TODD VOGEL
SCOTT STONER
SCOTT KEMP

FIRST DISTRICT
SECOND DISTRICT (CHAIR)
THIRD DISTRICT (VICE CHAIR)
FOURTH DISTRICT
FIFTH DISTRICT

Inyo County Planning Commission
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Independence, CA 93526
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CATHREEN RICHARDS
PAULA RIESEN
MICHAEL ERRANTE
CLINT QUILTER
JOHN VALEJO

PLANNING DIRECTOR
PROJECT COORDINATOR
PUBLIC WORKS DIRECTOR
COUNTY ADMINISTRATOR
COUNTY COUNSEL

Items will be heard in the order listed on the agenda unless the Planning Commission rearranges the order or the items are continued. Estimated start times are indicated for each item. The times are approximate and no item will be discussed before its listed time.

Lunch Break will be given at the Planning Commission's convenience.

The Planning Commission Chairperson will announce when public testimony can be given for items on the Agenda. The Commission will consider testimony on both the project and related environmental documents.

The applicant or any interested person may appeal all final decisions of the Planning Commission to the Board of Supervisors. Appeals must be filed in writing to the Inyo County Board of Supervisors within 15 calendar days per ICC Chapter 15 [California Environmental Quality Act (CEQA) Procedures] and Chapter 18 (Zoning), and 10 calendar days per ICC Chapter 16 (Subdivisions), of the action by the Planning Commission. If an appeal is filed, there is a fee of \$300.00. Appeals and accompanying fees must be delivered to the Clerk of the Board Office at County Administrative Center Independence, California. If you challenge in court any finding, determination or decision made pursuant to a public hearing on a matter contained in this agenda, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Inyo County Planning Commission at, or prior to, the public hearing.

Public Notice: In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Planning Department at (760) 878-0263 (28 CFR 35.102-3, 104 ADA Title II). Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Planning Department 2 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format (Government Code Section 54954.2).

September 23, 2020

10:00
A.M.

1. **PLEDGE OF ALLEGIANCE.**
2. **ROLL CALL** – Roll Call to be taken by staff.
3. **PUBLIC COMMENT PERIOD** – This is the opportunity for anyone in the audience to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

- Action Item** 4. **APPROVAL OF MINUTES** – Approval of minutes from the July 22, 2020 Planning Commission Meeting.
- Action Item Public Hearing** 5. **ZONE TEXT AMENDMENT- 2020-02 ICC-RESCIND 18.78.340/SECOND UNITS** – Based on a review of current zoning with respect to Accessory Dwelling Units, staff has found that the County is currently out of compliance with State regulations and is proposing to rescind Chapter 18.78.340 of the Inyo County Code. The Planning Commission will be considering providing a recommendation to the Board of Supervisors to adopt this proposed change.
- Action Item Public Hearing** 6. **CONDITIONAL USE PERMIT-2020-07/CERRO GORDO** - The applicant, Silver Pineapple LLC, has applied for a CUP to rebuild the Cerro Gordo Hotel and Surveyor House that were completely destroyed by a fire in June 2020 and to be compliant with the Inyo County Code 18.12 (Open Space). The hotel and surveyor house have been at the same location since the late 1800s and are grandfathered uses as they were established before the County’s zoning code. Since they must now be rebuilt, they are subject to the current zoning and building codes and because of this, require a CUP.
- Action Item Public Hearing** 7. **GENERAL PLAN AMEDMENT- 2019-01/ZONE RECLASS-2019-02/TENTATIVE PARCEL MAP-422/ CONDITIONAL USE PERMIT-2020-03 OLANCHA LAKE ZONING** - The applicant (Olancha Lake LLC) is requesting to merge seven parcels, which requires a Tentative Parcel Map. This parcel merger also requires a Zone Reclassification and General Plan Amendment to create the correct land use designations for a proposed future commercial RV camping business. The proposed project is allowed as a conditional use and requires approval from the Inyo County Planning Commission. The public hearing will address each of these four land use entitlements. The project is located in Olancha, CA.
- Action Item Public Hearing** 8. **CONDITIONAL USE PERMIT-2020-05/PINO PIES** - The applicant has applied for a CUP for ‘Mixed Use’ to allow for residential use of half of the commercial space being rented by the applicant. The applicant is renting two of four suites within a single, commercially zoned building. One of these suites would be for residential use. The project is located on Grandview Drive, in Bishop.
- Action Item Public Hearing** 9. **HEARING – Radcliff Mine Order Mandating Compliance** -The County will be seeking an order to comply from the Planning Commission imposing administrative penalties in the amount of \$50 per day, calculated from the date that the transfer of the Financial Assurance Mechanism should have been completed per Public Resources Code § 2773.1(c). Per Public Resource Code § 2774.1(a)(3)(A), the County will further seek an order from the Planning Commission mandating a closure of the Radcliff Mine until the FAM is properly transferred.

COMMISSIONERS' REPORT/COMMENTS

Commissioners to give their report/comments to staff.

PLANNING DIRECTOR'S REPORT

Planning Director, Cathreen Richards, will update the Commission on various topics.

CORRESPONDENCE – INFORMATIONAL

COUNTY OF INYO

PLANNING COMMISSION

MINUTES OF JULY 22, 2020 MEETING

COMMISSIONERS:

FRANK STEWART
CAITLIN (KATE) J. MORLEY
TODD VOGEL
SCOTT STONER
SCOTT KEMP

FIRST DISTRICT
SECOND DISTRICT (CHAIR)
THIRD DISTRICT (VICE)
FOURTH DISTRICT
FIFTH DISTRICT

Inyo County Planning Commission
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STAFF:

CATHREEN RICHARDS
GRACE CHUHLA
STEVE KARAMITROS
RYAN STANDRIDGE
CLINT QUILTER
MIKE ERRANTE

PLANNING DIRECTOR
COUNTY COUNSEL
SENIOR PLANNER
ASSISTANT PLANNER
COUNTY ADMINISTRATOR
PUBLIC WORKS DIRECTOR

The Inyo County Planning Commission met in regular session on Wednesday, May 27, 2020, using Zoom for our meeting. Commissioner Morely opened the meeting at 10:03 a.m.

These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

ITEM 1: **PLEDGE OF ALLEGIANCE** – All recited the Pledge of Allegiance at 10:00 a.m.

ITEM 2: **ROLL CALL** - Commissioners: Frank Stewart, Todd Vogel, Caitlin Morley, Scott Stoner, and Scott Kemp were present.

Staff present: Cathreen Richards, Planning Director; Steve Karamitros, Senior Planner; Ryan Standridge, Associate Planner; Paula Riesen, Project Coordinator and Grace Chuhla, County Counsel.

Staff absent: Clint Quilter, County Administrator; Michael Errante, Public Works Director.

ITEM 3: **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that is not scheduled on the Agenda.

Chair Morley opened the Public Comment Period at 10:01 a.m.

With no one wishing to comment Chair Morley closed the public comment period at 10:02 a.m.

ITEM 4: **APPROVAL OF MINUTES (Action Item)** – Approval of the Minutes from the May 27, 2020, meeting of the Planning Commission.

- Chair Kate Morley asked for a correction of the spelling of her last name.

MOTION: Commissioner Frank Stewart made the motion to approve the minutes, with the changes requested by Chair Morley. The motion was seconded by Chair Kate Morley to approve the Minutes, from May 27, 2020.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

Scott Stoner – Yes
Scott Kemp – Yes
Todd Vogel – Yes
Kate Morley – Yes
Frank Stewart - Yes

The Motion passed 5-0 at 10:05 a.m.

ITEM 5: **CONDITIONAL USE PERMIT- 2020-02/SAGE & FIRE** – The applicant has applied for a Conditional Use Permit(CUP). The applicant has met the application requirements for a CUP in Lone Pine, in Inyo County. The applicant is seeking approval for a cannabis dispensary, which is permitted as a conditional use for the property, following approval from the Inyo Planning Commission.

Steven Karamitros, Senior Planner, presented staff report.

Mr. Karamitros stated there had been one Public Comment. It was with regard to the proximity of the proposed business to a school. Mr. Karamitros clarified there is not a school near this business and it meets all state and local requirements pertaining to cannabis activities.

Mr. Karamitros stated he was working with Environmental Health on the proper provision of water and sewage services to the project. It was agreed upon there would be a condition of approval for the project that requires the applicant to provide these services to the satisfaction of the Environmental Health Department before the business could open.

Chair Morley opened the Public Hearing at 10:14 a.m.

Business Owner, Alex Sherer wanted everyone to know that the applicant and the Chevron, Store and Deli have a good working relationship.

Commissioner Scott Stoner said he was happy that this business would be bringing in 13 new jobs to the area.

Mr. Alex Sherer stated he has been in the cannabis business since 2015 in San Diego, so he is bringing experience, safety, and professionalism to the area, as well as, good paying jobs with benefits. They will also increase the tax base for the County and they plan to be involved in the community.

MOTION: Chair Morley asked for a motion, Commissioner Stewart made a motion to approve CUP-2020-02 with the provisions to the findings 1-7, and conditions 1-3 with the updates by staff that were shown virtually for approval. The motion was seconded by Commissioner Stoner.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

Frank Stewart – Yes
Todd Vogel – Yes
Kate Morley – Yes
Scott Stoner – Yes
Scott Kemp - Yes

The Motion passed 5-0 at 10:19 a.m.

COMMISSIONERS' REPORT/COMMENTS –

Commissioner Frank Stewart had two items to report on to the Commission.

1. Road Department is redoing the work on Birchim Lane today.
2. Road Department is still on schedule to replace the Pine Creek Bridge this fall.

Chair Morley asked Cathreen Richards, Planning Director if the new seating outside due to Covid-19 will have impact on Environmental Health or Planning's daily business.

Director Richards stated that yesterday there was a Special Board Meeting to allow Business's to conduct business without a CUP at this time. With the clarification that once Covid-19 is over, people will have to go back to getting a CUP to conduct business outdoors. Restaurants also have to comply with health and safety regulations implemented by the Environmental Health Department.

Although, if people want to place tables on the County's Right of Way, people will need to apply for an Encroachment Permit from Public Works.

Commissioner Frank Stewart asked what the Calendar looked like for August 2020?

Cathreen Richards, Planning Director said it is looking like there possibly could be two mining violations for August.

Associate Planner, Ryan Standridge said she has been working with Grace Chuchla at County Counsel to draft letters to Briggs and Radcliff Mine and having he hearings will depend on the responses from these mine operators.

DIRECTOR'S REPORT –

None at this time.

ADJOURNMENT –

With no further business, Chair Kate Morley requested a motion to adjourn the meeting at 10:28 a.m. The next meeting will tentatively be August 26, 2020, at 10:00 a.m.

Motion by Commissioner Frank Stewart.

Seconded by Commissioner Scott Stoner.

Project Coordinator, Paula Riesen proceeded with roll call for each vote.

Frank Stewart – Yes
Todd Vogel – Yes
Kate Morley – Yes
Scott Stoner – Yes
Scott Kemp - Yes

Motion passed 5-0.

Prepared by:
Paula Riesen
Inyo County Planning Department



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AGENDA ITEM NO.

5 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:**

September 23, 2020

SUBJECT:

**Zone Text Amendment (ZTA) No. 2020-
02/Inyo County-Rescind 18.78.340/Second
Units**

EXECUTIVE SUMMARY

Staff has drafted a proposed ordinance to rescind the Inyo County Zoning Code's Title 18.78.340 General Regulations, Second Units

PROJECT INFORMATION

Supervisorial District:	County-wide
Applicants:	Inyo County
Landowners: Address/	Multiple
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/2020-02

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial. This is not recommended as the County is currently out of compliance with State regulations regarding Accessory Dwelling Units.
- 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 1997 the Board of Supervisors adopted Ordinance 997 regulating Second Dwelling Units. The Ordinance is implemented by 18.78.340 (Attached) of the Inyo County Code and covers the Open Space (OS), Rural Residential (RR), Rural Residential Starlite Estates (RR-Starlite), One Family Residences (R1) and Single Residence Mobile Home Combined (RMH) zones.

Since 1997 the State has changed its regulations regarding Second Dwelling Units*, also referred to over time as Granny Units* and presently Accessory Dwelling Units* (ADU). The County has not kept up with the State's changes to regulations regarding ADUs and has been out of compliance. For many years, the planning department has simply not followed the non-compliant sections of 18.78.340. As time as gone on, though, more and more of 18.78.340 has become non-compliant. There is also a push by the State to ensure that local jurisdictions have conforming ADU regulations or that they rely on the State's.

Sections of 18.78.340 that do not meet the State's regulations are:

A. No second dwelling unit may be constructed or established in any of the above-described zones unless the owner of the property concerned has first obtained a conditional use permit pursuant to the procedures set forth in Chapter 18.81 and this section.

The State prohibited requiring conditional use permits for ADUs in 2003 by changing Government Code 65852.2 to state ADUs must approved ministerially (building permit), and without discretionary review or hearings.

*Second Dwelling Unit, Granny Unit and Accessory Dwelling Unit all have the same meaning. Inconsistencies of these terms within these documents are due to changes in use of the terms at different times and/or in different regulations. Accessory Dwelling Unit (ADU) is the most current.

Planning Department staff has not required CUPs for ADUs for years, but did follow the development guidelines included in 18.78.340. These include:

B (1). The lot upon which the second dwelling unit is to be constructed or established contains an existing single-family dwelling;
This can no longer be applied as lots with existing or proposed primary dwellings qualify for ADUs. Also, this can no longer be limited to single-family dwellings as multi-family dwellings qualify, as well.

C(2). In the case of a second unit attached, or to be attached, to an existing single-family residence, the increase in the floor area occasioned by the construction or establishment of the second unit shall not exceed thirty percent of the existing living area of the single-family residence.
This is now 50%.

C(4). The second dwelling unit, and any construction associated with the second dwelling unit, shall conform to the height, setback, lot coverage, architectural review, and site-plan review requirements, and all other zoning requirements, applicable generally to residential construction in the zone in which the property is located and that all fees and charges associated with those reviews and requirements shall be paid by the applicant.
This is not compliant with State regulations. Adjustments to the setback requirements now include 4-foot rear and side yards (the County's is 5-feet) and if an existing garage, carport, shed, etc. is converted into an ADU they can stay within a non-conforming building's footprint.

C(6). At least two on-site, off-street parking spaces shall be designated and provided, in addition to any parking spaces required due to the presence of the existing single-family dwelling.
Parking standards for ADUs can only include requiring one space per dwelling unit or per bedroom, whichever is less (the County requires 2). Also, no parking requirements can be imposed if the ADU is within one-half-mile of a transit stop.

C(7). Any other conditions or requirements determined by the planning commission necessary to ensure that the second dwelling unit will neither adversely affect the health or safety of persons living or working in the vicinity nor be materially detrimental to public welfare.
All ADUs must be approved ministerially, leaving no potential for additional conditions.

ANALYSIS

Staff has analyzed the State's ADU regulations against the current County Code and found that it is in the best interest of the County to rescind the Second Dwelling Unit regulations from the code. A draft ordinance (Attached) has been prepared to rescind 18.78.340, so that the County is no longer out of compliance with the State's ADU regulations.

General Plan Consistency

ZTA 2020-02 - Rescinding 18.78.340 – Second Dwelling Units, from the Inyo County Code causes certain allowed activities related to ADUs to fall directly under State regulations and will not change the current allowance of the use, or its relationship to residential uses per the General Plan. ADUs must still have residential zoning and General Plan designations and meet density requirements as set forth in the General Plan. Due to these factors, rescinding 18.78.340 is consistent with the General Plan.

Zoning Ordinance Consistency

ZTA 2020-02 is consistent with the Inyo County Zoning code as rescinding 18.78.340 does not discontinue or expand the use, but instead causes it to fall directly under State regulations. The use will remain consistent with the use requirements of Title 18 regarding Residential Districts.

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 rescind a part of the County Code that is currently out of compliance with State regulations. It includes no development proposals or any increases in allowed use.

RECOMMENDATIONS

Staff recommends adoption of the attached Resolution recommending the Board of Supervisors consider the ZTA 2020-02, make certain findings, and adopt the proposed ordinance amending the Inyo County Code to rescind 18.78.340.

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. Rescinding the language in 18.78.340 to bring the County into compliance with State regulations regarding ADUs will not have a significant effect on the environment as it does not include the approval of any development or affect future 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: Rescinding of 18.78.340 – Second Dwelling Units, from the Inyo County Code is consistent with the Goals and Policies of the General Plan as it

causes certain allowed activities related to ADUs to fall directly under State regulations and will not change the current allowance of the use, or its relationship to residential uses per the General Plan. ADUs must still have residential zoning and General Plan designations and meet density requirements as set forth in the General Plan.]

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 2020-02 is consistent with the Inyo County Zoning code as rescinding 18.78.340 does not discontinue or expand the use, but instead causes it to fall directly under State regulations. The use will remain consistent with the use requirements of Title 18 regarding Residential Districts.]

ATTACHMENTS

- A. Inyo County Code Section 18.78.340
- B. Draft proposed ordinance
- C. Resolution

[Inyo County Code](#)[Up](#)[Previous](#)[Next](#)[Home](#)[Search](#)[Print](#)[No Frames](#)[Title 18 ZONING](#)[Chapter 18.78 GENERAL REGULATIONS](#)

18.78.340 Second dwelling units.

Second dwelling units are permitted in areas within the OS-40, RR, RR-0.5-Starlite Estates, R-1 and RMH zones in accordance with the following:

A. No second dwelling unit may be constructed or established in any of the above-described zones unless the owner of the property concerned has first obtained a conditional use permit pursuant to the procedures set forth in Chapter 18.81 and this section.

B. No conditional use permit shall be issued for a second dwelling unit in any of the above-described zones unless the planning commission finds that:

1. The lot upon which the second dwelling unit is to be constructed or established contains an existing single-family dwelling;
2. The second dwelling unit is or will be constructed or established such that it is or will be attached to the existing dwelling and located within the living area of that dwelling or is or will be detached from the existing dwelling, but located entirely on the same lot as the existing dwelling;
3. In the case of a second dwelling unit to be served by a private well and/or sewage system, the applicant has obtained written approval of the construction or establishment of the second dwelling unit from the Inyo County department of environmental health services.

C. Except as provided in subsection D of this section, should the planning commission make all of the findings described in subsection B of this section, it shall grant the application for the second dwelling unit conditional use permit, but shall place the following conditions on that use:

1. The second dwelling unit shall not be offered for sale; rental of the unit shall be permitted.
2. In the case of a second unit attached, or to be attached, to an existing single-family residence, the increase in the floor area occasioned by the construction or establishment of the second unit shall not exceed thirty percent of the existing living area of the single-family residence.
3. In the case of a second dwelling unit detached, or to be detached, from an existing single-family residence, the total area of the floor space of the second dwelling unit shall not exceed twelve hundred square feet.
4. The second dwelling unit, and any construction associated with the second dwelling unit, shall conform to the height, setback, lot coverage, architectural review, and site-plan review requirements, and all other zoning requirements, applicable generally to residential construction in the zone in which the property is located and that all fees and charges associated with those reviews and requirements shall be paid by the applicant.
5. The second dwelling unit, and any construction associated with the second dwelling unit, shall meet all applicable building code requirements.
6. At least two on-site, off-street parking spaces shall be designated and provided, in addition to any parking spaces required due to the presence of the existing single-family dwelling.
7. Any other conditions or requirements determined by the planning commission necessary to ensure that the second dwelling unit will neither adversely affect the health or safety of persons living or working in the vicinity nor be materially detrimental to public welfare.

D. The planning commission shall deny an application for a conditional use permit to construct or establish a second dwelling unit if it determines that construction or establishment of the second dwelling unit will, even as it may be conditioned, not be properly related to other uses in the area and to transportation and service facilities in the area or that, under all of the attendant circumstances, the second dwelling unit will adversely affect the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare. (Ord. 997 § 13, 1998.)

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, RESCINDING INYO COUNTY CODE SECTION 18.78.340

WHEREAS, in 1998, the Inyo County Board of Supervisors adopted Ordinance 997 regulating Second Dwelling Units under ICC 18.78.340, on property zoned Open Space (OS), Rural Residential (RR), Rural Residential Starlite Estates (RR-Starlite), One Family Residences (R1) and Single Residence Mobile Home Combined (RMH);

WHEREAS, since the adoption of Ordinance 997, the State of California has changed regulations regarding Accessory Dwelling Units on several occasions rendering 18.78.340 non-compliant with State regulations;

WHEREAS, Planning Department staff proposes rescinding 18.78.340, thereby causing the County to follow only State regulations regarding Accessory Dwelling Units;

WHEREAS, the Inyo County Planning Commission met to discuss the proposal to rescind 18.78.340 with regard to consistency with Inyo County zoning code, General Plan, and the California Environmental Quality Act and concurred with staff recommendations;

NOW, THEREFORE, the Board of Supervisors, County of Inyo, ordains as follows:

SECTION I. MODIFICATIONS TO TITLE 18

Section 18.78.340 of the Inyo County Code is rescinded in its entirety to read as follows:
"18.78.340 Reserved."

SECTION II. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance, and each 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 invalid or unconstitutional.

SECTION III. EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption thereof, a summary of this Ordinance shall be published once in a newspaper of general circulation printed and published in the County of Inyo, State of California in accordance with Government Code Section 25124(b). The Clerk of the Board is hereby instructed and ordered to so publish a summary of this Ordinance together with the names of the Board voting for and against same.

PASSED AND ADOPTED this xx day of xx, 2020 by the following vote of the Inyo County Board of Supervisors:

AYES:
NOES:
ABSTAIN:
ABSENT:

MATT KINGSLEY, Chairperson

ATTEST: Clint Quilter
Clerk to the Board

By: _____
Darcy Ellis, Assistant

RESOLUTION NO. 20-

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, AND TO MAKE CERTAIN FINDINGS WITH RESPECT TO AND RECOMMEND THE INYO COUNTY BOARD OF SUPERVISORS APPROVE ZONE TEXT AMENDMENT NO. 2020-02 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 September 23, 2020, to review and consider a request for approval of Zone Text Amendment No. 2020-02, and considered the staff report for the project and all oral and written comments regarding the proposal;

WHEREAS, currently the ICC is not in conformance with State Regulations regarding Accessory Dwelling Units. Specifically, section per 18.78.340 – Second Dwelling Units, must be removed to bring the ICC into compliance;

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

WHEREAS, ZTA 2020-02 results in the rescinding of 18.78.340 – Second Dwelling Units from the ICC, which causes certain allowed activities related to Accessory Dwelling Units to fall directly under State regulations and will not change the current allowance of this use, or its relationship to residential uses per the General Plan;

WHEREAS, ZTA 2020-02 is consistent with the Inyo County Zoning code. Rescinding section 18.78.340 does not discontinue the use, but causes it to fall directly under State regulations. Thus, the use will remain consistent with the requirements of Title 18 regarding Residential Districts.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received at September 23, 2020, 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 (CEQA Guidelines section 15061(b)(3)) that states 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. Projects subsequent to this ordinance will continue to be directed by State regulations.
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 rescinding 18.78.340 – Second Dwelling Units based on all of the information in the public record and on the recommendation of the Planning Commission.

PASSED AND ADOPTED this 23rd day of September 23, 2020, by the following vote of the Inyo County Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Kate Morley, Chair
Inyo County Planning Commission

ATTEST:

Cathreen Richards, Planning Director

By _____
Paula Riesen,
Secretary of the Commission



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AGENDA ITEM NO.: 6 (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: September 23, 2020

SUBJECT: Conditional Use Permit (CUP) 2020-07/Cerro Gordo

EXECUTIVE SUMMARY

The applicant, Silver Pineapple LLC, has applied for a CUP to rebuild the Cerro Gordo Hotel and Surveyor House that were completely destroyed by a fire in June 2020 and to be compliant with the Inyo County Code 18.12 (Open Space). The hotel and surveyor house have been at the same location since the late 1800s and are grandfathered uses as they were established before the County's zoning code. Since they must now be rebuilt, they are subject to the current zoning and building codes and because of this, require a CUP. By obtaining the CUP the applicant can rebuild the two structures and continue the historic uses which can be considered "*other recreational activities involving development*" under 18.12.040.A.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Silver Pineapple LLC

Property Owner: Silver Pineapple LLC

Site Address: Cerro Gordo, Historic Mining Town

Community: Keeler, CA

A.P.N.: 027-240-06

General Plan: Open Space and Recreation (OSR)

Zoning: Rural Protection (RP)

Size of Parcel: Approximately 101-acres
Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Historic Mining Town	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
North	Vacant/Open Space/mining relics	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
East	Vacant/Open Space/mining relics	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
South	Vacant/Open Space/mining relics	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)
West	Vacant/Open Space/mining relics	Rural Protection (RP)	Open Space - 40 acre minimum (OS-40)

Staff Recommended Action: **1.) Approve the Conditional Use Permit (CUP) 2020-07/Cerro Gordo, with the Findings and Conditions as identified in the Staff Report and find the project is exempt under CEQA.**

Alternatives:

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner: Cathreen Richards

STAFF ANALYSIS

Background and Overview

The applicant has applied for a CUP to rebuild the hotel and surveyor’s house in the historic mining town of Cerro Gordo. The applicant is also applying for the use of the two buildings as ‘*other recreational activities involving development*’. The hotel and surveyor’s house have been at the Cerro Gordo location since the late 1800s and were a grandfathered use since they were established prior to the County’s zoning ordinance. Since these structures must now be rebuilt, they are subject to the current zoning and building codes, and because of this, require a CUP. By obtaining the CUP the applicant can rebuild the two structures and continue the historic uses, which are considered ‘*other recreational activities involving development*’ under 18.12.040.A.

The project includes the hotel, which will be reconstructed to its historic state prior to the fire. It will be about 3,625sqft and include a lobby, kitchen, dining room with a bar, and a poker room on the first floor and 6-bedrooms with individual bathrooms on the second floor. The kitchen/restaurant and bar will be rebuilt but cannot be used for the guests until the applicants meet the requirements set forth by the County Environmental Health Department and the State Water Board.

The surveyor house will also be constructed to its historic state prior to the fire. It is proposed to be around 621sqft. It will have a kitchen, bathroom, living area and a single bedroom.

The OS zone does not allow for the hotel or recreational uses as a principle use. The OS zone does, however, allow for lodges, resorts and *other recreational activities involving development* with a CUP; and therefore, for the historic use to continue a CUP approved by the Planning Commission is required.

The general project area is approximately 7.5-miles from the community of Keeler, in a location surrounded by vacant, open space, lands with relics of the historic mining town all around it.

Site Location Map



General Plan Consistency

The goal of this project is to allow for a historic non-conforming use on the site to continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Rural Protection (RP), as it allows for low intensity recreation. The project qualifies as the applicants are currently proposing to continue to allow visitors to explore the historic mining town and site and offer limited lodging. The

hotel will only have 6-bedrooms and the surveyor house 1-bedroom for a total of 7 (Building and Site Plans Attached).

Zoning Ordinance Consistency

The Open Space zoning designation allows for lodges, resorts and *other recreational activities involving development* with a conditional use. This is a historic use at the site and the applicant is seeking the CUP to operate the hotel and surveyor house in compliance with County's zoning ordinance. The proposed new buildings will replace the originals that were completely burned down by a fire in June 2020. Although the buildings had been on the site since the late 1800's, the current County Code under 18.12.040 requires a CUP approved by the Planning Commission for the proposed use. By acquiring the CUP the applicant is creating consistency with the code.

OTHER COUNTY DEPARTMENT REVIEW

The project information was sent to various County departments for review and comment. Comments were received from the Public Works, Building and Safety, Road and Environmental Health Departments.

Comments from the Road Department include that based on the stated potential future use of the facilities, the Department reaffirms its standing position on the maintenance of Cerro Gordo Road. Cerro Gordo Road is a minimum maintenance dirt road, 7.51 miles in length. Cerro Gordo Road is generally scheduled for grading maintenance twice a year, as crew and equipment availability permits. This operation is performed once in the spring, after winter snow melt and once late summer/early fall. Cerro Gordo road is allowed to close naturally in the winter, at the first snowfall that makes the road impassable, and the road opening is dictated by spring weather conditions and the natural spring snowmelt. Inyo County Road Department has no plans to deviate from this road maintenance schedule.

Based on these comments a condition of approval is added to the project that states: *If the applicant desires access to, or maintenance of, Cerro Gordo Road, other than what is included in the County Road Department's existing schedule, they shall first apply for an encroachment permit through the Inyo County Public Works Department.*

Comments from the Building and Safety Department include concerns about the proposed and existing buildings at the site meeting all current standards. Based on these comments a condition of approval is added to the project that states: *The applicant shall meet all requirements set forth by the California Building Code-Title 24 including but not limited to those regarding: Wildland Urban Interface areas, California Green, electrical systems (for both existing and proposed structures), Americans with Disabilities Act, parking surfaces and Energy Calculations.*

Environmental Health Department staff has concerns regarding the existing septic and water systems being adequate to meet the needs of the hotel and surveyor house. They also have issues regarding potable water. Currently, water is trucked to the site and stored. Based on these comments conditions of approval are being included that state:

The historic town of Cerro Gordo shall be limited to overnight recreational uses at the hotel and surveyor house – only.

Water availability is currently limited; therefore, the number of guests (day and overnight) shall not exceed 25 or more people for 60 or more days per year at any location at the historic town of Cerro Gordo, until such time that additional water connections (there are currently 2) are added. The applicant shall continue to work with the County Environmental Health Department and the State of California Water Board to assure a safe, adequate and sustainable water source prior to any further development.

The hotel kitchen and bar may be rebuilt under this Conditional Use Permit; however, no restaurant or bar services shall be allowed until the applicant has met the requirements of the County Environmental Health Department and the State of California Water Board with regard to food and beverage services.

ENVIRONMENTAL REVIEW

Conditional Use Permit 2020-07/Cerro is Categorically Exempt under CEQA Guidelines 15302, Replacement or Reconstruction – Class 2. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The CUP is being applied for to reconstruct the buildings destroyed by fire and continue their historic uses at the exact same sites; and, is therefore exempt.

RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2020-07/Cerro Gordo with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed Conditional Use Permit is exempt under CEQA Guidelines 15302, Replacement or Reconstruction – Class 2 and the provisions of the California Environmental Quality Act have been satisfied.

[Evidence: Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced . . . The CUP is being applied for to reconstruct the buildings destroyed by fire and continue their historic use at the exact same sites.]

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Rural Protection (RP).

[Evidence: The goal of this project is to allow for a historic non-conforming use on the site to continue in compliance with County's zoning ordinance. The project is consistent with the General Plan designation of Rural Protection (RP), as it allows for low intensity recreation. The project qualifies as the applicants are currently proposing to continue to allow visitors to explore the historic mining town and site

and offer limited lodging. The hotel will only have 6-bedrooms and the surveyor house, 1-bedroom, for a total of 7.]

3. The proposed Conditional Use Permit is consistent with the Inyo County Code designation of Open Space (OS).
[Evidence: The OS zoning designation allows for 'other recreational activities involving development' with a conditional use permit. This is a historic use at the site and the applicant is seeking the CUP to operate the hotel and surveyor house for lodging in compliance with County's zoning ordinance. The proposed new buildings will replace the originals that were completely burned down by a fire in June 2020. Although the buildings had been on the site since the late 1800's, the current County Code under 18.12.040 requires a CUP approved by the Planning Commission for the proposed use (lodging). By acquiring the CUP the applicant is creating consistency with the code.]
4. The proposed Conditional Use Permit is necessary or desirable.
[Evidence: The General Plan's Economic Development Element's Goal ED-1.6 states: Attract New Visitor-Serving Businesses. Since the applicant is focused on a niche clientele that wants to recreate in a more rustic and historic area, this project meets the goal of ED 1.6 by attracting not only new visitors to the area, but also those wanting a unique type of visitor experience.]
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.
[Evidence: The proposed conditional use permit is to make a historic use compliant with the County's Zoning Code. It will not substantially add to the current level of use of the site or the type of use; and therefore, will have no impact on transportation or service facilities in the vicinity.]
6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
[Evidence: The conditional use permit is being proposed to make a historic use and new building replacements compliant the County's Zoning Code. It will not change or increase the current level or type of use; and therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]
7. Operating requirements necessitate the Conditional Use Permit for the site.
[Evidence: The use of the historic property for recreation and lodging require a conditional use permit per Inyo County Code Section 18.12.040; therefore, the conditional use permit is necessary for the continued operations at the site.]

CONDITIONS OF APPROVAL

1. Terms of Conditional Use Permit

Conditional Use Permit 2020-07/Cerro Gordo shall only apply to the hotel and surveyor house.

The historic town of Cerro Gordo shall be limited to overnight recreational uses at the hotel and surveyor house – only.

2. Compliance with County Code

The applicant/developer shall conform to all applicable provisions of Inyo County Code. If the use provided by this conditional use permit is not established within one year of the approval date it the Conditional Use permit shall become void.

3. Compliance with the California Building Code

The applicant shall meet all requirements set forth by the California Building Code-Title 24 including but not limited to those regarding: Wildland Urban Interface areas, California Green, electrical systems (for both existing and proposed structures), Americans with Disabilities Act, parking surfaces and Energy Calculations.

4. Cerro Gordo Road

If the applicant desires access to, or maintenance of, Cerro Gordo Road, other than what is included in the County Road Department's existing schedule, they shall first apply for an encroachment permit through the Inyo County Public Works Department.

5. Potable Water

Water availability is currently limited; therefore, the number of guests (day and overnight) shall not exceed 25 or more people for 60 or more days per year at any location at the historic town of Cerro Gordo, until such time that additional water connections (there are currently 2) are added. The applicant shall continue to work with the County Environmental Health Department and the State of California Water Board to assure a safe, adequate and sustainable water source prior to any further development.

The hotel kitchen and bar may be rebuilt under this Conditional Use Permit; however, no restaurant or bar services shall be allowed until the applicant has met the requirements of the County Environmental Health Department and the State of California Water Board with regard to food and beverage services.

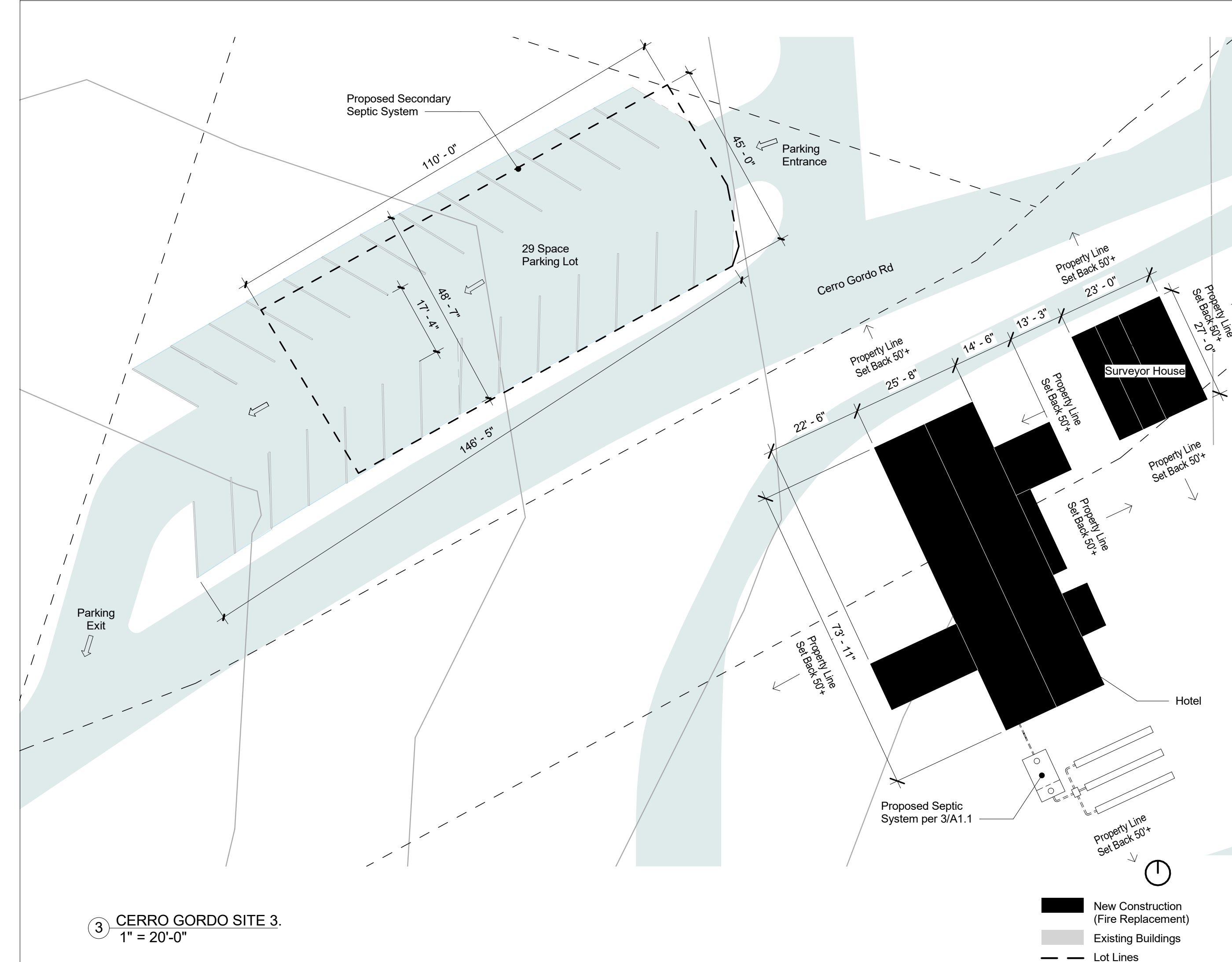
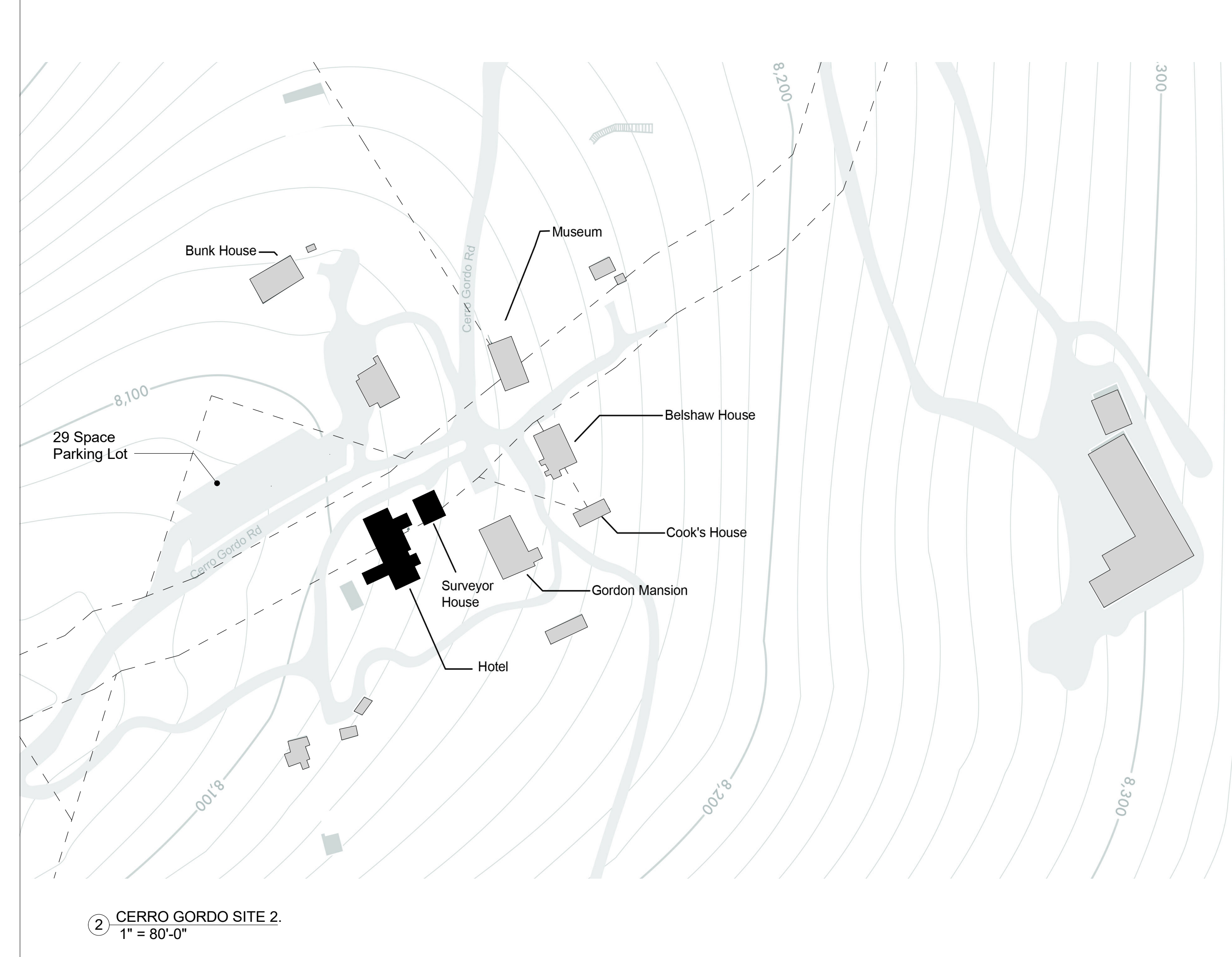
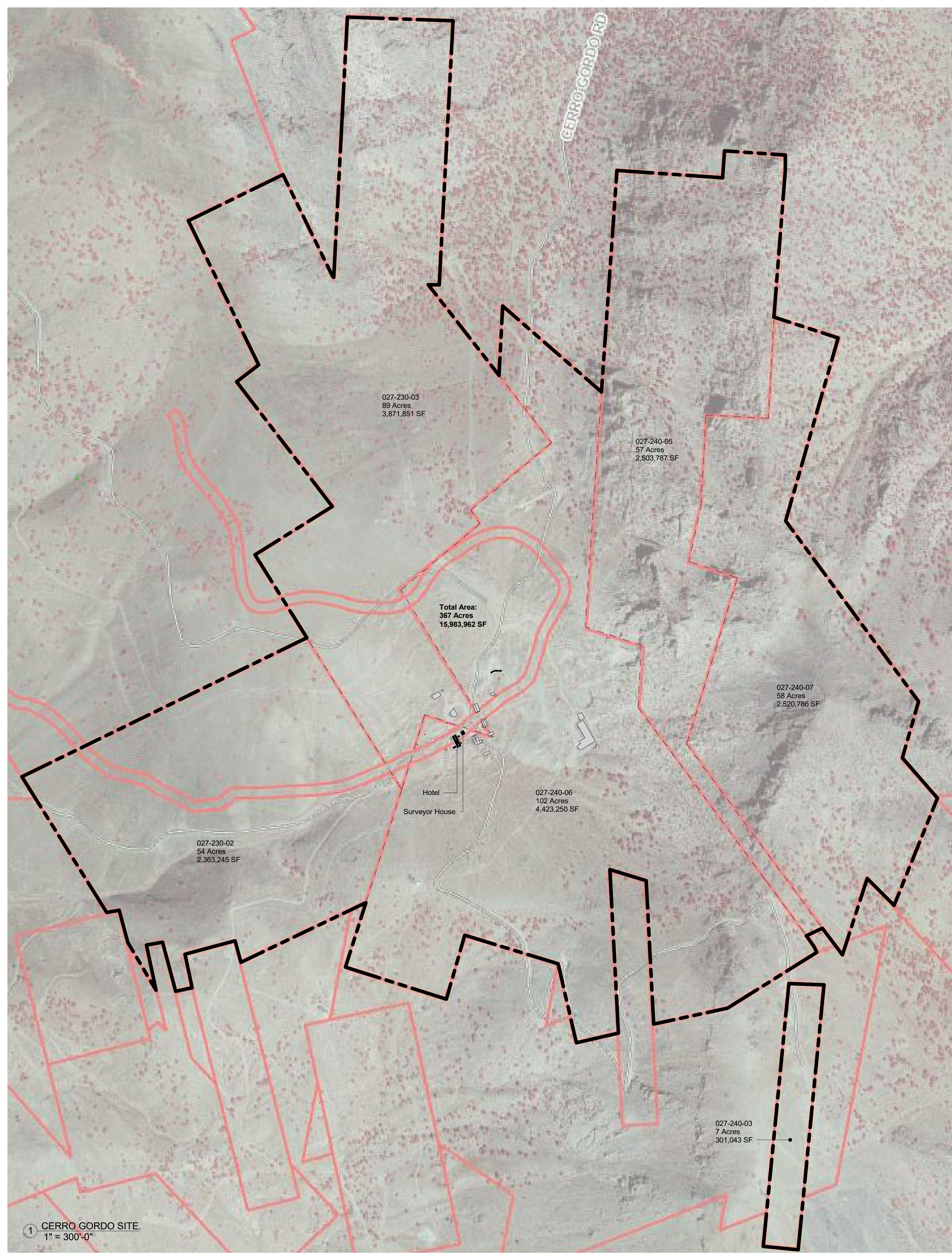
6. Septic System

The applicant shall continue to work with the Inyo County Environmental Health Department to ensure the septic system meets the needs of the project.

7. Hold Harmless

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body

concerning Conditional Use Permit No. 2020-07/Cerro Gordo. The County reserves the right to prepare its own defense.



Cerro Gordo Ghost Town

Cerro Gordo Rd., Keeler, CA 93530

m_RA

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mroycearchitecture.com



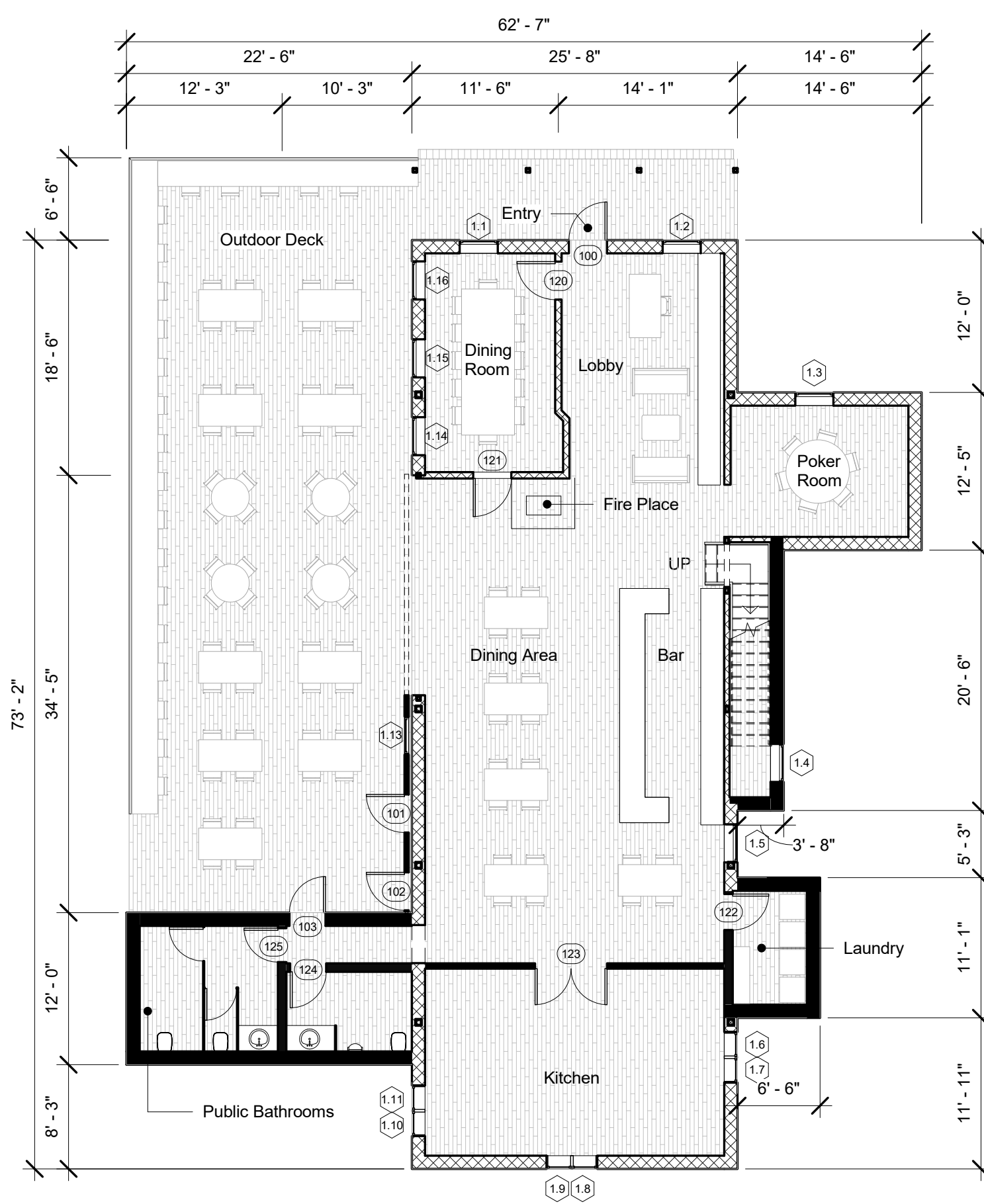
ISSUE DATE
9/08/2020

REVISIONS

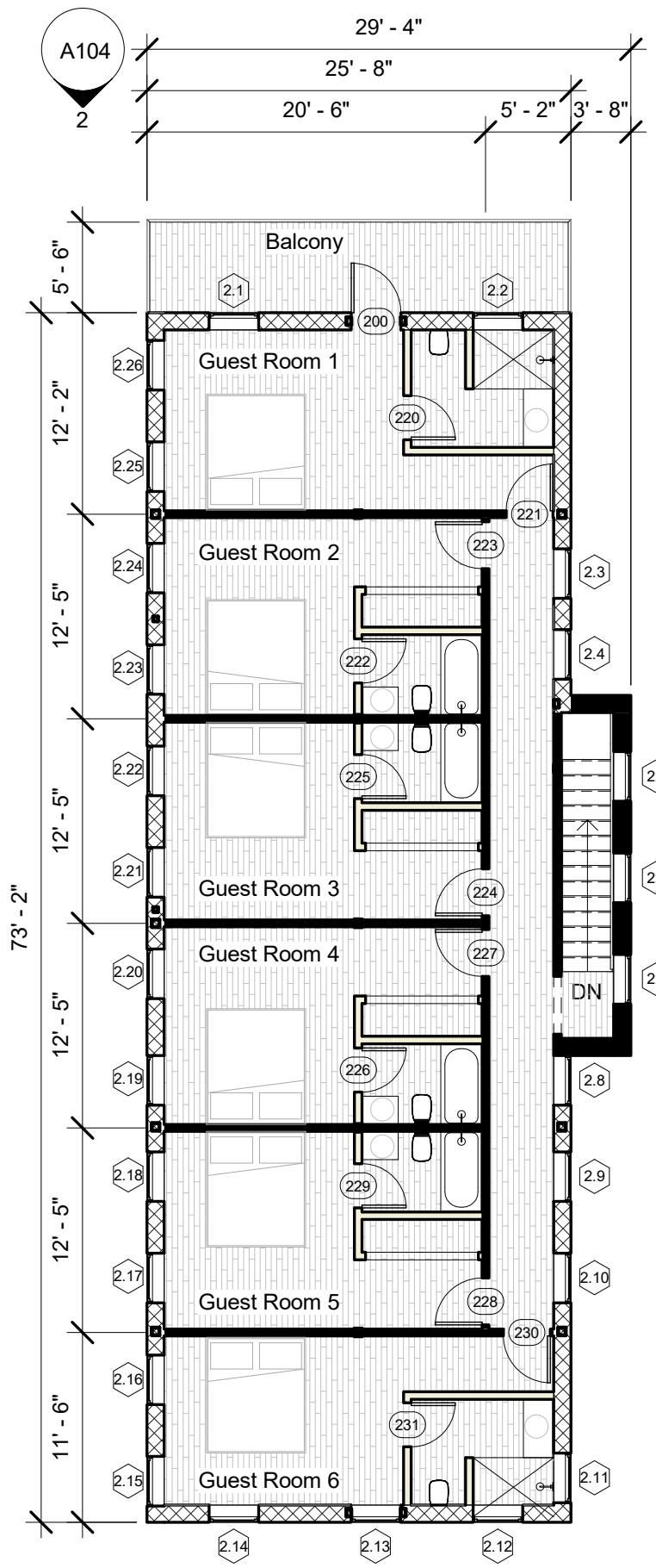
Number	Date	Description

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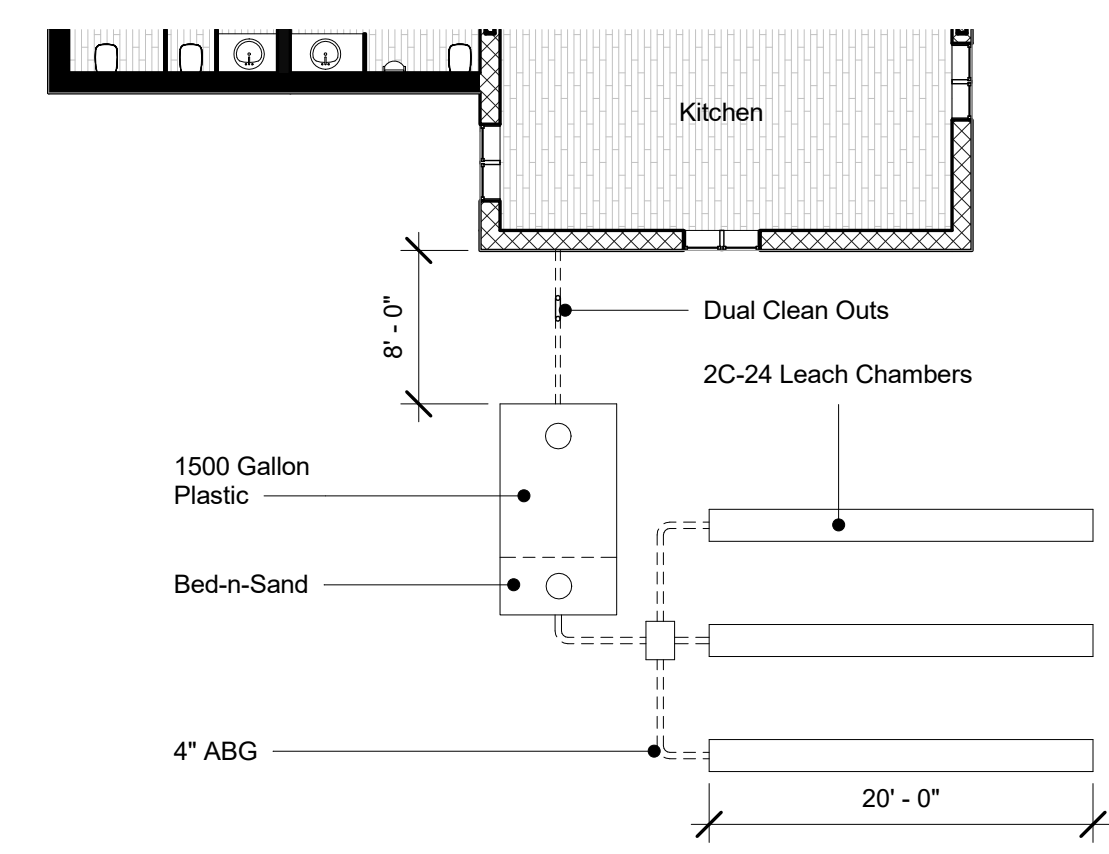
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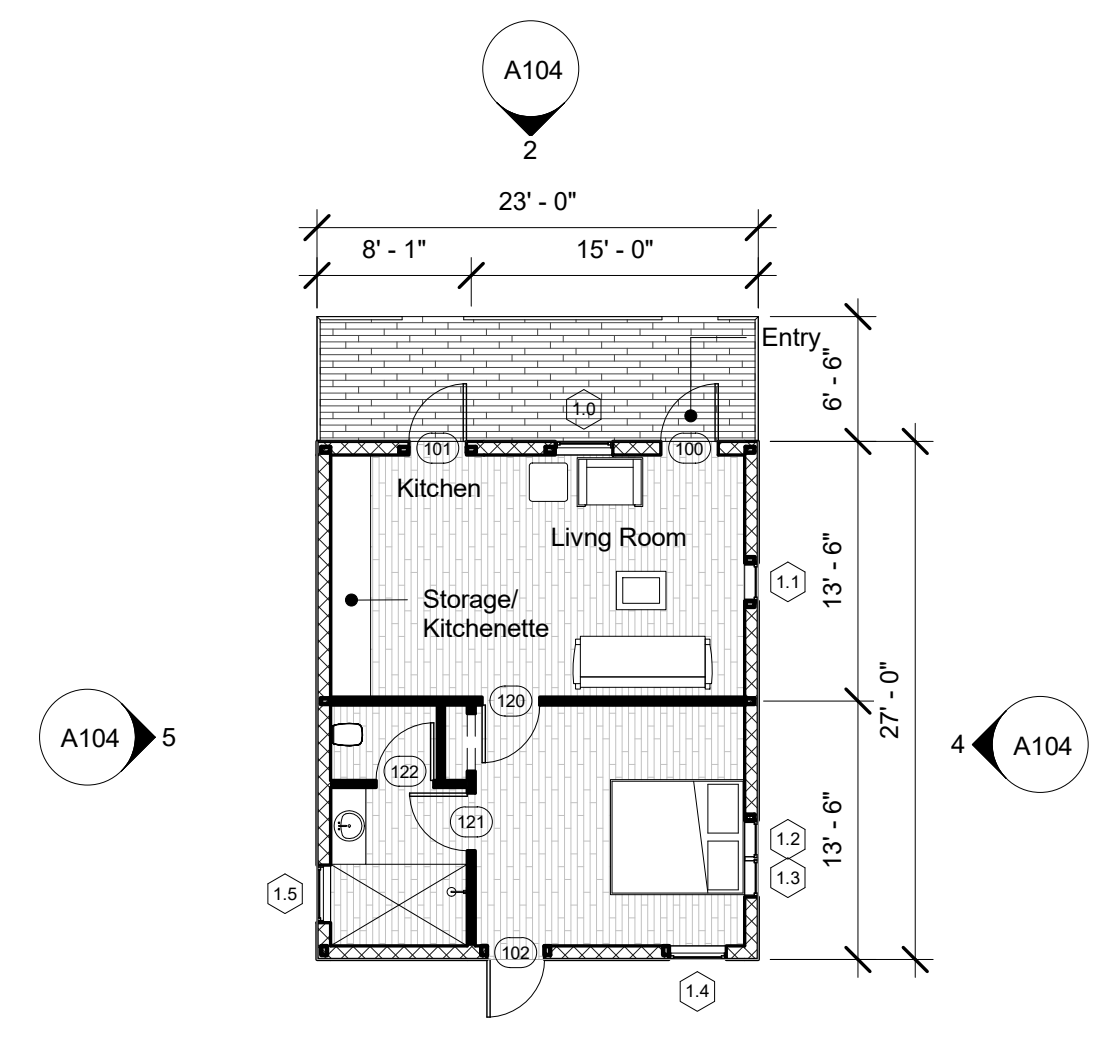
1 HOTEL - LEVEL 1
1" = 10'-0"



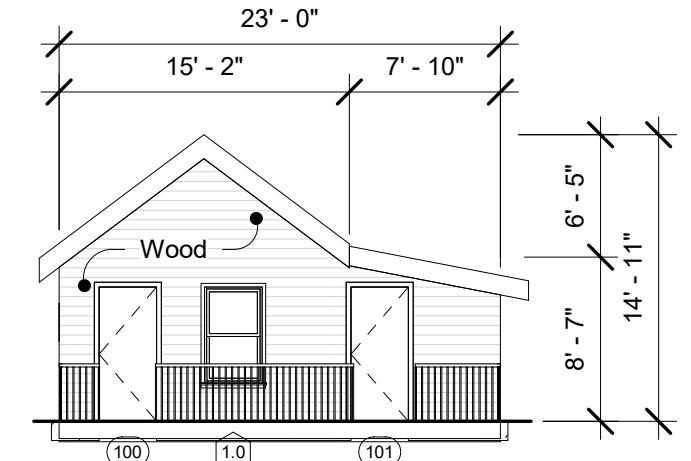
2 HOTEL - LEVEL 2
1" = 10'-0"



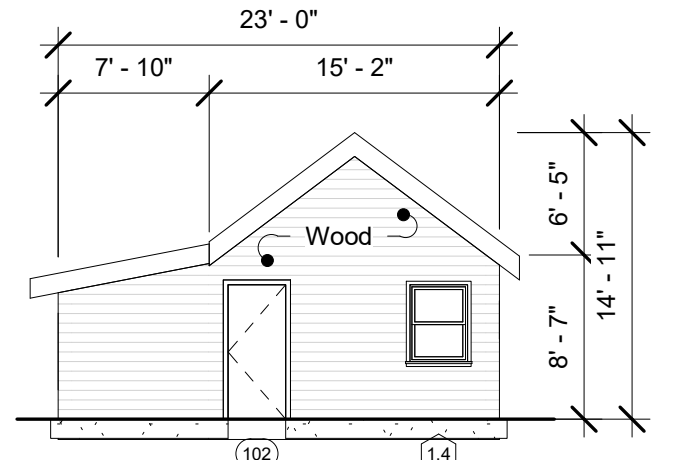
3 HOTEL - SEPTIC TANK
1" = 10'-0"



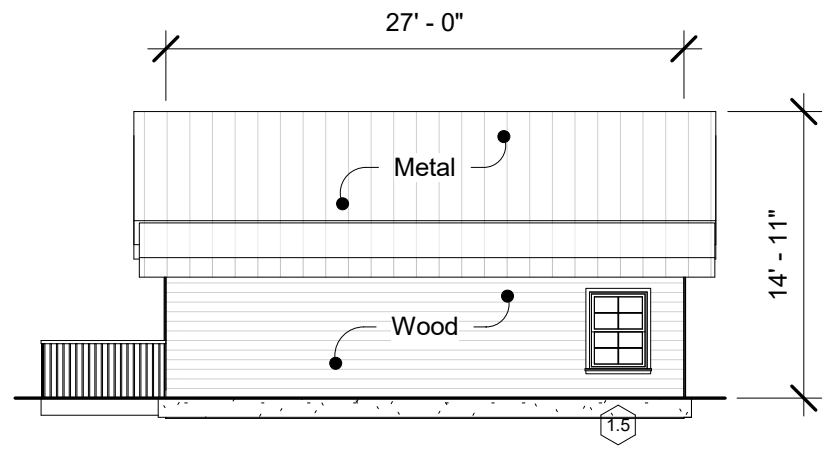
8 SURVEYOR HOUSE - LEVEL 1
1" = 10'-0"



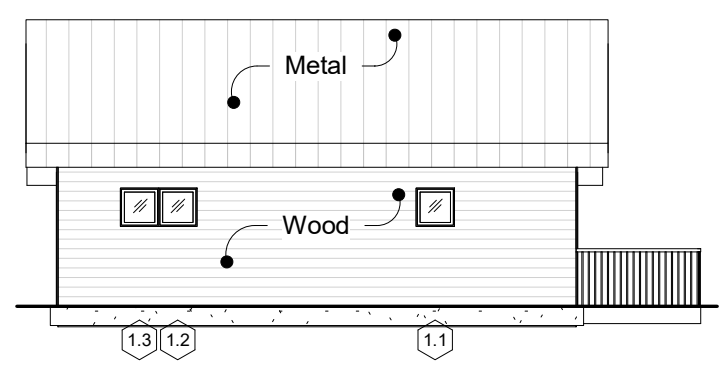
9 SURVEYOR HOUSE - NORTH
1" = 10'-0"



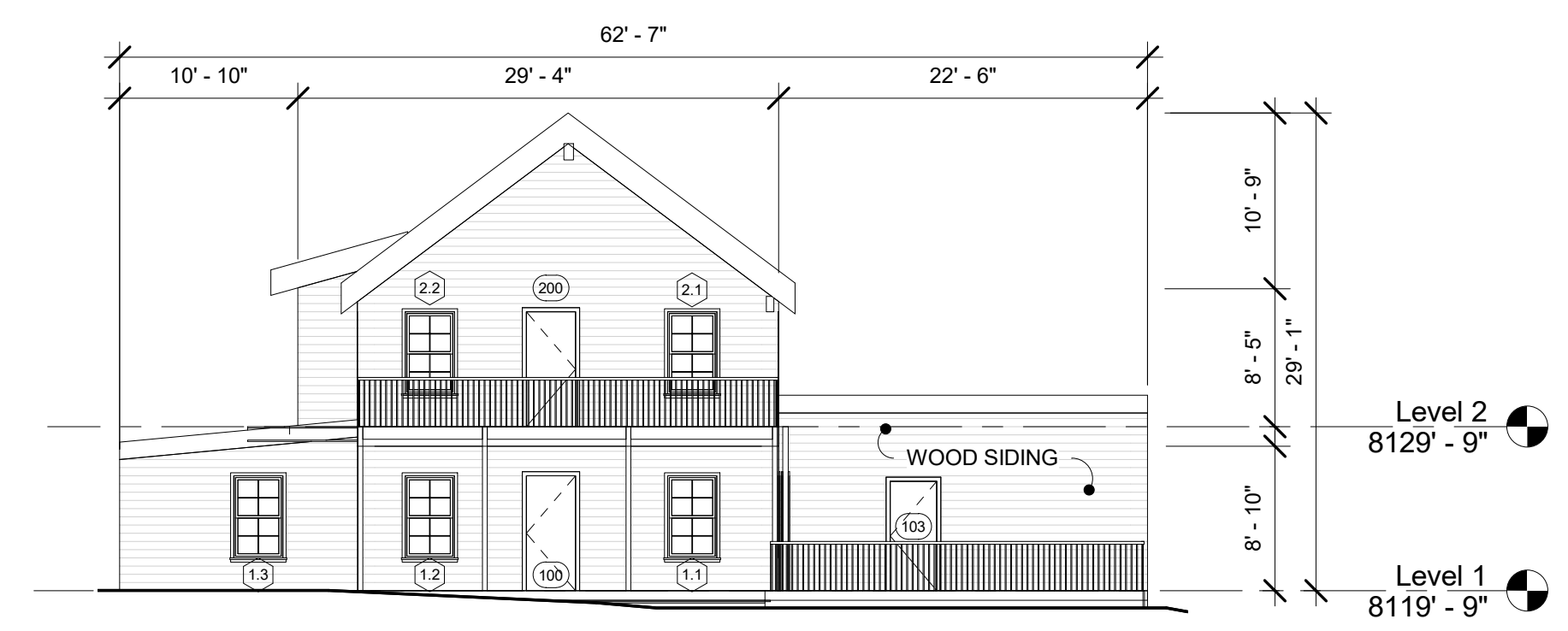
10 SURVEYOR HOUSE - SOUTH
1" = 10'-0"



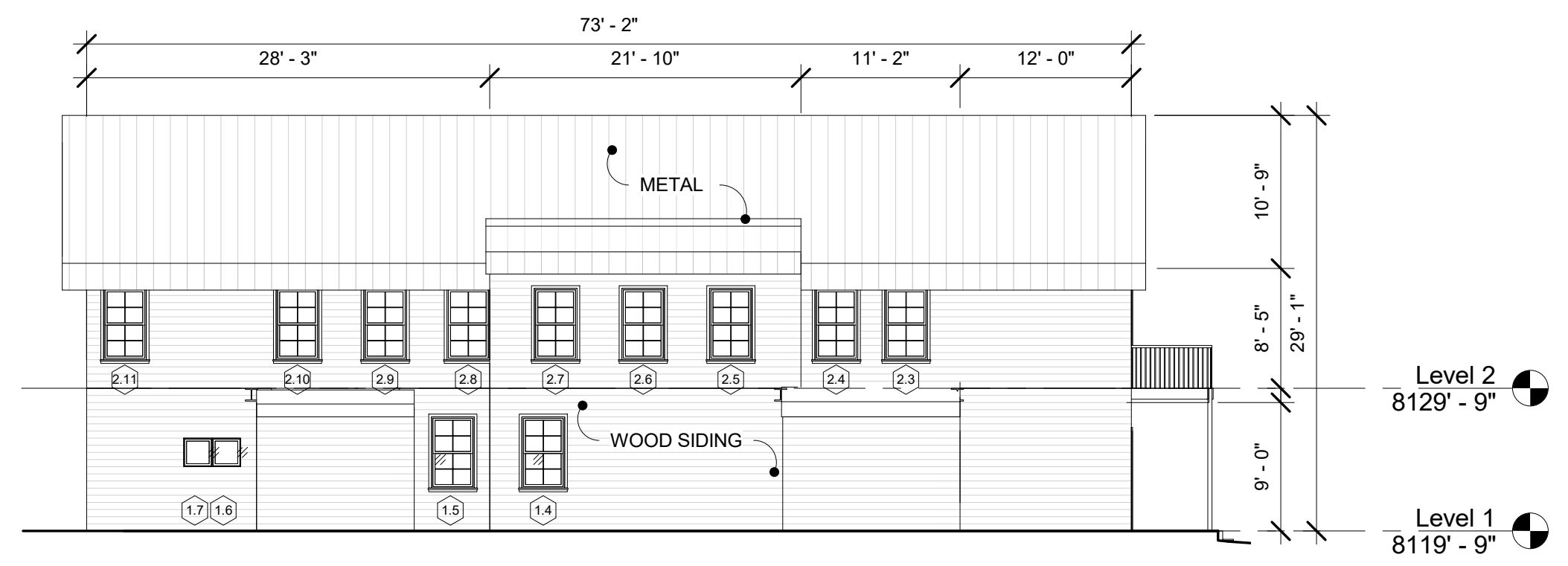
11 SURVEYOR HOUSE - WEST
1" = 10'-0"



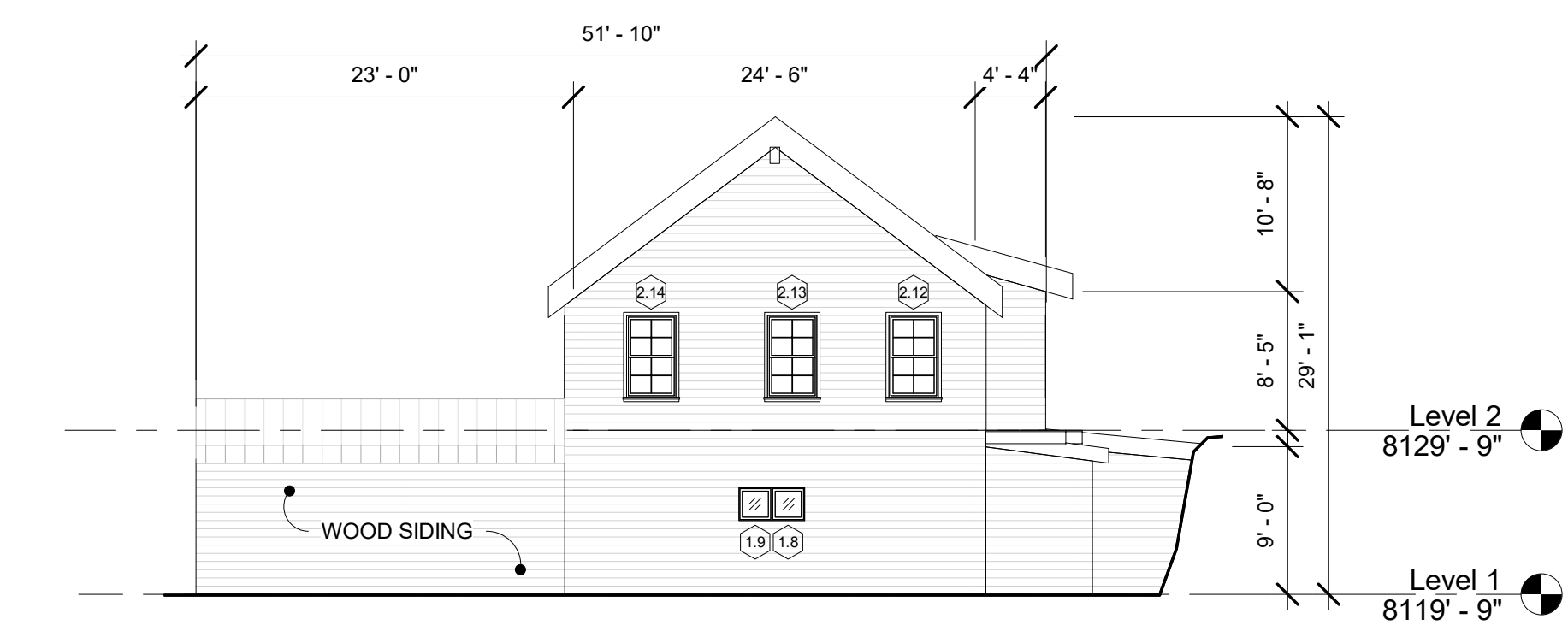
12 SURVEYOR HOUSE - EAST
1" = 10'-0"



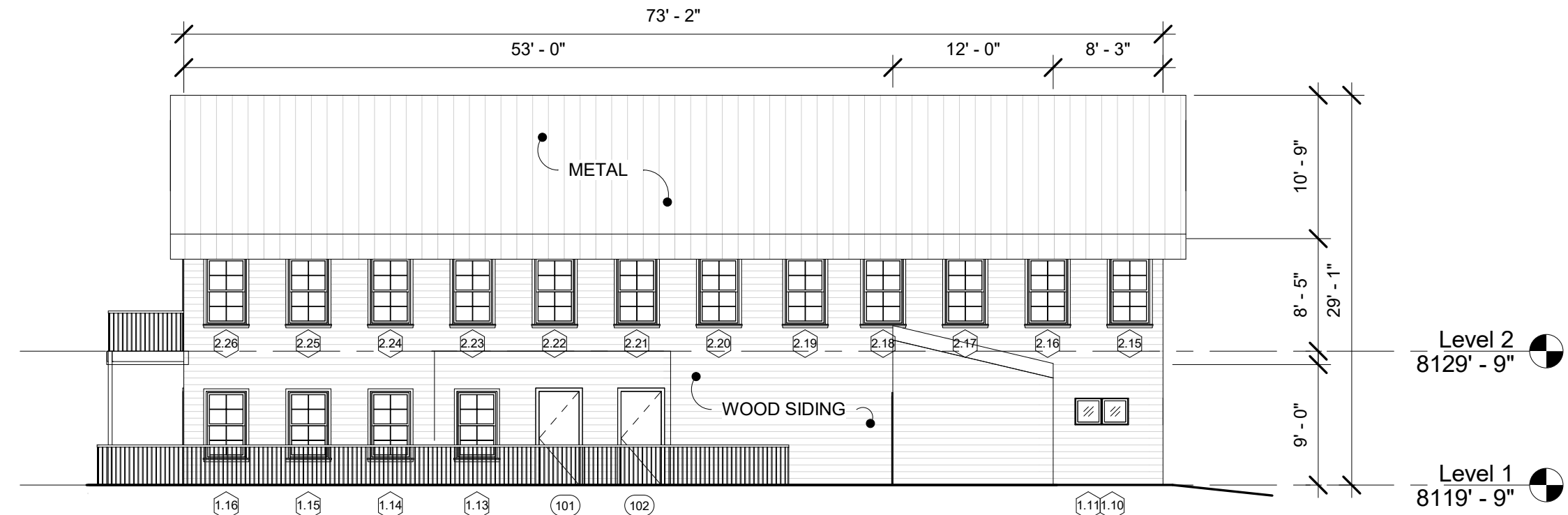
4 HOTEL - NORTH
1" = 10'-0"



5 HOTEL - EAST
1" = 10'-0"



6 HOTEL - SOUTH
1" = 10'-0"



7 HOTEL - WEST
1" = 10'-0"

Cerro Gordo Ghost Town

Cerro Gordo Rd., Keeler, CA 93530

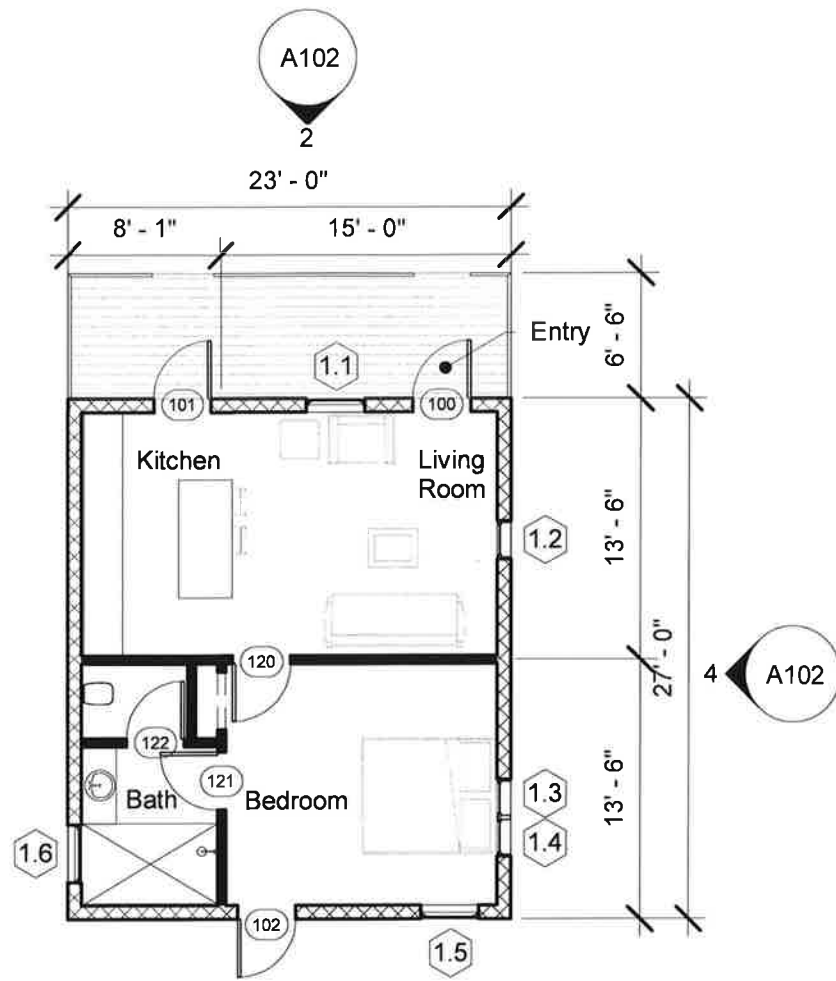
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ISSUE DATE		
9/08/2020		
REVISIONS		
Number	Date	Description

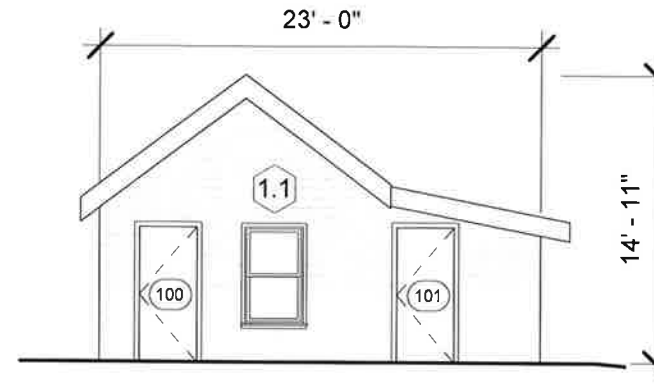
PLANS & ELEVATIONS

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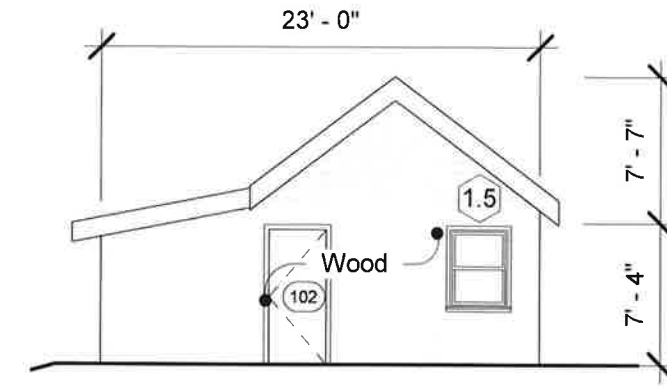


① SURVEYOR HOUSE
1" = 10'-0"

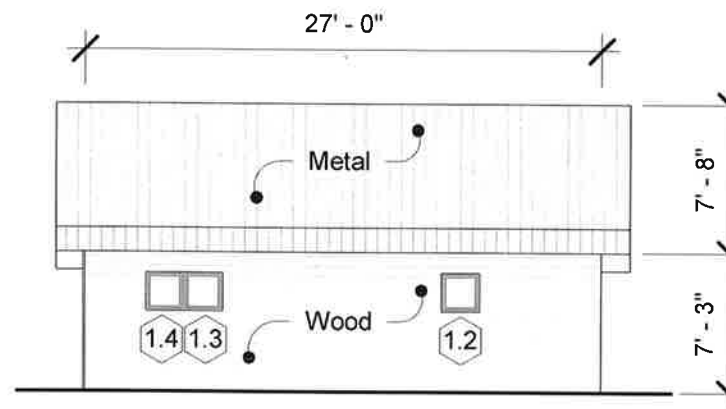
■ New Construction
□ Original Location
Floor Area: 621 SF



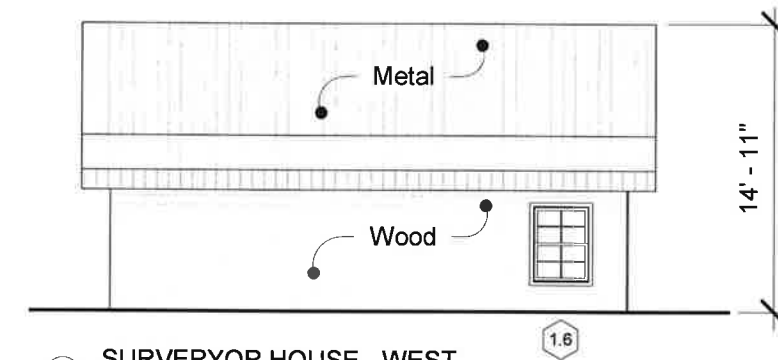
② SURVEYOR HOUSE - NORTH
1" = 10'-0"



③ SURVEYOR HOUSE - SOUTH
1" = 10'-0"



④ SURVEYOR HOUSE - EAST
1" = 10'-0"



⑤ SURVEYOR HOUSE - WEST
1" = 10'-0"

Surveyor House - Window Schedule			
Mark	Width	Height	Type

1.1	3' - 0"	5' - 0"	Double-Hung Windows
1.2	2' - 0"	2' - 0"	Fixed Windows
1.3	2' - 0"	2' - 0"	Fixed Windows
1.4	2' - 0"	2' - 0"	Fixed Windows
1.5	3' - 0"	4' - 0"	Double-Hung Windows
1.6	3' - 0"	4' - 0"	Double-Hung Windows

Grand total: 6

Surveyor House - Door Schedule		
Mark	Width	Height

100	3' - 0"	7' - 0"
101	3' - 0"	7' - 0"
102	3' - 0"	7' - 0"
120	3' - 0"	7' - 0"
121	3' - 0"	7' - 0"
122	3' - 0"	7' - 0"

Grand total: 6



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

Phone: (760) 878-0263

FAX: (760) 872-2712

E-Mail: inyoplanning@inyocounty.us

AGENDA ITEM NO.: 7 (Action Item and Public Hearing)

PLANNING COMMISSION

MEETING DATE: September 23, 2020

SUBJECT: ZR 2019-02; GPA 2019-01; TPM 422; CUP 2020-03/Olancha Lake RV

EXECUTIVE SUMMARY

The applicant, Olancha Lake LLC, is requesting a parcel merger/lot-line adjustment of seven parcels. This parcel merger request requires a Tentative Parcel Map because there are “more than four lots involved in the lot line adjustment” and therefore “a re-subdivision tentative map application [is] required” (ICC 16.52.070). This parcel merger also requires a Zone Reclassification and General Plan Amendment to create the correct land use designations for the proposed commercial RV camping business. The applicant is requesting Commercial Recreation with 80-acre minimum (C5-80) and a General Plan designation of Resort Recreational (REC) with between 1 and 24 dwelling units per acre density requirement. The REC designation is intended for a mix of tourism-oriented commercial and residential uses, though permanent residential use is also permitted. The parcel is located in Olancha, one-eighth of a mile east of Highway 395, adjacent to SR 190. It is currently zoned Rural Residential with a 5-acre minimum (RR-5.0); has the General Plan designation of Residential Estate (RE); and, includes seven parcels to be merged, with Assessor Parcel Numbers (APNs): 033-500-03, 033-500-04, 033-500-14, 033-500-15, 033-500-16, 033-500-17, and 033-080-03 (Attachment - site and vicinity maps). The zone reclassification to C5 and General Plan Amendment to REC properly accommodate the proposed future use as a commercial RV and tent camping site. Finally, the C5 zoning designation will require a CUP, since mobile-homes and campgrounds are allowed as a conditional use requiring Planning Commission approval, as stated by ICC 18.54.040(A)(C).

PROJECT INFORMATION

Supervisory District: 5

Applicants: Olancha Lake, LLC

Landowners: Olancha Lake, LLC

Community: Olancha, CA

A.P.N.: 033-500-03, 033-500-04, 033-500-14, 033-500-15, 033-500-16, 033-500-17, and 033-080-03

Existing General Plan: Residential Estate (RE) & Light Industrial (LI)

Existing Zoning: Rural Residential with a 5-acre minimum (RR-5.0-MH) & Light Industrial with a 2.5-acre minimum (M2-2.5)

Surrounding Land Use:

Location	Use	General Plan Designation	Zone
Site	Vacant cabins, site currently unused	Residential Estate (RE)	Rural Residential, 5 acre minimum (RR-5-MH)
North	Vacant	Residential Estate (RE)	Rural Residential, 5 acre minimum (RR-5-MH)
East	Vacant	Rural Protection (RP)	Open Space, 40-acre minimum (OS-40)
South	vacant	Residential Estate (RE)	Rural Residential, 5 acre minimum (RR-5-MH)
West	industrial	Light Industrial (LI) & Rural Protection (RP)	General Industrial (M1) & Light Industrial (M2)

Recommended Action:

- 1.) Make certain findings with respect to and approve TPM 422/and certify the Mitigated Negative Declaration under CEQA.
- 2.) Make certain findings with respect to and recommend the Board of Supervisors approve ZR 2019-02/Olancha Lake RV, and certify the Mitigated Negative Declaration under CEQA.
- 3.) Make certain findings with respect to and recommend the Board of Supervisors approve GPA 2019-01/Olancha Lake RV, and certify the Mitigated Negative Declaration under CEQA.
- 4.) Make certain findings with respect to and approve CUP 2020-03/Olancha Lake RV, and certify the Mitigated Negative Declaration under CEQA.

Alternatives:

- 1.) Specify modifications to the proposal and/or the Conditions of Approval.
- 2.) Make specific findings and deny the application.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner:

Steve Karamitros

BACKGROUND

The applicant has applied for TPM 422 as part of their business plan to combine seven separate parcels into one for purposes of a commercial RV camping business. The applicant is also the current owner of the properties to be merged (Olancha Lake, LLC; Leedy Ying). The project will include 5 cabins for rent, as well as 95 RV spaces and 30 camping spaces. The final buildout for the project will include a tennis court, showers, amphitheater, star gazing area, skate board park, restaurant, and store available to customers at the resort. The applicant intends to fill the preexisting, dry lake for recreational use (kayaking). Combining four or more parcels without a Tentative Map would not comply with Inyo County Code 16.52.070, and would not be considered a legal parcel without the benefit of this Tentative Parcel Map, as set forth by the California Subdivision Map Act.

The parcels proposed for merger are zoned RR-5.0-MH & M2-2.5, which prohibits commercial, recreational activities, such as RV parks and campgrounds; therefore, the applicant is also requesting a zone reclassification of the approximately 80-acres to Commercial Recreation with an 80-acre minimum lot size. The minimum lot size under the current zoning will change following the zone reclassification. Once the parcels are merged, the property will not have the potential to be subdivided. A General Plan Amendment is also required as the current designation of RE and LI does not allow for commercial uses, such as the proposed RV camping project.

STAFF ANALYSIS

Land Use Analysis: The property is surrounded by vacant and open space land, to the north, east and south, all of it privately owned. Directly to the west is a bridge building warehouse and materials staging area. Less than 0.25 miles west is the community of Olancha. The TPM, ZR and GPA will alter the existing land use to enable future planned development for a commercial RV project. The TPM, ZR and GPA will enhance the character of the property, bringing existing buildings up to Building & Safety Code, and filling the Olancha Lake to create recreational opportunities. The site will utilize three preexisting permitted wells to supply the lake, and the applicant is working with the Inyo County Department of Environmental Health to design and upgrade the septic system that can accommodate the RV camping site.

General Plan: The proposed Tentative Parcel Map and zone reclassification necessitate a change to the General Plan land use designation of Residential Estate (RE) and Light Industrial (LI). The applicant is requesting a General Plan designation of Resort Recreational (REC). The current designation of RE does not allow for non-residential commercial uses, such as the proposed RV park. Changing the General Plan designation to REC will result in a 1-acre per

1/2.5 – 24 dwelling unit density that corresponds with the 80-acre lot size requirement of the proposed C5 zone. Clustering of residential units is encouraged, with density of developed area allowed up to 24 dwelling units per net acre. The REC designation is to be used in rural areas oriented toward tourist use, however, it also permits permanent residential use and public and quasi-public uses. This designation provides for a mixture of residential and recreational commercial uses, such as resorts, recreational facilities, motels, *campgrounds, trailer parks*, restaurants, general stores, service stations, and similar and compatible uses. The REC designation is better suited to the proposed future use, providing commercial development and employment to the Olancha community. This would better align with Inyo County's goal to: "provide commercial land uses that adequately serve the existing and anticipated future needs of the community and surrounding environs." Three preexisting wells, for domestic water use, would be utilized. Drilling an additional well may be required. Septic systems for 5 cabins, showers, restaurant, store, and 95 RV spaces are currently being designed in coordination with the Inyo County Environmental Health Department, Lahontan Regional Water Quality Control Board, and the California Housing Community Development Agency. There are currently seven existing buildings cumulatively among the seven parcels being merged. Five of these structures will be converted into cabins for overnight rentals on the proposed recreational project. The merged, 80-acre parcel will have a density requirement of 1 camping/cabin space per acre; however, the General Plan stipulates that with clustering of dwelling units, densities of developed areas are allowed up to 24 dwelling units per net acre. This density is applied to projects, such as commercial RV parks and campgrounds, where the density ratio of camping/RV spaces-to-acreage is used, rather than residential units per acre. This change will allow for the proposed 95 RV spaces, 5 cabins, and 30 tent camping spaces.

Zoning: The proposed zone reclassification to C5-80 will result in an increase to the minimum lot size requirement that is currently 5-acres. The property is not currently in use and the C5-80 zoning designation, combined with the merger under the Tentative Map, would allow the owner/applicant to establish a commercial RV campground as a conditional use. The change in designation would not provide for additional future subdivisions. Additionally, the resulting single parcel will not create a situation where there could be as many single-family homes allowed as there are RV/camping spaces. The density and number of RV and tent camping spaces allowed is based on the commercial use of the RV park. Any future subdivision related to residential use and development would require an additional zone reclassification. It is in the public interest to have zoning designations match the uses on a parcel, and even more so to have zoning that matches an applicant's future plans for a parcel. This produces consistency between use and designation. TPM 422 is conditioned with first attaining the zone reclassification.

Subdivision: ICC Title 16 and the Subdivision Map Act (Government Code Section 66410 et seq.) regulate subdivisions. The proposed lot meets the applicable lot standards and design requirements specified in ICC Chapter 16.16, and the TPM meets the applicable preparation specifications identified in ICC Section 16.20.070 and Chapter 2, Article 3 of the Map Act. Conditions of approval are included to ensure that the final map meets the appropriate requirements specified by ICC Chapter 16.32 and Chapter 2 of the Map Act. Due to the rural, undeveloped, nature of the area, staff recommends that the street and utility improvements required by ICC Section 16.40.010 be waived, as permitted. A condition of approval is included to require such improvements in the future if they become necessary.

Access: Access will be provided to the parcel/campground via US 395. A condition of approval is included to require that the applicant procure an encroachment permit from the Caltrans, District 9 before construction of the ingress/egress to the proposed project property.

Utilities and Public Services: The project site does not currently have complete utility provisions. LADWP will be providing electricity to the site and there are existing power poles on the property. The applicant is working with LADWP to create appropriate electrical designs for the project. Water is accessible with 3 existing wells. Wastewater will be received using septic systems that are still in the design phase. The required setbacks between structures, wells, septic systems, and property boundaries will be met, based on the current project plans. A condition of approval is included that requires the applicant to comply with well and septic permitting requirements and protocols set by the Inyo County Environmental Health Dept., Lahontan Regional Water Quality Board, and the California Housing Community Development Agency.

Fire

The project area is located within a Local Responsibility Area for fire protection services. The project meets the requirements of the Sub Division Map Act regarding Fire Districts as it located within the Olancha Community Service District that provides fire protection and suppression services.

TRIBAL CONSULTATION

General Plan updates require that jurisdictions offer consultation opportunities to local Tribes. Pursuant to Government Code Section 65352.3, Tribes have 90-days, after receiving invitations to consult on GPAs to request consultation opportunities. Pursuant to SB 18 Tribes were invited to consult on this General Plan Amendment. In addition, this project is not exempted from CEQA analysis and required an Initial Study/Mitigated Negative Declaration. Consequently, pursuant to AB 52, Tribes received a written request to comment on the environmental document being produced for this project. Staff mailed SB 18 & AB 52 consultation invitations on October 31, 2019 to the following: Big Pine Paiute Tribe of the Owens Valley, Bishop Paiute Tribe, Fort Independence Indian Community of Paiutes, Lone Pine Paiute-Shoshone Tribe, Timbisha Shoshone Tribe, Twenty-Nine Palms Band of Mission Indians, and the Cabazon Band of Mission Indians. No requests for consultation were received.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), an Initial Study and Mitigated Negative Declaration has been completed to evaluate for environmental impacts. This application for a TPM, ZR, GPA, and CUP is for a property that is already disturbed, which includes a preexisting tennis court, seven built structures (cabins), and utility connections. However, the project will create new disturbances from upgraded septic systems, more intense water use, and potential impacts to botanical & wildlife resources. All mitigations will be added to the proposed TPM, ZR, and GPA as Conditions of Approval for the project.

NOTICING & REVIEW

The application for TPM 422; ZR 2019-02; GPA 2019-01; and CUP 2020-03/ Olancha Lake RV have been reviewed by the appropriate County departments. The Inyo County Environmental Health Dept. has identified well and septic design issues that must be addressed for the proposed project to be compliant with County and State regulations. Completion of this additional project design work will be added as a Condition of Approval for the conditional use permit.

The notice for the project's public hearing was advertised in the *Inyo Register* on September 5, 2020 and the notice was mailed to property owners within 300-feet of the project location on September 4, 2020. No comments have been received by staff to date.

RECOMMENDATIONS

Planning Department staff is recommending:

1. The Planning Commission approve TPM 422 and certify the Initial Study and Mitigated Negative Declaration under CEQA.
2. The Planning Commission provide a recommendation that the Board of Supervisors approve General Plan Amendment 2019-01 and Zone Reclassification 2019-02/Olancha Lake RV and certify the Mitigated Negative Declaration under CEQA.
3. The Planning Commission approve CUP 2020-03/Olancha Lake RV and certify the Initial Study and Mitigated Negative Declaration under CEQA.

Recommended Findings and Conditions

TPM 422 - Findings:

1. Proposed TPM 422/Olancha Lake RV, an Initial Study and Mitigated Negative Declaration under CEQA, was conducted for the project and it was found that impacts will be less than significant with mitigations.

[Evidence: the proposed project will include 30 tent-camping sites, 95 RV camping spaces, 5 cabin rentals, a star gazing area, a tennis court, a restaurant, a skateboarding park, an amphitheater, a store, showers, and kayaking rentals for use on Olancha Lake. Although the property has already been disturbed (a preexisting tennis court, seven built structures, and water and septic connections), the project will create new disturbances from upgraded septic systems, more intense water use, and potential impacts to botanical & wildlife resources. All mitigations will be added to the proposed TPM, ZR, GPA, and CUP as Conditions of Approval for the project.]

2. Based on substantial evidence in the record, the Planning Commission finds that TPM 422 is not in conformance with the Rural Residential Zoning designation currently found on the property; therefore, a condition of approval to change the Zoning designation to Commercial Recreation with a 80-acre minimum (C5-80) will be required for a Final Map. *[Evidence: Inyo County Code (ICC) Chapter 18.21.010 states the intent of the current RR zoning designation is to "provide suitable areas...for low density, single family...uses and estate uses where certain agricultural activities can be successfully maintained in conjunction with residential use..." This designation is for low density residential use, which does not align with the planned commercial use of the project. The Final Map will merge 7 parcels for a commercial campground, with 95 RV and 30 tent camping spaces;*

this planned commercial project will be out of compliance with ICC 18.21, the RR designation; therefore, the applicant is requesting a Zone Reclassification to Commercial Recreation with a 80-acre minimum (C5-80) as this designation best fits the project's planned use and will allow TPM 422 to be finalized. Once this condition is met, TPM 422 will be in conformance with the Zoning designation.]

3. Based on substantial evidence in the record, the Planning Commission finds that TPM 422 is not in conformance with the Inyo County General Plan designation of Rural Estate (RE) or Light Industrial (LI) that is currently found on the property and a condition of approval to change the General Plan designation to Resort Recreational (REC) will be required for a Final Map.

[Evidence: The RE designation provides for single-family dwellings with a density of 1 single-family dwelling per 5-acres, and the LI designation does not allow for any residential use. This does not correspond consistently with the requested C5 zoning. For consistency and compliance with the General Plan, the applicant is requesting a General Plan Amendment to change the designation from RE to REC. The REC designation is traditionally used in tandem with the C5 zoning designation. It allows for RVs and tent campgrounds, which are geared toward commercial rather than residential uses. Once this condition is met TPM 422 will be in conformance with the REC General Plan designation.]

4. Based on substantial evidence in the record, the Planning Commission finds that TPM 422, as conditioned, is in conformance with and the Inyo County Subdivision Ordinance, and the State Subdivision Map Act.

[Evidence: Proposed TPM 422 is consistent with the requested C5 Zoning designation as the new parcel meets the development standards of a minimum parcel size and setback requirements of both respective zoning districts. The Tentative Map is being produced because more than four lots are being merged (16.52.070-E). The proposed single lot meets the applicable requirements specified in ICC Chapter 16.16, and the TPM meets the applicable requirements of ICC Section 16.20.070 and Chapter 2, Article 3 of the Map Act. Conditions of approval are included to ensure that the final map meets the appropriate requirements specified by ICC Chapter 16.32 and Chapter 2 of the Map Act.]

5. Based on substantial evidence in the record, the Planning Commission finds that the site is physically suited for the proposed type and density of development, and finds that the existing and planned public facilities and services are adequate to meet the needs of the proposed project.

[Evidence: The project is consistent with the rural character of the surrounding area, is already developed and will not increase demands on public services and utilities. TPM 422 has been routed to appropriate County departments and the comments that were received have been addressed in the conditions of approval. The project is not expected to increase demands for fire protection services and is located within a local fire district.]

6. Based on the substantial evidence the Planning Commission finds that the provisions of Government Code 66474.02 have been met (fire Protection and suppression services).

[Evidence: The proposed commercial project is within a local fire district, which effectively exempts TPM 422 from 66474.02. TPM 422 has been routed to the local fire district in Olancha and no comments have been received.]

7. Based on substantial evidence in the record, the Planning Commission finds that the design of the merged lots or the types of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision, or alternate easements have been provided.

[Evidence: The project will be accessed from US 395. This will require an encroachment permit from Caltrans to address project work within the State's right of way. Additional easements for water and sanitary services are not required as there are existing facilities that serve the property and no conflicts with existing easements have been identified.]

8. Based on substantial evidence in the record, the Planning Commission finds that the design or proposed improvements are not likely to cause substantial environmental damage, or substantially and avoidably injure fish, wildlife, or their habitat, or cause serious public health, welfare, or safety problems.

[Evidence: As indicated by the Initial Study and Mitigated Negative Declaration, the project will have impacts to ground water use, utilities (septic), storm water, with possible impacts to botanical and wildlife resources. Conditions of approval are included to ensure that the final map mitigates the above mentioned potential impacts. The proposed campground will be regulated as a public water system and has been evaluated by both the County's Environmental Health Department and the Lahontan Regional Water Quality board. Preconstruction surveys, on all suitable nesting habitats within the Project area, will be performed, no more than three (3) days prior to vegetation clearing or ground disturbance activities. The applicant will coordinate with their biologist, Inyo County, CDFW, and USFWS, following all relevant CDFW protocols, to determine what additional surveys and mitigation measures are needed to avoid impacts to Mohave ground squirrel, Desert Tortoise, and other plant and animal communities.]

9. Based on substantial evidence in the record, the Planning Commission finds that no significant impacts to native vegetation or wildlife will result from the proposed project.

[Evidence: The site is already developed and the merger of parcels, and resulting campground project, does have potential to impact native botanical species and nesting bird species. Preconstruction surveys, on all suitable nesting habitats within the Project area, will be performed no more than three (3) days prior to vegetation clearing or ground disturbance activities. The applicant will coordinate with their biologist, Inyo County, CDFW, and USFWS, following all relevant CDFW protocols, to determine what additional surveys and mitigation measures are needed to avoid impacts to Mohave ground squirrel, Desert Tortoise, and other plant and animal communities.]

TPM 422 – Conditions of Approval:

- 1.) A Final Parcel Map in substantial conformance with the approved TPM meeting applicable requirements of ICC Chapter 16.32 and Chapter 2 of the Subdivision Map Act shall be filed for recordation within two years from the date of approval by the Planning Commission, unless a request for a time extension request per ICC Section 16.20.110 is received prior to that date and approved.

- 2.) The applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning TPM No. 422/Olancha Lake RV or applicant's failure to comply with conditions of approval.
- 3.) Payment of any delinquent and/or due taxes or special assessments shall be made to the satisfaction of the Inyo County Treasurer/Tax Collector prior to recordation of the Final Parcel Map.
- 4.) The applicant shall complete ZR 2019-02/Olancha Lake RV changing the zoning designation on the proposed single Parcel from (RR-5) & (M2) to (C5-80) prior to recordation of the Final Parcel Map.
- 5.) The applicant shall complete a GPA 2019-01 changing the General Plan Designation from (RE) & (LI) to (REC) prior to recordation of the Final Parcel Map.
- 6.) The applicant and its successors in interest shall improve or contribute appropriately towards the construction of all roads and utilities within and serving the parcel per applicable standards, as may be required by the County in the future.

GPA 2019-01 & ZR 2019-02/Olancha RV - Findings:

1. Based on the substantial evidence the Planning Commission recommends that the Board of Supervisors certify that General Plan Amendment 2019-01 and Zone Reclassification 2019-02/Olancha Lake are a Mitigated Negative Declaration under CEQA.
[Evidence: the proposed project has been analyzed for environmental impacts Under CEQA, which has resulted in a Mitigated Negative Declaration. As the CEQA lead agency, all mitigations required by the Initial Study, have been added as conditions of approval for the future RV/campground project. This application for a TPM is for a property that is already disturbed and includes no additional development proposals; the land use designations that are proposed will not result in more impactful uses.]
2. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2019-01/Olancha Lake RV and Zone Reclassification 2019-02/Olancha Lake RV are in conformance with the Goals and Objectives of the Inyo County General Plan.
[Evidence: The proposed designation of REC provides for a mixture of residential and recreational commercial uses, such as resorts, recreational facilities, and campgrounds. This designation is oriented towards commercial use, but does provide for permanent residential use, with a density (1 dwelling unit per 25-acres). Clustering of residential units is encouraged, which would increase the density of developed area to 24 dwelling units per net acre. This higher density is appropriate for the proposed 95 RV spaces, 30 campsite spaces, and 5 cabins and better corresponds to the proposed zoning designation, which is oriented around such commercial uses as campgrounds and RV parks.]

3. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that General Plan Amendment 2019-01/Olancha Lake RV and Zone Reclassification 2019-02/Olancha Lake RV are consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.

[Evidence: The proposed designation of C5-80 provides for low density residential use for people regularly employed on the premises for commercial recreational activities, and commercial recreation, oriented around tourism, which corresponds to the proposed General Plan designation. The proposed zoning will not result in more potential parcels than could currently be subdivided from the property without these changes.]

4. Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the site is physically suited for the proposed type and density of development, and finds that the existing and planned public facilities and services are adequate to meet the needs of the proposed project.

[Evidence: The project is consistent with the rural character of the surrounding area and this request for a GPA and ZR will not allow for a development type that would change the character of the site or the surrounding area. The GPA and ZR will increase the potential for increased intensity or density on the site as it changes the parcel to C5-80, which allows for more intensity in use than do the current RR-5 and M2-2.5 designations. The property has three existing wells to meet the increase intensity of water use from the proposed lake and domestic water use for the campground. This commercial RV campground will be regulated as a public water system and be subject to the rules and constraints set by the Inyo Environmental Health Department, Lahontan Regional Water Quality Board, and California Housing Community Development Department. Additionally, septic systems are already in place on the property and will be redesigned and upgraded to meet the intensity of commercial use. This will be adequate for the planned commercial enterprise. Electricity services are also currently provided to the parcel, but will be upgraded for the proposed campground, although; electrical connections will not be provided for RV hookups.]

Recommendation: Based on substantial evidence in the record, the Planning Commission recommends that the Board of Supervisors find that the design or proposed improvements are not likely to cause substantial impacts to public health, safety or welfare.

[Evidence: The proposed General Plan Amendment and Zone Reclassification will allow the current uses on the property to be consistent with the County's Zoning Ordinance by changing the zoning to match the future planned uses on the parcel and changing the General Plan to properly correspond with the zoning designation. The designation changes will allow for increased density and intensity of use on the property; however, this will not create substantial impacts to the health or safety of persons living or working in the vicinity, or be materially detrimental to the public welfare.]

CUP 2020-03/Olancha Lake RV – Findings

1. The proposed Conditional Use Permit is a Mitigated Negative Declaration under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.

[Evidence: The proposed project will include 30 tent-camping sites, 95 RV camping spaces, 5 cabin rentals, a star gazing area, a tennis court, a restaurant, a skateboarding park, an

amphitheater, a store, showers, and kayaking rentals for use on Olancha Lake. Although the property has already been disturbed (a preexisting tennis court, seven built structures, and water and septic connections), the project will create new disturbances from upgraded septic systems, more intense water use, and potential impacts to botanical & wildlife resources. All mitigations have been added to the proposed CUP as Conditions of Approval for the project.]

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Resort Recreation (REC).
[Evidence: The proposed designation of REC provides for a mixture of residential and recreational commercial uses, such as resorts, recreational facilities, and campgrounds. This designation is oriented towards commercial use, but does provide for permanent residential use, with a density (1 dwelling unit per 25-acres). Clustering of residential units is encouraged, which would increase the density of developed area to 24 dwelling units per net acre. This higher density is appropriate for the proposed 95 RV spaces, 30 campsite spaces, and 5 cabins and better corresponds to the proposed zoning designation, which is oriented around such commercial uses as campgrounds and RV parks.]
3. The proposed Conditional Use Permit is consistent with the proposed RV park and campground, as stated in the provisions of the Inyo County Zoning Ordinance, which allow for RV parks and campgrounds in the REC, as a conditional use, following approval from the Inyo County Planning Commission.
[Evidence: Chapter 18.54.040-Conditional Uses (Commercial Recreation) allows for RV parks and campgrounds as a conditional use. The proposed designation of C5-80 provides for low density residential use for people regularly employed on the premises for commercial recreational activities, and commercial recreation, oriented around tourism, which corresponds to the proposed General Plan designation. The proposed zoning will not result in more potential parcels than could currently be subdivided from the property without these changes.]
4. The proposed Conditional Use Permit is necessary or desirable.
[Evidence: The General Plan's Land Use Element states that the REC designation "provides for low density residential use for people regularly employed on the premises for commercial recreational activities, and commercial recreation, oriented around tourism," which corresponds to the proposed General Plan designation. This project will help the County meet its goals to provide commercial land uses that adequately serve the existing and anticipated future needs of the community and surrounding environs (Existing Goal 3).]
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.
[Evidence: The project will not cause negative impacts on transportation or service facilities in the vicinity. Access will be provided to the parcel/campground via US 395. A condition of approval is included to require that the applicant procure an encroachment permit from the Caltrans, District 9 before construction of the ingress/egress to the proposed project property.]

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
[Evidence: As indicated by the Initial Study and Mitigated Negative Declaration, the project will have impacts to ground water use, utilities (septic), storm water, with possible impacts to botanical and wildlife resources. The proposed campground will be regulated as a public water system and has been evaluated by both the County's Environmental Health Department and the Lahontan Regional Water Quality board. Preconstruction surveys will be conducted to determine if additional mitigation is needed to lower the level of impacts to botanical & wildlife resources to a level below significance. The project has been evaluated by the Department of Building & Safety and Environmental Health and will not create impacts on the health or safety of persons living or working in the vicinity, nor will it be materially detrimental to the public welfare.]
7. Operating requirements necessitate the Conditional Use Permit for the site.
[Evidence: Use of the property for the purposes of the proposed project requires a conditional use permit per Inyo County Code Section 18.54.040(A)(C). Therefore, the conditional use permit is necessary for the continued operations at the site.]

CUP 2020-03; ZR 2019-02; GPA 2019-01/Olancha Lake RV – Conditions of Approval:

1) Hold Harmless

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. 2020-03; ZR 2019-02; GPA 2019-01/Olancha Lake RV. The County reserves the right to prepare its own defense.

2) Compliance with the Zoning Code

Any changes to size or configuration of the commercial or residential components of this project shall require further review and potentially approval by the Inyo County Planning Commission.

3) Compliance with County Code

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

4) Light & Glare

The owner or his agent shall adhere to Inyo County's General Plan Visual Resources requirement (VIS-1.6-Control of Light & Glare), which requires all outdoor light fixtures including street lighting, externally illuminated signs, advertising displays, and billboards use low-energy, shielded light fixtures which direct light downward (i.e., lighting shall not emit higher than a horizontal level) and are fully shielded.

5) Noise

The owner or his agent shall post and enforce quiet hours on the campground (9pm – 7am)

6) Transportation

The owner or his agent shall obtain an encroachment permit from Caltrans, District 9 in order to access the proposed project using State right of way.

7) Water Quality & Waste Management

The applicant shall work with the Inyo Environmental Health Department, Lahontan Regional Water Quality Control Board, and the California Housing Community Development Department to ensure that all permitting and regulations, both County and State, are met for the project's proposed wells and septic systems.

8) Biological Resources

Botanical surveys shall be conducted for plants with blooming seasons outside the previous survey period (July 2019 & May 2020). These field surveys shall follow protocols set forth in the 'Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities' (CDFW 2018). As the Project has potential to support special-status species protected by federal and state laws [Fish & Game Code, §§ 711.7 (a) & 1802; PRC § 21070; CEQA Guidelines § 15386 (a), PRC § 21069; CEQA Guidelines, § 15381; Endangered Species Act Section 7(a)(2)], the applicant shall coordinate with CDFW & USFWS on the following surveys and provide the County with CDFW/USFWS' letter of compliance prior to construction:

- Mohave Ground Squirrel
(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83975&inline>)
- Desert Tortoise
(https://www.fws.gov/nevada/desert_tortoise/documents/manuals/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2017.pdf)
- Plant & Natural Communities
(<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>)

The applicant shall conduct focused pre-construction surveys on all suitable nesting habitats within the Project area, no more than three (3) days prior to vegetation clearing or ground disturbance activities, and provide the County Planning Department with the survey report and findings before any ground disturbing activities.

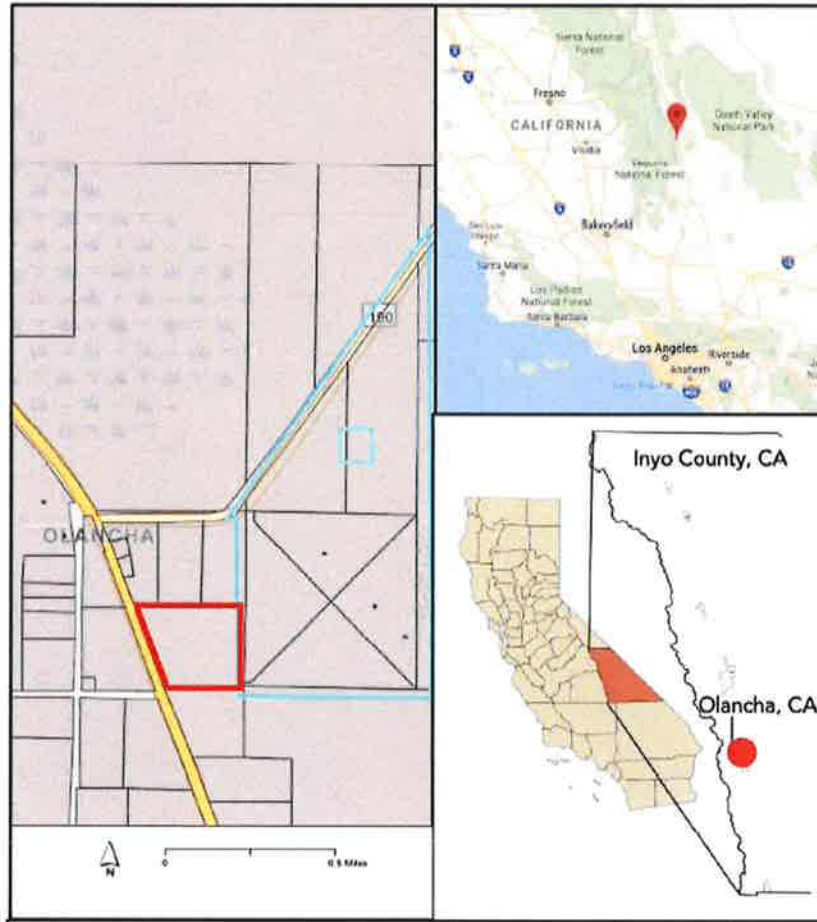
Attachments:

- Vicinity Map
- Site Map
- Draft Ordinance



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Site Map



DRAFT ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA, APPROVING ZONE RECLASSIFICATION NO. 2019-02/OLANCHA LAKE RV AND AMENDING THE ZONING MAP OF THE COUNTY OF INYO BY REZONING AN 80.4-ACRE PARCEL LOCATED EAST OF THE COMMUNITY OF OLANCHA, (APNS 033-500-03, 033-500-04, 033-500-14, 033-500-15, 033-500-16, 033-500-17, 033-080-37) FROM RURAL RESIDENTIAL WITH A 5-ACRE MINIMUM (RR-5) & LIGHT INDUSTRIAL WITH A 2.5 ACRE MINIMUM (M2-2.5) TO COMMERCIAL RECREATION WITH A 80-ACRE MINIMUM (C5-80)

The Board of Supervisors of the County of Inyo ordains as follows:

SECTION I: AUTHORITY

This Ordinance is enacted pursuant to the police power of the Board of Supervisors and Sections 18.81.310 and 18.81.350 of the Inyo County Code, which establishes the procedure for the Board of Supervisors to enact changes to the Zoning Ordinance of the County as set forth in Title 18 of said code. The Board of Supervisors is authorized to adopt zoning ordinances by Government Code Section 65850 et seq.

SECTION II: FINDINGS

Upon consideration of the material submitted, the recommendation of the Inyo County Planning Commission, and statements made at the public hearings held on this matter, this Board finds as follows:

- (1) In accordance with Inyo County Code Section 18.81.320, OLANCHA LAKE, LLC applied to the Inyo County Planning Commission to have the zoning map of the County of Inyo amended from Rural Residential with a 5-acre minimum (RR-5) & Light Industrial with a 2.5-acre minimum (M2-2.5) to Commercial Recreation with an 80-acre minimum (C5-80) as described in Section III of this Ordinance.
- (2) On September 23, 2020, the Inyo County Planning Commission conducted a public hearing on Zone Reclassification No. 2019-02/Olancha Lake RV, following which, the Commission made various findings and recommended that this Board amend Title 18, to rezone the property described in Section III of this Ordinance to Commercial Recreation with a 80-acre minimum (C5-80).
- (3) The findings of the Planning Commission are supported by the law and facts and are adopted by this Board.
- (4) Olancha Lake LLC applied to the Inyo County Planning Commission to have the Inyo County General Plan Land Use Map amended from Residential

Estate (RE) to Resort Recreation (REC) to best match the requested zoning and the planned commercial recreational use on the property.

- (5) The proposed Zone Reclassification is consistent with the goals, policies, and implementation measures in the Inyo County General Plan, including the proposed General Plan Amendment.
- (6) The proposed actions will act to further the orderly growth and development of the County by rezoning the property to Commercial Recreation with a 80-acre minimum (C5-80) as it best matches the current and planned future uses on the property.

SECTION III: ZONING MAP OF THE COUNTY OF INYO AMENDED

The Zoning Map of the County of Inyo as adopted by Section 18.81.390 of the Inyo County Code is hereby amended so that the zoning on an 80.4-acre site as created by TPM 422 located east of the community of Olancho, south of State Route 190, CA (APNs 033-500-03, 033-500-04, 033-500-14, 033-500-15, 033-500-16, 033-500-17, 033-080-37) is changed from Rural Residential a 5-acre minimum (RR-5) & Light Industrial with a 2.5-acre minimum (M2-2.5) to Commercial Recreation with a 80-acre minimum (C5-60).

SECTION IV: EFFECTIVE DATE

This Ordinance shall take effect and be in 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 XXTH DAY OF JUNE, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

Matt Kingsley, Chairperson
Inyo County Board of Supervisors

ATTEST:
Clint Quilter
Clerk of the Board

Attachment 1

By: _____
Darcy Ellis, Assistant



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263

FAX: (760) 873-2712

E-Mail: inyoplanning@inyocounty.us

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

PLANNING COMMISSION MEETING DATE: September 23, 2020

SUBJECT: Conditional Use Permit (CUP) 2020-05/Pino Pies

EXECUTIVE SUMMARY

The applicant has applied for a CUP for ‘Mixed Use’ to allow for residential use of half of the commercial space being rented by the applicant. There are four commercial suites within a single building, and this project would occupy one of those suites. The project is located at 163 Grandview Drive, in Bishop.

PROJECT INFORMATION

Supervisory District: 3

Project Applicant: Troy & Dulcie Pino

Property Owner: Noe Gadea

Site Address: 163 Grandview Drive, Bishop CA 93514

Community: Bishop

A.P.N.: 011-160-25

General Plan: Retail Commercial (RC)

Zoning: General Commercial & Retail (C1)

Size of Parcel: .34 acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Commercial/private	Retail Commercial (RC)	General Commercial/Retail (C1)
North	Commercial/private	Retail Commercial (RC)	General Commercial/Retail (C1)
East	Commercial/private	Retail Commercial (RC)	General Commercial/Retail (C1)
South	Commercial/private	Retail Commercial (RC)	General Commercial/Retail (C1)
West	Educational/public	Retail Commercial (RC)	Hwy Services/Tourist Commercial (C2)

Staff Recommended Action:

1.) Approve the Conditional Use Permit (CUP) 2020-05/Pino Pies and certify that the action is a Categorical Exemption under CEQA.

Alternatives:

- 1.) Deny the CUP
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner:

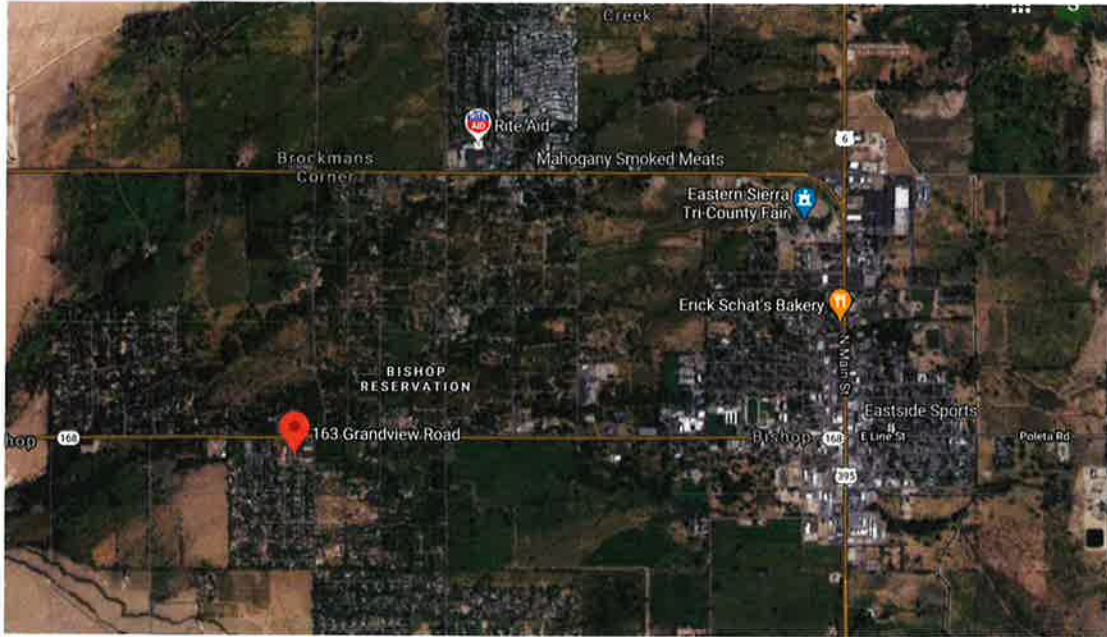
Steve Karamitros

STAFF ANALYSIS

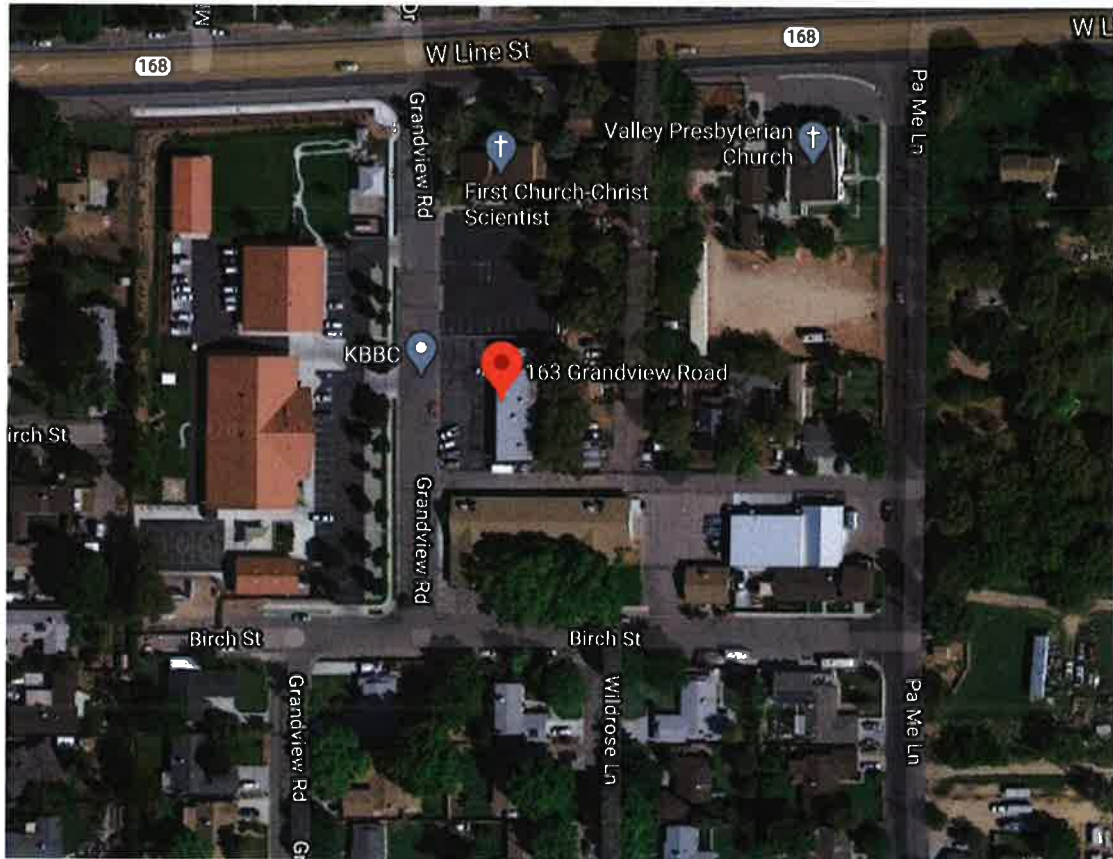
Background and Overview

The applicant has applied for a CUP for 'Mixed Use' to use half of their rented commercial space as a primary residence for their family. The building is a single commercial unit with four suites, addressed as 161, 163, 165, and 167 Grandview Drive (APN: 011-160-25). Two of the suites (161 & 167 Grandview Dr.) are currently rented for purely commercial use. The applicant's CUP would allow them to operate their business at 165 Grandview and have their residence, located in the adjacent suite, at 163 Grandview Dr. This project is located in the community of Bishop. The property is zoned C1, which allows "a dwelling unit within a business building...if it is for occupancy by the owner or lessee of business premises therein...provided that a minimum fifty percent of the usable floor area is being utilized for the principal permitted use" (ICC 18.45.040). The site is located within a cluster of lots that are all zoned for commercial use.

Site Proximity Map



Site Location



General Plan Consistency

The goal of this project is for the applicant/business owner to use half of their rented commercial space (a café/bakery/health food store) as a primary residence for their family. The project is consistent with the General Plan designation of the Retail Commercial District (RC) since it specifies “retail and wholesale commercial uses.” In addition, this project supports the General Plan’s Land Use Policy *LU-1.8-Mixed-Use Development*, which states: “The County shall allow mixed-use (commercial/residential) development in established communities to maximize housing opportunities” (Inyo County General Plan, pg. 4-12). The Commercial section of the General Plan’s Land Use Element, specifies in *Policy LU-3.8-New Retail Development*: “The County shall support new retail developments in the smaller communities to fill specific gaps in retail services.” (Inyo County General Plan, pg. 4-20). This café would develop retail services and jobs in west Bishop, while providing food and beverage services in a commercial zone that serves both working professionals and local residents. This project supports the County’s goals and policies for assisting in the development of commercial enterprises and mixed-use projects that maximize housing opportunities.

Zoning Ordinance Consistency

The proposed project meets the requirements for an Accessory Use, which allows “a dwelling unit within a business building...where occupancy by the lessee of the business premises [uses] fifty percent of the usable floor area...for the principal permitted use” (ICC 18.45.040). The applicants will be renting two suites, out of a total of four in the building. One of the suites, 165 Grandview Dr., will be used for the café/bakery. The other suite, 163 Grandview Dr., will be for residential use by the applicant’s family. The other two suites in the building are occupied by two separate businesses. Since the lessee intends to use 50% of their commercially rented space for residential use, and since only 25% of the total building space will be for residential use, this project meets the Accessory Uses requirements outlined in the zoning code. This type of mixed use requires a CUP, as stated in ICC 18.45.030(M). Generally, mixed-use requires the residential portion to be behind or above the commercial use. In this case, the residential use is proposed to be along-side of the commercial use. Staff finds that this is acceptable since the residential unit will not be fronting a commercial corridor and is behind a sizable parking lot. These conditions will keep the residential unit from being more obvious than the commercial uses in the building.

ENVIRONMENTAL REVIEW

Conditional Use Permit 2020-05/Pino Pies was reviewed for compliance with the California Environmental Quality Act (CEQA) and was found to be exempt from further analysis, pursuant to Section 15301-*Existing Facilities (Class 1)* of the CEQA guidelines, as it “consists of the operation, repair, maintenance, permitting...or minor alteration of existing...private structures...involving negligible or no expansion of existing or former use.”

NOTICING & REVIEW

The application for CUP 2020-05/Pino Pies has been reviewed by the appropriate county departments and no issues were reported. This included reviews by the Environmental Health, Public Works, and the Treasurer's Office.

The public hearing date for this CUP was noticed on September 3, 2020 in the *Inyo Register* and mailed to property owners within 300-feet of the project location.

RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2020-05/Pino Pies, with the following Findings and Conditions of Approval:

FINDINGS for CUP 2020-05

1. The proposed Conditional Use Permit is a Categorical Exemption under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.
[Evidence: Pursuant to 14 California Code Regulatory Sections 15301 et seq., the proposed project is Categorically exempt (Class 1) of the CEQA guidelines, as it "consists of the operation, repair, maintenance, permitting...or minor alteration of existing...private structures...involving negligible or no expansion of existing or former use."]
2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Retail Commercial (RC).
[Evidence: The project is consistent with the General Plan designation of Retail Commercial District (RC) since it specifies "retail and wholesale commercial uses." In addition, this project supports the General Plan's Land Use Policy LU-1.8-Mixed-Use Development, which states: "The County shall allow mixed-use (commercial/residential) development in established communities to maximize housing opportunities" (Inyo County General Plan, pg. 4-12). The Commercial section of the General Plan's Land Use Element, specifies in Policy LU-3.8-New Retail Development: "The County shall support new retail developments in the smaller communities to fill specific gaps in retail services." (Inyo County General Plan, pg. 4-20). Therefore, this project supports the County's goals and policies for assisting in the development of commercial enterprises and mixed-use projects that maximize housing opportunities.]
3. The proposed Conditional Use Permit is consistent with the proposed Accessory and Mixed-use provisions of the Inyo County Zoning Ordinance, which allows for commercial & residential use of the applicant's rented space.
[Evidence: Chapter 18.45.040-Accessory Uses (General Commercial & Retail District) notes that "a dwelling unit within a business building may be qualified as an accessory use if it is for occupancy by the owner or lessee...provided that a minimum fifty percent of the usable floor area is being utilized for the principal permitted use." The lessee will be renting two of the four suites in the commercially zoned building. One of these suites will be for residential use. Therefore, since only 25% of the total building space will be for residential use,

the project meets the Accessory Uses requirements outlined in the zoning code. This type of mixed use requires a CUP, as stated in ICC 18.45.030(M). Also, mixed-use generally requires the residential portion to be behind or above the commercial use. In this case, the residential use is proposed to be along-side of the commercial use. This is acceptable since the residential unit will not be fronting a commercial corridor and is behind a sizable parking lot. These conditions will keep the residential unit from becoming more obvious than the commercial uses in the building.

4. The proposed Conditional Use Permit is necessary or desirable.
[Evidence: The General Plan's Land Use Element states: "The County shall allow mixed-use (commercial/residential) development in established communities to maximize housing opportunities" (Inyo County General Plan, pg. 4-12). The applicant's project maximizes housing opportunities in the County, while creating economic growth in the community.]
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.
[Evidence: The proposed conditional use permit is for mixture of commercial and residential use in a C1 zoned area. This mixed use is appropriate since the business does not front a major commercial street; rather, the proposed use is opposite a school superintendent's office. In addition, the configuration of the residence is alongside the business and both the business and residence are setback from the street, behind a parking lot, so that the residential use is not conflictual with surrounding uses on Grandview Drive. The project will be accessed and maintained via existing roads on Line Street and Grandview Drive. The project will not cause negative impacts on transportation or service facilities in the vicinity.]
6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.
[Evidence: The proposed conditional use permit is for a mixed-use that includes a café/bakery/health food retail service and residential use. The project has been evaluated by the Department of Building & Safety and Environmental Health and will not create impacts on the health or safety of persons living or working in the vicinity, nor will it be materially detrimental to the public welfare.]
7. Operating requirements necessitate the Conditional Use Permit for the site.
[Evidence: Use of the property for the purposes of the proposed project requires a conditional use permit per Inyo County Code Section 18.45.030(M). Therefore, the conditional use permit is necessary for the continued operations at the site.]

CONDITIONS OF APPROVAL

1. Hold Harmless

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2020-05/Pino Pies. The County reserves the right to prepare its own defense.

2. Compliance with the Zoning Code

The allowance for the residential use to be alongside and not behind or above the commercial use is for this project only. Any changes to size or configuration of the commercial or residential components of this project shall require further review and potentially approval by the Inyo County Planning Commission.

3. Compliance with County Code

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

4. Additional Building Requirements

The project will follow all building requirements as set by the Inyo County Building and Safety Department. The applicant will work with and get all necessary permits from the Building and Safety Department and shall work with and follow any requirements set by the Department of Environmental Health.



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

**Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us**

AGENDA ITEM NO.: (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: September 23, 2020

SUBJECT: Hold a hearing regarding the Order Mandating Compliance for the Radcliff Mine.

EXECUTIVE SUMMARY

This hearing is being held pursuant to a Notice of Violation and proposed Order To Comply in regards to the **Radcliff Mine (ID 91-14-0064)**. This mine is located on the western flank of the Panamint Range in Pleasant Canyon, approximately 5 miles east of Ballarat.

Pursuant to Inyo County Code § 7.70.070(c) and Public Resources Code § 2774.1, a hearing is being held to determine whether the Planning Commission will / will not 1) find that these violations have occurred and 2) issue an order imposing the penalties and remedies as set out in the attached Order to Comply and in this staff report.

PROJECT INFORMATION

Supervisory District: 5

Project Applicant: Charles McLaughlin with Black Swan Advisor LLC.

Property Owner: Bush Management Company

Site Address: Pleasant Canyon

Community: Panamint, CA

A.P.N.: 039-240-01

General Plan: Rural Protection (RP)

Zoning: Open Space, 40 acre minimum (OS-40)

Size of Parcel: Approximately 137.52 Acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Vacant	Rural Protection (RP)	Open Space – 40 acre minimum (OS-40)
North	Vacant	State and Federal Land (SFL)	Open Space – 40 acre minimum (OS-40)
East	Vacant	State and Federal Land (SFL)	Open Space – 40 acre minimum (OS-40)
South	Vacant	State and Federal Land (SFL)	Open Space – 40 acre minimum (OS-40)
West	Vacant	State and Federal Land (SFL)	Open Space – 40 acre minimum (OS-40)

Staff Recommended Action: 1) Find that these violations have occurred and issue an order imposing the penalties and remedies as set out in the Order to Comply and this staff report.

Alternatives: 1) Dismiss the violations.
2) Modify the Order to Comply as the Commission sees fit.
3) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner: Ryan Standridge, Associate Planner and SMARA Coordinator

STAFF ANALYSIS

The Radcliff / World Beater Mines were first permitted by the Inyo County Planning Commission in 1993 via Reclamation Plan 93-1 and Conditional Use Permit 93-10. In 2007, the mine changed hands, and due to various changes that the new owner, Pruett Ballarat, Inc. (“PBI”), wanted to make, the Planning Department required that the mine owner obtain new permits. Accordingly, in April 2008, the Planning Commission approved CUP 2007-05/Pruett Ballarat, Inc. and amended Reclamation Plan 93-1, changing the Reclamation Plan number to 2007-05/Pruett Ballarat, Inc.

In April 2018, the mine again changed hands. Bush Management, Inc. (“Bush”) acquired the property from PBI through bankruptcy. The Trustee’s Deed Upon Sale was executed by all

parties—and therefore effective to transfer the mine to Bush’s ownership—on October 18, 2018.

Pursuant to Public Resources Code § 2773.1, all mines must have a Financial Assurance Mechanism (“FAM”). A FAM consists of some sort of collateral that the owner must post and which the lead agency may access to cover reclamation costs in the event that the mine ceases operations and the operator does not comply with its reclamation responsibilities. Additionally, per section 2773.1(c), when a mine transfers ownership, the new owner is obligated to obtain a FAM in the new owner’s name within 90 days of the transfer. This new FAM may be in the form of a totally new FAM in the new owner’s name, or it may be in the form of the old FAM that has been transferred to the new owner. Finally, per 14 CCR § 3803.3, as of July 1, 2018, FAMs must be submitted on form CD-1, prepared by the California Department of Conservation. In June 2008, PBI obtained a FAM for the Radcliff Mine from Union Bank in the form of a bond (**Exhibit A**).

Former Inyo County SMARA Coordinator Tom Schaniel started working with Charlie McLaughlin of Black Swan Advisors (“Black Swan”), the authorized agent for Bush, in April of 2018. Beginning in April of 2018 and continuing through approximately late 2019, Mr. Schaniel, Mr. McLaughlin, Blair Will (an attorney for Mr. McLaughlin / Bush), and Lisa Holder (another attorney for Mr. McLaughlin / Bush), corresponded at regular intervals regarding the transfer of the FAM. On multiple occasions, it appeared that Bush was right on the brink of obtaining all of the necessary signatures and completing all of the necessary paperwork to transfer the FAM. However, each of these attempts to transfer the FAM encountered various complications, and for reasons unknown to the Planning Department, rather than resolving these complications and following through on the transfer, Mr. McLaughlin appeared to abandon the issue until he was again reminded by Planning Department staff that the FAM needed to be transferred.

In December 2019, current SMARA coordinator Ryan Smith-Standridge became involved in the process of transferring the FAM. In early December 2019, Ms. Smith-Standridge spoke with Ms. Holder on the phone regarding the status of the FAM transfer. In February 2020, Ms. Smith-Standridge again reminded Mr. McLaughlin about the need to transfer the FAM during her inspection of the mine. In May 2020, Ms. Smith-Standridge and Deputy County Counsel Grace Chuchla spoke with Mr. Will about various matters, including the need to transfer the FAM. Yet as before, the FAM remained in the name of PBI.

In July 2020, given that the FAM still had not been properly transferred, the Planning Department sent a Notice of Violation pursuant to Inyo County Code § 7.70.070(A) to Mr. McLaughlin that informed him that he had twenty-five days to correct the FAM or he would be subject to an order to comply (**Exhibit B**). Bush did not correct the issue within twenty-five days, so on August 21, 2020, the Planning Department sent an Order to Comply pursuant to Inyo County Code § 7.70.070(C) (**Exhibit C**). This Order to Comply informed Mr. McLaughlin that, if the FAM issue was not remedied on or before the date of this hearing,

[T]he County will be seeking an order to comply from the Planning Commission imposing administrative penalties in the amount of \$50 per

day, calculated from the date that the transfer of the FAM should have been completed per Public Resources Code § 2773.1(c). Per Public Resource Code § 2774.1(a)(3)(A), the County will further seek an order from the Planning Commission mandating a closure of the Radcliff Mine until the FAM is properly transferred.

Since the issuance of the Order to Comply, Mr. Will has sent various emails to Ms. Chuchla updating her regarding recent efforts to transfer the FAM and his conversations with Union Bank. From these emails, it appears that, while Mr. Will is working on the issue, the FAM has yet to be transferred.

RECOMMENDATION

Planning Department staff recognizes that Bush, Mr. McLaughlin, and Bush's attorneys have made efforts to transfer the FAM to Bush from PBI. However, none of these efforts have been seen through to completion. For reasons unknown to the Planning Department, whenever a complication arose in Bush's effort to transfer the FAM into its name, Bush did not take the follow-up steps necessary to resolve that complication. Instead, Bush has allowed the FAM to linger un-transferred for approximately two years. Throughout this time, the Planning Department has been working with Mr. McLaughlin and his attorneys and reminding them of the need to transfer the FAM, but to no avail. Additionally, while it appears that Mr. Will is now working to transfer the FAM, Bush has known of the need to transfer the FAM for over two years, but has inexplicably waited until the last minute to take additional action.

PRC § 2773.1(c) requires that a FAM be transferred to the new owner of a mine or a new FAM be obtained in the name of the new owner 90 days after a mining operation has been transferred. Given that the Radcliff Mine transferred on October 18, 2018, the FAM should have been transferred by January 16, 2019. To date, it has not been transferred, and the Planning Department therefore recommends that the Planning Commission find that Bush is in violation of section 2773.1(c) and impose penalties as described below.

The transfer of the FAM is not simply a ministerial issue. Should Inyo County need to exercise its right to access the FAM, the fact that it remains in the name of PBI, who is no longer involved with the Radcliff Mine, would hinder and greatly complicate Inyo County's ability to access the funds in the FAM. This would in turn hinder Inyo County's ability to reclaim the mine and protect the environment.

With respect to penalties, the Order to Comply stated that, should the Planning Commission find that Bush is in violation of section 2773.1(c), a penalty of \$50 per day will be imposed. Per Inyo County Code § 7.70.070(D), penalties are assessed from the original date of noncompliance. In this situation, the original date of noncompliance is 90 days after Bush acquired the mine, which is January 16, 2019. 616 days have elapsed between January 16, 2019 and September 23, 2020. At a rate of \$50 per day, this would entitle the Planning Department to request \$30,800 in penalties from Bush. While this

amount may seem high, it should be noted that SMARA permits penalties of up to \$5,000 per day for noncompliant mines (PRC § 2774.1(c)).

However, in the interest of encouraging compliance while also taking into account the economic health of local mines, the Planning Department is not requesting that the Planning Commission impose the full \$30,800 in penalties. Rather, the Planning Department is merely asking for penalties in an amount that reflect the time that staff has had to expend in its constant follow-up and back-and-forth with the various individuals associated with the Radcliff Mine on this FAM issue. Planning staff estimates that, over the past two years, Mr. Schaniel and Ms. Smith-Standridge have expended approximately 51.5 hours working with Radcliff mine personnel on this issue. Additionally, Deputy County Counsel Grace Chuchla has expended approximately 25 hours. The weighted rate for Planning Department staff is \$72.26 per hour. Per Inyo County Resolution No. 2017-53, County Counsel time is billed at \$151 per hour. This amounts to a total cost to the County of \$7,496.39.

Finally, the Planning Department is requesting that the Planning Commission order that all activity at the Radcliff Mine—except that which is necessary to avoid environmental harm—must cease until the FAM has been properly transferred. As explained above, the fact that the FAM has not been properly transferred makes it much more difficult for the County to access the funds in the FAM in the event it needs to reclaim the mine. Additional development or mining activity only increases the cost of reclamation, and therefore it would be prudent to pause such activity until the FAM has been properly transferred.

Findings

The Notice of Violation and Order to Comply were properly served on Mr. McLaughlin, as authorized agent for Bush.

[Evidence: Copies of the Notice and Order were sent to Mr. McLaughlin and his attorney, Mr. Will, via certified mail / Fed Ex and via email.]

This hearing was properly noticed.

[Evidence: Notice of the date of his hearing was provided in writing on August 21, 2020, which is more than 30 days before the date of this hearing.]

Bush Management is in violation Public Resources Code § 2773.1(c) due to its failure to effect a transfer of the FAM within 90 days of obtaining ownership of the mine.

[Evidence: The Radcliff Mine was transferred to Bush on October 18, 2018. However, to this date, the FAM has not been transferred to Bush.]

Orders

1. The Planning Commission is mandating a cessation of all activity at the Radcliff Mine—except that which is necessary to prevent damage to the environment—

until the FAM is properly transferred. "All activity" includes mining, construction / development work, and activity taken in preparation for future mining.

2. The Planning Commission is imposing administrative penalties in the amount of \$7,496.39.

ATTACHMENTS

- A. Copy of the 2008 Union Bank bond obtained by PBI
- B. July 2020 Notice of Violation
- C. August 2020 Order to Comply

Exhibit A

UNION BANK OF CALIFORNIA

PAYMENT BOND CERTIFICATE
Automatic Renewal, Non-Negotiable

Office of Account: RIDGECREST
Account Number: 3579034079

Certificate Serial Number: 3579034079
Amount Deposited \$85,250.00

On June 13, 2009, Eighty Five Thousand Two Hundred Fifty And 00/100 Dollars was deposited for 012 Months by PRUETT-BALLARAT, INC. (Depositor) and is payable to County of Inyo, The Department of Conservation on June 13, 2009 (the Maturity Date), upon presentation of this certificate, properly endorsed. This deposit will earn interest at the rate of 01.850% compounded daily using a 365-day year, for an annual percentage yield of 01.860%. Interest will be paid to the Depositor Monthly. If this Certificate is not presented for payment on the account's Maturity Date or within 10 days after that date, the deposit will be renewed for a like term at the interest rate in effect on the account's Maturity Date. This Certificate is transferable.

If all or any part of this deposit is withdrawn before the account's Maturity Date, the amount withdrawn may be subject to an early withdrawal or compensating fee.



AUTHORIZED SIGNATURE

FORM 03117-DASIS (F.REV.1/2001)

Exhibit B



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us

**Notice of Violation Pursuant to SMARA § 2774.1 and
Inyo County Code § 7.70.070**

July 22, 2020

Charles J. McLaughlin
Black Swan Advisors
PO Box 11179
Newport Beach, CA 92658
cjm@blackswanadvisors.net

Blair Will
Pioneer Law Group
1122 S Street
Sacramento, CA 95811
blair@pioneerlawgroup.net

VIA CERTIFIED MAIL AND EMAIL

RE: Mine ID# 91-14-0064 / Radcliff

Dear Mr. McLaughlin:

This letter is to notify you that the Radcliff Mine is in violation of the California Surface Mining and Reclamation Act (SMARA) and the Inyo County Code (ICC). Please consider this letter to be a formal Notice of Violation pursuant to ICC § 7.70.070. Per ICC § 7.70.070(B), **all violations listed below must be remedied within twenty-five days** or the Inyo County Planning Department will issue an Order to Comply pursuant to ICC § 7.70.070.

The violations currently present with respect to the Radcliff Mine are as follows:

- Incomplete Statement of Responsibility – Pursuant to Inyo County's written instructions regarding the completion of the Statement of Responsibility, you must submit a separate letter of authorization from John Hagestad stating that you are an employee or an individual authorized to sign the Statement of Responsibility on behalf of Bush Management. I have repeatedly asked you for this letter in the past,

but have yet to receive it. Specifically, on February 18, 2020, I verbally requested this letter. On June 12, 2020 I sent you a written request for such a letter. On July 7, 2020, I again verbally requested that you send me such a letter. I still have not received the letter.

- Inadequate Financial Assurance Mechanism (FAM) – Pursuant to Cal. Public Resources Code § 2773.1, all mines must have a FAM that is equal to or greater than the existing approved FAM. Additionally, per section 2773.1(c), when a mine transfers ownership, the new owner is obligated to obtain a FAM in the new owner's name within 90 days of the transfer. According to the Trustee's Deed Upon Sale (Inyo County Recorded Doc. No. 2018-0003067-00), the ownership of the Radcliff Mine transferred from Pruett Ballart to Bush Management on September 25, 2018. However, as of today, you have not provided us with the necessary documentation to demonstrate that the FAM has been transferred to the new operator or that a new FAM has been obtained in the name of the new operator.
- Failure to provide a Financial Assurance Cost Estimate (FACE) – Pursuant to Cal. Public Resources Code § 2773.4(d)(1)(A), “[w]ithin 30 days of an annual inspection being conducted pursuant to Section 2774, an operator shall provide an annual financial assurance cost estimate to the lead agency for review.” The Radcliff Mine was inspected on February 18, 2020. On May 14, 2019, I emailed you stating that the Radcliff Mine was required to submit a FACE by May 29, 2020. However, to date, the Planning Department has not received a FACE for the Radcliff Mine. I understand that you are currently working on the issue of the two portals that you have discovered are located on BLM land. However, this issue does not permit you to delay in preparing a proper FACE.¹ Until those two portals are fully reclaimed, they must be accounted for in the FACE. While your attorney has indicated your desire to reclaim those portals, the reclamation has not yet occurred and Inyo County is unaware of any concrete plans for such reclamation to occur. These two portals therefore do not provide an excuse to delay the FACE process.
- Lack of an idle plan – Pursuant to ICC § 7.70.060, within 90 days of a mine becoming idle, the operator must submit an interim management plan. During the February 6, 2020 inspection and again during our meeting on July 7, 2020, you stated that you were currently preparing to begin mining. Additionally, the Radcliff Mine's annual operating reports for 2018 and 2019 state that the mine had zero production. Therefore, the Radcliff Mine has been idle for 5 months at the very least, yet the Planning Department has not received an idle plan.

The County, acting as Lead Agency for the implementation of SMARA, demands that all of the above violations be remedied within twenty-five days. If you have any questions, you may

¹ As a courtesy, during our July 7, 2020 meeting, I stated that the County would provide you with an additional 30 days to prepare your FACE in light of the issue with the two portals on BLM land. The deadline that this letter sets for FACE compliance is well beyond that one 30 day extension.

contact the County Planning Department at (760) 878-0405 or email me at rstandridge@inyocounty.us.

Sincerely,

A handwritten signature in black ink that reads "Ryan K. Standridge". The signature is written in a cursive style with a large initial "R".

Ryan Smith-Standridge

Associate Planner / SMARA Coordinator

cc: Grace Chuchla, Deputy County Counsel
Cathreen Richards, Inyo County Planning Director
Matt Kingsley, Inyo County Board of Supervisor
Paul Fry, Manager, Engineering and Geology Unit Division of Mine Reclamation
Randy Porter, BLM

Exhibit C



**Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526**

Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us

**Order to Comply Pursuant to
Inyo County Code § 7.70.070(c) and Public Resources Code § 2774.1**

August 21, 2020

Charles J. McLaughlin
Black Swan Advisors
20 Salzburg
Newport Beach, CA 92660-6827
cjm@blackswanadvisors.net

Blair Will
Pioneer Law Group
1122 S Street
Sacramento, CA 95811
blair@pioneerlawgroup.net

VIA FED EX AND EMAIL

RE: Mine ID# 91-14-0064 / Radcliff

Dear Mr. McLaughlin:

On July 22, 2020, I sent you a Notice of Violation (the "Notice") that listed four violations present at the Radcliff Mine. The Notice required compliance within 25 days, or August 17, 2020. While you have made some progress on two of the violations listed in the Notice, two other violations remain unresolved. Therefore, please consider this letter to be an Order to Comply pursuant to Inyo County Code § 7.70.070(c) and Public Resources Code §2774.1. This Order to Comply pertains to the following violations listed in the Notice:

- **Inadequate Financial Assurance Mechanism (FAM)** – The Notice explained that Radcliff's FAM was inadequate because it has not been properly transferred from the previous owner of the mine to Bush Management within the required timeframe. On July 31, Deputy County Counsel Grace Chuchla spoke with your attorney and provided further information about the transfer process—specifically, that you needed to have Union Bank complete form CD-1 and provide documentation from the bank recognizing the assignment of the FAM from Pruet Ballarat to Bush Management. Since then, you have not provided the necessary paperwork to


demonstrate that the FAM has been transferred from Pruett Ballarat to Bush Management. Therefore, the County will be seeking an order to comply from the Planning Commission imposing administrative penalties in the amount of \$50 per day, calculated from the date that the transfer of the FAM should have been completed per Public Resources Code § 2773.1(c). Per Public Resource Code § 2774.1(a)(3)(A), the County will further seek an order from the Planning Commission mandating a closure of the Radcliff Mine until the FAM is properly transferred.

- Failure to provide a Financial Assurance Cost Estimate (FACE) – The Notice explained that the Radcliff Mine was inspected on February 6, 2020 and that a FACE must be submitted within 30 days of inspection. Although I have received some emails from you indicating that a FACE will be sent soon, I still have yet to receive a FACE. Therefore, the County will be seeking an order to comply from the Planning Commission imposing administrative penalties in the amount of \$50 per day, calculated from the date that the FACE should have been submitted per Public Resources Code § 2773.4(d)(1)(A). To correct this violation, you must submit a FACE.

Pursuant to Inyo County Code § 7.70.070(c), a hearing to determine whether the Planning Commission will / will not 1) find that these violations have occurred and 2) issue an order imposing the penalties and remedies described above has been set for **September 23, 2020 at 10 a.m.** This letter serves as notice of this hearing. Given the COVID-19 pandemic, the hearing will occur via Zoom. A link to the Zoom video conference will be circulated to you and/or any representative who you have informed us will be appearing on your behalf before the hearing date. At this hearing, you and/or your representative will have the opportunity to present arguments and evidence regarding the above-listed violations and the penalties and remedies that the County is seeking to impose.

If you have any questions, you may contact the County Planning Department at (760) 878-0405 or email me at rstandridge@inyocounty.us.

Sincerely,



Ryan Smith-Standridge

Associate Planner / SMARA Coordinator

cc: Grace Chuchla, Deputy County Counsel
Cathreen Richards, Inyo County Planning Director
Matt Kingsley, District 5 Supervisor